

BUNKER HILL COMMUNITY COLLEGE

**REQUEST FOR RESPONSES
FOR**

INSURANCE BROKERAGE



Request for Responses for Insurance Brokerage

RFR # BHCINSC21

RFR Dated: 07/01/2021

RFR Delivery in Electronic format to:

**John K. Pitcher
Vice President
Administration & Finance
Bunker Hill Community College
purchasedoc@bhcc.edu**

Table of contents

Page #

I. General Information and Submission Requirements	1
II. Proposal Requirements	3
III. Description/Scope of Services	4
IV. Evaluation Criteria	6
V. Procurement Calendar	8
VI. Basic College Data	8
EXHIBIT A	
EXHIBIT B	
EXHIBIT C	
EXHIBIT D	

Request for Response
BUNKER HILL COMMUNITY COLLEGE
Insurance Brokerage

I. General Information and Submission Requirements

RFR Delivery

All RFRs must be delivered electronically via email to:

John K. Pitcher
Vice President
Administration & Finance
Bunker Hill Community College
purchasedoc@bhcc.edu

All emails must have the RFR number in their subject line to be considered.

Late responses will not be accepted. Responses which are either faxed or submitted via ground mail will not be accepted as a delivery. Information submitted beyond the scope required in the RFR may hinder service provider's evaluation. One service provider will be awarded a contract.

All responses must include W9, Authorized Signatory Listing Form, Non-Collusion Form and Tax Compliance Form. All forms are needed to be completed and fully signed.

Response Authentication

A response or a proposal must be signed by an authorized officer, whose signature must be attested to by the clerk/secretary of the corporation, and with the corporate seal affixed.

Time for Acceptance

Deadline for submission is 1 PM, Friday, August 13, 2021.

The contract will be awarded after 45 business days of the response submission deadline. The time for award may be extended for up to 45 additional business days by mutual agreement between Bunker Hill Community College and the apparent highest responsive and responsible proposer that offers the best value to the College. The college reserves right to reject all RFRs without a cause if it is in the college's best interests to do so.

Questions about the RFR

Please email to purchasedoc@bhcc.edu indicating RFR number in your email's subject line with any question. All questions-answers are distributed to all registered proposers.

Respondent's Responsibilities

This RFR is available to download from www.bhcc.edu, the college's website. A copy can be emailed when contacted via email at purchasedoc@bhcc.edu. The college accepts no liability and will not provide any accommodation to respondent who submit a response based upon unsolicited and an out-of-date solicitation document.

Right to Cancel/Reject Proposals

The Bunker Hill Community College may cancel this RFR, or reject in whole or in part any and all solicitations, if the College determines that cancellation or rejection serves the best interests of the College. The College will not acknowledge a proposer's Terms & Conditions throughout the award. Terms & Conditions are negotiable by mutual agreement/contract; final Terms & Conditions are at the sole discretion of the College. A successful proposer must sign Massachusetts Standard Contracts opting in MA General Standards Terms and Conditions. The College makes no guarantee that any service will be purchased resulting from this RFR.

II. Proposal Requirements

In order to be considered for Contract award, a Respondent must meet the minimum requirements as shown below. Inability or unwillingness to meet the minimum requirements set forth below will result in rejection of a proposal as a non-responsive. Qualified Respondents are required to demonstrate:

1. Experience: Must have an experience of working as an Insurance Broker for at least five (5) years.
2. Organizational Structure: Describe your organization structure, philosophy, management structure and a brief company history.
3. Include proposed service team with a designate Account Manager for BHCC.
4. Provide resumes for all service team personnel.
5. Provide information on experience working with other similar size community colleges or educational organizations and highlight how these experiences will be relevant in handling BHCC's account.
6. Provide cost or fee structure that your service will be based upon.
7. Provide at least three references including their verified contact details. The college will contact references to obtain feedback.

