

**REQUEST FOR QUALIFICATIONS
FOR
PRE-DEMOLITION
ENVIRONMENTAL INSPECTIONS
AND
HAZARDOUS MATERIALS SURVEYS**

**PROPOSAL FORMAT
AND
SCOPE OF SERVICES**

PROPOSALS TO BE SUBMITTED BY 10:00 A.M., FRIDAY, MARCH 23, 2012 TO:

LACKAWANNA COUNTY BOARD OF COMMISSIONERS
C/O MARIA ELKINS, CHIEF OF STAFF
200 ADAMS AVENUE
6TH FLOOR
SCRANTON, PA 18503
(570) 963-6800

REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL SERVICES

Notice is hereby given that pursuant to a fair and open process, the County of Lackawanna is seeking qualifications from firms with considerable knowledge and experience in demolition programs and environmental and hazardous materials testing, grant programs, and federal and state contracts to provide Pre-Demolition Environmental Inspections and Hazardous Materials Surveys.

Sealed submissions will be received by the Lackawanna County Board of Commissioners, c/o Maria Elkins, Chief of Staff, at its offices at 200 Adams Ave., 6th Floor, Scranton, PA 18503, (570) 963-6800, on Friday, March 23, 2012, no later than 10:00 A.M., prevailing time. Submissions will not be accepted after that date and time.

Details of the proposal content are contained in a Request for Qualifications Packet which can be obtained on the Lackawanna County web site at www.lackawannacounty.org.

Lackawanna County encourages responses from eligible MBE, WBE, and Section 3 residents and businesses.

Lackawanna County is an equal opportunity employer.

Maria Elkins
Chief of Staff

COUNTY OF LACKAWANNA
REQUEST FOR QUALIFICATIONS
FOR
PRE-DEMOLITION
ENVIRONMENTAL INSPECTIONS
AND
HAZARDOUS MATERIALS SURVEYS

Notice is hereby given that pursuant to a fair and open process, and in compliance with Title 24 of the Code of Federal Regulations of the Department of Housing and Urban Development, Part 85 - Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments, the Lackawanna County Board of Commissioners, c/o Maria Elkins, Chief of Staff, will receive sealed submissions at its offices at 200 Adams Avenue, 6th Floor, Scranton, PA 18503, (570) 963-6800, on Friday, March 23, 2012 no later than 10:00 A.M., prevailing time for Pre-Demolition Environmental Inspections and Hazardous Materials Surveys. Any questions regarding the request for qualifications should be directed to the Lackawanna County Board of Commissioners, c/o Maria Elkins, Chief of Staff, at the above address between the hours of 9:00 A.M. and 4:00 P.M. Monday through Friday.

ARTICLE I. Purpose and Significance of this Request for Qualifications -
The purpose of this Request for Qualifications is to solicit interest from qualified firms and/or individuals to provide professional services for the County. A qualified firm and/or individual will be selected through a fair and open process at the sole discretion of the County. The services to be furnished under this Agreement are required by the COUNTY to ensure that the COUNTY complies with all applicable regulations, laws, ordinances, rules and regulations of federal, state, regional, and local authorities, and to ensure the health, welfare and safety of the public. The OFFERER shall be guided by these objectives when expressing written opinions.

ARTICLE II. Scope of OFFERER'S Services – The OFFERER, in connection with and respecting the aforesaid, and in return for payment from the COUNTY, shall perform and carry out, in a satisfactory and proper manner, the following:

- (A) Pre-Demolition Environmental Inspections and Hazardous Materials Surveys, on an as needed basis, when so requested and assigned, in writing, by the COUNTY. All applicable personnel must be certified by the Commonwealth of Pennsylvania, including, but not limited to, Pennsylvania Asbestos Inspector Licenses and Pennsylvania Asbestos Project Designer Licenses. OFFERER'S must have the necessary equipment to extract accurate samples and laboratory results. Safe work practice procedures will be applied. All inspections, surveys, and testing shall be done in accordance with applicable regulations. The successful OFFERER must comply with all laws, ordinances, rules and regulations of federal, state, regional, and local authorities. The successful OFFERER shall provide the COUNTY with analytical sampling and testing results; complete written

inspection reports with findings; remediation plans; abatement plans to eliminate hazards; and cost estimates for the abatement, removal, hauling, disposal, etc. of hazardous materials.

