



Stacy Garrity, Pennsylvania Treasurer

**INVITATION FOR BID
DIRECT MAILING**

PENNSYLVANIA TREASURY DEPARTMENT

ISSUING OFFICE:

**PA Treasury Department
Bureau of Support Services
Harrisburg, Pennsylvania 17120**

IFB24-004

BID RELEASE DATE: Friday, September 27, 2024

SUBMISSION DATE: Thursday, October 24, 2024

CALENDAR OF EVENTS

The Pennsylvania Treasury Department will make every effort to adhere to the following schedule:

Activity	Responsibility	Date
Issue of IFB24-004 posted to Treasury's website at www.patreasury.gov	Issuing Office	Friday, Sept 27, 2024
Deadline to submit Questions via email to: IFB24-004@patreasury.gov	Providers	Thursday, Oct 3, 2024 by 12:00PM EST
Answers to potential provider questions will be reviewed by the Issuing Office and posted.	Issuing Office	Tuesday, Oct 15, 2024
Submissions must be received by the Issuing Office electronically to IFB24-004@patreasury.gov . The providers should be clearly identifiable in each email.	Providers	Thursday, Oct 24, 2024 by 5:00PM EST

Please be advised submission deadlines that include times refer to EST. Treasury's standard business hours are 8:30 am – 5:00 pm. All responses to this IFB must be received by Treasury's Issuing Office on or before 5:00 pm EST on Thursday, October 24, 2024; no submissions will be accepted after the due date and time.



**PA Treasury Department
Consumer Programs
Printing and Direct Mail Services**

I. **Overview**

Below is an overview of potential direct mail needs for PA Treasury's Consumer Programs (PA 529 College and Career Savings Program, Keystone Scholars, and PA ABLE Savings Program) for the period of October 1, 2024, to December 31, 2025.

Note: PA Treasury may utilize the vendor to provide all, some or none of the services listed in this document.

II. **Product/Services Requested**

The PA 529 College and Career Savings Program and PA ABLE Savings Program have a need to send direct mail letters/postcards with the following specifications:

- Two-sided (no fold)
- Size: Final cut/delivery size: 6" x 9"
- Color: Full color ink for artwork
- Paper Type: 80# "cardstock"
- Paper Finish: Acceptable finishes include, but are not limited to, "gloss", "silk", "matte", "satin", "smooth". Finishes may be determined by vendor based on availability.
- Must accommodate variable data fields for address and addressee
- Must include printed return address and postage permit information (provided by Treasury).
- Documented data security policy (as agreed up by PA Treasury IT)
- Customer access for secure data file transfers
- Secure processing of a data file mailing list (provided by Customer) in accordance with NCOA/CASS Certification for pre-sorting with drop-shipments for high-quantities to achieve postage discounts.
- Drop-shipments are desired if there is an overall cost savings for the PA Treasury with respect to postage.

- In-home delivery by dates to be specified by PA Treasury.
- **Vendor must provide pricing for the following quantities to allow Consumer Programs to adjust the estimated quantities for each Direct Mail Campaign noted in Section III. Vendor MUST fill out Deliverable Cost Tabulation Form - see Appendix A**
 - Price to print 1 – 24,999 pieces
 - Price to print 25,000 – 49,999 pieces
 - Price to print 50,000 – 99,999 pieces
 - Price to print 100,000 – 249,999 pieces
 - Price to print 250,000 – 399,999 pieces
 - Price to print 400,000 – 500,000 pieces

Vendor must also specify pricing breakpoints not defined above where the cost-per-piece will change (for example, if the cost of 100,000 and 200,000 pieces are different).