Financial stability

Respondent **must** submit audited Financial Statements by an independent accountant or if not available, two years of Statements of Net Position and Statements of Revenues, Expenses, and Changes in Net Position. The reports and statements will be held as confidential and proprietary but will not be returned. The procurement committee will review these reports for evaluation of strong financial strength. The contract is sought to be awarded for a service provider with a strong financial strength and stability. A weak financial position can be the sole reason for disqualification.

Affirmative Action Plan

In the Affirmative Action Plan, Respondent needs to submit a statement indicating commitment to promoting employment opportunities without regard to race, color, religion, gender orientation, age, national origin, ancestry, disability, covered veterans status or any other characteristic protected by law .

III. Description/Scope of Services

General Description

Bunker Hill Community College (BHCC) is soliciting a Request for Response (RFR) to obtain proposals from qualified brokerage firms. To provide the College (BHCC) with Insurance Brokerage Service. These services will include placement of the coverage package which includes minimum Cybersecurity Liability, Student Travel, Other Travel, Auto, Health Education Training Malpractices and Other Professional liabilities.

No Respondents is authorized to approach any market on behalf of the BHCC until the broker selection is made and a contract is awarded.

Scope of Services

The College requires the successful respondent to offer the expertise, personnel and resources to provide minimum following services, in addition to all the usual and customary broker services.

The Broker of record will:

- ✓ Assess BHCC's exposure to risk and consult with BHCC's designated representatives regarding strategies to address such exposures and implement determined strategies.
- ✓ Develop coverage or protection alternatives for BHCC's consideration.
- ✓ Provide and discuss risk-financing alternatives available to BHCC including but not limited to self-insurance, finite and structured insurance programs.
- ✓ Identify appropriate insurers, insurance programs and products and obtain proposals for renewals of existing policies and new policies as directed by the BHCC.
- ✓ Evaluate the financial stability and long-term prospects of the identified insurance companies.
- ✓ Assist BHCC, as requested, in the development of exposure information for insurers, including statement of values and similar reports.

- ✓ Place required coverages with satisfactory insurance carriers as directed by BHCC. Negotiate details of such placements with the selected insurance carriers and verify that the resulting policies, when issued, are accurate, complete and in compliance.
- ✓ Provide BHCC with binders of insurance prior to renewal date(s) and policies as soon as practical.
- ✓ Certify that the resulting policies comply with financial arrangements and administrative procedures acceptable to BHCC.
- ✓ Provide certification of coverage in a timely manner to parties at interest as may be needed and required by BHCC.
- ✓ Provide advice and consultation regarding risk and insurance issues in contractual arrangements involving BHCC.
- ✓ Assist BHCC in developing and monitoring insurance requirements of various contracts entered into by BHCC.

Contract Term Length and Renewal Options

Initial 5 years with an option to renew for next 5 years in a sole discretion of the college.

Non-Collusion Form, Tax Compliance Form and Authorized Signatory Listing Form

These forms are included with the RFR in the **Exhibit** . Please complete and include with response.

College Condition Form & MA Standard Contract and Terms

These forms are included with the RFR in the **Exhibit** . Please complete the college condition form and submit with your response. MA Standard Contract form with the general terms and condition must be signed to enter into a contract with the college.

IV. Evaluation Criteria

1. Response Evaluation shall be administered by a Committee selected by the COLLEGE.
2. Proposers are required to submit all documents WITH THEIR RESPONSES.
3. Responses will be evaluated by the COLLEGE using a Best Value Method evaluation process based on the criteria described below.
4. Respondent responding to this RFR may be requested to clarify issues or to provide additional insights into their response through written clarifications and/or oral presentations. The COLLEGE reserve the right to request best and final offers from firms that are determined to be susceptible for contract award.
5. An award shall be made to the proposer whose submitted responses receives the highest total score after considering all evaluation factors.

The combination of your written responses to the RFR as well as the results of the in person broker presentation will be the basis for broker selection.

