



# County of Allegheny

DAN ONORATO  
CHIEF EXECUTIVE

**DEPARTMENT OF ADMINISTRATIVE SERVICES  
DIVISION OF PURCHASING AND SUPPLIES**

**B I D**

**for**

**BITUMINOUS LIQUIDS**

**SPECIFICATION NO. 6311**

**This Invitation for Bid contains requirements for bidders to assist the County in meeting M/W/DBE goals. Therefore, bidders must document their plan or good faith efforts to meet those goals. Please see M/W/DBE Requirements and fill out the Participation Statement.**

**DUE DATE: Wednesday, December 23, 2009, 11:00 A.M.**

**SUBMIT TO: County Controller's Office  
Allegheny County Courthouse  
436 Grant Street, Room 104  
Pittsburgh, PA 15219**

Dennis Madoni  
Purchasing Agent  
412-350-4489

[Dennis.Madoni@AlleghenyCounty.US](mailto:Dennis.Madoni@AlleghenyCounty.US)

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DEPARTMENT OF ADMINISTRATIVE SERVICES  
DIVISION OF PURCHASING AND SUPPLIES

# County of Allegheny

**DAN ONORATO**  
CHIEF EXECUTIVE

206 COURTHOUSE ♦ 436 GRANT STREET  
PITTSBURGH, PA 15219  
PHONE (412) 350-4495 ♦ FAX (412) 350-5883

**TIMOTHY H. JOHNSON**  
DIRECTOR

**JOHN DEIGHAN, CPCP**  
CHIEF PURCHASING OFFICER

Dear Bidder:

Enclosed is Allegheny County's Invitation for Bid (IFB) for Bituminous Liquids. I ask that you please read the entire document and decide if you would like to submit a bid for the County's requirements.

Allegheny County, with a population of approximately 1.3 million, is the second largest county in the State, and effective January 1, 2000 is a Home Rule county with an elected Chief Executive, an appointed County Manager and a 15-member County Council.

The Allegheny County Division of Purchasing and Supplies is taking a leadership role in public purchasing throughout the United States with a competent, professionally certified and experienced staff as mostly recently demonstrated as a recipient of the 2002-2006 Achievement of Excellence in Procurement awards.

There are three sections to this IFB: 1) your Bid, 2) the Specifications and 3) the Instructions to Bidders. All three sections will be incorporated into any resultant contract.

There are several things that can assist the County in processing and evaluating your bid. If you would please -

- Stamp your company name on each page of your bid.
- If you are trading as a Corporation, your bid must be signed by the President or Vice-President and attested by the Secretary or Treasurer. Another authorized person may sign if accompanied by a power of attorney. Be sure you have affixed the corporate seal.
- Include one (1) original and one (1) identical photocopy of your bid. Both documents must be in one sealed envelope clearly stating the Specification Number. The bid shall be mailed to address on the cover sheet of this IFB.
- Be sure that you submit your bid before the opening date and time as stated on page one of the Specifications.
- Provide points of contact.
- Be sure that all signatures are "live".
- Sign on the proper lines (Individual, Partnership, or Corporation).
- If a bid bond is required, make sure it is in the correct amount and properly signed. Be sure you have affixed the corporate seal.
- Be sure the bid has pricing submitted with decimal points.
- Indicate whether municipalities are permitted to purchase under this Contract.

Sincerely,

John Deighan, CPCP  
Chief Purchasing Officer

Revised 3/07

**NO BID SHEET**

**SPECIFICATION #6311**

**BITUMINOUS LIQUIDS**

If your firm has chosen not to submit a bid for this IFB, please complete this form and mail or fax to:

County of Allegheny  
Division of Purchasing and Supplies  
Room 206 Courthouse  
436 Grant Street  
Pittsburgh, PA 15219  
(412) 350-5883 Fax

**Please check all items that apply:**

- Do not sell the item(s) required.**
- Cannot be competitive.**
- Cannot meet the Specifications highlighted in the attached Bid.**
- Cannot provide the Insurance required.**
- Cannot provide Performance Bond required.**
- Cannot comply with County Instructions to Bidders.**
- Job is too large.**
- Job is too small.**
- Cannot hold pricing for entire contract period.**
- Past problems with the County of Allegheny.**

**Please Explain:** \_\_\_\_\_

- County payment process is too slow.**
- Do not wish to do business with the County.**
- Other reason.**

**Please Explain:** \_\_\_\_\_

**COMPANY NAME:** \_\_\_\_\_

**CONTACT:** \_\_\_\_\_ **PHONE #** \_\_\_\_\_

COMPANY NAME \_\_\_\_\_

DM/12/09

DEPARTMENT OF ADMINISTRATIVE SERVICES  
 DIVISION OF PURCHASING AND SUPPLIES  
 ROOM 206 COURTHOUSE

B I D

FOR

**BITUMINOUS LIQUIDS**

**Spec. #6311**

In accordance with the attached Specifications and Instructions to Bidders, we (or I) propose to furnish and **DELIVER F.O.B. Point of Delivery, Bituminous Liquids** at the following prices:

ITEM #	ESTIMATED QUANTITY	DESCRIPTION	F.O.B. PICK UP PRICE PER GALLON	DELIVERED PRICE PER GALLON
	2,000 gallons	NTSS-1M Emulsified Asphalt Tack Coat		
28151		(Pick-Up)	\$	
28152		(Delivered)		\$
	4,000 gallons	AE-T Tack Coat Material		
3888		(Pick-Up)	\$	
3889		(Delivered)		\$
	2,000 gallons	NTSS-1M Emulsified Asphalt Tack Coat		
		(Pick-Up)	\$	
		(Delivered)		\$
	500 gallons	E-1 Bituminous Prime Coat		
3890		(Pick-Up)	\$	
3891		(Delivered)		\$
	500 gallons	CRS-2PM (E-3M) Polymer Modified Cationic Emulsified Asphalt		
3892		(Pick-Up)	\$	
3893		(Delivered)		\$
	500 gallons	CMS-2 (E-5) Emulsified Asphalt		
3894		(Pick-Up)	\$	
3895		(Delivered)		\$
	500 gallons	CSS-1H (E-8C) Emulsified Asphalt		
3896		(Pick-Up)	\$	
3897		(Delivered)		\$

ITEM #	ESTIMATED QUANTITY	DESCRIPTION	DELIVERED and APPLIED PRICE PER SQUARE YARD
	5,000 gallons	Polymer Modified Bituminous Emulsion Seal Coat with Manufactured Sand (two coat application)	
3898		(Delivered & Applied)	\$

**\*The supplier's storage facility shall not be located more than twenty-five (25) miles outside of Allegheny County boundaries**

**PERIOD OF CONTRACT: January 1, 2010 through December 31, 2010**

**Bidder shall submit one (1) original and one (1) identical photocopy of this bid.**

The use of the name of a manufacturer or of any special brand or make in describing an item does not restrict bidders to that manufacturer. The means or the method used is simply to indicate the character or quality of the articles desired; however, the articles on which bids are submitted must be of such character or quality that they will serve the purpose for which they are to be used equally as well as that specified. If bidding on other than the make, model or brand specified the manufacturer's name and catalogue reference must be given.

**IF THESE SPECIFICATIONS ARE NOT CLEAR, OR YOU FEEL THEY ELIMINATE COMPETITIVE BIDDING IN AN UNFAIR AND UNNECESSARY MANNER, YOU MAY OBTAIN A BID PROTEST FORM BY CALLING 412-350-4489, or ON THE COUNTY'S WEB SITE <http://www.county.allegheny.pa.us/forms/index.asp>. THE BID PROTEST FORM MUST BE COMPLETED AND RETURNED TO THE PURCHASING DIVISION, ROOM 206 COURTHOUSE, PITTSBURGH, PA 15219 OR FAX 412-350-5883, BY 12:00 P.M. ON THE MONDAY BEFORE THE BIDS ARE TO BE OPENED.**

Do you agree to make available to the Councils of Government, Municipalities, Authorities and School Districts within Allegheny County, all items contained in this bid at the bid price quoted for the entire Contract Period?

\_\_\_\_\_ YES                      \_\_\_\_\_ NO

Do you agree to make available to all political sub-division and authorities of the Commonwealth of Pennsylvania all items contained in this bid at the bid price quoted for the entire Contract Period?

\_\_\_\_\_ YES                      \_\_\_\_\_ NO

**BUY AMERICAN CERTIFICATE**

The bidder or offeror hereby certifies that each end product, except the end products listed below, is a domestic source end product (as defined in the clause entitled "Buy American Policy"); and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States.

List the sum of the declared values of all the imported components installed or included on such products.

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**COMPANY INFORMATION**

(This information is for tracking purposes only and has no role in the determination of the lowest, responsive, responsible bidder.)

- check here if your firm is registered with the Allegheny County Department of Minority, Women and Disadvantaged Business Enterprises
- check here if your firm is a "Minority Business Enterprise" or "MBE" as defined in the Small Business Act, 15 USC
- check here if your firm is a "Women Business Enterprise" or "WBE" as defined in the Small Business Act, 15 USC
- check here if your firm is a "Small Business" as defined by the Small Business Administration (13 C.F.R. 121.201, in most cases, this means a business with 500 or fewer employees)

\*\*\* **FOR PAYMENT PURPOSES** \*\*\*

\_\_\_\_\_  
Print Name of Business

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Contact Person Telephone  
(Print Name) Number

\_\_\_\_\_  
**800 number if one is applicable**

\_\_\_\_\_  
**FAX number if one is applicable**

\_\_\_\_\_  
**Email**

IN THE PRESENCE OF -

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

\_\_\_\_\_  
attest Secretary

**INDIVIDUAL**

\_\_\_\_\_  
(Individual Principal)

**PARTNERSHIP**

\_\_\_\_\_  
(Partner)

\_\_\_\_\_  
(Partner)

\_\_\_\_\_  
(Partner)

**CORPORATION**

\_\_\_\_\_  
President

\_\_\_\_\_  
**(State where Incorporated)**

**THIS PAGE MUST BE SIGNED WITH A LIVE SIGNATURE AND SIGNED IN BLUE INK.**

COMPANY NAME \_\_\_\_\_

DM/12/09

DEPARTMENT OF ADMINISTRATIVE SERVICES  
DIVISION OF PURCHASING AND SUPPLIES  
ROOM 206 COURTHOUSE

**S P E C I F I C A T I O N S**

**FOR**

**BITUMINOUS LIQUIDS**

**Spec. #6311**

**GENERAL INSTRUCTIONS TO SUPPLIERS**

**Purpose of Invitation for Bid**

Separate and sealed Bids will be received at the Office of the Controller of Allegheny County, Room 104 Courthouse, Pittsburgh, PA until **11:00 A.M.**, prevailing time, **Wednesday, December 23, 2009**, and will be publicly opened at 11:30 A.M., prevailing time, **Wednesday, December 23, 2009**, in the presence of the Acting Chief Purchasing Officer of the Division of Purchasing and Supplies, or his designee, in Room 410 Courthouse, Pittsburgh, PA for Bituminous Liquids.

