

REQUEST FOR PROPOSALS FOR
Attestation of PTC's Retiree Prescription Drug Coverage

ISSUING OFFICE
Pennsylvania Turnpike Commission
Human Resources Department

RFP NUMBER

06-113-3371

DATE OF ISSUANCE

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REQUEST FOR PROPOSALS FOR
Attestation of PTC's Retiree Prescription Drug Coverage

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PART I

GENERAL INFORMATION FOR CONTRACTORS

I-1. Purpose. This request for proposals (RFP) provides interested contractors with sufficient information to enable them to prepare and submit proposals for consideration by the Pennsylvania Turnpike Commission (Commission) **to satisfy the requirement for an annual attestation of the PTC's retiree prescription drug coverage in compliance with Medicare Part D regulations.**

I-2. Issuing Office. This RFP is issued for the Commission by the **Pennsylvania Turnpike Commission, PO Box 67676, Human Resources Department, Harrisburg, PA 17106, 717-939-9551.** The Issuing Office is the sole point of contact in the Commission for this RFP.

I-3. Scope. This RFP contains instructions governing the proposals to be submitted and the material to be included therein; a description of the service to be provided; requirements which must be met to be eligible for consideration; general evaluation criteria; and other requirements to be met by each proposal.

I-4. Problem Statement. **The PTC's retiree prescription drug coverage requires an annual certificate of actuarial equivalency attestation to ensure its drug plans are equal to or better than the standard prescription drug coverage under Medicare Part D regulations. The attestation must be made before September 30th of each year by a qualified actuary who is a member of the American Academy of Actuaries.**

I-5. Type of Contract. It is proposed that if a contract is entered into as a result of this RFP, it will be a **Fee For Service** and will contain the Commission's Standard Contract Terms and Conditions. The Commission may in its sole discretion undertake negotiations with contractors whose proposals as to price and other factors show them to be qualified, responsible, and capable of performing the work.

I-6. Rejection of Proposals. The Commission reserves the right to reject any and all proposals received as a result of this request, or to negotiate separately with competing contractors.

I-7. Subcontracting. Any use of subcontractors by a contractor must be identified in the quote. During the contract period use of any subcontractors by the selected contractor, that were not previously identified in the quote, must be approved in writing by the Commission prior to any work being done.

A firm that responds to this solicitation as a prime may not be included as a designated sub consultant to another firm that responds to the same solicitation. **Multiple responses under any of the foregoing situations may cause the rejection of all responses of the firm or firms involved.** This does not preclude a firm from being set forth as a designated sub consultant to more than one prime consultant responding to the project advertisement.

I-8. Incurring Costs. The Commission is not liable for any costs incurred by contractors prior to issuance of a contract.

I-9. Pre-proposal Conference. There will **not** be a pre-proposal conference for this RFP. **Questions should be forwarded to the Issuing Office no later than 12:00 Noon, Wednesday, May 10, 2006 to ensure sufficient analysis can be made before an answer is supplied.** All questions and written answers will be issued as an addendum to and become part of this RFP.

I-10. Addenda to the RFP. If it becomes necessary to revise any part of this RFP before the proposal response date, addenda will be **posted to the web site under the original RFP document.**

The Commission may revise a published advertisement. If the Commission revises a published advertisement less than ten days before the RFP due date, the due date will be extended to maintain the minimum ten-day advertisement duration if the revision alters the project scope or selection criteria. Firms are responsible to monitor advertisements/addenda to assure the submitted proposal complies with any changes in the published advertisement.

I-11. Response. To be considered, proposals must be delivered to the Pennsylvania Turnpike Commission's **Contract Administration Department, Attention George Hatalowich**, on or before **12:00 noon, Friday, June 2, 2006.** The Pennsylvania Turnpike Commission is located at 700 South Eisenhower Blvd., Middletown, PA 17057. Please note that use of **U.S. Mail delivery does not guarantee delivery to this address by the above-listed time for submission. Proposers mailing proposals should allow sufficient delivery time to ensure timely receipt of their proposals.** If the Commission office location to which proposals are to be delivered is closed on the proposal response date, due to inclement weather, natural disaster, or any other cause, the deadline for submission shall be automatically extended until the next Commission business day on which the office is open. Unless the contractors are otherwise notified by the Commission, the time for submission of proposals shall remain the same.