Evaluation Criteria will be based on:

- a. Quality and Responsiveness of Proposal
- b. General Capabilities
- c. Demonstrated Managerial/Technical Expertise
- d. Adequacy of Respondent's resources to support the successful performance of the services sought in this RFR.
- e. Qualifications and experience of the Respondent and the primary personnel identified to provide the requested services.
- f. Experience in providing similar services to other clients and record of performance with other clients.
- g. Cost and Compensation. Reasonableness of the Offered Rates.
- h. Any other criteria that relate to the Respondent's qualifications such as

References.

The BHCC will assign such weight as it deems appropriate and in the best interests of the BHCC, in its sole discretion, to each relevant factor that it takes into consideration.

Respondents shall not be allowed to change their responses during or after the oral presentation unless responding to a request from the COLLEGE. Each respondent will be given a separate meeting time schedule to conduct its presentation before the Committee. Each session will last approximately one to one and a half hours. Oral Presentations will be evaluated and scored by the Committee.

Best and Final Offers

The COLLEGE reserve the right to request Best and Final Offers (“BAFOs”) after the Oral Presentations have been conducted. Should the COLLEGE exercise this right, the COLLEGE will request a BAFO from each Respondent. The COLLEGE will revise the evaluation, as necessary, based on information submitted in their BAFOs.

V. Procurement Calendar

EVENT	DATE
Solicitation posting on BHCC Website	July 09, 2021
Advertisement on MA-SEC goods/services bulletin	July 15, 2021
Deadline for submission	August 13, 2021
Scheduling Presentation/Meeting/Interview	August 23, 2021
Contract Award	September 01, 2021

VI. Basic College Data

Bunker Hill Community College (BHCC), located in Boston, Massachusetts, is the largest community college in Massachusetts, with more than 19,000 students enrolled annually. BHCC, founded in 1973, is fully accredited by the New England Association of Schools and Colleges (NEASC).

With two main campuses in Charlestown and Chelsea, in addition to three satellite campuses and several instructional centers throughout the Greater Boston Area, BHCC offers a wide range of learning options to suit the diverse needs of our student body. Students can choose from day, afternoon, evening, late-evening, weekend, web-based and distance-learning courses to fit their busy schedules.

BHCC is proud to be the most affordable community college in Massachusetts. We offer more than 100 academic programs, including associate degree programs, certificate programs and programs designed to allow students to complete their first two years of a bachelor's degree before transferring to a four-year university. Our dedicated, caring faculty and counselors are here to help students achieve their personal, academic and career goals.

EXHIBIT A

College Condition Form

Bunker Hill Community College will not be liable for any costs incurred by respondents in the preparation and production of a response document or the costs of any services performed prior to receiving approval of the agreement. All responses and materials submitted shall become the property of Bunker Hill Community College for use as deemed appropriate, respecting all copyrights. These documents will eventually become Public Records after a contract is awarded.

1. Bunker Hill Community College reserves the right to modify the requirements of this solicitation after its release. All respondents will be notified of any modifications. Wherever the College is referred to herein, such reference will be to the President or his/her designee, as stated periodically in writing during the term of the contract.
2. Respondents who submit a response may be required to give an oral presentation to Bunker Hill Community College. This shall provide an opportunity for a Respondent to clarify or elaborate on the response, but shall in no way change the original response. The College shall schedule the time and location for presentation, if it is only deemed necessary.
3. By submitting a response, the respondent agrees that it will not make any claims or have any right to damages because of any misinterpretation or misunderstanding of the specifications or because of any misinformation or lack of information.
4. The successful respondent will be notified in writing by letter.
5. Omissions, inaccuracy or misstatements is sufficient cause for rejection of the Response.
6. The Agreement, if awarded, shall be governed and construed in accordance with the laws of Massachusetts.