**Addenda and Modifications**

Any changes, additions, deletions, or clarifications to the IFB are made by Bulletins (addenda). Any supplier in doubt as to the true meaning of any part of the IFB may request any interpretation thereof from the Issuing Office. At the request of the supplier, or in the event the Issuing Office deems the interpretation to be substantive, the interpretation will be made by written addendum issued by the Issuing Office. Such addendum issued by the Issuing Office will be sent to all suppliers receiving the original IFB and will become part of the IFB having the same binding effect as provisions of the original IFB. No verbal explanations or interpretations will be binding. In order to have a request for interpretation considered, the request must be submitted in writing and must be received by the Issuing Office no later than seven (7) days prior to the IFB due date.

All addenda, bulletins, and interpretations of this solicitation shall be in writing. Any amendment or interpretation that is not in writing shall not legally bind the County. Only information supplied by the Issuing Office in writing or in this IFB should be used in preparing bids. All contact that a supplier may have had before or after receipt of this IFB with any individuals, employees, or representatives of the County and any information that may have been read in any news media or seen or heard in any communications facility regarding this IFB should be disregarded in preparing responses. The County does not assume responsibility for the receipt of any addendum sent to suppliers. A copy of all addenda issued must be signed and returned with your bid.

**Clarification of Requirements**

It is the intent and purpose of the County that this IFB permit competitive bids. It shall be the supplier's responsibility to advise the Issuing Office if any language, requirements, or any combination thereof, inadvertently restricts or limits the requirements stated in this IFB to a single source. Such notifications must be submitted in writing and must be received by the Issuing Office no later than seven (7) days prior to the due date. A review of such notification will be made.

**Conflict of Interest**

The supplier shall not accept gifts or anything of value nor enter into any business arrangement with any employee, official or agent of the County.

By signing their bid, the supplier certifies and represents to the County that the supplier has not offered, conferred or agreed to confer any pecuniary benefit or other thing of value for the receipt of special treatment, advantaged, information, recipient's decision, opinion, recommendation, vote or any other exercise of discretion concerning this IFB.

**Bid Submission**

Bidders are requested to submit **one original and one photocopy** of their bid (they shall both be in the same sealed envelope). **Bidders must include their company name and address, RFB for Bituminous Liquids, Specification Number 6311 and opening date, on the outside of the envelope.** Bids are due at the County Controller's Office, Allegheny County Courthouse, 436 Grant Street, Room 104, Pittsburgh, PA 15219. Bids shall be accepted in person, by U.S. Mail or by private courier service. No bids shall be accepted via oral or e/mail communication, telephone or fax transmission.

## SPECIFICATIONS FOR:

NTSS-1M EMULSIFIED ASPHALT TACK COAT

Chemical and Physical Properties:

	<u>Min.</u>	<u>Max.</u>
Furol Viscosity, sec @ 25C (77F), ASTM D-88	20	
Storage Stability, 24 hrs. percent by mass, ASTM D-244		1.0
Storage Stability, 5 days, percent by mass, ASTM D-244		5.0
Residue by Evaporation, percent by mass, ASTM D-86	28	
Naptha Content, percent, ASTM D-86		1.0
Sieve Test, percent by mass,		0.1
Fuel Resistance, ASTM D-3370	PASS	
Adhesive Strength @ 25C (77F), FHWA	154 psi	

Tests on Residue:

	<u>Min.</u>	<u>Max.</u>
Penetration @ 25C (77F), 100 @ 5 seconds, DMM, ASTM D-5	5	15
Solubility in Trichloroethylene, percent by mass, ASTM D-2042	97.5	
R & B Softening Point Range, Deg. C, ASTM D-36	65	75
Residue by Distillation, percent mass, ASTM D-86	30	
Original Binder DSR: G*/Sind @ 82 C, KPA, AASHTO T-315	1.00	
Ash Content, percent by mass, AASHTO T-111		2
Fillers are not permitted.		

Application:

	<u>Min.</u>	<u>Max.</u>
Rate of application, gallons/square yard	0.04	0.08
Application Temperature Range, deg. F	140	180

POLYMER MODIFIED BITUMINOUS EMULSION SEAL COAT WITH MANUFACTURED SAND

Elastomeric, micro-surfacing treatment.

Applicable ASTM test Methods

B-117 Salt Spray (FOG) Testing

D-140 Sampling of Bituminous Materials

D-466 Methods of Testing Film Deposits from Bituminous Emulsions

D-529 Recommended Practice for Accelerated Weathering Test

D-2939 Bituminous Base Emulsions for use as Protective Coatings

**Chemical & Physical Properties:**

Sand Content	68% to 72%	
Non-Volatiles	34% to 39%	68% to 72% with sand aggregate
Ash Non-Volatiles	9% to 12%	75% to 82% with sand aggregate
Specific Gravity	1.15 to 1.25	@ 25 degrees C
Drying Time	8 hours maximum	
Adhesion & Permeability	No penetration or loss of adhesion when exposed to water	
Heat Resistance	No blistering or sagging @ 140 degrees F	
Ductility	No cracking or flaking 0 to 140 Degrees F	
Impact Resistance	No cracking or flaking 0 to 140 Degrees F	

**Application:**

	<u>Min.</u>	<u>Max.</u>
Rate of application, first coat, gallons/square yard	0.18	0.24
Rate of application, second coat, gallons/square yard	0.11	0.13

**Application Restrictions**

Minimum surface and ambient air temperature shall be 50 degrees F and rising. Surface and ambient air temperature must not fall below 50 degrees F for the 24 hours immediately following final application coat.

**CERTIFICATION**

Add the following to the first paragraph under Commonwealth of Pennsylvania Department of Transportation Specifications, Publication No. 408, 2007 Initial Edition, Section 106.03(b) 1. Include the costs for tests and certifications in the bid price for the bid items listed in the proposal.

Provide Certificate of Compliance PADOT form CS-4171 for each type of material shipped to the County. Submit one (1) copy of each certification to the Director or a designated County representative.

Acceptance of the manufacturer's certification is not a substitute for the County's right to inspect and test the material(s).

**SHIPMENT RECEIPTS**

Furnish a receipt for each shipment (one (1) copy retained by the vendor and one (1) copy included with the shipment to the project). Use a form acceptable to the County, containing the following information:

- Statement that material has been tested and meets Department specifications
- Class of Material
- Company Batch Number
- Date of Shipment
- Producer's Name and Location
- Name and Location of Consignee (Bituminous Concrete Plant or Maintenance District)
- Mix or Application Temperatures, Minimum and Maximum
- Loading Temperatures
- Gallons of material, adjusted accordingly as per the loading temperature
- Viscosity at 77°F
- Penetration at 77°F
- Truck tare weight, loaded gross weight and net weight, and material gross weight

- Specific Gravity of Asphalt Cement at 77°F
- Percent Bitumen Residue by Weight (for liquid bituminous materials only)
- Quality of Material
- County supplied purchase order number

**BASIS OF AWARD**

The lowest responsible bidder(s) meeting specification requirements will be awarded the contract.

**Period of Contract:** January 1, 2010 through December 31, 2010

**OPTION TO EXTEND**

The Division of Purchasing and Supplies, reserves the right, upon notice to the supplier, to extend the Contract or any part of the Contract for up to three (3) months, upon the same terms and conditions after the indicated expiration date as described in the Contract. This will be utilized to prevent a lapse in Contract coverage for the goods or services indicated on the Contract, and only for the time necessary to enter into a new Contract. When applicable, an extension notice will be issued defining the exact extension of the Contract; all other terms and conditions of the extended Contract will remain in full force and effect.

**INSURANCE**

The supplier shall obtain and maintain during the life of the Contract, with an insurance supplier rated not less than A- by A.M. Best, authorized to do business in the Commonwealth of Pennsylvania, the following insurance requirements:

**Automobile Liability.** Bodily injury and property damage liability covering all non-owned and hired automobiles for limits of not less than \$1,000,000 bodily injury each person, each accident and \$1,000,000 property damage, or \$1,000,000 combined single limit - bodily injury and property damage. Bodily injury and property damage liability covering all owned automobiles for limits of not less than \$300,000 bodily injury each person, each accident and \$300,000 property damage, or \$300,000 combined single limit – bodily injury and property damage.

**Commercial General Liability.** Bodily injury and property damage liability as shall protect the Supplier and any subcontractor performing work under the Contract, from claims of bodily injury or property damage which arise from operation of the Contract, whether such operations are performed by the supplier, any subcontractor, or anyone directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence/aggregate and \$1,000,000 property damage each occurrence/aggregate, or \$1,000,000 bodily injury and property damage combined single limits each occurrence/aggregate. This insurance shall include coverage for products, operations, personal injury liability and contractual liability, assumed under the indemnity provision of the Contract.

**Professional Liability.** Coverage as shall protect the Supplier and any subcontractor performing work under the Contract, from claims errors and omissions which arise from operation of the Contract, whether such operations are performed by the Supplier, any subcontractor, or anyone directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 each occurrence/aggregate and \$1,000,000 excess liability, each occurrence/aggregate.

**Worker's Compensation and Employers Liability.** The supplier shall meet the statutory requirements of the Commonwealth of Pennsylvania, \$100,000 per accident limit, \$500,000 disease per policy limit, \$100,000 disease each employee limit

**Proof of Insurance.** The supplier shall not commence any work in connection with the Contract until it has obtained all of the foregoing types of insurance and proof of such insurance has been approved by County. The supplier shall not allow any subcontractor to commence work on its subcontract until all similar insurance required of the subcontractor has been obtained and approved.

**Deductibles.** The County shall be exempt from, and in no way liable for any sums of money, which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the supplier and/or subcontractor providing such insurance.

**Additional Insured.** The County shall be named as an additional insured for operations or services rendered under the general liability coverage. The supplier's insurance shall be primary of any self-funding and/or insurance otherwise carried by the County for all loss or damages arising from the supplier operations under this agreement. Certificates of such insurance will be furnished to the County and shall contain the provision that the County be given thirty (30) days written notice of any intent to amend or terminate by either the insured or the insuring supplier.

