

REQUEST FOR PROPOSALS

Act 129 Statewide Evaluator

ISSUING OFFICE

Pennsylvania Public Utility Commission

Bureau of Technical Utility Services

RFP-2015-3

DATE OF ISSUANCE

October 15, 2015

**REQUEST FOR PROPOSALS FOR
ACT 129 Statewide Evaluator**

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CALENDAR OF EVENTS

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

Activity	Responsibility	Date
Deadline to submit Questions via email to the Issuing Officer Darren Gill at dgill@pa.gov .	Potential Proposers	November 9, 2015
Pre-Proposal Conference on Thursday, November 12, 2015 at 1 p.m. in Executive Chambers, 3 rd Floor, Commonwealth Keystone Building, 400 North St., Harrisburg PA 17120. The Issuing Officer will take questions.	Issuing Office/Potential Proposers	November 12, 2015 1 p.m.
Answers to all Potential Proposer questions posted to the Commission website no later than this date at http://www.puc.state.pa.us/contact_us/request_for_proposals.aspx	Issuing Office	November 23, 2015
Please monitor website for all communications regarding the RFP on an ongoing basis. http://www.puc.state.pa.us/contact_us/request_for_proposals.aspx	Potential Proposers	Ongoing
Sealed proposal must be received by the Issuing Office at address indicated in Section I-11 by <u>3 p.m.</u>	Proposers	December 11, 2015 <u>3 p.m.</u>

REQUEST FOR PROPOSALS

ACT 129 STATEWIDE EVALUATOR

PART I

GENERAL INFORMATION FOR THE CONTRACTOR

I-1. PURPOSE. This Request for Proposals (“RFP”) provides interested potential Contractors (also “Proposers”) with sufficient information to enable them to prepare and submit proposals for consideration by the Pennsylvania Public Utility Commission (“Commission” or “PUC”) to select the Act 129 Statewide Evaluator (“Statewide Evaluator” or “Contractor”). The Commission is seeking a Statewide Evaluator for the Energy Efficiency and Conservation Programs of the large Pennsylvania Electric Distribution Companies (“EDCs”). The EDCs are: Duquesne Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, Pennsylvania Power Company, PPL Electric Utilities Corporation, and West Penn Power Company.

I-2. ISSUING OFFICE. This RFP is issued by the Pennsylvania Public Utility Commission’s Bureau of Technical Utility Services (“TUS” or “Issuing Office”). While the Contract is between the Commission, the Contracting Entity and the Contractor, the final selection, control and approval for payment of the Statewide Evaluator is to be made by the Commission. The Contracting Entity is funded by the EDCs.

The sole point of contact in the Commonwealth for this RFP shall be the Issuing Officer for this RFP, Darren Gill, Deputy Director of the Bureau of Technical Utility Services, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265, telephone number (717) 783-5244, and email dgill@pa.gov. Please refer all inquiries to the Issuing Officer.

I-3. ESTIMATED BUDGET. The Commission estimates the budget for this Contract as follows for the purpose of aiding in the submission of Proposals. This estimate is not meant to establish cost “minimums or maximums.”

Estimated budget: No estimated budget

I-4. PROBLEM STATEMENT. The Commission has been charged by the Pennsylvania General Assembly pursuant to Act 129 of 2008 (“Act 129”) with establishing an energy efficiency and conservation program. 66 Pa.C.S. §§ 2806.1 and 2806.2. The energy efficiency and conservation program requires each EDC with at least 100,000 customers to adopt a plan to reduce energy demand and consumption within its service territory. 66 Pa.C.S. § 2806.1. In order to fulfill this obligation, on June 19, 2015, the Commission entered an Implementation Order at Docket No. M-2014-2424864. As part of the Implementation Order and Act 129, the Commission seeks a Statewide Evaluator to evaluate the EDCs’ Phase III energy efficiency and conservation programs.

I-5. TYPE OF CONTRACT. It is proposed that if the Issuing Office enters into a contract as a result of this RFP, it will be a contract containing the proposed contract Terms and Conditions as shown in the Draft Contract found at Appendix D. This RFP and all exhibits, appendices, addenda, and other attachments thereto, and the Proposal of the Proposer who is awarded the contract and all exhibits, appendices, addenda, and other attachments thereto are incorporated into the contract by reference.

Total payments under this contract will not exceed the total cost quoted in the proposal. The total cost may be exceeded only upon written Commission approval prior to incurring such additional expenses.

I-6. REJECTION OF PROPOSALS. The Commission reserves the right to reject any and all proposals or portions thereof received as a result of this RFP, when it is in the best interest of the Commission. The Issuing Office, in its sole discretion, may undertake negotiations with Proposers whose proposals, in the judgment of the Issuing Office, show them to be qualified, responsible and capable of performing the Project.

I-7. INCURRING COSTS. Neither the Commission nor the Contracting Entity are liable for any costs incurred by Proposers prior to issuance of a Contract. The Proposer shall not begin compensable work until so notified by the Commission's Project Officer.

I-8. PRE-PROPOSAL CONFERENCE. The Issuing Office will hold a Pre-proposal Conference as specified in the Calendar of Events. The purpose of this conference is to provide opportunity for the Proposers to ask questions to clarify the RFP. Proposers may also submit written questions prior to the Pre-proposal Conference in accordance with Part I, Section I-9. Proposers may also ask questions at the Pre-proposal Conference. The Pre-proposal Conference is for information only. Any verbal responses furnished during the conference will not be binding until they have been verified, in writing, by the Issuing Office. All questions and written answers will be posted on the PUC website at http://www.puc.state.pa.us/contact_us/request_for_proposals.aspx by the date stated in the Calendar of Events and will become an addendum to, and shall become part of, this RFP and the Contract. Prospective Proposers can attend the Pre-proposal conference by teleconference. Please submit a request for the teleconference information to the Issuing Officer in accordance with Part I, Section I-9. Attendance at the pre-proposal conference is not mandatory.

I-9. QUESTIONS & ANSWERS. If a Proposer has any questions regarding this RFP, the Proposer must submit the questions by email (with the subject line "RFP-2015-3 Statewide Evaluator RFP Question") to the Issuing Officer. The Proposer shall not attempt to contact the Issuing Officer by any other means. The Issuing Officer shall post the answers to the questions on the PUC website.

All questions and responses as posted on the PUC website are an addendum to, and part of, this RFP and the Contract and are hereby incorporated herein by reference. Each Proposer shall be responsible to monitor the PUC website for new or revised RFP information. The Issuing Office shall not be bound by any verbal information nor shall it be bound by any written information that is not either contained within the RFP or formally issued as an addendum by the Issuing Office. Questions do not constitute a protest of the RFP.

I-10. ADDENDA TO THE RFP. If the Issuing Office deems it necessary to revise any part of this RFP before the proposal response date, the Issuing Office will post an addendum to the PUC website. It is the Proposer's responsibility to periodically check the PUC website for any new information or addenda to the RFP. Answers to the questions asked during the Question & Answer period also will be posted to the website as an addendum to the RFP.

I-11. RESPONSE DATE. To be considered, the proposal or any addendum thereto must arrive at the Issuing Office on or before the time and date specified in the Calendar of Events via the appropriate address listed below.

U.S. Mail First Class Delivery Address

Darren Gill, Deputy Director
Bureau of Technical Utility Services
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pennsylvania 17105-3265

Overnight Delivery Service Address

Darren Gill, Deputy Director
Bureau of Technical Utility Services
Pennsylvania Public Utility Commission
3rd Floor West, Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania 17120

Proposers delivering proposals by any form of delivery service should allow for delivery time to insure timely receipt of their proposals. The Issuing Office will not accept proposals via email or facsimile transmission. If, due to inclement weather, natural disaster, or any other cause, the Commonwealth office location to which proposals are to be sent is closed on the proposal response date, the deadline for submission will be automatically extended until the next Commonwealth business day on which the office is open, unless the Issuing Office otherwise notifies Proposers. The hour for submission of proposals shall remain the same. **Proposals received after the time and date specified in the Calendar of Events will be rejected, unopened, and not considered regardless of the reason for the late submission.**

I-12. PROPOSALS. To be considered, Proposers must submit a complete response to this RFP, using the format provided in Part II. No other distribution of proposals will be made by the Proposer. Proposals must be signed by an official authorized to bind the Proposer to its provision. For this RFP, the proposal must remain valid for at least 120 days. Moreover, except as otherwise noted herein, the contents of the proposal of the selected contractor will become contractual obligations of the contractor if a contract among the Commission, the Contracting Entity, and the successful contractor is entered. Notwithstanding anything herein to the contrary, if the winning Proposal conflicts with the terms and conditions of the fully executed and approved written contract between the Commission, the Contracting Entity, and the successful

Proposer, the following order of precedence shall apply: 1. Contract (including the RFP); 2. Proposal.

If the Issuing Office selects the Proposer's proposal for award, the contents of the selected Proposer's proposal will become, except to the extent the contents are changed through Best and Final Offers or negotiations, contractual obligations. The information in the proposal will become a public record upon contract execution.

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

The proposal should set forth broadly, but concisely, the work that will be undertaken in response to the requirements in Part IV of this RFP. It should be specifically tailored to the tasks indicated and should be in sufficient depth to afford the Commission a thorough understanding of the work plan.

I-13. SMALL DIVERSE BUSINESS INFORMATION. The Issuing Office encourages participation by small diverse businesses as prime contractors, and encourages all prime contractors to make a significant commitment to use small diverse businesses as subcontractors and suppliers.

A Small Diverse Businesses is a DGS-certified minority-owned business, woman-owned business, service-disabled veteran-owned business or 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 \$7 million in gross annual revenues for building design, \$20 million in gross annual revenues for sales and services and \$25 million in gross annual revenues for those businesses in the information technology sales or service business.

Questions regarding this Program can be directed to:

Department of General Services
Bureau of Small Business Opportunities
Room 611, North Office Building
Harrisburg, PA 17125
Phone: (717) 783-3119
Fax: (717) 787-7052
Email: gs-bmwbo@state.pa.us
Website: www.dgs.state.pa.us

The Department's directory of BSBO-verified minority, women, veteran and service disabled veteran-owned businesses can be accessed from: [Searching for Small Diverse Businesses](#).

I-14. PRIME CONTRACTOR RESPONSIBILITIES. The prime contractor ("Contractor") will be required to assume responsibility for all services offered in its proposal including those of any subcontractors. Further, the Commission and the Contracting Entity will consider the prime contractor to be the sole point of contact with regard to contractual matters.

I-15. ECONOMY OF PREPARATION. The proposal should be a straight-forward, concise description of the Proposer's ability to meet the requirements of the RFP.

I-16. ALTERNATE PROPOSALS. The Issuing Office has identified the basic approach to meeting its requirements, allowing Proposers to be creative and propose their best solution to meeting these requirements. However, in order to allow for evaluation of the proposals, the Issuing Office will not accept alternate proposals that do not satisfy the stated work requirements.

I-17. DISCUSSIONS FOR CLARIFICATION. Proposers who submit a proposal may be required to make an oral or written clarification of their proposal to the Commission's Evaluation Committee to ensure thorough mutual understanding and Proposer responsiveness to the solicitation requirements. Only the Issuing Office may initiate requests for clarification.

I-18. NEWS RELEASES. Proposers 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 Commission 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 Proposer's proposal. If the Issuing Office later discovers that the Proposer has engaged in any violations of this condition, the Issuing Office may reject the offending Proposer's proposal or rescind its contract award. Proposers must agree not to distribute any part of their proposals beyond the Issuing Office. A Proposer who shares information contained in its proposal with other Commonwealth personnel and/or competing Proposer personnel may be disqualified.

I-20. COPIES OF PREVIOUS WORK. Proposers who submit proposals must, as necessary, provide copies of recent previous relevant work products for review by the staff. These work products should be submitted at the same time as the proposal and may be redacted, as necessary, to preserve confidentiality.

I-21. DISCLOSURE OF 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 Proposer's submissions in order to evaluate proposals submitted in response to this

RFP. Accordingly, except as provided herein, Proposers should not label proposal submissions as confidential or proprietary or trade secret protected. Any Proposer 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 and may be returned only at the Issuing Office's option. 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 Proposer copyright designations contained on 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. If financial capability information is submitted in response to Part II of this RFP such financial capability information is exempt from public records disclosure under 65 P.S. § 67.708(b)(26).

I-22. DEBRIEFING CONFERENCES. Proposers whose proposals are not selected will be notified of the name of the selected Proposer and given the opportunity to be debriefed if such request is made within seven days after the Proposer is notified of the award of the contract. A request for debriefing will not alter the deadline for filing a Protest. The Issuing Office will schedule the time and location of the debriefing. A Proposer's exercise of the opportunity to be debriefed does not constitute the filing of a protest.

I-23. TERM OF CONTRACT. The term of the contract will commence on the Effective Date, which date shall be fixed by the Issuing Office after the contract has been fully executed by the Proposer, the Contracting Entity and the Commission and all approvals required by the Commonwealth contracting procedures have been obtained. The selected Proposer shall not start the performance of any work prior to the Effective Date of the contract and neither the Commission nor the Contracting Officer shall be liable to pay the selected Proposer for any service or work performed or expenses incurred before the Effective Date of the contract.

The term of the Contract will be from Effective Date of the Contract (estimated to be March 1, 2016) until February 28, 2022.

Contractors should submit bids for the entire period from March 1, 2016 (the anticipated Effective Date of the Contract) through February 28, 2022, an estimated 72 months.

I-24. COMMISSION PARTICIPATION. A Project Officer will be designated by the Commission to coordinate the activities of the contractor with the Commission to insure satisfactory and timely performance of the contract when awarded. The Commission's Project Officer will be Darren Gill, Bureau of Technical Utility Services, who also acts as the Issuing Officer for this RFP. The Project Officer or his/her designate(s) will be the sole source of contact for the Contractor in any discussions with the Commission.

The Commission's staff will take an active part in the Statewide Evaluator's work and the Proposer should be prepared to work with Commission Staff throughout the course of the Statewide Evaluator Project. The Commission will rely upon its staff to answer various questions from time to time about the EDCs' conservation programs. It will be necessary, therefore, that the Commission's staff be closely involved in the work of the Contractor. This will include attending meetings, reviewing analytical procedures, and monitoring the Statewide Evaluator's progress as to scope, budget, work plans, time, etc. In any event, it is expected that the individuals assigned to each task area will frequently discuss his/her progress informally and directly with the Commission's Project Officer or his/her designate(s). The Proposer's willingness to work with the Commission's staff in the described manner is a material obligation of the Contract and should be explicitly stated in the proposal.