Signature of individual submitting response or proposal

Name of business

EXHIBIT B

Certificate of Non-Collusion

The undersigned certifies under penalties of perjury that this response or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Signature of individual submitting response or proposal

Name of business

EXHIBIT C

Tax Compliance Certification

Pursuant to M.G.L. c. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Signature of person submitting response or proposal

Name of business

EXHIBIT D

COMMONWEALTH OF MASSACHUSETTS CONTRACTOR AUTHORIZED SIGNATORY LISTING

Issued May
2004



CONTRACTOR LEGAL NAME: [Click here to enter text.](#)

CONTRACTOR VENDOR/CUSTOMER CODE: [Click here to enter text.](#)

INSTRUCTIONS: Any Contractor (other than a sole-proprietor or an individual contractor) must provide a listing of individuals who are authorized as legal representatives of the Contractor who can sign contracts and other legally binding documents related to the contract on the Contractor's behalf. In addition to this listing, any state department may require additional proof of authority to sign contracts on behalf of the Contractor, or proof of authenticity of signature (a notarized signature that the Department can use to verify that the signature and date that appear on the Contract or other legal document was actually made by the Contractor's authorized signatory, and not by a representative, designee or other individual.)

NOTICE: *Acceptance of any payment under a Contract or Grant shall operate as a waiver of any defense by the Contractor challenging the existence of a valid Contract due to an alleged lack of actual authority to execute the document by the signatory.*

For privacy purposes **DO NOT ATTACH** any documentation containing personal information, such as bank account numbers, social security numbers, driver's licenses, home addresses, social security cards or any other personally identifiable information that you do not want released as part of a public record. The Commonwealth reserves the right to publish the names and titles of authorized signatories of contractors.

AUTHORIZED SIGNATORY NAME	TITLE

I certify that I am the President, Chief Executive Officer, Chief Fiscal Officer, Corporate Clerk or Legal Counsel for the Contractor and as an authorized officer of the Contractor I certify that the names of the individuals identified on this listing are current as of the date of execution below and that these individuals are authorized to sign contracts and other legally binding documents related to contracts with the Commonwealth of Massachusetts on behalf of the Contractor. I understand and agree that the Contractor has a duty to ensure that this listing is immediately updated and communicated to any state department with which the Contractor does business whenever the authorized signatories above retire, are otherwise terminated from the Contractor's employ, have their responsibilities changed resulting in their no longer being authorized to sign contracts with the Commonwealth or whenever new signatories are designated.

Signature

Date:

Title:

Telephone:

Fax:

Email:

[Listing can not be accepted without all of this information completed.]

A copy of this listing must be attached to the "record copy" of a contract filed with the department.

**COMMONWEALTH OF MASSACHUSETTS
CONTRACTOR AUTHORIZED SIGNATORY LISTING**

Issued May
2004



PROOF OF AUTHENTICATION OF SIGNATURE

**This page is optional and is available for a department to authenticate contract signatures.
It is recommended that Departments obtain authentication of signature for the signatory
who submits the Contractor Authorized Listing.**

This Section MUST be completed by the Contractor Authorized Signatory in presence of notary.

Signatory's full legal name (print or type):

Title:

X

Signature as it will appear on contract or other document (**Complete only in presence of notary**):

AUTHENTICATED BY NOTARY OR CORPORATE CLERK (PICK ONLY ONE) AS FOLLOWS:

I, _____ (NOTARY) as a notary public certify that I witnessed
the signature of the aforementioned signatory above and I verified the individual's identity on this date:

_____, 20____.

My commission expires on:

AFFIX NOTARY SEAL

I, _____ (CORPORATE CLERK) certify that I witnessed the
signature of the aforementioned signatory above, that I verified the individual's identity and confirm the individual's
authority as an authorized signatory for the Contractor on this date:

_____, 20____.

AFFIX CORPORATE SEAL

EXHIBIT E

COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



This form is jointly issued and published by the Office of the Comptroller (CTR), the Executive Office for Administration and Finance (ANF), and the Operational Services Division (OSD) as the default contract for all Commonwealth Departments when another form is not prescribed by regulation or policy. The Commonwealth deems void any changes made on or by attachment (in the form of addendum, engagement letters, contract forms or invoice terms) to the terms in this published form or to the [Standard Contract Form Instructions and Contractor Certifications](#), the [Commonwealth Terms and Conditions for Human and Social Services](#) or the [Commonwealth IT Terms and Conditions](#) which are incorporated by reference herein. Additional non-conflicting terms may be added by Attachment. Contractors are required to access published forms at CTR Forms: <https://www.macomptroller.org/forms>. Forms are also posted at OSD Forms: <https://www.mass.gov/lists/osd-forms>.