III. Timing of Annual Direct Mail Campaigns – October 1, 2024 – December 31, 2025

1. **PA 529 Year-End Enrollment Drive 2024 – Estimated total pieces - 1,100,000 pieces**
 - Postcard to Households – Estimated pieces - 500,000 (Estimated Latest In-Home Date - 12/07/24)
 - Postcard to Households – Estimated pieces - 500,000 (Estimated Latest In-Home Date - 12/20/24)
 - Postcard to Account Households – Estimated pieces - 50,000 (Estimated Latest In-Home Date - 12/20/24)
 - Postcard to Account Households – Estimated pieces - 50,000 (Estimated Latest In-Home Date - 12/20/24)
2. **PA ABLE Savings Program Year-End Enrollment Drive 2024 – Estimated total pieces – 25,000**
 - Postcard to Households – Estimated pieces - 10,000 (Estimated Latest In-Home Date - 12/20/24)
 - Postcard to Account Households – Estimated pieces - 15,000 (Estimated Latest In-Home Date - 12/20/24)
3. **PA 529 Spring Enrollment Drive – Estimated total pieces - 400,000 pieces**
 - Postcard to Households – Estimated pieces - 200,000 (Estimated Latest In-Home Date - 05/07/25)
 - Postcard to Households – Estimated pieces - 200,000 (Estimated Latest In-Home Date - 05/22/25)
4. **PA 529 PA 529 Summer Enrollment Drive 2025 – Estimated total pieces - 1,060,000 pieces**

- Postcard to Households – Estimated pieces - 500,000 (Estimated Latest In-Home Date - 08/14/25)
- Postcard to Households – Estimated pieces - 500,000 (Estimated Latest In-Home Date - 08/22/25)
- Postcard to Account Households – Estimated pieces - 30,000 (Estimated Latest In-Home Date - 08/22/25)
- Postcard to Account Households – Estimated pieces - 30,000 (Estimated Latest In-Home Date - 08/22/25)

5. PA 529 Year-End Enrollment Drive 2025 – Estimated total pieces - 1,100,000 pieces

- Postcard to Households – Estimated pieces - 500,000 (Estimated Latest In-Home Date - 12/06/25)
- Postcard to Households – Estimated pieces - 500,000 (Estimated Latest In-Home Date - 12/20/25)
- Postcard to Account Households – Estimated pieces - 50,000 (Estimated Latest In-Home Date - 12/20/25)
- Postcard to Account Households – Estimated pieces - 50,000 (Estimated Latest In-Home Date - 12/20/25)

6. PA ABLE Savings Program Year-End Enrollment Drive 2025 – Estimated total pieces – 25,000

- Postcard to Households – Estimated pieces - 10,000 (Estimated Latest In-Home Date - 12/20/25)
- Postcard to Account Households – Estimated pieces - 15,000 (Estimated Latest In-Home Date - 12/20/25)

****Please note if combining Printing Cost and Mail/Data Processing Costs. Please also note where the drop-shipping cost would replace the cost to deliver to one USPS Facility and if drop-shipping costs are estimates. PA Treasury is requesting a cost-per-piece for evaluation.***

Appendix A

Deliverables Cost Tabulation Form

Consumer Programs Printing and Direct Mail Services					
IFB24-004 Direct Mailing					
Deliverable	Quantity	A. Printing Cost	B. Mail Preparation/Data Processing Cost – (Includes cost to deliver to USPS facility)	C. Cost of Drop-Shipping (if applicable)	Total Cost to process, print, and deliver finished postcard to USPS facility (excluding postage)
					Total of A+B+C
Two-sided postcard as described in Section II.	1 – 24,999				
	25,000 – 49,999				
	50,000 – 99,999				
	100,000 – 249,999				
	250,000 – 399,999				
	400,000 – 500,000				

NOTE: If any of the above fields does not apply, please indicate with an "n/a"

SERVICE PURCHASE CONTRACT TERMS AND CONDITIONS

The following Terms and Conditions apply to a Pennsylvania Treasury Department ("Treasury"), Service Purchase Contract ("Contract") and shall apply in full to Contractor.

1. TERM OF CONTRACT

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

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

2. AUTHORITY

The Contractor shall only have the express authority granted to it in this Contract.

3. EXTENSION OF CONTRACT TERM

Treasury reserves the right, upon notice to the Contractor, to extend the term of the Contract upon the same terms and conditions.