I-25. PROPOSER'S REPRESENTATIONS AND AUTHORIZATIONS. Each Proposer, by submitting its proposal, understands, represents, and acknowledges that:

- a. All information provided by, and representations made by, the Proposer 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, relating to unsworn falsifications to authorities.
- b. The price(s) and amount of this proposal have been arrived at independently and without consultation, communication or agreement with any other Proposer or potential Proposer.
- 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 Proposer or potential Proposer, 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. In this regard, the Proposer must complete and execute the

Noncollusion Affidavit, attached hereto as Appendix A, and submit it with the Proposer's proposal. **Failure to file a Noncollusion Affidavit with the Proposer's proposal may result in the proposal being disqualified.**

- f. To the best knowledge of the person signing the proposal for the Proposer, 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 Proposer in its proposal.
- g. To the best of the knowledge of the person signing the proposal for the Proposer and except as otherwise disclosed by the Proposer in its proposal, the Proposer 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 Proposer that is owed to the Commonwealth.
- h. The Proposer is not currently under suspension or debarment by the Commonwealth, or any other state, or the federal government, and if the Proposer cannot certify, then it shall submit along with its proposal a written explanation of why such certification cannot be made.
- i. The Proposer 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 Proposer, by submitting its proposal, authorizes all Commonwealth agencies to release to the Pennsylvania Public Utility Commission information related to the Proposer's liabilities to the Commonwealth including, but not limited to, taxes, unemployment compensation, and workers' compensation liabilities.
- k. Until the selected contractor 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 contractor should not begin to perform.

I-26. NOTIFICATION OF SELECTION. The Issuing Office will notify the selected Proposer of its selection for negotiation after the Commission has approved the Evaluation Committee's recommendation, taking into consideration all of the evaluation factors, the proposal that is the most advantageous to the Commission.

I-27. RFP PROTEST PROCEDURE. The RFP Protest Procedure is on the DGS website at <http://www.dgsweb.state.pa.us/comod/ProtestProcedures.doc>. A protest by a party who did not submit a proposal must be filed within seven (7) calendar days after the protesting party knew or should have known of the facts giving rise to the protest, but no later than seven (7) days after the proposal submission deadline specified in the RFP Calendar of Events. Proposers who did submit a proposal may file a protest within seven (7) calendar days after the protesting Proposer knew or should have known of the facts giving rise to the protest. The date

of filing is the date of receipt of the protest. A protest must be filed in writing with the Issuing Office as provided in Section I-11.

I-28. PAYMENT. Payment will be monthly. Contractor will submit invoices to the Project Officer and EEC Evaluations for incurred expenses of the past month on or after the fifteenth of the month. Contractor may submit an invoice earlier than the fifteenth of the month by requesting and obtaining permission from the Commission's Project Officer. Contractor may not bill for expenses that have not been incurred. Indicating expenses in the manner of the tasks or groups of tasks that were put forth in the Proposal, Invoices will itemize the employees who worked during the month, their hours and billable rates, as well as itemizing travel, lodging, and meal expenses. Materials and other expenses exceeding \$250 will be will be itemized; remaining expenses need not be itemized. Along with monthly invoices, Contractor shall also provide monthly a statement of the cash flow position for each task or group of tasks, indicating the amount spent to date and the amount of the Contractor's budget remaining for each task or group of tasks. Contractor will also provide an estimate of the expenses for the next month for each task or group of tasks. Invoices will detail EDC-specific charges (where it is possible for the Statewide Evaluation Team to identify such EDC-specific charges) as well as general charges that are to be shared by all EDCs.

The Project Officer will have primary responsibility to review and approve the invoices. The EDCs (or their designees) shall review the invoices in a reasonable manner and advise the Project Officer of any issues related to the invoices. The Project Officer will review the claimed expenses within 20 days and shall notify the Contracting Entity Representative in writing of the approved expenses. The Contracting Entity may rely upon the Project Officer's approval of expenses. The Contracting Entity Representative shall then make prompt payment directly to the Contractor within 10 days of receipt of the Project Officer's written approval.

I-29. MINIMUM QUALIFICATIONS. Proposers must have at least the following qualifications to be considered for selection:

- Key staff members must have demonstrated experience in performing work similar to the work started in Section IV "Work Statement".
- Demonstrated organizational, financial, data tracking and reporting abilities that will adequately support the work load and demands associated with the project.
- Demonstrated sufficient infrastructure, history and experience to handle the required work and manage sub-contractors, if applicable.
- Demonstrated ability to provide independent, objective evaluation reviews of energy efficiency and conservation programs.

I-30. KEY PERSONNEL. Contractor agrees to notify the Commission at least 30 days in advance of a change in personnel used by the Contractor to perform Contract work, including changes in personnel at any subcontractors. Commission reserves the right to require Commission approval of changes in the Contractor's key personnel. Changes in key personnel should also include a transition period of appropriate length to ensure continuity of operations.

PART II

INFORMATION REQUIRED FROM PROPOSERS

Proposer must submit their Proposals in the format, including heading descriptions, outlined below. Prepare consecutively numbered pages with index tabs for each section 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. **All (1) monetary amounts indicating costs relating to this Proposal and (2) all Small Diverse Business data should be kept separate from and not included in the Technical Submittal, as indicated below.** Each proposal shall consist of three (3) separately sealed submittals. The submittals are as follows:

- a) **Technical Submittal**, which includes the following: the technical portion of the proposal (7 copies), in response to Sections II-1 through II-6 and II-9 hereof, the Noncollusion Affidavit (1 copy) in response to Section I-25 hereof, and prior work samples (1 copy) in response to Section I-20 hereof;
- b) **Small Diverse Business Submittal** (2 copies), in response to Sections II-7 hereof (in a separately sealed envelope); and
- c) **Cost Submittal** (2 copies), in response to Sections II-8 and II-9 hereof (in a separately sealed envelope, separate from the disadvantaged business sealed envelope).

In addition to the paper copies of the technical portion of the proposal, Proposers shall submit one complete and exact copy of the technical proposal on CD-ROM or Flash drive in Microsoft Office or Adobe pdf format.

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

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

Technical Submittal

II-1. SECTION 1: STATEMENT OF THE PROBLEM. State in succinct terms your understanding of the problem presented or services required by this RFP.

II-2. SECTION 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. SECTION 3: WORK PLAN. Provide your work plan in terms of the tasks indicated in the scope of work. Your work plan for each task should be in sufficient depth to afford the Commission a thorough understanding of your work plan for that task. You may group individual tasks into larger groups of tasks in each Phase as long as it is clear which tasks are being grouped together. A written description of how you propose to document the information that will be generated/collected during your work must also be included. The work plan should list the employees and their anticipated work hours for each task or group of tasks, but **not include their billable rate, as cost information is to be provided separately** (See II-8). Please pay particular attention to indicating the leadership/project management staff, and ensure that adequate project management staff is provided.

II-4. SECTION 4: PRIOR EXPERIENCE. Submit a statement of similar work conducted by the Proposer. Work completed in the previous five (5) years will carry greater weight than older work. This would also apply to any subcontractors. Prior work experience should be similar work done by individuals who will be assigned to this project and/or similar projects completed by your firm. Projects referred to should be identified and the name of the client shown, including the name, address, email and phone number of the responsible official of the client, company or agency who may be contacted. Copies of prior work reports and deliverables may be also submitted.

II-5. SECTION 5: PERSONNEL. Include the names of all personnel, including personnel employed by any subcontractors, – executive, professional, management analysts, systems analysts, auditors, staff consultants, subcontractors, etc., - that will be engaged in the work and the services they will perform. Please pay particular attention to indicating the leadership/project management staff, and ensure that adequate project management staff is provided. You must include a resume indicating their education and specific experience/role(s) in performing similar work (especially work relating to electric utilities). The Commission expects proposers to reflect a balance of staff resources at different experience levels. In addition, leadership personnel employed by the "finalist" shall be subject to personal interviews by Commission staff, if requested. These interviews would be conducted at the Commission offices in Harrisburg prior to the final selection of a contractor. For the Project Manager and leadership personnel, please list existing projects and project end times.

II-6. SECTION 6: STATEMENT OF POTENTIAL CONFLICTS OF INTEREST. The Proposer shall identify any relationships between itself or its employees and the EDCs or their employees. This would include any work currently being performed by the Proposer or any work performed by the Proposer during the past five (5) years related to any of the EDCs, including work performed in a proceeding which was adversarial to any of the EDCs. If there have been no such relationships, a statement to that effect is to be included in the proposal. Prior

to final selection of the winning Proposer, the EDCs will be consulted as to conflicts of interest. (*See also* III-7.) The Proposer that performs such prior work is required to explain, in detail, the measures that will be taken to avoid any conflict of interest or appearance of impartiality that may arise as a consequence of this contract. The Issuing Office will determine, on a case-by-case basis, whether such prior activity creates an actual or potential conflict of interest. If the Project Officer deems the activity to be a conflict of interest, the Contractor agrees to take appropriate steps as directed by the Project Officer to eliminate the conflict. (*See also* III-7.)

Small Diverse Business Submittal

II-7. SMALL DIVERSE BUSINESS PARTICIPATION SUBMITTAL.

- A. To receive credit for being a Small Diverse Business or for subcontracting with a Small Diverse Business (including purchasing supplies and/or services through a purchase agreement), an Offeror must include proof of Small Diverse Business qualification in the Small Diverse Business participation submittal of the proposal, as indicated below:

A Small Diverse Business verified by BSBO as a Small Diverse Business must provide a photocopy of its DGS issued certificate entitled “Notice of Small Business Self-Certification and Small Diverse Business Verification” indicating its diverse status.

- B. In addition to the above certificate, the Offeror must include in the Small Diverse Business participation submittal of the proposal the following information:

1. **All** Offerors must include a numerical percentage which represents the total percentage of the work (as a percentage of the total cost in the Cost Submittal) to be performed by the Offeror and not by subcontractors and suppliers.
2. **All** Offerors must include a numerical percentage which represents the total percentage of the total cost in the Cost Submittal that the Offeror commits to paying to Small Diverse Businesses (SDBs) as subcontractors. To support its total percentage SDB subcontractor commitment, Offeror must also include:
 - a) The percentage and dollar amount of each subcontract commitment to a Small Diverse Business;
 - b) The name of each Small Diverse Business. The Offeror will not receive credit for stating that after the contract is awarded it will find a Small Diverse Business.
 - c) The services or supplies each Small Diverse Business will provide, including the timeframe for providing the services or supplies.
 - d) The location where each Small Diverse Business will perform services.
 - e) The timeframe for each Small Diverse Business to provide or deliver the goods or services.
 - f) A subcontract or letter of intent signed by the Offeror and the Small Diverse Business (SDB) for each SDB identified in the SDB Submittal. The

subcontract or letter of intent must identify the specific work, goods or services the SDB will perform, how the work, goods or services relates to the project, and the specific timeframe during the term of the contract and any option/renewal periods when the work, goods or services will be performed or provided. In addition, the subcontract or letter of intent must identify the fixed percentage commitment and associated estimated dollar value that each SDB will receive based on the total value of the initial term of the contract as provided in the Offeror's Cost Submittal. Attached is a letter of intent template which may be used to satisfy these requirements.

- g) The name, address and telephone number of the primary contact person for each Small Diverse Business.
- 3. The total percentages and each SDB subcontractor commitment will become contractual obligations once the contract is fully executed.
- 4. The name and telephone number of the Offeror's project (contact) person for the Small Diverse Business information.
- C. The Offeror is required to submit **two** copies of its Small Diverse Business participation submittal. The submittal shall be clearly identified as Small Diverse Business information and sealed in its own envelope, separate from the remainder of the proposal.
- D. A Small Diverse Business can be included as a subcontractor with as many prime contractors as it chooses in separate proposals.
- E. An Offeror that qualifies as a Small Diverse Business and submits a proposal as a prime contractor is not prohibited from being included as a subcontractor in separate proposals submitted by other Offerors.

Cost Submittal

II-8. COST AND PRICE ANALYSIS. The overall cost for the entire contract must be provided. A breakdown of the costs for each year is broken down as follows:

- Year 1 – Contract effective date (estimated to be 3/1/16) through June 30, 2017 (16 months);
- Year 2 – July 1, 2017 through June 30, 2018 (12 months);
- Year 3 – July 1, 2018 through June 30, 2019 (12 months).
- Year 4 – July 1, 2019 through June 30, 2020 (12 months);
- Year 5 – July 1, 2020 through February 28, 2022 (20 months).

For each year, provide cost information by task or group of tasks for each year as indicated above. For each task or group of tasks:

- Direct Labor Costs. List of all employees who will be assigned to work on the project by indicating their hours and billable rate. Itemize to show the following for each category of personnel with a different hourly rate:

Category (e.g., partner, project manager, analyst, senior auditor.)

Estimated hours.

Rate per hour.

Total cost for each category and for all direct labor costs.

- Travel and Subsistence Costs. Itemize transportation, lodging and meals per diem costs separately. Travel and subsistence costs must conform with the requirements of the most current version of Commonwealth Management Directive 230.10, *Travel and Subsistence Allowances*. Your firm's standard practices for employee travel expenses such as meals, entertainment, transportation, and lodging must also be provided.
- Consultant Costs. Itemize as indicated above.
- Subcontract Costs. Itemize as indicated above.
- Cost of Supplies and Materials. Itemize.
- Other Direct Costs. Itemize.
- General Overhead Costs. Overhead includes two major categories of cost: operations overhead and general and administrative overhead. Operations overhead includes costs that are not 100% attributable to the service being completed, but are generally associated with the recurring management or support of the service. General and administrative overhead includes salaries, profits, equipment and other costs related to headquarters management external to the service, but in support of the activity being completed. Specify what specific items are included and the rates used.

In addition, provide separate cost estimates for each study required in Part IV, Sections IV-7, IV-8 and IV-9 of this RFP.

This portion of the proposal shall be clearly identified as the Cost Proposal with two copies sealed in an envelope, separate from the remainder of the proposal. Please refer to Section I-21 regarding confidential information. Proposers should direct in writing to the Issuing Office pursuant to Part I, Section I-9, of this RFP any questions about whether a cost or other component is included or applies. All Proposers will then have the benefit of the Issuing Office's written answer so that all proposals are submitted on the same basis.