I-12. Proposals. To be considered, contractors should submit a complete response to this RFP, using the format provided in PART II. Each proposal should be submitted in **seven (7)** copies to the Contract Administration Department. No other distribution of proposals will be made by the contractor. Each proposal page should be numbered for ease of reference. Proposals must be signed by an official authorized to bind the contractor to its provisions and include the contractor's Federal Identification Number. For this RFP, the proposal must remain valid for at least **60** days. Moreover, the contents of the proposal of the selected contractor will become contractual obligations if a contract is entered into.

Each and every contractor submitting a proposal specifically waives any right to withdraw or modify it, except as hereinafter provided. Proposals may be withdrawn by written or telefax notice received at the Commission's address for proposal delivery prior to the exact hour and date specified for proposal receipt. However, if the contractor chooses to attempt to provide such written notice by telefax transmission, the Commission shall not be responsible or liable for errors in telefax transmission. A proposal may also be withdrawn in person by a contractor or its authorized representative, provided its identity is made known and it signs a receipt for the proposal, but only if the withdrawal is made prior to the exact hour and date set for proposal receipt. A proposal may only be modified by the submission of a new sealed proposal or submission of a sealed modification which complies with the requirements of this RFP.

I-13. Economy of Preparation. Proposals should be prepared simply and economically, providing a straightforward, concise description of the contractor's ability to meet the requirements of the RFP.

I-14. Discussions for Clarification. Contractors who submit proposals may be required to make an oral or written clarification of their proposals to the Commission to ensure thorough mutual understanding and contractor responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification.

I-15. Best and Final Offers. To obtain best and final offers from contractors whose proposals are determined by the Commission, in its sole discretion, to be reasonably susceptible of being selected for award, the Commission may (a) enter into discussions; (b) schedule oral presentations; and (c) request revised proposals.

I-16. Prime Contractor Responsibilities. The selected contractor will be required to assume responsibility for all services offered in its proposal whether or not it produces them. Further, the Commission will consider the selected contractor to be the sole point of contact with regard to contractual matters.

I-17. Proposal Contents. Proposals will be held in confidence and will not be revealed or discussed with competitors, unless disclosure is required to be made (i) under the provisions of any Commonwealth or United States statute or regulation; or (ii) by rule or order of any court of competent jurisdiction. If a contract is executed, however, the successful proposal submitted in response to this RFP shall be subject to disclosure. All material submitted with the proposal becomes the property of the Pennsylvania Turnpike Commission and may be returned only at the Commission's option. Proposals submitted to the Commission may be reviewed and evaluated by any person other than competing contractors at the discretion of the Commission. The Commission has the right to use any or all ideas presented in any proposal. Selection or rejection of the proposal does not affect this right.

I-18. Debriefing Conferences. Contractors whose proposals are not selected will be notified of the name of the selected contractor and will be given the opportunity to be debriefed, at the Contractor's request. The Issuing Office will schedule the time and location of the debriefing. The contractor will not be compared with other contractors, other than the position of its proposal in relation to all other proposals for each criterion for selection.

I-19. News Releases. News releases pertaining to this project will not be made without prior Commission approval, and then only in coordination with the Issuing Office.

I-20. Commission Participation. Unless specifically noted in this section, contractors must provide all services to complete the identified work.

I-21. Cost Submittal. The cost submittal shall be placed in a separately sealed envelope within the sealed proposal and kept separate from the technical submittal. **Failure to meet this requirement may result in disqualification of the proposal.**

I-22. Term of Contract. The term of the contract will commence on the Effective Date (as defined below) and will end **December 31, 2009**. The Commission shall fix the Effective Date after the contract has been fully executed by the Contractor and by the Commission and all approvals required by Commission contracting procedures have been obtained.

I-23. Contractor's Representations and Authorizations. Each contractor by submitting its proposal understands, represents, and acknowledges that:

- a. All information provided by, and representations made by, the contractor in the proposal are material and important and will be relied upon by the Issuing Office in awarding the contract(s). Any misstatement shall be treated as fraudulent concealment from the Issuing Office of the true facts relating to the submission of this proposal. A misrepresentation shall be punishable under 18 Pa. C.S. 4904.