- (B) Provide a clearance report to the COUNTY once the demolition contractor has completed remediation/abatement. The OFFERER shall, when so requested by the COUNTY, furnish the COUNTY a supplementary letter.
- (C) Provide an Asbestos Supervisor during demolition, as needed, or if a Pre-Demolition Environmental Inspection and Hazardous Materials Survey was unable to be conducted prior to demolition because the structure was deemed unsafe to enter.
- (D) The OFFERER, at the request of the COUNTY, may also be required to render additional services, for which the OFFERER will be paid a fee which shall be negotiated between the OFFERER and the COUNTY upon request of a specific service by the COUNTY and prior to the commencement of a specific service.

ARTICLE III. Conflict of Interest - Due to a Conflict of Interest, the successful OFFERER shall not be eligible to perform the remediation, abatement, removal, hauling, disposal, etc. of hazardous materials.

ARTICLE IV. Time of Performance - Failure to complete the prescribed work within allotted time will require the OFFERER to pay the COUNTY, as liquidated damages, the sum of one hundred fifty dollars (\$150.00) per day, unless otherwise stated. The OFFERER must submit any Change Order requests for an extension of the time immediately upon discovery of the need for such an extension. The OFFERER must present a valid reason for any time extension and a determination as to whether the extension is justified will be made by the COUNTY. The services of the OFFERER rendered in connection with the aforementioned shall commence upon execution of an Agreement and shall be completed as follows:

- (A) Within fifteen (15) calendar days from the date requested and assigned, in writing, by the COUNTY, the OFFERER shall conduct Pre-Demolition Environmental Inspections and Hazardous Materials Surveys and provide the COUNTY with analytical sampling and testing results; complete written inspection reports with findings; remediation plans; abatement plans to eliminate hazards; and cost estimates for the abatement, removal, hauling, disposal, etc. of hazardous materials.
- (B) Provide a clearance report to the COUNTY within fifteen (15) calendar days from the date that the demolition contractor has completed remediation/abatement.
- (C) The overall time of performance permitted for all services shall not exceed a period of three (3) years from the date of the Agreement. The overall

time for completion cannot be changed unless said time change is mutually agreed upon by a written change order to this Agreement.

ARTICLE V. Documentation to be provided by each OFFERER - The OFFERER also understands that the scopes of services is to be investigated prior to the submission of proposals. Do not base submissions solely upon the information provided in this Request for Qualifications. In the event an OFFERER, in the process of investigating the scope of work, discovers that unusual circumstances exist and/or the scope of the project must be expanded, the OFFERER shall immediately notify the COUNTY of the discovery. Costs, including a total "not to exceed" dollar amount to provide Pre-Demolition Environmental Inspections and Hazardous Materials Surveys shall be negotiated with the successful OFFERER based upon proposal content. The COUNTY reserves the right to reject any or all submissions, including, but not limited to, proposals exceeding the budget after negotiations. Submissions must be submitted in a sealed envelope with the name of the firm or individual submitting the proposal and the term "PRE-DEMOLITION ENVIRONMENTAL INSPECTIONS AND HAZARDOUS MATERIALS SURVEYS PROPOSAL" clearly marked on the outside of the envelope. The COUNTY assumes no responsibility for delays in any form of carrier, mail, or delivery service causing the submission to be received after the above-referenced due date and time. Submission by fax, telephone, or e-mail is not permitted. The final selection shall be made in the sole discretion of the Board of Commissioners.

- (A) The OFFERER shall submit two (2) copies of the "General Information" form (which is attached).
- (B) Qualifications and Experience - Each OFFERER shall submit two (2) copies of the following forms:
 1. Qualifications of the principals in the firm/staff/subcontractors (form is attached).
 2. Experience of the principals in the firm/staff/subcontractors (form is attached). The OFFERER shall submit three (3) references from clients (two (2) copies).
 3. Experience of the firm with the specific services requested (form is attached). Two (2) copies of two (2) example Pre-Demolition Environmental Inspections and Hazardous Materials Surveys, including analytical sampling and testing results; complete written inspection reports with findings; remediation plans; abatement plans to eliminate hazards; cost estimates for the abatement, removal, hauling, disposal, etc. of hazardous materials; and clearance reports must be submitted.
 4. Amount of time that the firm has available to commit to the project, based on the current workload of the firm (form is attached).

5. Firm's past performance (form is attached).
 6. Section 3 Strategy (form is attached).
- (C) The OFFERER shall submit two (2) copies of Certificates of Insurance for:
1. General and Professional Environmental Liability Insurance (Minimum \$1,000,000.00).
 2. Workers Compensation Insurance.
- (D) Certificates - Each OFFERER shall submit two (2) copies of Commonwealth of Pennsylvania Certificates for all applicable personnel, including, but not limited to, Pennsylvania Asbestos Inspector Licenses and Pennsylvania Asbestos Project Designer Licenses.