II-9. TIME ESTIMATES. Regarding time estimates for staff, for each task or group of tasks in the Work Plan, indicate the number of direct staff hours for each employee assigned which is required for completion. Include a Project Schedule chart or spreadsheet, showing the direct staff hours for each monthly period for each task or group of tasks in the Work Plan. In addition, provide a schedule indicating the estimated staff hours each individual (project management or lead personnel, professional support personnel, and administrative support personnel) will spend on indirect support for the various tasks or groups of tasks. **Note that the schedule of estimated staff hours each individual will spend on the various task areas must be included in the Technical Submittal as well as in the separately bound Cost Submittal. The difference is that the Cost Submittal will include the monetary costs of the staff hours, and the Technical Submittal will only list hours without any indication of the costs related to those hours.**

PART III

CRITERIA FOR SELECTION

III-1. MANDATORY RESPONSIVENESS REQUIREMENTS. To be eligible for selection, a proposal must be:

- a) Timely received from a Proposer;
- b) Properly signed by the Proposer.

III-2. NONCONFORMING PROPOSALS. The Issuing Office reserves the right, in its sole discretion, to waive technical or immaterial nonconformities in a Proposer's proposal.

III-3. EVALUATION. The Issuing Office has selected a committee of qualified personnel to review and evaluate timely submitted proposals. Independent of the committee, the BSBO will evaluate the Small Diverse Business Submittal and provide the Issuing Office with a rating for this component of each proposal. After the committee completes its evaluation, the committee will consult with the EDCs prior to recommending selection of a Proposer to the Commission. The committee's selection shall be subject to the approval of the Commission. The Issuing Office will notify the selected Proposer in writing of the Commission's selection for negotiation the responsible Proposer whose proposal is determined to be the most advantageous to the Commonwealth as determined by the Commission after taking into consideration all of the evaluation factors. The Commission will award a contract only to a Proposer determined to be responsible in accordance with the most current version of Commonwealth Management Directive 215.9, *Contractor Responsibility Program*.

III-4. CRITERIA FOR SELECTION. The following criteria will be used in evaluating each proposal. In order for a proposal to be considered for selection for best and final offers or selection for contract negotiations, the total score for the technical submittal of the proposal must be greater than or equal to 70% of the available technical points.

- a. **Technical:** The Issuing Office has established the weight for the Technical criterion for this RFP as **50 %** of the total points. Evaluation will be based upon the following in order of importance:

- A. WORK PLAN.** Emphasis here is on the soundness of approach and reasonableness of the time allowances proposed. Evaluated under this criterion will be the techniques to be used for collecting and analyzing data; the sequence and relationships of major work steps; and methods of managing the work. Also considered in this category will be the Proposer's compliance with specific RFP requirements as well as its understanding of the Commission's work involved, and the need for project management controls and adequate quantification (and support for the quantification), where possible, for all findings, conclusions, and recommendations and communications thereof.

B. PROFESSIONAL PERSONNEL AND INFRASTRUCTURE.

This refers to the competence and appropriate assignment of the project management or lead personnel, professional support personnel, and technical support staff. Qualifications of personnel will be measured by education and experience, with particular reference to experience on projects similar to that described in the RFP. Infrastructure will be measured by the Proposer's organizational, financial, and physical assets and whether these will adequately support the work load and demands associated with the project.

C. PRIOR WORK. The Commission believes that prior experience will be important to performing the work. Prior work will be evaluated to judge the ability of the Proposer to meet the terms of the RFP. Prior work will be used to judge the quality and relevancy of projects completed by the Proposer.

b. **Cost:** The Issuing Office has established the weight for the Cost criterion for this RFP as **30 %** of the total points.

c. **Small Diverse Business Participation:**

BSBO has established the weight for the Small Diverse Business (SDB) participation criterion for this RFP as **20 %** of the total points. Each SDB participation submittal will be rated for its approach to enhancing the utilization of SDBs in accordance with the below-listed priority ranking and subject to the following requirements:

1. A business submitting a proposal as a prime contractor must perform 60% of the total contract value to receive points for this criterion under any priority ranking.
2. To receive credit for an SDB subcontracting commitment, the SDB subcontractor must perform at least fifty percent (50%) of the work subcontracted to it.
3. A significant subcontracting commitment is a minimum of five percent (5%) of the total contract value.
4. A subcontracting commitment less than five percent (5%) of the total contract value is considered nominal and will receive reduced or no additional SDB points depending on the priority ranking.

Priority Rank 1: Proposals submitted by SDBs as prime offerors will receive 150 points. In addition, SDB prime offerors that have significant subcontracting commitments to additional SDBs may receive up to an additional 50 points (200 points total available).

Subcontracting commitments to additional SDBs are evaluated based on the proposal offering the highest total percentage SDB subcontracting commitment. All other

Offerors will be scored in proportion to the highest total percentage SDB subcontracting commitment within this ranking. *See formula below.*

Priority Rank 2: Proposals submitted by SDBs as prime contractors, with no or nominal subcontracting commitments to additional SDBs, will receive 150 points.

Priority Rank 3: Proposals submitted by non-small diverse businesses as prime contractors, with significant subcontracting commitments to SDBs, will receive up to 100 points. Proposals submitted with nominal subcontracting commitments to SDBs will receive points equal to the percentage level of their total SDB subcontracting commitment.

SDB subcontracting commitments are evaluated based on the proposal offering the highest total percentage SDB subcontracting commitment. All other Offerors will be scored in proportion to the highest total percentage SDB subcontracting commitment within this ranking. *See formula below.*

Priority Rank 4: Proposals by non-small diverse businesses as prime contractors with no SDB subcontracting commitments shall receive no points under this criterion.

To the extent that there are multiple SDB Participation submittals in Priority Rank 1 and/or Priority Rank 3 that offer significant subcontracting commitments to SDBs, the proposal offering the highest total percentage SDB subcontracting commitment shall receive the highest score (or additional points) available in that Priority Rank category and the other proposal(s) in that category shall be scored in proportion to the highest total percentage SDB subcontracting commitment. Proportional scoring is determined by applying the following formula:

$$\frac{\text{SDB \% Being Scored}}{\text{Highest \% SDB Commitment}} \times \frac{\text{Points/Additional Points Available}^*}{\text{Points Available}^*} = \frac{\text{Awarded/Additional SDB Points}}{\text{SDB Points}}$$

Priority Rank 1 = 50 Additional Points Available

Priority Rank 3 = 100 Total Points Available

Please refer to the following webpage for an illustrative chart which shows SDB scoring based on a hypothetical situation in which the Commonwealth receives proposals for each Priority Rank:

http://www.portal.state.pa.us/portal/server.pt/community/rfp_scoring_formulas_overview/20124

III-5. PROPOSER RESPONSIBILITY. To be responsible, a Proposer 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 a Proposer 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 Proposer's proposal must be greater than or equal to **70%** of the **available technical points**; and
- B. The Proposer's financial information must demonstrate that the Proposer possesses the financial capability to assure good faith performance of the contract. The Issuing Office will review the Proposer's previous financial statements, any additional information received from the Proposer, and any other publicly-available financial information concerning the Proposer, and assess each Proposer's financial capacity based on calculating and analyzing various financial ratios, and comparison with industry standards and trends.

A Proposer that fails to demonstrate sufficient financial capability to assure good faith performance of the contract as specified herein may be considered by the Issuing Office, in its sole discretion, for Best and Final Offers or contract negotiation contingent upon such Proposer providing contract performance security for the first contract year cost proposed by the Proposer in a form acceptable to the Issuing Office. Based on the financial condition of the Proposer, the Issuing Office may require a certified or bank (cashier's) check, letter of credit, or a performance bond conditioned upon the faithful performance of the contract by the Proposer. The required performance security must be issued or executed by a bank or surety company authorized to do business in the Commonwealth. The cost of the required performance security will be the sole responsibility of the Proposer and cannot increase the Proposer's cost proposal or the contract cost to the Commonwealth.

Further, the Issuing Office will award a contract only to a Proposer determined to be responsible in accordance with the most current version of Commonwealth Management Directive 215.9, Contractor Responsibility Program.

III-6 BEST AND FINAL OFFERS.

- 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 a reverse 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 III**, 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 70% of the total amount of technical points allotted to the technical criterion.

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.

- C. The Evaluation Criteria found in **Part III**, shall also be used to evaluate the Best and Final offers.
- D. For Best and Final Offers, dollar commitments to Small Diverse Businesses can be reduced only in the same percentage as the percent reduction in the total cost.

III-7. 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, BSBO's final small diverse business participation scores, the final cost scores, in accordance with the relative weights assigned to these areas as set forth in this Part.
- B. The Issuing Office will rank responsible Proposers according to the total overall score assigned to each, in descending order.
- C. The Issuing Office must select for contract negotiations the Proposer with the highest overall score; PROVIDED, HOWEVER, THAT AN AWARD WILL NOT BE MADE TO AN PROPOSER WHOSE PROPOSAL RECEIVED THE LOWEST TECHNICAL SCORE AND HAD THE LOWEST COST SCORE OF THE RESPONSIVE PROPOSALS RECEIVED FROM RESPONSIBLE PROPOSERS. IN THE EVENT SUCH A PROPOSAL ACHIEVES THE HIGHEST OVERALL SCORE, IT SHALL BE ELIMINATED FROM CONSIDERATION AND AWARD SHALL BE MADE TO THE PROPOSER WITH THE NEXT 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.

III-8. POTENTIAL CONFLICTS OF INTEREST. In order to ensure an impartial review of the EDCs' plans, other than in performance of duties under this contract, the Contractor or any subcontractors, or any parent or related entities to the Contractor or any subcontractors, or any of the Contractor's or any subcontractors' employees, may not provide evaluation or conservation services to any of the Pennsylvania-based EDCs during the contract term. Affiliates of EDCs may not offer Proposals. In addition, the contract or will seek review and approval from the Project Officer on a case-by-case basis before contracting with electric distribution utilities

located outside of Pennsylvania that are affiliates of Pennsylvania-based EDCs or who share the same corporate parent company. Factors to be considered by the Commission include, but are not limited to, the following: 1) whether the contract oversight for the non-Pennsylvania-based EDC involves the same staff that are involved in contract oversight of the Act 129 program contracts; 2) whether the staff that are involved in the Commission contract are the same or different from the staff that would work on the out-of-state contract; and 3) whether the nature of the work on the out-of-state contract involves EM&V and EE&C program design work or other work such as market research. Requests for review from the Contractor should include information on these factors as well as other factors that may be relevant to potential conflicts of interest.

In order to ensure a completely independent evaluation and provide maximum credibility to the resultant reports, if the interested Proposer has performed evaluation or conservation services for the EDCs, the contractor must disclose this information to the Commission. Additionally, any work performed by the Proposer in relation to the EDCs on behalf of another party, including work performed in an adversarial proceeding, must be disclosed. The Proposer that has performed such prior work is required to explain, in detail, the measures that will be taken to avoid any conflict of interest or appearance of impartiality that may arise as a consequence of this contract. The Issuing Office will determine, on a case-by-case basis in consultation with the EDCs, whether such prior activity creates an actual or potential conflict of interest that bars the Proposer's proposal from consideration. The EDCs shall have the right to perform their own conflict of interest investigation and report the results back to the Issuing Office prior to selection of the contractor. (*See also* II-7.)

III-9. POTENTIAL CONFLICT OF INTEREST WAIVER DURING PHASE II TO PHASE III OVERLAP PERIOD: In the interest of the Commission having an unrestricted pool of evaluation firms that could offer a bid in response to the SWE RFP for Phase III, the Commission will institute a temporary waiver of the Potential Conflict of Interest provisions contained in Section III-8 above. The temporary waiver will cover the Phase II to Phase III overlap period from June 1, 2016 until February 28, 2017. The temporary waiver will enable an evaluation firm currently under contract with a Pennsylvania-based EDC for Phase II evaluation services to offer a bid, and if successful in securing such a contract with the Commission, to serve as the Commission's Phase III SWE under certain conditions.

The Commission anticipates that while the Phase II program period will officially close on May 31, 2016, the evaluation activities for Phase II will likely continue for several months, but no later than February 28, 2017. The Commission also anticipates that it will need Phase III evaluation services to commence on about March 1, 2016 so that EDC data tracking and reporting provisions are in place before the Phase III EE&C programs begin on June 1, 2016.

In the event that an EE&C program evaluation firm who has an existing Phase II contract with a Pennsylvania-based EDC is the successful bidder for the Commission's Phase III SWE, the following conditions must be met during the overlap period from June 1, 2016 through February 28, 2017:

1. The evaluation firm will not provide Phase II evaluation services to any Pennsylvania-based EDC beyond February 28, 2017.

2. The evaluation firm will not enter into a contract, nor provide evaluation services to any Pennsylvania-based EDC for the remainder of Phase III.
3. The evaluation firm must ensure the Commission that there is different staff assigned to the EDC and SWE contracts during the overlap period. Furthermore, the evaluation firm must demonstrate reasonable provisions of separation between the two contracts so that there are no perceived or actual conflicts of interest between serving the Commission and EDCs during the overlap period.

PART IV**WORK STATEMENT**

IV-1. GENERAL OVERVIEW. With the passage of Act 129 of 2008, the Commission has been charged by the Pennsylvania General Assembly with establishing an energy efficiency and conservation (“EE&C”) program. In Phase I, the EE&C program required each electric distribution company (“EDC”) with at least 100,000 customers to submit a plan for Commission approval to reduce electric consumption by May 31, 2011, by at least 1% of its expected consumption for June 1, 2009 through May 31, 2010. 66 Pa. C.S. § 2806.1(c)(1). By May 31, 2013, the total annual consumption was to be reduced by a minimum of 3% of the EDC’s consumption for June 1, 2009 through May 31, 2010. 66 Pa. C.S. § 2806.1(c)(2). Also, by May 31, 2013, each covered EDC’s peak demand was to be reduced by a minimum of 4.5% of the EDC’s annual system peak demand in the 100 hours of highest demand, measured against the EDC’s peak demand during the period of June 1, 2007 through September 30, 2007. 66 Pa. C.S. §2806.1(d)(1). The Phase I Act 129 EE&C programs commenced in 2009 and operated through May 31, 2013.

Act 129 also required the Commission to periodically evaluate whether there are additional cost-effective energy efficiency and peak load reductions to be garnered in subsequent phases of Act 129 and if so, to require additional, incremental reductions. 66 Pa. C.S. §2806.1 (C)(3), (D)(2). Phase II Act 129 programs commenced June 1, 2013 and are scheduled to operate through May 31, 2016. In order to make an informed decision about a possible Phase III of Act 129 programs, the Commission contracted with the Phase II SWE to conduct residential as well as commercial and industrial baseline studies as well as a Phase III, Market Potential Energy Efficiency Study.