- b. The price(s) and amount of this proposal have been arrived at independently and without consultation, communication or agreement with any other contractor or potential contractor.
- c. Neither the price(s) nor the amount of the proposal, and neither the approximate price(s) nor the approximate amount of this proposal, have been disclosed to any other firm or person who is a contractor or potential contractor, and they will not be disclosed on or before the proposal submission deadline specified in the cover letter to this RFP.
- d. No attempt has been made or will be made 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 proposal is made 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 contractor, the contractor, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four (4) 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 disclosed by the contractor in its proposal.
- g. To the best of the knowledge of the person signing the proposal for the contractor and except as otherwise disclosed by the contractor in its proposal, the contractor 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 contractor that is owed to the Commonwealth.
- h. The contractor is not currently under suspension or debarment by the Commonwealth, or any other state, or the federal government, and if the contractor cannot certify, then it shall submit along with the proposal a written explanation of why such certification cannot be made.
- i. The contractor has not, under separate contract with the Issuing Office, made any recommendations to the Issuing Office concerning the need for the services described in the proposal or the specifications for the services described in the proposal.
- j. Each contractor, by submitting its proposal, authorizes all Commonwealth agencies to release to the Commission information related to liabilities to the Commonwealth including, but not limited to, taxes, unemployment compensation, and workers' compensation liabilities.

PART II

INFORMATION REQUIRED FROM CONTRACTORS

Contractor proposals must be submitted in the format, including heading descriptions, outlined below. To be considered, the proposal must respond to all requirements in this part of the RFP. Any other information thought to be relevant, but not applicable to the enumerated categories, should be provided as an appendix to the proposal. Each proposal shall consist of two (2) separately sealed submittals. The submittals are as follows: (i) Technical Submittal, in response to Sections II-1 through II-8 hereof; (ii) Cost Submittal, in response to Section II- hereof.

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

The Commission may make such investigations as deemed necessary to determine the ability of the contractor to perform the work, and the contractor shall furnish to the Commission all such information and data for this purpose as requested by the Commission. The Commission reserves the right to reject any proposal if the evidence submitted by, or investigation of, such contractor fails to satisfy the Commission that such contractor is properly qualified to carry out the obligations of the agreement and to complete the work specified.

II-1. Statement of the Problem. State in succinct terms your understanding of the problem presented or the service required by this RFP.

II-2. Management Summary. Include a narrative description of the proposed effort and a list of the items to be delivered or services to be provided.

II-3. Work Plan. Describe in narrative form your technical plan for accomplishing the work. Use the task descriptions in Part IV of this RFP as your reference point. Modifications of the task descriptions are permitted; however, reasons for changes should be fully explained. Indicate the number of personhours allocated to each task. Include a Program Evaluation and Review Technique (PERT) or similar type display, time related, showing each event. If more than one approach is apparent, comment on why you chose this approach.

II-4. Prior Experience. Include experience testing benefit and contribution levels for actuarial equivalence, including the requirements for attestation set forth by the Centers for Medicare and Medicaid Services (CMS). Experience shown should be work done by individuals who will be assigned to this project as well as that of your company. Studies or projects referred to should 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.

II-5. Personnel. Include the number, and names where practicable, 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 work. Include through a resume or similar document, education and experience testing benefit and contribution levels for actuarial equivalence, including the requirements for attestation set forth by the Centers for Medicare and Medicaid Services (CMS). Indicate the responsibilities each will have in this

project and how long each has been with your company. Identify subcontractors you intend to use and the services they will perform.

II-6. Training. If appropriate, indicate recommended training of Commission personnel. Include the personnel to be trained, the number to be trained, duration of the program, place of training, curricula, training materials to be used, number and frequency of sessions, and number and level of instructors.

II-7. M/W/DBE/SERB Participation. Prime Contractors are encouraged to utilize SERB vendor participation in their proposed solution. Responding firms shall clearly identify DBE/MBE/WBE firms, expected to participate in this contract, in their Proposal. **If further information is desired concerning DBE/MBE/WBE participation,** direct inquiries to the Pennsylvania Turnpike Commission's Contract Administration Department by calling (717) 939-9551 Ext. 4241.