ARTICLE VI. Factors for Award - Submissions will be evaluated in accordance with Lackawanna COUNTY's Qualifications Based Selection Process. Anyone submitting a proposal is advised to review that process, which is set forth on the COUNTY's website at www.lackawannacounty.org. Based on the content of the written proposal and any oral discussion, the COUNTY will make a selection that will be most favorable to the COUNTY. The factors for award will include consideration of the factors identified in this Request for Qualifications hereof, as well as qualifications, experience, timeliness, past performance, reasonableness of compensation, and overall determination of the OFFERERS ability to meet the COUNTY's need for the services as described herein. The COUNTY encourages Small Business Firms and firms owned and controlled by socially and economically disadvantaged individuals including Minority Business Enterprises and Women Business Enterprises to submit proposals. Personnel/subcontractors working on the project shall be listed in the submission. During the contract period, use of any personnel and/or subcontractors by the successful OFFERER that were not previously identified in their proposal must be approved in advance in writing by the COUNTY. All successful OFFERERS must meet the terms and conditions of the attached Part II - Terms and Conditions. The County reserves the right to reject any and all submissions, in whole or in part, and to waive any immaterial defect or informality in any submission as may be permitted by law, including, but not limited to, proposals exceeding the budget after negotiations. Evaluation factors and their relative importance (maximum points to be awarded) are as follows:

- (A) Qualifications of the principals in the firm/staff/subcontractors: 15 points.
- (B) Experience of the principals in the firm/staff/subcontractors: 15 points.
- (C) Experience of the firm with the specific services requested: 15 points.
- (D) Amount of time that the firm has available to commit to the project, based on the current workload of the firm: 5 points.

- (E) Firm's past performance: 10 points.
- (F) Small Business Firm (a firm with less than \$4 million in annual gross receipts): 1 point.
- (G) Minority Business Enterprise (MBE) (MBE's must be certified by the Pennsylvania Department of General Services and/or the Pennsylvania Department of Transportation): 5 points.

A Minority Business Enterprise is a for-profit business concern that is one of the following (minority persons are persons who are citizens of the United States and who are African Americans, Hispanic Americans, Native American, or Asian-Pacific Americans):

1. A sole proprietorship, owned and controlled by a minority; or
2. A partnership or joint venture controlled by minorities in which 51% of the beneficial ownership interest is held by minorities; or
3. A corporation or other business entity controlled by minorities in which at least 51% of the voting interest and 51% of the beneficial ownership interest are held by minorities.

- (H) Women Business Enterprises (WBE) (WBE's must be certified by the Pennsylvania Department of General Services and/or the Pennsylvania Department of Transportation): 3 points.

A Woman Business Enterprise is a for-profit business concern that is:

1. a sole proprietorship, owned and controlled by a women in which at least 51% of the beneficial ownership is held by women; or
2. a partnership or joint venture controlled by women in which at least 51% of the beneficial ownership is held by women; or
3. a corporation or other entity controlled by women in which at least 51% of the voting interest and 51% of the beneficial ownership interest are held by women.

- (I) Labor Surplus Area Business Firm (a civil jurisdiction (cities with a population of at least 25,000 and all counties, in addition to township of 25,000 or more population) whose average unemployment rate is at least 20% above the average unemployment rate for all states (including the District of Columbia and Puerto Rico) during the previous two calendar years.: 1 point.

- (J) Section 3 Business Firm: (Section 3 Business Concern means:

1. That is 51 percent or more owned by section 3 residents; or
2. Whose permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment business concern were section 3 residents; or
3. That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontractors

to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) above.

Section 3 Resident means: A public housing resident or an individual who resides in the metropolitan area or nonmetropolitan county in which the section 3 covered assistance is expended (Lackawanna, Luzerne, and Wyoming Counties), and who is a low-income or very low-income person.

Category 1 - Section 3 Resident (Business concerns of 51% or more owned by residents of the community or public housing development for which the work is performed, or whose full-time, permanent workforce includes 30% of these persons as employees): 4 points.

Category 2 - Section 3 Resident (Business concerns of 51% or more owned by residents of the community or public housing development other than the housing development where the work is to be performed; or whose full-time, permanent workforce includes 30% of these persons as employees): 3 points.

Category 3 - Section 3 Resident (HUD Youthbuild programs being carried out in the community in which Section 3 covered assistance is expended): 2 points.