On June 19, 2015, the Commission entered a Final Phase III Implementation Order, at Docket No. M-2014-2424864, establishing a timeline for program implementation and establishing energy efficiency targets for each EDC covered by Act 129. The Final Implementation Order established a five-year Phase III term commencing on June 1, 2016 and ending on May 31, 2021. The percentage reduction targets, as well as the five-year value of reductions in MWh, appear below in Table 1.

Table 1: Act 129 Phase III Five-Year Energy Efficiency Reduction Compliance Targets

EDC	Portfolio EE Spending Ceiling (Million \$)	Program Acquisition Costs (\$/1 st -YR MWh Saved)	Five-Year Value of Reductions (MWh)	% of 2010 Forecast
Duquesne	\$88.0	\$199.5	440,916	3.1%
FE: Met-Ed	\$114.4	\$190.9	599,352	4.0%
FE: Penelec	\$114.9	\$202.9	566,168	3.9%
FE: Penn Power	\$30.0	\$190.4	157,371	3.3%
FE: WPP	\$106.0	\$196.0	540,986	2.6%
PECO	\$384.3	\$195.8	1,962,659	5.0%
PPL	\$292.1	\$202.4	1,443,035	3.8%
Statewide	\$1,129.6	\$197.8	5,710,488	3.9%

Final Phase III Implementation Order also established demand response targets for each EDC covered by Act 129. The percentage reduction targets, as well as the value of reductions in MW, appear below in Table 2.

Table 2: Act 129 Phase III Five-Year Energy Demand Response Reduction Compliance Targets

EDC	5-Year DR Spending Allocation (Million \$)	Program Acquisition Costs (\$/MW/year)	Average Annual Potential Savings (MW)	% Reduction (Relative to 2007-2008 Peak Demand)
2016-2020 – 10% DR Spending Allocation Except Where Noted by Asterisk				
Duquesne	\$9.77	\$57,976	42	1.7%
*FE: Met-Ed	\$9.95	\$51,210	49	1.8%
*FE: Penelec	\$0.00	\$50,782	0	0.0%
FE: Penn Power	\$3.33	\$49,349	17	1.7%
FE: WPP	\$11.78	\$46,203	64	1.8%
PECO	\$42.70	\$66,370	161	2.0%
*PPL	\$15.38	\$41,622	92	1.4%
Statewide	\$92.90	\$54,714	424	1.6%

Since the Commission identified a cost-effective Phase III demand response program design, the Commission will have the Phase III SWE conduct a demand response market potential study. More detail on the demand response market potential study appears later in this RFP under the section labeled Statewide Studies.

The Commission has also issued other Phase III related orders that are pertinent to Phase III SWE activities. On June 22, 2015, the Commission issued a Final Implementation Order for the Total Resource Cost (TRC) Test for Phase III of Act 129 at Docket No. M-2015-2468992. The Commission also issued a Technical Reference Manual (TRM) Final Order on July 8, 2015, at Docket No. M-2015-2469311. The effective date of the TRM changes from the July 2015 Final Order is June 1, 2016; thereby, applying to the first year of Phase III. Thereafter, the Commission anticipates updating the TRM on an as needed basis, to be determined by the Commission. The Commission anticipates that the Phase III SWE will be very involved in any TRM updates that may occur in Phase III with more detail contained in this RFP.

The Phase III planning timeline continues with EDCs filing their EE&C program plans on or before November 30, 2015. The Commission plans to rule on the EE&C plans by March 2016. Phase III EE&C programs will commence on June 1, 2016 and operate until May 31, 2021.

The EDCs that must comply with the Act are Duquesne Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, Pennsylvania Power Company, PPL Electric Utilities Corporation and West Penn Power Company. The broad customer class categories that are to be tracked are residential, low-income residential, commercial; industrial and governmental, educational and non-profit entities.

IV-2. GENERAL OBJECTIVES. The Act requires the Commission to establish an evaluation process that monitors and verifies data collection, quality assurance and the results of each EDC plan and the program as a whole, including cost-effectiveness in accordance with the TRC test. To assist in this endeavor, the Commission has adopted a TRM to help fulfill the evaluation process requirements contained in the statute.

While the Act requires the Commission to oversee the proper implementation of the EDCs' plans, each EDC plan must explain how quality assurance and performance will be measured, verified and evaluated by the EDCs' own independent evaluators. An evaluation of the EDCs' plan implementation is conducted every year, as each EDC must submit a final annual report by November 15, documenting the effectiveness of its plan, energy savings measurement and verification, an evaluation of the cost-effectiveness of expenditures and any other information the Commission requires.

The Commission is issuing this RFP to retain the services of a statewide evaluator for the Phase III EE&C Program who will monitor and verify EDC data collection, quality assurance processes and performance of EDCs' EE&C programs. This statewide evaluator will also evaluate each EDC's plan results on an annual basis and the entire EE&C program as a whole. This evaluation will include an analysis of plan and program impacts (energy and demand response savings) and cost-effectiveness, report results and provide recommendations for plan and program improvements. In addition, the statewide evaluator will conduct an assessment of potential future energy efficiency and demand response savings.

The work scope in this RFP is written as a fairly high level overview and generally seeks to build upon the processes, manuals and studies adopted during Phase II to audit and verify the accuracy of the results provided by the EDCs and the Act 129 EE&C program as a whole.

Bidders are requested to propose an approach to evaluation of the EDCs' Phase III EE&C plans so as to accomplish the following:

- Conduct an evaluation process to monitor, audit and verify EDC data collection and provide quality assurance that EDC-claimed savings are independently verified (includes working with EDC independent evaluators to audit results and assessing semi-annual and annual reports that EDCs provide to the Commission.)
- Evaluate potential improvements to each EDC's programs and measures.
- Review and update the existing Phase II Audit Plan.
- Maintain and update, as necessary, the Pennsylvania Technical Reference Manual (TRM) in conjunction with TUS staff and the Commission's formal order process. This includes incorporating information derived from Act 129 program data and secondary research sources to ensure that the TRM accurately captures EE&C program measure savings.
- Maintain and update the Pennsylvania Total Resource Cost (TRC) Test Manual in conjunction with TUS staff and the Commission's formal order process.
- Maintain EDC's EE&C program performance data, a secure and confidential Sharepoint site, and prepare semi-annual and annual reports for the Commission.
- Conduct an energy efficiency baseline study to support a Phase IV market potential study.
- Conduct an energy efficiency market potential study and prepare recommendations to the Commission for Phase IV energy efficiency targets.
- Conduct a demand-response market potential study and prepare recommendations to the Commission for Phase IV demand response targets.
- Review EDC EE&C program plan changes and advise Commission staff of the ability of the plan changes to cost-effectively achieve savings targets.
- Provide expert consultation to Commission staff, coordinate program evaluation with Commission staff and conduct or participate in meetings with Commission staff and stakeholders.
- Provide Act 129 Phase III data to Commission staff for use in analysis and/or coordinated state agency projects that may benefit Act 129.

The Contractor will be responsible for managing sub-contractors, if any, so that the Contractor speaks with one voice through the prime Contractor. The Contractor will also be responsible for maintaining regular and direct communication with the Project Officer and staff of the Commission's Bureau of Technical Utility Services. Contractor must also maintain and archive electronic and paper files and data collected or developed during the conduct of its duties using a secure Sharepoint site. Contractor must attend meetings as directed by the Project Officer.

The Contractor will have access to customer information and other confidential data. Contractor will need to sign confidentiality agreements with EDCs and other entities that will limit Contractor's use of this data to supporting this auditing program.

Although this contract will be paid for by the Contracting Entity, the Contractor should realize that the Commission is the principal client. Consequently, there will be no direct reporting by the Contractor to the Contracting Entity or EDCs, without prior Commission staff approval. It is necessary that the Commission maintain control of this engagement and that it and the EDCs be kept abreast of the Contractor’s progress. Therefore, periodic oral and written reports will be necessary in addition to the frequent informal contact between the Contractor’s staff and the Commission’s staff.

The roles and functions that EDCs, Contractor and Commission staff will fulfill are outlined in Table 2.

TABLE 2

Pennsylvania Energy Efficiency and Conservation Programs – Evaluation, Measurement and Verification, Data Tracking and Reporting Activities: Roles and Responsibilities for EDCs, Statewide Evaluator and Commission

Task and/or Deliverable	Electric Distribution Company (or their Consultant)	Contractor	PA PUC
Statewide Studies			
Conduct electric energy efficiency baseline studies to support EE Market Potential Study.		XX	
Conduct electric Energy Efficiency Market Potential Study for targets to be achieved in a potential Phase IV EE&C Program from 6/1/21 to 5/31/26.		XX	
Conduct electric Demand Response Market Potential Study for targets to be achieved in a potential Phase IV Demand Response Program from 6/1/21 to 5/31/26.		XX	
Review and approval of Statewide Baseline and Market Potential studies.			XX
Initiate and coordinate updates to TRM and interim updates (new protocols or corrections).		XX	
Approval of TRM updates.			XX
Initiate, scope, and conduct/coordinate statewide site inspections, statewide site metering studies, review of data/studies from PA and other states, etc. to determine if the PA TRM correctly estimates savings and/or to revise PA TRM protocols.		XX	

Audit and Assess EDC Phase III Programs and Results			
Prepare EDC impact and process evaluation plans; including database and reporting protocols, survey templates, and schedules.	XX		
Review and approval of EDC evaluation plans.		XX	XX
Review and update existing Phase II Audit Plan. Thereafter, update Audit Plan as needed.		XX	
Approval of revised statewide audit plan			XX
Conduct Impact Evaluation, process evaluation, NTG analysis and cost-effectiveness evaluation.	XX		
Review/audit all EDC evaluation results-impact evaluation, process evaluation, NTG analysis and cost-effectiveness evaluation.		XX	
Databases			
Design, implementation and maintenance of EDC primary program tracking database(s) with project and program data.	XX		
Establishing and implementing quality control reviews of EDC program tracking databases.		XX	
Statewide Data Management and Quality Control. Design, implementation and maintenance of statewide database of program, portfolio, EDC and statewide energy and demand savings and cost-effectiveness reporting.		XX	
Develop and maintain secure Sharepoint site for maintenance and exchange of confidential data and information with EDCs.		XX	
Primary Data Collection and Impact Analyses			
Primary data collection and site baseline and ex-post verification for EE and DR projects.	XX		
Analyses and documentation of project, program and portfolio gross and net energy and demand savings.	XX		
Quality control and due diligence. Inspections of project sites and review of primary data and analyses, preparation of verified claimed savings.	XX		
Audit and assess EDC evaluator performance of EM&V Plans.		XX	
EDC Plan Review			
Review filed EDC EE&C plans and provide advice to Commission staff on ability of plans to cost-effectively meet targets (includes cost-effectiveness analyses)		XX	

Review of EDCs' EM&V plans and provide advice to Commission staff on ability of plans to adequately measure energy savings		XX	
Reporting (Annual and Semi-Annual)			
EDC semi-annual and annual reporting of EE and DR program and portfolio net and gross impacts, as applicable, and cost-effectiveness, and EDC progress in reaching targets	XX		
Develop the Statewide semi-annual and annual report templates. Review EDCs' reports and advise the Commission of program and portfolio results: net and gross impacts and cost-effectiveness and EDC progress in reaching targets. Prepare Statewide Annual and Semi-annual Reports to the Commission.		XX	
Review and approve Contractor's Statewide Semi-Annual and Annual Reports.			XX
Review EDC and PUC Contractor's Semi-Annual and Annual Reports on EE and DR Programs: net and gross savings impacts and cost-effectiveness and EDC progress in reaching targets.			XX
Best Practices			
Participation in impact evaluation process review and improvement workshops as needed	XX		XX
Preparation of best practices recommendations for improvements to impact evaluation processes		XX	
Prepare best practices recommendations for program modifications and improvements		XX	
Other			
Prepare materials and reports in support of Commission analysis of energy efficiency and demand response programs		XX	
Assist in the organization of and conduct periodic and stakeholder meetings on evaluation results of EE and DR programs, proposed changes to the TRM, etc.		XX	

IV-3. UPDATE AND REVISE AUDIT PLAN. The first phase of the contract will involve an update of the existing Audit Plan confirming the metrics and data formats EDCs must use and provide to the Contractor. The Contractor will update what data are required, how the data are to be measured, recorded and transmitted, and how the data will be audited.

The Contractor will be responsible for the following: a) update of the Audit Plan supporting verification of EDC plans and reports; b) review and update as needed EDC reporting

requirements; c) confirmation that the EDC's EM&V review processes are appropriate to verify energy savings; d) an updated plan for evaluation activities, including coordination with EDC independent evaluator audit processes; e) establish and maintain a secure Sharepoint site for the exchange of non-public/confidential data and information between the SWE, EDCs and Commission; and f) identify best evaluation practices that should be implemented on a going forward basis. Additional formal and informal reporting requirements may be required upon request of the Project Officer.

The update and revision of the Audit Plan will begin immediately after contract execution. The Contractor will meet with representatives of TUS and other designated Commission staff as needed throughout the update of the draft Audit Plan to discuss details and make decisions and will coordinate with EDCs as necessary to incorporate lessons learned and experience gained in Phase II. The update of the Audit Plan will not be considered final until approved by the Project Officer. The update of the Audit Plan will be completed by May 31, 2016, or earlier if possible.

The Audit Plan will be considered a "living document," that can be revised on a regular basis throughout the project term. The Contractor, with approval of the Project Officer, can update the Audit Plan as needed to adjust to changes in EDC plans. It is anticipated that such updates will occur at such times that will allow EDCs ample opportunity to adjust their data collection and recording methods and meet their annual reporting requirements.

IV-4. AUDITING AND VERIFICATION. The Contractor will monitor and verify data collection, quality assurance and the results of each EDC plan on an ongoing basis in accordance with the revised Audit Plan approved under the contract. The Contractor will review each EDC's plan tracking systems to assess each EDC's ability to meet the Audit Plan and Commission-established targets in a cost-effective manner. The activities identified in the Audit Plan, and related to the Contractor's monitoring and verifying data collection, quality assurance and results of each EDC plan will include, but are not limited, to the following:

- Ensuring the EDCs maintain an evaluation and plan management database.
- Conducting random spot verification coordinated with the EDC's independent evaluator of EDC EM&V measurements and data.
- Acquiring data from EDCs and other sources and verifying EDC supplied data.
- Reviewing EDC's plan to determine whether EDCs are meeting energy savings targets.
- Provide reasonable assurance that the claimed measures are being properly installed and utilized.
- Provide reasonable assurance that the installed measures are obtaining the claimed energy savings and demand reductions in accordance with the Commission approved TRM or other approved methods.
- Review and verify EDC's performance by accompanying EDC evaluators on spot field inspections, in coordination with EDCs and Commission staff, using trained personnel.