II-8. Cost Submittal. The information requested in this section shall constitute your cost submittal. **This portion of the proposal should be bound and sealed separately from the remainder of the proposal.** The total cost you are proposing must be broken down into the following components:

- a. **Direct Labor Costs.** Itemize so as to show the following for each category of personnel with a different rate per hour:
 - (1) Category: e.g., partner, project manager, analyst, senior auditor, research associate.
 - (2) Estimated hours.
 - (3) Rate per hour.
 - (4) Total cost for each category and for all direct labor costs.
- b. **Labor Overhead.** Specify what is included and rate used.
- c. **Travel and Subsistence.** Itemize transportation, lodging and meals per diem costs separately.
- d. **Consultant Costs.** Itemize as in (a) above.
- e. **Subcontract Costs.** Itemize as in (a) above.
- f. **Cost of Supplies and Materials.** Itemize.
- g. **Other Direct Costs.** Itemize.
- h. **General Overhead Costs.** Specify what is included and rate used.
- i. **Total Cost.**

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

PART III

CRITERIA FOR SELECTION

III-1. Mandatory Responsiveness Requirements. To be eligible for selection, a proposal should be (a) timely received from a contractor; (b) properly signed by the contractor; and (c) formatted such that all cost data is kept separate from and not included in the Technical Submittal.

III-2. Proposals will be reviewed and evaluated by a committee of qualified personnel selected by the Commission. This committee will recommend for selection the proposal that most closely meets the requirements of the RFP and satisfies Commission needs. Award will only be made to a contractor determined to be responsible in accordance with Commonwealth Management Directive 215.9, Contractor Responsibility Program.

III-3. The following areas of consideration will be used in making the selection:

a. Understanding the Problem. This refers to the contractor's understanding of the Commission needs that generated the RFP, of the Commission's objectives in asking for the services or undertaking the study, and of the nature and scope of the work involved.

b. Contractor Qualifications. This refers to the ability of the contractor to meet the terms of the RFP, especially the time constraint and the quality, relevancy, and recency of studies and projects completed by the contractor. This also includes the contractor's financial ability to undertake a project of this size.

c. Personnel Qualifications. This refers to the competence of professional personnel who would be assigned to the job by the contractor. Qualifications of professional personnel will be measured by experience and education, with particular reference to experience on studies/services similar to that described in the RFP. Particular emphasis is placed on the qualifications of the project manager.

d. Soundness of Approach. Emphasis here is on the techniques for collecting and analyzing data, sequence and relationships of major steps, and methods for managing the study/service. Of equal importance is whether the technical approach is completely responsive to all written specifications and requirements contained in the RFP and if it appears to meet Commission objectives.

e. Cost. While this area may be weighted heavily, it will not normally be the deciding factor in the selection process. The Commission reserves the right to select a proposal based upon all the factors listed above, and will not necessarily choose the firm offering the best price. The Commission will select the firm with the proposal that best meets its needs, at the sole discretion of the Commission.

PART IV
WORK STATEMENT

IV-1. Objectives.

a. General. The Human Resources Department is seeking an accredited actuarial organization to provide an annual certificate of actuarial equivalence attestation for the PTC's retiree prescription drug plans.

b. Specific. The PTC's requires an annual attestation of its retiree prescription drug coverage to ensure that it meets or exceeds the actuarial value of the defined standard prescription drug coverage under the Medicare Part D regulation.

IV-2. Nature and Scope of the Project. Medicare Part D, a federally funded prescription drug program, went into effect on January 1, 2006. As part of the federal legislation, employers were encouraged to continue prescription coverage for their retirees through various means, including a federal subsidy. The PTC has applied for the subsidy and must comply with the federal regulation in that regard.

The Centers for Medicare and Medicaid Services (CMS) have issued rules for companies that wish to apply for the subsidy, requiring that the retiree prescription drug coverage meet or exceed the standard prescription drug coverage under the Part D regulation.

IV-3. Requirements. The attestation must be made before September 30th of each year by a qualified actuary who is a member of the American Academy of Actuaries. The attestation must be submitted to the CMS in accordance with Medicare Part D regulations.