**Documents.** Should any or all of the required insurance coverage be self-funded/self-insured, a copy of the Certificate of Self-Insurance or other documentation from the County Department of Insurance shall be furnished. If any part of the work under the Contract is sublet, the subcontractor shall be required to meet all insurance requirements set forth in the Contract, provided that types and amounts of insurance to be maintained by each subcontractor shall be adjusted to an amount reasonably necessary to cover the risks associated with such subcontractor's role in the project. The parties stipulate that the supplier will maintain each type of insurance set forth above at a coverage level equal to at least half of the amount set forth above for such type of insurance. However, nothing contained herein shall relieve the supplier from meeting all insurance requirements or otherwise being responsible for the subcontractor.

### **MINORITY, WOMEN AND DISADVANTAGED BUSINESS ENTERPRISES**

- a. The Allegheny County Minority/Women and Disadvantaged Business Program (MBE/WBE/DBE) has established in connection with this contract, the goals of (13%) of the original contract amount for the utilization of MBEs and (2%) of the original contract amount for the utilization of WBEs. These goals remain in effect throughout the life of the contract. When the County awards the contract with less participation than the contract goals, good faith efforts should continue throughout the life of the contract to increase the M/W/DBE participation to meet the contract goals. A copy of above program is attached and will be considered part of the contract documents.
- b. Once a bidder is determined to be the "apparent low bidder", it must supply an M/W/DBE plan within seven days after notification. If the plan is not acceptable or not submitted, the County will deem the bid non-responsive. The County will then request that the next apparent low bidder supply its M/W/DBE plan. Thus, it behooves all bidders to formulate their M/W/DBE plan before submitting a bid. A list of PA certified M/W/DBE firms can be found on the Internet at <http://www.paucp.com>.
- c. The above stated goals shall remain in effect throughout the life of the contract. When the County awards the contract with less participation than the contract goals, good faith efforts should continue throughout the life of the contract to increase the M/W/DBE participation to meet the contract goals. A copy of above program is attached and will be considered part of the contract documents.

The County will purchase Bituminous Liquids as needed during the contract period.

The County reserves the right to reject any and all bids, also the right to waive any minor discrepancies in the bids when deemed to be in the best interest of the County.

**Bidder shall submit one (1) original and one (1) identical photocopy of this bid.**

The County retains the right to terminate this contract upon thirty (30) days written notice.

**"The successful bidder is required to comply with the Worker and Community Right to Know Act, 35 P.S. S7301 et seq. In addition to any requirements of the Act, the successful bidder shall supply the Purchasing Division with a copy of the Material Safety Data Sheet for each hazardous substance or hazardous mixture supplied."**

## **MINORITY AND WOMEN BUSINESS ENTERPRISE UTILIZATION AFFIRMATIVE ACTION REQUIREMENTS**

### **1) MBE (Minority Business Enterprise) and WBE (Women Business Enterprise) Goals**

The County has established in connection with this contract, the specified goals in the Bid Form for the utilization of MBEs and WBEs. These goals remain in effect throughout the life of the contract.

### **2) Policy**

It is the policy of the County that Minority and Women Business Enterprises as defined in this Document and Allegheny County MBE Participation Plan shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with County funds under this contract.

### **3) MBE and WBE Obligation**

Take necessary and reasonable steps to ensure that MBEs and WBEs have the maximum opportunity to compete for and perform contracts. Do not discriminate on the basis of race, color, national origin, or sex in the award and performance of County contracts.

### **4) Failure to Comply With MBE and WBE Requirements**

Failure to carry out these requirements constitutes a breach of contract that may result in termination of the contract, being barred from bidding on County contracts for up to three (3) years or such other remedy as the County deems appropriate. Failure to comply with MBE and WBE requirements will include but not be limited to failure to submit the Schedule of MBE and WBE Participation within the time requirements of these provisions for submission of required documents or failure to exert a reasonable good faith effort (as determined by the County for good faith efforts) to meet the established goals or failure to realize the MBE and WBE participation set forth in the approved Schedule of MBE and WBE Participation or failure to submit the Schedule of MBE and WBE in every subcontract, so that such provisions will be binding upon each subcontractor, supplier, or service agency.

### **5) Subcontracts**

Include the provisions of above paragraphs in every subcontract, so that such provisions will be binding upon each subcontractor, supplier, or service agency.

### **6) Definitions**

As used in this Document, the terms "Minority Business Enterprise," "Women Business Enterprise," "Minority," and "Owned and Controlled" are defined below:

- i) **"Minority Business Enterprise"** or "MBE" means a small business concern as defined in Small Business Act, 15 USC as amended:
  - (a) Which is at least 51 percent owned by the one or more minority individuals, or, in the case of any corporation at least 51 percent of the stock of which is owned by one or more minority individuals and:
  - (b) Whose management and daily business operations are controlled by one or more of the minority individuals who own it.
- ii) **"Women Business Enterprise"** or "WBE" means a small business concern as defined in Small Business Act, 15 USC as amended:
  - (a) Which is at least 51 percent owned by the one or more female individuals, or, in case of any corporation at least 51 percent of the stock of which is owned by one or more female individuals; and
  - (b) Whose management and daily business operations are controlled by one or more of the female individuals who own it.
- iii) **Minority** means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or

Asian-Indian Americans and any other disadvantaged or individuals found to be disadvantaged by Small Business Administration pursuant to Section 8(a) of the Small Business Act as amended. For convenience, these individuals and groups are referred to as “disadvantaged.” The County may make a rebuttable presumption that individuals in the following groups are minorities and socially and economically disadvantaged (use the certification appeals mechanism of 49 CFR, Part 26 as amended with respect to individuals alleged not to be minorities and socially and economically disadvantaged):

- (a) “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;
- (b) “Hispanic Americans,” includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;
- (c) “Native Americans,” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
- (d) “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas.
- (e) “Asian-Indian Americans,” which includes persons whose origins are from India, Pakistan and Bangladesh.

iv) **"Owned and Controlled"** means a business:

- (a) Which is at least 51 percent owned by one or more minority or female persons, in case of a corporation, at least 51 percent of the stock of which is owned by one or more minority or female persons; and
- (b) Whose management and daily business operation are controlled by one or more such individuals.

#### 7) **Counting MBE and WBE Participation Towards MBE and WBE Goals**

The utilization of MBEs and WBEs is in addition to other equal opportunity requirements of the contract. Count MBE and WBE participation toward meeting MBE and WBE goals as follows:

- (a) If a firm is determined to be an eligible MBE or WBE, the total dollar value of the contract awarded to the MBE or WBE counts toward the applicable MBE or WBE goal EXCEPT per provisions of this paragraph.
- (b) Count toward the MBE and/or WBE goal(s) a portion of the total dollar value of a contract with a joint venture equal to the percentage of ownership and control of the MBE and/or WBE participant(s) in the joint venture.
- (c) Count the total dollar value of a contract with a business certified as both an MBE and WBE toward the WBE or the MBE goal but not to both. If a firm with such dual certification is employed choose the goal to which the total contract value is to be applied.
- (d) Count toward the MBE or WBE goal only expenditures to MBEs or WBEs that perform a commercially useful function in the work of a contract. As MBE or WBE is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether an MBE or WBE is performing a commercially useful function, the County will evaluate the amount of work subcontracted, industry practices, and other relevant factors.

- (e) **Suppliers** count toward the MBE or WBE goal 60 percent of expenditures for materials and supplies required under the contract and obtained from an MBE or WBE regular dealer and count toward the MBE or WBE goal 100 percent of expenditures to an MBE or WBE manufacturer.
  - (i) An MBE or WBE manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies you purchase for the work.
  - (ii) An MBE or WBE regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business.
  - (iii) An MBE or WBE regular dealer is a firm that engages in, as its principal business, and in its own name, the purchase and sale of the products in question. An MBE, WBE or DBE regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock, if it owns or operates distribution equipment.
  - (iv) MBE or WBE brokers and MBE or WBE packagers are not regarded as MBE or WBE manufacturers or MBE or WBE regular dealers within the meaning of these provisions.
- (f) Count toward the MBE or WBE goal the following expenditures to MBE or WBE firms that are not MBE or WBE manufacturers or MBE or WBE regular dealers:
  - (i) The fees or commissions charged for providing a BONA FIDE service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities
  - (ii) The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the MBE or WBE hauler, MBE or WBE trucker, or MBE or WBE delivery service is not also the MBE or WBE manufacturer of or an MBE or WBE regular dealer in the materials and supplies, provided that the fee is determined by the County to be reasonable and not excessive as compared with fees customarily allowed for similar services.
  - (iii) The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the contract, provided that the fee or commission is determined by the County to be reasonable and not excessive as compared with fees customarily allowed for similar services.
- (2) Any services to be performed by an MBE or WBE agency is required to be readily identifiable to the Contract.

**8) Action Required by Contractor(s) at Bidding Stage and Prior to Award**

If apparent low bidder MEETING or EXCEEDING the MBE and WBE goals, provide the following to the Chief Purchasing Officer by 4:00 P.M. of the seventh (7<sup>th</sup>) calendar day after notification:

- i) **Schedule of MBE and WBE Participation.** The designated area must be completed and signed by MBE/WBE firms(s) identified by the apparent low bidder/contractor as a participant(s) in the Contract prior to submission. The County reserves the right to contact any MBE/WBE firm(s) with regard to the authenticity of the documentation as stated on the schedule of MBE/WBE Participation form. Any evidence of fraudulent information submitted by the apparent low bidder/contractor with regard to the MBE/WBE participation is subject to disbarment from County work and/or possible legal action.
- ii) **MBE and WBE Certification Application** for each uncertified MBE and WBE firm send original to County MBE and WBE Administrator, 204 County Office Building, Pittsburgh, PA 15219; send a copy to the Chief Purchasing Officer.