- Spot verification, in coordination with EDC evaluators, utilizing site specific data collection methods on participating customer property.
- Auditing EDC survey instruments.
- Review and verify, in coordination with the EDCs, the EDC evaluators' customer and trade-ally satisfaction surveys and reports.
- Coordinate the development of, and approve the methodologies for net-to-gross studies to be performed by EDCs.
- Conducting limited market baseline studies to establish baselines as needed for the impact evaluations of specific programs.
- Analyzing verification data collected by EDC evaluators.
- Interfacing and coordinating with Commission staff and EDCs.
- Critiquing reported energy and demand savings utilizing field verification, Technical Reference Manual derived savings, approved custom measure derived savings, measurement and verification, and large scale billing analyses.
- Verifying reported cost-effectiveness of EDC plans using the Commission adopted Total Resource Cost Test.
- Review and monitor EDCs' EM&V plans and execution of said plans.

IV-5. TECHNICAL REFERENCE MANUAL AND TRC TEST UPDATE. The Contractor will coordinate and participate in updates of the TRM, as necessary, as it relates to the calculation of savings for standard energy efficiency measures. These tasks involve working with the Commission, EDCs and other stakeholders to identify measures for inclusion in the TRM and to revise existing savings calculations based on primary research from Act 129 data from EM&V activities, secondary research sources, as well as changes in technology and/or government/industry standards and building codes.

The Contractor will be responsible for making recommendations to TUS staff and the Commission about changes to the TRM that are needed to ensure that the Commission's policy objectives are met regarding an up-to-date TRM.

The Commission's process for updating the TRM for the first year of the Phase III EE&C programs is already complete as a Final Order was issued on July 8, 2015 at Docket No. M-2015-2469311, for the TRM effective June 1, 2016.

In addition to any updates to the TRM that are to be effective for Phase III, the contractor will be responsible for assisting with the update of the TRM to be effective as of the first year of a potential Phase IV EE&C program should the Commission decide to implement a Phase IV program. The schedule for the Phase IV TRM update will be determined by the Commission at a later date. If possible, it is anticipated that the Phase IV TRM update will be finalized at least a year in advance of June 1, 2021 so EDCs can prepare Phase IV plans that are based on known Phase IV TRM values.

The Contractor will coordinate and participate in a periodic review of the TRC Test utilized by the Commission and EDCs to determine program cost-effectiveness. The Commission issued a Final Implementation Order for the TRC Test for Phase III of Act 129

EE&C programs on June 22, 2015 at Docket No. M-2015-2468992. Unless otherwise directed by the Project Officer, the contractor will be expected to assist the Commission in updating the TRC test during the first eight months of 2020 should the Commission decide to implement a Phase IV Act 129 EE&C program. The 2020 update of the TRC test would be effective with the start of a potential Phase IV program.

IV-6. DATA MANAGEMENT AND COMMISSION REPORTS. The Contractor will be responsible for maintaining program data and information, a secure Sharepoint site, and to prepare semi-annual and annual reports on EE&C Program performance, based primarily on a review of EDC reports.

The Contractor will be responsible for designing, implementing and maintaining a statewide database of program and portfolio energy savings and cost data by EDC and for the state as a whole. The database shall contain information on energy and demand savings and cost-effectiveness reporting.

The Contractor will be responsible for establishing a secure Sharepoint site for the exchange of non-public/confidential data and information. The Contractor must maintain and archive electronic and paper files and data collected during the conduct of its duties using a secure Sharepoint site.

REPORTS

The Contractor will be responsible for preparing an annual report for the Commission. The Contractor's annual reporting process shall be as follows (all due dates require submission to the appropriate parties by 4pm of the due date):

- (1) EDCs provide their Final Annual Report to the Commission on November 15, following the conclusion of the EE&C program year on May 31.
- (2) Contractor will provide a draft annual report on each EDC's Final Annual Report to the EDCs by January 15.
- (3) EDCs will check the data in the draft annual report and provide factual corrections to the Contractor by January 22.
- (4) The Contractor will review the EDCs' submitted corrections and provide the annual report to the Project Officer by January 29.
- (5) The Project Officer will coordinate Commission review of the annual report and provide comments to the Contractor by February 13.
- (6) The Contractor will provide a final annual report on each EDC plan and the program as a whole to the Project Officer by February 28.
- (7) Final Annual Reports will be provided to the Commission by February 28, 2018, February 28, 2019, February 28, 2020 and February 28, 2021. The annual reports may form the basis for Commission annual reports required to be provided to the legislature each year.

- (8) The contractor will provide a Final Five-Year Energy Efficiency and Conservation Program Assessment Report to the Commission by February 28, 2022. This report will include the content for the 2020/2021 program year in lieu of a 2020/2021 Final Annual Report.
- (9) The Contractor shall provide an electronic version of the Final Reports to the Commission and the Contracting Entity for disbursement to the EDCs in a format that is compatible with the Commission's network software.

The Annual Reports and the Final Five-Year Report will include, but are not limited to, the following:

- An analysis of each EDCs' plan expenditures and an assessment of the programs expenditures.
- An analysis of each EDCs' protocol for measurement and verification of energy savings attributable to its plan, in accordance with the Commission adopted TRM and approved custom measures.
- An analysis of the cost-effectiveness of each EDCs' expenditures in accordance with the Commission adopted Total Resource Cost Test Manual.
- A review of Technical Reference Manual information and savings values with suggestions for possible revisions and additions.
- A review of the Total Resource Cost Test Manual with suggestions for possible revisions and additions.
- A review of any proposed revisions and updates to EDC plans.

In addition to annual reports discussed above, the Contractor will be responsible for preparing an Update Report by August 15 of each year, from 2017 through 2021, that contains as much evaluated savings as possible for the program year. Where evaluated savings are not available, the Update Report should contain as much claimed savings to date as possible. Each Update Report shall provide updates on energy (MWh) and demand (MW) savings, impact evaluations and cost effectiveness of EE&C programs by utility. The reports should contain information on program year performance and phase-to-date information as appropriate. The Update Reports are based on EDCs' semiannual reports which are due on July 15.

The Contractor may be asked to provide expert testimony regarding the conclusions contained in the annual, Final Five-Year and semiannual reports.

IV-7. ENERGY EFFICIENCY BASELINE STUDIES. The Contractor will conduct updates to the Baseline Studies completed by the Phase II contractor which were used to inform the Commission regarding establishing mandates for Phase III. The baseline studies are needed to support a Market Potential Analysis and Report to the Commission to provide guidance for a possible Phase IV of Act 129 EE&C Programs for Pennsylvania.

Because of significant differences among customer groups, several distinct baseline studies may be needed for each EDC service territory. Bidders are encouraged to develop a proposal as to how they would develop cost-effective study plans and methodologies to support specific customer group targets or carve-outs in the SWE Market Potential Report.

The primary objectives of the baseline studies include the following:

- Select a representative random sample of select customer groups for participation in the baseline study;
- Profile electric customers groups at the sector and end use level;
- Determine the current saturation of energy using equipment in residential households, commercial and industrial facilities, etc.
- Determine the current saturation of energy efficient HVAC and appliances and energy efficiency measures and practices in the customer sector;
- Determine average baseline levels of energy use for lighting, plug loads space heating, space cooling and water heating by end use; and
- Determine the percent of energy using equipment by end use that is already high-efficiency equipment.

In Phase I, The Commission directed that each EDC service territory's residential sample and commercial and industrial sample be statistically significant at a confidence level of 90% and a margin of error of 10% at the EDC service territory level. Bidders should include recommendations for confidence and precision levels for the baseline studies in their technical proposals.

It is anticipated that the Baseline Studies will be required to be completed by April 2019. The exact delivery date for the studies to the Commission shall be determined at a later date, consistent with the Commission's timeframe for implementing a potential Phase IV of Act 129 EE&C programs.

IV-8. ENERGY EFFICIENCY POTENTIAL STUDY. Act 129 requires the Commission to periodically evaluate the costs and benefits of the EE&C program. The evaluation is to be consistent with the Total Resource Cost Test. If the Commission determines that the benefits of the program exceed the costs, the Commission shall adopt additional required incremental reductions in consumption. See 66 Pa.C.S. § 2806.1(C)(3).

The Contractor will be responsible for conducting a statewide market potential study to determine the remaining opportunities for cost-effective electric energy efficiency savings in the service territories of the seven EDCs in Pennsylvania subject to Act 129. The study methodology should be detailed enough to result in recommendations to be contained in the report to the Commission for EDC-specific MWh targets for a potential Phase IV of Act 129 EE&C programs. The study should focus on targets to be achieved between June 1, 2021 and May 31, 2026. The Market Potential Study should be completed no later than December 2019.

The exact delivery date for the report to the Commission shall be determined at a later date, consistent with the Commission's timeframe for implementing a potential Phase IV of Act 129 EE&C programs. The completion date for the study may also be impacted by Pennsylvania's response to the US Environmental Protection Agency's Clean Power Plan Regulations.

This potential study will include, but is not limited to, the following:

- An assessment of the technical, economic, achievable and program potential for electric energy efficiency measures for the Commonwealth of Pennsylvania and each EDC service territory for the June 1, 2021 to May 31, 2026 period.
- An assessment and characterization of existing electric end-use baseline data on a customer class (e.g., residential; residential low income; commercial; industrial; and governmental, educational and non-profit entities) basis.
- An overview of the estimated share of electricity use by customer class and major end uses.
- A listing of available Pennsylvania specific load shapes for each customer class.
- A listing of available information about total yearly sales of selected, key energy efficiency equipment, saturation levels of this equipment by customer class, and useful lives of the equipment.
- An assessment of the saturation of other energy efficiency measures, such as efficient industrial processes.
- An assessment of the prevalence of energy conservation behaviors of end users.
- An analysis of the cost-effectiveness (from a statewide perspective) of the achievable program potential as a whole for the period June 1, 2021 to May 31, 2026.
- An assessment of future energy and load reduction potential to include target dates for achieving the targets.

IV-9. DEMAND RESPONSE MARKET POTENTIAL STUDY. As a part of the revised SWE contract for Phase I, dated December, 2011, the Commission directed the Phase I SWE to conduct a Demand Response Study (DR Study)¹. The purpose of the DR Study was to determine if there was an optimal Act 129 demand response curtailment program design for Pennsylvania's electric customers that could operate in conjunction with the PJM demand response programs.

On May 8, 2014, the Commission amended the SWE contract for Phase II to include a Demand Response Market Potential Study (DR Potential Study). The DR Potential Study

¹ Request for Proposal, Act 129 Statewide Evaluator, PA PUC, Revised December, 2011, pages 38, 39; Appendix F.

informed the Commission on the potential for Phase III demand response targets and budgets that were included in the Phase III Act 129 Implementation Order.

The DR Potential Study, to be performed as part of this contract, will inform the Commission on the potential for Phase IV demand response targets and budgets to be included in a potential Phase IV Act 129 Implementation Order. The DR Potential Study must be closely coordinated with the Commission's planning cycle for a potential Phase IV of EE&C Programs. At this time, we estimate that the report would need to be provided to the Commission no later than December 2019. The report should recommend EDC-specific reduction targets in megawatts and percentage reductions as well as a statewide weighted average percentage reduction. The DR Potential Study should provide annual estimates of technical, economic, achievable and program potential for EDC service territory for the June 1, 2021 through May 31, 2026 period.

IV-10. MEETINGS AND OTHER REQUIREMENTS. The Contractor will be required to participate in meetings with the Commission, Act 129 stakeholders and EDC representatives (EE&C Program Managers and EM&V Consultants). The following types of meetings are anticipated:

- Weekly or biweekly conference calls with SWE team leaders and TUS staff. These calls are typically about one hour in duration.
- Occasional meetings at the Commission with Act 129 stakeholders. The SWE may lead these meetings (i.e. updating the TRM, baseline and market potential studies, updating the TRC) to be held in Harrisburg, Pennsylvania. These meetings may be up to a full day in duration and include PowerPoint presentations by the SWE as well as questions and answers. On average, two such stakeholder meetings could be held per year.
- Four Program Evaluation Group (PEG) meetings with TUS staff and EDC representatives per year. Typically, at least two of these meetings each year are in Harrisburg. The other two are conducted telephonically. These meetings often involve PowerPoint presentations by the SWE and may be up to a full day in duration.
- The SWE should plan on one in-person meeting per year in Harrisburg with TUS staff, Commissioners' assistants and perhaps Commissioners. These meetings are held to discuss contractor performance and prioritize activities for the upcoming year. They are about a half day in duration and typically involve a PowerPoint presentation by the SWE.
- Other in-person or conference call meetings may be required with TUS staff and/or the Project Officer as needed. The meetings may involve topics such as project budget review and status on special research projects.
- Meetings with EDC Program Managers and EM&V Consultants as needed. These meetings may occasionally be in person but more commonly by conference call. Topics may include the development of custom measure protocols, evaluation, audit planning or feedback.

In addition to meeting activity, the Commission may require the SWE to design and develop materials needed for Commission discussions, workshops, reports, etc. The

Commission may also require the SWE to provide any requested Act 129 Phase III data for use in analysis and/or coordinated state agency projects that may benefit Act 129.

IV-11. TESTIMONY. The Contractor is required to stand behind its conclusions and recommendations by testifying and by aiding in the preparation of testimony by Commission staff, if necessary, in any future rate case or other proceeding before the Commission or for proceedings in other venues. These proceedings may include, but are not limited to, hearings before Commission Administrative Law Judges addressing EDC compliance with Phase III EE & DR targets or to support any potential Phase IV EE & DR targets. The Contractor is required to provide factual support for its conclusions and recommendations in such testimony. The Contractor's staff involved in providing such testimony shall be compensated at 150% of the hourly rates indicated in the Proposal. These costs will be paid in accordance with the payment methods of the contract; however, those costs will be in addition to and billed separately from the base contract amount at 150% of the consultant hourly rates provided in the Contractor's Proposal.