Category 4 - Section 3 Resident (Business concerns that are 51% or more owned by a Section 3 resident(S), or whose permanent, full-time workforce includes no less than 30% Section 3 residents; or that subcontract in excess of 25% of the total amount of subcontracts to Section 3 business concerns): 1 point.

Section 3 Strategy for meeting greatest extent feasible requirement to comply with the Section 3 training and employment preference, or contracting preference, or both, if applicable: 5 points.

(K) Reasonableness of Compensation: 15 points.

GENERAL INFORMATION

OFFERERS MUST SUBMIT 2 COPIES OF THIS FORM

NAME: _____

PRINCIPALS	TITLE
_____	_____
_____	_____
_____	_____

ADDRESS: _____

TELEPHONE #: _____ SS #/IRS ID #: _____

- I. Did your firm submit the following documentation?
 - A. THREE REFERENCES FROM CLIENTS?: _____
 - B. TWO EXAMPLE REPORTS OF PRE-DEMOLITION ENVIRONMENTAL INSPECTIONS AND HAZARDOUS MATERIALS SURVEYS?: _____
 - C. COMMONWEALTH OF PENNSYLVANIA CERTIFICATES FOR ALL APPLICABLE PERSONNEL, INCLUDING, BUT NOT LIMED TO, PENNSYLVANIA ASBESTOS INSPECTOR LICENSES AND PENNSYLVANIA ASBESTOS PROJECT DESIGNER LICENSES?: _____
 - D. GENERAL AND PROFESSIONAL ENVIRONMENTAL LIABILITY INSURANCE CERTIFICATE?: _____
 - E. WORKERS COMPENSATION INSURANCE CERTIFICATE?: _____

- II. Indicate qualifications under any of the following categories:
 - A. SMALL BUSINESS FIRM: _____
 - B. MINORITY BUSINESS ENTERPRISE: _____
 - C. WOMEN BUSINESS ENTERPRISE: _____
 - D. LABOR SURPLUS AREA BUSINESS FIRM: _____
 - E. SECTION 3 BUSINESS FIRM:
 - Category 1: _____
 - Category 2: _____
 - Category 3: _____
 - Category 4: _____

III. Is your firm currently in violation of any regulatory rules and regulations that may have any impact on your firm's operations? (If yes, specify): _____

IV. Is your firm involved in any current litigation with the County? (If yes, specify): _____

V. Are there any conflicts of interest to which your firm would be subject if it were to provide the requested services on behalf of the County? (If yes, specify.): _____

SIGNATURE: _____ DATE: _____

**QUALIFICATIONS OF THE PRINCIPALS IN THE
FIRM/STAFF/SUBCONTRACTORS**

OFFERERS MUST SUBMIT 2 COPIES OF THIS FORM

NAME: _____

ADDRESS: _____

TELEPHONE #: _____ SS #/IRS ID #: _____

- I. Describe the qualifications of the principals in the firm/staff/subcontractors. List the specific personnel to be assigned to the projects(s), their functions, and their qualifications.

**EXPERIENCE OF THE PRINCIPALS IN THE
FIRM/STAFF/SUBCONTRACTORS**

OFFERERS MUST SUBMIT 2 COPIES OF THIS FORM

NAME: _____
ADDRESS: _____
TELEPHONE #: _____ SS #/IRS ID #: _____

- II. Describe the experience of the principals in the firm/staff/subcontractors. List the specific personnel to be assigned to the projects(s), their functions, and their experience.

EXPERIENCE OF THE FIRM WITH THE SPECIFIC SERVICES REQUESTED

OFFERERS MUST SUBMIT 2 COPIES OF THIS FORM

NAME: _____

ADDRESS: _____

TELEPHONE #: _____ SS #/IRS ID #: _____

- III. Describe the experience of the firm with the specific services requested. Describe the stability, continuity, and commitment of both the staff and the management. Two (2) copies of two (2) example Pre-Demolition Environmental Inspections and Hazardous Materials Surveys, including analytical sampling and testing results; complete written inspection reports with findings; remediation plans; abatement plans to eliminate hazards; cost estimates for the abatement, removal, hauling, disposal, etc. of hazardous materials; and clearance reports must be submitted.

CURRENT WORKLOAD

OFFERERS MUST SUBMIT 2 COPIES OF THIS FORM

NAME: _____

ADDRESS: _____

TELEPHONE #: _____ SS #/IRS ID #: _____

- IV. Estimate the amount of time that the firm/subcontractors has available to commit to the project(s), based on the current workload of the firm. List all current projects which the firm/subcontractors is under contract, and provide a percentage of time that personnel will devote to the project(s).

