

CONTRACT
For
PA 5-Year Action Plan & Digital Equity Plan

THIS CONTRACT for the provision of **PA 5-Year Action Plan & Digital Equity Plan** ("Contract") is entered into by and between the **Commonwealth of Pennsylvania**, acting through the Department of Community and Economic Development (DCED), and Michael Baker International Inc ("**Contractor**").

WHEREAS, the Department of Community and Economic Development (DCED) issued a Request For Proposals for the provision of **PA 5-Year Action Plan & Digital Equity Plan** for the Commonwealth, RFP No. PBDA 2023-01 ("RFP"); and

WHEREAS, Contractor submitted a proposal in response to the RFP; and

WHEREAS, Contractor's proposal was selected for the Best and Final Offer ("**BAFO**") phase of the RFP process; and

WHEREAS, DCED determined that Contractor's proposal, was the most advantageous to the Commonwealth after taking into consideration all of the evaluation factors set forth in the RFP and selected Contractor for contract negotiations; and

WHEREAS, DCED and Contractor have negotiated this Contract as their final and entire agreement in regard to providing **PA 5-Year Action Plan & Digital Equity Plan** to the Commonwealth.

NOW THEREFORE, intending to be legally bound hereby, DCED and Contractor agree as follows:

1. Contractor shall, in accordance with the terms and conditions of this Contract, provide **PA 5-Year Action Plan & Digital Equity Plan** as more fully defined in the RFP, to the Commonwealth.
2. Contractor agrees to provide the **PA 5-Year Action Plan & Digital Equity Plan** listed in its Cost Submittal, which is attached hereto as Exhibit B and made a part hereof, at the prices listed for those items in Exhibit B.
3. Contractor agrees to meet and maintain its commitments to Small Diverse Businesses made in its Small Diverse Business Participation Submittal, attached hereto as Exhibit C and made a part hereof.
4. This Contract is comprised of the following documents, which are listed in order of precedence in the event of a conflict between these documents:
 - a. The Contract document contained herein.

- b. The Contract Terms and Conditions contained in the RFP, which is attached hereto as Exhibit A and made part of this Contract.
- c. The Contractor's Final Negotiated Cost Submittal, which is attached hereto as Exhibit B and made a part hereof.
- d. The Contractor's Small Diverse Business Participation Submittal, which is attached hereto as Exhibit C and made a part hereof.
- e. The RFP, including all of the referenced Appendices and as revised by all Addenda issued thereto, which is attached hereto as Exhibit D and made a part hereof.
- f. The Contractor's Technical Submittal, which is attached hereto as Exhibit E and made a part hereof.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have signed this Contract below. Execution by the Commonwealth is described in the Contract Terms and Conditions.

Witness:

CONTRACTOR:

By: Shannon Dyer
(Assistant) Secretary

By: Jeremy Jurick
(Vice) President

Shannon Dyer 3/29/2023
Printed Name/Date

Jeremy Jurick 3/27/23
Printed Name/Date

[Redacted]
Federal I.D. Number

**COMMONWEALTH OF PENNSYLVANIA
Department of Community and Economic
Development**

By: B. No. C 3/30/23
PA Broadband Executive Director Date

APPROVED AS TO FORM AND LEGALITY:

To be obtained electronically
Office of Chief Counsel Date

To be obtained electronically
Office of General Counsel Date

To be obtained electronically
Office of Attorney General Date

APPROVED:

To be obtained electronically
Comptroller Date

EXHIBIT A

Standard Purchase Order Terms and Conditions

Table of Contents

PART_V	19
V.1 CONTRACT-001.1a Contract Terms and Conditions (Nov 30 2006)	19
V.2 CONTRACT-002.1b Term of Contract – PO (July 2015).....	19
V.3 CONTRACT-002.2a Renewal of Contract Term (Nov 30 2006).....	19
V.4 CONTRACT-002.3 Extension of Contract Term (Nov 30 2006).....	19
V.5 CONTRACT-003.1d Signatures - PO (July 2015)	19
V.6 CONTRACT-004.1a Definitions (Oct 2013).....	20
V.7 CONTRACT-006.1 Independent Prime Contractor (Oct 2006)	20
V.8 CONTRACT-007.01b Delivery of Services (Nov 30 2006).....	20
V.9 CONTRACT-008.1a Warranty (Oct 2006)	21
V.10 CONTRACT-009.1c Patent, Copyright, and Trademark Indemnity (Oct 2013).....	21
V.11 CONTRACT-009.1d Ownership Rights (Oct 2006)	21
V.12 CONTRACT-010.1a Acceptance (Oct 2006).....	22
V.13 CONTRACT-011.1a Compliance With Law (Oct 2006)	22
V.14 CONTRACT-013.1 Environmental Provisions (Oct 2006).....	22
V.15 CONTRACT-014.1 Post-Consumer Recycled Content (June 2016).....	22
V.16 CONTRACT-014.3 Recycled Content Enforcement (Feb 2009)	22
V.17 CONTRACT-015.1A Compensation/Expenses (May 2008).....	22
V.18 CONTRACT-015.2 Billing Requirements (July 2021)	22
V.19 CONTRACT-016.1 Payment (Oct 2006)	23
V.20 CONTRACT-016.2 Payment – Electronic Funds Transfer (July 2022).....	23
V.21 CONTRACT-017.1 Taxes (Dec 5 2006).....	24
V.22 CONTRACT-018.1 Assignment of Antitrust Claims (Oct 2006).....	24
V.23 CONTRACT-019.1 Hold Harmless Provision (Nov 30 2006).....	24
V.24 CONTRACT-020.1 Audit Provisions (Oct 2006)	24
V.25 CONTRACT-020.2 Single Audit Clause (Dec 27, 2007).....	24
V.26 CONTRACT-021.1 Default (Oct 2013)	25
V.27 CONTRACT-022.1 Force Majeure (Oct 2006).....	26
V.28 CONTRACT-023.1a Termination Provisions (Oct 2013).....	26
V.29 CONTRACT-024.1 Contract Controversies (Oct 2011).....	27
V.30 CONTRACT-025.1 Assignability and Subcontracting (Oct 2013)	27
V.31 CONTRACT-026.1 Other Contractors (Oct 2006).....	28
V.32 CONTRACT-027.1 Nondiscrimination/Sexual Harassment Clause (August 2018)	28
V.33 CONTRACT-028.1 Contractor Integrity Provisions (Jan 2015)	29
V.34 CONTRACT-029.1 Contractor Responsibility Provisions (July 2021).....	32
V.35 CONTRACT-030.1 Americans with Disabilities Act (July 2021)	32
V.36 CONTRACT-032.1 Covenant Against Contingent Fees (Oct 2006).....	33
V.37 CONTRACT-033.1 Applicable Law (Oct 2006).....	33
V.38 CONTRACT-034.1a Integration – RFP (Dec 12 2006)	33
V.39 CONTRACT-034.2a Order of Precedence - RFP (Dec 12 2006).....	33
V.40 CONTRACT-034.3 Controlling Terms and Conditions (Aug 2011).....	33
V.41 CONTRACT-035.1a Changes (Oct 2006).....	34
V.42 CONTRACT-036.1 Background Checks (February 2016).....	34
V.43 CONTRACT-037.1a Confidentiality (Oct 2013)	34
V.44 CONTRACT-037.2a Sensitive Information (Sept 2009).....	35
V.45 CONTRACT-041.1 Contract Requirements-Small Diverse Business and Small Business Participation (July 2016).....	36
V.46 CONTRACT-045.1 Insurance - General (Dec 12 2006)	36
V.47 CONTRACT-051.1 Notice (Dec 2006).....	36
V.48 CONTRACT-052.1 Right to Know Law (Feb 2010)	37
V.49 CONTRACT-053.1 Enhanced Minimum Wage Provisions (July 2022).....	37

PART V - CONTRACT TERMS and CONDITIONS

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

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

V.2 CONTRACT-002.1b Term of Contract – PO (July 2015)

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

V.3 CONTRACT-002.2a Renewal of Contract Term (Nov 30 2006)

The Contract may be renewed for a maximum of 1 additional 1 year term, so long as Commonwealth provides written notice to Contractor of its intention to extend the Contract by letter prior to the expiration of the term of the agreement, or any extension thereof. Any renewal will be under the same terms, covenants and conditions. No further document is required to be executed to renew the term of the contract.

V.4 CONTRACT-002.3 Extension of Contract Term (Nov 30 2006)

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

V.5 CONTRACT-003.1d Signatures - PO (July 2015)

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

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

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

The Commonwealth and the Contractor specifically agree as follows:

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

V.6 CONTRACT-004.1a Definitions (Oct 2013)

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

- a. Agency: The department, board, commission or other agency of the Commonwealth of Pennsylvania listed as the Purchasing Agency. If a COSTARS entity or external procurement activity has issued an order against this contract, that entity shall also be identified as "Agency".
- b. Contracting Officer: The person authorized to administer this Contract for the Commonwealth and to make written determinations with respect to the Contract.
- c. Days: Unless specifically indicated otherwise, days mean calendar days.
- d. Developed Works or Developed Materials: All documents, sketches, drawings, designs, works, papers, files, reports, computer programs, computer documentation, data, records, software, samples or any other tangible material without limitation authored or prepared by Contractor as the work product covered in the scope of work for the Project.
- e. Documentation: All materials required to support and convey information about the services required by this Contract. It includes, but is not necessarily restricted to, written reports and analyses, diagrams, maps, logical and physical designs, system designs, computer programs, flow charts, disks, and/or other machine-readable storage media.
- f. Services: All Contractor activity necessary to satisfy the Contract.

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

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

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

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

V.9 CONTRACT-008.1a Warranty (Oct 2006)

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

V.10 CONTRACT-009.1c Patent, Copyright, and Trademark Indemnity (Oct 2013)

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

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

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

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

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

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

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

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

V.11 CONTRACT-009.1d Ownership Rights (Oct 2006)

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

V.12 CONTRACT-010.1a Acceptance (Oct 2006)

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

V.13 CONTRACT-011.1a Compliance With Law (Oct 2006)

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

V.14 CONTRACT-013.1 Environmental Provisions (Oct 2006)

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

V.15 CONTRACT-014.1 Post-Consumer Recycled Content (June 2016)

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 by the Environmental Protection Agency in its Comprehensive Procurement Guidelines, which can be found at <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

V.16 CONTRACT-014.3 Recycled Content Enforcement (Feb 2009)

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

V.17 CONTRACT-015.1A Compensation/Expenses (May 2008)

The Contractor shall be required to perform the specified services at the price(s) quoted in the Contract. All services shall be performed within the time period(s) specified in the Contract. The Contractor shall be compensated only for work performed to the satisfaction of the Commonwealth. The Contractor shall not be allowed or paid travel or per diem expenses except as specifically set forth in the Contract.

V.18 CONTRACT-015.2 Billing Requirements (July 2021)

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

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

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

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

V.19 CONTRACT-016.1 Payment (Oct 2006)

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

V.20 CONTRACT-016.2 Payment – Electronic Funds Transfer (July 2022)

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

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

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

V.21 CONTRACT-017.1 Taxes (Dec 5 2006)

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

V.22 CONTRACT-018.1 Assignment of Antitrust Claims (Oct 2006)

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

V.23 CONTRACT-019.1 Hold Harmless Provision (Nov 30 2006)

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

V.24 CONTRACT-020.1 Audit Provisions (Oct 2006)

The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents and records of the Contractor to the extent that the books, documents and records relate to costs or pricing data for the Contract. The Contractor agrees to maintain records which will support the prices charged and costs incurred for the Contract. The Contractor shall preserve books, documents and records that relate to costs or pricing data for the Contract for a period of three (3) years from the date of final payment. The Contractor shall give full and free access to all records to the Commonwealth and/or their authorized representatives.

V.25 CONTRACT-020.2 Single Audit Clause (Dec 27, 2007)

- a. This Contract is subject to audit by federal and state agencies or their authorized representative in accordance with the auditing standards promulgated by the Comptroller General of the United States and specified in *Government Auditing Standards, 1994 Revisions (Yellow Book)*.
- b. The audit requirement of this Contract will be satisfied if a single audit is performed under the provisions of the *Single Audit Act of 1984, 31 U.S.C. Section 7501, et seq.*, and all rules and regulations promulgated pursuant to the Act.
- c. The Commonwealth reserves the right for federal and state agencies or their authorized representatives to perform additional audits of a financial/compliance, economy/efficiency, or program results nature, if deemed necessary.

The Contractor further agrees to comply with requirements that may be issued by the state agency upon receipt of additional guidance received from the federal government regarding the *Single Audit Act of 1984*.

V.26 CONTRACT-021.1 Default (Oct 2013)

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

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

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

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

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

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

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

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

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

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

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

V.28 CONTRACT-023.1a Termination Provisions (Oct 2013)

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

a. **TERMINATION FOR CONVENIENCE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order for its convenience if the Commonwealth determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover loss of profits.

b. **NON-APPROPRIATION:** The Commonwealth's obligation to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract or a Purchase Order. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in

the price of the supplies or services delivered under the Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid from any appropriations available for that purpose.

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

V.29 CONTRACT-024.1 Contract Controversies (Oct 2011)

a. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum. At the time the claim is filed, or within sixty (60) days thereafter, either party may request mediation through the Commonwealth Office of General Counsel Dispute Resolution Program.

b. If the Contractor or the contracting officer requests mediation and the other party agrees, the contracting officer shall promptly make arrangements for mediation. Mediation shall be scheduled so as to not delay the issuance of the final determination beyond the required 120 days after receipt of the claim if mediation is unsuccessful. If mediation is not agreed to or if resolution is not reached through mediation, the contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Contractor. The contracting officer shall send his/her written determination to the Contractor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.

c. Within fifteen (15) days of the mailing date of the determination denying a claim or within 135 days of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Contractor may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract in a manner consistent with the determination of the contracting officer and the Commonwealth shall compensate the Contractor pursuant to the terms of the Contract.

V.30 CONTRACT-025.1 Assignability and Subcontracting (Oct 2013)

a. Subject to the terms and conditions of this paragraph, this Contract shall be binding upon the parties and their respective successors and assigns.

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

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

d. Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Contracting Officer together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of this Contract.

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

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

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

V.31 CONTRACT-026.1 Other Contractors (Oct 2006)

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

V.32 CONTRACT-027.1 Nondiscrimination/Sexual Harassment Clause (August 2018)

The Contractor agrees:

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

2. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.

3. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under the contract.

4. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the *Public Employee Relations Act*, *Pennsylvania Labor Relations Act* or *National Labor Relations Act*, as applicable and to the extent determined by entities charged with such Acts' enforcement, and shall comply with any provision of law establishing organizations as employees' exclusive representatives.

5. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.

6. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.

7. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records,

including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

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

9. The Contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.

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

V.33 CONTRACT-028.1 Contractor Integrity Provisions (Jan 2015)

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

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

a. "Affiliate" means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.

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

c. "Contractor" means the individual or entity, that has entered into this contract with the Commonwealth.

d. "Contractor Related Parties" means any affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.

e. "Financial Interest" means either:

(1) Ownership of more than a five percent interest in any business; or

(2) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.

f. "Gratuity" means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the *Governor's Code of Conduct, Executive Order 1980-18, the 4 Pa. Code §7.153(b)*, shall apply.

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

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

a. Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting or procurement with the Commonwealth.

b. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and

Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.

c. Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.

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

e. Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:

(1) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;

(2) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;

(3) had any business license or professional license suspended or revoked; had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and

(4) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

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

f. Contractor shall comply with the requirements of the *Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.)* regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the *Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a)*.

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

h. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance

with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

i. Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries shall be created thereby.

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

V.34 CONTRACT-029.1 Contractor Responsibility Provisions (July 2021)

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

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

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

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

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

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

and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

6. The Contractor may search the current list of suspended and debarred Commonwealth contractors by visiting the eMarketplace website at <http://www.emarketplace.state.pa.us> and clicking the Debarment List tab.

V.35 CONTRACT-030.1 Americans with Disabilities Act (July 2021)

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, supplier, or grantee, who will furnish or perform or seeks to furnish or perform, goods, supplies, services, construction or other activity, under a purchase order, contract, or grant with the Commonwealth of Pennsylvania (Commonwealth).

During the term of this agreement, the contractor agrees as follows:

- 1 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 through contracts with outside contractors.
- 2 The contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth as a result of the contractor's failure to comply with the provisions of paragraph 1.

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

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

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

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

V.38 CONTRACT-034.1a Integration – RFP (Dec 12 2006)

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

V.39 CONTRACT-034.2a Order of Precedence - RFP (Dec 12 2006)

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

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

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

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

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

V.42 CONTRACT-036.1 Background Checks (February 2016)

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

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

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

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

V.43 CONTRACT-037.1a Confidentiality (Oct 2013)

a) The Contractor agrees to protect the confidentiality of the Commonwealth's confidential information. The Commonwealth agrees to protect the confidentiality of Contractor's confidential information. In order for information to be deemed confidential, the party claiming confidentiality must designate the information as "confidential" in such a way as to give notice to the other party (notice may be communicated by describing the information, and the specifications around its use or disclosure, in the SOW). Neither party may assert that information owned by the other party is such party's confidential information. The parties agree that such confidential information shall not be copied, in whole or in part, or used or disclosed except when essential for authorized activities under this Contract and, in the case of disclosure, where the recipient of the confidential information has agreed to be bound by confidentiality requirements no less restrictive than those set forth herein. Each copy of such confidential information shall be marked by the party making the copy with any notices appearing in the original. Upon termination or cancellation of this Contract or any license granted hereunder, the receiving party will return to the disclosing party all copies of the confidential information in the receiving party's possession, other than one copy, which may be maintained for archival purposes only, and which will remain subject to this Contract's security, privacy, data retention/destruction and confidentiality provisions (all of which shall survive the expiration of this Contract). Both parties agree that a material breach of these requirements may, after failure to cure within the time frame specified in this Contract, and at the discretion of the non-breaching party, result in termination for default pursuant to the DEFAULT provision of this Contract, in addition to other remedies available to the non-breaching party.

(b) Insofar as information is not otherwise protected by law or regulation, the obligations stated in this Section do not apply to information:

- (1) already known to the recipient at the time of disclosure other than through the contractual relationship;
- (2) independently generated by the recipient and not derived by the information supplied by the disclosing party.
- (3) known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;
- (4) disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or
- (5) required to be disclosed by law, regulation, court order, or other legal process.

There shall be no restriction with respect to the use or disclosure of any ideas, concepts, know-how, or data processing techniques developed alone or jointly with the Commonwealth in connection with services provided to the Commonwealth under this Contract.

(c) The Contractor shall use the following process when submitting information to the Commonwealth it believes to be confidential and/or proprietary information or trade secrets:

- (1) Prepare an un-redacted version of the appropriate document, and
- (2) Prepare a redacted version of the document that redacts the information that is asserted to be confidential or proprietary information or a trade secret, and
- (3) Prepare a signed written statement that states:
 - (i) the attached document contains confidential or proprietary information or trade secrets;
 - (ii) the Contractor is submitting the document in both redacted and un-redacted format in accordance with 65 P.S. § 67.707(b); and
 - (iii) the Contractor is requesting that the document be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests.
- (4) Submit the two documents along with the signed written statement to the Commonwealth.

V.44 CONTRACT-037.2a Sensitive Information (Sept 2009)

The Contractor shall not publish or otherwise disclose, except to the Commonwealth and except matters of public record, any information or data obtained hereunder from private individuals, organizations, or public agencies, in a publication whereby the information or data furnished by or about any particular person or establishment can be identified, except with the consent of such person or establishment. The parties shall not use or disclose any information about a recipient receiving services from, or otherwise enrolled in, a Commonwealth program affected by or benefiting from services under this Contract for any purpose not connected with the parties' Contract responsibilities except with the written consent of such recipient, recipient's attorney, or recipient's parent or guardian pursuant to applicable state and federal law and regulations.

Contractor will be responsible to remediate any improper disclosure of information. Such remediation may include, but not be limited to, credit monitoring for individuals for whom information has been released and reimbursement of any costs incurred by individuals for whom information has been released. Costs for which Contractor is responsible under this paragraph are not subject to any limitation of liability set out in this Contract or Purchase Order.

V.45 CONTRACT-041.1 Contract Requirements-Small Diverse Business and Small Business Participation (July 2016)

The provisions contained in the RFP concerning Contract Requirements - Small Diverse Business and Small Business Participation are incorporated by reference herein.

V.46 CONTRACT-045.1 Insurance - General (Dec 12 2006)

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

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

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

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

V.47 CONTRACT-051.1 Notice (Dec 2006)

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

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

V.48 CONTRACT-052.1 Right to Know Law (Feb 2010)

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, (“RTKL”) applies to this Contract. For the purpose of these provisions, the term “the Commonwealth” shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor’s assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor’s assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Contractor shall:
 - 1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor’s possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
 - 2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth’s determination.
- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor’s failure, including any statutory damages assessed against the Commonwealth.
- g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor’s failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth’s disclosure of Requested Information pursuant to the RTKL.
- i. The Contractor’s duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

V.49 CONTRACT-053.1 Enhanced Minimum Wage Provisions (July 2022)

1. Enhanced Minimum Wage. Contractor/Lessor agrees to pay no less than \$15.00 per hour to its employees for all hours worked directly performing the services called for in this Contract/Lease, and for an employee's hours performing ancillary services necessary for the performance of the contracted services or lease when such employee spends at least twenty per cent (20%) of their time performing ancillary services in a given work week.

2. Adjustment. Beginning July 1, 2023, and annually thereafter, the minimum wage rate shall be increased by an annual cost-of-living adjustment using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for Pennsylvania, New Jersey, Delaware, and Maryland. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.

3. Exceptions. These Enhanced Minimum Wage Provisions shall not apply to employees:

- a. exempt from the minimum wage under the Minimum Wage Act of 1968;
- b. covered by a collective bargaining agreement;
- c. required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or
- d. required to be paid a higher wage under any state or local policy or ordinance.

4. Notice. Contractor/Lessor shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.

5. Records. Contractor/Lessor must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.

6. Sanctions. Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.

7. Subcontractors. Contractor/Lessor shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.

PBDA 2023-01 RFP, PA 5-Year Action Plan & Digital Equity Plan

During negotiation meeting conducted on March 22, 2023 between Britt Muniz and representatives of Michael Baker, the Objection to the Standard terms and conditions were discussed. The following concerns were raised:

- 1) PO Terms and Conditions, Page 7 V.23 Contract 019.1 Hold Harmless Protection

This clause is not insurable under professional liability insurance and also does not require any wrongdoing on the part of the professional in order for the firm to be financially responsible. In other words, "activities" of the work may include following the directions of our client, using data or information provided by our client, following the policies and procedures of our client and those of any funding or oversight agency or as part of technical documents. None of these are wrongful activities, and not all of the terms in the contract are within our control as previously explained.

We will be responsible for any errors on our part but do not wish to take on liability due to actions or instructions of parties outside our control, such as our client. We are asking for the removal of the word "activities" and replacement with the following: "negligent acts, errors, omissions or willful misconduct in the services."

V.23 CONTRACT-019.1 Hold Harmless Provision (Nov 30 2006)

negligent acts, errors, omissions or willful misconduct in the services

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

- 2) PO Terms and Conditions, Page 4 V.9 CONTRACT -008.1a Warranty

We appreciate the Commonwealth's consideration of the addition of the definition of "Standard of Care" to this section. As a design professional firm, our responsibility is to comply with the standard of care usually observed by professionals performing similar services under similar circumstances. Because we are not a manufacturing or construction firm, there are no warranties associated with work.

"The services will be performed in accordance with the professional standard of care generally accepted of competent practitioners of Contractor's profession, performing under similar circumstances (Standard of Care)."

Over the course of multiple emails between Britt Muniz and Jeremy Jurick and other members of Michael Baker, Michael Baker resolved to agree to the Standard Terms and Conditions presented within the RFP.