IV-12. ONGOING OBLIGATIONS. Data, records, and other materials collected or created by the contractor regarding evaluation of the conservation plans is property of the Commission. Information must be maintained in a manner to enable access for at least ten years from date of creation of the data, record or other materials. Prior to destruction of such materials, the Contractor must notify the Commission to allow the Commission to take custody of such materials, if it so chooses.

IV-13. SMALL DIVERSE BUSINESS PARTICIPATION.

All contracts containing Disadvantaged Business participation must also include a provision requiring the selected Contractor to meet and maintain those commitments made to Disadvantaged Businesses at the time of proposal submittal or contract negotiation, unless a change in the commitment is approved by the BSBO.

The selected Contractor's commitments to Disadvantaged Businesses made at the time of proposal submittal or contract negotiation shall be maintained throughout the term of the contract and through any renewal or extension of the contract. Any proposed change must be submitted to BSBO, which will make a recommendation to the Contracting Officer regarding a course of action. If a contract is assigned to another Contractor, the new Contractor must maintain the Disadvantaged Business.

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

NOTE: EQUAL EMPLOYMENT OPPORTUNITY AND CONTRACT COMPLIANCE STATEMENTS REFERRING TO COMPANY EQUAL EMPLOYMENT OPPORTUNITY POLICIES OR PAST CONTRACT COMPLIANCE PRACTICES DO NOT CONSTITUTE PROOF OF DISADVANTAGED BUSINESSES STATUS OR ENTITLE AN PROPOSER TO RECEIVE CREDIT FOR DISADVANTAGED BUSINESSES UTILIZATION.

INSTRUCTIONS FOR NONCOLLUSION AFFIDAVIT

1. This Noncollusion Affidavit is material to any contract/purchase order awarded pursuant to this bid. According to section 4507 of Act 57 of May 15, 1998, 62 Pa. C.S. § 4507, governmental agencies may require Noncollusion Affidavits to be submitted with bids.
2. This Noncollusion Affidavit must be executed by the member, officer or employee of the proposer who makes the final decision on prices and the amount quoted in the bid.
3. Bid rigging and other efforts to restrain competition, and the making of false sworn statements in connection with the submission of bids are unlawful and may be subject to criminal prosecution. The person who signs the affidavit should examine it carefully before signing and assure himself or herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the proposer with responsibilities for the preparation, approval or submission of the bid.
4. In the case of a bid submitted by a joint venture, each party to the venture must be identified in the bid documents, and an affidavit must be submitted separately on behalf of each party.
5. The term “complementary bid” as used in the affidavit has the meaning commonly associated with that term in the bidding process, and includes the knowing submission of bids higher than the bid of another firm, any intentionally high or noncompetitive bid, and any other form of bid submitted for the purpose of giving a false appearance of competition.
6. Failure to submit an affidavit with the bid proposal in compliance with these instructions may result in disqualification of the bid.

NONCOLLUSION AFFIDAVIT

Act 129 Statewide Evaluator RFP

State of _____:

County of _____: S.S.

I state that I am _____ **(Title)** _____ of _____ **(Name of Firm)** _____
and that

I am authorized to make this affidavit on behalf of my firm, and its owners, directors, and officers. I am the person responsible in my firm for the price(s) and the amount of this bid.

I state that:

(1) The price(s) and amount of this bid have been arrived at independently and without consultation, communication or agreement with any other contractor, proposer or potential proposer.

(2) Neither the price(s) nor the amount of this bid, and neither the approximate price(s) nor approximate amount of this bid, have been disclosed to any other firm or person who is a proposer or potential proposer, and they will not be disclosed before bid opening.

(3) No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit a bid higher than this bid, or to submit any intentionally high or noncompetitive bid or other form of complementary bid.

(4) The bid of my firm 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 bid.

(5) _____ **(Name of Firm)** _____, 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 on any public contract, except as follows:

I state that _____ **(Name of Firm)** _____ understands and acknowledges that the above representations are material and important, and will be relied on by the **Pennsylvania Public Utility Commission** in awarding the contract(s)/purchase order(s) for which this bid is submitted. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as fraudulent concealment from the Purchasing Agency of the true facts relating to the submission of this bid.

(Signature)

(Signatory's Name)

(Signatory's Title)

SWORN TO AND SUBSCRIBED
BEFORE ME THIS _____ DAY
OF _____ 20____

My Commission Expires

Notary Public

PROPOSAL COVER SHEET
Act 129 Statewide Evaluator RFP-2015-3

Enclosed in one package are three separately sealed submittals that constitute the proposal of the Proposer identified below for the above-referenced RFP:

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

Submittals Enclosed and Separately Sealed:	
<input type="checkbox"/>	Technical Submittal
<input type="checkbox"/>	Disadvantaged Business Submittal
<input type="checkbox"/>	Cost Submittal

Signature	
Signature of an official authorized to bind the Proposer to the provisions contained in the Proposer's proposal:	
Printed Name	
Title	
Date	

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

RFP TRANSMITTAL LETTER

**Pennsylvania Public Utility Commission
Bureau of Technical Utility Services
Act 129 Statewide Evaluator
RFP-2015-3**

[Company Name]
[Address]
[City, State Postal Code]

Dear Mr./Ms. **[Contact]**:

You are invited to submit a proposal for the Act 129 Statewide Evaluator Contract in accordance with the enclosed request for proposal.

All proposals must be submitted to the address stated in Section I-11 of the RFP no later than 3 p.m., December 11, 2015, as stated in the Calendar of Events. Late proposals will not be considered regardless of the reason.

All questions should be submitted by email (with subject line “RFP-2015-3 Statewide Evaluator RFP Question”) to Darren Gill at dgill@pa.gov by November 9, 2015, as stated in the Calendar of Events. All Proposers will be provided with written answers to questions asked by any Proposer by November 23, 2015, as stated in the Calendar of Events.

In addition, a pre-proposal conference will be held on Thursday, November 12, 2015 at 1 p.m. in Executive Chambers, 3rd Floor, Commonwealth Keystone Building, 400 North St., Harrisburg PA 17120. Questions may also be submitted at the pre-proposal conference, which will also be answered by November 23, 2015. Attendance at the pre-proposal conference is not mandatory.

Sincerely,

Darren Gill
Issuing Officer/Project Officer
Deputy Director, Bureau of Technical Utility Services

Enclosure: Request for Proposal

Act 129 Statewide Evaluator Contract

This Contract is entered into by _____ (“**Contractor**”), **EEC Pennsylvania Evaluations (“Contracting Entity”)**, and the **Pennsylvania Public Utility Commission (“Commission”)**.

Incorporation by Reference. The Request for Proposal and all exhibits, appendices, addenda, and other attachments thereto, the Contractor’s Proposal and all exhibits, appendices, addenda, and other attachments thereto, the Preproposal Conference Questions and Answers, and Exhibits 1 through 5, are hereby incorporated into this Contract by reference.

I. Covenants of the Parties.

The parties to this Contract agree and promise that:

- A. Subject in all respects to the terms and conditions of this Contract and to the duties and limitations contained in the statutory and common law of the Commonwealth of Pennsylvania, the Contractor shall perform as the Act 129 Statewide Evaluator for the Commission. The duties of the Act 129 Statewide Evaluator shall be completed as outlined in and in accordance with the promises, warranties and representations contained in the Contractor’s Proposal (“Proposal”) and the Request For Proposals (“RFP”). The RFP and all exhibits, appendices, addenda, and other attachments thereto, and the Contractor’s Proposal and all exhibits, appendices, addenda, and other attachments thereto are hereby incorporated into this Contract by reference.

- B. The EDCs shall cooperate with the efforts of the Contractor and the Contracting Entity shall pay the Contractor promptly upon submission to it of invoices for payment as described below. Subject to the terms and conditions of this Contract and the statutory and common law of Pennsylvania, Duquesne Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, Pennsylvania Power Company, PPL Electric Utilities Corporation, and West Penn Power Company (“EDC or EDCs”) shall make available to the Contractor all employees with the direct knowledge and data necessary for the Contractor to evaluate expeditiously and draw conclusions. Every effort shall be made by the parties to limit disruption to both the EDCs’ ongoing operations and to the performance of the Contractor’s work plan contained in the Proposal and RFP.

- C. The Commission by its agent, the Project Officer and other designated staff, as described below, shall have the right and opportunity to participate actively in the activities of the Contractor and the EDCs, and to this end shall have immediate access to all data, models, and other materials or information provided to the Contractor and the EDCs except that the Contractor may withhold such data, models, materials, or information to which the Commission does not otherwise have a right of access or inspection. The Commission shall be advised if any data, models, materials, or information is being so designated and may contest such designation.

II. Evaluation Procedures.

A. Project Officer and Party Representatives.

1. The Commission has designated Darren Gill, Bureau of Technical Utility Services, telephone number (717) 783-5244, and email dgill@pa.gov (and/or his designated alternative) as its staff contact (“Project Officer”) and has authorized him/her to act on behalf of the Commission under this Contract. The Project Officer may appoint members of the Commission staff or its designees to represent him/her as appropriate.
2. The Contracting Entity has designated Donna M. J. Clark, Esquire, telephone number (717) 901-0631, and email dclark@energypa.org as its staff contact (“Contracting Entity’s Representative”) and has authorized her to act as the lead contact on behalf of the Contracting Entity under this Contract.
3. Each EDC designates the following person as its staff contact (“EDC Representative”) and has authorized him/her to act as the lead contact on behalf of the EDC under this Contract:

Duquesne Light Company:	David Defide Tel. (412) 393-6107 Email ddefide@duqlight.com
Metropolitan Edison Company:	Kurt Turosky Tel. (330) 384-5847 Email turoskyk@firstenergycorp.com
PECO Energy Company:	Nicholas DeDominicis Tel. (215) 841-4309 Email Nicholas.DeDominicis@exeloncorp.com
Pennsylvania Electric Company:	Kurt Turosky Tel. (330) 384-5847 Email turoskyk@firstenergycorp.com
Pennsylvania Power Company:	Kurt Turosky Tel. (330) 384-5847 Email turoskyk@firstenergycorp.com

PPL Electric Utilities Corporation: Peter D. Cleff
Tel. (610) 774-4530
Email pdcleff@pplweb.com

West Penn Power Company: Kurt Turosky
Tel. (330) 384-5847
Email turoskyk@firstenergycorp.com

Contractor will coordinate with each individual EDC Representative when working with a particular EDC. Each EDC Representative shall be given advance notification of the identities of Commission and Contractor personnel who will be on that EDC's premises and the dates of their visits to specific EDC facilities.

4. The Contractor has designated _____ telephone number _____, and email _____ as its staff contact ("Contractor Representative") and has authorized him/her to act as the lead contact on behalf of the Contractor under this Contract.
5. The Project Officer and Contracting Entity's Representative shall have primary responsibility and authority on behalf of the Commission and the EDCs, respectively, to administer this contract and to agree upon procedures for coordinating the efforts of the EDCs and the Contractor.
6. The parties agree to communicate fully with each other through the designated representatives and to keep each other informed of all pertinent matters and developments relating to the Act 129 Statewide Evaluator Project.
7. The Contractor shall provide the Project Officer with reasonable notice of and opportunity to attend all high-level planning meetings with the EDCs.
8. The EDCs will provide an atmosphere conducive to the free flow of information between the Contractor and the EDCs' employees. Any process which may inhibit employees from expressing their ideas, opinions or suggestions shall be discouraged.

B. Expenses and Payment.

1. Payment. As provided in Section I-28 "Payment" of the RFP and hereafter.
2. The Project Officer shall have the right and opportunity to approve, in whole or in part, each invoice. The basis for the Project Officer's approval shall be a finding that the expenses are reasonable, necessary and correct and billed in accordance with the

provisions of this Contract. Such approval or payment may be withheld if the following items are not included in the invoice:

- a) A list of the individuals, by name and title, who have worked during the invoice period;
 - b) The hourly rates of these individuals as stated in the Proposal;
 - c) The number of hours spent by each individual;
 - d) A listing by category of materials and supplies purchased during the invoice period;
 - e) A list of transportation lodging, and meal expenses by each individual incurring such costs during the invoice period and the basis for calculating such costs; and
 - f) The specific dates when services were rendered.
3. The approval of the Project Officer may also be withheld as to any costs that are not just, reasonable, or in conformity with costs in the Proposal.
4. The total amount paid the Contractor under this Contract shall not exceed the following amounts except as provided in the RFP regarding approved additional expenditures.

Total Contract Price: \$_____

First Year: \$_____

Second Year: \$_____

Third Year: \$_____

Forth Year: \$_____

Fifth Year: \$_____

Baseline Studies: \$_____

EE Market Potential Study: \$_____

DR Market Potential Study: \$_____

5. No expenditures will be reimbursed if they were incurred before the effective date of this contract.
6. All charges for services and other costs charged by the Contractor are subject to review at any time by the Contracting Entity and the Commission.

7. It is presumed that the EDCs will cooperate fully with the Contractor and will provide all relevant data, as well as all employees with the direct knowledge necessary for the Contractor to perform expeditiously its evaluation and draw conclusions. Total payments under this contract will not exceed the total cost quoted in the proposal. However, the total cost may be exceeded if, after the draft Annual and/or Five-Year Reports are released, the EDCs come forth with substantial quantities of new or additional information requiring significant review and analysis by the Contractor. Those costs will be paid in accordance with the payment terms of the Contract; however, those costs will be in addition to and billed separately from the base contract amount at the salary rates provided in the Contractor's Proposal.

III. Other Rights of Parties.

A. Commission's Right to Disapprove Expenditures.

The Commission shall have the right to approve or disapprove invoice expenditures and may adjust payment to the Contractor for the amount of any disapproved expenditure. The Contractor will not be paid for any cost incurred for services not in compliance with the terms of this contract. Nothing herein shall preclude the Contracting Entity from questioning the reasonableness or propriety of any invoice, or any portion of an invoice, submitted by Contractor, prior to payment of the same.

B. Commission's Right to Make Amendments and Changes to Contract.

Subject to the terms and conditions of this Contract and to the statutory and common law of the Commonwealth of Pennsylvania, the Commission shall have the right to make changes in the Statement of Work in the Proposal, provided that any such changes are within the general scope of the Statement of Work, that payment for work performed under such changes shall be made pursuant to the Proposal, and that the total cost of this contract is not exceeded. Approval of the Contracting Entity for such changes shall not be required; however, prior to making any such change the Commission will consult with the Contracting Entity.