- iii) **Information for Determining Joint Venture Eligibility** (PDT Form E0-352) for each joint venture with an MBE or WBE send original to County MBE and WBE Administrator; send a copy to the Chief Purchasing Officer.
- b) If apparent low bidder NOT MEETING the goals established by the County submit the MBE and WBE Goals Attainment Certification with you Bid Form and demonstrate good faith efforts to meet the MBE and WBE contract goals. Demonstrate that the efforts made were those that a contractor actively and aggressively seeking to meet the goals established by the County would make, given all relevant circumstances.
- i) You are expected to demonstrate good faith efforts by actively and aggressively seeking out MBE and WBE participation in the Contract to the maximum extent given all relevant circumstances. The following documentation represents the kinds of efforts that may be taken but is not deemed to be exclusive or exhaustive and the County will consider other related factors and types of efforts that may be relevant. Demonstrate then your good faith efforts and your diligent efforts to meet the specified MBE and WBE goals and make a concerted effort in that time between bid opening and your submittal (below) to meet MBE and WBE goals. Finally, provide to the Chief Purchasing Officer on his request the information specified above as well as other relevant information including but not limited to the following by the time specified:
- (a) Documentation of efforts made to select portions of the work proposed to be performed by MBEs and WBEs in order to increase the likelihood of achieving the stated goal, including, where appropriate, but not limited to, breaking down contracts into economically feasible units to facilitate MBE and WBE participation. Selection of portions of work shall equal or exceed the goals for MBE and WBE utilization specified in the contract.
  - (b) Written notification dated at least fifteen (15) calendar days prior to the opening of bids to individual MBEs and WBEs soliciting their participation in the contract as a subcontractor, regular dealer, manufacturer, consultant or service agency. Indicate in the notification the specific items or type of work involved.
  - (c) Written notification to minority, women and disadvantaged economic development assistance agencies and organizations which provide assistance in recruitment and placement of MBEs and WBEs, of the type of work, supplies or services being considered by MBEs and WBEs on this contract. See Allegheny County's MBE/WBE Business Directory for partial listing.
  - (d) Documentation of efforts made to negotiate with MBEs and WBEs for specific items of work:
    - (i) The names, addresses, telephone numbers of MBEs and WBEs who were contacted in person or by phone, the dates of initial contact and whether initial solicitations of interest were followed up by contacting the MBEs and WBEs to determine with certainty whether the MBEs and WBEs were interested;
    - (ii) A description of the information provided to MBEs and WBEs regarding the plans and specifications and estimated quantities for portions of the work to be performed;
    - (iii) A statement of why additional agreements with MBEs and WBEs were not reached;
    - (iv) Documentation of contact with each MBE and WBE contacted but rejected and the reasons for the rejection.
  - (e) Documentation to certify absence of any agreement between you and a MBE or WBE in which the MBE or WBE promises not to provide subcontracting quotations to other bidders.
  - (f) Documentation of efforts made to assist the MBEs or WBEs that need assistance in obtaining required bonding, insurance, or lines of credit required by you.

- (g) Documentation to certify that qualified MBEs and WBEs are not available, or not interested.
  - (h) Documentation to certify attendance at any meetings scheduled by the County or others to encourage better Contractor-MBE/WBE relationships, forthcoming MBE and WBE utilization opportunities, etc.
  - (i) Documentation to certify advertisement in general circulation media, trade association publications, disadvantaged-focus media of interest for MBEs and WBEs and area of interest.
  - (j) Documentation of efforts to effectively use the services of available disadvantaged community organizations; disadvantaged contractors' groups; local, state and federal disadvantaged business assistance offices; and other organizations that provide assistance in recruitment and placement of MBEs and WBEs.
- (2) Consider the following NOT valid justification for failure to meet the MBE and WBE contract goals:
- (a) Failure to contract with a MBE or WBE solely because the MBE or WBE was unable to provide performance and/or payment bonds.
  - (b) Rejection of reasonable MBE or WBE bid or quotation based on price alone.
  - (c) Equipment idled by contract with a MBE or WBE.
  - (d) Failure to contract with an MBE or WBE because the MBE or WBE will not agree to perform items of work at the unit price bid.
  - (e) Rejection of an MBE or WBE because of its union or non-union status.
  - (f) Failure to contract with an MBE or WBE because you normally would perform all or most of the work in the contract.
  - (g) Restricting efforts to mailing of letters.
- (3) When the documentation required above is not provided by the apparent low bidder on request within the time specified, the bid will be rejected and the next apparent lowest responsible bidder will be notified by the Chief Purchasing Officer to provide the form, Schedule of MBE and WBE Certification, and as applicable an MBE and WBE Certification Application and Information for Determination of Joint Venture Eligibility by 4:00 P.M. of the seventh (7<sup>th</sup>) calendar day after notification.

**9) Action to be Taken by the County Before Award.**

If the apparent low bidder meets the MBE and WBE contract goals and other contract requirements, the County will award to that bidder. If any MBE or WBE listed is not certified by the County at the time the County desires to award a contract, the County may issue a conditional award to the apparent low bidder.

- i) To ensure that its MBE and WBE program benefits only firms owned and controlled by MBEs and WBEs, the County has established that eligibility of business enterprises as MBEs and WBEs or as joint ventures involving MBEs and WBEs will be based on the County's MBE and WBE listing.
- ii) By identifying an entity as an MBE or WBE you represent to the County that, to the best of your knowledge, information, and belief, that entity so identified is certified as a MBE or WBE on the County's MBE and WBE listing or is eligible for certification as such prior to award or prior to MBEs or WBEs commencement of work in the case of a conditional award.
- iii) The County will confirm your certification of MBEs and WBEs and reserves the right to make such inquiry and require such substantiation as the County, in its discretion, deems appropriate to enable it to determine whether a given entity is an MBE or WBE or is eligible for certification as such. The burden of proving that an

entity identified by you as an MBE or WBE is not in fact certified as an MBE or WBE and that MBE or WBE is not eligible to be so certified prior to award or prior to that MBE's or WBE's commencement of work in the case of a conditional award, and if it appears that your error was made in good faith, then the County may permit you to, within ten (10) calendar days of notice of such error, identify new subcontractors, suppliers, or manufacturers which are in fact certified as MBEs or WBEs or which qualify for certification prior to award or prior to the MBE's or WBE's commencement of work in case of a conditional award.

- iv) If the apparent low bidder meets other contract requirements but fails to meet the MBE and WBE contract goals, the County will review the apparent low bidder's MBE and WBE data and its documentation of good faith efforts and diligent efforts to meet the MBE and WBE contract goals. If its efforts are deemed satisfactory, the Chief Purchasing Officer will recommend award.
- v) If the County cannot accept the apparent low bidder's documentation of good faith efforts and diligent effort, the bid will be considered non-responsive and the County will notify the apparent low bidder that its bid is being rejected. The County will then notify the next apparent lowest responsible bidder on the Contract to provide to the Chief Purchasing Officer the information outlined in Paragraph 3.10.8.8.1 above by 4:00 P.M. of the seventh (7<sup>th</sup>) calendar day after notification. Proposal and appropriate MBE and WBE data will be evaluated by the County. If the County, during the review of the bidder's MBE and WBE data and diligent efforts documentation, has questions, it will contact the bidder for clarification.

#### **10) Action to be Taken by the County After Award**

To ensure that your obligations regarding MBEs and WBEs are met, the County will review your MBE and WBE program and its implementation during the life of the contract.

- i) **Sanctions:** Upon completion of the work the County will review the actual MBE and WBE participation realized and make a determination regarding your compliance with these specifications:
- ii) In the event you are found to be in non-compliance the County may impose sanctions that it deems appropriate.
- iii) The County may impose sanctions for unwarranted shortfalls in the approved goal.
- iv) Make appeals of sanctions imposed pursuant to the Certification Regulations.

#### **11) Action Required by Contractor After Award.**

When the County approves a Schedule of MBE and WBE Participation with less MBE and WBE participation than the goals, continue efforts to increase MBE and WBE participation and to meet the goals after award.

- i) Ensure that the firms listed on the form, Schedule of MBE and WBE Participation, do not commence work until they are certified.
- ii) If, for any reason during the life of the contract, it is necessary to replace a MBE or WBE that is unable to perform successfully, make a good faith effort and diligent effort to recontract that work with another MBE or WBE or subcontract other work items to MBE or WBE firms to make up the MBE or WBE shortfall. If the projected MBE or WBE participation on an approved Schedule of MBE and WBE Participation exceeds the goal amount for the contract, without counting the amount committed to the defaulting MBE or WBE then no contract shortfall exists and you need not replace the defaulting MBE or WBE. In compliance with the above adhere to the following procedure:
  - iii) Notify the County immediately in writing of the MBE's or WBE's inability to perform and intent to obtain a substitute MBE or WBE if an MBE or WBE contract shortfall exists.
- iv) When you learn an MBE or WBE is unable to perform successfully and the original schedule of MBE and WBE Participation amount cannot be met provide the County with a revised Schedule of MBE and WBE Participation (show total paid/due, if any, to defaulting MBE or WBE), completed certification form for each

uncertified MBE or WBE, and additional good faith efforts and diligent efforts documentation by 4:00 P.M. of the seventh (7<sup>th</sup>) calendar day thereafter. The County will evaluate this documentation. The County will contact you if it has questions during its review of your good faith efforts and diligent efforts documentation.

- v) During the seven (7) calendar day period specified in subsection 3.c, plus an additional period for County processing of the revised schedule of MBE and WBE Participation you may continue the defaulted work with your own forces to maintain the scheduled progress of the work.
- vi) If the County cannot accept your good faith efforts, or, if you fail to comply with these provisions, that will constitute a breach of contract that may result in termination of the contract, being barred from bidding on County contracts for up to three (3) years or such other remedy as the County deems appropriate.
- vii) When additional and/or extra work is necessary and the original contract amount exceeds \$150,000 the MBE and WBE contract goals apply to that additional and/or extra work each time the cumulative net dollar value of additional and/or extra work either exceeds \$100,000 or is greater than 10 percent of the original contract amount. Provide a revised Schedule of MBE and WBE Participation to the Chief Purchasing Officer and comply with the following procedures:
  - viii) Contact available MBE and WBE referral sources and qualified MBEs and WBEs in an effort to contract the required percentage of the additional and/or extra work or subcontract other work items with MBEs and WBEs.
  - ix) Provide the Chief Purchasing Officer with a revised Schedule of MBE and WBE Participation and good faith effort information by 4:00 P.M. of the seventh (7<sup>th</sup>) calendar day after notification that the additional and/or extra work is approved.
  - x) The County will evaluate your good faith efforts information. Again the County will contact you if it has questions during review of your good faith effort information.
  - xi) Bring to the attention of the County, in writing, any situation in which regularly scheduled progress payments are not made to MBE and WBE sub-contractors, suppliers, or service agencies.

## **12) Records and Reports**

Keep such records as are necessary to determine compliance with your MBE and WBE obligations. Design these records to indicate:

- (1) The number of minority, women, disadvantaged and non-disadvantaged subcontractors, regular dealers, manufacturers, consultants, and service agencies and the type of work or materials or services performed on or incorporated in Contract.
  - (2) The progress and efforts made in seeking out minority, women, and disadvantaged contractor organizations and individual minority, women, and disadvantaged contractors for work on The Contract to increase the MBE and WBE participation and/or to maintain MBE and WBE participation levels on the Schedule of MBE and WBE Participation anytime a subcontractor, supplier, or service contract is contemplated during the life of the contract. Do this, as a minimum, anytime a contract with a subcontractor, regular dealer, manufacturer, consultant, or service agency is contemplated during the life of this contract.
  - (3) Documentation of correspondence, contacts, telephone calls, etc., to obtain the services of MBEs and WBEs on The Contract.
- ii) Submit a monthly MBE and WBE Report on County form to Chief Purchasing Officer no later than 5 working days after the end of the month. Indicate on/attach with the MBE and WBE Report:
    - (1) Contracts awarded to MBEs and WBEs noting type of work, supplies or services, original and final amount of each contract awarded to each firm, and contract execution dates.