PAST PERFORMANCE

OFFERERS MUST SUBMIT 2 COPIES OF THIS FORM

NAME: _____
ADDRESS: _____
TELEPHONE #: _____ SS #/IRS ID #: _____

- V. Describe past performance with similar projects.
List previous Pre-Demolition Environmental Inspections and Hazardous Materials Surveys undertaken by the firm.
Submit two (2) copies of three (3) references from clients, including a contact name, address, and telephone number, and name of the project for which the firm was under contract.

SECTION 3 STRATEGY

OFFERERS MUST SUBMIT 2 COPIES OF THIS FORM

NAME: _____

ADDRESS: _____

TELEPHONE #: _____ SS #/IRS ID #: _____

- VI. Section 3 Strategy for meeting greatest extent feasible requirement to comply with the Section 3 training and employment preference, or contracting preference, or both, if applicable.

PART II - TERMS AND CONDITIONS

1. Termination of Contract for Cause. If, through any cause, the CONTRACTOR shall fail to fulfill in timely and proper manner his obligations under this Contract, or if the CONTRACTOR shall violate any of the covenants, agreements, or stipulations of this Contract, the OWNER shall thereupon have the right to terminate this Contract by giving written notice to the CONTRACTOR of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the CONTRACTOR under this Contract shall, at the option of the OWNER, become its property and the CONTRACTOR shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the CONTRACTOR shall not be relieved of liability to the OWNER for damages sustained by the OWNER by virtue of any breach of the Contract by the CONTRACTOR, and the OWNER may withhold any payments to the CONTRACTOR for the purpose of set-off until such time as the exact amount of damages due the OWNER from the CONTRACTOR is determined.

2. Termination for Convenience of the OWNER. The OWNER may terminate this Contract at any time by giving at least ten (10) days notice in writing to the CONTRACTOR. If the Contract is terminated by the OWNER as provided herein, the CONTRACTOR will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the CONTRACTOR, Paragraph 1 hereof relative to termination shall apply.
3. Changes. The OWNER may, from time to time, request changes in the scope of the services of the CONTRACTOR to be performed hereunder. Such changes, including any increase or decrease in the amount of the CONTRACTOR'S compensation, which are mutually agreed upon by and between the OWNER and the CONTRACTOR shall be incorporated in written amendments to this Contract.
4. Personnel.
 - a. The CONTRACTOR represents that he has, or will secure at his own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the OWNER.
 - b. All of the services required hereunder will be performed by the CONTRACTOR or under his supervision and all personnel

engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.

- c. None of the work or services covered by this Contract shall be sub-contracted without the prior written approval of the OWNER. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Contract.
5. Assignability. The CONTRACTOR shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation) without the prior written consent of the OWNER. Provided, however, that claims for money by the CONTRACTOR from the OWNER under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the OWNER.
6. Reports and Information. The CONTRACTOR, at such times and in such forms as the OWNER may require, shall furnish the OWNER such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.
7. Records and Audits. The CONTRACTOR shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the OWNER to assure proper accounting for all project funds. These records will be made available for audit purposes to the OWNER, the Department of Community And Economic Development, or any of their duly authorized representatives, and will be retained for three years after the expiration of this Contract unless permission to destroy them is granted by the OWNER.
8. Confidentiality. All of the reports, information, data, etc., prepared or assembled by the CONTRACTOR under this Contract are confidential and the CONTRACTOR agrees that they shall not be made available to any individual or organization without the prior written approval of the OWNER.
9. Copyright. No report, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the CONTRACTOR.
10. Compliance with Local Laws. The CONTRACTOR, shall give all notices and comply with all laws, ordinances, codes, rules, regulations, and lawful orders of any public OWNER, bearing upon the performance of the project, and shall commit no trespass on any public or private property in

performing any of the work embraced by this Contract. The CONTRACTOR must pay, at the CONTRACTOR'S own expense, any and all costs associated with the above stated compliance.