4. SIGNATURES

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

The Contract may be electronically signed by Treasury. The electronically-printed name of the applicable Treasury employee represents the signature of that individual who has the authority, on behalf of the Commonwealth, to bind Treasury to the terms of the Contract. A fully-executed Treasury contract may require multiple signatures including that of the Treasury's Office of Chief Counsel and the Pennsylvania Office of Attorney General. Treasury should inform and a Contractor may ask what signature are required by Treasury to execute a specific Contract.

The fully-executed Contract may be sent to the Contractor electronically. The electronic transmission of the Contract shall require acknowledgement of receipt of the transmission by the Contractor. Receipt of the electronic fully executed Contract by the Contractor shall constitute receipt of the fully-executed Contract.

Treasury and the Contractor specifically agree as follows:

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

5. INDEPENDENT CONTRACTOR

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

6. DELIVERY

- a. **Supplies Delivery:** All item(s) shall be delivered F.O.B. Destination. The Contractor agrees to bear the risk of loss, injury, or destruction of the item(s) ordered prior to receipt of the items by Treasury. Such loss, injury, or destruction shall not release the Contractor from any contractual obligations. Except as otherwise provided in this contract, all item(s) must be delivered within the time period specified. Time is of the essence and, in addition to any other remedies, the Contract is subject to termination for failure to deliver as specified. Unless otherwise stated in this Contract, delivery must be made within thirty (30) days after the Effective Date.
- b. **Delivery of Services:** 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.

7. ESTIMATED QUANTITIES

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

8. WARRANTY

The Contractor warrants that all items furnished, and all work or 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, or for such longer period as may be required in the Contract, following delivery by the Contractor and acceptance by the Commonwealth. The Contractor shall repair, replace or otherwise correct any problem with the delivered item or the work or services performed hereunder. When an item is replaced, it shall be replaced with an item of equivalent or superior quality without any additional cost to Treasury.

9. OWNERSHIP RIGHTS

- a. Treasury retains ownership of all data, records, reports and information delivered or shared with Contractor in order for the Contractor to perform under the Contract.
- b. Treasury 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 Treasury as part of the performance of the Contract.
- c. Treasury shall own all Developed Works or Developed Materials which are defined as: 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.

10. COMPENSATION

- a. **Compensation for Supplies:** The Contractor shall be required to furnish the awarded item(s) at the price(s) quoted in the Contract. All item(s) shall be delivered within the time period(s) specified in the Contract. The Contractor shall be compensated only for item(s) that are delivered and accepted by Treasury.
- b. **Compensation for Services:** 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.

11. INVOICES

All invoices must contain the Contractor's name, address, Tax identification number, description of supplies or services that is sufficient for Treasury to determine what work was performed. To the extent a Contractor is to be paid for work by the hour, Contractor shall provide a detailed hourly description and rate with each invoice. Treasury reserves the right to request invoice clarification and a resubmission.

12. ACH PAYMENT REQUIREMENT

- a. Treasury will make payments to Contractors through the Automated Clearing House ("ACH"). Within 10 days of the contract, the Contractor must submit or have already submitted their completed ACH form to the Treasurer's Office of Comptroller at PATreasuryAccountsPayable@patreasury.gov. A blank ACH form will be included with Treasury issued contracts and will also be available for download on Treasury's website under Procurement.
- b. Single annual payment Contractors who bill less than \$5,000 annually and receive only one payment per year may receive payment by check.
- c. Contractors may for good cause opt to receive check payments by sending an e-mail to the Office of Comptroller at PATreasuryAccountsPayable@patreasury.gov and providing an explanation as to why Contractor is unable or unwilling to receive an ACH for payment. Treasury may approve such requests at its sole discretion.
- d. Treasury in its sole discretion may elect to pay a Contractor through a means other than ACH.
- e. Each Contractor shall submit a unique invoice number with each invoice. The unique invoice number will be listed on the ACH remittance advice to enable the Contractor to properly apply the payment.
- f. It is the Contractor's responsibility to ensure that ACH information on file with Treasury is accurate and complete. Contractor's failure to maintain accurate and complete information may cause payment delays.
- g. Treasury utilizes fraud protection services, including account verification of information provided by Contractors. If Contractor's ACH information fails an account verification, they will be notified to correct such information and be directed to provide additional identifying information and/or that an alternative payment methodology must be utilized.