IV-4. Tasks. The requirement for attestation set forth by the Centers for Medicare and Medicaid Services (CMS) defines the steps for attestation, including a two step test that must be passed before a company can apply for the subsidy:

1. A gross value test, where the retiree prescription plan is measured against the standard Medicare coverage, and has a benefit value that is at least equal to the standard Medicare coverage.
2. A net value test, which measures the cost of the plan. The cost must be at least equal in value to the standard Medicare coverage.

Attached as an e to this RFP is a brief description of the PTC's current retiree prescription plan options, which are to be included in the attestation process.

The contractor will be given the opportunity to recommend modifications to the task segmentation in the proposal in accordance with CMS regulations and guidance.

IV-5. Reports and Project Control. The contractor will be required to submit the following reports to the Commission at the conclusion of the annual attestation process.

a. Task Plan. A work plan for each task that identifies the work elements of each task, the resources assigned to the task, and the time allotted to each element and the deliverable items to be produced.

b. Status Report. A periodic progress report covering activities, problems, and recommendations; the report should be keyed to the work plan developed by the contractor in its proposal, as amended or approved by the Commission.

c. Problem Identification Report. An “as required” report, identifying problem areas. The report should describe the problem and its impact on the overall project and on each affected task. It should list possible courses of action with advantages and disadvantages of each, and include contractor recommendations with supporting rationale.

d. Final Report. The final report should specify the following:

- (1) Abstract or summarize the result of the study or service in terminology that will be meaningful to management and others generally familiar with the subject areas and complies with the Medicare Part D regulations.
- (2) Describe data collection and analytical and other techniques used during the attestation process, including the assumptions and information used.
- (3) Summarize findings, conclusions, and recommendations developed in each task.
- (4) Include all supporting documentation; e.g., flow charts, forms, questionnaires, etc.

EXHIBIT-1

CURRENT PTC BENEFIT OPTIONS

Plan Code	Description
Mgmt	Mgmt retiree plan 20%or \$8 copay whichever is greater
Mgmt	Mgmt retiree plan \$10 copay retail-31d supply; \$20 copay maintenance for retail at 3rd fill; mail order 31-90d supply-\$10 copay
Mgmt	Mgmt retiree plan with \$10 copay
Union	Union retiree plan 20% or \$5 copay whichever is greater
Union	Union retiree plan 20%/\$8-G; 20%/\$16-B-retail 31 day supply; maintenance for retail at 3rd fill-20%/\$15-G; 20%/\$20-B; mail order - 31-90d - 20%/\$12-G;20%/\$20-B

Addendum No. 1

RFP #06-113-3371

Attestation of the PTC's Retiree Prescription Drug Coverage

Following are the answers to questions submitted in response to the above referenced RFP as of **12:00 Noon, Wednesday, May 10, 2006**. All of the questions have been listed verbatim, as received by the Pennsylvania Turnpike Commission. **This Addendum must be signed and included in the submitted proposal.**

1. Page 3 I-5 of the RFP indicates the contract will be a fee for service contract, and will contain the Commission's Standard Contract Terms and Conditions. Will the PTC please provide a copy of those Standard Contract Terms and Conditions?

The Commission's Standard Contract Terms and Conditions have been attached as a part of this addendum.

2. Has the PTC already provided an annual actuarial attestation for Medicare Part D?

Yes, in 2005.

If so, please provide the following:

- Identify the firm that provided the prior attestation.

The firm that performed the attestation in 2005 was Milliman Consulting.

- Please provide a copy of the results from the prior attestation.

This information will not be disclosed.

- How long has your relationship with this firm been in force?

Approximately one year.

- Why is this contract out for bid?

The PTC's retiree prescription drug coverage requires an annual attestation to ensure its program is equal to or better than the standard prescription drug coverage under Medicare Part D regulations.

- What was the total value of consulting services provided by the prior firm related to Medicare Part D attestation?

The cost for the attestation was administered through Medco Health Systems and is not currently available.

- What are the current hourly billing rates by consulting level? Do they include direct and indirect expenses? When do they expire?

The cost for the attestation was administered through Medco Health Systems and is not currently available.

3. Please state the provider of the prescription drug coverage and the length of time the program has been with that provider.

The current administrator for prescription drug coverage is Medco Health Systems. They have been the administrator for the PTC's prescription drug coverage since March 2003.