C. Confidentiality.

1. The parties recognize that it will be necessary for the Contractor to review certain proprietary information of the EDCs. Accordingly, the Contractor, the EDCs, and the Commission have or will execute Nondisclosure Agreements that are substantially similar to the Nondisclosure Agreement attached hereto as Exhibit 1. The Nondisclosure Agreement, including any Nondisclosure Agreement utilized by any

EDC which may differ from Exhibit 1, is hereby incorporated into this Contract by reference.

2. The executed Contract, the Contractor's Proposal, and the Annual Report and Five-Year Report may be released by the Commission, subject to confidentiality restrictions. Any other information that is not otherwise public will be released only after consent of the Contractor, the Contracting Entity, and the EDCs.
3. If the release is to the media, the Commission agrees to inform the Contracting Entity and the relevant EDCs prior to such release and to provide a copy of the release to the Contracting Entity and the relevant EDCs.
4. No release of any information concerning the Act 129 Statewide Evaluator Project other than the existence and nature of the Contractor may be made by the Contractor, the Contracting Entity, or the EDCs without the prior written approval of the Commission's Project Officer or his/her designee.

D. Termination.

The Commission reserves the right to terminate this Contract with thirty (30) days notice to the Contractor if the Contractor's performance is, in the sole view of the Commission, unsatisfactory and not in keeping with the Proposal and the RFP, and/or for any material breach of the terms contained herein. In the event of a material breach of the Contract terms, the Project Officer shall inform the Contractor's Representative of the breach. The Contractor shall have ten days in which to cure the breach to the satisfaction of the Commission. This provision shall not be construed as a limitation on remedies by the Commission or the Contracting Entity for breach of this Contract by the Contractor.

IV. **Other Agreements by the Parties.**

A. Status of Contractor.

The parties hereto agree that the Contractor and any agents and employees of the Contractor shall act, in the performance of this Contract, in an independent capacity and not as officers, employees or agents of the Commission, the Contracting Entity, or the EDCs.

B. Interest of Contractor.

The Contractor warrants that it presently has no interest and promises that it shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor agrees that in the performance of this Contract, it shall not knowingly employ any person having such interest. The Contractor further certifies that no member of the board of the Contractor or any of its officers or directors have such an adverse interest. Contractor personnel who perform the services are employees of the Contractor (or its subcontractors) and the Contractor will be solely responsible for payment of compensation to such persons. The Contractor agrees to indemnify, defend, and hold harmless the Commission, the Contracting Entity, or any EDC for any claim asserted against the Commission, the Contracting Entity, or any EDC alleging that the Commission, the Contracting Entity, or any EDC is an employer, co-employer or joint employer of any Contractor personnel. The Contractor will assume full responsibility for payment of all federal, state, provincial and local taxes, withholding or contributions imposed or required under unemployment insurance, social security and income tax laws with respect to such persons. Should the Commission, the Contracting Entity, or any EDC be required to pay any amount to a governmental agency for failure to withhold any amount as may be required by law, the Contractor agrees to indemnify, defend and hold harmless the Commission, the Contracting Entity, or any EDC for any amount so paid, including interest, penalties and fines. The Contractor is not an agent of the Commission, the Contracting Entity, or any EDC and has no authority to represent the Commission, the Contracting Entity, or any EDC as to any matters, except as expressly authorized in this Contract.

C. Disputes.

All questions arising respecting any matter pertaining to this Contract or any part thereof or any breach of contract arising thereunder shall be referred to the Project Officer. Any dispute which cannot be settled by negotiations after submission to the Project Officer shall then be submitted to the Commission for resolution. The provisions of this paragraph shall not be construed to limit the remedies of the Commission, the Contractor, and the Contracting Entity for breach of this Contract, nor shall it limit the Commission, the Contractor, and the Contracting Entity's rights to appeal to the Commonwealth Court after resolution by the Commission. This provision shall not be construed as an arbitration provision that provides the Commission with arbitration powers.

D. Conflicts between the Contract, the RFP, and the Proposal.

Whenever a provision of the Proposal conflicts with the Contract or the RFP, the provisions of the Contract and the RFP will prevail over the Proposal. If there is a conflict between the Contract and the RFP, the Contract will prevail over the RFP.

E. Integration Clause.

This Contract, and all exhibits, appendices, addenda, and other attachments thereto, constitutes the entire agreement between the parties, subject to the provisions of paragraph G "Amendments" below. No other agreements, whether oral or written, or outside conditions, warranties, or understandings regarding the subject matter of this Contract shall be deemed to exist for purposes of interpreting this Contract, nor shall any such agreements be enforceable against the Commission, the Contracting Entity, the Contractor, or any EDC.

F. Amendments.

No amendment or modification changing the scope or terms of this Contract shall have any force or effect unless it is in writing and signed by all parties except as provided in this Contract.

G. Applicable Law.

This Contract shall be interpreted, construed, and governed by the laws of the Commonwealth of Pennsylvania. Contractor expressly submits to the personal and subject matter jurisdiction of the Courts of the Commonwealth of Pennsylvania.

H. Assignment and Delegation.

Neither this Contract nor any of its benefits or duties may be assigned or delegated by subcontract or otherwise, except for those subcontracts specifically identified by the Proposal, without prior written approval by the Commission, who shall first consult with the Contracting Entity. Any subcontract shall contain all of the provisions of this Contract.

I. Severability.

If any provision of this Contract is invalid, the remainder of the Contract shall not be affected thereby if the essential terms and conditions of the Contract remain valid, legal and enforceable.

J. Non-Waiver.

No provision of this Contract can be waived by any party unless made in writing and signed by the party against whom waiver is sought; nor shall the failure by any party to, at any time or on multiple occasions, require performance of any provision hereof be

construed as a waiver of future enforcement thereof; nor shall waiver by any party of any breach hereof be construed as a waiver of any future breach.

K. Time of the Essence.

Time is of the essence in this Contract and any failure to perform any of the terms hereof in the time and manner specified shall be deemed a material breach of this contract.

L. Effective Dates.

The effective date of this Contract shall be fixed by the Issuing Office after the Contract has been fully executed by the Contractor, the Contracting Entity, and the Commission and all approvals required by the Commonwealth contracting procedures have been obtained.

M. Insurance.

During the performance of the work covered by this Contract, the Contractor shall maintain the following minimum insurance coverage at no additional cost to the Commission, the Contracting Entity, or the EDCs:

1. Workers' Compensation Insurance as required by law.
2. Employer's Liability Insurance (bodily injury) of \$1,000,000 per accident, and Employer's Liability Insurance (occupational diseases) of \$1,000,000 per person and \$2,000,000 in the general aggregate.
3. Comprehensive General Liability Insurance of \$1,000,000 each person; \$1,000,000 each occurrence for bodily injuries; and \$1,000,000 for property damage.
4. Comprehensive Automobile Liability Insurance covering all owned and hired vehicles of \$1,000,000 each person, \$1,000,000 each accident for bodily injuries, and \$1,000,000 each accident for property damage.

The insurance called for above is subject to the normal limitations and exclusions applying to each type of insurance; provided, however, that first dollar coverage shall be provided for each type. The Commission, the Contracting Entity, and all the EDCs (each listed individually by name) will be named as an additional insured on the policies referred to in 2, 3, and 4 above and such insurance shall be endorsed to require the insurer to furnish the Commission, the Contracting Entity and the EDCs with ten (10) days written notice prior to the effective date of any cancellation of insurance.

Upon request, the Contractor shall furnish the Commission, the Contracting Entity, or the EDCs with certificates or other documentary evidence showing that the insurance to be carried by the Contractor in accordance with this paragraph has been arranged.

O. Indemnity.

The Contractor agrees and undertakes to indemnify, defend, and hold harmless the Commission, the Contracting Entity, the EDCs, and their respective agents and employees or subcontractors against all liabilities, claims, damages, causes of action, judgments, costs and expenses, including reasonable attorneys' fees, in any way relating to or arising out of any action or operation of the Contractor, or its agents, employees, or subcontractors under this Contract, including but not limited to personal injury or property damage, including but not limited to injury or damage to the person or property of the Commission, the Contracting Entity, the EDCs, or the Contractor, or their respective agents, employees, or subcontractors, and shall, at the request of the Commission, the Contracting Entity or any of the EDCs, defend any and all actions brought against the Commission, the Contracting Entity or the EDCs, and their respective agents, employees, or subcontractors based upon any such claims or demands. This Indemnity shall not apply relating to any penalty imposed by the Commission on the Contracting Entity or an EDC. The Contractor expressly waives use of the "statutory employer" defenses provided in the Pennsylvania Worker's Compensation Act at 77 P.S. § 481(a) and (b) and 77 P.S. § 52 with regard to this indemnity.

P. LIMITATION OF LIABILITY.

IN NO EVENT, WHETHER BASED ON CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE OR GROSS NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, SHALL ANY PARTY OR THEIR RESPECTIVE AGENTS OR EMPLOYEES OR SUBCONTRACTORS, BE LIABLE TO ANY PARTY OR THEIR RESPECTIVE AGENTS OR EMPLOYEES OR SUBCONTRACTORS, FOR SPECIAL INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR REVENUE OR COST OF CAPITAL.

Q. Final Report Copies.

The Contractor shall provide an electronic version of each Final Annual or Five-Year Report that is compatible with the Commission's network software to the Commission and the Contracting Entity for disbursement to the EDCs.

R. Immunity.

Nothing contained in this Contract shall be construed as a waiver of the immunity of the Commonwealth or the Commission against suit.

S. Potential Conflicts of Interest.

In order to ensure an impartial review of the EDCs' Energy Efficiency and Conservation Programs, other than in performance of duties under this Contract, the Contractor or any of its subcontractors, or any parent or related entities to the Contractor or any of its subcontractors, or any of the Contractor's or any of its subcontractors' employees, may not provide evaluation or energy efficiency or conservation services to any of the Pennsylvania-based EDCs during the Contract term. In addition, the contract or will seek review and approval from the Project Officer on a case-by-case basis before contracting with electric distribution utilities located outside of Pennsylvania that are affiliates of Pennsylvania-based EDCs or who share the same corporate parent company. Factors to be considered by the Commission include, but are not limited to, the following: 1) whether the contract oversight for the non-Pennsylvania-based EDC involves the same staff that are involved in contract oversight of the Act 129 program contracts; 2) whether the staff that are involved in the Commission contract are the same or different from the staff that would work on the out-of-state contract; and 3) whether the nature of the work on the out-of-state contract involves EM&V and EE&C program design work or other work such as market research. Requests for review from the Contractor should include information on these factors as well as other factors that may be relevant to potential conflicts of interest.

T. Jurisdiction.

It is understood and agreed that actions undertaken by the Contractor this shall be limited to matters within the jurisdiction of the Commission.

U. Employees, Background Checks, Substance Abuse.

1. Contractor shall employ for the work only persons known to it to be experienced, qualified, reliable, and trustworthy. At the request of the Commission staff, EDC staff, or Contracting Entity staff, the credentials of any of Contractor's employees assigned to perform the work shall be submitted to them in advance of such assignment. During the performance of the work, the Commission staff, EDC staff, or Contracting Entity staff may object to any Contractor's employee, who, in their opinion, does not meet these criteria. In such case, Contractor shall at its expense and risk, immediately replace and remove such employee and promptly advise the Commission's Project Officer.
2. Background checks. Contractor shall make best efforts to ensure that Contractor's employees assigned to work on this Project do not have criminal records and are not involved in criminal activity which could create a risk of fraud/embezzlement and/or

a risk to the Commission's or EDCs' property and employees, and/or to any EDCs' customers or customers' property.

Contractor will obtain criminal background checks for all employees, including but not limited to employees of all subcontractors, for this Project who will visit or otherwise have physical contact with any of the customers of the EDCs or such customers' premises or property prior to such employee performing work on the Project. Criminal background checks will be checked at least every year for such employees. Contractor will maintain up to date records evidencing such criminal background checks.

Upon actual knowledge of a criminal record or involvement in a potentially criminal activity, including but not limited to threats, harassment, or other abuse, Contractor shall immediately remove any such employee or employees from the work and immediately contact the Project Officer and the Contracting Entity's Representative to inform them of the circumstances. Commission staff, EDC staff, or Contracting Entity staff, at any time, may request Contractor to verify that an employee or employees do not possess a criminal record.

- a. Contractor shall provide certification for each of the Contractor's employees who are authorized as part of the work to have electronic or unescorted physical access to critical cyber assets (as the same are identified from time to time), that such employee (i) has submitted to a Background Check within the past seven years whereby no evidence of a criminal record or criminal activity was discovered; (ii) is subject to a seven-year cycle re-check of the Background Check; and (iii) has received the Contractor-sponsored security awareness training or will receive such training prior to accessing critical cyber assets. These requirements are subject to audit by Commission staff, EDC staff, or Contracting Entity staff.
3. Substance Abuse. Contractor agrees to comply with all applicable state and federal laws regarding a drug-free workplace. Contractor shall make a good faith effort to ensure that all Contractor's employees undertaking work will not be under the influence, purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way. Upon actual knowledge of such activity or any such potential activity, Contractor shall immediately remove any such employee or employees from the work and immediately contact the Project Officer and the Contracting Entity's Representative to inform them of the circumstances.

IN WITNESS THEREOF, intending to be legally bound, the Contractor, the Contracting Entity, and the Commission, have caused this Act 129 Statewide Evaluator Contract to be approved and executed under their signatures with a duplicate copy being provided to each of the parties.