13. BUDGET IMPASSE

If the Commonwealth has not enacted an annual General Fund budget, which has been passed by the General Assembly and signed by the Governor, on or before the start of the new fiscal year on July 1, the Commonwealth shall be considered to be in budget impasse. Under such circumstances, Contractor shall continue to render services to Treasury through the budgetary impasse and will invoice Treasury for such services. Once the Commonwealth General Fund budget has been passed by the General Assembly and signed by the Governor, Treasury will pay all outstanding invoices as soon as practically possible, but no later than 45 days. If there are no funds appropriated in the enacted General Fund budget to continue this Agreement, then the termination of this Agreement shall be effective, provided, however, Treasury shall pay for all services rendered during the impasse.

14. WEBSITE USER AGREEMENT PROVISIONS

To the extent that the Contractor utilizes a website user agreement (the "Website User Agreement") in connection with communications with Treasury, the Contractor hereby agrees that such Website User Agreement shall not be binding on the Treasury and the terms, conditions, obligations and duties of the parties shall instead be governed by the Contract Terms and Conditions herein.

15. SOFTWARE LICENSING AGREEMENTS

For any software purchase, the terms and conditions herein apply as does any Commonwealth Licensing Agreement. If there is not an applicable Commonwealth Licensing Agreement, Treasury shall provide Contractor with Treasury's Information Technology Terms and Conditions.

16. BACKGROUND CHECKS

- 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 Treasury or 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 Treasury 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 Treasury consents to the access, in writing, prior to the access. Treasury 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 Treasury may result in the Contractor being deemed in default of its Contract.
- c. Treasury specifically reserves the right 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. Treasury 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.

17. CONFLICT

The Contractor is bound by the terms and conditions of this Contract. The priority of documents for any Contract are as follows:

- The terms and conditions, including appendices, of this Contract including any negotiated attachment

- Any answer or submission by vendor to a procurement issued by the Department;
- A procurement issued by the Department;
- Applicable Statewide Requirements Contract, Invitation To Qualify contract, or Commonwealth Licensing Agreement;
- All other documents.

18. ASSIGNABILITY AND SUBCONTRACTING

- a. Subject to the terms and conditions of this Paragraph, this Contract shall be binding upon the parties and their respective successors and assigns.
- b. The Contractor shall not subcontract with any person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent of Treasury, which consent may be withheld at the sole and absolute discretion of Treasury.
- 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 Treasury, which consent may be withheld at the sole and absolute discretion of Treasury.
- d. 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 Treasury written notice of any such change of name.

19. CONFIDENTIALITY

The Contractor agrees to guard the confidentiality of all information it comes by through this Contract with the same diligence with which it guards its own proprietary information. If the Contractor needs to disclose all or part of project materials to third parties to assist in the work or service performed for Treasury, it may do so only if the third-party agrees to the provisions in these Standard Terms and Conditions and any other appendix. Contractors and third-parties may be required to sign an additional Confidentiality Agreement.

20. FORCE MAJEURE

Neither party will incur any liability to the other, or be deemed to have defaulted under or breached the Contract, 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 are not limited to, acts of God or war, subsequent 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 Treasury 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 Treasury may reasonably request. After receipt of such notification, Treasury may, at Treasury's sole election, terminate the Contract or, alternatively, 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, Treasury by notice to the Contractor, may suspend all or a portion of the Contract.

21. TRANSPARENCY COMPLIANCE

Treasury is an agency of the Commonwealth subject to the public records law of the Commonwealth of Pennsylvania, the Right to Know Law ("RTKL"), which provides generally that all records relating to a public agency's business are open to inspection and copying unless specifically exempted. Additionally, contracts over \$5,000 must be placed on the Commonwealth's publicly accessible web-library. The Pennsylvania Web Accountability and Transparency Act (the "Penn Watch Act") requires Treasury to also place certain expenses on a publicly available website.