Jeremy Jurick 3/27/23
Jeremy Jurick - Vice President

EXHIBIT B

Final Negotiated Cost Submittal

COST SUBMITTAL

Michael Baker would like to present a lump sum price of **\$1,199,744** for the first year of services for program management, development of a public engagement plan, a Five-Year Action Plan, and a Digital Equity plan for the Commonwealth of Pennsylvania. The aforementioned price reflects the Commonwealth response to Question 55 in the original PBDA-2022-01 RFP and the provision of cost figures for each task consistent with the with the Basic Established-Price Contract methodology in the DGS Procurement Handbook.

Michael Baker’s technical and cost proposal have been developed to provide best value to Commonwealth government and the taxpayer as PBDA works to bring broadband to the unserved and underserved throughout the state, allowing affordable access to education, health, and entertainment options that are currently out of reach. Part of the best value approach is remaining flexible throughout the period of performance and being open to adjusting allocated funds between Tasks to allow for unforeseen changes during the contract.

Michael Baker will invoice the PA Broadband Authority monthly on a percent complete basis in relation to the Scope of Work.

Task	Description	Totals
Task 1	Program Management	\$473,904
Task 2	Five-Year Action Plan	\$455,370
Task 3	Create Digital Equity Plan	\$270,470
TOTAL		\$1,199,744

EXHIBIT C

Small Diverse Business Participation Submittal

SDB-3 SDB UTILIZATION SCHEDULE

List in the chart below SDBs (including where applicable a prime offeror is self-performing a portion of the work) that will be used towards the SDB participation bonus points (add additional pages if necessary). Submit a **Letter of Commitment (SDB-3-1)** for each SDB subcontractor (add additional Letters of Commitment as necessary).

SDB Name SAP Vendor Number (6-digit number provided by SDB) SDB Verification Number (located on DGS SDB verification)	Type of SDB (check all that apply)	Description of Work to be Performed (Statement of Work/Specification reference)	% Commitment (or % of work to be self-performed by SDB bidder/offeror)	Associated Dollar Value of Commitment
Name: <u>ABC IT Solutions</u> SAP Vendor Number: <u>123456</u> SDB Verification Number: <u>123456-2016-09-SB-M</u>	MBE	IT staffing resources	%	\$
Name: A 2 Z Diversity Solutions, Inc SAP Vendor Number: 517330 SDB Verification Number: 517330202110-SDB-M	<input checked="" type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE	Communications and Engagement, Economic and Workforce Development	5.4 %	\$ 50,000
Name: Rockland Planning SAP Vendor Number: 540042 SDB Verification Number: 540042-20202-10-SB-MW	<input checked="" type="checkbox"/> MBE <input checked="" type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE	Broadband Strategy and Planning	3.75 %	\$ 26,000
Name: SAP Vendor Number: SDB Verification Number:	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		%	
Name: SAP Vendor Number: SDB Verification Number:	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		%	
Attach additional sheets if necessary			Total % SDB commitment: <u>9.15</u>	Total \$ amount: <u>\$ 76,000</u>

**SDB-3.1
LETTER OF COMMITMENT**

This Letter of Commitment serves as confirmation of the commitment by the prime Offeror to utilize the Small Diverse Business (SDB) on the below-referenced Solicitation/Project.

Solicitation Number: PBDA-2023-01

Solicitation Name: Broadband State 5yr Action = Digital Equity Plan

	Offeror Information	SDB Information
Name	Michael Baker International, Inc.	Rockland Planning, Inc.
Address	100 Airside Drive Moon Township, PA 15108	6754 Jonestown Rd Harrisburg, PA 17112
Point of Contact	Jeremy Jurick	Yesenia Bane
Telephone number	[REDACTED]	[REDACTED]
Email address	[REDACTED]	[REDACTED]

Services/Supplies and Time Frame. If Offeror is the successful vendor, the SDB shall perform or provide the following services or supplies during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below:

Services or supplies the SDB will provide: Broadband Strategy and Planning

Specific Time Frame the SDB will provide the services or supplies: 7 months

Percentage Commitment. These services or supplies represent 3.75 % of the total cost of the Offeror's cost submittal for the initial term of the contract. Depending on actual contract usage or volume, it is expected the SDB will receive \$ 26,000 during the initial contract term.

SDB verified. By signing below, the SDB represents that it meets the SDB requirements set forth in the Solicitation and all required documentation has been provided to the Offeror for its SDB submission.

Sincerely,

Jeremy Jurick

Printed name



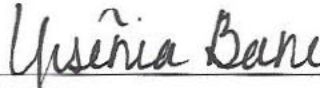
Signature

Offeror Point of Contact Name

Acknowledged

Yesenia Bane

Printed name



Signature

SDB Point of Contact Name



SB

December 8, 2022

Rockland Planning, Inc
6754 JONESTOWN RD
HARRISBURG, PA 17112-3328

Dear Yesenia R Bane,

The Pennsylvania Department of General Services, Bureau of Diversity, Inclusion & Small Business Opportunities (BDISBO), is pleased to inform you that Rockland Planning, Inc has been verified as a SB.

View and download your certificates through your PRiSM account at <http://bdisbo.prismcompliance.com/>. Enter the **Username** and **Password** which you set up during the User Registration process following your initial Small Business self-certification through the PRiSM Portal. The certificates can be found by clicking **Administration > Manage Vendor Records > Certifications**. Your verification is valid until the expiration date listed on the certificate. The certificates can be reprinted and saved from your PRiSM account at any time.

Click **Need login help** if you can't remember your username or password or **Don't have a username > Register Now** if you have not created a username and password. Your company's PIN is «PIN».

The information you provided for verification was represented as being true and correct. The Commonwealth shall treat any misstatement as fraudulent concealment of the true facts punishable as a crime under Section 4904 of the Pennsylvania Crimes Code, Title 18, of Pa. Consolidated Statutes relating to unsworn falsification to authorities. In addition, the Department reserves the right to conduct further review as needed.

For additional information or assistance, please contact BDISBO at 717-783-3119, RA-SmallBusiness@pa.gov, or GS-BDISBO@pa.gov.

Sincerely,

A handwritten signature in black ink that reads "Kerry L. Kirkland". The signature is written in a cursive, flowing style.

Kerry Kirkland, Deputy Secretary
Bureau of Diversity, Inclusion & Small Business Opportunities

Bureau of Diversity, Inclusion and Small Business Opportunities
401 North Street Room 611 | Harrisburg, PA 17120-0500 | P 717.783.3119 | F 717.787.7052 |
www.dgs.pa.gov

**SDB-3.1
LETTER OF COMMITMENT**

This Letter of Commitment serves as confirmation of the commitment by the prime Offeror to utilize the Small Diverse Business (SDB) on the below-referenced Solicitation/Project.

Solicitation Number: PBDA-2023-01

Solicitation Name: Consultant With Broadband Expertise to Assist with Designing The State's 5-Year Action Plan and Digital Equity Plan

	Offeror Information	SDB Information
Name	Michael Baker International, Inc.	A2Z Diversity Solutions, Inc.
Address	100 Airside Drive Moon Township, PA 15108	2400 Thea Drive, Harrisburg, PA 17110
Point of Contact	Jeremy Jurick	Tremayne Terry
Telephone number	[REDACTED]	[REDACTED]
Email address	[REDACTED]	[REDACTED]

Services/Supplies and Time Frame. If Offeror is the successful vendor, the SDB shall perform or provide the following services or supplies during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below:

Services or supplies the SDB will provide: Communications and Engagement; Economic and Workforce Development

Specific Time Frame the SDB will provide the services or supplies: 7 months

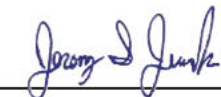
Percentage Commitment. These services or supplies represent 5.4 % of the total cost of the Offeror's cost submittal for the initial term of the contract. Depending on actual contract usage or volume, it is expected the SDB will receive \$ 50,000 during the initial contract term.

SDB verified. By signing below, the SDB represents that it meets the SDB requirements set forth in the Solicitation and all required documentation has been provided to the Offeror for its SDB submission.

Sincerely,

Jeremy Jurick

Printed name



Signature

Offeror Point of Contact Name

Acknowledged

Tremayne E. Terry

Printed name



Signature

SDB Point of Contact Name

NOTICE OF SMALL DIVERSE BUSINESS VERIFICATION



The Department is pleased to announce that
A 2 Z DIVERSITY SOLUTIONS INC

has successfully completed the Pennsylvania Department of General Services' process for self-certification as a small business under the Commonwealth's Small Business Contracting Program, and is verified as a Small Diverse Business with the following designation(s):

BUSINESS TYPE(s):

Procurement Services

CERTIFICATION NUMBER: **517330202110-SDB-M**

CERTIFICATION TYPE: **SMALL DIVERSE BUSINESS**

ISSUE DATE: **10/07/2021**

EXPIRATION DATE: **10/07/2023**

RECERTIFIED DATE:

A handwritten signature in black ink that reads "Kerry L. Kirkland". The signature is written in a cursive, flowing style.

Kerry L. Kirkland, Deputy Secretary
Bureau of Diversity, Inclusion & Small Business Opportunities

EXHIBIT D

Request for Proposal

REQUEST FOR PROPOSALS
FOR
CONSULTANT WITH BROADBAND EXPERTISE TO ASSIST WITH DESIGNING
THE STATE'S 5-YEAR ACTION PLAN AND DIGITAL EQUITY PLAN

ISSUING OFFICE
PENNSYLVANIA BROADBAND DEVELOPMENT AUTHORITY

RFP NUMBER

PBDA-2023-01

DATE OF ISSUANCE

FEBRUARY 7, 2023

REQUEST FOR PROPOSALS
FOR
CONSULTANT WITH BROADBAND EXPERTISE TO ASSIST WITH DESIGNING
THE STATE’S 5-YEAR ACTION PLAN AND DIGITAL EQUITY PLAN

TABLE OF CONTENTS

CALENDAR OF EVENTS	Page iii
Part I. GENERAL INFORMATION	Page 1
Part II. CRITERIA FOR SELECTION	Page 10
Part III. TECHNICAL SUBMITTAL	Page 13
Part IV. COST SUBMITTAL	Page 17
Part V. SDB & VBE COMMITMENTS	Page 18
Part VI. PURCHASE ORDER TERMS AND CONDITIONS	Page 23
APPENDIX A. PROPOSAL COVER SHEET	Page A1
APPENDIX B. DOMESTIC WORKFORCE UTILIZATION CERTIFICATION	Page B1
APPENDIX C. TRADE SECRET CONFIDENTIAL PROPRIETARY INFORMATION NOTICE FORM	Page C1
APPENDIX D. COST SUBMITTAL WORKSHEET	Page D1
APPENDIX E. SMALL DIVERSE BUSINESS AND VETERAN BUSINESS ENTERPRISE COMMITMENTS	Page E1
APPENDIX F. MODEL SDB/VBE SUBCONTRACTOR SUBAGREEMENT	Page F1

CALENDAR OF EVENTS

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

Date	
Deadline to submit Questions via email to [REDACTED]:	4:00 p.m. on February 10, 2023
Answers to Questions posted to the eMarketplace website at https://www.emarketplace.pa.sate.us/Search.aspx no later than this date:	February 14, 2023
Offerors to monitor website for all communications regarding the RFP:	Ongoing
Deadline to submit Proposal to Issuing Office via email at [REDACTED]:	4:00 p.m. on February 20, 2023

PART I GENERAL INFORMATION

Purpose. This request for proposals (RFP) provides to those interested in submitting proposals for the subject procurement (“Offerors”) sufficient information to enable them to prepare and submit proposals for the Pennsylvania Broadband Development Authority’s consideration on behalf of the Commonwealth of Pennsylvania (“Commonwealth”) to satisfy a need for a consultant to assist with the development of the 5-Year Action Plan and Digital Equity Plan (“Project”).

I-1. Consultant with Broadband Expertise to Assist with Designing the State’s 5-Year Action Plan and Digital Equity Plan (“Project”). This RFP contains instructions governing the requested proposals, including the requirements for the information and material to be included; a description of the service to be provided; requirements which Offerors must meet to be eligible for consideration; general evaluation criteria; and other requirements specific to this RFP.

I-2. Issuing Office. The Pennsylvania Broadband Development Authority (“Issuing Office”) has issued this RFP on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this RFP shall be Eileen Quinn, Office of Chief Counsel, 400 North Street, 4th Floor, Commonwealth Keystone Building, Harrisburg, PA 17120, [REDACTED], the Issuing Officer for this RFP. Please refer all inquiries to the Issuing Officer.

I-3. Overview of Project. The Pennsylvania Broadband Development Authority (“Authority”), established by Act 96 of 2021, is the single point of contact for entities wishing to engage in broadband development and deployment in the Commonwealth. The Authority will apply for and distribute monies received under the Infrastructure Investment and Jobs Act (IIJA), which appropriated \$63.25 billion nationwide for broadband expansion purposes.

Through the IIJA, \$42.5 billion has been allocated to the Broadband Equity, Access, and Deployment (BEAD) Program for States, Territories, and the District of Columbia, to utilize for broadband deployment, mapping, and adoption projects. Each state will receive a minimum \$100 million allocation and up to \$5 million for initial planning support. States leveraging initial planning funds will submit a 5-Year Action Plan, which shall be informed by collaboration with local and regional entities. The 5-Year Action Plan will identify communities’ broadband access, affordability, equity, and adoption needs and include ways that the Commonwealth will adopt strategies, goals, and initial measures for meeting those needs using BEAD funds. Upon receipt of planning funds, the Commonwealth will have nine months to finalize the 5-Year Action Plan for submission to the National Telecommunications and Information Administration (NTIA).

The Digital Equity Act dedicates \$2.75 billion to establish three grant programs to ensure that all people and communities have the skills, technology, and capacity needed to experience the benefits of a digital economy. The Commonwealth will receive \$1.6 million for initial planning support under the State Digital Equity Planning Grant Program. This Program requires the completion of a Digital Equity Plan. The Digital Equity Plan will also

be incorporated into the BEAD 5-Year Action Plan. Upon receipt of planning funds, the Commonwealth will have one year to submit its final Digital Equity Plan to the NTIA.

The Authority seeks a consultant to assist with designing the state's 5-Year Action Plan and Digital Equity Plan, which will be intentionally linked, complementary, and contain mutually supportive goals. This work should include an integrated and unified planning team approach for both plans; integration of digital equity throughout the 5-Year Action Plan; cohesive stakeholder engagement so that all local coordination and outreach is conducted as a cohesive effort for the two programs; coordinated data collection and asset mapping; and aligning the goals and strategies of the 5-Year Action Plan and the State Digital Equity Plan.

The consultant will be expected to coordinate with the Pennsylvania Broadband Office staff, the Pennsylvania Broadband Authority's Board of Directors, and the four sub-committees appointed by the Authority.

I-4. **Objectives.** The Pennsylvania Broadband Development Authority seeks to procure the services of a qualified consulting firm(s) to assist with the Authority's broadband initiatives, including, but not limited to, the following:

- Work with the Pennsylvania Broadband Office to prepare for planning efforts surrounding the 5-Year Action Plan and Digital Equity Plan. This includes execution of the Authority's stakeholder engagement plan, facilitating core planning team meetings, and facilitating roundtable discussions.
- Develop a draft framework of the 5-Year Action Plan. The selected consultant is expected to regularly communicate and partner with the Pennsylvania Broadband Office, in particular the Infrastructure Program Manager and the Digital Equity Program Manager to design and coordinate the above-mentioned plan.
- Develop a draft framework of the Digital Equity Plan. The selected consultant is expected to regularly communicate and partner with the Pennsylvania Broadband Office, in particular the Infrastructure Program Manager and the Digital Equity Program Manager to design and coordinate the above-mentioned plan.

The Pennsylvania Broadband Development Authority reserves the right to make assignments as it may deem necessary or desirable, in the judgment of the Pennsylvania Broadband Development Authority, for all aspects of or roles within the scope of this RFP.

I-5. **Type of Contract.** It is proposed that if the Issuing Office enters a contract as a result of this RFP, it will be a Basic Established-Price contract containing the standard Purchase Order Terms and Conditions as shown in **Part VI**. The Issuing Office, in its sole discretion, may undertake negotiations with Offerors whose proposals, in the judgment of the Issuing Office, show them to be qualified, responsible and capable of performing the Project.

I-6. **Rejection of Proposals.** The Issuing Office reserves the right, in its sole and complete

discretion, to reject any proposal received as a result of this RFP.

I-7. Incurring Costs. The Issuing Office is not liable for any costs the Offeror incurs in preparation and submission of its proposal, in participating in the RFP process or in anticipation of award of the contract.

I-8. Questions & Answers. If an Offeror has any questions regarding this RFP, the Offeror must submit the questions by email (**with the subject line “RFP PBDA-2023-01 Question”**) to the Issuing Officer named in **Part I, Section I-2** of the RFP. If the Offeror has questions, they may be submitted as they arise via email, but **no later than** the date indicated on the Calendar of Events. The Issuing Officer shall post the answers to the **Questions** to eMarketplace at <http://www.emarketplace.state.pa.us/Search.aspx> on an ongoing basis until the deadline stated on the Calendar of Events. When an Offeror submits a question after the deadline date for receipt of questions indicated on the Calendar of Events, the Issuing Officer *may* respond to questions of an administrative nature by directing the questioning Offeror to specific provisions in the RFP. To the extent that the Issuing Office decides to respond to a non-administrative question *after* the deadline date, the question and answer will be provided to all Offerors through an addendum.

All questions and responses as posted to eMarketplace are considered as an addendum to, and part of, this RFP in accordance with RFP **Part I, Section I-10**. Each Offeror shall be responsible to monitor eMarketplace 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 in **Part I, Section I-25**.

I-9. 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 eMarketplace at <http://www.emarketplace.state.pa.us/Search.aspx>. It is the Offeror’s responsibility to periodically check eMarketplace for any new information or addenda to the RFP. Answers to the questions asked during the Questions & Answers period also will be posted to eMarketplace as addenda to the RFP.

I-10. Response Date. To be considered for selection, electronic proposal submissions as described in **Part I, Section I-11** must arrive at the Issuing Office on or before the time and date specified in the RFP Calendar of Events. The Issuing Office will reject any late proposals.

I-11. Proposal Requirements.

A. Proposal Submission: To be considered, Offerors should submit via email a complete response to this RFP to the Issuing Office, using the format provided in **Section I-11B**, providing a single electronic proposal with separate pdf files **for the Technical Submittal; the Cost Submittal; the Small Diverse Business (SDB) Participation Submittal (Forms SDB-3 and SDB-3.1) and the Veteran Business Enterprise (VBE) Participation Submittal (VBE-3 and VBE-3.1)**. The email should clearly

identify the Offeror and include in the subject heading “Proposal Submission for **RFP PBDA-2023-01**”. The Offeror shall make no other distribution of its proposal to any other Offeror or Commonwealth official or Commonwealth consultant. Each proposal page should be numbered for ease of reference. An official authorized to bind the Offeror to its provisions must sign the proposal. If the official signs the **Proposal Cover Sheet (Appendix A** to this RFP) and the Proposal Cover Sheet is scanned and provided in a PDF version in the Offeror’s electronically submitted proposal, the requirement will be met. For this RFP, the proposal must remain valid for **120** days or until a contract is fully executed. If the Issuing Office selects the Offeror’s proposal for award, the contents of the selected Offeror’s proposal will become, except to the extent the contents are changed through Best and Final Offers or negotiations, contractual obligations.

Each Offeror submitting a proposal specifically waives any right to withdraw or modify it, except that the Offeror may withdraw its proposal by emailing the Issuing Office prior to the deadline for proposal submissions. An Offeror may modify its submitted proposal prior to the deadline for proposal submissions by emailing the Issuing Office prior to the deadline for proposal submission. All emails must clearly identify the Offeror and include in the heading either “Request to Withdraw Proposal for **RFP PBDA-2023-01**” or “Revised Proposal for **RFP PBDA-2023-01**”, as appropriate. Revised proposals must comply with the RFP Requirements.

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

1. Technical Submittal, in response to **Part III**:
 - a. Complete, sign and include **Appendix B – Domestic Workforce Utilization Certification**;
2. Cost Submittal, in response to RFP **Part IV**;
3. SDB and VBE Commitment in response to RFP **Part V**; and

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

The Issuing Office may make investigations as deemed necessary to determine the

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

I-12. 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. Proposal may not exceed 100 pages excluding resumes.

I-13. 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-14. 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 responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification. Clarifications may occur at any stage of the evaluation and selection process prior to contract execution.

I-15. Prime Contractor Responsibilities. The selected Offeror must perform the largest percentage of work as compared to its subcontractors and suppliers. Nevertheless, the contract will require the selected Offeror to assume responsibility for all services offered in its proposal whether it produces them itself or by subcontract. Further, the Issuing Office will consider the selected Offeror to be the sole point of contact with regard to all contractual matters.

I-16. Proposal Contents.

A. Confidential Information. The Commonwealth is not requesting, and does not require, confidential proprietary information or trade secrets to be included as part of Offerors' submissions in order to evaluate proposals submitted in response to this RFP. Accordingly, except as provided herein, Offerors should not label proposal submissions as confidential or proprietary or trade secret protected. Any Offeror who determines that it must divulge such information as part of its proposal must submit the signed written statement described in subsection c. below and must additionally provide a redacted version of its proposal, which removes only the confidential proprietary information and trade secrets, for required public disclosure purposes.

B. Commonwealth Use. All material submitted with the proposal shall be considered the property of the Commonwealth of Pennsylvania. The Commonwealth has the right to use any or all ideas not protected by intellectual property rights that are presented in any proposal regardless of whether the proposal becomes part of a contract. Notwithstanding any Offeror copyright designations contained in proposals, the Commonwealth shall have the right to make copies and distribute proposals internally and to comply with public record or other disclosure requirements under the provisions of any Commonwealth or United States statute or regulation, or rule or order of any court of competent jurisdiction.

C. **Public Disclosure.** After the award of a contract pursuant to this RFP, all proposal submissions are subject to disclosure in response to a request for public records made under the Pennsylvania Right-to-Know-Law, 65 P.S. § 67.101, et seq. If a proposal submission contains confidential proprietary information or trade secrets, a signed written statement to this effect must be provided with the submission in accordance with 65 P.S. § 67.707(b) for the information to be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests. Refer to **Appendix C** of the RFP for a **Trade Secret Confidential Proprietary Information Notice Form** that may be utilized as the signed written statement, if applicable. If financial capability information is submitted in response to Part III of this RFP, such financial capability information is exempt from public records disclosure under 65 P.S. § 67.708(b)(26).

I-17. Best and Final Offers (BAFO).

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

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

B. The following Offerors will **not** be invited by the Issuing Office to submit a Best and Final Offer:

1. Those Offerors which the Issuing Office has determined to be not responsible or whose proposals the Issuing Office has determined to be not responsive.
2. Those Offerors which the Issuing Office has determined in accordance with **Part II, Section II-5** from the submitted and gathered financial and other information, do not possess the financial capability, experience or qualifications to assure good faith performance of the contract.
3. Those Offerors whose score for their technical submittal of the proposal is less than 75% of the total amount of technical points allotted to the technical criterion.

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

D. The Evaluation Criteria found in **Part II, Section II-4**, shall also be used to evaluate

the Best and Final offers.

