

REQUEST FOR PROPOSALS FOR
Alternative Energy Portfolio Standards Program Administrator

ISSUING OFFICE

**Pennsylvania Public Utility Commission
Bureau of Technical Utility Services**

**RFP NUMBER
PUC RFP 2020-1**

DATE OF ISSUANCE

June 12, 2020

PUC RFP 2020-1
Alternative Energy Portfolio Standards Program Administrator

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CALENDAR OF EVENTS

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

Activity	Responsibility	Date
Deadline to submit Questions via email to Issuing Officer Darren D. Gill at dgill@pa.gov .	Potential Offerors	Friday 7-10-2020
Answers to Potential Offeror questions posted to http://www.puc.pa.gov/contact_us/request_for_proposals.aspx no later than this date.	Issuing Office	Monday 7-20-2020
Please monitor website http://www.puc.pa.gov/contact_us/request_for_proposals.aspx for all communications regarding the RFP.	Potential Offerors	Ongoing
Date the proposal must be <u>received</u> by the Issuing Office.	Offerors	Friday 8-7-2020 3 p.m.

PART I

GENERAL INFORMATION

I-1.Purpose. This request for proposals (“RFP”) provides to those interested in submitting proposals for the subject procurement (“Offerors”) sufficient information to enable them to prepare and submit proposals for the Pennsylvania Public Utility Commission, Bureau of Technical Utility Service’s (“Commission”, “TUS”, “Issuing Office”) consideration on behalf of the Commonwealth of Pennsylvania (“Commonwealth”) to satisfy a need for an Alternative Energy Portfolio Standards Program Administrator (“Project”). This RFP contains instructions governing the requested proposals, including the requirements for the information and material to be included; a description of the service to be provided; requirements which Offerors must meet to be eligible for consideration; general evaluation criteria; and other RFP requirements.

I-2.Issuing Office. The Pennsylvania Public Utility Commission, Bureau of Technical Utility Services (“Commission”, “TUS”, “Issuing Office”) has issued this RFP on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this RFP shall be the Issuing Officer, **Darren D. Gill**, Deputy Director of the Bureau of Technical Utility Services, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg PA 17105-3265, work telephone number 717 783-5244 and email dgill@pa.gov. Please refer all inquiries to the Issuing Officer. **Due to the COVID-19 Emergency, please communicate only via email, as staff is telecommuting and not in the office, and thus is not able to receive office phone calls or physical mail service.**

I-3.Overview of Project. The Pennsylvania Public Utility Commission, Bureau of Technical Utility Services (“TUS”) seeks to retain the services of a contractor who will perform certain functions necessary for the implementation of the Alternative Energy Portfolio Standards Act of 2004, as amended (“AEPS Act” or “Act”). 73 P.S. §§ 1648.1-1648.8 and 66 Pa.C.S. § 2814.

I-4.Objectives. The selected bidder will become a contractor for the Commission, and will perform work necessary for the implementation of the AEPS Act, which will include:

- The verification of electric distribution company (“EDC”) and electric generation supplier (“EGS”) compliance with the minimum portfolio requirements of the Act, and the reporting of compliance to the Commission.
- The calculation of EDC and EGS Tier I requirements on a quarterly basis.
- The review and determination of eligibility of applications for alternative energy system status, based on guidance provided by DEP.
- Verifying that EDCs and EGSs use only valid alternative energy credits for compliance with the Act.
- The verification of small solar customer-generator alternative energy system generation output data.

- Approving, tracking, and verifying alternative energy credits created by energy efficiency measures and demand-side management resources/measures.
- Providing support services to AEPS applicants and existing AEPS-registered system owners.
- The tracking and reporting of alternative energy credit prices to the Commission.
- Providing the Commission with periodic assessments of available Solar, Tier I non-Solar, and Tier II credit supply and availability.
- Providing data and relevant information to Commission staff, as may be requested, for inclusion in the AEPS annual reports and as needed for other purposes.
- Provide to the Commission, quarterly or as needed, EGS credit obligation information prior to the end of the compliance year for situations related to the bonding requirements.
- Assisting the Department of Environmental Protection (“DEP”) with confirming environmental certification by supplying DEP with annual environmental attestation data for each registered AEPS facility.
- The calculation of the solar photovoltaic (“PV”) alternative compliance payment.
- The calculation of alternative compliance payment amounts for EDCs and EGSs.
- Providing various reports to the Commission and DEP documenting compliance with and costs associated with implementation of the Act.

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 **five-year, fixed term, price not-to-exceed, fee-for-service contract** containing the Contract Terms and Conditions as shown in Part VI and Part VII. The RFP, the winning proposer’s proposal, and the Questions and Answers published by the Commission on its website, shall be incorporated into the Contract.

I-6.Rejection of Proposals. The Issuing Office reserves the right, in its sole and complete discretion, to reject any proposal received as a result of this RFP. The Issuing Office, in its sole discretion, may undertake negotiations with Offerors whose proposals, in the judgment of the Issuing Office, show them to be qualified, responsible, and capable of performing the Project.

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

I-8. Questions & Answers. If an Offeror has any questions regarding this RFP, the Offeror must submit the questions by email (**with the subject line “RFP 2020-1 AEPS Admin Question”**) to the Issuing Officer named in Part I, Section I-2 of the RFP. If the Offeror has questions, they may be submitted as they arise via email, but no later than the date indicated on the Calendar of Events. The Issuing Officer shall post the final questions and answers to the questions at http://www.puc.pa.gov/contact_us/request_for_proposals.aspx on an ongoing basis until the deadline stated on the Calendar of Events. When an Offeror submits a question after the deadline date for receipt of questions indicated on the Calendar of Events, the Issuing Officer *may* respond to questions of an administrative nature by directing the questioning Offeror to specific provisions in the RFP. To the extent that the Issuing Office decides to respond to a non-administrative question *after* the deadline date, the question and answer will be provided to all Offerors by posting the final question and answer on the website.

All questions and responses as posted to the website are considered as an addendum to, and part of, this RFP in accordance with RFP **Part I, Section I-9**. Each Offeror shall be responsible to monitor the website for new or revised RFP information. The Issuing Office shall not be bound by any verbal information nor shall it be bound by any written information that is not either contained within the RFP or formally issued as an addendum by the Issuing Office. The Issuing Office does not consider questions to be a protest of the specifications or of the solicitation. The required protest process for Commonwealth procurements is described in **Part I, Section I-25**.

I-9. Addenda to the RFP. If the Issuing Office deems it necessary to revise any part of this RFP before the proposal response date, the Issuing Office will post an addendum to http://www.puc.pa.gov/contact_us/request_for_proposals.aspx. It is the Offeror’s responsibility to periodically check the website for any new information or addenda to the RFP. Answers to the questions asked during the Questions & Answers period also will be posted to the website as addenda to the RFP.

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

Due to the COVID-19 Emergency, Commission staff is telecommuting, and the Commission has limited access to physical mail delivery. Therefore, **the Commission will accept proposals submitted in electronic form via email sent to the Issuing Officer**. In order to address any attachment megabyte size limitations for Commonwealth email systems, please separate your proposal into pieces no more than 5 mb in size and have no more than 5 mb of attachments attached to any one email. Please divide the submission of your proposal into as many emails as necessary, indicating each as “1 of 5”, “2 of 5” (five just used as an example) as needed.

I-11. Proposal Requirements.

A. Proposal Submission: To be considered, Offerors should submit a complete response to this RFP to the Issuing Office, using the format provided in **Section I-**

11B, providing a single proposal with separate files **for the Technical Submittal; the Cost Submittal; and the Small Diverse Business and Small Business (SDB/SB) Participation Submittal including related Letter(s) of Intent**. The Offeror shall make no other distribution of its proposal to any other Offeror or Commonwealth official or Commonwealth consultant. Each proposal page should be numbered for ease of reference. **An official authorized to bind the Offeror to its provisions must sign the proposal**. If the official signs the **Proposal Cover Sheet (Appendix A** to this RFP), the requirement will be met. For this RFP, the proposal must remain valid for 120 days or until a contract is fully executed. If the Issuing Office selects the Offeror's proposal for award, the contents of the selected Offeror's proposal will become, except to the extent the contents are changed through Best and Final Offers or negotiations, contractual obligations.

Each Offeror submitting a proposal specifically waives any right to withdraw or modify it, except that the Offeror may withdraw its proposal by email received by the Issuing Officer prior to the exact hour and date specified for proposal receipt provided in the Calendar of Events. An Offeror may modify its submitted proposal prior to the exact hour and date set for proposal receipt only by submitting a clearly identified revised submission marked as "Revised Proposal" which complies with the RFP requirements.

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

1. Technical Submittal, in response to **Part III**:
 - a. Complete, sign and include **Appendix B – Domestic Workforce Utilization Certification**; and
 - b. Complete, sign and include **Appendix C, Iran Free Procurement Certification Form**.
2. Cost Submittal, in response to RFP **Part IV**; and
3. Small Diverse Business and Small Business (SDB/SB) Participation Submittal, in response to RFP **Part V**:
 - a. Complete and include **Appendix F - SDB/SB Participation Submittal Form** and **SDB/SB Letter of Intent**. Offeror must provide a Letter of Intent for each SDB and SB listed on the SDB/SB Participation Submittal Form.