11. Equal Employment Opportunity. During the performance of this Contract, the CONTRACTOR agrees as follows:
 - a. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, religion, sex, color, national origin, handicap, or familial status. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, sex, color, national origin, handicap, or familial status. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provide by the OWNER setting forth the provisions of this non-discrimination clause.
 - b. The CONTRACTOR will, in all solicitation or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, handicap, or familial status.
 - c. The CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other Contract or understanding, a notice to be provided advising the said labor union or worker's representatives of the CONTRACTOR'S commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - d. The CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
 - e. The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department of Community And Economic Development and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

- f. In the event of the CONTRACTOR'S noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The CONTRACTOR will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the Department of Community And Economic Development may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department of Community And Economic Development, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

12. Nondiscrimination Compliance.

- a. It shall be no defense to a finding of noncompliance with this nondiscrimination clause that the CONTRACTOR had delegated some of its employment practices to any union, training program, or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates that the CONTRACTOR was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.
- b. Where the practices of a union or any training program or other source of recruitment will result in the exclusion of minority group persons, so that the CONTRACTOR will be unable to meet its obligations under this nondiscrimination clause, the CONTRACTOR shall then employ and fill vacancies through other nondiscriminatory employment procedures.
- c. The CONTRACTOR shall comply with all state and federal laws prohibiting discrimination in hiring or employment opportunities. In the event of the CONTRACTOR'S noncompliance with the

nondiscrimination clause of this Contract or with any such laws, this Contract may be terminated or suspended, in whole or in part, and the CONTRACTOR may be declared temporarily ineligible for further Commonwealth contracts and other sanctions may be imposed and remedies invoked.

- d. The CONTRACTOR shall actively recruit minority and women subcontractors or subcontractors with substantial minority representation among their employees.
 - e. The CONTRACTOR obligations under this clause are limited to the CONTRACTOR'S facilities within Pennsylvania or, where the Contract is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.
13. Title VI of the Civil Rights Act of 1964. No person shall, on the grounds of race, color, national origin, handicap, or familial status be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with Federal funds.
 14. Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, sex, handicap, or familial status be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Title.
 15. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities (applicable to contracts over \$100,000.00). Every applicant, recipient, contracting party, contractor and subcontractor shall incorporate, or cause to be incorporated, in all contracts for work in connection with a Section 3 covered project, the following clause (referred to as a Section 3 clause):
 - a. The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Community And Economic Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

- b. The parties to the Contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto set forth in 24 CFR Part 135 and all other applicable rules and orders issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- c. The CONTRACTOR will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- d. The CONTRACTOR will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of these regulations. The CONTRACTOR will not subcontract with any subcontractor where it has notice of knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- e. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

16. Compliance with Air and Water Acts. This Agreement is subject to the requirements of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time. The CONTRACTOR and any of its subcontractors for work funded under this Agreement, in excess of \$100,000 agree to the following requirements:

- a. A stipulation by the CONTRACTOR or subcontractors that any facility to be utilized in the performance of any non-exempt contract or subcontract is not listed on the List of Violating

Facilities issued by the Environmental Agency (EPA) pursuant to 40 CFR 15.20.

- b. Agreement by the CONTRACTOR to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- c. A stipulation that as a condition for the award of the Contract prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA indicating that a facility utilized or to be utilized for the Contract is under consideration to be listed on the EPA List of Violating Facilities.
- d. Agreement by the CONTRACTOR that he will include or cause to be included the criteria and requirements in paragraph (a) through (d) of this section in every nonexempt subcontract and requiring that the CONTRACTOR will take such action as the Government may direct as a means of enforcing such provision.

In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility which has given rise to a conviction under Section 113(c) (1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

- 17. Interest of Certain Federal Officials. No member of or Delegate to the Congress of the United States and no Resident, Commissioner, shall be admitted to any share or part of this Contract or to any benefit to arise from the same.
- 18. Interest of Members, Officers, or Employees of OWNER, Member of Local Governing Body, or other Public Officials. No member, officer, or employee of the OWNER, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under the Contract.
- 19. Interest of Certain State Officials. No member or Representative to the Legislature of the Commonwealth of Pennsylvania, shall be admitted to any share or part of this Contract or to any benefit to arise from the same.
- 20. Age Discrimination Act of 1975. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits

of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

21. Section 504 of the Rehabilitation Act of 1973 - Affirmative Action for Handicapped Workers.

- a. The CONTRACTOR will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The CONTRACTOR agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b. The CONTRACTOR agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- c. In the event of the CONTRACTOR'S noncompliance with the requirements of this clause, actions for the noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- d. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the CONTRACTOR'S obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- e. The CONTRACTOR will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the CONTRACTOR is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- f. The CONTRACTOR will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase

order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

22. Pennsylvania Human Relations Act, as amended.

- a. The CONTRACTOR shall not discriminate against any employee, applicant for employment, independent contractor or any other person because of race, color, national origin, handicap, familial status, religious creed, ancestry, age, or sex.

The CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees or agents are treated during employment, without regard to their race, color, national origin, handicap, familial status, religious creed, ancestry, age, or sex. Such affirmative action shall include but is not limited to the following: Employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training.