CONTRACTOR LEGAL NAME: (and d/b/a):		COMMONWEALTH DEPARTMENT NAME: MMARS Department Code: Bunker Hill Community College	
Legal Address: (W-9, W-4):		Business Mailing Address: 250 New Rutherford Ave, Boston MA 02129	
Contract Manager:	Phone:	Billing Address (if different): apayable@bhcc.edu	
E-Mail:	Fax:	Contract Manager:	Phone:
Contractor Vendor Code: VC		E-Mail:	Fax:
Vendor Code Address ID (e.g. "AD001"): AD__ (Note: The Address ID must be set up for EFT payments.)		MMARS Doc ID(s):	
<input checked="" type="checkbox"/> NEW CONTRACT		<input type="checkbox"/> CONTRACT AMENDMENT	
PROCUREMENT OR EXCEPTION TYPE: (Check one option only) ___ Statewide Contract (OSD or an OSD-designated Department) ___ Collective Purchase (Attach OSD approval, scope, budget) <input checked="" type="checkbox"/> Department Procurement (includes all Grants - 815 CMR 2.00) (Solicitation Notice or RFR, and Response or other procurement supporting documentation) ___ Emergency Contract (Attach justification for emergency, scope, budget) ___ Contract Employee (Attach Employment Status Form, scope, budget) ___ Other Procurement Exception (Attach authorizing language, legislation with specific exemption or earmark, and exception justification, scope and budget)		Enter Current Contract End Date <i>Prior</i> to Amendment: ____, 20__. Enter Amendment Amount: \$ ____ (or "no change") AMENDMENT TYPE: (Check one option only. Attach details of amendment changes.) <input type="checkbox"/> Amendment to Date, Scope or Budget (Attach updated scope and budget) ___ Interim Contract (Attach justification for Interim Contract and updated scope/budget) ___ Contract Employee (Attach any updates to scope or budget) ___ Other Procurement Exception (Attach authorizing language/justification and updated scope and budget)	
The Standard Contract Form Instructions and Contractor Certifications and the following Commonwealth Terms and Conditions document are incorporated by reference into this Contract and are legally binding: (Check ONE option): <input checked="" type="checkbox"/> Commonwealth Terms and Conditions <input type="checkbox"/> Commonwealth Terms and Conditions For Human and Social Services <input type="checkbox"/> Commonwealth IT Terms and Conditions			
COMPENSATION: (Check ONE option): The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under 815 CMR 9.00 . <input type="checkbox"/> Rate Contract. (No Maximum Obligation) Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.) <input type="checkbox"/> Maximum Obligation Contract. Enter total maximum obligation for total duration of this contract (or <i>new</i> total if Contract is being amended). \$ ____			
PROMPT PAYMENT DISCOUNTS (PPD): Commonwealth payments are issued through EFT 45 days from invoice receipt. Contractors requesting accelerated payments must identify a PPD as follows: Payment issued within 10 days ___% PPD; Payment issued within 15 days ___% PPD; Payment issued within 20 days ___% PPD; Payment issued within 30 days ___% PPD. If PPD percentages are left blank, identify reason: ___ agree to standard 45 day cycle ___ statutory/legal or Ready Payments (M.G.L. c. 29, § 23A); ___ only initial payment (subsequent payments scheduled to support standard EFT 45 day payment cycle. See Prompt Pay Discounts Policy.) BHCC PAYS THROUGH EFT PAYMENT ONLY			
BRIEF DESCRIPTION OF CONTRACT PERFORMANCE or REASON FOR AMENDMENT: (Enter the Contract title, purpose, fiscal year(s) and a detailed description of the scope of performance or what is being amended for a Contract Amendment. Attach all supporting documentation and justifications.)			
ANTICIPATED START DATE: (Complete ONE option only) The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations: <input type="checkbox"/> may be incurred as of the Effective Date (latest signature date below) and no obligations have been incurred prior to the Effective Date. <input type="checkbox"/> may be incurred as of ____, 20__, a date LATER than the Effective Date below and no obligations have been incurred prior to the Effective Date. <input type="checkbox"/> were incurred as of ____, 20__, a date PRIOR to the Effective Date below, and the parties agree that payments for any obligations incurred prior to the Effective Date are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of payments forever releases the Commonwealth from further claims related to these obligations.			
CONTRACT END DATE: Contract performance shall terminate as of ____, 20__ with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoicing or final payments, or during any lapse between amendments.			
CERTIFICATIONS: Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor certifies that they have accessed and reviewed all documents incorporated by reference as electronically published and the Contractor makes all certifications required under the Standard Contract Form Instructions and Contractor Certifications under the pains and penalties of perjury, and further agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, the applicable Commonwealth Terms and Conditions, this Standard Contract Form, the Standard Contract Form Instructions and Contractor Certifications, the Request for Response (RFR) or other solicitation, the Contractor's Response (excluding any language stricken by a Department as unacceptable, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in 801 CMR 21.07 , incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.			
AUTHORIZING SIGNATURE FOR THE CONTRACTOR: X: _____ Date: _____ (Signature and Date Must Be Handwritten At Time of Signature) Print Name: _____ Print Title: _____		AUTHORIZING SIGNATURE FOR THE COMMONWEALTH: X: _____ Date: _____ (Signature and Date Must Be Handwritten At Time of Signature) Print Name: _____ Print Title: _____	