4. What is the current financial arrangement (e.g., insured, self-insured, etc)? Is there a trust?

The PTC's current Prescription Drug Plan is self insured. There is no trust.

5. Who pays the premium for the prescription drug plan? If it is shared between the retirees and the PTC what percentage is paid by each?

The PTC pays the costs of the of the prescription drug plan with the exception of union retiree survivors, and management retiree survivors of a retiree with a retirement date before March 2001. Retirees pay co-pays as outlined in the addendum.

6. Is it anticipated that any on site work will be required?

No.

7. Attached after this document as "Appendix A" is the Standard Contract Agreement. Please note there may be items in the Standard Agreement that are not applicable to this project.

All other terms, conditions and requirements of the original RFP dated April 25, 2006 remain unchanged unless modified by this Addendum.

By signing below, I acknowledge that I have read all addendums that pertain to this RFP.

Contractor's Signature

Date

This **AGREEMENT** is made this _____ day of _____, 2005, between the **Pennsylvania Turnpike Commission** (“**COMMISSION**”), an instrumentality of the Commonwealth of Pennsylvania, with principal offices at Middletown, Pennsylvania (mailing address: P. O. Box 67676, Harrisburg, PA 17106-7676; physical address: 700 Eisenhower Blvd, Middletown, PA 17057),

AND

_____ (“**CONTRACTOR**”), [insert the legal status of **CONTRACTOR** such as a **Pennsylvania (or foreign) corporation (or partnership, LLC, LLP, etc.)**], with its principal office at [insert address]

WITNESSETH:

WHEREAS, the **COMMISSION** desires to . . . [describe the specific PTC purposes, goals, assumptions, underlying facts, or contractor's representations that are the basis of the bargain, etc.]

WHEREAS, by Act No. 211 of the General Assembly of the Commonwealth of Pennsylvania, approved May 21, 1937, and its amendments, the **COMMISSION** is authorized and empowered to enter into a contract with **CONTRACTOR**;

WHEREAS, the **COMMISSION** desires to retain the services of **CONTRACTOR** upon the following terms; and

NOW, THEREFORE, in consideration of these mutual covenants, and intending to be legally bound, the parties agree as follows:

Definitions

[This section is for terms that have a special meaning for this agreement or that are used in a way different from everyday or common usage.]

Contractor's Scope of Work

[There should be a document that specifies what we expect from the Contractor (such as deliverables; schedules and deadlines; representations or warranties; conditions or covenants; location of the work; use of specific persons; standards of performance; insurance requirements). This document must be made part of the Agreement (either as an exhibit which is attached or by referring to it in the Agreement without attaching it)].

The **CONTRACTOR** will perform the work described in [identify the document/RFP#] dated [date], titled [title] and the **CONTRACTOR'S** proposal dated [date]. This document is [SELECT ONE: attached as Exhibit _ and made a part of this Agreement **OR** made part of this Agreement by reference].

Commission's Responsibilities

The **COMMISSION** shall furnish the **CONTRACTOR** access to key personnel, relevant documents, and adequate workspace for completing the work.

Compensation

For the work, services, and material as defined in this Agreement, the **CONTRACTOR** shall be paid _____ and ___/100 DOLLARS (\$_____). **[Specify whether the compensation method is hourly, cost reimbursement, lump sum, etc.]**

Duration of Agreement [and Renewal]

The term of this Agreement is [**term**]. The term may be extended for [**number**] additional years by a writing signed by both parties. **[or The term may be extended by the COMMISSION in the form of a letter signed by the Chief Executive Officer, which will become part of this agreement.]**

This Agreement will not terminate until the **COMMISSION** accepts all work as complete and tenders final payment to the **CONTRACTOR**.

Termination

Either party may terminate this agreement at any time upon thirty- (30) calendar days written notice. If this notice is given, the **CONTRACTOR** shall be paid only for the services already rendered upon the date of the notice and for the services rendered to the date of termination, subject to all provisions of this agreement. The notice will be effective on the date of receipt. The right to cancel may be exercised as to the entire project, or as to any particular phase or phases, part or parts, and upon one or upon several occasions, but any termination may not be revoked except upon written consent of the parties through a supplemental agreement to this agreement.

Assignment and Delegation

The **CONTRACTOR** may not transfer, assign, or delegate any terms of this contract, in whole or in part, without prior written permission from the **COMMISSION**.