- I-18. 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-19. 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-20. Issuing Office Participation.** Offerors shall provide all services, supplies, facilities, and other support necessary to complete the identified work, except as otherwise provided in this **Part I, Section I-20.**
- I-21. Term of Contract.** The term of the contract will commence on the Effective Date and continue for one year with the option to renew, at the discretion of the PBDA, for one additional one-year renewal. 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-22. Offeror's Representations and Authorizations.** By submitting its proposal, each Offeror understands, represents, and acknowledges that:
- A.** All of the Offeror's information and representations in the proposal are material and important, and the Issuing Office may rely upon the contents of the proposal in awarding the contract(s). The Commonwealth shall treat any misstatement, omission or misrepresentation as fraudulent concealment of the true facts relating to the Proposal submission, punishable pursuant to 18 Pa. C.S. § 4904.
 - B.** The Offeror has arrived at the price(s) and amounts in its proposal independently and without consultation, communication, or agreement with any other Offeror or potential offeror.
 - C.** The Offeror has not disclosed the price(s), the amount of the proposal, nor the approximate price(s) or amount(s) of its proposal to any other firm or person who is an Offeror or potential offeror for this RFP, and the Offeror shall not disclose any of these items on or before the proposal submission deadline specified in the Calendar of Events of this RFP.

- D. The Offeror has not attempted, nor will it attempt, to induce any firm or person to refrain from submitting a proposal on this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.
- E. The Offeror makes its proposal in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.
- F. To the best knowledge of the person signing the proposal for the Offeror, the Offeror, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last **four** years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract, except as the Offeror has disclosed in its proposal.
- G. To the best of the knowledge of the person signing the proposal for the Offeror and except as the Offeror has otherwise disclosed in its proposal, the Offeror has no outstanding, delinquent obligations to the Commonwealth including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Offeror that is owed to the Commonwealth.
- H. The Offeror is not currently under suspension or debarment by the Commonwealth, any other state or the federal government, and if the Offeror cannot so certify, then it shall submit along with its proposal a written explanation of why it cannot make such certification.
- I. The Offeror has not made, under separate contract with the Issuing Office, any recommendations to the Issuing Office concerning the need for the services described in its proposal or the specifications for the services described in the proposal.
- J. Each Offeror, by submitting its proposal, authorizes Commonwealth agencies to release to the Commonwealth information concerning the Offeror's Pennsylvania taxes, unemployment compensation and workers' compensation liabilities.
- K. Until the selected Offeror receives a fully executed and approved written contract from the Issuing Office, there is no legal and valid contract, in law or in equity, and the Offeror shall not begin to perform.
- L. The Offeror is not currently engaged, and will not during the duration of the contract engage, in a boycott of a person or an entity based in or doing business with a jurisdiction which the Commonwealth is not prohibited by Congressional statute from engaging in trade or commerce.

I-23. Notification of Selection.

- A. Contract Negotiations.** The Issuing Office will notify all Offerors in writing of the Offeror selected for contract negotiations after the Issuing Office has determined, taking into consideration all of the evaluation factors, the proposal that is the most advantageous to the Issuing Office.
- B. Award.** Offerors whose proposals are not selected will be notified when contract negotiations have been successfully completed and the Issuing Office has received the final negotiated contract signed by the selected Offeror.
- I-24. Debriefing Conferences.** Upon notification of award, Offerors whose proposals were not selected will be given the opportunity to be debriefed. The Issuing Office will schedule the debriefing at a mutually agreeable time. The debriefing will not compare the Offeror with other Offerors, other than the position of the Offeror's proposal in relation to all other Offeror proposals. An Offeror's exercise of the opportunity to be debriefed does not constitute nor toll the time for filing a protest (See **Section I-25** of this RFP).
- I-25. RFP Protest Procedure.** The RFP Protest Procedure is on the DGS website at <http://www.dgs.pa.gov/Documents/Procurement%20Forms/Handbook/Pt1/Pt%20I%20Ch%2058%20Bid%20Protests.pdf>. A protest by a party that has not or has not yet submitted a proposal must be filed no later than the proposal submission deadline specified in the Calendar of Events of the RFP. Offerors may file a protest within **seven** days after the protesting Offeror knew or should have known of the facts giving rise to the protest, but in no event may an Offeror file a protest later than **seven** days after the date the notice of award of the contract is posted on the DGS website. The date of filing is the date of receipt of the protest. A protest must be filed in writing with the Issuing Office. To be timely, the protest must be received by 4:00 p.m. on the seventh day.
- I-26. Use of Electronic Versions of this RFP.** This RFP is being made available by electronic means. If an Offeror electronically accepts the RFP, the Offeror acknowledges and accepts full responsibility to ensure that no changes are made to the RFP. In the event of a conflict between a version of the RFP in the Offeror's possession and the Issuing Office's version of the RFP, the Issuing Office's version shall govern.

PART II
CRITERIA FOR SELECTION

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

- A. Be timely received from an Offeror (see **Part I, Section I-10**); and
- B. Be properly signed by the Offeror (see **Part I, Section I-11A**); and

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

II-3. Evaluation. The Issuing Office has selected a committee of qualified personnel to review and evaluate timely submitted proposals. The Issuing Office will notify in writing of its selection for negotiation the responsible Offeror whose proposal is determined to be the most advantageous to the Commonwealth as determined by the Issuing Office after taking into consideration all of the evaluation factors.

II-4. Evaluation Criteria. The following criteria will be used in evaluating each proposal:

A. **Technical:** The Issuing Office has established the weight for the Technical criterion for this RFP as **80%** of the total points. Evaluation will be based upon the following: **Evaluation will be based upon the following in order of importance:**

- i. **Soundness of Approach**
- ii. **Understanding the Problem**
- iii. **Personnel Qualifications**
- iv. **Offeror Qualification**

The final Technical scores are determined by giving the maximum number of technical points available to the proposal(s) with the highest raw technical score. The remaining proposals are rated by applying the Technical Scoring Formula set forth below.

The final Technical scores are determined by giving the maximum number of Technical points available (A) to the proposal with the highest raw technical score. The remaining proposals are rated by applying the following formula:

$$\frac{\text{Raw Technical Score of Proposal Being Scored}}{\text{Highest Raw Technical Score}} \times A = \text{Final Technical Score}$$

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

$$[1 - (B-A)/A] \times C = \text{Final Cost Score}$$

A—the lowest Offeror's cost. B—

the Offeror's cost being scored.

C—the maximum number of cost points available.

Note: If the formula results in a negative number (which will occur when the Offeror's cost is more than twice the lowest cost), zero points shall be assigned.

- C. Small Diverse Business and Veteran Business Enterprise Commitment.** Any points received for the Small Diverse Business and Veteran Business Enterprise criterion are bonus points in addition to the total points for this RFP. The maximum amount of bonus points available for this criterion is **3%** of the total points for this RFP. Points are awarded using the formula below.

$$\% \text{ of SB, SBD and VBE Commitment} \times \text{Allocated Points.}$$

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

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

$$\% \text{ of Domestic Workforce Utilization} \times \text{Allocated Points.}$$

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

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

- A. The total score for the technical submittal of the Offeror's proposal must be greater than or equal to 75% of the **available technical points**; and
- B. The Offeror must be determined to be responsible in accordance with the most current version of Commonwealth Management Directive 215.9, Contractor Responsibility Program.

II-6. Final Ranking and Award.

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

**PART III
TECHNICAL SUBMITTAL**

III-1. Statement of the Project. State in succinct terms your understanding of the project presented, or the service required by this RFP.

Offeror Response.

III-2. Qualifications.

A. Overview.

Offeror Response.

B. Prior Experience. Include experience working with state and local governments and proficiency in many broadband aspects to include, but not limited to: technologies, successful design and implementation of state and local broadband plans, model design of stakeholder outreach and engagement and digital equity initiatives. Additionally, provide examples to support the expertise, experience, and best practices learned that will be implemented in the scope of work. Experience shown must be work done by individuals who will be assigned to this project as well as that of your company. Studies or projects referred to must be identified and the name of the customer shown, including the name, address, and telephone number of the responsible official of the customer, company, or agency who may be contacted.

Offeror Response.

C. Personnel. Include the number of executive and professional personnel, analysts, auditors, researchers, programmers, consultants, etc., who will be engaged in the work. Show where these personnel will be physically located during the time they are engaged in the Project. For key personnel, identified as project lead and supporting roles, include the employee's name and, through a resume or similar document, the Project personnel's education and experience in broadband infrastructure deployment and digital equity initiatives.

Offeror Response.

D. Location. Provide documentation of at least one office located within Pennsylvania.

Offeror Response.

E. Subcontractors: Provide a subcontracting plan for all subcontractors, including Small Diverse Business and Veteran Business Enterprise subcontractors, who will be assigned to the Project. The selected Offeror is prohibited from subcontracting or outsourcing any part of this Project work without the express written approval

from the Pennsylvania Broadband Development Authority. Upon award of the contract resulting from this RFP, subcontractors included in the proposal submission are deemed approved. For each position included in your subcontracting plan provide:

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

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

Offeror Response.

III-3. Work Plan. Describe in narrative form your plan for accomplishing the work using the objectives listed in Part I of this Request for Proposal and the task descriptions as your reference point. Indicate the number of people (by name and title) whom you anticipate will be working on this project and the estimated number of hours required to complete each task.

Task 1 – Work with the Pennsylvania Broadband Office to prepare for planning efforts surrounding the 5-Year Action Plan and Digital Equity Plan. The selected consultant is expected to regularly communicate and partner with the Pennsylvania Broadband Office, in particular the Infrastructure Program Manager and the Digital Equity Program Manager. Key tasks include, at minimum:

- a. Facilitating regular meetings of the core planning team as established by the Broadband Office and ensuring continuous collaboration and integration with the Authority's four sub-committees and the Authority's Board of Directors.
- b. Facilitation of approximately two digital equity roundtable discussions, two industry roundtable discussions, and a strategic planning session for the Authority's Board of Directors.
- c. Development, deployment, and collection of a statewide, community survey to identify barriers, needs, digital skill levels, community assets, and resource knowledge.
- d. Work with the Broadband Office to host a minimum of 10 in-person

community outreach events across the commonwealth to help identify locally specific barriers, inform asset mapping, and help to develop a gap analysis for resources and assets on a regional/localized basis.

Offeror Response.

Task 2 – Develop a DRAFT framework of the 5-Year Action Plan. The Five-Year Action Plan is due within 270 days of receipt of Initial Planning Funds (August 12, 2023). The selected consultant is expected to regularly communicate and partner with the Pennsylvania Broadband Office, in particular the Infrastructure Program Manager and the Digital Equity Program Manager to design and coordinate the above-mentioned plan. Key tasks include, at minimum:

- a. Conducting an asset inventory that catalogues broadband adoption, affordability, equity, access, and deployment activities occurring within the Commonwealth. The asset inventory should identify and provide details regarding any relevant partners, such as community anchor institutions that may inform planning work.
- b. Coordinating with units of local government, service providers, the Authority’s four sub-committees and Pennsylvania Broadband Office staff to develop a “Broadband Ready” framework or checklist to prepare local units of government for broadband projects, reduce obstacles to broadband infrastructure investment and better position units of local government to respond to funding opportunities and partnerships with providers.
- c. Providing a comprehensive, high-level plan for providing reliable, affordable, high-speed internet service in the Commonwealth, including but not limited to:
 - i. The estimated timeline and cost for universal service;
 - ii. The planned utilization of federal, Commonwealth, and local funding sources;
 - iii. Prioritization of areas for federal support;
 - iv. Strategies to increase enrollment in the Affordable Connectivity Program by eligible households;
 - v. Strategies to ensure an available and highly skilled workforce to minimize project disruptions, including plans to ensure strong labor standards and protections, and plans to attract, retain, or transition the skilled workforce needed to achieve the plan’s goals.
- d. Identifying digital equity and inclusion needs, goals, and implementation strategies.

Offeror Response.

Task 3 – Develop a DRAFT framework of the Digital Equity Plan. The Digital Equity Plan is due within 365 days of receipt of planning grant funds (October 31,

2023). The selected consultant is expected to regularly communicate and partner with the Pennsylvania Broadband Office, in particular the Infrastructure Program Manager and the Digital Equity Program Manager to design and coordinate the above-mentioned plan. Key tasks include, at minimum: Conducting a digital equity needs assessment, including a comprehensive assessment of the baseline from which the Commonwealth is working and identifying the barriers to digital equity faced generally and by each of the covered populations (as outlined in the NTIA's Digital Equity Planning Grant Notice of Funding Opportunity).

- a. Conducting an asset inventory, including current resources, programs, and strategies that promote digital equity for each of the covered populations, as well as existing digital equity plans and programs already in place within the Commonwealth.
- b. Developing a coordination and outreach strategy that includes each category of covered populations within the Commonwealth.
- c. Developing an implementation strategy that holistically addresses barriers such as affordability, device access, digital skills, and technical support.
- d. Conducting a public review period of the draft Digital Equity Plan and providing the Broadband Office with a comment tracker document that summarizes all comments received.

Offeror Response.

III-4. Objections and Additions to Standard Contract Terms and Conditions. The Offeror will identify which, if any, of the terms and conditions (contained in **Part VI**) it would like to negotiate and what additional terms and conditions the Offeror would like to add to the standard contract terms and conditions. The Offeror's failure to make a submission under this paragraph will result in its waiving its right to do so later, but the Issuing Office may consider late objections and requests for additions if to do so, in the Issuing Office's sole discretion, would be in the best interest of the Commonwealth. The Issuing Office may, in its sole discretion, accept or reject any requested changes to the standard contract terms and conditions. The Offeror shall not request changes to the other provisions of the RFP, nor shall the Offeror request to completely substitute its own terms and conditions for **Part VI**. All terms and conditions must appear in one integrated contract. The Issuing Office will not accept references to the Offeror's, or any other, online guides or online terms and conditions contained in any proposal.

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

Offeror Response.

PART IV COST SUBMITTAL

IV-1. Cost Submittal. The information requested in this **Part IV** shall constitute the Cost Submittal. The Cost Submittal shall be submitted electronically in accordance with **Part I, Section I-11A**. The total proposed cost should be broken down into the components set forth in **Appendix D – Cost Submittal Worksheet**. The percentage of commitments to Small Diverse Businesses and Veteran Business Enterprises should not be stated in the Cost Submittal. 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 I, Section I-8** 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.

PART V

SMALL DIVERSE BUSINESS AND VETERAN BUSINESS ENTERPRISE PARTICIPATION INFORMATION

V-1. Diversity, Inclusion and Small Business Participation: To maximize Diversity, Inclusion and Small Business Opportunity participation in the Project, the greatest consideration will be given to a Small Diverse Business or Veteran Business Enterprise quoting as a prime contractor. For all other prime contractors subcontracting to a Small Diverse Business or a Veteran Business Enterprise, briefly explain what your Law Firm's approach will be to maximize Small Diverse Business participation in the Project if you are selected for award. This should include detail on which portions of the contract will be performed by the Small Diverse Business or Veteran Business Enterprise. Include specific percentage commitments to be paid to Small Diverse Business or Veteran Business Enterprise based upon the total contract value. The more definitive the commitment and the greater the percentage commitment, the greater consideration that your company will receive for this best value selection factor.

A Small Diverse Business is a Department of General Services (DGS) verified small minority business enterprise, woman business enterprise, LGBT business enterprise, Disability-owned business enterprise, or other small business as approved by DGS, that is owned and controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages. Questions regarding Small Diverse Businesses can be directed to: DGS, Bureau of Diversity, Inclusion and Small Business Opportunities at (717) 783-3119.

An SDB is a DGS-verified minority-owned business, woman-owned business, service-disabled veteran-owned, disability-owned, and LGBT-owned business.

A VBE is a DGS-verified veteran-owned business or service-disabled veteran-owned business.

A small business is a business in the United States which is independently owned, not dominant in its field of operation, employs no more than 100 full-time or full-time-equivalent employees, and earns less than \$38.5 million in gross annual revenues.

A list of Small and Small Diverse Businesses (SBs or SDBs) can be found in the online, searchable database at www.dgs.internet.state.pa.usus/suppliersearch. Use the *Quick Search* to search by supplier name or number. Use the *Advanced Search* to further search by UNSPSC code, county, SB/SDB type, and stocking/non-stocking supplier.

Please be aware that not all suppliers are SB or SDB who are SB and SDB will be so marked, or use the *Advanced Search>Supplier Classifications* to limit your search to

SBs/SDBs. **QUICK TIP:** All SDBs are also SBs (although not all SBs are SDBS). To pull a list of Small *and* Small Diverse Businesses, select “Small Business” in *Supplier Classifications*.

V-2. Small Diverse Business (SDB) Participation Submittal, Appendix E. The SDB Participation Submittal and associated required documentation shall be submitted in accordance with the Instructions for Completing SDB Participation Submittal and SDB Utilization Schedule and shall be submitted electronically in accordance with **Part 1, Section I-11A**.

V-3. Veteran Business Enterprise (VBE) Participation Submittal, Appendix E. The VBE Participation Submittal and associated required documentation shall be submitted in accordance with the Instructions for Completing VBE Participation Submittal and VBE Utilization Schedule and shall be submitted electronically in accordance with **Part 1, Section I-11A**.

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 SDB or VBE Status or entitle an Offeror to receive credit towards the SDB or VBE participation goals.

V-4. Contract Requirements—SDB and VBE Participation.

A. **SDB and VBE Participation Documents.** All documents completed and submitted by the selected Offeror in connection with its SDB Participation Submittal (including the SDB Utilization Schedule (SDB-3) and its VBE Participation Submittal (including the VBE Utilization Schedule (VBE-3)) shall be considered a part of the Contract and are hereby expressly incorporated into the Contract by reference thereto.

B. **Required contract terms.** All contracts containing SDB and/or VBE participation must contain the following contract provisions to be maintained through the initial contract term and any subsequent options or renewals:

1. Each SDB participation commitment and each VBE participation commitment and the total percentage of the SDB participation commitments and VBE participation commitments made at the time of proposal submittal or contract negotiations, as applicable, become contractual obligations of the selected Offeror upon execution of its contract with the Commonwealth.
2. For purposes of monitoring compliance with the selected Offeror’s SDB participation commitments and VBE participation commitments, the contract cost is the total amount paid to the selected Offeror throughout the initial contract term and all renewal option terms.

3. The selected offeror cannot alter its overall SDB or VBE commitments or commitments made to individual SDB or VBE subcontractors without written approval from the Issuing Officer.
4. Both the overall percentage of SDB and VBE commitments, and individual SDB and VBE commitments must be maintained in the event the contract is assigned to another prime contractor.

C. Subcontract requirements.

1. The selected offeror and each SDB listed on the SDB Utilization Schedule or VBE listed on the VBE Utilization Schedule must enter into a final, definitive subcontract agreement signed by the selected offeror and the SDB or VBE within 30 calendar days of the final execution date of the Commonwealth contract. A Model Form of Small Diverse Business/Veteran Business Enterprise Subcontractor Agreement which may be used to satisfy this requirement – is available as **Appendix F**.
2. In addition to any requirements in the offeror's contract documents, the subcontract must contain:
 - a. The specific work, supplies or services the SDB or VBE will perform; location for work performed; how the work, supplies or services relate to the contract; and the specific timeframe during the initial term and any extensions, options and renewals of the prime contract when the work, supplies or services will be provided or performed;
 - b. The fixed percentage commitment and/or associated estimated dollar value that each SDB or VBE will receive based on the final negotiated cost for the initial term of the prime contract and any renewal option terms;
 - c. Payment terms indicating that the SDB or VBE will be paid for work satisfactorily completed within 14 calendar days of the selected offeror's receipt of payment from the Commonwealth for such work. Subcontractors are encouraged to utilize electronic payment methods;
 - d. Commercially reasonable terms for the applicable business/industry that are no less favorable than the terms of the selected offeror's contract with the Commonwealth and that do not place disproportionate risk on the SDB or VBE relative to the nature and level of the SDB's or VBE's participation in the contract; and
 - e. The requirement that the SDB or VBE submit to the Pennsylvania Broadband Development Authority utilization reports.

3. If a subcontract agreement is required by the solicitation document and the subcontract terms omit any of the information required in subparagraph 2 but that information is otherwise reflected within the selected offeror's SDB Utilization Schedule (SDB-3), VBE Utilization Schedule (VBE-3) , and Letters of Commitment (SDB-3.1 and VBE-3.1)), the information listed in the SDB Utilization Schedule (SDB-3), VBE Utilization Schedule (VBE-3) , and Letters of Commitment (SDB-3.1 and VBE-3.1) is incorporated into the subcontract agreement. To the extent that any subcontract terms conflict with the requirements of paragraph (2) or information contained within the selected offeror's SDB Utilization Schedule (SDB-3), VBE Utilization Schedule (VBE-3) , and Letters of Commitment (SDB-3.1 and VBE-3.1), the order of precedence is as follows: 1) the requirements of paragraph 2, 2) the selected offeror's SDB Utilization Schedule (SDB-3), VBE Utilization Schedule (VBE-3) , and Letters of Commitment (SDB-3.1 and VBE-3.1); and 3) the terms of the subcontract agreement.
4. If the selected offeror and a SDB listed on the SDB Utilization Schedule (SDB-3) or VBE listed on the VBE Utilization Schedule (VBE-3) cannot agree upon a definitive subcontract within 30 calendar days of the final execution date of the Commonwealth contract or as specified in the solicitation, the selected offeror must provide written notification to the Pennsylvania Broadband Development Authority.
5. The prime contractor must provide a copy of any required subcontract with an SDB or VBE to the Pennsylvania Broadband Development Authority within ten (10) business days of receiving such a request.

D. Utilization Reports.

1. The prime contractor must submit a Monthly Utilization Report to the Pennsylvania Broadband Development Authority and the contracting officer of the Issuing Office in the format required by the Pennsylvania Broadband Development Authority and within ten (10) business days at the end of each month of the contract term and any subsequent options or renewals. The Monthly Utilization Report must list payments made to each SDB or VBE subcontractor and any unpaid invoices over 30 calendar days old received from an SDB or VBE subcontractor, and the reason payment has not been made. This information will be used to track and confirm the actual dollar amount paid to SDB or VBE subcontractors and suppliers and will serve as a record of fulfillment of the contractual commitment(s). If there was no activity, the form must be completed by stating "No activity". A late fee of \$100.00 per day may be assessed against the prime contractor if the Utilization Report is not submitted in accordance with the schedule above.
2. The prime contractor must include in its agreements with its SDB and VBE subcontractors a requirement that the SDB and VBE subcontractors submit to Pennsylvania Broadband Development Authority, within the time frame set forth within the solicitation document, a report identifying the prime contract, and listing:

- a. Payments received from the prime contractor within the time frame covered by the report, and
- b. Invoices for which the subcontractor has not been paid.

E. Noncompliance with SDB and/or VBE commitments.

1. In the event a prime contractor did not comply with the SDB commitments or VBE commitments, the Pennsylvania Broadband Development Authority shall notify the prime contractor in writing of its findings and shall specify what corrective actions are required. The prime contractor is required to initiate the corrective actions within 10 business days and complete them within the time specified by the Pennsylvania Broadband Development Authority.
2. If the Pennsylvania Broadband Development Authority determines that material noncompliance with SDB or VBE contract provisions exists and that the prime contractor refuses or fails to take the corrective action required by the Pennsylvania Broadband Development Authority, the Pennsylvania Broadband Development Authority may impose any and all sanctions and remedies available under the contract as it deems appropriate. Such sanctions or remedies include, but are not limited to, withholding of payments; termination of the contract along with consequential damages; revocation of the prime contractor's SB, SDB, and/or VBE status; a determination that the Offeror's SDB or VBE participation submittal be deemed non-responsible in future procurements; and/or any actions under the Commonwealth's Contractor Responsibility Program, up to and including suspension or debarment from future contracting opportunities with the Commonwealth.