The CONTRACTOR shall post in conspicuous places, available to employees, agents, applicants for employment, and other persons a notice to be provided by the OWNER setting forth the provisions of this nondiscrimination clause.

- b. The CONTRACTOR shall in advertisements or requests for employment placed by it or on its behalf state all qualified applicants will receive consideration for employment without regard to race, color, national origin, handicap, familial status, religious creed, ancestry, age, or sex.
- c. The CONTRACTOR shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or workers' representative of its commitment to this nondiscrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by the CONTRACTOR.
- d. It shall be no defense to a finding of noncompliance with the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission of this nondiscrimination clause that the CONTRACTOR had delegated some of its employment practices to any union, training program or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates that the CONTRACTOR was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.

- e. Where the practices of a union or of any training program or other source of recruitment will result in the exclusion of minority group persons, so that the CONTRACTOR will be unable to meet its obligations under the Contract Compliance Regulations issued by the Pennsylvania Human Commission, or this nondiscrimination clause, the CONTRACTOR shall then employ and fill vacancies through other nondiscriminatory employment procedures.
- f. The CONTRACTOR shall comply with the Contract Compliance Regulations of the Pennsylvania Human Relations Commission, 16 PA Code Chapter 49 and with all laws prohibiting discrimination in hiring or employment opportunities. In the event of the CONTRACTOR'S noncompliance with the nondiscrimination clause of this Contract or with any such laws, this Contract may, after hearing and adjudication, be terminated or suspended, in whole or in part, and the CONTRACTOR may be declared temporarily ineligible for further Commonwealth contracts, and such other sanctions may be imposed and remedies invoked as provided by the Contract Compliance Regulations.
- g. The CONTRACTOR shall furnish all necessary employment documents and records to, and permit access to its books, records and accounts by, the OWNER and the Human Relations Commission, for purposes of investigation to ascertain compliance with the provisions of the Contract Compliance Regulations, pursuant to 949.35 of these Regulations. If the CONTRACTOR does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the OWNER or the Commission.
- h. The CONTRACTOR shall actively recruit minority subcontractors or subcontractors with substantial minority representation among their employees.
- i. The CONTRACTOR shall include the provisions of this nondiscrimination clause in every subcontract, so that provisions will be binding upon each subcontractor.
- j. The terms used in this nondiscrimination clause shall have the same meaning as in the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission, 16 PA Code Ch. 49.
- k. The CONTRACTOR'S obligations under this clause are limited to the CONTRACTOR'S facilities within Pennsylvania, or where the Contract is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.

23. Sections 104 and 110 of the Housing and Community Development Act of 1974, as amended.
24. Section 3 of the Intergovernmental Cooperation Act of 1968.
25. Executive Orders 11063, 11246, 11625, and 12138 as amended.
26. Federal Management Circulars A-87, A-110, and A-122.
27. OMB Circular A-128.
28. 24 CFR Part 85 P.J.3 570.502 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).
29. Title VIII of the Civil Rights Act of 1968, as amended.
30. Architectural Barriers Act of 1968, P.L. 90-480, as amended.
31. Hatch Act.
32. 24 CFR Part 39, Cost Effective Energy Conservation Standards.
33. Section 6002 of the Resources Conservation and Recovery Act of 1976, P.L. 94-580, as amended and regulations at 40 CFR Part 249.
34. Prohibition Against Payments of Bonus or Commission. The assistance provided under this Contract shall not be used in the payment of any bonus or commission for the purpose of obtaining DCED approval of the application for such assistance, or DCED approval of applications for additional assistance, or any other approval or concurrence of DCED required under this Contract, Title 1 of the Housing and Community Development Act of 1974 as amended or DCED regulations with respect thereto; provided, however, that reasonable fees or bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.
35. Interest of CONTRACTOR. The CONTRACTOR covenants that it presently has no interest and 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 further covenants, that in the performance of this Agreement, it will not knowingly employ any person having any such interest.
36. Nonwaiver of Remedies. No provision of this Contract shall be construed in any manner so as to create any rights in third parties not party to this Contract. It shall be interpreted solely to define specific duties and responsibilities between the OWNER and the CONTRACTOR, and shall

not provide any basis for claims of any other individual, partnership, corporation, organization, or municipal entity.