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

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

- I-12. Economy of Preparation.** Offerors should provide a straightforward, concise description of the Offeror's ability to meet the requirements of the RFP.
- I-13. Alternate Proposals.** The Issuing Office has identified the basic approach to meeting its requirements, allowing Offerors to be creative and propose their best solution to meeting these requirements. The Issuing Office will not accept alternate proposals.
- I-14. Discussions for Clarification.** Offerors may be required to make an oral or written clarification of their proposals to the Issuing Office to ensure thorough mutual understanding and responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification. Clarifications may occur at any stage of the evaluation and selection process prior to contract execution.
- I-15. Prime Contractor Responsibilities.** The selected Offeror must perform at least 50% of the total contract value. Nevertheless, the contract will require the selected Offeror to assume responsibility for all services offered in its proposal whether it produces them itself or by subcontract. Further, the Issuing Office will consider the selected Offeror to be the sole point of contact with regard to all contractual matters.
- I-16. Proposal Contents.**
 - A. Confidential Information.** The Commonwealth is not requesting, and does not require, confidential proprietary information or trade secrets to be included as part of Offerors' submissions in order to evaluate proposals submitted in response to this RFP. Accordingly, except as provided herein, Offerors should not label proposal submissions as confidential or proprietary or trade secret protected. Any Offeror who determines that it must divulge such information as part of its proposal must submit the signed written statement described in subsection c. below and must additionally provide a redacted version of its proposal, which removes only the confidential proprietary information and trade secrets, for required public disclosure purposes.
 - B. Commonwealth Use.** All material submitted with the proposal shall be considered the property of the Commonwealth of Pennsylvania. The Commonwealth has the right to use any or all ideas not protected by intellectual property rights that are

presented in any proposal regardless of whether the proposal becomes part of a contract. Notwithstanding any Offeror copyright designations contained in proposals, the Commonwealth shall have the right to make copies and distribute proposals internally and to comply with public record or other disclosure requirements under the provisions of any Commonwealth or United States statute or regulation, or rule or order of any court of competent jurisdiction.

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

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

- A. While not required, the Issuing Office reserves the right to conduct discussions with Offerors for the purpose of obtaining “best and final offers.” To obtain best and final offers from Offerors, the Issuing Office may do one or more of the following, in any combination and order:
1. Schedule oral presentations;
 2. Request revised proposals;
 3. Conduct an online auction; and
 4. Enter into pre-selection negotiations.
- B. The following Offerors will **not** be invited by the Issuing Office to submit a Best and Final Offer:
1. Those Offerors which the Issuing Office has determined to be not responsible or whose proposals the Issuing Office has determined to be not responsive.
 2. Those Offerors which the Issuing Office has determined in accordance with **Part II, Section II-5** from the submitted and gathered financial and other information, do not possess the financial capability, experience or qualifications to assure good faith performance of the contract.
 3. Those Offerors whose score for their technical submittal of the proposal is less than 75% of the total amount of technical points allotted to the technical criterion.

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 II, Section II-4**, shall also be used to evaluate the Best and Final offers.
 - D. Price reductions offered through any online auction shall have no effect upon the Offeror's Technical Submittal.
 - E. Any reduction to commitments to Small Diverse Businesses and Small Businesses must be proportional to the reduction in the total price offered through any BAFO process or contract negotiations unless approved by BDISBO.
- I-18. News Releases.** Offerors shall not issue news releases, Internet postings, advertisements or any other public communications pertaining to this Project without prior written approval of the Issuing Office, and then only in coordination with the Issuing Office.
- I-19. Restriction of Contact.** From the issue date of this RFP until the Issuing Office selects a proposal for award, the Issuing Officer is the sole point of contact concerning this RFP. Any violation of this condition may be cause for the Issuing Office to reject the offending Offeror's proposal. If the Issuing Office later discovers that the Offeror has engaged in any violations of this condition, the Issuing Office may reject the offending Offeror's proposal or rescind its contract award. Offerors must agree not to distribute any part of their proposals beyond the Issuing Office. An Offeror who shares information contained in its proposal with other Commonwealth personnel and/or competing Offeror personnel may be disqualified.
- I-20. Issuing Office Participation.** Offerors shall provide all services, supplies, facilities, and other support necessary to complete the identified work.
- I-21. Term of Contract.** The term of the contract will commence on the Effective Date and **will end on December 31, 2025**. The Issuing Office will fix the Effective Date after the contract has been fully executed by the selected Offeror and by the Commonwealth and all approvals required by Commonwealth contracting procedures have been obtained. The selected Offeror shall not start the performance of any work prior to the Effective Date of the contract and the Commonwealth shall not be liable to pay the selected Offeror for any service or work performed or expenses incurred before the Effective Date of the contract.
- I-22. Offeror's Representations and Authorizations.** By submitting its proposal, each Offeror understands, represents, and acknowledges that:
- A. All of the Offeror's information and representations in the proposal are material and important, and the Issuing Office may rely upon the contents of the proposal in awarding the contract(s). The Commonwealth shall treat any misstatement, omission

or misrepresentation as fraudulent concealment of the true facts relating to the Proposal submission, punishable pursuant to 18 Pa.C.S. § 4904.

- B.** The Offeror has arrived at the price(s) and amounts in its proposal independently and without consultation, communication, or agreement with any other Offeror or potential offeror.
- C.** The Offeror has not disclosed the price(s), the amount of the proposal, nor the approximate price(s) or amount(s) of its proposal to any other firm or person who is an Offeror or potential offeror for this RFP, and the Offeror shall not disclose any of these items on or before the proposal submission deadline specified in the Calendar of Events of this RFP.
- D.** The Offeror has not attempted, nor will it attempt, to induce any firm or person to refrain from submitting a proposal on this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.
- E.** The Offeror makes its proposal in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.
- F.** To the best knowledge of the person signing the proposal for the Offeror, the Offeror, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last **four** years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract, except as the Offeror has disclosed in its proposal.
- G.** To the best of the knowledge of the person signing the proposal for the Offeror and except as the Offeror has otherwise disclosed in its proposal, the Offeror has no outstanding, delinquent obligations to the Commonwealth including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Offeror that is owed to the Commonwealth.
- H.** The Offeror is not currently under suspension or debarment by the Commonwealth, any other state or the federal government, and if the Offeror cannot so certify, then it shall submit along with its proposal a written explanation of why it cannot make such certification.
- I.** The Offeror has not made, under separate contract with the Issuing Office, any recommendations to the Issuing Office concerning the need for the services described in its proposal or the specifications for the services described in the proposal.
- J.** Each Offeror, by submitting its proposal, authorizes Commonwealth agencies to release to the Commonwealth information concerning the Offeror's Pennsylvania taxes, unemployment compensation and workers' compensation liabilities.

- K. Until the selected Offeror receives a fully executed and approved written contract from the Issuing Office, there is no legal and valid contract, in law or in equity, and the Offeror shall not begin to perform.
- L. The Offeror is not currently engaged, and will not during the duration of the contract engage, in a boycott of a person or an entity based in or doing business with a jurisdiction which the Commonwealth is not prohibited by Congressional statute from engaging in trade or commerce.

I-23. Notification of Selection.

- A. **Contract Negotiations.** The Issuing Office will notify all Offerors in writing of the Offeror selected for contract negotiations after the Issuing Office has determined, taking into consideration all of the evaluation factors, the proposal that is the most advantageous to the Issuing Office.
- B. **Award.** Offerors whose proposals are not selected will be notified when contract negotiations have been successfully completed and the Issuing Office has received the final negotiated contract signed by the selected Offeror.

I-24. Debriefing Conferences. Upon notification of award, Offerors whose proposals were not selected will be given the opportunity to be debriefed. The Issuing Office will schedule the debriefing at a mutually agreeable time. The debriefing will not compare the Offeror with other Offerors, other than the position of the Offeror's proposal in relation to all other Offeror proposals. An Offeror's exercise of the opportunity to be debriefed does not constitute nor toll the time for filing a protest (See **Section I-25**).

I-25. RFP Protest Procedure. The RFP Protest Procedure is on the DGS website at <http://www.dgs.pa.gov/Documents/Procurement%20Forms/Handbook/Pt1/Pt%20I%20Ch%2058%20Bid%20Protests.pdf>. A protest by a party that has not or has not yet submitted a proposal must be filed no later than the proposal submission deadline specified in the Calendar of Events of the RFP. Offerors may file a protest within **seven** days after the protesting Offeror knew or should have known of the facts giving rise to the protest, but in no event may an Offeror file a protest later than **seven** days after the date the notice of award of the contract is posted. The date of filing is the date of receipt of the protest. A protest must be filed in writing (via email due to the COVID-19 Emergency) with the Issuing Office. To be timely, the protest must be received by 4:00 p.m. on the seventh day.

I-26. Use of Electronic Versions of this RFP. This RFP is being made available by electronic means. If an Offeror electronically accepts the RFP, the Offeror acknowledges and accepts full responsibility to insure that no changes are made to the RFP. In the event of a conflict between a version of the RFP in the Offeror's possession and the Issuing Office's version of the RFP, the Issuing Office's version shall govern.

PART II

CRITERIA FOR SELECTION

- II-1. Mandatory Responsiveness Requirements.** To be eligible for selection, a proposal must:
- A. Be timely received from an Offeror (see **Part I, Section I-10**); and
 - B. Be properly signed by the Offeror (see **Part I, Section I-11A**).
- II-2. Technical Nonconforming Proposals.** The two (2) Mandatory Responsiveness Requirements set forth in **Section II-1** above (A-B) are the only RFP requirements that the Commonwealth will consider to be *non-waivable*. The Issuing Office reserves the right, in its sole discretion, to (1) waive any other technical or immaterial nonconformities in an Offeror's proposal, (2) allow the Offeror to cure the nonconformity, or (3) consider the nonconformity in the scoring of the Offeror's proposal.
- II-3. Evaluation.** The Issuing Office has selected a committee of qualified personnel to review and evaluate timely submitted proposals. Independent of the committee, BDISBO will evaluate the Small Diverse Business and Small Business Participation Submittal and provide the Issuing Office with a rating for this component of each proposal. The Issuing Office will notify in writing of its selection for negotiation the responsible Offeror whose proposal is determined to be the most advantageous to the Commonwealth as determined by the Issuing Office after taking into consideration all of the evaluation factors.
- II-4. Evaluation Criteria.** The following criteria will be used in evaluating each proposal:
- A. **Technical:** The Issuing Office has established the weight for the Technical criterion for this RFP as **50 %** of the total points. Evaluation will be based upon the following:
 - 1. **Work Plan.** Evaluation of your work plan to perform as the Alternative Energy Credits Administrator.
 - 2. **Prior Experience.** Evaluation of prior projects, both for the company and/or for specific personnel assigned to the project. Work completed more recently will carry greater weight than older (10+ years ago) work.
 - 3. **Personnel Qualifications.** Evaluation of educational, work experience, and technical capability of personnel assigned to the project. Please pay particular attention to describing leadership/project management staff qualifications.