PART VI

STANDARD PURCHASE ORDER TERMS AND CONDITIONS

Table of Contents

PART_V	19
V.1 CONTRACT-001.1a Contract Terms and Conditions (Nov 30 2006)	19
V.2 CONTRACT-002.1b Term of Contract – PO (July 2015).....	19
V.3 CONTRACT-002.2a Renewal of Contract Term (Nov 30 2006).....	19
V.4 CONTRACT-002.3 Extension of Contract Term (Nov 30 2006).....	19
V.5 CONTRACT-003.1d Signatures - PO (July 2015)	19
V.6 CONTRACT-004.1a Definitions (Oct 2013).....	20
V.7 CONTRACT-006.1 Independent Prime Contractor (Oct 2006)	20
V.8 CONTRACT-007.01b Delivery of Services (Nov 30 2006).....	20
V.9 CONTRACT-008.1a Warranty (Oct 2006)	21
V.10 CONTRACT-009.1c Patent, Copyright, and Trademark Indemnity (Oct 2013).....	21
V.11 CONTRACT-009.1d Ownership Rights (Oct 2006)	21
V.12 CONTRACT-010.1a Acceptance (Oct 2006).....	22
V.13 CONTRACT-011.1a Compliance With Law (Oct 2006)	22
V.14 CONTRACT-013.1 Environmental Provisions (Oct 2006).....	22
V.15 CONTRACT-014.1 Post-Consumer Recycled Content (June 2016).....	22
V.16 CONTRACT-014.3 Recycled Content Enforcement (Feb 2009)	22
V.17 CONTRACT-015.1A Compensation/Expenses (May 2008).....	22
V.18 CONTRACT-015.2 Billing Requirements (July 2021)	22
V.19 CONTRACT-016.1 Payment (Oct 2006)	23
V.20 CONTRACT-016.2 Payment – Electronic Funds Transfer (July 2022).....	23
V.21 CONTRACT-017.1 Taxes (Dec 5 2006).....	24
V.22 CONTRACT-018.1 Assignment of Antitrust Claims (Oct 2006).....	24
V.23 CONTRACT-019.1 Hold Harmless Provision (Nov 30 2006).....	24
V.24 CONTRACT-020.1 Audit Provisions (Oct 2006)	24
V.25 CONTRACT-020.2 Single Audit Clause (Dec 27, 2007).....	24
V.26 CONTRACT-021.1 Default (Oct 2013)	25
V.27 CONTRACT-022.1 Force Majeure (Oct 2006).....	26
V.28 CONTRACT-023.1a Termination Provisions (Oct 2013).....	26
V.29 CONTRACT-024.1 Contract Controversies (Oct 2011).....	27
V.30 CONTRACT-025.1 Assignability and Subcontracting (Oct 2013)	27
V.31 CONTRACT-026.1 Other Contractors (Oct 2006).....	28
V.32 CONTRACT-027.1 Nondiscrimination/Sexual Harassment Clause (August 2018)	28
V.33 CONTRACT-028.1 Contractor Integrity Provisions (Jan 2015)	29
V.34 CONTRACT-029.1 Contractor Responsibility Provisions (July 2021).....	32
V.35 CONTRACT-030.1 Americans with Disabilities Act (July 2021)	32
V.36 CONTRACT-032.1 Covenant Against Contingent Fees (Oct 2006).....	33
V.37 CONTRACT-033.1 Applicable Law (Oct 2006).....	33
V.38 CONTRACT-034.1a Integration – RFP (Dec 12 2006)	33
V.39 CONTRACT-034.2a Order of Precedence - RFP (Dec 12 2006).....	33
V.40 CONTRACT-034.3 Controlling Terms and Conditions (Aug 2011).....	33
V.41 CONTRACT-035.1a Changes (Oct 2006).....	34
V.42 CONTRACT-036.1 Background Checks (February 2016).....	34
V.43 CONTRACT-037.1a Confidentiality (Oct 2013)	34
V.44 CONTRACT-037.2a Sensitive Information (Sept 2009).....	35
V.45 CONTRACT-041.1 Contract Requirements-Small Diverse Business and Small Business Participation (July 2016).....	36
V.46 CONTRACT-045.1 Insurance - General (Dec 12 2006)	36
V.47 CONTRACT-051.1 Notice (Dec 2006).....	36
V.48 CONTRACT-052.1 Right to Know Law (Feb 2010)	37
V.49 CONTRACT-053.1 Enhanced Minimum Wage Provisions (July 2022).....	37

PART V - CONTRACT TERMS and CONDITIONS

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

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

V.2 CONTRACT-002.1b Term of Contract – PO (July 2015)

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

V.3 CONTRACT-002.2a Renewal of Contract Term (Nov 30 2006)

The Contract may be renewed for a maximum of 1 additional 1 year term, so long as Commonwealth provides written notice to Contractor of its intention to extend the Contract by letter prior to the expiration of the term of the agreement, or any extension thereof. Any renewal will be under the same terms, covenants and conditions. No further document is required to be executed to renew the term of the contract.

V.4 CONTRACT-002.3 Extension of Contract Term (Nov 30 2006)

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

V.5 CONTRACT-003.1d Signatures - PO (July 2015)

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

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

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

The Commonwealth and the Contractor specifically agree as follows:

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

V.6 CONTRACT-004.1a Definitions (Oct 2013)

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

- a. Agency: The department, board, commission or other agency of the Commonwealth of Pennsylvania listed as the Purchasing Agency. If a COSTARS entity or external procurement activity has issued an order against this contract, that entity shall also be identified as "Agency".
- b. Contracting Officer: The person authorized to administer this Contract for the Commonwealth and to make written determinations with respect to the Contract.
- c. Days: Unless specifically indicated otherwise, days mean calendar days.
- d. Developed Works or Developed Materials: All documents, sketches, drawings, designs, works, papers, files, reports, computer programs, computer documentation, data, records, software, samples or any other tangible material without limitation authored or prepared by Contractor as the work product covered in the scope of work for the Project.
- e. Documentation: All materials required to support and convey information about the services required by this Contract. It includes, but is not necessarily restricted to, written reports and analyses, diagrams, maps, logical and physical designs, system designs, computer programs, flow charts, disks, and/or other machine-readable storage media.
- f. Services: All Contractor activity necessary to satisfy the Contract.

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

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

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

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

V.9 CONTRACT-008.1a Warranty (Oct 2006)

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

V.10 CONTRACT-009.1c Patent, Copyright, and Trademark Indemnity (Oct 2013)

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

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

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

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

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

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

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

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

V.11 CONTRACT-009.1d Ownership Rights (Oct 2006)

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

V.12 CONTRACT-010.1a Acceptance (Oct 2006)

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

V.13 CONTRACT-011.1a Compliance With Law (Oct 2006)

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

V.14 CONTRACT-013.1 Environmental Provisions (Oct 2006)

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

V.15 CONTRACT-014.1 Post-Consumer Recycled Content (June 2016)

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 by the Environmental Protection Agency in its Comprehensive Procurement Guidelines, which can be found at <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

V.16 CONTRACT-014.3 Recycled Content Enforcement (Feb 2009)

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

V.17 CONTRACT-015.1A Compensation/Expenses (May 2008)

The Contractor shall be required to perform the specified services at the price(s) quoted in the Contract. All services shall be performed within the time period(s) specified in the Contract. The Contractor shall be compensated only for work performed to the satisfaction of the Commonwealth. The Contractor shall not be allowed or paid travel or per diem expenses except as specifically set forth in the Contract.

V.18 CONTRACT-015.2 Billing Requirements (July 2021)

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

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

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

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

V.19 CONTRACT-016.1 Payment (Oct 2006)

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

V.20 CONTRACT-016.2 Payment – Electronic Funds Transfer (July 2022)

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

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

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

V.21 CONTRACT-017.1 Taxes (Dec 5 2006)

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

V.22 CONTRACT-018.1 Assignment of Antitrust Claims (Oct 2006)

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

V.23 CONTRACT-019.1 Hold Harmless Provision (Nov 30 2006)

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

V.24 CONTRACT-020.1 Audit Provisions (Oct 2006)

The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents and records of the Contractor to the extent that the books, documents and records relate to costs or pricing data for the Contract. The Contractor agrees to maintain records which will support the prices charged and costs incurred for the Contract. The Contractor shall preserve books, documents and records that relate to costs or pricing data for the Contract for a period of three (3) years from the date of final payment. The Contractor shall give full and free access to all records to the Commonwealth and/or their authorized representatives.

V.25 CONTRACT-020.2 Single Audit Clause (Dec 27, 2007)

- a. This Contract is subject to audit by federal and state agencies or their authorized representative in accordance with the auditing standards promulgated by the Comptroller General of the United States and specified in *Government Auditing Standards, 1994 Revisions (Yellow Book)*.
- b. The audit requirement of this Contract will be satisfied if a single audit is performed under the provisions of the *Single Audit Act of 1984, 31 U.S.C. Section 7501, et seq.*, and all rules and regulations promulgated pursuant to the Act.
- c. The Commonwealth reserves the right for federal and state agencies or their authorized representatives to perform additional audits of a financial/compliance, economy/efficiency, or program results nature, if deemed necessary.

The Contractor further agrees to comply with requirements that may be issued by the state agency upon receipt of additional guidance received from the federal government regarding the *Single Audit Act of 1984*.

V.26 CONTRACT-021.1 Default (Oct 2013)

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

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

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

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

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

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

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

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

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

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

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

V.28 CONTRACT-023.1a Termination Provisions (Oct 2013)

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

a. **TERMINATION FOR CONVENIENCE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order for its convenience if the Commonwealth determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover loss of profits.

b. **NON-APPROPRIATION:** The Commonwealth's obligation to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract or a Purchase Order. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in

the price of the supplies or services delivered under the Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid from any appropriations available for that purpose.

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

V.29 CONTRACT-024.1 Contract Controversies (Oct 2011)

a. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum. At the time the claim is filed, or within sixty (60) days thereafter, either party may request mediation through the Commonwealth Office of General Counsel Dispute Resolution Program.

b. If the Contractor or the contracting officer requests mediation and the other party agrees, the contracting officer shall promptly make arrangements for mediation. Mediation shall be scheduled so as to not delay the issuance of the final determination beyond the required 120 days after receipt of the claim if mediation is unsuccessful. If mediation is not agreed to or if resolution is not reached through mediation, the contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Contractor. The contracting officer shall send his/her written determination to the Contractor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.

c. Within fifteen (15) days of the mailing date of the determination denying a claim or within 135 days of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Contractor may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract in a manner consistent with the determination of the contracting officer and the Commonwealth shall compensate the Contractor pursuant to the terms of the Contract.

V.30 CONTRACT-025.1 Assignability and Subcontracting (Oct 2013)

a. Subject to the terms and conditions of this paragraph, this Contract shall be binding upon the parties and their respective successors and assigns.

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

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

d. Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Contracting Officer together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of this Contract.

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

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

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

V.31 CONTRACT-026.1 Other Contractors (Oct 2006)

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

V.32 CONTRACT-027.1 Nondiscrimination/Sexual Harassment Clause (August 2018)

The Contractor agrees:

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

2. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.

3. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under the contract.

4. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the *Public Employee Relations Act*, *Pennsylvania Labor Relations Act* or *National Labor Relations Act*, as applicable and to the extent determined by entities charged with such Acts' enforcement, and shall comply with any provision of law establishing organizations as employees' exclusive representatives.

5. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.

6. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.

7. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records,

including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

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

9. The Contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.

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

V.33 CONTRACT-028.1 Contractor Integrity Provisions (Jan 2015)

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

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

a. "Affiliate" means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.

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

c. "Contractor" means the individual or entity, that has entered into this contract with the Commonwealth.

d. "Contractor Related Parties" means any affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.

e. "Financial Interest" means either:

(1) Ownership of more than a five percent interest in any business; or

(2) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.

f. "Gratuity" means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the *Governor's Code of Conduct, Executive Order 1980-18, the 4 Pa. Code §7.153(b)*, shall apply.

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

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

a. Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting or procurement with the Commonwealth.

b. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and

Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.

c. Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.

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

e. Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:

(1) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;

(2) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;

(3) had any business license or professional license suspended or revoked; had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and

(4) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

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

f. Contractor shall comply with the requirements of the *Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.)* regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the *Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a)*.

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

h. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance

with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

i. Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries shall be created thereby.

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

V.34 CONTRACT-029.1 Contractor Responsibility Provisions (July 2021)

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

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

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

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

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

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

and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

6. The Contractor may search the current list of suspended and debarred Commonwealth contractors by visiting the eMarketplace website at <http://www.emarketplace.state.pa.us> and clicking the Debarment List tab.

V.35 CONTRACT-030.1 Americans with Disabilities Act (July 2021)

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, supplier, or grantee, who will furnish or perform or seeks to furnish or perform, goods, supplies, services, construction or other activity, under a purchase order, contract, or grant with the Commonwealth of Pennsylvania (Commonwealth).

During the term of this agreement, the contractor agrees as follows:

- 1 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 through contracts with outside contractors.
- 2 The contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth as a result of the contractor's failure to comply with the provisions of paragraph 1.

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

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

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

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

V.38 CONTRACT-034.1a Integration – RFP (Dec 12 2006)

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

V.39 CONTRACT-034.2a Order of Precedence - RFP (Dec 12 2006)

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

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

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

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

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

V.42 CONTRACT-036.1 Background Checks (February 2016)

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

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

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

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

V.43 CONTRACT-037.1a Confidentiality (Oct 2013)

a) The Contractor agrees to protect the confidentiality of the Commonwealth's confidential information. The Commonwealth agrees to protect the confidentiality of Contractor's confidential information. In order for information to be deemed confidential, the party claiming confidentiality must designate the information as "confidential" in such a way as to give notice to the other party (notice may be communicated by describing the information, and the specifications around its use or disclosure, in the SOW). Neither party may assert that information owned by the other party is such party's confidential information. The parties agree that such confidential information shall not be copied, in whole or in part, or used or disclosed except when essential for authorized activities under this Contract and, in the case of disclosure, where the recipient of the confidential information has agreed to be bound by confidentiality requirements no less restrictive than those set forth herein. Each copy of such confidential information shall be marked by the party making the copy with any notices appearing in the original. Upon termination or cancellation of this Contract or any license granted hereunder, the receiving party will return to the disclosing party all copies of the confidential information in the receiving party's possession, other than one copy, which may be maintained for archival purposes only, and which will remain subject to this Contract's security, privacy, data retention/destruction and confidentiality provisions (all of which shall survive the expiration of this Contract). Both parties agree that a material breach of these requirements may, after failure to cure within the time frame specified in this Contract, and at the discretion of the non-breaching party, result in termination for default pursuant to the DEFAULT provision of this Contract, in addition to other remedies available to the non-breaching party.

(b) Insofar as information is not otherwise protected by law or regulation, the obligations stated in this Section do not apply to information:

- (1) already known to the recipient at the time of disclosure other than through the contractual relationship;
- (2) independently generated by the recipient and not derived by the information supplied by the disclosing party.
- (3) known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;
- (4) disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or
- (5) required to be disclosed by law, regulation, court order, or other legal process.

There shall be no restriction with respect to the use or disclosure of any ideas, concepts, know-how, or data processing techniques developed alone or jointly with the Commonwealth in connection with services provided to the Commonwealth under this Contract.

(c) The Contractor shall use the following process when submitting information to the Commonwealth it believes to be confidential and/or proprietary information or trade secrets:

- (1) Prepare an un-redacted version of the appropriate document, and
- (2) Prepare a redacted version of the document that redacts the information that is asserted to be confidential or proprietary information or a trade secret, and
- (3) Prepare a signed written statement that states:
 - (i) the attached document contains confidential or proprietary information or trade secrets;
 - (ii) the Contractor is submitting the document in both redacted and un-redacted format in accordance with 65 P.S. § 67.707(b); and
 - (iii) the Contractor is requesting that the document be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests.
- (4) Submit the two documents along with the signed written statement to the Commonwealth.

V.44 CONTRACT-037.2a Sensitive Information (Sept 2009)

The Contractor shall not publish or otherwise disclose, except to the Commonwealth and except matters of public record, any information or data obtained hereunder from private individuals, organizations, or public agencies, in a publication whereby the information or data furnished by or about any particular person or establishment can be identified, except with the consent of such person or establishment. The parties shall not use or disclose any information about a recipient receiving services from, or otherwise enrolled in, a Commonwealth program affected by or benefiting from services under this Contract for any purpose not connected with the parties' Contract responsibilities except with the written consent of such recipient, recipient's attorney, or recipient's parent or guardian pursuant to applicable state and federal law and regulations.

Contractor will be responsible to remediate any improper disclosure of information. Such remediation may include, but not be limited to, credit monitoring for individuals for whom information has been released and reimbursement of any costs incurred by individuals for whom information has been released. Costs for which Contractor is responsible under this paragraph are not subject to any limitation of liability set out in this Contract or Purchase Order.

V.45 CONTRACT-041.1 Contract Requirements-Small Diverse Business and Small Business Participation (July 2016)

The provisions contained in the RFP concerning Contract Requirements - Small Diverse Business and Small Business Participation are incorporated by reference herein.

V.46 CONTRACT-045.1 Insurance - General (Dec 12 2006)

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

- A. **Worker's Compensation Insurance** for all of the Contractor's employees and those of any subcontractor, engaged in work at the site of the project as required by law.

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

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

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

V.47 CONTRACT-051.1 Notice (Dec 2006)

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

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

V.48 CONTRACT-052.1 Right to Know Law (Feb 2010)

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, (“RTKL”) applies to this Contract. For the purpose of these provisions, the term “the Commonwealth” shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor’s assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor’s assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Contractor shall:
 - 1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor’s possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
 - 2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth’s determination.
- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor’s failure, including any statutory damages assessed against the Commonwealth.
- g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor’s failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth’s disclosure of Requested Information pursuant to the RTKL.
- i. The Contractor’s duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

V.49 CONTRACT-053.1 Enhanced Minimum Wage Provisions (July 2022)

1. Enhanced Minimum Wage. Contractor/Lessor agrees to pay no less than \$15.00 per hour to its employees for all hours worked directly performing the services called for in this Contract/Lease, and for an employee's hours performing ancillary services necessary for the performance of the contracted services or lease when such employee spends at least twenty per cent (20%) of their time performing ancillary services in a given work week.

2. Adjustment. Beginning July 1, 2023, and annually thereafter, the minimum wage rate shall be increased by an annual cost-of-living adjustment using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for Pennsylvania, New Jersey, Delaware, and Maryland. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.

3. Exceptions. These Enhanced Minimum Wage Provisions shall not apply to employees:

- a. exempt from the minimum wage under the Minimum Wage Act of 1968;
- b. covered by a collective bargaining agreement;
- c. required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or
- d. required to be paid a higher wage under any state or local policy or ordinance.

4. Notice. Contractor/Lessor shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.

5. Records. Contractor/Lessor must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.

6. Sanctions. Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.

7. Subcontractors. Contractor/Lessor shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.

**APPENDIX A
PROPOSAL COVER SHEET
PENNSYLVANIA BROADBAND DEVELOPMENT AUTHORITY
RFP# PBDA-2023-01**

The proposal of the Offeror identified below for the above-referenced RFP is submitted electronically comprised of separate files for Technical, Cost and SDB/SB:

Offeror Information:	
Offeror Name	
Offeror Mailing Address	
Offeror Website	
Offeror Contact Person	
Contact Person's Phone Number	
Contact Person's E-Mail Address	
Offeror Federal ID Number	

Electronic Submittals Enclosed:	
<input type="checkbox"/>	Technical Submittal <input type="checkbox"/> Domestic Workforce Utilization Certification
<input type="checkbox"/>	Small Diverse Business Participation Submittal
<input type="checkbox"/>	Veteran Business Enterprise Participation Submittal
<input type="checkbox"/>	Cost Submittal

<i>Signature</i>
Signature of an official authorized to bind the Offeror to the provisions contained in the Offeror's proposal:
Printed Name
Title

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

APPENDIX B
DOMESTIC WORKFORCE UTILIZATION CERTIFICATION

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

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

All of the direct labor performed within the scope of services under the contract will be performed exclusively within the geographical boundaries of the United States or one of the following countries that is a party to the World Trade Organization Government Procurement Agreement: Aruba, Austria, Belgium, Bulgaria, Canada, Chinese Taipei, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxemburg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom

OR

_____ percent (____%) [Contractor must specify the percentage] of the direct labor performed within the scope of services under the contract will be performed within the geographical boundaries of the United States or within the geographical boundaries of one of the countries listed above that is a party to the World Trade Organization Government Procurement Agreement. Please identify the direct labor performed under the contract that will be performed outside the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement and identify the country where the direct labor will be performed:

[Use additional sheets if necessary]

The Pennsylvania Broadband Development Authority shall treat any misstatement as fraudulent concealment of the true facts punishable under Section 4904 of the *Pennsylvania Crimes Code*, Title 18, of Pa. Consolidated Statutes.

Attest or Witness:

Corporate or Legal Entity's Name

Signature/Date

Signature/Date

Printed Name/Title

Printed Name/Title

APPENDIX C
TRADE SECRET/CONFIDENTIAL PROPRIETARY INFORMATION NOTICE

Trade Secret/Confidential Proprietary Information Notice

Instructions:

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

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

Name of submitting party:

Contact information for submitting party:

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

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

Acknowledgment

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

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

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

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

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

Signature

Title

Date

**APPENDIX D
COST SUBMITTAL WORKSHEET**

Offerors must provide a cost figure for each task listed below and provide the method used to arrive at those costs. The components under each task below are provided solely as an example of what one method of breaking out the costs would be. Vendors may use alternative methods of breaking out the costs; provided such methods are consistent with the Basic Established-Price Contract set forth in the DGS Procurement Handbook.

CATEGORY	DESCRIPTION	AMOUNT
TASK 1	FRAMEWORK PLANNING	
Personnel		
Role		
Hourly Rate		\$
Estimated Hours		\$
	SUB TOTAL PERSONNEL	\$
Travel		\$
Equipment		\$
Supplies		\$
Other		\$
	SUB TOTAL TASK 1	\$
TASK 2	DRAFT FRAMEWORK OF 5-YEAR ACTION PLAN	
Personnel		
Role		\$
Hourly Rate		\$
Estimated Hours		\$
	SUB TOTAL PERSONNEL	\$
Travel		\$
Equipment		\$
Supplies		\$
Other		\$
	SUB TOTAL TASK 2	\$
TASK 3	DRAFT FRAMEWORK OF DIGITAL EQUITY PLAN	
Personnel		
Role		\$
Hourly Rate		\$
Estimated Hours		\$
	SUB TOTAL PERSONNEL	\$
Travel		\$
Equipment		\$
Supplies		\$
Other		\$
	SUB TOTAL TASK 3	\$
	TOTAL EXPENSES	\$

APPENDIX E
SMALL DIVERSE BUSINESS &
VETERAN BUSINESS ENTERPRISE COMMITMENTS

Small Diverse Business (SDB) Participation Summary Sheet

Solicitation/Project #: **PBDA-2023-01**

Issuing Agency: **Pennsylvania Broadband Development Authority**

Name of Procurement/Project: **PA 5-Year Action Plan & Digital Equity Plan**

No Mandatory SDB Participation Goal has been set.

Attachments:

SDB-1 Instructions for completing SDB Utilization Schedule

SDB-3 SDB Utilization Schedule

SDB-3.1 SDB Letter of Commitment

SDB-1
INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB)
UTILIZATION SCHEDULE.

PLEASE READ BEFORE COMPLETING THESE DOCUMENTS
Offerors do not need to return SDB-1 with their SDB Submittal

The following instructions include details for completing the SDB Utilization Schedule (SDB-3), which Offerors must submit for any portion of the SDB participation the Offeror commits to meeting.