Contractor Title Date

EEC Pennsylvania Evaluations Title
Contracting Entity Date

Robert C. Gramola Date
Director of Administrative Services
Pennsylvania Public Utility Commission

Bohdan R. Pankiw Date
Chief Counsel
Pennsylvania Public Utility Commission

Nondisclosure Agreement

Duquesne Light Company, Metropolitan Edison Company, PECO Energy Company, Pennsylvania Electric Company, Pennsylvania Power Company, PPL Electric Utilities Corporation, and West Penn Power Company and their affiliates (“EDCs”), EEC Pennsylvania Evaluations (“Contracting Entity”), the Pennsylvania Public Utility Commission (“Commission”), _____ (“Contractor”), and Contractor's authorized representatives, intending to be legally bound, hereby agree as follows:

1. As part of the Act 129 Statewide Evaluator Contract, it may be necessary for the Contractor to review data, including EDC customer data, books, records, and documents of the EDCs that are considered by the EDCs to be confidential proprietary business information (proprietary information).
2. The proprietary information may include certain information of an affiliate of the EDCs or other party providing information, which is contained within such books, records, and documents.
3. In order to safeguard more effectively the proprietary information, the Contractor will designate certain authorized representative(s) to receive and review the proprietary information submitted by the EDCs or other entity. Said authorized representatives will agree to be bound by this Nondisclosure Agreement and will sign it prior to receiving any proprietary information and will furnish, upon request, to the EDCs or other entity a signed copy of the Nondisclosure Agreement executed by such authorized representative(s). Proprietary information will not be accessible by anyone who has not signed the Nondisclosure Agreement.
4. With respect to proprietary information provided under this Agreement, the Contractor and its authorized representatives shall:
 - (a) Hold the proprietary information in confidence;
 - (b) Restrict disclosure of the proprietary information only to persons authorized under this Agreement (as identified in Paragraph 4) who have a need to know;
 - (c) Use the proprietary information solely in connection with the Contractor's work on Act 129 Statewide Evaluator Contract;
 - (d) except as provided in Paragraph 6 below, not disclose the proprietary information publicly or privately to any third party in any manner, unless such third party has signed this Nondisclosure Agreement; and
 - (e) Advise the Contractor's representatives of their obligation with respect to the proprietary information.
5. The Contractor may make proprietary information available to the Commission's Staff under this Agreement; provided, however, that in the event of disclosure, the Commission's Staff shall

also be bound by the terms of this Agreement. Nothing in this Agreement shall be construed as preventing access by the Commission (outside the scope of the Act 129 Statewide Evaluation) to the data, books, records, and documents of the EDCs as permitted by the statutory and common law of the Commonwealth of Pennsylvania.

6. All proprietary information and copies made thereof provided to the Contractor and Commission's Staff must be returned to the EDCs no later than three months beyond the finalization of the Contractor's Annual or Five-Year Reports.
7. After providing the EDCs an opportunity to comment, either the Contractor or the Commission's Staff may assert at any time that any document claimed to be proprietary is in fact non-proprietary. Any disagreement as to the proprietary or non-proprietary nature of a particular document or information shall be resolved by action of the Commission.
8. Proprietary information that is provided to the Contractor and/or Commission Staff will be protected from disclosure as proprietary information under 66 Pa. C.S. §335(d) until such time as the Commission (or court of competent jurisdiction, if an appeal of a Commission determination is taken) rules that the documents are non-proprietary and, therefore, subject to public disclosure. In determining which documents are subject to public disclosure, the Commission will follow the *Right-to-Know Law*, 65 P.S. § 67.101 et seq., including any future amendments thereto.
9. If the EDCs wish to seek additional measures of protection with respect to the specific proprietary data of a particularly sensitive nature or to claim that specific documents are subject to a privilege that precludes disclosure to any party, then it is incumbent upon the EDCs to demonstrate that need to the Project Officer. In the event the EDCs and the Project Officer are unable to agree, the EDCs may seek a determination from the Commission.
10. The Contractor recognizes that the provisions of this Agreement are vitally important to the welfare of the EDCs and other entities providing information pursuant to the Act 129 Statewide Evaluation and that money damages may not be an adequate remedy for any violation by the Contractor thereof. Accordingly, in the event of any breach or violation by the Contractor of the provisions thereof, the EDCs or other entity may institute and maintain a proceeding to compel specific performance by the Contractor thereof or to issue an injunction restraining such breach or violation hereunder by the Contractor.
11. Nothing in this Agreement shall otherwise affect, abridge, increase, or decrease the statutory authority of the Commission to investigate or inspect the facilities and data, books, records, and documents of the EDCs, or to examine records of the cost to the EDCs' affiliates for providing services or furnishing property to the EDCs (where applicable).
12. Nothing contained in this Agreement shall affect, abridge, increase, or decrease the ability of the EDCs to appeal to the Commonwealth Court to protect its rights.

IN WITNESS THEREOF, intending to be legally bound, the Contractor, EEC Pennsylvania Evaluations, the EDCs, and the Commission, have caused this Nondisclosure

Agreement to be approved and executed under their signatures, as Exhibit 1 to the Act 129 Statewide Evaluator Contract, with a duplicate copy being provided to each of the parties.

Contractor (Date) _____

EEC Pennsylvania Evaluations (Date) _____

Duquesne Light Company (Date) _____

Metropolitan Edison Company (Date) _____

PECO Energy Company (Date) _____

Pennsylvania Electric Company (Date) _____

Pennsylvania Power Company (Date) _____

PPL Electric Utilities Corporation (Date) _____

West Penn Power Company (Date) _____

Robert C. Gramola, Director of Administration
Pennsylvania Public Utility Commission (Date) _____

Bohdan R. Pankiw, Chief Counsel
Pennsylvania Public Utility Commission (Date) _____

NONDISCRIMINATION/SEXUAL HARASSMENT PROVISIONS

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

1. In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under this Contract or any subcontract, CONTRACTOR, subcontractor, or any person acting on behalf of CONTRACTOR or subcontractor, shall not, by reason of gender, race, creed, or color, discriminate against any citizen of this PUC who is qualified and available to perform the work to which the employment relates.
2. Neither CONTRACTOR nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under this Contract on account of gender, race, creed, or color.
3. CONTRACTOR and each subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
4. CONTRACTOR and each subcontractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which this Contract relates.
5. CONTRACTOR and each subcontractor shall, within the time periods requested by the PUC, furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the PUC and the Department of General Services, for purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause. If CONTRACTOR or subcontractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the PUC or the Department of General Services.
6. 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.
7. The PUC may cancel or terminate this Contract, and all money due or to become due under this Contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the PUC may proceed with debarment or suspension and may place CONTRACTOR in the Contractor Responsibility File.

RESPONSIBILITY PROVISIONS

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

2. CONTRACTOR also certifies that as of the date of its execution of this Contract, it has no tax liabilities or other PUC obligations.

3. CONTRACTOR's obligations pursuant to these provisions are ongoing from and after the effective date of this Contract through the termination date thereof. Accordingly, CONTRACTOR shall have an obligation to inform the PUC if, at any time during the term of this Contract, is becomes delinquent in the payment of taxes, or other PUC obligations, or if it or any of its subcontractors are suspended or debarred by the PUC, 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 CONTRACTOR to notify the PUC of its suspension or debarment by the PUC, any other state, or the federal government shall constitute an event of default of this Contract with the PUC.

5. CONTRACTOR agrees to reimburse the PUC for the reasonable costs of investigation incurred by the Pennsylvania Office of Inspector General for investigations of CONTRACTOR's compliance with the terms of this or any other Contract between CONTRACTOR and the PUC, which results in the suspension or debarment of 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. CONTRACTOR shall not be responsible for investigative costs for investigations that do not result in CONTRACTOR's suspension or debarment.

6. CONTRACTOR may obtain a current list of suspended and debarred PUC contractors either by searching the Internet at www.dgs.state.pa.us, or by contacting the:

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

THE AMERICANS WITH DISABILITIES ACT PROVISIONS

1. Pursuant to federal regulations promulgated under the authority of *The Americans With Disabilities Act*, 28 C.F.R. § 35.101, *et seq.*, CONTRACTOR understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting this Contract, CONTRACTOR agrees to comply with the *General Prohibitions Against Discrimination*, 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of *The Americans With Disabilities Act* which are applicable to all benefits, services, programs, and activities provided by the PUC of Pennsylvania through contracts with outside contractors.

2. CONTRACTOR shall be responsible for and agrees to indemnify and hold harmless the PUC of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the PUC of Pennsylvania as a result of CONTRACTOR's failure to comply with the provisions of Paragraph 1 of this Exhibit.

CONTRACTOR INTEGRITY PROVISIONS

1. For purposes of these Integrity Provisions, the words “confidential information,” “consent,” “financial interest,” “gratuity,” and “Contractor” shall have the following definitions.

a. “Confidential information” means information that (1) is not already in the public domain; (2) is not available to the public upon request; (3) is not or does not become generally known to Contractor from a third party without an obligation to maintain its confidentiality; (4) has not become generally known to the public through an act or omission of Contractor; or (5) has not been independently developed by Contractor without the use of confidential information of the PUC.

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

c. “Financial Interest” means:

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

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

e. “Immediate family” means a spouse and any unemancipated child.

f. “Contractor” means the individual or entity that has entered into this Contract with the PUC, including directors, officers, partners, managers, key employees, and owners of more than a 5% interest.

g. “Political contribution” means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the PUC of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

2. Contractor shall maintain the highest standards of honesty and integrity in the performance of this Contract and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the PUC.

3. Contractor shall be subject to the obligations of confidentiality with which lawyers must comply under the applicable Rules of Professional Conduct.

4. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to Contractor's employee activity with the PUC and PUC employees, and which is distributed and made known to all employees of Contractor.

5. Contractor, its affiliates, agents and employees shall not influence, or attempt to influence, any PUC employee to breach the standards of ethical conduct for PUC employees set forth in the *Public Official and Employees Ethics Act, 65 Pa.C.S. §§1101 et seq.*; the *State Adverse Interest Act, 71 P.S. §776.1 et seq.*; and the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.*, or to breach any other state or federal law or regulation.

6. Contractor, its affiliates, agents and employees shall not, in connection with this or any other Contract with the PUC, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the PUC.

7. Contractor, its affiliates, agents and employees shall not, in connection with this or any other Contract with the PUC, directly or indirectly, offer, give, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the PUC.

8. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a PUC official or employee or to any other person, the acceptance of which would violate the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.* or any statute, regulation, statement of policy, management directive or any other published standard of the PUC.

9. Except with the consent of the PUC, neither Contractor nor anyone in privity with Contractor shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under this Contract except as provided therein.

10. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project, unless the financial interest is disclosed to the PUC in writing and the Office of PUC consents to Contractor's financial interest no later than Contractor's submission of the contract signed by Contractor, and prior to PUC execution of the contract.

11. Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data, or records provided to, or prepared by, Contractor under this Contract without the prior written approval of the PUC, except as required by the *Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104*, or other applicable law or as

otherwise provided in this Contract. Any information, documents, reports, data, or records secured by Contractor from the PUC or a third party in connection with the performance of this Contract shall be kept confidential unless disclosure of such information is:

- a. Approved in writing by the PUC prior to its disclosure; or
- b. Directed by a court or other tribunal of competent jurisdiction unless the contract requires prior PUC approval; or
- c. Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or
- d. Necessary for purposes of Contractor's internal assessment and review; or
- e. Deemed necessary by Contractor in any action to enforce the provisions of this Contract or to defend or prosecute claims by or against parties other than the PUC; or
- f. Permitted by the valid authorization of a third party to whom the information, documents, reports, data, or records pertain; or
- g. Otherwise required by law.

12. Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has not been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the PUC in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with, convicted of, or officially notified of a governmental determination of any of the following:

- a. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
- b. Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Contractor or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual or entity associated with:
 - (1) obtaining;
 - (2) attempting to obtain; or
 - (3) performing a public contract or subcontract.

Contractor's acceptance of the benefits derived from the conduct shall be deemed evidence of such knowledge, approval or acquiescence.

- c. Violation of federal or state antitrust statutes.

- d. Violation of any federal or state law regulating campaign contributions.
- e. Violation of any federal or state environmental law.
- f. Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.
- g. Violation of the *Act of June 2, 1915 (P.L.736, No. 338)*, known as the *Workers' Compensation Act, 77 P.S. 1 et seq.*
- h. Violation of any federal or state law prohibiting discrimination in employment.
- i. Debarment by any agency or PUC of the federal government or by any other state.
- j. Any other crime involving moral turpitude or business honesty or integrity.

Contractor acknowledges that the PUC may, in its sole discretion, terminate the contract for cause upon such notification or when the PUC otherwise learns that Contractor has been officially notified, charged, or convicted.

13. Contractor must, (as required by *Section 1641* of the *Pennsylvania Election Code*) file a report of political contributions with the Secretary of the PUC on or before February 15 of the next calendar year. The report must include an itemized list of all political contributions known to Contractor by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:

- a. Any officer, director, associate, partner, limited partner, individual owner or members of the immediate family when the contributions exceed an aggregate of one thousand dollars (\$1,000) by any individual during the preceding year; or
- b. Any employee or members of his immediate family whose political contribution exceeded one thousand dollars (\$1,000) during the preceding year.

To obtain a copy of the reporting form, Contractor shall contact the Bureau of Commissions, Elections and Legislation, Division of Campaign Finance and Lobbying Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.

14. Contractor shall comply with requirements of the *Lobbying Disclosure Act, 65 Pa.C.S. § 13A01 et seq.*, and the regulations promulgated pursuant to that law. Actions by outside lobbyists on behalf of Contractor are not exempt and must be reported.

15. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or in these provisions has occurred or may occur, including but not limited to contact by a PUC officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the PUC in writing.

16. Contractor, by execution of this Contract and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that it has not violated any of these Integrity Provisions.

17. Contractor shall cooperate with the Office of the Inspector General in its investigation of any alleged PUC employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified employees of Contractor available for interviews at reasonable times and places. Contractor, upon the inquiry or request of the Inspector General of the PUC or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to 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. Such information shall be retained by Contractor for a period of three years beyond the termination of this Contract unless otherwise provided by law.

18. For violation of any of the above provisions, the PUC 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 hereunder, and debar and suspend Contractor from doing business with the PUC. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the PUC may have under law, statute, regulation or otherwise.

**SMALL DIVERSE BUSINESS
LETTER OF INTENT**

[DATE]

**[SDB Contact Name
Title
SDB Company Name
Address
City, State, Zip]**

Dear **[SDB Contact Name]**:

This letter serves as confirmation of the intent of **[Offeror]** to utilize **[Small Diverse Business (SDB)]** on RFP **[RFP number and Title]** issued by the **[Commonwealth agency name]**.

If **[Offeror]** is the successful vendor, **[SDB]** shall provide **[identify the specific work, goods or services the SDB will perform, and the specific timeframe during the term of the contract and any option/renewal periods when the work, goods or services will be performed or provided]**.

These services represent **[identify fixed numerical percentage commitment]** of the total cost in the **[Offeror's]** cost submittal for the initial term of the contract. Dependent on final negotiated contract pricing and actual contract usage or volume, it is expected that **[SDB]** will receive an estimated **[identify associated estimated dollar value that the fixed percentage commitment represents]** during the initial contract term.

[SDB] represents that it meets the small diverse business requirements set forth in the RFP and all required documentation has been provided to **[Offeror]** for its SDB submission.

We look forward to the opportunity to serve the **[Commonwealth agency name]** on this project. If you have any questions concerning our small diverse business commitment, please feel free to contact me at the number below.

Sincerely,

Acknowledged,

**Offeror Name
Title
Company
Phone number**

**SDB Name
Title
Company
Phone number**