The final Technical scores are determined by giving the maximum number of technical points available to the proposal(s) with the highest raw technical score. The remaining proposals are rated by applying the Technical Scoring Formula set forth at the following webpage: https://www.dgs.pa.gov/Materials-Services-Procurement/Procurement-Resources/Pages/RFP_SCORING_FORMULA.aspx

B. Cost: The Issuing Office has established the weight for the Cost criterion for this RFP as **30 %** of the total points. The cost criterion is rated by giving the proposal with the lowest total cost the maximum number of Cost points available. The remaining proposals are rated by applying the Cost Formula set forth at the following webpage: https://www.dgs.pa.gov/Materials-Services-Procurement/Procurement-Resources/Pages/RFP_SCORING_FORMULA.aspx

The total price not-to-exceed cost for the entire contract must be clearly provided as a total contract cost.

In addition, the cost for each year will be listed separately, listed as year 1 through 5. These costs must add up to the total contract cost.

Year 1 – Contract Effective Date (assume 10-1-20) - 12-31-21.

Year 2 – January 1, 2022 – December 31, 2022.

Year 3 – January 1, 2023 – December 31, 2023.

Year 4 – January 1, 2024 – December 31, 2024.

Year 5 - January 1, 2025 – December 31, 2025.

C. Small Diverse Business and Small Business Participation:

BDISBO has established the minimum evaluation weight for the Small Diverse Business and Small Business Participation criterion for this RFP as **20%** of the total points.

1. The Small Diverse and Small Business point allocation is based entirely on the percentage of the contract cost committed to Small Diverse Businesses and Small Businesses. If the Offeror is a Small Diverse Business, 100% of the contract cost is allocated to Small Diverse Business participation. If the Offeror is a Small Business, 100% of the contract cost is allocated to Small Business participation.
2. A total combined SDB/SB commitment less than one percent (1%) of the total contract cost is considered de minimis and will receive no Small Diverse Business or Small Business points.
3. Based on a maximum total of 200 available points for the Small Diverse Business and Small Business Participation Submittal, the scoring mechanism is as follows:

<p style="text-align: center;">Small Diverse Business and Small Business Raw Score =</p> <p style="text-align: center;">$200 (SDB\% + (1/3 * SB \%))$</p>
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4. The Small Diverse Business and Small Business Raw Score is capped at 200.
5. The Offeror with the highest raw score will receive 200 points. Each Offeror's raw score will be pro-rated against the Highest Offeror's raw score by applying the formula set forth on the following webpage:

https://www.dgs.pa.gov/Materials-Services-Procurement/Procurement-Resources/Pages/RFP_SCORING_FORMULA.aspx

6. The Offeror's prior performance in meeting its contractual obligations to Small Diverse Businesses and Small Businesses will be considered by BDISBO during the scoring process. To the extent the Offeror has failed to meet prior contractual commitments, BDISBO may recommend to the Issuing Office that the Offeror be determined non-responsible for the limited purpose of eligibility to receive Small Diverse Business and Small Business points.

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

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

https://www.dgs.pa.gov/Materials-Services-Procurement/Procurement-Resources/Pages/RFP_SCORING_FORMULA.aspx

E. Iran Free Procurement Certification and Disclosure. Prior to entering a contract worth at least \$1,000,000 or more with a Commonwealth entity, an offeror must: a) certify it is not on the current list of persons engaged in investment activities in Iran created by the Pennsylvania Department of General Services ("DGS") pursuant to Section 3503 of the Procurement Code and is eligible to contract with the Commonwealth under Sections 3501-3506 of the Procurement Code; or b) demonstrate it has received an exception from the certification requirement for that solicitation or contract pursuant to Section 3503(e). All offerors must complete and return the Iran Free Procurement Certification form, (**Appendix C, Iran Free Procurement Certification Form**), which is attached hereto and made part of this RFP. The completed and signed Iran Free Procurement Certification form must be submitted as part of the Technical Submittal.

See the following web page for current Iran Free Procurement list:

<http://www.dgs.pa.gov/businesses/materials%20and%20services%20procurement/procurement-resources/pages/default.aspx#.WDNfJJgo6Ht>

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

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

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

II-6. Final Ranking and Award.

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

PART III

TECHNICAL SUBMITTAL

III-1. Statement of the Project.

This Section of the RFP identifies in detail the work that will need to be performed by the AEPS PROGRAM Administrator.

The Commission issued this RFP to retain the services of a contractor who will perform certain functions necessary for the implementation of the Alternative Energy Portfolio Standards Act of 2004, as amended (“AEPS Act” or “Act”). 73 P.S. §§ 1648.1-1648.8 and 66 Pa.C.S. § 2814. These functions include:

- The verification of electric distribution company (“EDC”) and electric generation supplier (“EGS”) compliance with the minimum portfolio requirements of the Act, and the reporting of compliance to the Commission.
- The calculation of EDC and EGS Tier I requirements on a quarterly basis.
- The review of applications and determination of eligibility for alternative energy system status. This will be done in accordance with standards and/or guidance as provided by DEP.
- Conduct a limited number of on-site inspections at certified alternative energy systems.
- Verifying that EDCs and EGSs use only valid alternative energy credits for compliance with the Act.
- The verification of small solar customer-generator alternative energy system generation output data.
- Approving, tracking, and verifying alternative energy credits created by energy efficiency and demand-side management resources/asures.
- Providing support services to AEPS applicants and existing AEPS-registered system owners.
- The tracking and reporting of alternative energy credit prices to the Commission.
- Providing the Commission with periodic assessments of available Solar, Tier I non-Solar, and Tier II credit supply and availability.
- Providing data and relevant information to Commission staff, as may be requested, for inclusion in the AEPS annual reports and as needed for other purposes.

- Provide to the Commission, quarterly or as needed, EGS credit obligation information prior to the end of the compliance year for situations related to the bonding requirements of EGSs.
- Assisting DEP with confirming environmental certification by supplying DEP with annual environmental attestation data for each registered AEPS facility.
- The calculation of the annual solar PV alternative compliance payment value.
- The calculation of alternative compliance payment amounts for EDCs and EGSs.
- Providing monthly reports to the Commission and DEP summarizing monthly activities and noting any problems and/or issues addressed and needing to be addressed.

The Act provides that the AEPS PROGRAM Administrator's powers and duties will be established by Commission regulation. The Commission adopted the final rulemaking order at the Public Meeting of September 25, 2008, that included the above-referenced powers and duties, which are in turn reflected in this document and the adopted regulations. See 52 Pa. Code §§ 75.1-75.70 (Alternative Energy Portfolio Standards); *Implementation of the Alternative Energy Portfolio Standards Act of 2004*, Final Rulemaking order, Docket No. L-00060180 (Order entered September 29, 2008). (Available at <http://www.puc.state.pa.us/PCDOCS/1023111.doc>.)

In addition, the Commission established procedures and guidelines relating to the implementation of additions to the AEPS Act as contained in Act 129 of 2008. *Implementation of Act 129 of 2008 Phase 4 – Relating to the Alternative Energy Portfolio Standards Act*, Docket No. M-2009-2093383 (Order entered May 28, 2009). (Available at <http://www.puc.state.pa.us/pcdocs/1043496.doc>.) On February 20, 2014, the Commission issued for comment several revisions to the AEPS regulations that proposed changes to the procedures and guidelines relating to the implementation of the AEPS Act. Revision of AEPS regulations was adopted in the *Implementation of the Alternative Energy Portfolio Standards Act of 2004*, Second Amended Final Rulemaking Order, at Docket No. L-2014-2404361 (Order entered October 27, 2016). (Available at <http://www.puc.pa.gov/pcdocs/1483199.doc>.) At Public Meeting April 19, 2018, the Commission adopted interpretation and implementation of Section 11.1 of Act 40 of 2017 in the *Implementation of Act 40 of 2017*, Final Implementation Order, Docket No. M-2017-2631527 (Order entered May 3, 2018). (Available at <http://www.puc.pa.gov/pcdocs/1565100.docx>.)

Contractors should review the AEPS Act as amended, these Commission orders and the adopted regulations prior to submitting a response.

III-2. Nature and Scope of the Project.

This RFP will address tasks related to the verification of EDC and EGS compliance with their obligations under the Act. It will also address tasks related to the rights and obligations of alternative energy systems and customer-generators. Compliance is measured in quantities of alternative energy credits, each of which represents one megawatt hour of qualified electricity generation or conservation, created by qualified alternative energy systems, to include customer-generators.

The Act and the Commission regulations require EDCs to interconnect and net meter customer-generators' distributed generation systems that utilize an alternative energy source. *See* 73 P.S. § 1648.5 and 52 Pa. Code §§ 75.11-75.15 and 75.21-75.51. However, the AEPS Program Administrator will not be involved in the processing and review of customer-generator interconnection requests. Commission staff will be responsible for reviewing disputes between EDCs and customer-generators regarding interconnection or net metering matters.