- (2) The actual amount paid each MBE and each WBE during the calendar month and paid to date.
  - (3) A copy of the executed subcontract, purchase order, or agreement for the month during which such actions occur.
  - (4) (On completion of each MBEs and WBEs work) Paid invoices or certification attesting to actual amount paid each MBE and each WBE and an explanation of difference between actual amount paid and award amount if any.
- iii) Maintain records for a period of three years following acceptance of final payment. Make records available for inspection by the County.

### 13) Specific Equal Employment Opportunity (EEO) Responsibilities

**General** - To effectively implement specific EEO requirements, the following provisions pursuant to Executive Order 11246 and the General Conditions will apply to the performance of the Contract. Include these requirements in every subcontract of \$10,000 or more with such modification of language as is necessary to make them binding on the subcontractor.

- i) **Equal Employment Opportunity Office** - Designate and make known to County contracting officers, an equal employment opportunity officer (EEO Officer) who shall have the responsibility for and be capable of effectively administering and promoting an active program of equal employment opportunity and who shall be assigned adequate authority and responsibility to do so.
- ii) **Dissemination of Policy** - Make members of staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, fully cognizant of, and fully involved in implementation of the equal employment opportunity policy and contractual responsibilities to provide equal employment opportunity in each grade and classification of employment. At a minimum take the following actions to ensure that the above agreement is met:
  - iii) Conduct periodic meetings of supervisory and personnel office employees before the start of work and not less often than once every six months thereafter to review and explain equal employment opportunity policy and its implementation. Insure that the EEO Officer or other knowledgeable company official conducts the meetings.
  - iv) Ensure that new supervisory or personnel office employees are thoroughly indoctrinated by the EEO Officer or other knowledgeable company official on your equal employment opportunity obligations within thirty (30) days following their reporting for duty.
  - v) Ensure that the EEO Officer or appropriate company official instructs personnel who are engaged in direct recruitment for the Contract in procedures for locating and hiring minority group employees.
  - vi) Take the following actions to insure that your equal employment opportunity policy is passed on to employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc:
    - (1) Place notices and posters setting forth equal employment opportunity policy in areas readily accessible to employees, applicants for employment and potential employees.
    - (2) Bring equal employment opportunity policy and procedures to implement policy to the attention of employees by means of meetings, employee handbooks, or other appropriate means.
- vii) **Recruitment** - When advertising for employees, include in advertisements for employees the notation: "An equal Opportunity Employer." Publish such advertisements in newspapers or other publications having a large circulation among minority groups in the area from which the Contract work force would normally be derived.
- viii) Unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not

limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, identify, through the EEO Officer, sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred for employment consideration.

- ix) Observe the provisions of valid bargaining agreements providing for exclusive hiring of referrals to the extent that the system permits compliance with equal employment opportunity contract provisions (the U.S. Department of Labor has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the Contractor to do the same, such implementation violates Executive Order 11246, as amended).
- x) Encourage present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to employees. Discuss information and procedures with regard to referring minority group applicants with employees.
- xi) **Personnel Action** - Establish and administer wages, working conditions, and employee benefits, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, without regard to race, color, religion, sex, or national origin. Adhere to the following procedures:
  - xii) Conduct periodic inspections of Contract sites to ensure that working conditions and employees facilities do not indicate discriminatory treatment of Contract site personnel.
  - xiii) Periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
  - xiv) Periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, include all affected persons in such corrective action.
- xv) Promptly investigate all complaints of alleged discrimination in connection with obligations under the contract; attempt to resolve such complaints, and take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, take corrective action to include such other persons. Upon completion of each investigation, inform every complainant of his avenues of appeal.
- xvi) **Training and Promotion** - Assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
- xvii) Consistent with work force requirements and as permissible under Federal and State regulations, make full use of training program, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a Provision for trainees is provided in the Supplementary Conditions, this subparagraph will be superseded.
- xviii) Advise employee and applicants for employment of available training programs and entrance requirements for each.
- xix) Periodically review the training and promotion potential of minority group and women employees and encourage eligible employees to apply for such training and promotion.
- xx) **Unions**. If reliant in whole or in part upon unions as a source of employees, use best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Take actions either directly or through a Contractor's association acting as agent to include:

- xxi) Use of best efforts to develop, in cooperation with unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
- xxii) Use of best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, or national origin.
- xxiii) Obtaining information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information, so certify to the County and set forth what efforts have been made to obtain such information.
- xxiv) In the event the union is unable to provide a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, fill, through independent recruitment efforts, the employment vacancies without regard to race, color, religion, sex or national origin, making full efforts to obtain qualified and/or qualifiable minority group persons and women (The U.S. Department of Labor has held that it shall be no excuse that the union with which the Contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.)
- xxv) In the event that union referral practices prevent your meeting the requirements of these Supplementary Conditions, immediately notify the County.
- xxvi) **Subcontracting.** Use best efforts to solicit bids from and to utilize minority group subcontractors or subcontractors with meaningful minority group and female representation among their employees. Obtain lists of approved MBE & WBE firms from the County.
- xxvii) Use best efforts to ensure subcontractor compliance with these equal employment opportunity obligations.
- xxviii) **Records and Reports.** Keep records as are necessary to determine compliance with the equal employment opportunity obligations. Design the records to indicate:
  - xxix) The number of minority and non-minority group members and women employed in each work classification on the Contract.
  - xxx) The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applies only to contractors who rely in whole or in part on unions as a source of their work force).
  - xxxi) The progress and efforts being made in locating, hiring, training, qualifying and upgrading minority and female employees, and
  - xxxii) The progress and efforts being made in securing the services of minority group subcontractor or subcontractors with meaningful minority and female representation among their employees.
  - xxxiii) Retain records for a period of three years following completion of the contract work and make records available at reasonable times and places for inspection by authorized representatives of the County.
  - xxxiv) Submit a report each month after the contract begins for the duration of the Contract, indicating the work hours, number of minority, women and non-minority group employees currently engaged in each work classification required by the contract work. Report this information on County Form MBE/WBE Status Report, in accordance with the instructions included thereon.
- xxxv) **E.E.O. Covered Area.** For the purpose set forth in these Supplementary Conditions and Executive Order 11246 the covered area for this Contract is as follows:

xxxvi) For Contractors who are signatory to the Hometown Plan the covered area is Allegheny County, which is within the Economic Area of Pittsburgh, PA., as listed in Appendix C of Executive Order 11246, which is attached to these Specifications.

xxxvii) For Contractors who are NOT signatory to the Hometown Plan the covered area is Allegheny County which is within the Economic Area of Pittsburgh, PA and shall be included under the Pittsburgh, PA 6.3 percent goal in Appendix B of Executive Order 11246.

# ALLEGHENY COUNTY

## M/W/DBE PARTICIPATION STATEMENT

**A GOOD FAITH EFFORT MUST BE MADE TO MEET THE M/W/DBE CONTRACT GOALS OF 13%MBE AND 2%WBE PARTICIPATION AS OUTLINED IN THE 'MINORITY AND WOMEN BUSINESS ENTERPRISE UTILIZATION AFFIRMATIVE ACTION" DOCUMENT**

**THIS PACKET INCLUDES THE FOLLOWING:**

- 1. ROAD MAP TO MAKING A GOOD FAITH EFFORT**
- 2. SOLICITATION AND COMMITMENT FORM**

**FAILURE TO COMPLETE AND SUBMIT EACH SHEET OF THE ENCLOSED SOLICITATION & COMMITMENT FORM MAY BE SUFFICIENT CAUSE FOR BID REJECTION**

You may contact the Allegheny County Department of Minority, Women and Disadvantaged Business Enterprise (M/W/DBE) at (412) 350-4309 with any questions regarding the completion of the required forms.

## Road Map to Making a Good Faith Effort

Allegheny County expects all firms to demonstrate a good faith effort to include Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) when bidding on County contracts. Allegheny County has established specific goals for the utilization of MBEs and WBEs, which are 13% and 2% respectively. A good faith effort as defined by the Code of Federal Regulations (49CFR26) means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirements. The following are examples of areas in which a good faith effort may be demonstrated:

Example 1: If bidding as a manufacturer, are there aspects of the manufacturing process or material use in the manufacturing of the commodity that can be acquired from a certified M/W/DBE? If the answer is yes, indicate on the solicitation and commitment form those M/W/DBE firms you have solicited in an effort to meet the contract goals for participation.

Example 2: If bidding as a service provider or supplier/broker, are there aspects of the contract that can be performed by a certified M/W/DBE in areas of personnel, transportation, assembly or procurement of products, distribution or other aspects of the contract which can be subcontracted out? If the answer is yes, indicate on the solicitation and commitment form those M/W/DBE firms you have solicited in an effort to meet the contract goals for participation.

If you are not successful in securing M/W/DBE participation after a “Good Faith Effort” is made, provide the following in your waiver request:

A detailed account of your efforts;  
Your normal business practice and /or inventory profile; and  
An active diversity plan/policy

\*\*\*\*Certified M/W/DBEs can be found through the Pennsylvania Unified Certification Program website ([www.paucp.com](http://www.paucp.com)) and the Pennsylvania Department of General Services website ([www.dgs.state.pa.us](http://www.dgs.state.pa.us))\*\*\*\*

**ALLEGHENY COUNTY  
M/W/DBE PARTICIPATION STATEMENT**

Failure to complete this form and submit it with the bid may be sufficient cause for rejection of bid or proposal.