COMMONWEALTH TERMS AND CONDITIONS

This Commonwealth Terms and Conditions form is jointly issued by the Executive Office for Administration and Finance (ANF), the Office of the Comptroller (CTR) and the Operational Services Division (OSD) for use by all Commonwealth of Massachusetts ("State") Departments and Contractors. **Any changes or electronic alterations by either the Department or the Contractor to the official version of this form, as jointly published by ANF, CTR and OSD, shall be void.** Upon execution of the Standard Contract Form these Commonwealth Terms and Conditions will be incorporated by reference. Performance shall include services rendered, obligations due, costs incurred, commodities and deliverables provided and accepted by the Department, programs provided or other commitments authorized under a Contract. A deliverable shall include any tangible product to be delivered as an element of performance under a Contract. The Commonwealth is entitled to ownership and possession of all deliverables purchased or developed with State funds. Contract shall mean the Standard Contract Form issued jointly by ANF, CTR and OSD.

1. Contract Effective Start Date. Notwithstanding verbal or other representations by the parties, the effective start date of performance under a Contract shall be the later of the date the Contract was executed by an authorized signatory of the Contractor, the date the Contract was executed by an authorized signatory of the Department, the date specified in the Contract, or the date of any approvals required by law or regulation.

2. Payments And Compensation. The Contractor shall only be compensated for performance delivered and accepted by the Department in accordance with the specific terms and conditions of a Contract. All Contract payments are subject to appropriation pursuant to M.G.L. c. 29, § 26, or the availability of sufficient non-appropriated funds for the purposes of a Contract, and shall be subject to intercept pursuant to M.G.L. c. 7A, § 3 and 815 CMR 9.00. Overpayments shall be reimbursed by the Contractor or may be offset by the Department from future payments in accordance with state finance law. Acceptance by the Contractor of any payment or partial payment, without any written objection by the Contractor, shall in each instance operate as a release and discharge of the State from all claims, liabilities or other obligations relating to the performance of a Contract.