The RFP also addresses the processes and standards by which alternative energy systems, including customer-generators, may take advantage of the financial opportunities provided for in the Act and Commission regulations. The AEPS Program Administrator will review and make determinations on applications for alternative energy system status. The AEPS Program Administrator will also need to verify the alternative energy system's use of appropriate fuel sources and technologies. This verification includes determining the effectiveness of approved demand side management and energy efficiency measures, consistent with the Commission's Technical Reference Manual.

The current version of the Technical Reference Manual was adopted by the Commission at the August 8, 2019 public meeting. *See* *Implementation of the Alternative Energy Portfolio Standards Act of 2004: Standards for the Participation of Demand Side Management Resources – Technical Reference Manual 2021 Update*, at Docket Number M-2019-3006867 Order entered August 8, 2019. Available at [2021 Technical Reference Manual Final Order](#).

The 2021 version of the TRM is available at:

- [2021 Technical Reference Manual, Volume 1](#) – General Information
- [2021 Technical Reference Manual, Volume 2](#) – Residential Measures
- [2021 Technical Reference Manual, Volume 3](#) – Commercial and Industrial Measures
 - [2021 TRM Appendix A](#) – Climate Dependent Values
 - [2021 TRM Appendix C](#) – Lighting Audit & Design Tool for Commercial and Industrial Projects
 - [2021 TRM Appendix D](#) – Motor & VFD Audit and Design Tool

The AEPS Program Administrator will work with the DEP in determining eligibility of alternative energy system applications.

Potential contractors should be aware that the Act's alternative energy portfolio requirements do not apply to rural electric cooperatives selling electricity to their members or municipally-owned electric distribution companies selling electricity within their corporate limits.

Finally, successful bidders must be capable of providing the required services no later than December 31, 2020, which is the last day of the contract with the existing AEPS Program Administrator. A plan detailing the steps that will be taken to ensure the successful transition between the out-going and in-coming AEPS Program Administrators must be submitted to the Commission's Contract Officer no later than November 2, 2020.

III-3. Requirements.

Compliance with the Act is verified for successive twelve-month reporting periods that begin on June 1 and conclude on May 31 of the following year. Thus, the contractor must be able to provide a report on EDC and EGS compliance with the portfolio requirements after the end of the reporting year in which the contract begins.

The following is a list of EDCs that have compliance obligations under the Act and therefore are subject to the compliance requirements of this contract:

EDC Service Territory
UGI Utilities Inc. – Electric Division
Pennsylvania Power Company
Pike County Power and Light
Citizens Electric of Lewisburg
Wellsboro Electric Company
Duquesne Light Company
PPL Electric Utilities, Inc.
West Penn Power Company
Pennsylvania Electric Company
Metropolitan Edison Company
PECO Energy Company

There are currently approximately 451 licensed EGSs in Pennsylvania. Many of these EGSs are not serving retail electric customers at this time. For the 2019/2020 reporting year, there were 119 licensed EGSs that had retail sales and were subject to AEPS compliance obligations.

The AEPS Program Administrator should expect to devote time each year of the contract responding to customer-generator inquiries, processing customer-generators' applications for alternative energy system status and verifying the generation output data. The Commission expects that the majority of new alternative energy system applications received by the AEPS Program Administrator will be submitted by customer-generators and aggregators.

III-4. Tasks.

A. Alternative Energy System Qualification.

The commission's regulations relating to alternative energy system qualification and the AEPS Program Administrator's powers and duties in regard to alternative energy system qualification are delineated in 52 Pa. Code §§ 75.62 and 75.64(b).

EDC and EGS compliance are measured in quantities of alternative energy credits. Alternative energy credits may be certified (*e.g.*, created) for the electric generation of power plants or electric conservation through programs or technologies that have been qualified for "alternative energy system" status. Only electric generation facilities, customer-generators or other retail electric customers that use an alternative energy sources (*i.e.*, DSM, energy efficiency technology/program) may qualify for alternative energy system" status.

The alternative energy system application forms have been developed and are available on the Pennsylvania AEPS Alternative Energy Credit Program website at <http://www.pennaeps.com/resourcessupport>. The AEPS Program Administrator's task will be to review and approve or reject new completed applications within 30 business days. Applicants will include newly constructed systems or already existing facilities that have not yet applied. The AEPS Program Administrator will use the following process in reviewing applications:

1. The AEPS Program Administrator will initially review the application for completeness and adherence to instructions. Incomplete or incorrectly completed applications should be rejected and the applicant notified of the deficiency. A log should be maintained for all applications documenting the date of receipt and the date of rejection or approval of the application. If an application is rejected, the reason(s) should be noted. Under the regulations at 52 Pa. Code §75.63(j), applicants have 90 days to respond to requests for information or data prior to being rejected. Applications not approved by within 180 days of submission due to the applicant's failure to provide information or data will be deemed rejected.
2. Assuming a correctly completed application is submitted, the AEPS Program Administrator will then verify the application for compliance with the geographic eligibility requirement of the Act. Only an alternative energy system located in Pennsylvania, or the control area of the regional transmission organization ("RTO") PJM, is eligible. PJM is currently the only RTO that manages the transmission system in Pennsylvania. Therefore, for example, a generation facility located in New York, which lies entirely in the control area of the New York Independent System Operator, Inc., would not be eligible whereas, a generation facility in Maryland, which lies entirely in the PJM control area, would be eligible. The applicant is required to identify in which state and control area it is located.

3. An applicant must also demonstrate compliance with all applicable Pennsylvania and Federal environmental laws at the time of application submittal and as part of an annual recertification. Applicants are required to provide environmental permit(s) information including but not limited to a copy of their Title V permit with documentation of fuel sources used. The applicant shall attest if any environmental violations have occurred, the nature of the violations and the extent to which resolution of any such violations is still ongoing. The AEPS Program Administrator will refer these matters and information to the DEP by forwarding a copy of the application and any related pertinent information to the appropriate DEP contact person. DEP will verify that the facility has obtained the necessary permits to operate and is not guilty of a major environmental violation or if additional considerations must be met in order receive or maintain certification as a qualified alternative energy system. DEP will also verify that the applicant relies on at least one of the “alternative energy sources” identified in Section 1648.2 of the Act, 73 P.S. § 1648.2. DEP will inform the AEPS Program Administrator in writing of whether the applicant is in compliance with environmental laws and utilizes an alternative energy source. The AEPS Program Administrator will accept DEP’s determination on these matters.
4. If an applicant satisfies all qualification requirements, the AEPS Program Administrator will award alternative energy system status. The AEPS Program Administrator will provide the alternative energy system with a Pennsylvania state certification number. This is a unique number that will allow the alternative energy system to register with the PJM Environmental Information Services, Inc.’s (“PJM-EIS”) Generation Attribute Tracking System (“GATS”). GATS is an online, information database that the Commission has designated as the alternative energy credits registry. A numbering convention has already been developed that the AEPS Program Administrator will use. The AEPS Program Administrator will notify PJM-EIS of its approval decision and the state certification number.
5. As a general rule, the AEPS Program Administrator will not conduct a site visit or inspection of the system before processing the application.
6. If an application is rejected, the applicant must appeal the AEPS Program Administrator’s decision within 20 days if it wishes to challenge the determination. An appeal will be treated as a petition for appeal of staff actions, consistent with Commission regulations at 52 Pa. Code § 5.44. The Commission will rule on any timely filed appeal. The Commission can reverse the AEPS Program Administrator’s decision if it was incorrect as to the law or facts.

If the Commission refers the matter to the Office of Administrative Law Judge for evidentiary hearings, contractor staff may be called to testify and provide documentation to support their decision. The Commission will provide legal counsel, as needed, for the AEPS Program Administrator during this appeal process.

Offeror Response: Contractors should propose a timely and cost-effective protocol for reviewing applications that adheres to the above processes and standards contained in the Commission's regulations.

B. Certification of Alternative Energy Credits.

The Commission's regulations covering alternative energy credit certification and the Alternative Energy Credit AEPS Program Administrator's powers and duties in regard to alternative energy credit certification can be found at 52 Pa. Code §§75.63 and 75.64(d).

Once an alternative energy system has been provided a Pennsylvania state certification number, it may be registered with GATS. Alternative energy systems registered with GATS will accrue certificates equivalent to their electric generation or verified energy conservation measures. Each certificate is unique, and documents the date of creation, resource type, generator, etc.

Generators will maintain these certificates in their active accounts on GATS until they are sold or transferred to another party, such as an EDC or EGS. EDCs and EGSs will attempt to accrue a sufficient number of GATS registered certificates to satisfy their obligations under the Act.

Not every certificate created by GATS may be used for Pennsylvania compliance purposes. Before a GATS certificate can be used for Pennsylvania compliance purposes, it must be validated as an "alternative energy credit." The AEPS Program Administrator will need to address the following issues before an alternative energy credit is created.

1. Double-counting requirement. A GATS registered certificate may only be used once and not be used to meet the compliance obligation in more than one jurisdiction. For example, if an EGS has already used a GATS registered certificate to satisfy a compliance obligation in New Jersey, no EDC or EGS may use that same certificate for Pennsylvania compliance.

PJM-EIS's GATS system will create unique certificates for each megawatt hour of qualified generation or conservation. These certificates will be retired and removed from GATS as they are used to satisfy state portfolio standards.

2. Vintage limitation. Alternative energy credits may only be awarded for generation that has occurred from the date and subsequent to which an application was submitted for alternative energy system certification. No back-dating or vintaging of generation which occurred prior to the date of application submittal will be permitted. AEPS Programs may be used for compliance in the year they were produced or either of the two subsequent compliance years, thus allowing each credit to be used in one of the three compliance years.