The **CONTRACTOR** shall not engage the services of any person or persons now employed by the Commission except with the **COMMISSION's** approval.

Governing Law

This agreement will be interpreted according to the laws of the Commonwealth of Pennsylvania.

Observance of Laws

The **CONTRACTOR** agrees to observe all relevant federal, state, and local laws and to obtain in its name all necessary permits and licenses.

Work for Hire

Except for hardware, third party licensed software, and software previously developed by **CONTRACTOR**, all Deliverables, including but not limited to source code, software, specifications, plans, designs and engineering, drawings, data, information or other written, recorded, photographic, or visual materials, trademarks, service marks, copyrights or other Deliverables produced by **CONTRACTOR** or any supplier in the performance of the contract shall be deemed "Work Product". All Work Product shall be considered services for hire. Accordingly, except as set forth earlier in this paragraph, all Work Product shall be the exclusive property of the **COMMISSION**.

The **CONTRACTOR** agrees to notify the **COMMISSION** in writing before using any of **CONTRACTOR**'s previously developed software for services provided under this Agreement. The **CONTRACTOR** and the **COMMISSION** will honor all applicable preexisting licenses, copyrights, trademarks, service marks, and patents. If as part of an expense item under this Agreement, the **CONTRACTOR** purchases the right to any license, the agreements for the use or ownership of such license will be placed in the name of the **COMMISSION** along with all other rights and obligations. In addition, the **CONTRACTOR** will mark all Turnpike content or previously unprotected work product designated by the **COMMISSION** with a notice as follows: "Pennsylvania Turnpike Commission, (Year)".

Audit/Retention of Records

CONTRACTOR and its subcontractors shall maintain books and records related to performance of this contract or subcontract and necessary to support amounts charged to the **COMMISSION** in accordance with applicable law, terms and conditions of this contract, and generally accepted accounting practice. **CONTRACTOR** shall maintain these books and records for a minimum of three (3) years after the completion of the contract, final payment, or completion of any contract, audit or litigation, whichever is later. All books and records shall be available for review or audit by the **COMMISSION**, its representatives, and other governmental entities with monitoring authority upon reasonable notice and during normal business hours. **CONTRACTOR** agrees to cooperate fully with any such review or audit. If any audit indicates overpayment to **CONTRACTOR**, or subcontractor, the **COMMISSION** shall adjust future or final payments otherwise due. If no payments are due and owing to **CONTRACTOR**, or if the overpayment exceeds the amount otherwise due, **CONTRACTOR** shall immediately refund all amounts which may be due to the **COMMISSION**. Failure to maintain the books and records required by this Section shall establish a presumption in favor of the **COMMISSION** for the recovery of any funds paid by the **COMMISSION** under the contract for which adequate books and records are not available to support the purported disbursement.

Dispute Resolution

All questions or disputes regarding any matter involving this contract or its breach shall be referred to the Board of Claims as provided in 72 P.S. § 4651. If the Board of Claims either refuses or lacks jurisdiction, these questions or disputes shall proceed as provided in 42 C.S.A. § 7301 et seq. (Statutory Arbitration). The panel of arbitrators will consist of a representative of each of the parties and a third party chosen by the representatives, or if the representatives are unable to choose, by the American Arbitration Association.

Indemnification

The **CONTRACTOR** shall be responsible for all damage to life and property due to negligence or other tortious acts, errors, and omissions arising from or related to the work of this Agreement. The **CONTRACTOR** shall indemnify and hold harmless the **COMMISSION**, the **COMMISSION's** officers, and the **COMMISSION's** employees from any claim or liability of any type or nature arising from or related to the work of the **CONTRACTOR** or that of the **CONTRACTOR's** employees or subcontractors or the presence of these persons or individuals on the **COMMISSION's** premises.

Contractor Provisions

The Contractor Integrity and Contractor Responsibility Provisions are attached as an exhibit and made a part of this agreement.

Entire Agreement

This Agreement, together with any writings either attached as exhibits or incorporated by reference, constitutes the entire understanding between the parties and there are no other oral or extrinsic understandings of any kind between the parties.

Modification

This agreement may be modified only by a writing signed by both parties.