**SOLICITATION AND COMMITMENT**

MINORITY, WOMEN AND DISADVANTAGED BUSINESS ENTERPRISES

BID or RFP NUMBER	NAME OF BIDDER or PROPOSER	ADDRESS	PHONE NUMBER	
List below ALL M/W/DBE's that were solicited - whether or not commitment was obtained -- <b>Copy this form as necessary</b>				
MBE ___ WBE ___ DBE ___	<b>TYPES OF SUBCONTRACT WORK OR MATERIALS</b>	<b>DATE SOLICITED</b>	<b>COMMITMENT MADE</b>	<b>GIVE REASON(S) IF NO COMMITMENT MADE</b>
CERTIFIED BY:			___ YES(IF YES GIVE DATE)	
COMPANY NAME		<b>SOLICITATION METHOD</b>	MONTH ___ DAY ___ YR ___	
ADDRESS			NO	
CONTACT PERSON / PHONE #		<b>QUOTE RECEIVED</b>	<b>AMOUNT COMMITTED</b>	
		YES      NO	\$ AMOUNT _____ % OF TOTAL BID _____	
MBE ___ WBE ___ DBE ___	<b>TYPES OF SUBCONTRACT WORK OR MATERIALS</b>	<b>DATE SOLICITED</b>	<b>COMMITMENT MADE</b>	<b>GIVE REASON(S) IF NO COMMITMENT MADE</b>
CERTIFIED BY:			___ YES(IF YES GIVE DATE)	
COMPANY NAME		<b>SOLICITATION METHOD</b>	MONTH ___ DAY ___ YR ___	
ADDRESS			NO	
CONTACT PERSON / PHONE #		<b>QUOTE RECEIVED</b>	<b>AMOUNT COMMITTED</b>	
		YES      NO	\$ AMOUNT _____ % OF TOTAL BID _____	
MBE ___ WBE ___ DBE ___	<b>TYPES OF SUBCONTRACT WORK OR MATERIALS</b>	<b>DATE SOLICITED</b>	<b>COMMITMENT MADE</b>	<b>GIVE REASON(S) IF NO COMMITMENT MADE</b>
CERTIFIED BY:			___ YES(IF YES GIVE DATE)	
COMPANY NAME		<b>SOLICITATION METHOD</b>	MONTH ___ DAY ___ YR ___	
ADDRESS			NO	
CONTACT PERSON / PHONE #		<b>QUOTE RECEIVED</b>	<b>AMOUNT COMMITTED</b>	
		YES      NO	\$ AMOUNT _____ % OF TOTAL BID _____	

Prepared by: \_\_\_\_\_ Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

**ALLEGHENY COUNTY  
M/W/DBE PARTICIPATION STATEMENT (Waiver Request)**

**NAME of BIDDER or  
PROPOSER :**

\_\_\_\_\_

**ADDRESS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**TELEPHONE NUMBER:**

\_\_\_\_\_

**CONTACT PERSON:**

\_\_\_\_\_

**SPEC NUMBER & TITLE:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IN ALL INSTANCES A GOOD FAITH EFFORT MUST BE MADE TO MEET THE M/W/DBE CONTRACT GOAL AS OUTLINED IN SECTION 3.10.8.8 OF THE "MINORITY AND WOMEN BUSINESS ENTERPRISE UTILIZATION AFFIRMATIVE ACTION REQUIREMENTS" DOCUMENT.**

If you plan to perform the entire contract without using MWBDE subcontractors and/or suppliers or have not completely met the MWDBE goal of 13%MBE and 2% WBE, a detailed explanation of your normal business practice, operation and/or inventory profile, as well as an active company diversity plan/policy shall be included in your request for a waiver.

WAIVER OF THE M/W/DBE CONTRACT GOAL IS REQUESTED FOR THE FOLLOWING REASONS:

**NOTE: The fully completed M/W/DBE Participation Statement must accompany this waiver request, that shows your "Good Faith Effort".**

Prepared by: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# Allegheny County Vendor Creation Form

Controller's use only:  
Supplier No. \_\_\_\_\_  
1099 Eligibility:  Yes  No

Add  Change Supplier No. \_\_\_\_\_

## Company Information

## Federal Tax ID (TIN)

Company Name (Please type or print) \_\_\_\_\_

W-9 must be submitted

### (Required Information)

#### Type of Service Provided

#### Type of Commodity Provided

(Please Describe Below)

- |  |                                     |
|--|-------------------------------------|
| <input type="checkbox"/> Independent Contractor        | <input type="checkbox"/> Rent       |
| <input type="checkbox"/> Maintenance/Service Agreement | <input type="checkbox"/> Care Giver |
| <input type="checkbox"/> Insurance                     | <input type="checkbox"/> Legal      |
| <input type="checkbox"/> Personal Reimbursement        | <input type="checkbox"/> Medical    |
| <input type="checkbox"/> Other (Please list)           |                                     |

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### (Required Information)

Minority Or Women Owned  Yes  No

If Yes, select the ethnicity and gender of the vendor below:

- Asian Pacific American
- Black American
- Hispanic American
- Native American
- Subcontinent Asian American
- Non-Minority Woman
- Other

If Yes  Male  Female

Certified By:  PAUCP  PADGS  Non PA Certification  
(Attach copy of Certification)

### Non-Profits including Faith Based Organizations:

- Faith Based Non-Minority
- Faith Based Minority
- African American Non-Profit
- Other Non-Profit

Outreach Manager Interface  Yes  No

**Industry Classification by NAICS Code**

Primary Industry \_\_\_\_\_

Secondary Industry (if applicable) \_\_\_\_\_

\*If code is not known go to <http://www.census.gov/epcd/naics02/naicod02.htm> and select the correct code.

**Supplier Information (Search Type "P")** – (Where PO should be sent to place order.)

(Please type or print)

Company Name \_\_\_\_\_ Telephone Number \_\_\_\_\_

Address Line 1 \_\_\_\_\_ Fax Number \_\_\_\_\_

Address Line 2 \_\_\_\_\_

Address Line 3 \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

Zip Code \_\_\_\_\_

**(Required Information)**

**Supplier/Remit To Information (Search Type "V")** - (Where check will be mailed for payment. Check must be made payable to exact name listed under TIN provided or check cannot be processed)

Supplier/Payee Name \_\_\_\_\_  
(Please type or print)

Address Line 1 \_\_\_\_\_

Address Line 2 \_\_\_\_\_

Address Line 3 \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

Zip Code \_\_\_\_\_

Telephone Number \_\_\_\_\_

Fax Number \_\_\_\_\_

\*If the "remit to" information provided on form does not match invoices submitted for payment, the Controller's Office **must** contact supplier to verify address information before payments are processed. Thank you for your cooperation.

---

If the Allegheny County department with which you do business is known, providing the information below will help in the processing of your payments. Failure to include the information may result in processing delays.

---

**Allegheny County Departmental Contact**

**Supplier/Payee Contact Name**

Name \_\_\_\_\_

Name \_\_\_\_\_

Telephone No \_\_\_\_\_

Telephone No \_\_\_\_\_

Fax No \_\_\_\_\_

Fax No \_\_\_\_\_

E-Mail Address \_\_\_\_\_

E-Mail Address \_\_\_\_\_

---

## Request for Taxpayer Identification Number and Certification

**Give form to the  
requester. Do not  
send to the IRS.**

Print or type  
See Specific Instructions on page 2.

Name (as shown on your income tax return)	
Business name, if different from above	
Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ ..... <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions) ▶	
Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code	
List account number(s) here (optional)	

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
or
Employer identification number

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

**Sign Here**

Signature of U.S. person ▶

Date ▶

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

### Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a “saving clause.” Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called “backup withholding.” Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

**Sole proprietor.** Enter your individual name as shown on your income tax return on the “Name” line. You may enter your business, trade, or “doing business as (DBA)” name on the “Business name” line.

**Limited liability company (LLC).** Check the “Limited liability company” box only and enter the appropriate code for the tax classification (“D” for disregarded entity, “C” for corporation, “P” for partnership) in the space provided.

For a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Regulations section 301.7701-3, enter the owner’s name on the “Name” line. Enter the LLC’s name on the “Business name” line.

For an LLC classified as a partnership or a corporation, enter the LLC’s name on the “Name” line and any business, trade, or DBA name on the “Business name” line.

**Other entities.** Enter your business name as shown on required federal tax documents on the “Name” line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the “Business name” line.

**Note.** You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

### Exempt From Backup Withholding

If you are exempt, enter your name as described above and check the appropriate box for your status, then check the “Exempt from backup withholding” box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

**Note.** If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

**Exempt payees.** Backup withholding is not required on any payments made to the following payees:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
  2. The United States or any of its agencies or instrumentalities,
  3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
  4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
  5. An international organization or any of its agencies or instrumentalities.
- Other payees that may be exempt from backup withholding include:
6. A corporation,
  7. A foreign central bank of issue,
  8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
  9. A futures commission merchant registered with the Commodity Futures Trading Commission,
  10. A real estate investment trust,
  11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
  12. A common trust fund operated by a bank under section 584(a),
  13. A financial institution,
  14. A middleman known in the investment community as a nominee or custodian, or
  15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt recipients listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt recipients except for 9
Broker transactions	Exempt recipients 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt recipients 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt recipients 1 through 7 <sup>2</sup>

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.  
<sup>2</sup> However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, and payments for services paid by a federal executive agency.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at [www.ssa.gov](http://www.ssa.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [www.irs.gov](http://www.irs.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt recipients, see *Exempt From Backup Withholding* on page 2.

**Signature requirements.** Complete the certification as indicated in 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

## Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

Call the IRS at 1-800-829-1040 if you think your identity has been used inappropriately for tax purposes.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

### Protect yourself from suspicious emails or phishing schemes.

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS personal property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: [spam@uce.gov](mailto:spam@uce.gov) or contact them at [www.consumer.gov/idtheft](http://www.consumer.gov/idtheft) or 1-877-IDTHEFT(438-4338).

Visit the IRS website at [www.irs.gov](http://www.irs.gov) to learn more about identity theft and how to reduce your risk.

## What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
5. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
For this type of account:	Give name and EIN of:
6. Disregarded entity not owned by an individual	The owner
7. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

**Note.** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.

ALLEGHENY COUNTY DEPARTMENT OF ADMINISTRATIVE SERVICES  
DIVISION OF PURCHASING AND SUPPLIES  
ROOM 206 COURTHOUSE

**GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS**

**PREAMBLE** - (Bidder: You are advised to review the instructions, general rules and conditions which follow as they apply to all purchases and become a definite part of each formal solicitation and resulting contract award issued by the Division of Purchasing and Supplies, unless otherwise specified. Bidders or their authorized representatives are expected to inform themselves fully as to the conditions, requirements, and specifications before submitting bids, failure to do so will be at the bidder's own risk and relief cannot be secured on the plea of error.)

Subject to Commonwealth of Pennsylvania and local laws, policies, resolutions and regulations and all accepted rules, regulations and limitations imposed by legislation of the Federal Government, bids on all solicitations issued by the Division of Purchasing and Supplies will bind bidders to applicable conditions and requirements herein set forth unless otherwise specified in the solicitation.