I. **No SDB Mandatory Participation Goal Set**

II. **SDB Eligibility:**

1. **Finding SDB firms:** Offerors can access the directory of **DGS-verified** SDB firms from the DGS Supplier Search directory at: <http://www.dgs.internet.state.pa.us/suppliersearch>.
2. **Only SDBs verified by DGS** and as defined herein may be counted towards the SDB participation bonus points. In order to be counted towards the SDB participation bonus points, the SDB firm, including an SDB prime, **must be DGS-verified for the services, materials or supplies that it has committed to perform on the SDB Utilization Schedule (SDB-3).** A firm whose SDB verification is pending or incomplete as of proposal due date and time shall not be counted towards the SDB participation bonus points. Offerors cannot use self-certified SBs that do not have their SDB verification as of the proposal due date and time towards the SDB participation bonus points.
3. **SDB Requirements:** To be considered an SDB, a firm must be a **DGS-verified** small minority business enterprise (MBE); woman business enterprise (WBE); LGBT business enterprise (LGBTBE); Disability-owned business enterprise (DOBE); Service-Disabled Veteran-Owned Small Business Enterprise (SDVBE); or otherwise deemed disadvantaged by the Uniform Certification Program.
Additional information on the DGS verification process can be found at:
<https://www.dgs.pa.gov/Small%20Diverse%20Business%20Program/Pages/default.aspx>
4. **Participation by SDB firms as prime offerors or subcontractors.** An Offeror that qualifies as an SDB and submits a proposal as a prime contractor is not prohibited from being included as a subcontractor in separate proposals submitted by other Offerors. An SDB may be included as a subcontractor with as many prime contractors as it chooses in separate proposals and a prime contractor may not prohibit an SDB from committing to any other prime contractor.

SDB-1
INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB)
UTILIZATION SCHEDULE.

5. Questions about SDB verification. Questions regarding the SDB program, including questions about the self-certification and verification processes can be directed to:
- Department of General Services
Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO)
Room 611, North Office Building
Harrisburg, PA 17125
Phone: (717) 783-3119
Fax: (717) 787-7052
Email: RA-BDISBOVerification@pa.gov
Website: www.dgs.pa.gov

III. **Guidelines Regarding SDB Prime Self-Performance.**

1. An SDB firm participating as a prime offeror on a procurement may receive credit towards the SDB Participation bonus points established for the procurement through their own self-performance.
2. For an SDB prime offeror to receive credit for self-performance, the SDB, the SDB prime offeror must list itself in the **SDB Utilization Schedule (SDB-3)**.
3. The SDB prime offeror must also include the classification category (MBE, WBE, LGBTBE, DOBE, and/or SDVBE) under which it is self-performing and include information regarding the work it will self-perform.

IV. **Calculating SDB participation**

1. The selected Offeror may only count dollar amounts actually paid to an SDB for performance of a Commercially Useful Function (the performance of a distinct element of work required for the Contract, with the requisite skill and expertise) towards satisfying its SDB participation commitments. In addition, the SDB subcontractor, through its own employees, must perform at least 50% of the amount of the subcontract.

SDB-1
INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB)
UTILIZATION SCHEDULE.

IV. Additional Required Documentation.

1. The Offeror must submit a letter of commitment (LOC) (SDB-3-1) for each subcontractor included in its SDB Utilization Schedule (SDB-3). At a minimum, each LOC must contain the following unless otherwise specified by the solicitation documents:
 - a. The fixed numerical percentage commitment and associated estimated gross dollar value of the commitment made to the SDB; and
 - b. A description of the services or supplies the SDB will provide; and
 - c. The timeframe during the initial contract term and any extensions, options and renewals when the SDB will perform or provide the services and/or supplies; and
 - d. The name and telephone number of the Offeror's point of contact for SDB participation; and
 - e. The name, address, and telephone number of the primary contact person for the SDB; and
 - f. Signatures of representatives of both the Offeror and the SDB subcontractor who are authorized to contractually bind their firm.

SDB-3
SDB UTILIZATION SCHEDULE

List in the chart below SDBs (including where applicable a prime offeror is self-performing a portion of the work) that will be used towards the SDB participation bonus points (add additional pages if necessary). Submit a **Letter of Commitment (SDB-3-1)** for each SDB subcontractor (add additional Letters of Commitment as necessary).

SDB Name SAP Vendor Number (6-digit number provided by SDB) SDB Verification Number (located on DGS SDB verification)	Type of SDB (check all that apply)	Description of Work to be Performed (Statement of Work/Specification reference)	% Commitment (or % of work to be self-performed by SDB bidder/offeror)	Associated Dollar Value of Commitment
Name: <u>ABC IT Solutions</u> SAP Vendor Number: <u>123456</u> SDB Verification Number: <u>123456-2016-09-SB-M</u>	MBE	IT staffing resources	%	\$
Name: SAP Vendor Number: SDB Verification Number:	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		%	
Name: SAP Vendor Number: SDB Verification Number:	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		%	
Name: SAP Vendor Number: SDB Verification Number:	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		%	
Name: SAP Vendor Number: SDB Verification Number:	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		%	
Attach additional sheets if necessary			Total % SDB commitment: <u>0</u>	Total \$ amount: <u>\$0</u>

SDB-3.1
LETTER OF COMMITMENT

This Letter of Commitment serves as confirmation of the commitment by the prime Offeror to utilize the Small Diverse Business (SDB) on the below-referenced Solicitation/Project.

Solicitation Number: _____

Solicitation Name: _____

	Offeror Information	SDB Information
Name		
Address		
Point of Contact		
Telephone number		
Email address		

Services/Supplies and Time Frame. If Offeror is the successful vendor, the SDB shall perform or provide the following services or supplies during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below:

Services or supplies the SDB will provide:

Specific Time Frame the SDB will provide the services or supplies:

Percentage Commitment. These services or supplies represent _____% of the total cost of the Offeror's cost submittal for the initial term of the contract. Depending on actual contract usage or volume, it is expected the SDB will receive \$_____ during the initial contract term.

SDB verified. By signing below, the SDB represents that it meets the SDB requirements set forth in the Solicitation and all required documentation has been provided to the Offeror for its SDB submission.

Sincerely,

Acknowledged

Printed name

Printed name

Signature
Offeror Point of Contact Name

Signature
SDB Point of Contact Name

Veteran Business Enterprise (VBE) Participation Summary Sheet

Solicitation/Project #: **PBDA-2023-01**

Issuing Agency: **Pennsylvania Broadband Development Authority**

Name of Procurement/Project: **PA 5-Year Action Plan & Digital Equity Plan**

No Mandatory VBE Participation Goal has been set.

Attachments:

- VBE-1 Instructions for completing VBE Utilization Schedule
- VBE-3 VBE Utilization Schedule
- VBE-3.1 VBE Letter of Commitment

VBE-1
INSTRUCTIONS FOR COMPLETING THE VETERAN BUSINESS
ENTERPRISE (VBE) UTILIZATION SCHEDULE.

PLEASE READ BEFORE COMPLETING THESE DOCUMENTS
Offerors do not need to return VBE-1 with their VBE Submittal

The following instructions include details for completing the VBE Utilization Schedule (VBE-3), which Offerors must submit for any portion of the VBE participation the Offeror commits to meeting.

I. No VBE Mandatory Participation Goal Set

II. SDB Eligibility:

1. Finding VBE firms: Offerors can access the directory of **DGS-verified** SDB firms from the DGS Supplier Search directory at: <http://www.dgs.internet.state.pa.us/suppliersearch>.
2. **Only VBEs verified by DGS** and as defined herein may be counted towards the VBE participation bonus points. In order to be counted towards the VBE participation bonus points, the VBE firm, including an VBE prime, must be DGS-verified for the services, materials or supplies that it has committed to perform on the **VBE Utilization Schedule (SDB-3)**. A firm whose VBE verification is pending or incomplete as of the proposal due date and time shall not be counted towards the VBE participation bonus points. Offerors cannot use self-certified SBs that do not have their VBE verification as of the proposal due date and time towards the VBE participation bonus points.
3. VBE Requirements: To be considered an VBE, a firm must be a **DGS-verified** Veteran-Owned Small Business Enterprise or Service-Disabled Veteran-Owned Small Business Enterprise.

Additional information on the DGS verification process can be found at:
<https://www.dgs.pa.gov/Small%20Diverse%20Business%20Program/Pages/default.aspx>
4. Participation by VBE firms as prime offerors or subcontractors. An Offeror that qualifies as an VBE and submits a proposal as a prime contractor is not prohibited from being included as a subcontractor in separate proposals submitted by other Offerors. An VBE may be included as a subcontractor with as many prime contractors as it chooses in separate proposals and a prime contractor may not prohibit an VBE from committing to any other prime contractor.

VBE-1
INSTRUCTIONS FOR COMPLETING THE VETERAN BUSINESS
ENTERPRISE (VBE) UTILIZATION SCHEDULE.

5. Questions about VBE verification. Questions regarding the VBE program, including questions about the self-certification and verification processes can be directed to:

Department of General Services
Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO)
Room 611, North Office Building
Harrisburg, PA 17125
Phone: (717) 783-3119
Fax: (717) 787-7052
Email: RA-BDISBOVerification@pa.gov
Website: www.dgs.pa.gov

III. Guidelines Regarding VBE Prime Self-Performance.

1. An VBE firm participating as a prime offeror on a procurement may receive credit towards the VBE Participation bonus points established for the procurement through their own self-performance.
2. For an VBE prime offeror to receive credit for self-performance, the VBE prime offeror must list itself in the **VBE Utilization Schedule (SDB-3)**.
3. The VBE prime offeror must also include the classification category (Veteran-Owned Small Business Enterprise or Service-Disabled Veteran -Owned Small Business Enterprise) under which it is self-performing and include information regarding the work it will self-perform.

IV. Calculating VBE participation

1. The selected Offeror may only count dollar amounts actually paid to an VBE for performance of a Commercially Useful Function (the performance of a distinct element of work required for the Contract, with the requisite skill and expertise) towards satisfying its VBE participation commitments. In addition, the VBE subcontractor, through its own employees, must perform at least 50% of the amount of the subcontract.

VBE-1
INSTRUCTIONS FOR COMPLETING THE VETERAN BUSINESS
ENTERPRISE (VBE) UTILIZATION SCHEDULE.

IV. Additional Required Documentation.

1. The Offeror must submit a letter of commitment (LOC) (SDB-3-1) for each subcontractor included in its VBE Utilization Schedule (VBE-3). At a minimum, each LOC must contain the following unless otherwise specified by the solicitation documents:
 - a. The fixed numerical percentage commitment and associated estimated gross dollar value of the commitment made to the VBE; and
 - b. A description of the services or supplies the VBE will provide; and
 - c. The timeframe during the initial contract term and any extensions, options and renewals when the VBE will perform or provide the services and/or supplies; and
 - d. The name and telephone number of the Offeror's point of contact for VBE participation; and
 - e. The name, address, and telephone number of the primary contact person for the VBE; and
 - f. Signatures of representatives of both the Offeror and the VBE subcontractor who are authorized to contractually bind their firm.

**VBE-3
VBE UTILIZATION SCHEDULE**

List in the chart below VBEs (including where applicable a prime offeror is self-performing a portion of the work) that will be used towards the VBE participation bonus points (add additional pages if necessary). Submit a **Letter of Commitment (VBE-3-1)** for each VBE subcontractor (add additional Letters of Commitment as necessary).

VBE Name SAP Vendor Number (6-digit number provided by VBE) VBE Verification Number (located on DGS VBE verification)	Type of VBE (check all that apply)	Description of Work to be Performed (Statement of Work/Specification reference)	% Commitment (or % of work to be self-performed by VBE bidder/offeror)	Associated Dollar Value of Commitment
Name: <u>ABC IT Solutions</u> SAP Vendor Number: <u>123456</u> VBE Verification Number: <u>123456-2016-09-SB-M</u>	MBE	IT staffing resources	%	\$
Name: SAP Vendor Number: VBE Verification Number:	<input type="checkbox"/> VBE <input type="checkbox"/> SDVBE		%	
Name: SAP Vendor Number: VBE Verification Number:	<input type="checkbox"/> VBE <input type="checkbox"/> SDVBE		%	
Name: SAP Vendor Number: VBE Verification Number:	<input type="checkbox"/> VBE <input type="checkbox"/> SDVBE		%	
Name: SAP Vendor Number: VBE Verification Number:	<input type="checkbox"/> VBE <input type="checkbox"/> SDVBE		%	
Attach additional sheets if necessary			Total % VBE commitment: <u>0</u>	Total \$ amount: <u>\$ 0</u>

VBE-3-1
LETTER OF COMMITMENT

This Letter of Commitment serves as confirmation of the commitment by the prime Offeror to utilize the Veteran Business Enterprise (VBE) on the below-referenced Solicitation/Project.

Solicitation Number: _____

Solicitation Name: _____

	Offeror Information	SDB Information
Name		
Address		
Point of Contact		
Telephone number		
Email address		

Services/Supplies and Time Frame. If Offeror is the successful vendor, the VBE shall perform or provide the following services or supplies during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below:

Services or supplies the VBE will provide:

Specific Time Frame the VBE will provide the services or supplies:

Percentage Commitment. These services or supplies represent _____% of the total cost of the Offeror's cost submittal for the initial term of the contract. Depending on actual contract usage or volume, it is expected the VBE will receive \$_____ during the initial contract term.

VBE verified. By signing below, the VBE represents that it meets the VBE requirements set forth in the Solicitation and all required documentation has been provided to the Offeror for its VBEB submission.

Sincerely,

Acknowledged

Printed name

Printed name

Signature
Offeror Point of Contact Name

Signature
SDB Point of Contact Name

APPENDIX F
MODEL SDB/VBE SUBCONTRACTOR SUBAGREEMENT

APPENDIX FI

MODEL FORM OF SMALL DIVERSE BUSINESS/VETERAN BUSINESS ENTERPRISE SUBCONTRACTOR AGREEMENT

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

RECITALS

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

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

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

DEFINITIONS

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

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

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

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

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

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

Small Business – A business in the United States which is independently owned, not dominant in its field of operation, employs no more than 100 full-time or full-time equivalent employees, and earns less than \$38.5 million in gross annual revenues.

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

Veteran Business Enterprise – A Department-verified veteran-owned small business or service-disabled veteran-owned small business.

AGREEMENT

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

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

(a) Subcontractor is verified as a Small Diverse Business or Veteran Business Enterprise by the Bureau of Diversity, Inclusion and Small Business Opportunities in accordance with the requirements and procedures established by the Bureau;

(b) Subcontractor possesses the necessary knowledge, experience, expertise, capital, resources and personnel required to perform the Services it will provide under this Subcontract;

(c) Subcontractor (i) is duly organized, validly existing and in good standing under the laws of its state of incorporation or organization, (ii) has the power and authority to own its properties and to carry on business as now being conducted, and (iii) has the power to execute and deliver this Subcontract;

(d) The execution and performance by Subcontractor of the terms and provisions of this Subcontract have been duly authorized by all requisite action, and neither the execution nor the performance of this Subcontract by Subcontractor will violate any provision of law, any order of any court or other agency of government, the organizational documents of Subcontractor or any indenture, agreement or other instrument to which Subcontractor is a party, or by which Subcontractor is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under, or except as may be provided by this Subcontract, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Subcontractor pursuant to, any such indenture agreement or instrument;

(e) Subcontractor has obtained all licenses, permits and approvals required to perform the Services it will provide under this Subcontract; and

(f) Subcontractor is not under suspension or debarment by the Commonwealth or any other governmental entity, instrumentality or authority.

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

(a) Contractor (i) is duly organized, validly existing and in good standing under the laws of its state of incorporation or organization, (ii) has the power and authority to own its properties and to carry on business as now being conducted, and (iii) has the power to execute and deliver this Subcontract;

(b) The execution and performance by Contractor of the terms and provisions of this Subcontract by Contractor have been duly authorized by all requisite action, and neither the execution nor the performance of this Subcontract will violate any provision of law, any order of any court or other agency of government, the organizational documents of Contractor or any indenture, agreement or other instrument to which Contractor is a party, or by which Contractor is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under, or except as may be provided by this Subcontract, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Contractor pursuant to, any such indenture agreement or instrument;

(c) Contractor has obtained all licenses, permits and approvals required to perform the Services to be provided by Contractor under the Prime Contract; and

(d) Contractor is not under suspension or debarment by the Commonwealth or any other governmental entity, instrumentality or authority.

3. Relationship of the Parties. The provisions of this Subcontract are not intended to create, nor shall be deemed or construed to create, any joint venture, partnership or other relationship between Contractor and Subcontractor, other than that of independent entities contracting with each other solely for the purpose of carrying out the provisions of this Subcontract. Neither of the Parties to this Subcontract, nor any of their respective employees, agents, or other representatives, shall be construed to be the agent, employee or representative of the other party. Neither party shall have the authority to bind the other party, nor shall a party be responsible for the acts or omissions of the other party, unless otherwise stated in this Subcontract. Similarly, the Parties expressly acknowledge that neither the Contractor nor the Subcontractor is an agent, employee or representative of the Commonwealth and each party covenants not to represent itself accordingly.

4. Prime Contract Flow-Down.

(a) General. This agreement is a subcontract under the Prime Contract and all provisions of the Prime Contract and any amendments thereto applicable to the Services being performed by the Subcontractor shall extend to and be binding upon the Parties as part of this Subcontract.

(b) Specific. The Parties agree to comply with the following provisions of the Prime Contract, which are incorporated herein by reference:

- (1) The Americans with Disabilities Act Provisions.
- (2) Nondiscrimination/Sexual Harassment Clause.

- (3) Contractor Integrity Provisions.
- (4) Contractor Responsibility Provisions.

(c) Termination. Should the Prime Contract be terminated pursuant to the terms and conditions provided in the Procurement, such termination shall have the same effect on this Subcontract. Payment for Services provided as of the date of termination must be made in accordance with the Section 13 of this Subcontract.

(d) Audit Provisions. The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents, and records of the Parties to the extent that the books, documents, and records relate to the Parties' compliance with the provisions set forth in subsection (b) above or to the Small Diverse Business or Veteran Business Enterprise Commitment effectuated through this Subcontract. The Parties shall preserve such books, documents, and records for a period of three years from the date of final payment hereunder. The Parties shall give full and free access to all such records to the Commonwealth and/or its authorized representatives.

5. Order of Precedence. The Letter of Commitment, Procurement and Prime Contract are incorporated herein by reference into this Subcontract. In the event of any conflict or inconsistency among the individual components of this Subcontract, such conflict or inconsistency shall be resolved by observing the following order of precedence:

- (a) This Subcontract;
- (b) The Letter of Commitment;
- (c) The Prime Contract; and
- (d) The Procurement.

6. Further Action. The Parties shall take such actions and complete, execute and deliver any and all documents or instruments necessary to carry out the terms and provisions of this Subcontract, to effectuate the purpose of this Subcontract, and to fulfill the obligations of each party hereunder.

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

[DESCRIBE IN DETAIL THE SPECIFIC SUPPLIES, SERVICES OR CONSTRUCTION THE SUBCONTRACTOR WILL PROVIDE OR PERFORM WITH THE CORRESPONDING UNITED NATIONS STANDARD PRODUCTS AND SERVICES CODES (UNSPSC)]

8. Small Diverse Business or Veteran Business Enterprise Commitment. The above-referenced Services represent ___ % of the final negotiated total cost for the initial term of the

Prime Contract. Any proposed change to the Small Diverse Business or Veteran Business Enterprise Commitment must be submitted in writing to the Contracting Officer.

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

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

_____.

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

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

_____.

12. Pricing of Services. Subcontractor shall provide or perform the Services at the pricing specified in Exhibit ___ to this Subcontract.

[ATTACH A BILL OF MATERIALS, RATE CARD OR OTHER APPROPRIATE COST SHEET COVERING THE SERVICES TO BE PROVIDED.]

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

_____.

14. Utilization Reports. Both the Contractor and Subcontractor shall complete Monthly Utilization Reports (or similar type documents containing the same information) and submit them to the Contracting Officer. This information will be used to determine the actual dollar amount

paid to Subcontractor and will also serve as a record of fulfillment of Contractor's Small Diverse Business and Veteran Business Enterprise Commitments. If there was no activity during the month, then the form must be completed by stating "No activity in this month." A late fee of \$100.00 per day may be assessed against the Contractor if the Contractor's Utilization Report is not submitted in accordance with the schedule above.

15. Change Orders. If the Commonwealth issues any change order or other formal contract instrument either expanding or limiting the work to be performed under the Prime Contract, the Parties shall accept such Change Orders. Contractor agrees to provide Subcontractor with written notice of any such change orders that affect the Services to be provided by the Subcontractor hereunder as soon as practical after Contractor receives such notice. Any resulting increase or decrease in the Services, Small Diverse Business or Veteran Business Enterprise Commitment provided for in Paragraphs 7 or 8 above must be in writing, mutually agreed to, and signed by both Parties.

16. Force Majeure. Neither party will incur any liability to the other if its performance of any obligation under this Subcontract is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but are not limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemic and quarantines, general strikes throughout the trade, and freight embargoes. The existence of such causes beyond a party's control shall extend the period for performance to such extent as may be necessary to enable complete performance in the exercise of reasonable diligence after the causes have been removed.

17. Dispute Resolution.

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

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

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

If to Contractor:

If to Subcontractor:

19. Waiver. No waiver by either party of any breach of this Subcontract shall be deemed to waive any other breach. No acceptance of payment or performance after any breach shall be deemed a waiver of any breach. No failure or delay to exercise any right by a party upon another's default shall prevent that party from later exercising that right, nor shall such failure or delay operate as a waiver of any default.

20. Severability. If any provision of this Subcontract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Subcontract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

21. Assignment. Neither party may assign or transfer this Subcontract without the prior written consent of the Commonwealth. If Contractor's Prime Contract with the Commonwealth is assigned to another contractor, the new contractor must maintain the Small Diverse Business and Veteran Business Enterprise Commitments set forth in the Prime Contract as implemented through this Subcontract.

22. Applicable Law. This Subcontract shall be governed by the laws of the Commonwealth of Pennsylvania.

23. Entire Agreement. This Subcontract constitutes the entire agreement of the Parties regarding the subject of this Subcontract as of the date of execution. No other agreement or understandings, verbal or written, expressed or implied, are a part of this Subcontract unless specified herein.

24. Amendment. This Subcontract may be modified or amended only if made in writing and signed by both Parties.

25. Binding Effect. This Subcontract shall be binding upon, and inure to the benefit of, the Parties and their respective heirs, representatives, successors and assigns.

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

ADDITIONAL TERMS AND CONDITIONS

[THE PARTIES MAY INCLUDE ADDITIONAL TERMS AND CONDITIONS APPROPRIATE FOR THE SERVICES TO BE PROVIDED SO LONG AS THEY ARE COMMERCIALY REASONABLE TERMS FOR THE APPLICABLE BUSINESS OR INDUSTRY, ARE NO LESS FAVORABLE THAN THE TERMS OF THE PRIME CONTRACT, AND DO NOT PLACE DISPROPORTIONATE RISK ON THE SMALL DIVERSE BUSINESS OR VETERAN BUSINESS ENTERPRISE RELATIVE TO THE

NATURE AND LEVEL OF THE SMALL DIVERSE BUSINESS' OR VETERAN BUSINESS ENTERPRISE'S PARTICIPATION IN THE PROJECT. SUCH TERMS MAY INCLUDE:

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

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

Contractor

Subcontractor

Insert Company Name

Insert Company Name

By: _____
Signature

By: _____
Signature

Printed Name

Printed Name

Title

Title

Date

Date

EXHIBIT E

Technical Submittal

**APPENDIX A
PROPOSAL COVER SHEET
PENNSYLVANIA BROADBAND DEVELOPMENT AUTHORITY
RFP# PBDA-2023-01**

The proposal of the Offeror identified below for the above-referenced RFP is submitted electronically comprised of separate files for Technical, Cost and SDB/SB:

Offeror Information:	
Offeror Name	Michael Baker International, Inc.
Offeror Mailing Address	100 Airside Drive Moon Township, PA 15108
Offeror Website	https://mbakerintl.com/
Offeror Contact Person	Jeremy Jurick
Contact Person's Phone Number	[REDACTED]
Contact Person's E-Mail Address	[REDACTED]
Offeror Federal ID Number	[REDACTED]

Electronic Submittals Enclosed:	
<input checked="" type="checkbox"/>	Technical Submittal <input checked="" type="checkbox"/> Domestic Workforce Utilization Certification
<input checked="" type="checkbox"/>	Small Diverse Business Participation Submittal
<input checked="" type="checkbox"/>	Veteran Business Enterprise Participation Submittal
<input checked="" type="checkbox"/>	Cost Submittal

<i>Signature</i>	
Signature of an official authorized to bind the Offeror to the provisions contained in the Offeror's proposal:	
Printed Name Dan Kieny	DocuSigned by: <i>Dan Kieny</i> 9EE09D64695B4D4...
Title President, Consulting and Technology Solutions	

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

Eileen Quinn
Office of Chief Counsel, Pennsylvania Broadband Development Authority
Pennsylvania Department of Community and Economic Development
400 North Street, 4th Floor
Harrisburg, PA 17120

Dear Ms. Quinn and the Selection Committee:

Now more than ever, the importance of having affordable access to broadband and related digital devices is critical to participate in modern society.