Offeror's Response: Contractors should identify a protocol that will allow them to timely and cost-effectively verify that EDCs and EGSs do not use GATS certificates that exceed useful life of the certificate. This protocol may include utilization of existing GATS functionality, documentation obtained from EDCs, EGSs, etc.

C. Verification of EDC and EGS Compliance with the Portfolio Standard Requirements.

The Act requires EDCs and EGSs to increase their reliance on electricity produced or conserved through alternative energy sources. This mandate is implemented by imposing minimum targets for twelve month reporting periods. Compliance is measured in quantities of alternative energy credits, which represents one megawatt hour of electricity generation or conservation. The minimum portfolio requirements per reporting year can be found in the Commission's regulations at 52 Pa. Code §75.61(b).

The Act provides for three separate and distinct portfolio requirements: Tier I, solar PV, and Tier II. The solar PV requirement (solar share) represents a portion of the Tier I obligation. All obligations are expressed as a percentage of the EDC's or EGS's overall retail sales. For example, if an EDC or EGS had total annual sales of 100,000 megawatt-hours in the 2020-2021 reporting year, the total Tier I credit requirement is 8 percent or 8,000 Tier I credits. However, 0.5 percent of all retail sales must specifically come from solar PV sources while the remaining 7.5 percent may come from other non-solar PV Tier I sources or a combination including non-solar PV Tier I and solar PV sources. Therefore, the Tier I credit requirements for the solar share are for 500 solar PV credits. The balance of the Tier I requirement is then 7,500 credits of Tier I non-solar PV credits or some combination of non-solar PV credits and solar PV credits that are in addition to those solar PV credits used for compliance with the solar share. In addition, pursuant to 66 Pa.C.S. § 2814, the Tier I non-solar PV requirement will be adjusted by the Commission on a quarterly basis. Each of these three requirements must be met for an EDC or EGS to satisfy its obligations for a reporting period.

As part of the quarterly adjustment of Tier I requirements, the AEPS Program Administrator will be collecting data on a monthly and quarterly basis that will be used to make the quarterly adjustment. The Commission's requirements for calculating quarterly adjustments to the Tier I requirements are contained in *Implementation of Act 129 of 2008 Phase 4 - Relating to the Alternative Energy Portfolio Standards Act*, Docket No. M-2009-2093383 (Order entered May 28, 2009). Available at <http://www.puc.state.pa.us/pcdocs/1043496.doc>.

Specifically, the additional Tier I resources defined in 66 Pa. C.S. §2814(a) and (b), must report total generation and the status of all associated credits on a monthly basis. Any additional Tier I resource that fails to provide a monthly report will be disqualified for the quarter in which that month falls. The AEPS Program Administrator will notify the additional Tier I resource in writing if it fails to comply. These additional Tier I resources are to give the AEPS Program Administrator access to their GATS account so that the AEPS Program Administrator can track and verify the number of additional

credits available. EDCs and EGSs are to report monthly retail sales on a quarterly basis. The AEPS Program Administrator will compute the quarterly Tier I requirement for each EDC and EGS and post the calculated quarterly adjustment on the Administrator's website within 45 days of the end of the quarter. The quarterly Tier I requirements for each EDC and EGS will be summed to determine their annual Tier I requirement.

Compliance will be measured by comparing aggregate sales of electricity to retail customers against the quantity of alternative energy credits accrued for purposes of compliance with the Act. After the end of each true-up period, the AEPS Program Administrator will verify compliance with these requirements through a review of certificates held in the EDC's and EGS's reserve accounts in GATS. The Commission's regulations relating to the Alternative energy Credit AEC Administrator's powers and duties in regard to verification of EDC and EGS compliance are delineated in 52 Pa. Code §75.64(c). The AEPS Program Administrator will notify each EDC and EGS if they are compliant and will provide a compliance report to the Commission and DEP.

The AEPS Program Administrator will address the following issues in verifying compliance:

1. Geographic Scope Limitation: Credits awarded for electric generation from outside Pennsylvania and within the PJM control area can be used by any EDC or EGS.

Offeror's Response: The contractor should propose a protocol that will allow them to timely and cost-effectively verify that EDCs and EGSs do not use GATS registered certificates from inappropriate geographic areas to meet their portfolio compliance obligation. The protocol may utilize GATS functionality, data requests to EDCs and EGSs, data available from PJM, etc.

2. Banking restrictions: The Commission's regulations governing the banking of alternative energy credits can be found at 52 Pa. Code §75.69. The Act allows EDCs and EGSs to bank alternative energy credits generated in one reporting year, for compliance in the year it was produced or in either or both of the two immediately following reporting years.

Offeror's Response: The contractor should propose a cost-effective protocol for ensuring that banked credits are only used for the appropriate reporting periods. The protocol may utilize GATS functionality, data requests to EDCs and EGSs, etc.

D. Calculation of the Level of Alternative Compliance Payments for EDCs and EGSs.

The Commission's regulations relating to alternative compliance payment can be found at 52 Pa. Code §75.65.

The Act provides for a 90-day true-up period that follows the conclusion of each reporting period. The true-up period is an opportunity for EDCs and EGSs to remedy non-compliance at the end of the reporting period without suffering a penalty. At the end of the true-up period, the AEPS Program Administrator will review the compliance status of the EDCs and EGSs for the recently concluded reporting period. If an EDC or EGS still has not obtained sufficient alternative energy credits to meet the minimum requirements of the recently concluded reporting period, they will be deemed non-compliant.

Non-compliant EDCs and EGSs are required to submit an alternative compliance payment to the Commission. This payment is equal to \$45 for each non-solar PV alternative energy credit that the EDC or EGS was deficient. For the solar PV requirement, the payment is equal to 200% of the average market value of solar PV credits sold in the RTO where the non-compliance occurred and levelized up-front rebates given to sellers of solar PV credits in other jurisdictions within PJM.

The AEPS Program Administrator will calculate an alternative compliance payment amount for those EDCs and EGSs that failed to meet their obligations. Calculation of solar PV compliance payments will require a review of pricing data for the completed year, the amount of solar PV rebates given in other jurisdictions and the total kilowatt capacity for which rebates were given in the previous 20 years. The AEPS Program Administrator will submit a report to the Commission regarding these amounts. The Commission will then provide written notice to the EDC and EGS that was noncompliant.

An EDC or EGS may challenge the level of alternative compliance payments and appeal the AEPS Program Administrator's decision consistent with 52 Pa. Code § 5.44. These questions will be referred to the Office of Administrative Law Judge as may be appropriate for hearings. The AEPS Program Administrator may need to provide testimony and documentation at these hearings. The Commission will provide legal counsel to the AEPS Program Administrator, as necessary, for these proceedings.

Offeror's Response: Contractors should propose a protocol for the timely and cost-effective calculation of alternative compliance payment amounts consistent with the Commission's regulations. The protocol may utilize GATS functionality, data requests to EDCs and EGSs, etc.

E. Verification of Alternative Energy System Status and Performance.

It is important that alternative energy credits only be awarded to those systems that utilize appropriate fuels and technologies and in amounts that accurately reflect the generation or energy conservation associated with those systems. The AEPS Program Administrator will need to perform the following verification functions:

1. Large generators: This includes those generation facilities that interconnect directly with the transmission system managed by PJM GATS will create certificates for PJM located facilities based on metered data available from the PJM Market Settlement System. Accordingly, the AEPS Program Administrator will not be expected to verify these facilities' metered output.

The AEPS Program Administrator will not conduct an on-site inspection of these large facilities before reviewing and processing an application for alternative energy system status. However, the Commission wishes to ensure that large alternative energy systems are utilizing appropriate fuel sources and technologies and that their generation output is appropriately measured.

For example, some large generation facilities that interconnect directly with the transmission system managed by PJM rely on more than one energy source or technology. Either the primary or secondary fuel type may not represent an alternative energy source. The Commission must ensure alternative energy credits are not being awarded for this non-alternative energy generation.

Offeror's Response: Contractors should propose a protocol for a cost-effective and thorough inspection of at least ten (10) large alternative energy systems for each year of the contract. At least one alternative energy system must be of the dual-fuel variety. The contractor may make recommendations regarding which types of large systems it should focus its verification activities on. This verification protocol may include site inspections, the use of subcontractors, requests for documentation, etc. The AEPS Program Administrator may assume that the Commission will revoke the alternative energy system status of any facility that fails to cooperate in the investigation.

2. Customer-generators: This includes those alternative energy systems that are net metered and interconnected with a EDCs' distribution system.

The Act allows customer-generators with interconnected and net metered alternative energy systems to earn alternative energy credits. Please note that this is a separate requirement from the Commission's net metering and interconnection regulations. The Commission's net metering regulations allow for either a single, bi-directional meter, or two separate meters. See 52 Pa. Code §§ 75.11-75.15. This is an acceptable approach for measuring customer-demand and excess electricity production. However, an additional meter may be required to verify alternative energy system generation or conservation.

The Commission's regulations at 52 Pa. Code § 75.63(f) requires all alternative energy systems output, except solar PV systems with a nameplate capacity of 15 kilowatts or less, to be verified by metered data. The AEPS Program Administrator is responsible for verifying the output of solar PV systems with a nameplate capacity of 15 kilowatts or less and installed before May 18, 2017, through inspections, the use of engineering estimates, DEP meter records,

GATS functionality, self-certification and the like. See 52 Pa. Code § 75.63(g). Contractors should propose cost-effective protocols for obtaining accurate data for solar PV systems with nameplate capacities of 15 kilowatts or less. In the event that engineering estimates, GATS generation self-report information or DEP meter reads are used for verifying customer-generator output, provisions should be made for follow-up inspections on systems where generation output is flagged for discrepant information.