37. Construction. This Contract shall be interpreted and construed in accordance with, federal law where applicable, and with the laws of the Commonwealth. All of the terms and conditions of this Contract are expressly intended to be construed as covenants as well as conditions. The titles of the §§ and Subsection herein have been inserted as a matter of convenience and reference only and shall not control or affect the meaning or construction of any of the terms or provisions herein.
38. Defective Work. If the CONTRACTOR fails to correct defective work on the project or consistently fails to carry out the work in accordance with the Contract, the OWNER, by written order, may order the CONTRACTOR to stop the work or any portion thereof until the causes have been eliminated. If the CONTRACTOR neglects to carry out the work in accordance with the Contract, or if the CONTRACTOR fails to correct the defects within Seven (7) days after receipt of written notice, the OWNER may correct the deficiency at the expense of the CONTRACTOR.
39. Patent Rights. Whenever any invention, improvement or discovery is made or conceived or for the first time actually or constructively reduced to practice by the CONTRACTOR, or its employees, in the course of, in connection with, or under the terms of this Contract, the CONTRACTOR shall immediately give the OWNER written notice thereof and shall promptly thereafter furnish the OWNER with complete information thereon. DCED shall have the sole and exclusive power to determine whether or not and where a patent application shall be filed, and to determine the disposition improvement or discovery, including title to and rights under any patent application or patent that may issue thereon. The determination of DCED on all of these matters shall be accepted as final. The CONTRACTOR warrants that all of its employees who may be the inventors will execute all documents and do all things necessary or proper to the effectuation of such determination. Except as otherwise authorized in writing by the OWNER, the CONTRACTOR shall obtain patent agreements to effectuate the provisions of this Article from all persons who perform any part of the work under this Contract, except such clerical and manual labor personnel as will have no access to technical data. If the OWNER obtains patent rights, the CONTRACTOR shall be offered license rights thereto on terms at least as favorable as those offered to any firm.
40. Hold Harmless. The CONTRACTOR shall hold the OWNER harmless from and indemnify the OWNER against, any and all claims, demands, and actions based on or arising out of any activities performed by the CONTRACTOR, and its employees and agents, under this Contract in a manner which is contrary to the direction of the OWNER and shall defend any and all actions brought against the OWNER based upon any such claims or demands. It is understood and agreed that the

CONTRACTOR'S standard liability insurance policies shall protect, or shall be endorsed to protect the OWNER from claims of bodily injury and of property damage arising out of any services performed by the CONTRACTOR or its employees or agents under the Contract including business and non-business invitees and their property and all other property sustaining damage as direct or indirect result of the execution of this project when validly present on CONTRACTOR'S premises whether or not actually engaged in the project at the time the claim inures. Such policies shall not include any provision limiting existing sovereign immunity of the OWNER or of its agents or employees. Upon request the CONTRACTOR shall furnish proof of insurance as required by this paragraph to the OWNER.

41. Publications. Any publication concerning a project financed by federal funds received under a grant administered by the OWNER will acknowledge Commonwealth of Pennsylvania grant administration as follows: "This Project was financed (in part) by a grant from the U.S. Department of Housing and Urban Development, under the Administration of the Commonwealth of Pennsylvania, Department of Community And Economic Development".
42. Arbitration. All claims, disputes, and other matters in question between the CONTRACTOR and the OWNER, arising out of or relating to this Contract or any of the documents incorporated herein, shall be interpreted by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. Unless otherwise agreed in writing, the CONTRACTOR shall carry on the work on the project and maintain its progress during any arbitration proceedings.
43. Liens. The CONTRACTOR specifically waives any right to file or claim any Mechanic's or Materialmen's liens, and agrees to execute, simultaneously herewith, and cause to be filed in the records of the Clerk Of Judicial Records of Lackawanna County, A Stipulation Against Liens, which shall be binding upon the CONTRACTOR, his suppliers, and any Sub-Contractors engaged by the CONTRACTOR.
44. Bankruptcy. In the event that the CONTRACTOR becomes party to a bankruptcy proceeding, or if a receiver is appointed, on account of the insolvency of the CONTRACTOR, then this Contract may be terminated by the OWNER without liability, except for the agreed upon prices for the amounts of work actually completed to the time that such proceeding is commenced.
45. Assignment. This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania and shall inure to the benefit of and bind the parties hereto, their successors, personal representatives, and assigns. Neither party shall assign this Contract without the written consent of the other, which consent shall be unreasonably withheld.

46. Severability. Should any section or any part of any section of this Contract be rendered void, invalid or unenforceable by any court of law, for any reason, such a determination shall not render void, invalid or unenforceable any other section or part of any section of this Contract.
47. Entire Agreement. The Contract, when signed by all of the parties hereto, constitutes the full and complete understanding and agreement of all parties and may not be any manner interpreted or fulfilled in contradictions of its express terms and provided above.