22. JURISDICTION AND CONFLICTS OF LAW

The Contract and all related documents, and all matters arising out of or relating to the Contract, whether sounding in contract, tort, or statute, shall be governed by, and construed in accordance with, the laws of the Commonwealth of Pennsylvania, without giving effect to its conflict of laws principles. The Contractor irrevocably and unconditionally agrees that it will not commence any action, litigation, or proceeding of any kind whatsoever in any way arising from or relating to this Contract and all contemplated transaction, in any forum other than the courts of the Commonwealth of Pennsylvania. The Contractor consents to the exclusive jurisdiction of the courts of the Commonwealth of Pennsylvania, including the Commonwealth Board of Claims, state, and federal courts, and any appellate court from any thereof, waiving any claim or defense that such forum is not convenient or proper. The Contractor agrees that any such courts will have *in personam* jurisdiction over Contractor, and consents to service of process in any manner authorized by Pennsylvania law. The Contractor agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

23. INFORMATION TECHNOLOGY

Any contract related to software, information technology related services, or a contracts that involves the access to, usage or storage of Treasury data - including by way of example only, personal identifying information, financial account information, and security information - may include as a required Appendix – Data Security Addendum - to these term and conditions.

24. UNCLAIMED PROPERTY PROVISIONS

Contractor agrees to report and deliver any abandoned or unclaimed property held by Contractor or its agents, subcontractors, or assignees, as defined by and in accordance with the Disposition of Abandoned and Unclaimed Property Act ("DAUPA"), 72 PS § 1301.1 et seq. A negative report must be filed if Contractor determines, after a records review, that there is no reportable unclaimed property.

Instructions and assistance in filing the report are available from the Bureau of Unclaimed Property holder hotline at 1-800-379-3999 or via e-mail at unclaimedpropertyreporting@patreasury.gov.

Additional information regarding the Pennsylvania Abandoned and Unclaimed Property Program is located at www.patreasury.gov.

Contractor must cooperate with any unclaimed property examination conducted by Treasury or its outside auditors. Failing to cooperate with such audit may result in cancellation of this Contract.

25. COMMONWEALTH HELD HARMLESS

- a. The Contractor shall hold Treasury and the Commonwealth harmless from and indemnify the Treasury 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, subcontractors, and agents under this Contract.
- 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.

26. TERMINATION PROVISIONS

Treasury 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:** Treasury shall have the right to terminate the Contract for its convenience if Treasury 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:** Treasury'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 are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, Treasury shall have the right to terminate the Contract. 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:** Treasury shall have the right to terminate the Contract for Contractor default upon written notice to the Contractor. Treasury 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 Treasury erred in terminating the Contract for cause, then, at the Commonwealth's discretion, the Contract shall be deemed to have been terminated for convenience under Subparagraph a.

27. RESERVATION OF IMMUNITIES

Treasury reserves all immunities, defenses, rights, and actions arising from its sovereign status and/or under the Eleventh Amendment to the United States Constitution. Nothing contained in this Agreement shall constitute a waiver of such immunities, defenses, rights or actions. Nothing contained in these Terms shall be construed or interpreted as the consent of Treasury and the Commonwealth of Pennsylvania, their agents and agencies, to be sued except as provided for herein.

28. ASSIGNMENT

Contractor shall not assign any of its rights or delegate any of its obligations under the Contract without prior written consent of Treasury. Any purported assignment or designation in violation of this section is null and void.

29. COMPLIANCE WITH LAW

Contractor is in compliance with and shall comply with all applicable laws, regulations and ordinances. Contractor has and shall maintain in effect all the licenses, permissions, authorizations, consents, and permits required to carry out its obligations under the Contract.

Contractor 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; and is eligible to contract with the Commonwealth under Section 3604 of the Procurement Code.

30. SEVERABILITY

If any term or provision of this Contract is held by a court to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Contract, and the Contract shall be construed as if such provision or provisions had never been contained herein.

31. ENTIRE AGREEMENT.

The Contract, including these terms and conditions, and the agreements referred to in or contemplated by the Order constitute the entire understanding and agreement between the parties. Each party hereto has read the Contract, understands it and agrees to be bound by its terms and conditions. The Contract supersedes all prior verbal or written agreements between the parties and constitutes the complete and exclusive statement of the terms and conditions between the parties covering the performance hereof.