Offeror's Response: Contractors should propose cost-effective protocols for following up on discrepant generation output information.

The AEPS Program Administrator will also need to conduct site inspections to some approved customer-generators as part of the verification process. The focus will be on the appropriate use of technology and verification that the meter is functioning properly. This process will involve at least one hundred (100) customer-generator locations per year of the contract. These inspections will include at least one inspection for each fuel or technology type that customer-generators in Pennsylvania are using.

Offeror's Response: Contractors should propose a protocol for a cost-effective and thorough site-visit. This verification protocol may include the use of subcontractors, requests for documentation, etc. The AEPS Program Administrator may assume that the Commission will revoke the alternative energy system status of any customer-generator that fails to cooperate in the site visit.

3. Demand side management and energy efficiency programs: This includes those programs and technologies that result in the conservation of electricity. The Commission's expectation is that all reported savings will be reported first to the AEPS Program Administrator. The AEPS Program Administrator will then verify the data using the Technical Reference Manual or approved custom verification method before submitting the data for the creation of certificates in GATS.

Offeror's Response: The contractor should propose a cost-effective protocol for verifying energy efficiency and demand-side management measures before GATS registered certificates are awarded. The AEPS Program Administrator will use the Commission's approved technical reference manual for measures covered in that document. See III-2 on page 16 of this RFP for a link to the current version.

Offeror's Response: For custom measures, the contractor should propose a cost-effective protocol for verifying efficiency and conservation measures. The protocol may use existing or new technology applications, document requests, site inspections, the use of subcontractors, etc.

F. Support Services.

The AEPS Program Administrator will need to provide certain support functions to alternative energy system operators, EDCs, and EGSs:

1. Website: The AEPS Program Administrator will maintain a public internet domain on the World Wide Web. This Website will have the following attributes:
 - a. A section describing the AEPS PROGRAM Administrator and its functions in implementing the Act and its relationship to the Commission.
 - b. Contact information for the AEPS Program Administrator, including a mailing address, email address, facsimile number, and telephone number.
 - c. A section including hypertext links to the Commission, DEP, PJM-EIS and other sites as the Commission may specify.
 - d. A frequently asked question section for common inquiries from owners of alternative energy systems, customer-generators, EDCs, EGSs and the public.
 - e. A section documenting average prices for alternative energy credits. Average annual credit prices for alternative energy credits, Tier type as well as the alternative compliance payment for solar PV credits should be available for public inspection. In addition, the calculated quarterly adjustments and the aggregate annual quarterly Tier I requirements must be posted on this web site.
 - f. Public list of qualified alternative energy systems. A publicly available list of qualified alternative energy systems that identifies the resource type, whether it is located in Pennsylvania, the facility name, nameplate capacity and Pennsylvania state certification number. This list should be updated monthly.
 - g. Private list of contact information for alternative energy systems. This list will include contact information such as mailing address, telephone number, fax number and email address. This list should be updated monthly.
2. Help Line: The AEPS Program Administrator will maintain a phone line for questions from alternative energy system operators, Aggregators, EDCs and EGSs. The line should be open from 8:00 am Eastern Standard/Eastern Daylight Savings Time to 5:00 pm Eastern Standard/Eastern Daylight Savings time, Monday through Friday, excluding federal holidays.

Offeror's Response: Contractors should propose a cost-effective, user friendly means of offering these website and helpline services. Contractors may utilize customized or off-the-shelf systems to provide these support functions.

III-5. Reports and Program Control.

The Commission expects that there will be regular email and telephone contact between the contractor and Commission/DEP staff. The chosen contractor will designate a program manager who will receive all correspondence from the Commission/DEP and be responsible for signing off on all reports provided to the Commission/DEP. Periodic oral and written reports will be necessary in addition to the frequent informal contact between the contractor's staff and the Commission/DEP staff. These reports, as well as other documentation required from the contractor, are described below.

Working papers, including appropriate supporting data, will be retained by the contractor for the duration of the contract. During this period, the working papers (hard copy and/or electronic) will be turned over to the Commission/DEP if requested, working papers will be retained for at least one year beyond the expiration of the contract.

In order to manage this project efficiently, computers will be used by the contractor and the staff of the Issuing Office. The contractor should select the hardware and software necessary for the provision of these services. Reports and other documentation should be provided in formats used by the Commission and DEP's information systems, including Microsoft Office Word, Microsoft Office Excel, Microsoft Office PowerPoint, Adobe Reader, etc.

The contractor will provide the following reports to the Commission and DEP and attend the following meetings with the Commission and DEP. All reports are to be considered confidential unless authorized for release.

A. Monthly Written Status Reports.

Based on the task plan submitted with the proposal, the monthly reports should consist of the following parts:

1. Alternative energy system applications: This section should identify all applications received within the month and their status as approved, rejected, or pending. Data should include alternative energy source type, the location of resource and the status of the application.
2. Alternative energy system site inspections: This section should document all site inspections conducted in order to verify alternative energy source utilization and overall generation/conservation levels. Data should include the name and location of the alternative energy system, including the unique Pennsylvania state certification number. Findings and recommendations for additional action, if needed, should be included.
3. Miscellaneous: Other activities not addressed above or that may be later identified by the contractor, Commission, or DEP during the term of the contract.

Monthly reports should be delivered to the Commission/DEP by the 15th working day following the month's end and shall be submitted for each month worked.

B. Semi-annual meetings with Commission and DEP staff.

The contractor's program manager and other appropriate staff will meet with relevant Commission and DEP staff at the Commission's Harrisburg Offices or by teleconference on a semi-annual basis, as determined by the Commission. The purpose of the meeting will be to review and discuss outstanding issues that arise about credit administration, identify resolutions, discuss implementation issues, and identify action steps. The contractor will be responsible for providing meeting summaries within ten (10) working days of the meeting.

C. Alternative energy credit pricing.

The Act requires the Commission to maintain or designate a registry that will record the price paid for each alternative energy credit. The Commission has designated PJM-EIS's GATS to serve as that registry. The Commission's regulations require EDCs and EGSs to provide the Commission and the AEPS Program Administrator access to information in their GATS accounts. *See* 52 Pa. Code § 75.70(c). The Commission is to make some level of pricing information available to the Pennsylvania General Assembly, and the public. *See* 52 Pa. Code §75.70(d).

The Commission will provide information on the average annual credit prices for credits used for Pennsylvania compliance based on aggregate prices for all EDC and EGS transactions with reported credit prices. Average annual prices will be posted on the Commission's website as well as the AEPS website maintained by the AEPS Program Administrator. The postings will include the average annual price paid for solar PV credits, Tier I non-solar PV credits and Tier II credits.

The AEPS Program Administrator will annually gather and compute credit price information from GATS information if such information is available. The AEPS PROGRAM Administrator will verify the accuracy of the pricing information with the EDC or EGS. Where credit price information is not available in GATS, the AEPS PROGRAM Administrator will request such information from EDCs and EGSs.

The Commission will also need to know credit pricing information as part of making force majeure determinations. The Commission will make a separate force majeure determination for Tier I non-solar PV, Tier II, and solar PV resources prior to each reporting year. *See* 52 Pa. Code § 75.66. The AEPS Program Administrator will need to document credit prices over a six-month period to allow the Commission to make such a determination.

Offeror's Response: The contractor should propose a protocol for the cost-effective and timely assembly of credit pricing information. The protocol may utilize GATS functionality, data requests to EDCs and EGSs, and other information sources.

III-6. Other Requirements.

- A. **Expert Testimony.** Contractor must be able to support, orally and in writing, the professional findings and conclusions of the Contractor, for internal discussions as well as for adversarial, on-the-record proceedings.

Please note that Section I.E of the contract in Part VI states:

Providing Testimony in Adversarial Proceedings. The Commission will pay 125% of the usual hourly rates (rather than the usual 100% rate) for staff directly engaged in providing testimonial support (whether written or oral) in an adversarial proceeding.

Therefore, do not include any cost “inflater” in your cost proposal to cover providing such testimony in adversarial proceedings.

Offeror Response

- B. **Disaster Recovery/Long-term Storage of Records.** Indicate generally your backup systems and long-term document/electronic backup systems. Work on this project must be kept for at least ten years after its creation in a secure manner, available within a reasonable timeframe if required by TUS. 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.

Offeror Response

- C. **Disclosure of Potential Conflicts of Interest.** Other than in performance of duties under this contract, upon proposal submission **and throughout the contractual term** 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, must disclose to the Project Officer any work for, or any payment of any kind by, any party which seeks alternative energy credits. 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 performing work under 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.

Offeror Response

III-7. Objections and Additions to Standard Contract Terms and Conditions.

The Offeror will identify which, if any, of the terms and conditions (contained in **Part VI and Part VII**) it would like to negotiate and what additional terms and conditions the Offeror would like to add to the standard contract terms and conditions. The Offeror's failure to make a submission under this paragraph will result in its waiving its right to do so later, but the Issuing Office may consider late objections and requests for additions if to do so, in the Issuing Office's sole discretion, would be in the best interest of the Commonwealth.

The Issuing Office may, in its sole discretion, accept or reject any requested changes to the standard contract terms and conditions. The Offeror shall not request changes to the other provisions of the RFP, nor shall the Offeror request to completely substitute its own terms and conditions for **Part VI and Part VII**. All terms and conditions must appear in one integrated contract. The Issuing Office will not accept references to the Offeror's, or any other, online guides or online terms and conditions contained in any proposal.