3. Contractor Payment Mechanism. All Contractors will be paid using the Comptroller's payment system unless a different payment mechanism is required. The Contractor shall timely submit invoices and supporting documentation as prescribed in a Contract. The Department shall review and return rejected invoices within fifteen (15) days of receipt with a written explanation for rejection. Payments shall be made in accordance with the bill paying policy issued by the Office of the Comptroller and 815 CMR 4.00, provided that payment periods listed in a Contract of less than forty-five (45) days from the date of receipt of an invoice shall be effective only to enable a Department to take advantage of early payment incentives and shall not subject any payment made within the forty-five (45) day period to a penalty. The Contractor Payroll System shall be used only for Individual Contractors who have been determined to be Contract Employees as a result of the Department's completion of an Internal Revenue Service SS-8 form in accordance with the Omnibus Budget Reconciliation Act (OBRA) 1990, and shall automatically process all state and federal mandated payroll, tax and retirement deductions.

4. Contract Termination Or Suspension. A Contract shall terminate on the date specified in a Contract, unless this date is properly amended in accordance with all applicable laws and regulations prior to this date, or unless terminated or suspended under this Section upon prior written notice to the Contractor. The Department may terminate a Contract without cause and without penalty, or may terminate or suspend a Contract if the Contractor breaches any material term or condition or fails to perform or fulfill any material obligation required by a Contract, or in the event of an elimination of an appropriation or availability of sufficient funds for the purposes of a Contract, or in the event of an unforeseen

public emergency mandating immediate Department action. Upon immediate notification to the other party, neither the Department nor the Contractor shall be deemed to be in breach for failure or delay in performance due to Acts of God or other causes factually beyond their control and without their fault or negligence. Subcontractor failure to perform or price increases due to market fluctuations or product availability will not be deemed factually beyond the Contractor's control.

5. Written Notice. Any notice shall be deemed delivered and received when submitted in writing in person or when delivered by any other appropriate method evidencing actual receipt by the Department or the Contractor. Any written notice of termination or suspension delivered to the Contractor shall state the effective date and period of the notice, the reasons for the termination or suspension, if applicable, any alleged breach or failure to perform, a reasonable period to cure any alleged breach or failure to perform, if applicable, and any instructions or restrictions concerning allowable activities, costs or expenditures by the Contractor during the notice period.

6. Confidentiality. The Contractor shall comply with M.G.L. c. 66A if the Contractor becomes a "holder" of "personal data". The Contractor shall also protect the physical security and restrict any access to personal or other Department data in the Contractor's possession, or used by the Contractor in the performance of a Contract, which shall include, but is not limited to, the Department's public records, documents, files, software, equipment or systems.

7. Record-keeping And Retention, Inspection Of Records. The Contractor shall maintain records, books, files and other data as specified in a Contract and in such detail as shall properly substantiate claims for payment under a Contract, for a minimum retention period of six (6) years beginning on the first day after the final payment under a Contract, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving a Contract. The Department shall have access, as well as any parties identified under Executive Order 195, during the Contractor's regular business hours and upon reasonable prior notice, to such records, including on-site reviews and reproduction of such records at a reasonable expense.

8. Assignment. The Contractor may not assign or delegate, in whole or in part, or otherwise transfer any liability, responsibility, obligation, duty or interest under a Contract, with the exception that the Contractor shall be authorized to assign present and prospective claims for money due to the Contractor pursuant to a Contract in accordance with M.G.L. c. 106, § 9-318. The Contractor must provide sufficient notice of assignment and supporting documentation to enable the Department to verify and implement the assignment. Payments to third party assignees will be processed as if such payments were being made directly to the Contractor and these payments will be subject to intercept, offset, counter claims or any other Department rights which are available to the Department or the State against the Contractor.