Michael Baker International, Inc. (Michael Baker) commends the Pennsylvania Broadband Development Authority (Authority) as it pursues equitable, ubiquitous broadband services for Pennsylvania's businesses, residents, and communities. In light of the Authority's adjusted Request for Proposal (RFP) PBDA-2023-01, Michael Baker eagerly presents its modified proposal for supporting the Authority's Five-Year Action Plan and Digital Equity Plan efforts.

Headquartered in Pittsburgh since 1940, we have six offices across the commonwealth with on-the-ground, local staff that is available to support your initiative. We have customized our proposed solution to provide the right level of support for the Authority. As a leading provider of broadband consulting, planning, mapping, engineering, and technology solutions, we stand ready to connect fellow Pennsylvanians.

THE MICHAEL BAKER TEAM OFFERS THE AUTHORITY THE FOLLOWING:

NATIONAL THOUGHT LEADERSHIP



- 20+ years of experience supporting national, state, regional, and local broadband and related telecommunications projects
- Expertise with no learning curve
- Experience and understanding of currently available federal funding avenues and reporting requirements, including the Infrastructure Investment and Jobs Act (IIJA)
- Full range of understanding of broadband – users, uses, usage, and digital equity for all citizens

LOCAL PRESENCE AND PERSPECTIVE



- A Pennsylvania-based team including our subcontractors
- Thorough understanding of local internet service providers (ISPs), community stakeholders, community anchor institutions (CAIs), regulations, and residents
- Previous successful broadband experience within the Commonwealth, including regional government and many counties
- Engineer of Record for the Pennsylvania Turnpike Commission

CLIENT FOCUS



- Michael Baker is independent – not aligned to any internet service provider or technology
- Forward-thinking – the Authority's goals are our goals
- A tailored solutions approach based on experience, industry best practices, with tools and applications to fit the Authority's needs
- A tailored program management solution based on experience overseeing and coordinating strategic initiatives

We have reviewed all tasks outlined in the RFP and present a comprehensive approach to support connectivity improvement statewide. Our experienced local staff includes two team members who provided public testimony that informed PA House Bill 2071, which led to Act 96 of 2021 to form the Authority. Our Pennsylvania-based team of engineers, planners, facilitators, and subcontractors has been purpose-built for this effort. We are staffing this project with employees who have been attending the Authority's quarterly meetings and all four sub-committees' meetings. These are the same skilled consultants who supported the distribution of hundreds of millions of dollars of broadband grant funding in seven states, including the New York State Broadband for All program, in which Michael Baker was selected to support the distribution of \$500 million in broadband deployment funds.

This project requires an organized and highly motivated team, one that has proven and relevant experience. Our proposed Project Manager, Chris Taylor, brings to this team a wealth of experience that includes broadband program and technology planning and management, from inception to completion, with extensive and immediate access to deploy the local professionals listed and outlined in our staffing plan.

We welcome your review of our proposal and are committed to supporting the Authority's initiative. Our proposal is valid for 120 days or until a contract is fully executed. Please do not hesitate to contact us for additional information or to schedule an interview.

We are ready to hit the ground running.

Sincerely,

MICHAEL BAKER INTERNATIONAL, INC.



Jeremy Jurick, GISP
VP, National Broadband Services Director



Chris Taylor
Project Manager



TABLE OF CONTENTS

APPENDIX A: PROPOSAL COVER SHEET	02
COVER LETTER	03
STATEMENT OF PROJECT	07
QUALIFICATIONS	09
WORK PLAN	31
OBJECTIONS AND ADDITIONS TO STANDARD CONTRACT TERMS AND CONDITIONS	55
APPENDIX B: DOMESTIC WORKFORCE UTILIZATION CERTIFICATION	58
APPENDIX C: TRADE SECRET/CONFIDENTIAL PROPRIETARY INFORMATION NOTICE	60

STATEMENT OF PROJECT



STATEMENT OF PROJECT

To improve broadband availability and connectivity across the Commonwealth of Pennsylvania, the Pennsylvania Broadband Development Authority (Authority) has issued a request for proposals (RFP) to assist with the development of a Five-Year Action Plan and Digital Equity Plan. These plans, along with Authority's ongoing efforts with Penn State Extension and other broadband programs, will be used to maximize federal funding and improve broadband infrastructure statewide.

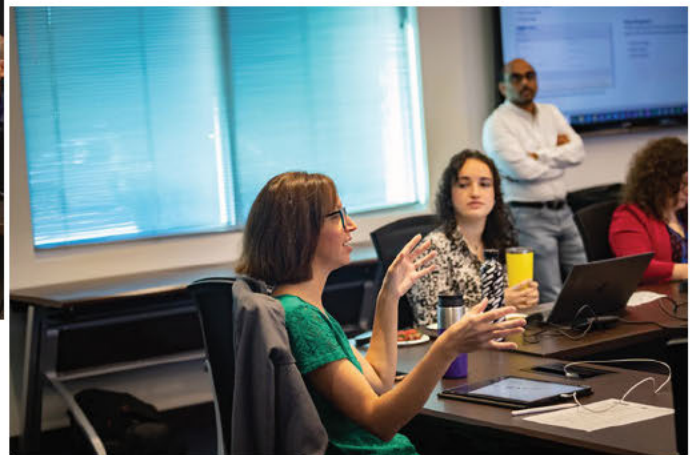
On top of existing FCC (e.g., Rural Digital Opportunity Fund (RDOF)) and Treasury programs (e.g., American Rescue Plan Act (ARPA)), the IIJA will allocate approximately \$42 billion directly to states and territories. The Digital Equity Act (DEA) awarded Pennsylvania an additional \$1.6 million under the State Digital Equity Planning Grant Program. After implementing solutions funded by the National Telecommunications and Information Administration (NTIA) Broadband Equity, Access, and Deployment (BEAD) program and State Digital Equity Planning and Grant Program, Pennsylvanians will have more broadband capacity than ever before.

In Pennsylvania and nationwide, Michael Baker has been at the forefront of broadband expansion efforts. Leveraging our existing relationships with local internet service providers (ISPs); public outreach groups; and local, regional, and state level broadband authorities and nonprofits; **we are uniquely qualified** to develop a comprehensive Five-Year Action Plan and Digital Equity Plan focused on solving Pennsylvania's many residents' and businesses' broadband concerns.

We know the Authority's needs, as our team has attended the Authority and its sub-committee meetings regularly. Michael Baker will manage and facilitate the Authority's Stakeholder Engagement Plan and manage the efforts to develop a Five-Year Action Plan and Digital Equity Plan within the Authority's cost, quality, and schedule targets. Each deliverable will be provided to the Authority with ample time to review and revise prior to any plan's submission to its relevant funding authority.

THE FOLLOWING PROPOSAL DETAILS HOW WE WILL SUPPORT THE AUTHORITY TO:

- Guide and support the Authority's planning efforts for the Five-Year Action Plan and Digital Equity Plan, by facilitating meetings with its sub-committees, hosting in-person community outreach events, and supporting all phases of a statewide community survey
- Develop a draft framework of the Five-Year Action Plan with the Authority, its Infrastructure Program Manager, its Digital Equity Program Manager, and input gathered from the public
- Develop a draft framework of the Digital Equity Plan by collaborating with these same Program Managers, identified stakeholders, and input from direct conversations with the public



Since May 2022, we have held internal workshops on BEAD and DEA solutions. Shown here are some of the individuals slated to support the Authority. The workshops focus on many topics, including BEAD and DEA guidelines, how these guidelines relate to FCC requirements, our Broadband Infrastructure Tracking System's development, and feedback from clients on our Broadband Planning Toolkit and consulting services.

QUALIFICATIONS



QUALIFICATIONS

A. OVERVIEW

Project Understanding

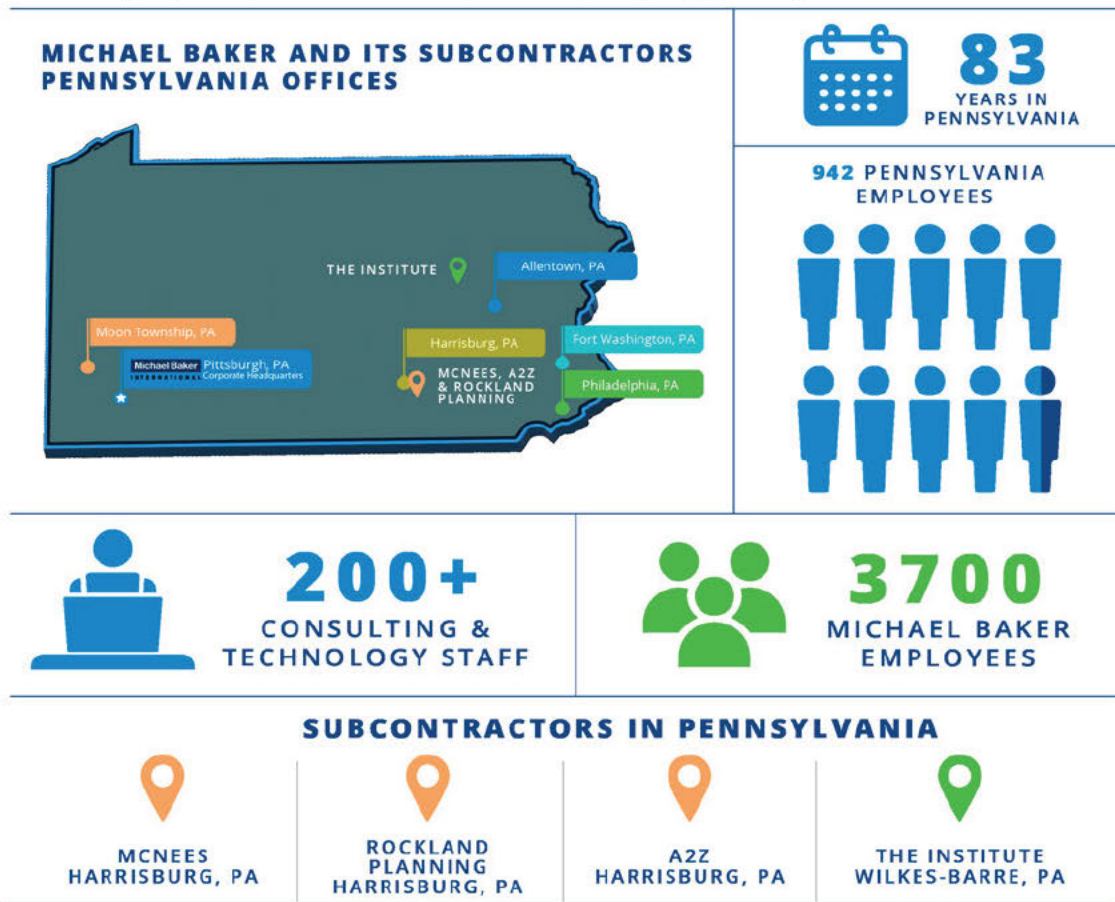
The Authority aims to maximize and fully utilize federal funding to expand broadband access across Pennsylvania. Michael Baker thoroughly understands this need. Based on the federal requirements and timelines, we propose the following customized solution to developing the Five-Year Action Plan and Digital Equity Plan.

We applaud the Authority's efforts to close connectivity gaps, bringing affordable and robust connectivity to Pennsylvanians. Michael Baker is familiar and knowledgeable on the processes, resources, and program management tools required to develop informed, comprehensive strategies for implementable, equitable broadband expansion.

 **We know the value of reaching and providing digital inclusion to all of Pennsylvania's communities, targeting unserved and underserved areas, to provide robust connectivity for participation in education, business, healthcare, government, and other institutions.**

We are aware of the issues with broadband access and connectivity gaps, revealed by recent global events, which have affected the way that we communicate, work, interact, and transact business. Pennsylvania residents with lesser or limited access to reliable, high-speed internet have additional difficulties when accessing healthcare, working, education, and nearly every other facet of their lives. Deficient broadband coverage has negative implications on many aspects of our lives; it is vital for the Authority to achieve digital equity for all. Reliable digital access will provide individuals and businesses across the Commonwealth with the tools to be successful, setting Pennsylvania as a leader among other state economies.

Michael Baker recognizes the Authority's and Pennsylvania's need to **engage with stakeholders** in identifying unserved and underserved areas. We know the value of interacting with businesses and residents directly, documenting their internet-related needs to inform decision making. Ensuring **all voices are heard** is key when developing inclusive, effective broadband expansion plans. Through our regular attendance at Authority and its sub-committee meetings, we have a thorough understanding of your expectations and are poised to quickly engage and get started.



About Michael Baker

Michael Baker is a leading provider of **engineering and consulting** services that encompass all facets of infrastructure, including broadband, design, civil engineering, planning, and program management. For more than 83 years, our company, headquartered in Pittsburgh, Pennsylvania, has been a trusted partner to Commonwealth agencies, commercial clients, all branches of the military and federal, state, and municipal governments, providing comprehensive services and solutions. The firm's more than 3,700 employees across nearly 80 locations, including local offices in Harrisburg, Moon Township, Philadelphia, Fort Washington, Allentown, and our corporate headquarters in Pittsburgh.

Our Purpose, Our Mission, Our Values

Our Purpose is to demonstrate how *We Make a Difference* by continuously innovating and improving our service to our clients, our people, and the communities we serve. Our Mission is to be the best professional services company in the industry by continuously innovating and delivering outstanding service to our clients and providing our people with fulfilling careers where they attain personal and professional satisfaction in the communities in which we live and serve. At Michael Baker, people are at the core of our Values, where we each embrace our collective differences, perspectives, backgrounds, and cultures through respect, collaboration, and teamwork.

Our Commitment to Equitable Broadband Planning

Michael Baker's broadband services are firmly grounded in a commitment to furthering digital equity backed by GIS and engineering expertise. Our team has created innovative Equity Index mapping tools that identify opportunity areas by their unique population needs; we have developed qualifiers to measure and assess project impacts through economic and demographic lenses; and we have led the development of digital literacy and training tools and programs.

From data analysis to stakeholder engagement, we are committed to supporting the Authority as it defines community-grounded objectives and strategies in its Five-Year Action Plan and Digital Equity Plan. With our support, the Authority can bring robust digital services, knowledge, and resources to Pennsylvania.

Serving Pennsylvania

Since founding our company in Rochester in 1940, Michael Baker has had a dynamic, recognizable presence in Pennsylvania, serving our clients with personal attention. We have a successful history of supporting highway and bridge design, GIS services, rail/transit projects, grant applications/preparation, program management, utility work, and maintain-and-sustain projects. Pennsylvania communities have benefited from our services advancing their infrastructure, consequently improving economies through enhanced efficiency and functionality.

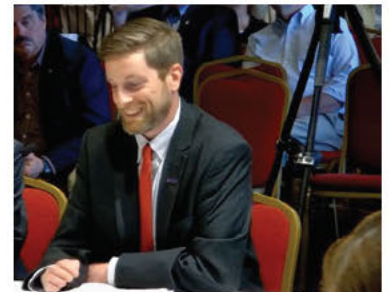
Our Pennsylvania presence is unmatched. We apply a progressive approach to optimizing our clients broadband infrastructure that enables clients to focus on core work. By staying ahead of upcoming broadband expansion knowledge, the opportunities for funding sources, and crucial requirements and deadlines, we provide expert consultation and guidance.

Our local experience is supported by our heightened sensitivity to community needs and concerns, ensuring that our clients' needs and their communities are satisfied to the fullest extent. The proposed team has been providing exceptional engineering services to state government and local clients. We performed public engagement for the Statewide Long-Range Transportation Plan (LRTP) and Freight Movement Plan (FMP), and all phases of many regional and county-wide broadband projects. This includes serving Beaver County's Connect Beaver County Program as it discovers its broadband needs and develops plans while continuously engaging with the public through our services in-person and virtually.

To support the Authority as it develops a Five-Year Action Plan and Digital Equity Plan, Michael Baker will leverage its existing positive relationships with local ISPs, mobile wireless carriers, and middle mile providers throughout Pennsylvania, such as Comcast, Windstream, Armstrong, Lauren Highland Telephone, CenturyLink, Verizon, AT&T, T-Mobile, Crown Castle, DQE, FirstLight, and KINBER.

OUR BROADBAND VISION STATEMENT

Michael Baker supports government organizations in planning for and managing the roll-out of equitable broadband projects and programs for our client's unserved and underserved constituencies.



At the Center for Rural Pennsylvania's Rural Broadband Hearing held in May 2022, our National Broadband Services Director presented public testimony alongside Penn State Extension.

Range of Services

Michael Baker is a national leader in the development and deployment of scalable enterprise broadband planning solutions. **Unlike smaller engineering companies, pure telecom organizations, or government-centered management consulting firms,** Michael Baker offers a balanced mix of broadband technical expertise and project experience. We apply customized, innovative processes and technologies. Michael Baker is an agile organization with a wealth of diverse experience in broadband and a long history of innovating solutions to our client's many needs.

While Michael Baker has been at the helm of broadband expansions nationwide, we also support clients with engineering and GIS-based projects such as:

- Regional planning and mapping
- Feasibility studies and cost estimation
- Infrastructure concerns such as roads, bridges, tunnels, mass transit, and airports
- Utility projects like water treatment plants, environmental restoration, and specialized overseas construction

Our Consulting and Technology Solutions (CTS) division delivers services the full lifecycle of broadband, design and planning, geospatial, software development, and program management needs. Our CTS team, with more than 200 professionals, is backed by more than 3,700 Michael Baker employees who are ready to hit the ground running with the knowledge and tools that benefit clients' projects, transforming them from vision to completed product.

Supporting the Authority in Broadband Expansion

Using the November 2022 Statewide Broadband Plan as a roadmap, Michael Baker will review other states' available plans to develop an up-to-date, thorough strategy for broadband expansion into unserved and underserved areas. The Five-Year Action Plan and Digital Equity Plan will detail effective, affordable connectivity solutions. In turn, this will

increase citizens' access to education, business transactions, healthcare, government, and other institutions. As one of this nation's leading full-service consulting, planning, and engineering firms, we truly know our Pennsylvania communities and their needs. Connectivity is of vital importance as it impacts all of us every day.

Advancing Broadband through Policy Development

Our thought leadership in broadband policy includes providing public testimony in support of PA House Bill 2071, which evolved to form PBDA. We have also given public comments for rural broadband policy before The Center for Rural Pennsylvania's Public Hearing and the PA House Consumer Affairs Committee. Michael Baker staff has also advocated for public engagement and enhanced data gathering by submitting public comment to the NTIA's request for comment on Broadband Program Development. We are actively developing public comment on the FCC's definition of Digital Discrimination.

PA HOUSE BILL 2071

Michael Baker's Sam Garfinkel and Jeremy Jurick provided public comment in November 2021 during the Senate Communications and Technology Committee and House Consumer Affairs Committee Joint Hearing for Rural Broadband supporting HB2071.



During this hearing we advocated to:

- » Ensure broadband speed is defined as 100/20 or higher, and raise the speed threshold if the FCC revises their definition.
- » Ensure government entities such as counties, regional MPOs, and municipalities are eligible to receive funding for broadband.

In addition to this testimony, we have helped shape key broadband policies by providing public testimony and public comments for:

- » NTIA's request for comment on Broadband Program Development related to IIJA
- » Rural broadband policy before the Center for Rural Pennsylvania's Public Hearing and the PA House Consumer Affairs Committee

Michael Baker

INTERNATIONAL

BROADBAND

CONNECTIVITY PLATFORM

To support all of our broadband client's programs, Michael Baker has developed our **Broadband Connectivity Platform** to leverage, as-needed, to support mapping, engagement, and planning efforts. This suite of applications enables data sharing and collaboration between clients and various stakeholders including other state agencies, participating ISPs, stakeholder organizations and the public. Details and live demonstrations of the applications on this platform can be found at www.broadbandapps.com. Leveraging these template-driven applications, our clients quickly stand up customized platforms of critical broadband information statewide. Michael Baker has invested time and effort into developing these applications and is able to quickly adapt and deploy solutions for our clients, allowing entities to reduce costs and timeline required to establish a web portal of this size and scope. The Broadband Connectivity Platform includes customized mapping applications for availability and digital equity, infrastructure tracking information, field monitoring data, and more. With Michael Baker providing hosting and development services, our clients are able to focus on core work while sharing progress on broadband infrastructure enhancement in their area.

You can select us with confidence, knowing that we will draw upon our existing local knowledge and relationships, consulting, engineering, and planning skill sets, and evolving lessons learned to ensure the Commonwealth becomes fully connected and utilizes its existing and future funding wisely.

B. PRIOR EXPERIENCE

PROJECT PROFILE TABLE OF CONTENTS

New York Broadband for All Program Management	15
Pennsylvania 2045 Long-Range Transportation Plan & Freight Movement Plan	15
Fiber Optic Broadband Network Planning, Procurement, and Program Management	16
Regional Broadband Connectivity Analysis and Roadmap	16
NTIA Middle Mile Grant Program Support Broadband Connectivity Analysis & Roadmap	17
Beaver County Broadband Connectivity Program Management	18
Broadband Digital Equity Community Conversations	19
National Broadband Map Data Quality Assessment	20

Michael Baker's recent broadband experience includes work successfully performed from the federal to local level. This includes supporting six state broadband programs.

	Broadband Program Management	Broadband Strategic Planning	Broadband Grant Management	Broadband Mapping & Data Collection	Public & Stakeholder Engagement	Broadband Policy Development	Broadband Plan Implementation	Digital Equity Planning	Infrastructure & Economic Development Advisory
FEDERAL GOVERNMENT EXPERIENCE									
FCC Broadband Data Collection Filing Application				✓	✓	✓		✓	
FCC Broadband Fabric	✓	✓		✓				✓	
FCC/NTIA National Broadband Map Data Quality Assessment	✓	✓		✓	✓	✓		✓	
STATE GOVERNMENT EXPERIENCE									
State of California	✓	✓		✓	✓			✓	
State of Kentucky	✓	✓	✓	✓	✓	✓	✓	✓	✓
State of Louisiana	✓	✓	✓	✓	✓		✓	✓	✓
State of Michigan	✓	✓		✓	✓			✓	
State of New York	✓	✓	✓	✓	✓		✓	✓	✓
State of North Carolina	✓	✓		✓				✓	
State of Pennsylvania	✓	✓	✓	✓	✓	✓	✓	✓	✓
LOCAL GOVERNMENT EXPERIENCE									
Ashville, KY		✓		✓	✓			✓	
Beaver County, PA	✓	✓	✓	✓	✓	✓	✓	✓	✓
Fayette County, PA	✓	✓		✓	✓			✓	✓
Lawrence County, PA	✓	✓		✓	✓			✓	✓
Washington County, PA							✓	✓	✓
Westmoreland County, PA	✓	✓	✓	✓	✓		✓	✓	✓
WV Eastern Panhandle Regional Planning and Development Council		✓	✓	✓	✓		✓	✓	
NON-GOVERNMENTAL EXPERIENCE									
Allies for Children, Pittsburgh, PA		✓			✓	✓		✓	
AT&T Digital Landbase Creation and Maintenance, CA and NV	✓	✓		✓	✓			✓	
Confidential Broadband Carriers		✓		✓				✓	

New York Broadband for All Program Management

Empire State Development (ESD) | Statewide, NY

Reference: Allison Kabir, VP Policy and Operations | 633 Third Avenue
New York City, NY 10017 | [REDACTED], [REDACTED]

Michael Baker provided GIS analysis, program management, and consulting support for the New York Broadband for All Program. By identifying broadband needs and developing effective solutions, the Broadband Program Office (BPO) aligned with Michael Baker in an effort to close the digital divide in New York State, ensuring all New Yorkers have access to high-speed internet and making their goal of “broadband for all” a reality.