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

Offeror Response

NOTE: DO NOT INCLUDE COST INFORMATION (BILLABLE RATES OR OTHER COSTS) IN THE TECHNICAL SUMMITAL

PART IV
COST SUBMITTAL

IV-1. Cost Submittal. The information requested in this **Part IV** shall constitute the Cost Submittal.

The total cost for the entire contract must be clearly provided as a total price not-to-exceed contract cost.

In addition, the total price not-to-exceed cost for each year will be listed separately, listed as year 1 through 5. These must add up to the total price not-to-exceed contract cost.

Year 1 – Contract Effective Date (assume start 10-1-20) - 12-31-21.

Year 2 – January 1, 2022 – December 31, 2022.

Year 3 – January 1, 2023 – December 31, 2023.

Year 4 – January 1, 2024 – December 31, 2024.

Year 5 - January 1, 2025 – December 31, 2025.

List all employees who will assigned to work on this project, indicating their billable rate for each of the five-year periods.

Indicate that travel and subsistence costs will conform to the requirements of the most current version of the Commonwealth Management Directives 230.10, *Travel and Subsistence Allowances*.

List all other costs related to work on this project, indicating their costs for each of the five-year periods.

The percentage of commitment to Small Diverse Businesses and Small Businesses should not be stated in the Cost Submittal. Offerors should **not** include any assumptions in their cost submittals. If the Offeror includes assumptions in its cost submittal, the Issuing Office may reject the proposal. Offerors should direct in writing to the Issuing Office pursuant to **Part I, Section I-9** of this RFP any questions about whether a cost or other component is included or applies. All Offerors will then have the benefit of the Issuing Office’s written answer so that all proposals are submitted on the same basis.

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

PART V

SMALL DIVERSE BUSINESS AND SMALL BUSINESS PARTICIPATION SUBMITTAL

- V-1. Small Diverse Business and Small Business General Information.** The Issuing Office encourages participation by Small Diverse Businesses and Small Businesses as prime contractors, and encourages all prime contractors to make significant commitments to use Small Diverse Businesses and Small Businesses as subcontractors and suppliers.

A Small Business must meet each of the following requirements:

- The business must be a for-profit, United States business;
- The business must be independently owned;
- The business may not be dominant in its field of operation;
- The business may not employ more than 100 full-time or full-time equivalent employees;
- The business, by type, may not exceed the following three-year average gross sales:
 - Procurement Goods and Services: \$20 million
 - Construction: \$20 million
 - Building Design Services: \$7 million
 - Information Technology Goods and Services: \$25 million

For credit in the RFP scoring process, a Small Business must complete the DGS/BDISBO self-certification process. Additional information on this process can be found at:

<http://www.dgs.pa.gov/Businesses/Small%20Diverse%20Business%20Program/Pages/default.aspx>

A Small Diverse Business is a DGS-verified minority-owned small business, woman-owned small business, veteran-owned small business, service-disabled veteran-owned small business, LGBT-owned small business, Disability-owned small business, or other small businesses as approved by DGS, that are owned and controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages.

For credit in the RFP scoring process, a Small Diverse Business must complete the DGS verification process. Additional information on this process can be found at:

<http://www.dgs.pa.gov/Businesses/Small%20Diverse%20Business%20Program/Pages/default.aspx>

An Offeror that qualifies as a Small Diverse Business or a Small 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.

A Small Diverse Business or Small Business may be included as a subcontractor with as many prime contractors as it chooses in separate proposals.

The Department's directory of self-certified Small Businesses and DGS/BDISBO-verified Small Diverse Businesses can be accessed from:

<http://www.dgs.internet.state.pa.us/suppliersearch>

Questions regarding the Small Diverse Business and Small Business Programs, including questions about the self-certification and verification processes can be directed to:

Department of General Services
Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO)
Room 601, North Office Building
Harrisburg, PA 17125
Phone: (717) 783-3119
Fax: (717) 787-7052
Email: RA-BDISBOVerification@pa.gov
Website: www.dgs.pa.gov

V-2. Small Diverse Business and Small Business (SDB/SB) Participation Submittal. All

Offerors are required to submit the Small Diverse Business and Small Business Participation Submittal Form and related Letter(s) of Intent (available at

http://www.dgs.pa.gov/_layouts/download.aspx?SourceUrl=http://www.dgs.pa.gov/Documents/Procurement%20Forms/Small%20Diverse%20Business%20and%20Small%20Business%20Participation%20Submittal.xlsx) **as described in Part I, Section I-11.** To receive

points for Small Diverse Business or Small Business participation commitments, the Small Diverse Business or Small Business must be listed in the Department's directory of self-certified Small Businesses and DGS/BDISBO-verified Small Diverse Businesses as of the proposal due date and time. BDISBO reserves the right to adjust overall Small Diverse Business or Small Business commitments to correctly align with the Small Diverse Business or Small Business status of a prime contractor or subcontractor as of the solicitation due date and time, and also to reflect the correct sum of individual subcontracting commitments listed within the Letters of Intent.

- A. Offerors must indicate their status as a Small Diverse Business and as a Small Business through selection of the appropriate checkboxes.
- B. 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 and Small Businesses as subcontractors.
- C. Offerors must include a listing of and required information for each of the Small Diverse Businesses and/or Small Businesses with whom they will subcontract to achieve the participation percentages outlined on the Small Diverse Business and Small Business Participation Submittal.

- D. Offerors must include a Letter of Intent (available at the following link: http://www.dgs.pa.gov/_layouts/download.aspx?SourceUrl=http://www.dgs.pa.gov/Documents/Procurement%20Forms/Small%20Diverse%20Business%20and%20Small%20Business%20Participation%20Submittal.xlsx) signed by both the Offeror and the Small Diverse Business or Small Business for each of the Small Diverse Businesses and Small Businesses identified in the Small Diverse Business and Small Business Participation Submittal form. At minimum, the Letter of Intent must include the following:
1. The fixed numerical percentage commitment and associated estimated dollar value of the commitment made to the Small Diverse Business or Small Business; and
 2. A description of the services or supplies the Small Diverse Business or Small Business will provide; and
 3. The timeframe during the initial contract term and any extensions, options, and renewals when the Small Diverse Business or Small Business will perform or provide the services and/or supplies; and
 4. The name and telephone number of the Offeror's point of contact for Small Diverse Business and Small Business participation; and
 5. The name, address, and telephone number of the primary contact person for the Small Diverse Business or Small Business.
- E. Each Small Diverse Business and Small Business commitment which is credited by BDISBO along with the overall percentage of Small Diverse Business and Small Business commitments will become contractual obligations of the selected Offeror.

NOTE: Offerors will not receive credit for any commitments for which information as above is not included in the Small Diverse Business and Small Business Participation Submittal. Offerors will not receive credit for stating that after the contract is awarded they will find a Small Diverse Business or Small Business.

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 Small Diverse Business and/or Small Business Status or entitle an Offeror to receive credit for Small Diverse Business or Small Business participation.

V-3. Contract Requirements—Small Diverse Business and Small Business Participation.

All contracts containing Small Diverse Business and Small Business Participation must contain the following contract provisions to be maintained through the initial contract term and any subsequent options or renewals:

- A. Each Small Diverse Business and Small Business commitment which was credited by BDISBO and the total percentage of such Small Diverse Business and Small Business commitments made at the time of proposal submittal, BAFO or contract negotiations, as applicable, become contractual obligations of the selected Offeror upon execution of its contract with the Commonwealth.
- B. All Small Diverse Business and Small Business subcontractors credited by BDISBO must perform at least 50% of the work subcontracted to them.
- C. The individual percentage commitments made to Small Diverse Businesses and Small Businesses cannot be altered without written approval from BDISBO.
- D. Small Diverse Business and Small Business commitments must be maintained in the event the contract is assigned to another prime contractor.
- E. The selected Offeror and each Small Diverse Business and Small Business for which a commitment was credited by BDISBO must submit a final, definitive subcontract agreement signed by the selected Offeror and the Small Diverse Business and/or Small Business to BDISBO within 30 days of the final execution date of the Commonwealth contract. A Model Subcontract Agreement which may be used to satisfy this requirement – **Model Form of Small Diverse and Small Business Subcontract Agreement** – is available at the following link:
http://www.dgs.pa.gov/_layouts/download.aspx?SourceUrl=http://www.dgs.pa.gov/Documents/Procurement%20Forms/Model%20Form%20Subcontract%20Agreement.docx.
The subcontract must contain:

1. The specific work, supplies or services the Small Diverse Business and/or Small Business will perform; location for work performed; how the work, supplies or services relate to the project; and the specific timeframe during the initial term and any extensions, options and renewals of the prime contract when the work, supplies or services will be provided or performed.
2. The fixed percentage commitment and associated estimated dollar value that each Small Diverse Business and/or Small Business will receive based on the final negotiated cost for the initial term of the prime contract.
3. Payment terms indicating that the Small Diverse Business and/or Small Business will be paid for work satisfactorily completed within 14 days of the selected Offeror's receipt of payment from the Commonwealth for such work.
4. Commercially reasonable terms for the applicable business/industry that are no less favorable than the terms of the selected Offeror's contract with the Commonwealth and that do not place disproportionate risk on the Small Diverse Business and/or Small Business relative to the nature and level of the Small Diverse Business' and/or Small Business' participation in the project.