**1) SIGNATURES** –

- a) If you are trading as an individual, you must insert your full name, business address and residence address in the body of the bid and you must sign on the line indicated for individual principal.
- b) If you are trading as a partnership, individual names of all the partners must appear in the body of the bid and all members of the partnership must execute the bid on the lines indicated for partnership principals. If needed, additional lines may be added on the signature page. Be sure to include your full business address.
- c) If you are trading as a corporation, the name of the corporation, its principal office and state of incorporation must appear in the body of the bid and the bid must be signed by the president (or vice-president) and attested by the official secretary (or assistant secretary) and the corporate seal must be affixed on the lines indicated for corporate principal. If the contract is executed or attested by any other than the officers set forth, the bid must be accompanied by a power of attorney carrying certification of current date. The Power of Attorney may have either a live or a facsimile signature. If the corporation has no corporate seal or it is unavailable, a handwritten or adhesive seal shall appear following the corporate name with a statement that no corporate seal exists or that it is unavailable.
- d) A corporation must also complete a certificate of corporate principal for the persons executing the bid, which must be signed by the secretary, and the corporate seal affixed. Instead of such certification, you may attach corporate records indicating authority of the person signing, which must be certified by the secretary or assistant secretary with corporate seal affixed, to be true copies.

**2) NUMBER OF BIDS** – Bidder shall submit one (1) original and one (1) photocopy of the bid (they shall be in the same envelope). Please indicate clearly on the bid which one is the copy. Any price discrepancy shall result in Allegheny County (the "County") accepting the lowest (or most advantageous) price. The original shall be the "controlling document" from which the bid tabulation shall be created and thus the price from which the basis of award shall be evaluated.

**3) UNIQUE BIDS** - No bidder may submit more than one bid for the same item, nor may he submit multiple bids by or through the agency of any partner, employee or other entity. If a bidder does submit more than one bid document, the County will only consider for award the last bid document received.

**4) BID SUBMISSIONS** - This bid shall be completed, signed and submitted to the Office of the Controller of Allegheny County. Copies needed for the bidder's records are the responsibility of the bidder. Each bid must be in a separate sealed envelope with both the bid number and opening date plainly visible on the envelope. Bids must be received at the place, time and date specified. Bidders are responsible to assure each bid is properly marked and timely delivered. The County assumes no financial obligations for preparation and submittal of bids. Bidder shall be solely responsible for understanding the specifications and requirements.

- 5) **VIEWING OF BIDS AND CONFIDENTIALITY** - Bids shall be subject to viewing by bidders and the public by appointment at the Office of the Controller and, after tabulation, at the Division of Purchasing and Supplies. All pricing and documents submitted by bidders to the County shall be considered public documents and open and available for public viewing and copying.
- 6) **BID ALTERATIONS** –
- a) Any alterations and/or deletions to the bid form as received by Allegheny County shall be grounds for rejection of the bid, in whole or in part. In completing the bidding documents, bidder should not add, delete or vary any of the terms or conditions of any documents prepared by the County. If the bidder makes any substantial changes in any of the documents, the County shall reject the bid. If the bidder makes insubstantial changes, the County may, in its discretion, either reject the bid or waive the discrepancy and, the changes shall be accepted only to the extent that they are consistent with the original bidding documents. Bidder warrants that all goods and services described by bidder in its bid and all samples submitted by bidder to the County shall conform to the specifications. The Chief Purchasing Officer may waive insubstantial errors in the bid and specifications.
  - b) Bidder is permitted to scan bidding documents, in order to computer generate responses. Bidder shall not in any way change or alter any of the text of the document, however any necessary changes, revisions or clarifications, should be noted in parenthesis at the end of the text. If there are any discrepancies, the original County text shall prevail.
- 7) **BID ERRORS** – If a Bidder submits a bid with a price that is patently incorrect, such that a “reasonable person” would recognize the error, the Bidder shall be given the opportunity to withdraw the entire bid or only the incorrect line item in a bid. If the Bidder wishes to withdraw the entire bid or only a line item, the Bidder shall, within five working days of bid opening, state in a letter to the County the reason for the mistake and request that the County not consider the bid or line item for award.
- 8) **SPECIFICATION ERRORS AND BULLETINS (AMENDMENTS)** - If any alleged errors are noted in the bid specifications, bidder should immediately notify the County and, if confirmed, a bulletin shall be sent to all bidders. A copy of all bulletins issued shall be submitted with the bid documents to the County
- 9) **CLARIFICATION** –The County reserves the right to request clarification of any bid before bid award.
- 10) **BID PRICES HELD** - Contracts shall be awarded within ninety (90) days of the bid opening unless an extension is agreed to, in writing, between the bidder and the County.
- 11) **ASSIGNMENT** - Bidder shall have no right or power to assign or delegate any rights or duties pursuant to this Agreement without the prior written permission of the Chief Purchasing Officer. Any assignment or delegation so permitted shall be subject to all the terms, conditions and other provisions of this Agreement, and bidder shall remain liable to the County with respect to each and every term, condition and other provision hereof to the same extent that bidder would have been obligated if no assignment or delegation had been made.
- 12) **QUALIFIED BIDDERS** - All bidders must be merchants dealing in the goods and services on which they bid, and must be qualified to advise as to their application and use. Bidders warrant, and must be able, upon request, to demonstrate, that they possess the knowledge, experience, skill, capital, stock, charters, licenses, permits, patents and personnel necessary to satisfactorily perform the contract for which they submit bids.
- 13) **SAMPLES**
- a) By submitting a bid, the bidder agrees to deliver to the County, at the County’s request and at no cost to the County, samples of any or all items upon which the bidder bid. Said samples shall not be returned to the bidder. Inspection or testing by the County does not constitute a waiver of any claims or rights which the County otherwise would have with respect to the quality of goods or workmanship. County shall specify the quantity of samples. If bidder inadvertently provides an incorrect sample or otherwise wishes to exchange the submitted sample with a correct sample, the bidder shall provide a detailed written explanation to the County and have a legitimate reason for the exchange. The bidder shall have only one opportunity to perform such an exchange.

b) County, at its sole discretion, shall have the right to arrange for testing of samples to determine whether they are within bid specification. County shall indicate to bidder that it desires testing and advise which samples are to be tested and for what purpose. The following additional guidelines shall be followed:

- (1) Laboratory/testing facility used shall be pre-approved by County;
- (2) Suppliers shall be solely and fully responsible for the expenses of testing regardless of whether or not the tested sample(s) meets specification;
- (3) County and bidder shall immediately communicate upon County's request for testing to determine which laboratory/testing facility shall be used, as well as the time frame in which tests are to be conducted and reported to County;
- (4) The laboratory which tests the samples shall report its results directly to both County and bidder.

**14) PRE-PRINTED TERMS AND CONDITIONS** – Bidder's pre-printed Terms and Conditions or restrictions commonly appearing on the reverse side of letters submitted with the bid and/or bidder's specifications material and contract documents shall be disregarded and have no effect

**15) NEW MATERIAL** - Unless otherwise provided in the specifications, all goods to be supplied to the County shall be from new, unused, current stock.

**16) ESTIMATED QUANTITIES** - Unless otherwise provided in the specifications, any references in the specifications to quantities of goods or frequency of services to be provided to the County are estimates, and the County reserves the right to require the successful bidder to provide more or less than the estimated quantity or frequency, or to purchase none at all.

**17) DELIVERY POINT** - Unless otherwise provided in the specifications, the goods and services to be delivered or provided shall be delivered to or provided at any place or places within Allegheny County, Pennsylvania, which the County may designate. All deliveries are to be F.O.B. point of delivery.

**18) DELIVERY TIME** - Unless otherwise provided in the specifications, the successful bidder shall provide all goods and services within thirty (30) days from the date of the County's request therefore.

**19) FIRM, FIXED PRICING** - Unless otherwise provided in the specifications, all prices shall remain fixed throughout the term of the contract, and bids containing escalation, discount, or other price adjustment provisions will be rejected if such provisions are not consistent with a common standard against which all bids may be judged. In arriving at the bid price, the bidder shall take into consideration all discounts for cash and all other credits and allowances. Any discount or other uncalled for allowance quoted will not be considered in making the award and may be the cause for the rejection of the bid.

**20) PROMPT PAYMENT DISCOUNT** –

- a) Unless otherwise specified in this solicitation, prompt payment discounts requiring payment in fewer than fifteen (15) days will not be considered in evaluating a bid for award. However, even though not considered in the evaluation, such discounts will be taken if payment is to be made within the discount period.
- b) In connection with any discount offered, time will be computed from the date of delivery of the supplies to the carrier when delivery, inspection and acceptance are at the point of origin; or, from date of delivery, inspection and acceptance at destination; or from date correct invoice or voucher is received in the office specified by the County, if the latter is later than the date of acceptance. In the event the supplier does not indicate a prompt payment discount, it shall be construed to mean NET 30 days.
- c) For the purpose of earning the discount, payment is deemed to be made as of the date of mailing of the County check.

**21) LATE INVOICES** – For any award resulting from this invitation for bid, bidder shall submit invoices to the County within 90 days of delivery of goods or completion of services. County reserves the right to reject and not pay any and all invoices that are submitted more than 90 days after delivery of goods or completion of services.

- 22) PRICE EXTENSION DISCREPANCIES** - In case of discrepancy between the prices listed by the bidder for separate items or single units, and the total price, the item or unit prices shall prevail.
- 23) TAX EXEMPT** - The County is exempt from Federal excise taxes, transportation taxes and state sales taxes. Therefore, bidder should not include any such taxes in its calculations or in the prices bid.
- 24) CONFORMANCE TO SPECIFICATIONS** - Bidder agrees and warrants that whenever the bidder, in its Bid, describes goods by trade name, catalog number, or "as per sample", the goods so described conform to the specifications. The unauthorized use of any patented articles is done entirely at the risk of the successful bidder.
- 25) AWARD CRITERIA AND BASIS FOR REJECTION** - Unless otherwise provided in the specifications, the County may award on an item-by-item basis, on a lump sum basis or on a combination of items basis, whichever is in the best interest of the County. The successful bidder shall be the lowest responsible, responsive bidder meeting specifications, with full consideration of cost, quality and performance. Such considerations may include, but not be limited to: superior product quality or functionality; demonstrated experience and whether the bidder can perform the contract or provide the service promptly or within the time specified without delay or interference; the quality of performance of previous contracts or services; the previous and existing compliance by the bidder with laws and ordinances relating to the contract or service; special skills; staff training and financial strength. The Chief Purchasing Officer reserves the right to award on a "multiple-criteria" or "best-value" basis.
- a) The County reserves the right to reject the bid of any bidder who has previously failed to perform satisfactorily any obligations to the County or is otherwise deemed not to be a responsible bidder.
  - b) The County reserves the right to reject all bids, if it determines that such rejection is in the best interest of the County.
- 26) PIGGYBACKING** - It is understood that the goods and services described in the specifications may be purchased by the County and any other municipal bodies as set forth in the specifications and bidder agrees to supply the goods and services to the municipal bodies on the same terms and conditions as if they were to be supplied to the County. To the extent that the municipal bodies purchase goods or services, then the municipal bodies, and not the County, shall be liable to the bidder.
- 27) SOLICITATION ONLY** – This Invitation for Bid is a solicitation only and is not intended to be nor should it be construed to be an offer to enter into any contract or other agreement.
- 28) WORKMEN'S COMPENSATION ACT** - Bidder agrees, in any contract involving construction or doing any work involving construction or doing of any work involving the employment of labor, to accept the provisions of the Workmen's Compensation Act and any reenactments, supplements or amendments thereto and shall insure his liability there under or file with County a certificate of exemption of insurance from the Department of Labor and Industry of the Commonwealth.
- 29) FATAL BID ERRORS** – The following errors shall be deemed fatal and render the bid void:
- a) Failure to sign the bid, or bond or both,
  - b) If the signatures are those of unauthorized persons, or
  - c) If there is no stated pricing.
- All other errors are waivable at the sole discretion of the County if such errors would not invalidate a fair and just competitive bidding procedure free of favoritism and fraud and a common standard for all bidders.
- 30) BID AND PERFORMANCE BONDS** - Whenever a bid bond or performance bond is required, the bidder may meet the requirement by submitting an acceptable cashier's check, certified check, banker's check or an irrevocable letter of credit in the amount required. Whenever a performance bond is required, the successful bidder shall keep all provisions and requirements of the bond up-to-date throughout the term of the contract.