9. Subcontracting By Contractor. Any subcontract entered into by the Contractor for the purposes of fulfilling the obligations under a Contract must be in writing, authorized in advance by the Department and shall be consistent with and subject to the provisions of these Commonwealth Terms and Conditions and a Contract. Subcontracts will not relieve or discharge the Contractor from any duty, obligation, responsibility or liability arising under a Contract. The Department is entitled to copies of all subcontracts and shall not be bound by any provisions contained in a subcontract to which it is not a party.

10. Affirmative Action, Non-Discrimination In Hiring And Employment. The Contractor shall comply with all federal and state laws, rules and regulations promoting fair employment practices or prohibiting employment discrimination and unfair labor practices and shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be demoted, discharged or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages, benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability,



COMMONWEALTH TERMS AND CONDITIONS

handicap, sexual orientation or for exercising any rights afforded by law. The Contractor commits to purchasing supplies and services from certified minority or women-owned businesses, small businesses or businesses owned by socially or economically disadvantaged persons or persons with disabilities.

11. Indemnification. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, including the Department, its agents, officers and employees against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement or other damages that the State may sustain which arise out of or in connection with the Contractor's performance of a Contract, including but not limited to the negligence, reckless or intentional conduct of the Contractor, its agents, officers, employees or subcontractors. The Contractor shall at no time be considered an agent or representative of the Department or the State. After prompt notification of a claim by the State, the Contractor shall have an opportunity to participate in the defense of such claim and any negotiated settlement agreement or judgment. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph. Any indemnification of the Contractor shall be subject to appropriation and applicable law.

12. Waivers. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach.

13. Risk Of Loss. The Contractor shall bear the risk of loss for any Contractor materials used for a Contract and for all deliverables, Department personal or other data which is in the possession of the Contractor or used by the Contractor in the performance of a Contract, until possession, ownership and full legal title to the deliverables are transferred to and accepted by the Department.

14. Forum, Choice of Law And Mediation. Any actions arising out of a Contract shall be governed by the laws of Massachusetts, and shall be brought and maintained in a state or federal court in Massachusetts which shall have exclusive jurisdiction thereof. The Department, with the approval of the Attorney General's Office, and the Contractor may agree to voluntary mediation through the Massachusetts Office of Dispute Resolution (MODR) of any Contract dispute and will share the costs of such mediation. No legal or equitable rights of the parties shall be limited by this Section.

15. Contract Boilerplate Interpretation, Severability, Conflicts With Law, Integration. Any amendment or attachment to any Contract which contains conflicting language or has the effect of a deleting, replacing or modifying any printed language of these Commonwealth Terms and Conditions, as officially published by ANF, CTR and OSD, shall be interpreted as superseded by the official printed language. If any provision of a Contract is found to be superseded by state or federal law or regulation, in whole or in part, then both parties shall be relieved of all obligations under that provision only to the extent necessary to comply with the superseding law; provided however, that the remaining provisions of the Contract, or portions thereof, shall be enforced to the fullest extent permitted by law. All amendments must be executed by the parties in accordance with Section 1 of these Commonwealth Terms and Conditions and filed with the original record copy of a Contract as prescribed by CTR. The printed language of the Standard Contract Form, as officially published by ANF, CTR and OSD, which incorporates by reference these Commonwealth Terms and Conditions, shall supersede any conflicting verbal or written agreements relating to the performance of a Contract, or attached thereto, including contract forms, purchase orders or invoices of the Contractor. The order of priority of documents to interpret a Contract shall be as follows: the printed language of the Commonwealth Terms and Conditions, the Standard Contract Form, the Department's Request for Response (RFR) solicitation document and the Contractor's Response to the RFR solicitation, excluding any language stricken by a Department as unacceptable and including any negotiated terms and conditions allowable pursuant to law or regulation.

IN WITNESS WHEREOF, the Contractor certifies under the pains and penalties of perjury that it shall comply with these Commonwealth Terms and Conditions for any applicable Contract executed with the Commonwealth as certified by their authorized signatory signing the Standard Contract Form.