- F.** If the selected Offeror and a Small Diverse Business or Small Business credited by BDISBO cannot agree upon a definitive subcontract within 30 days of the final execution date of the Commonwealth contract, the selected Offeror must notify BDISBO.
- G.** The Selected Offeror shall complete the Prime Contractor's Quarterly Utilization Report and submit it to the contracting officer of the Issuing Office and BDISBO within ten (10) business days at the end of each quarter of the contract term and any subsequent options or renewals. This information will be used to track and confirm the actual dollar amount paid to Small Diverse Business and Small Business subcontractors and suppliers and will serve as a record of fulfillment of the contractual commitment. If there was no activity during the quarter, the form must be completed by stating "No activity in this quarter." A late fee of \$100.00 per day may be assessed against the Selected Offeror if the Utilization Report is not submitted in accordance with the schedule above.
- H.** The Selected Offeror shall notify the Contracting Officer of the Issuing Office and BDISBO when circumstances arise that may negatively impact the selected Offeror's ability to comply with Small Diverse Business and/or Small Business commitments and to provide a corrective action plan. Disputes will be decided by the Issuing Office and DGS.
- I.** If the Selected Offeror fails to satisfy its Small Diverse Business and/or Small Business commitment(s), it may be subject to a range of sanctions BDISBO deems appropriate. Such sanctions include, but are not limited to, one or more of the following: a determination that the selected Offeror is not responsible under the Contractor Responsibility Program; withholding of payments; suspension or termination of the contract together with consequential damages; revocation of the selected Offeror's Small Diverse Business status and/or Small Business status; and/or suspension or debarment from future contracting opportunities with the Commonwealth.

PART VI

DRAFT CONTRACT

2020 Alternative Energy Portfolio Standards Program Administrator Contract

This Contract is entered into by _____ (“Contractor”) 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, and the written questions and answers posted by the Commission to its website, are all 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 provide Alternative Energy Credits Administrator services for the Commission. These duties 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”).
- B. 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 to this end shall have immediate access to all data, models, and other materials or information of the Contractor related to this project.
- C. All data, models, reports, information, databases, developed software, database search queries, software instructions or templates, and any other documentation or software created, utilized, or received by the Contractor and its employees or subcontractors and their employees for this Project shall become the property of the Commission. The Contractor is working-for-hire by the Commission, and the Contractor and its employees and subcontractors and their employees, expressly agree that any copyrights or other intellectual property created by the Contractor and its employees or subcontractors and their employees for the work on this Project shall be property of the Commission. Contractor agrees to obtain such copyrights and other intellectual property rights from its employees and any subcontractors and their employees to effectuate Commission’s ownership of such rights. Contractor shall have a non-exclusive, unrestricted license from the Commission to use any such copyrights or other intellectual property created by the Contractor and its employees or subcontractors and their employees for the work on this Project. Contractor’s non-

exclusive, unrestricted license to use any such copyrights or other intellectual property shall be irrevocable and shall continue in perpetuity after the termination of the Contract.

- D. Replacement of personnel. Contractor will advise Commission of the replacement of professional personnel, or subcontractors and their professional personnel, assigned to this project. Commission reserves the right to approve changes in key personnel. Contractor should advise Commission as soon as reasonably possible, preferably with enough lead time to allow for consultation regarding replacement.
- E. Providing Testimony in Adversarial Proceedings. The Commission will pay 125% of the usual hourly rates (rather than the usual 100% rate) for staff directly engaged in providing testimonial support (whether written or oral) in an adversarial proceeding.

II. Party Representatives and Payment.

A. Project Officer and Contractor Representative

- 1. The Commission has designated Darren Gill, Deputy Director of the Bureau of Technical Utility Services, as its staff contact (“Project Officer”) and has authorized him 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 Contractor has designated _____ 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.
- 3. The parties agree to communicate fully with each other through the designated representatives and to keep each other promptly informed of all pertinent matters and developments relating to this Project.

B. Expenses and Payment

- 1. Contractor will bill monthly.
- 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 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 of other costs incurred during the period;

- e) A list of transportation lodging, and meal expenses by each individual incurring such costs during the 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. No expenditures will be reimbursed if incurred before the effective date of this contract.
 5. All charges for services and other costs charged by the Contractor are subject to review at any time by the Commission.
 6. The Commission will review invoices within 10 days of submission, and approved invoices will be paid within 45 days of submission.

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.

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.

C. Confidentiality

1. The parties recognize that it will be necessary for the Contractor to have proprietary information regarding work on this project. Accordingly, the Contractor and the Commission have or will execute a Nondisclosure Agreement attached hereto as Exhibit 1. The executed Nondisclosure Agreement is hereby incorporated into this Contract by reference.
2. The Contractor may not release of any information concerning the Project other than the existence and nature of the Contractor without the prior written approval of the Commission's Project Officer or his/her designee.

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.

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 for any claim asserted against the Commission alleging that the Commission is an employer, co-employer or joint employer of any Contractor or subcontractor 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 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 for any amount so paid, including interest, penalties and fines.

The Contractor is not an agent of the Commission and has no authority to represent the Commission as to any matters, except as expressly authorized in this Contract.

C. Disputes

As the first step to resolving 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 or the Contractor for breach of this Contract, nor shall it limit the Commission or the Contractor'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. Amendments must be in writing and signed to be enforceable

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.

E. Assignment and Delegation

This Contract, or any of its rights or duties, may not be assigned or delegated without prior written approval by the Commission.

F. 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.

G. 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.

H. 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:

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 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 with ten days written notice prior to the effective date of any cancellation of insurance.

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

I. Waiver by Contractor of “Statutory Employer” defenses

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 work performed for this Contract.

J. LIMITATION OF LIABILITY

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

K. Immunity

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

L. Authority

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

M. Employees, Background Checks, Substance Abuse

1. Contractor shall employ for the work only persons known to it to be experienced, qualified, reliable, and trustworthy. During the performance of the work, the Commission 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. At the request of the Commission Project Officer, the credentials of any of Contractor’s employees assigned to this project shall be subject to review by the Commission.

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 property and employees.

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 the public, or with the public's 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 to inform them of the circumstances. The Project Officer may, at any time, request that the Contractor verify that an employee of the Contractor or its subcontractors does 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.
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 abuse alcohol or 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 to inform them of the circumstances.

IN WITNESS THEREOF, intending to be legally bound, the Contractor and the Commission hereby execute this **2020 Alternative Energy Portfolio Standards Program Administrator Contract**.

Contractor Title Date

Robert C. Gramola Date
Director of Administration
Pennsylvania Public Utility Commission

Renardo L. Hicks Date
Chief Counsel
Pennsylvania Public Utility Commission

**2020 Alternative Energy Portfolio Standards Program Administrator Contract
Nondisclosure Agreement**

The Pennsylvania Public Utility Commission (“Commission”) and _____ (“Contractor”), intending to be legally bound, hereby agree as follows:

1. As part of the 2020 Alternative Energy Portfolio Standards Program Administrator Contract, the Contractor will have data, books, documents, and records related to work for this Contract. These materials are confidential (“proprietary information”).
2. With respect to proprietary information, 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 who have a need to know;
 - (c) Use the proprietary information solely in connection with the Contractor’s work on the Contract;
 - (d) Not disclose the proprietary information publicly or privately to any third party in any manner; and
 - (e) Advise the Contractor's representatives of their obligation with respect to the proprietary information.
3. The Consultant may make proprietary information available to the Commission's Staff under this Agreement provided, however, that in the event of such disclosure, the Commission's Staff shall also be bound by the terms of this Nondisclosure Agreement.
4. Proprietary information that is provided to the Contractor and/or Commission Staff will be protected from disclosure as proprietary information 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.
5. The Contractor recognizes that the provisions of this Nondisclosure Agreement are vitally important to the welfare of the Commission and other entities providing information pursuant to the Contract and that money damages may not be an adequate remedy for any violation by the Contract thereof. Accordingly, in the event of any breach or violation by the Contractor of the provisions thereof, the Commission 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.

6. Nothing in this Nondisclosure 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 a regulated entity, or to examine records of the cost to a regulated entity's affiliates for providing services or furnishing property to a regulated entity (where applicable) as permitted by the statutory and common law of the Commonwealth of Pennsylvania.

7. Nothing contained in this Nondisclosure Agreement shall affect, abridge, increase, or decrease the ability of the Commission to appeal to the Commonwealth Court or otherwise protect its rights.

IN WITNESS THEREOF, intending to be legally bound, the Contractor and the Commission execute this **Nondisclosure Agreement as Exhibit 1** of the **2020 Alternative Energy Portfolio Standards Program Administrator Contract**.

(Contractor) _____
Date

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

Renardo L. Hicks _____
Chief Counsel Date
Pennsylvania Public Utility Commission

PART VII

STANDARD CONTRACT TERMS AND CONDITIONS

The following is hereby incorporated into this contract by reference, and is attached hereto:

Pennsylvania Department of General Services, Bureau of Procurement
Standard Contract
Terms and Conditions – Paper Contract
BOP-1204
Revised 8/9/2018
25 pages

**APPENDIX A
PROPOSAL COVER SHEET
COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
PUC RFP 2020-1**

2020 Alternative Energy Portfolio Standards Program Administrator Contract

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

Offeror Name	
Offeror Mailing Address	
Offeror Website	
Offeror Contact Person	
Contact Person's Phone	
Contact Person's E-Mail	
Offeror Federal ID Number	
Offeror SAP/SRM Vendor #	

Submittals Enclosed:	
Y	Technical Submittal Y Domestic Workforce Utilization Certification
Y	Small Diverse Business and Small Business Participation Submittal Y Small Diverse Business and Small Business Participation Submittal Form Y Small Diverse Business and Small Business Letter(s) of Intent
Y	Cost Submittal

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

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

APPENDIX B
DOMESTIC WORKFORCE UTILIZATION CERTIFICATION

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

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

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

OR

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

[Use additional sheets if necessary]

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

Attest or Witness:

Corporate or Legal Entity's Name

Signature/Date

Signature/Date

Printed Name/Title

Printed Name/Title