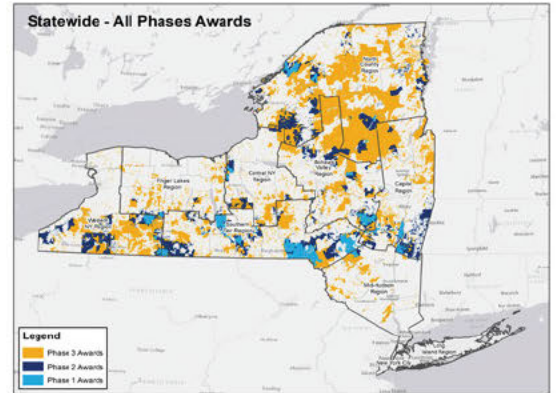
By identifying broadband needs and developing unique solutions, Michael Baker and the BPO examined the current state of New York’s broadband access, which identified a grant distribution methodology for ensuring that all New Yorkers have access to high-speed internet, regardless of their demographic and socioeconomic status.

Services Provided

- Grant Modeling
- Grant Management
- FCC Form 477 Analysis
- Identification of Unserved and Underserved areas
- Review of ISPs Applications
- Program Management
- Strategic Planning
- Broadband GIS Mapping

Best Practices and Lessons Learned

While working on behalf of the state to manage its grant application process, we helped the state’s new broadband office better understand what residents need and how to work successfully with ISPs. Jeremy Jurick led our broadband team in developing and implementing a broadband grant distribution process.



Statewide Map Illustrating the Three Phases of Grant Funding Awards

Pennsylvania 2045 Long-Range Transportation Plan & Freight Movement Plan

Pennsylvania Department of Transportation (PennDOT) | Statewide, PA

Reference: Michael D. Rimer, AICP, Transportation Planning Specialist Supervisor | 400 North Street, 6th Floor Harrisburg PA 17120 | [REDACTED], [REDACTED]

Michael Baker led the update of Pennsylvania’s Statewide Long-Range Transportation Plan and Freight Movement Plan. These separate, aligned plans were developed to guide transportation investments across the Commonwealth.

This effort involved a robust public and stakeholder engagement process. To develop these plans, we worked with multiple planning advisory committees and developed several rounds of surveys to define the client’s goals and public preferences. Our team prepared and facilitated a statewide virtual freight forum, attended by nearly 200 freight stakeholders. We also helped the client to develop a ground-breaking data repository: a resource to PennDOT and its planning partners to deliver accessible, user-friendly transportation data unlike the resources already on hand. This was developed in direct collaboration with district planners and planning partners. The development of the data repository is a parallel effort to the LRTP process, will remain ongoing upon completion of both plans, and we are exploring the possibility of establishing a data working group.



PENNSYLVANIA
2045 Long-Range Transportation Plan
pennsylvania department of transportation

We submitted the draft plans within our client’s schedule, allowing PennDOT to approve plans in response to provisions from the Bipartisan Infrastructure Law.

Services Provided

- Goal Development
- Plan, Report, and Memo Development
- Public & Stakeholder Engagement
- Public Surveys
- Database Development

Best Practices and Lessons Learned

Adapting the format of meetings and surveys proved best when coordinating with disparate stakeholder groups. Through virtual conferences, Leanne Doran and the public engagement team conducted multiple rounds of surveys and met with collaborators discovering both the public’s requirements and the client’s need for a new data repository.

Fiber Optic Broadband Network Planning, Procurement, and Program Management

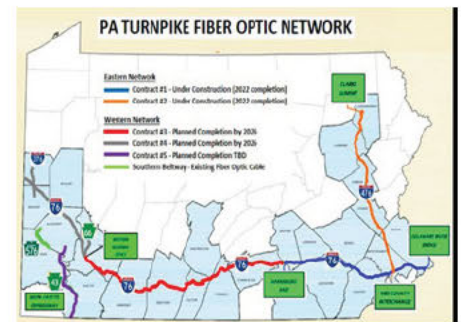
Pennsylvania Turnpike Commission | Statewide, PA

Reference: 700 South Eisenhower Blvd. Middletown, PA 17057 | Contact information will be provided upon request

Michael Baker has served as General Consulting Engineer for the Pennsylvania Turnpike Commission (PTC) for 65 years.

Over the last five years, Michael Baker has served as technical advisor to PTC on the system-wide fiber optic network design/build contracts as well as the fiber operations, maintenance, and commercialization contract. Michael Baker works on-site with PTC staff and executives to provide program and project management for this large-scale fiber optic broadband network construction.

This broadband network will increase bandwidth and boost connectivity between the client’s administrative buildings, support automated tolling capabilities, and support other advanced telecommunications applications for improved safety and mobility. The broadband network will also assist in extending broadband to unserved and underserved areas while generating new revenue streams for the client via non-toll revenue through a unique partnership with the private sector.



With Michael Baker’s support, PTC has been successful in dividing the state into its East Network and West Network to expand

Services Provided

- Program Management
- Broadband Technical Management
- Broadband Strategic Planning
- Procurement Support
- Grant Inventory an Analysis
- Public & Stakeholder Engagement
- Design and Engineering
- Annual Reporting

Best Practices and Lessons Learned

Michael Baker is playing a critical role in advising the first public-private revenue-risk broadband project in North America. Leanne Doran and Jeremy Jurick leverage their broadband team in support of this effort with key tasks such as assembling a thorough inventory of grant opportunities for neighboring municipalities to consider in anticipation of the fiber backbone; providing updates to local municipalities; and, ensuring that fiber lines installed could also be adapted for the carriers’ use.

Regional Broadband Connectivity Analysis and Roadmap

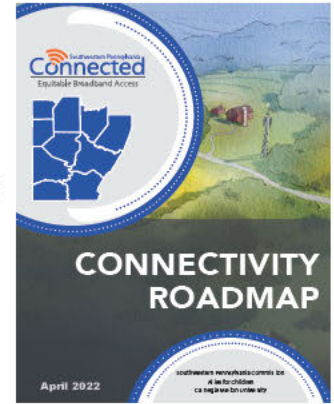
Southwestern Pennsylvania Commission | Southwestern PA

Reference: Andy Waple, Deputy Executive Director | Two Chatham Center Suite 500, 112 Washington Place Pittsburgh, PA 15219 | [REDACTED], [REDACTED]

To identify the state of broadband of the Southwestern Pennsylvania Commission’s (SPC) region, Michael Baker provided a broadband roadmap, stakeholder engagement, digital equity analysis, web mapping applications, and GIS database. We assessed local broadband coverage, speeds, costs, and local resources to identify connectivity gaps. These were prioritized on the 10-county region’s most vulnerable residents, businesses, and education facilities to ensure equitable broadband access for unserved and underserved communities.

All the necessary research and data collection performed helped Michael Baker develop the final Connectivity Roadmap. This Roadmap is a guide to create a broadband network that is accessible and affordable.

The Roadmap focused on a broad range of topics such as Broadband Network and Access in 2022; Goals for a Connected Future; Stakeholder and Public Engagement Results and Findings; Programs and Projects; Funding Sources; Governance Types; and Recommendations and Next Steps. The Recommendation and Next Steps are key to prioritize actions on regional, county, local, and private sector levels.



Services Provided

- Roadmap and Action Plan Development
- Public & Stakeholder Engagement
- Data Analysis
- Broadband GIS Mapping
- Broadband Strategic Planning
- Broadband Connectivity Toolkit

Best Practices and Lessons Learned

We developed close relationships with Pennsylvanian universities, nonprofits, and industry stakeholders. As this effort was prior to the BEAD Notice of Funding Opportunity (NOFO) release, we developed templates based on the preliminary materials released by NTIA. Jeremy Jurick led the project alongside Kirsten Compitello and the digital equity team, Andrew Scampone’s GIS team, and Leanne Doran’s public engagement team. David Price was the QA/QC manager and Rockland Planning provided planning and legislative reporting assistance.

NTIA Middle Mile Grant Program Support Broadband Connectivity Analysis & Roadmap

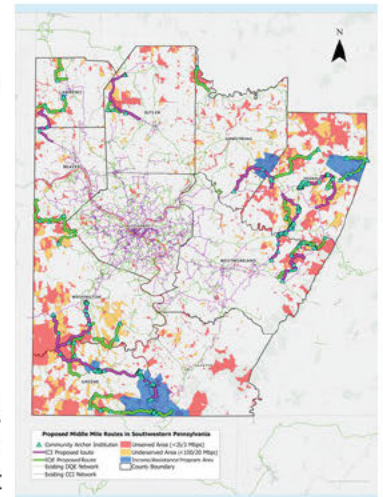
Southwestern Pennsylvania Commission | Southwestern, PA

Reference: Andy Waple, Deputy Executive Director | Two Chatham Center Suite 500 112 Washington Place Pittsburgh, PA 15219 | [REDACTED], [REDACTED]

Michael Baker analyzed the 10-county SPC region, determined locations that lacked middle mile connectivity, and estimated costs for implementing each identified route.

The Middle Mile Grant program provides considerable funding to broaden middle mile infrastructure, bringing lower costs and connecting unserved or underserved areas. Applying to this program, SPC aims to build on the Connectivity Roadmap we developed and create alternative network connection paths that prevent single points of failure. We managed the program and consulted SPC staff as it pursued this funding.

Michael Baker identified priority group areas, reviewed documentation of potentially environmentally sensitive areas while considering right-of-way and bridge/railway crossings, developed maps for proposed deployment areas, and estimated cost of build out. Basing our evaluations and consultation on NOFO criteria, our data analysis informed SPC’s target areas. We also helped write the grant application, coordinate with potential for-profit network operators and last-mile provider partners, and performed final review/compliance checks for the final application.



Services Provided

- Project Management
- Stakeholder Engagement
- ISP Interviews
- Regional Analysis
- Cost Estimating
- Grant Writing Assistance
- Map Development

Best Practices and Lessons Learned

Leveraging both GIS analysis and broadband planning expertise, we identified an equitable route for fiber backbone throughout Western Pennsylvania. Through this project, Sam Garfinkel and Andrew Scampone gained crucial insight in how to prepare NTIA funding applications that address our client’s needs and back them up with provable data points.

Beaver County Broadband Connectivity Program Management

Beaver County | Beaver County, PA

Reference: Lance Grable Director, Office of Planning and Redevelopment | County Courthouse 810 Third Street Beaver, PA 15009 | [REDACTED]

Michael Baker is currently providing program management to Beaver County as it seeks to improve its broadband connectivity. To identify and resolve connectivity issues, we provide program management, data validation, broadband field survey verification, GIS mapping applications, website development and hosting, digital navigator program development, and stakeholder outreach.

Our support started with identifying gap areas for future broadband expansion via data analysis and field survey of addressable structures. Using FCC's definitions for unserved and underserved areas, we assessed broadband availability at the address level. Michael Baker then mapped these areas' speeds, ISPs, and available technologies. Concurrently, we developed a website for the public to learn about the project and complete surveys. This survey helped inform our plan for verifying access in the field; our team logged findings in a GIS field verification application built by Michael Baker specifically for this project and leveraged an ISP challenge process.

We also developed a framework for a county-wide Digital Navigator program. We conducted stakeholder outreach with partners and potential sites to finalize a launch plan, identified a nonprofit partner to run the operations, and designed an accessible and welcoming program vision, concept, and maintenance plan ready to implement in early 2023.

We also manage the County's distribution of ARPA grant funds via county-issued Request for Proposals, support the county's public-private partnerships, and identify changes in federal and state telecom regulations that allow further expansion.



Michael Baker prepared a series of spatial prototypes to guide how the Digital Navigator can be successfully integrated into community buildings in a consistent, recognizable, and accessible way

Services Provided

- Data Collection & Analysis Services
- Public Engagement & Stakeholder Collaboration Services
- GIS Analysis & Support
- Program Management
- GIS Database Development
- Mapping Application & Software Development
- Stakeholder Outreach
- Broadband Field Survey Verification
- Speed Tests
- Data Validation
- Website Development
- Online Surveys

Best Practices and Lessons Learned

Our support affirms Beaver County as a national leader in bridging the digital divide. By identifying the needs of its rural and urban communities, Jeremy Jurick leveraged Andrew Scampone's GIS team and field operations team to identify unserved and underserved areas in the most need of support. Kirsten Compitello's planning team, Leanne Doran's public engagement team, and John Crites developed the plan for universal service, developed and implemented the robust public engagement plan, and ensured equitable roll-out of broadband infrastructure and associated programming. Kirsten Compitello's process in identifying nonprofit partners who can sustain a Digital Navigator program post-federal funding was a key to success.

Broadband Digital Equity Community Conversations

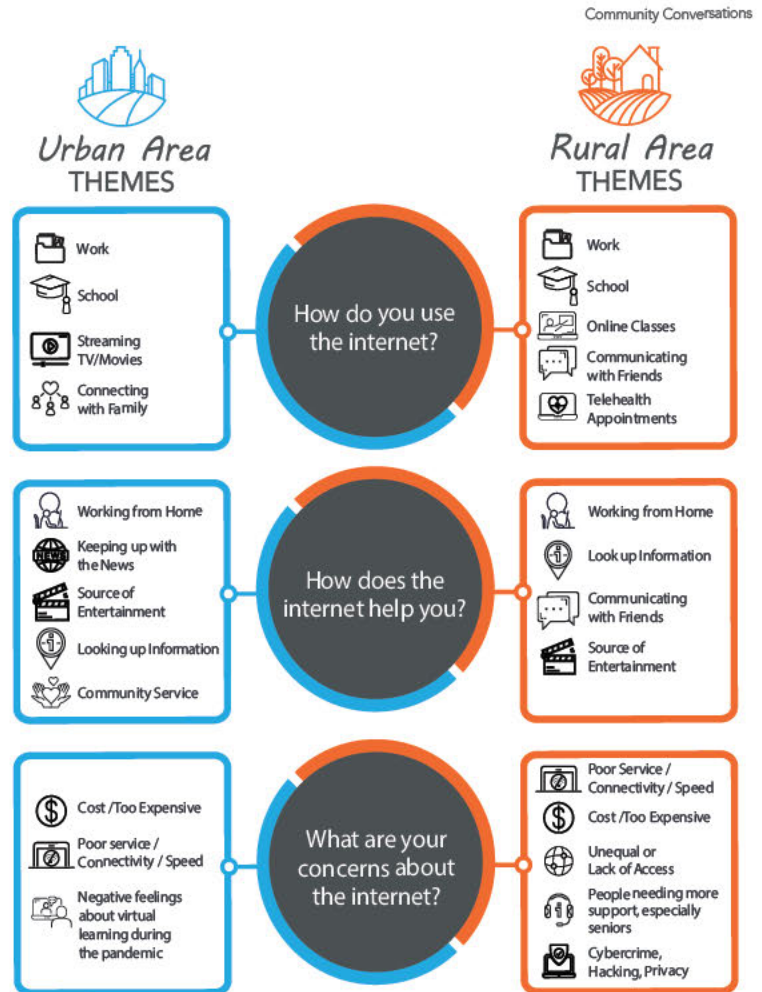
Client: Allies for Children | Pittsburgh, Pennsylvania

Reference: Jamie Baxter, Executive Director | 10 Children’s Way, Suite 200 Pittsburgh, PA 15212 | [REDACTED]

Michael Baker examined the current, true state of Southwestern Pennsylvania’s connectivity. As a component of the Broadband Connectivity Roadmap initiative led by Southwestern Pennsylvania Commission, Allies for Children, and Carnegie Mellon University, we designed and hosted 17 community conversations across the 10-county region. We documented our findings of how and where community members access the internet, what they need from their internet service, and how to address the gaps in their needs.

We created and managed the project work plan and schedule, prepared and reviewed program design and materials for each meeting, planned and promoted the conversations, facilitated the meetings, provided post-meeting feedback, and prepared a final report with recommendations and themes. The final report can be found at <http://alliesforchildren.org/allies-for-children-issues-new-report-on-the-digital-divide/>.

At accessible community hubs, we guided the conversations, facilitated stations, and recorded attendee’s perspective on broadband issues. Meeting with more than 120 attendees, we offered multiple formats, such as Spanish-hosted and virtual sessions led by from the Michael Baker team.

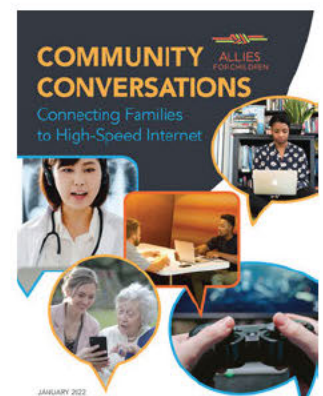


Services Provided

- Broadband Planning
- Meeting Facilitation
- Community Planning
- Graphic Design
- Public Engagement
- Equity Planning
- Digital Equity Analysis

Best Practices and Lessons Learned

By hosting sessions that adapted to each region’s language or communication preferences, Kirsten Compitello, Jeremy Jurick, and the broadband team gathered crucial information of residents’ broadband and device use and concerns. Using this, Leanne Doran and the public engagement team adapted our client’s social media strategy to better target the communities that need the most support.



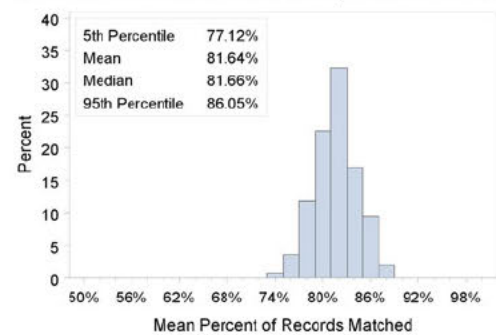
Michael Baker recently released a qualitative broadband report for the community advocacy group Allies for Children.

National Broadband Map Data Quality Assessment

U.S. Federal Communications Commission (FCC) | Nationwide

Reference: Michael Byrne, (no longer with FCC), Conexon, SVP Information Systems | 445 12th Street SW Washington, D.C. 20554 | [REDACTED], [REDACTED]

Mean Percent of Records Matched in a Sample of Census Blocks



Census Block results of Michael Baker's broadband comparison process

Michael Baker performed a corroborative assessment and analysis of broadband data collected under the NTIA State Broadband Initiative (SBI). Our team assessed the FCC Form 477 data for the national broadband map for quality and consistency and performed a comparative analysis for specific broadband attributes such as coverage, technology, and speed. Michael Baker's services included review and comparison of data with state broadband program submissions, update of a database with validation test results, recommendations to improve data collection, and preparation of complete methodological documentation.

The National Broadband Map is a web-based, searchable database that provides information to the public regarding high-speed internet access. The NTIA created the database, at the direction of Congress, from data collected by each state from broadband providers or other sources to connect consumers and industry with information about broadband availability. Through an interagency agreement with the NTIA, the commission was responsible for SBI data quality control, data corroborative assessment, and presentation of the data on the National Broadband Map website.

Services Provided

- Data Analysis
- Stakeholder Engagement
- Broadband GIS Mapping and Analysis
- Statistical Analysis
- Policy Guidance
- National Briefings to States

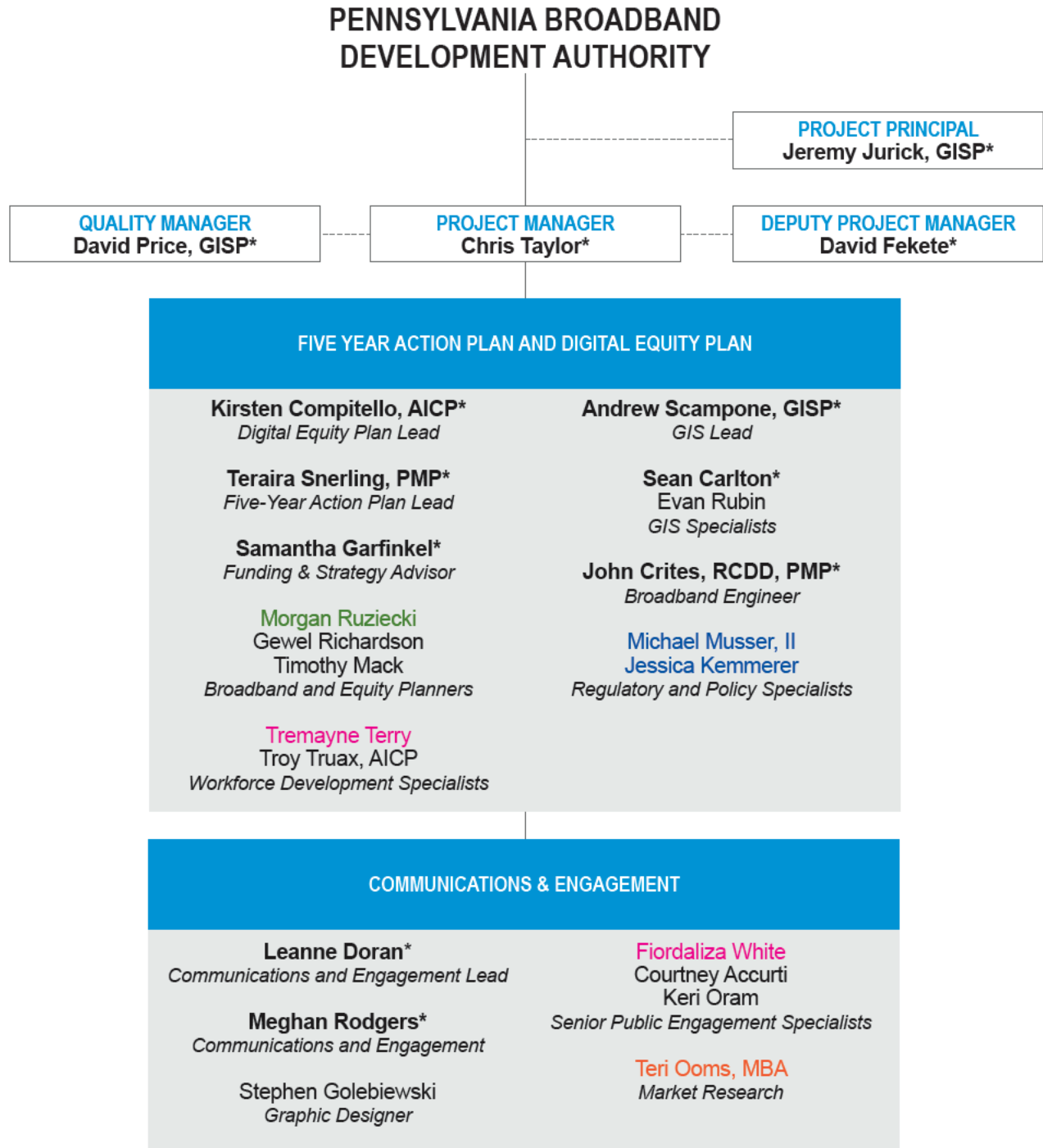
Best Practices and Lessons Learned

Multiple rounds of data analysis were performed by Jeremy Jurick and the GIS and Digital Solutions team to ensure reliable data was provided for nationwide broadband availability. Our major takeaway was our foundational understanding and development of the FCC submission process and we recommended that the FCC progress towards a structure level mapping methodology which was then invoked in 2022.

C. PERSONNEL

Organizational Chart

Michael Baker’s Consulting and Technology Solutions (CTS) team consists of more than 200 professionals and is led by Derek Vogelsang, who reports to Executive Vice President Dan Kieny, and in turn reports to Michael Baker’s President Brian Lutes. Jeremy Jurick falls under Derek’s organization and is our National Broadband Services Director.



LEGEND

Michael Baker International ▪ McNees Strategic Solutions Group ▪ Rockland Planning, Inc. ▪
 The Institute ▪ A2Z Diversity Solutions
 * Key Personnel (resume included)



Jeremy Jurick, GISP – Project Principal

Years Experience: 16

Location: Pennsylvania

Education: B.A., 2005, GIS/Cartography, Minor Computer Science, Indiana University of Pennsylvania

Licenses/Certifications: Certified GISP Professional, 2017, 99238

Jeremy is Michael Baker’s National Broadband Services Director and oversees the firm’s Broadband Planning, Mapping, and Program Management initiatives. He has managed and lead numerous broadband client contracts at all government levels and within the private sector. Government broadband experience includes roadmap development, planning, data collection and analysis, stakeholder engagement, broadband provider engagement, branding, multimedia design, GIS services, and software design. Jeremy takes interest in combining his telecom, GIS, and Computer Science interests to provide best-in-class planning solutions for clients. Jeremy has provided testimony during several government hearings to inform policymakers on broadband policy and expansion, including advocating for high-speed thresholds for the definition of broadband and allowing government entities to be eligible subgrantees for broadband funding. He is authorized to be entrusted with sensitive information as he actively holds both a Department of Defense Common Access Card and Department of Homeland Security PIV card.



Chris Taylor – Project Manager

Years Experience: 25

Location: Florida

Education: Bachelor of Electrical Engineering, 1994, Auburn University

Chris has a Bachelor of Electrical Engineering and has a 25-year career in the telecommunications field and is currently working in a Project Manager position. As a Michael Baker Broadband Project Manager, he has been ingrained in our internal BEAD and DEA workshops and training to ensure the PBDA program is a success. He has been involved in most aspects of broadband builds from engineering design, construction management, project management, and in a regional staff supporting role. In his previous role, Chris supported multiple large Fiber to the Home (FTTH) builds (>\$100m) in Arizona and Indiana, providing 1G symmetrical high-speed internet to the unserved and underserved as a Process Improvement Manager. He interfaced with clients, vendors, construction contractor’s leadership, accounting, and local project managers over the FTTH projects. His leadership helped identify and improve crucial areas that benefited clients, budgets, and delivery to customer time frames. He is agile, detail-oriented and has demonstrated abilities in producing quality technical documentation and process improvement.



Kirsten Compitello, AICP – Digital Equity Plan Lead

Years Experience: 10

Location: Pennsylvania

Education: M.A., 2012, Cultural Anthropology, Columbia University
B. Arch., 2006, Architecture, University of Notre Dame

Licenses/Certifications: American Institute of Certified Planners, Pennsylvania, 2021, 33164

Kirsten serves as Michael Baker’s National Broadband Digital Equity Director and is an experienced Planner with a focus on public engagement, planning policy, community planning, and visual storytelling. She led the Southwest PA Connected Steering Committee and Regional Stakeholder Engagement while also serving as the primary author of the broadband Connectivity Roadmap for the 10-county region. She has participated in numerous charrettes, both nationally and abroad, and is particularly passionate about public participation as a part of the design and planning process. She leads the development of digital navigation and equitable planning tools within our broadband practice.



Leanne Doran – Communications and Engagement Lead

Years Experience: 33

Location: Pennsylvania

Education: B.A., 1991, Journalism and Communications, Point Park University

Leanne directs strategic communications campaigns, specializing in public outreach, consensus building, and conflict resolution. She has more than 30 years of experience in the development and implementation of public engagement and education programs on high-profile broadband planning, transportation planning, and fast-tracked projects. Her approach has led to the successful delivery of more than 40 projects with relationships built on trust and performance. She has a strong track record of delivering regional and statewide plans and projects built around collaboration and consensus including the Southwest PA Connected Broadband Plan, the statewide Pennsylvania Long Range Transportation Plan and the Pennsylvania Turnpike's conversion to Cashless Tolling. She is the natural choice to lead engagement on this project because of her passion for transparency, ensuring all populations are included in the process, and employing hands-on methods to engage public officials, community leaders, and residents in meaningful, two-way dialogues.



Teraira Snerling, PMP – Five Year Action Plan Lead

Years Experience: 20

Location: Texas

Education: B.S., 2012, Business Organizational Management, University of Phoenix

Licenses/Certifications: Project Management Professional (PMP), Texas, 2012

Teraira serves as the Lead Digital Equity Strategist for Digital Opportunity Plan. She possesses a diverse background in both Digital Equity and Project Management. She has over 20 years of experience developing scope, budget, planning, resource management and project implementation. She has a strong knowledge of Digital Equity and working with nonprofits to identify and alleviate disparities in the community. She has served as Digital Equity Program manager/Broadband Infrastructure Project manager for municipal government in Texas and Louisiana with concentration on laying the groundwork for Broadband Infrastructure design and Equity planning. She has a deep knowledge of government regulatory practices along with understanding of grant funding allocation. Her expertise is in discovery, implementation, and outreach. Her skills also include collecting and synthesizing data to create equity strategies to serve the community. She specializes in data manipulation to support the measurement of social outcomes. Noted projects include leading SMART connected cities and Bloomberg Philanthropist project for Urban renewal in the City of New Orleans. She has led several Equity projects alongside GIS and Web development teams to enhance equity. These skills qualify her to lead the Digital Equity planning and execution process.



Meghan Rodgers – Communications and Engagement

Years Experience: 15

Location: Pennsylvania

Education: M.A., 2010, Journalism, Point Park University

B.S., 2007, Advertising, Kent State University

Meghan is a multimedia project manager with 15 years of communications experience including extensive experience writing and editing for a major media outlet. Her strengths around writing for digital platforms, website design, search engine optimization and social media are unparalleled. She specializes in coordinating with communities and managing all aspects of branding, marketing, advertising, multimedia creation needs, and budget management for Michael Baker's broadband clients. All public-facing deliverables will be guided by Meghan to ensure that messaging is clear, and that language and accessibility standards are followed.



John Crites, RCDD, PMP – Broadband Engineer

Years Experience: 37

Location: Missouri

Education: B.S., 2022 Cybersecurity, Purdue University
A.A.T, 1990, Liberal Arts, Pierce College

Licenses/Certifications: Registered Communications Distribution Designer, 2019, 164814
Project Management Professional (PMP), 2018, 2168445

With over 37 years managing projects, service delivery, and product development for communications systems, John demonstrates success leading and optimizing field service operations that span major US territories. Recently for Michael Baker, John supported a Pennsylvania county in reviewing and grading subgrantee proposals for broadband funding and also reviewed fiber design plans for contract compliance. John is dedicated to fostering a workplace that encourages professional development and promotes staff engagement. He is an organizational visionary with a talent for designing and implementing new systems that capture significant savings both immediate and ongoing. Talented presenter, negotiator, and leader focused on building powerful relationships across all levels to continually drive organizational success.



Andrew Scampone, GISP – GIS Lead

Years Experience: 20

Location: Pennsylvania

Education: B.S., 2001, Regional Planning & Geography, Indiana University of Pennsylvania

Licenses/Certifications: Certified GIS Professional, 2008, 00041868

Andrew has two decades of work experience with clients at the federal, state, and local level. He has experience working on numerous broadband projects within all government levels and the private sector. His experience includes broadband program management, feasibility study development, ISP coordination, stakeholder engagement, broadband data collection, broadband surveying, and infrastructure development. His technical background includes, but is not limited to, telecommunication GIS, DoD Common Installation Picture GIS, broadband infrastructure inventory and coordination, GIS mapping applications and analysis, global positioning systems (GPS) use, GIS software training, imagery, needs assessment, space utilization, map design, database maintenance and support, and relational database design.



Sean Carlton – GIS Specialist

Years Experience: 12

Location: West Virginia

Education: M.A.S., 2014, Geographic Information Systems, University of Denver
B.A., 2010, Geography GIS and Cartography, University of Northern Colorado

Sean is a GIS Specialist with a passion for technology, information communication, and complex geospatial analysis. He has proven experience managing high-level/high-risk projects, training, and working hand-in-hand with all levels of government, nonprofits, and other entities to further the mission of organizations through complex geospatial analysis. In his previous role with the Federal Communications Commission, Sean was integral in developing parameters around the National Broadband Map challenge process. His experience includes GIS software such as ArcGIS Enterprise, ArcMap, ArcGIS Pro, ArcGIS Online, Survey123, ArcGIS Field Maps, and QGIS.



Sam Garfinkel – Funding and Strategy Advisor

Years Experience: 4

Location: Utah

Education: M.A., 2020, Rhetoric, Carnegie Mellon University

B.A., 2017, English, DePaul University

Sam leads broadband assessments, develops comprehensive reports, and facilitates project planning and progress across multiple geographic regions. She has a strong background in community engagement, telecommunications, and public policy administration. Through her previous experience as the Executive Director of a nonprofit wireless ISP, Sam collaborated with a diverse set of stakeholders, state/local governments, higher education institutions, other providers, and community activist groups, to increase low-cost digital access solutions in unserved and underserved Pennsylvanian communities. To enhance impact, Sam worked with 20+ local organizations to co-find the Greater Pittsburgh Digital Inclusion Alliance, an influential community activist group with active participation in the development of Pennsylvania's statewide broadband plan. Sam has provided testimony during several government hearings to inform policymakers on rural broadband expansion, including middle/last mile deployments and community engagement best practices.



David Price, GISP – Quality Manager

Years Experience: 28

Location: Pennsylvania

Education: M.S., 1994, Geography, Indiana University of Pennsylvania

B.A., 1992, Geography, Indiana University of Pennsylvania

Master's Certificate, 2007, Project Management, University of Pittsburgh, Katz Graduate School of Business

Licenses/Certifications: Certified GISP Professional, 2015, 91568

Dave has advanced degrees in geography and mapping with significant hands-on experience in quality and project management and has been with Michael Baker for the past 21 years, managing numerous types of projects for public and private clients. Dave currently serves as the Broadband Program Manager for Michael Baker and has managed its portfolio of broadband projects for federal, state, and county clients. For this project, Dave will serve as the Quality Assurance Manager to ensure all deliverables are fact-checked and quality assured prior to delivery and public release.



David Fekete – Deputy Project Manager

Years Experience: 27

Location: Pennsylvania

Education: M.S., 1995, Agricultural and Resource Economics, West Virginia University

B.A., 1992, Economics, East Stroudsburg University

Licenses/Certifications: Project Management Institute (PMI)

Dave is a seasoned professional with over two decades of project management and operations experience. With a formal education in applied economic theory and environmental science, he manages multi-task projects for public/private clients related to geospatial information technology and environmental hazards assessment. His experience includes the management of multidisciplinary technical projects, needs assessments, database development, application design, systems integration, asset management, data analysis and surveying and mapping including mobile light detection and ranging (LiDAR) data collection and processing.

D. LOCATION

Michael Baker Locations

MICHAEL BAKER AND ITS SUBCONTRACTORS PENNSYLVANIA OFFICES



Michael Baker has multiple offices in Pennsylvania.

Corporate Headquarters: Pittsburgh, PA

Pennsylvania Offices:

- Allentown, PA
- Fort Washington, PA
- Harrisburg, PA
- Moon Township, PA
- Philadelphia, PA

Our proposed subcontractors McNees, A2Z Diversity Solutions, and Rockland Planning are all also located in Harrisburg, PA. Our additional subcontractor, The Institute, is located in Wilkes-Barre, PA.

E. SUBCONTRACTORS

McNees Strategic Solutions Group, LLC

McNees Strategic Solutions Group, LLC (McNees) is a full-service government affairs, grassroots advocacy, and nonprofit consulting group. The firm’s diverse team of government relations specialists, grassroots professionals, and nonprofit experts have the experience and relationships necessary to deliver results for the public sector, private sector, and nonprofit clients alike. The McNees team includes nineteen professionals and many team members who have served in high-level executive positions for former Pennsylvania governors, state legislators, and county and local elected officials. The McNees firm understands the inner workings of each level of government and has a unique and direct perspective of how the various levels and branches of government work together.



The firm’s philosophy for effective, sustainable government affairs, regulatory policy, grassroots engagement, and local government consulting is built on the principles of honesty, openness, and integrity. Their reputation is unmatched in Pennsylvania, and the firm prides itself on professionalism and strength of character. Located in the Commonwealth’s Capital City, the attorneys and policy professionals in the McNees Strategic Solutions Group understand Pennsylvania politics, have the experience to navigate the complexities of public affairs, and have cultivated relationships within state and local governments to help corporations, associations, institutions, and individuals advocate for issues, policies, or regulations that affect them.

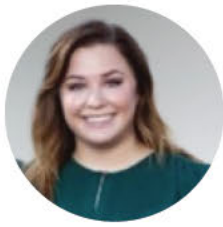
Firm Name	McNees Strategic Solutions Group, LLC, a subsidiary of McNees Wallace & Nurick
Address	100 Pine Street, 4th Floor, Harrisburg, PA 17101
Number of years working with Michael Baker	10 years
Number of employees by job title to work on this project	2 – Regulatory and Policy Analysts
Description of services to be performed	Regulatory and Policy
What percentage of time the staff will be dedicated to this project	5.1% of the contract labor will be performed by McNees.
Geographical location of staff	Pennsylvania



Michael G. Musser, II

As Founder and President of CNR, now McNees, Mr. Musser started the company with the goal of filling a void in the government affairs space. Michael had the foresight and ingenuity to start and grow a company that was focused exclusively on County and Local government relations, an area that was often ignored by many in the government affairs sector. Over his career, he has helped clients navigate the red tape and bureaucracy that exists even at the local and county level. Known for his ability to deliver results, his relationships with key decision makers has led to countless victories for his clients across Pennsylvania.

His primary area of practice continues to be assisting clients navigate issues at the local and county level. Whether it be funding for a project, securing a needed approval, or the expansion of a client’s business development opportunities, Michael continues to be known as someone who can deliver results, even in the toughest of situations. This ability to deliver in tough situations is perhaps no more evident than in his land development and zoning practice. His track record of being able to deliver zoning changes or land development approvals, sometimes in the face of persistent public opposition, is second to none.



Jessica Kemmerer

Jessica possesses extensive and diverse experience in Pennsylvania politics. She began working in 2012 as a Constituent Services Advocate for U.S. Senator Pat Toomey in his Lehigh Valley office focusing on IRS, Department of Education and Banking issues. In 2014, Jessica joined then-Congressman Charlie Dent’s campaign team. She first served during the 2014 campaign cycle as his Finance Director. In recognition of her outstanding ability and judgment, Jessica was promoted to the position of Campaign Manager for Congressman Dent’s 2016 winning campaign. She was elected to be Chairman of the Lehigh County Republican Committee in 2016. She was the youngest woman ever elected to serve as Chair in the Committee’s history. She subsequently served as the Executive Director of the Chester County Republican Committee.

Jessica has demonstrated her adeptness achieving goals at every level of government from municipal to federal. She can develop effective grassroots efforts, successful legislative and campaign strategies, and can provide exceptional guidance in the intricacies of campaign finance reporting. She serves clients in the spheres of business development, grassroots and political advocacy, and state and local government.

Rockland Planning

Rockland Planning is a DBE multi-modal planning firm that provides innovative solutions that make their client’s projects a reality. With decades of government, transportation, and broadband experience, Rockland Planning has the experience, professionalism, resourcefulness, and relationships to meet the specific needs of a project.



Rockland Planning brings a fresh prospective to complex problems for both public and private infrastructure projects. With both public and private sector experience, Rockland Planning is able to have an enhanced understanding of their clients’ needs.

Firm Name	Rockland Planning, Inc.
Address	6754 Jonestown Road, Harrisburg ,PA 17112
Number of years working with Michael Baker	3 years
Number of employees by job title to work on this project	1 – Broadband Community Planner
Description of services to be performed	Broadband Strategy and Planning
What percentage of time the staff will be dedicated to this project	3.75% of the contract labor will be performed by Rockland Planning.
Geographical location of staff	Pennsylvania



Morgan Ruziecki

Morgan has a Bachelor of Science in Environmental, Geographical, and Geological Sciences/ Geography & Planning and a Bachelor of Arts in Anthropology from Bloomsburg University of PA. Morgan’s planning experience covers multiple aspects of the field, with an emphasis on multimodal transportation and geospatial planning. Morgan has built an extensive portfolio of project experience including bike/ped planning, community planning, and multimodal transportation planning. She is also skilled at geospatial analysis and leveraging Esri products for data communication and analysis.

The Institute

The Institute is a nonprofit economic and social innovation research and policy organization dedicated to empowering business and community leaders with research-based strategies for informed decision-making. We conduct independent, non-biased research and analytics to identify opportunities, barriers, and challenges and to find innovative solutions to help solve the problems facing our communities. The Institute also offers a wide array of research, analytics, consulting, and support services to help organizations boost productivity, increase profitability, and be successful in their missions. The Institute is a partnership of 13 colleges and universities and the business community.

The Institute

Turning Information into Insight

Firm Name	The Institute
Address	85 South Main Street, Wilkes-Barre, PA 18701
Number of years working with Michael Baker	3 years
Number of employees by job title to work on this project	1 – Market Research Specialist
Description of services to be performed	Market Research
What percentage of time the staff will be dedicated to this project	8.7% of the contract labor will be performed by The Institute.
Geographical location of staff	Pennsylvania



Teri Ooms, MBA

Ooms is responsible for all facets of research, organizational strategy, and management. Ooms is an active principal investigator in all Institute research. Ooms has been nationally recognized as a leader in regional economic development. She turned that skill into a research institute to help other regions develop and prosper. Her strategic skills have allowed The Institute to expand its services to the private and nonprofit sectors for research and analysis in community health needs assessments, strategic planning, market and feasibility studies, and economic impact analysis. Ooms’ leadership has expanded The Institute’s work to other states. Under her direction, The Institute has completed over 100 client and community based studies. These studies have resulted in new jobs, new programs, sustained initiatives, and new legislation throughout Pennsylvania and in New York. Ooms also serves on a number of local and regional nonprofit boards.

A2Z Diversity Solutions

Planned in 2015, A2Z Diversity Solutions is a 100% minority-owned Small Diverse Business (SDB) established in 2016 under the same ownership and leadership as Clark Resources. The team is dedicated to high-level services throughout the Commonwealth of Pennsylvania. A2Z Diversity Solutions was established on June 14, 2016. Operationally, A2Z Diversity Solutions began in 2017.



As many government agencies and corporations are committed to diversity and inclusion, the goal of A2Z Diversity Solutions is to work within the organizational structure to create a meaningful Inclusive Performance Management program geared towards the promotion and growth of MBE/WBE/DBE firms, provide an improved customer experience, and foster genuine community partnerships.

Firm Name	A2Z Diversity Solutions
Address	2400 Thea Drive, Harrisburg, PA 17110
Number of years working with Michael Baker	1 year
Number of employees by job title to work on this project	1 – Communications and Engagement Specialist, 1-Workforce Development Specialist
Description of services to be performed	Communications and Engagement; Economic and Workforce Development
What percentage of time the staff will be dedicated to this project	5.4% the contract labor will be performed by A2Z.
Geographical location of staff	Pennsylvania



Tremayne Terry

Tremayne Terry joined A2Z in 2016 serving as CEO since A2Z Diversity Solution’s inception. His areas of expertise include client management, business development, strategic planning, minority supplier diversity and cultural competency. His accomplishments include selection into the 2017 Eastern Minority Supplier Diversity Council’s (EMSDC) Supplier of the Year Selection Committee, the 2017 EMSDC’s Return on All Relationships (ROAR) Conference Participant, the 2018 SHARE Harrisburg Planning Committee, and the “Harrisburg: Start, Grow, Develop” Workshop Planning Committee. He has also spoken at state conferences, including PennDOT’s most recent Transportation Summit in October 2022.



Fiordaliza White

Fiordaliza joined A2Z serving as Program Manager. Her areas of expertise include strategic planning and communication, cultural competency best practices and community engagement and outreach. Her accomplishments include selection as a panelist and presenter for anti racism workshops, presented through All Youth Access and the PA Dept of Health in 2021. She also served as the first AfroLatina Community Relations and Engagement Director with the Harrisburg Police Dept. She has also spoken at state and local conferences on topics surrounding mental health, reentry, and DEI.

WORK PLAN



OBJECTIONS AND ADDITIONS TO STANDARD CONTRACT TERMS AND CONDITIONS



APPENDIX B: DOMESTIC WORKFORCE UTILIZATION CERTIFICATION



APPENDIX B DOMESTIC WORKFORCE UTILIZATION CERTIFICATION

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

I, Dan Kiemy President [title] of Michael Baker International, Inc. [name of Contractor] a Pennsylvania [place of incorporation] corporation or other legal entity, ("Contractor") located at 100 Airside Drive Moon Township, PA 15108 [address] do hereby certify and represent to the Commonwealth of Pennsylvania ("Commonwealth") (Check **one** of the boxes below):

All of the direct labor performed within the scope of services under the contract will be performed exclusively within the geographical boundaries of the United States or one of the following countries that is a party to the World Trade Organization Government Procurement Agreement: Aruba, Austria, Belgium, Bulgaria, Canada, Chinese Taipei, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxemburg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom


OR

_____ percent (_____ %) [Contractor must specify the percentage] of the direct labor performed within the scope of services under the contract will be performed within the geographical boundaries of the United States or within the geographical boundaries of one of the countries listed above that is a party to the World Trade Organization Government Procurement Agreement. Please identify the direct labor performed under the contract that will be performed outside the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement and identify the country where the direct labor will be performed:

[Use additional sheets if necessary]

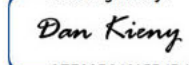
The Pennsylvania Broadband Development Authority shall treat any misstatement as fraudulent concealment of the true facts punishable under Section 4904 of the *Pennsylvania Crimes Code*, Title 18, of Pa. Consolidated Statutes.

Attest or Witness:

DocuSigned by:

2/10/2023
18265D18938F423...
Signature/Date

Shannon Dyer/National Contract Manager
Printed Name/Title

Michael Baker International, Inc.
Corporate or Legal Entity's Name

DocuSigned by:

2/10/2023
9EE09D64695B4D4...
Signature/Date

Dan Kiemy/President Consulting and Technology Solut
Printed Name/Title

APPENDIX C: TRADE SECRET/ CONFIDENTIAL PROPRIETARY INFORMATION NOTICE



APPENDIX C
TRADE SECRET/CONFIDENTIAL PROPRIETARY INFORMATION NOTICE

C1

Trade Secret/Confidential Proprietary Information Notice

Instructions:

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

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

Name of submitting party: Michael Baker International, Inc.

Contact information for submitting party:

Jeremy Jurick [REDACTED]

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

Response to PBDA's Request for Proposal PBDA-2023-01.

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

To seek an award as described in PBDA-2023-01.
--

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

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

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

<u>Page Number</u>	<u>Description</u>	<u>Explanation</u>
32-53	Work Plan	Michael Baker's work plan utilizes in-house developed proprietary tools, algorithms, and pre-defined methodologies that are not intended for public distribution.

Acknowledgment

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

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

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

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

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

DocuSigned by:		
<i>Dan Kierny</i>		
0EE00D64696B4B4...		
_____ Signature	_____ President, Consulting and Technology Solutions	_____ 2/10/2023 Date