- 31) **MBE AND WBE CONSIDERATIONS** - In accordance with Section 911.03 C. of the Allegheny County Administrative Code, the County wishes to contract with and asks that, unless otherwise prohibited in the specifications, its bidders consider contracting with Minority Business Enterprises (MBE) and Women Business Enterprises (WBE). Bidders may take necessary steps to ensure that MBEs and WBEs have an opportunity to compete for and perform contracts. Bidders are encouraged to contact the Allegheny County Department of Minority, Women and Disadvantaged Business Enterprises at 412-350-4309 or review the web site at [www.county.allegheny.pa.us/mwdbbe/index.asp](http://www.county.allegheny.pa.us/mwdbbe/index.asp) for assistance in identifying qualified MBE and WBE firms.
- 32) **CONTRACT** - By submitting a bid, the bidder warrants that if the County makes an award to the bidder, bidder shall, at the option of the County, enter into a written contract with the County. This contract shall consist of the terms and conditions set forth in the Bid, Bulletins (if applicable), specifications, and these General Conditions and Instructions to Bidders. If no bid bond or substitute is required and bidder fails or refuses to execute the required documents within thirty (30) days after award by County, bidder shall pay to the County the difference in the amount specified in bidder's bid and the amount County shall pay to fulfill the specifications.
- 33) **INELIGIBLE SOURCE LIST** – In accordance with Section 3.7 of the Allegheny County Purchasing Manual, the Chief Purchasing Officer has established an Ineligible Source List. The following may be reasons to place a company on the Ineligible Source List:
- Any company who submits a bid or proposal in bad faith,
  - Any company who willfully or repeatedly breaches a contract with the County,
  - Any company who refuses to accept an award, or
  - Any supplier who has established a pattern or practice of unethical or immoral business practices.
- 34) **STEEL PRODUCTS** - In accordance with Act 3 of the 1978 General Assembly of the Commonwealth of Pennsylvania, approved March 3, 1978, if any steel products are to be used or supplied in the performance of the contract, only steel products produced in the United States of America, as defined therein, shall be used or supplied in the performance of the contract.
- 35) **BRAND NAME OR EQUAL ITEMS** – Unless otherwise provided in the specifications, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named; it conveys the general style, type, character, and quality of the article desired, and any article which the County in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.
- 36) **"BUY AMERICAN" POLICY** – As required in Section 911.03 C. of the County Administrative Code, for the purchase or procurement of materials, supplies, furnishings, equipment or other personal property and non-professional services, the guideline to govern the County's "Buy American" policy is:
- Purchases shall consist of raw materials mined or produced in the U.S., or manufactured items that are made in the U.S. from materials or items mined, produced or manufactured in the U.S.
- Exceptions to the "Buy American" Policy are:
- If the items are not available in the U.S. in commercial quantities of good quality,
  - If the cost of the domestic items is unreasonable, which shall be if the cost of the domestic items is greater than two percent more than the cost of comparable foreign items, unless for a particular purchase, two percent represents a nominal amount,
  - If a purchase has a value of \$30,000 or less,
  - If the Chief Purchasing Officer decides that it is in the County's best interest to waive the "Buy American" policy.
- 37) **FORCE MAJEURE** – Neither bidder nor the County shall be held responsible for losses resulting if the fulfillment of any terms or provisions of an award resulting from this invitation for bid is delayed or prevented by unforeseeable causes including but not restricted to Acts of God, restraint of Government, or for any other causes which are

unavoidable through the exercise of due care and beyond the control of the party who is to perform.

**38) INDEMNIFICATION CLAUSE –**

a) Bidder agrees to protect, defend, indemnify and hold harmless the County, its Chief Executive, Manager, Directors, Officers, agents, and employees from and against any and all liability, damages, claims, suits, liens and judgments of whatever nature, including claims for contribution and/or indemnification, for injuries to or death of any person or persons, or for damage to the property of any person or persons, caused by or arising out of any activity undertaken pursuant to any agreement resulting from this solicitation. Bidder further agrees to protect, defend, indemnify and hold harmless the County from and against any claims or liability for compensation under the Workmen's Compensation Act arising out of injuries sustained by any employees of contractor or of any licensees, contractors or sub-contractors of contractor. Bidder's obligations to protect, defend, indemnify and hold harmless, as set forth in this Paragraph, shall include any and all attorneys' fees incurred by the County in enforcing and/or obtaining compliance with the provisions of this Paragraph.

b) Bidder shall give to County prompt and timely notice of any claims made or suits initiated which in any way directly or indirectly, contingently or otherwise, affect or might affect the County, and each party shall have the right to compromise and defend the same to the extent of its own interest.

**39) HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) RECIPROCAL ASSURANCES**

Pursuant to Federal Regulations promulgated under the authority of the Health Insurance Portability and Accountability Act of 1996, *Standards for Privacy of Individually Identifiable Health Information*, 42 C.F.R., Parts 160 and 164, hereinafter "Regulations", the Parties understand and agree that based upon the duties and responsibilities entered into under this agreement, the definition of "Covered Entity" and "Business Associate" as defined in the above cited act may apply to either or both Parties.

If and when Personal Health Information is exchanged between the Parties and one party is acting as a Business Associate to a Covered Entity the following will apply:

In furtherance and compliance with the above, the Parties agree as follows:

General Duty of Confidentiality Business Associate hereby agrees that it will not divulge, disclose, or communicate in any manner any Protected Health Information to any third party without the prior written consent of Covered Entity and, where required, the client. Business Associate will protect all such information and treat it as strictly confidential. Business Associate agrees to abide by the requirements of 42 C.F.R., Parts 160 and 164, *Standards for Privacy of Individually Identifiable Health Information*. Any violation of this paragraph shall be considered a material breach of this Agreement.

Use and Disclosure of Protected Health Information Business Associate is hereby permitted to use or disclose Protected Health Information for the proper management and administration of Business Associate's business, and/or to carry out the legal responsibilities of the Business Associate. Proper management and administration of Business Associate's business does not include the use of Protected Health Information, or the identity of Kane's clients, for solicitation, marketing, fundraising, or other non-necessary purposes. Should Business Associate at any time disclose to a third party Protected Health Information for its proper management and administration, or to carry out its legal responsibilities, Business Associate agrees to obtain reasonable assurances from that third party of the following: (1) that the third party will hold the disclosed Protected Health Information confidentially and only use or disclose the information as required by law or for the purpose for which it was properly disclosed to the third party; and (2) that the third party will immediately report in writing to Business Associate any instances of a breach of confidentiality of which the third party is aware.

Appropriate Safeguards Business Associate agrees to maintain and use appropriate physical, technical, and administrative safeguards to prevent the use or disclosure of any Protected Health Information, including the identities of clients, other than as provided for by this Agreement. Such safeguards must be in place at all times for the protection of Protected Health Information that is maintained both in electronic and paper forms. Business Associate

further agrees to maintain and use appropriate safeguards to prevent the improper disclosure of such information in the form of oral communications.

Agent and Subcontractors Business Associate hereby agree to ensure that any agent or subcontractor agrees to the same restrictions and conditions under this Agreement that apply to Business Associate with respect to such Protected Health Information.

Reporting of Improper Uses and/or Disclosures Business Associate agrees to immediately report to Covered Entity any use or disclosure of Covered Entity's Protected Health Information and/or the identity of Covered Entity's clients of which it becomes aware, which is not permitted pursuant to this Agreement or pursuant to the Regulations.

Availability of Information Maintained by Contractor Business Associate hereby agrees to make available any of Covered Entity's Protected Health Information, immediately upon Covered Entity's request, for purposes of ensuring the right of access of clients to their own health information.

Amendments Business Associate shall make available to Covered Entity, upon request, any Protected Health Information for which Covered Entity has agreed to make and/or has made any amendments. In such cases, Business Associate agrees to incorporate all such amendments made by Covered Entity, to the information maintained by Business Associate.

Accounting Business Associate shall maintain appropriate records of all disclosures of Protected Health Information made to third parties in sufficient form to allow for an accounting of disclosures to properly be generated pursuant to the Regulations. Upon request of Covered Entity, such records shall be made available by Business Associate to Covered Entity for purposes of providing an accounting of disclosures pursuant to the Regulations.

Availability of Internal Practices, Books, and Records Business Associate hereby agrees to make all of its internal practices, books, and records relating to the use and disclosure of the Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, available to the Secretary of the Department of Health & Human Services, or its agent, upon the request of either the Secretary of the Department of Health & Human Services or Covered Entity, for purposes of determining whether Covered Entity is complying with the above-referenced Regulations.

Maintenance of Protected Health Information Upon Termination of Agreement Upon the termination of this Agreement for any reason, Business Associate shall return to Covered Entity all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, retaining no copies of any such information. In the alternative, upon the termination of the Agreement, Business Associate, with the consent of Covered Entity, may choose to destroy all Protected Health Information, retaining no copies of such information, so long as a Certificate of Destruction, including the date of destruction, manner of destruction, and name, title and signature of the authorized agent of the Business Associate completing such destruction is immediately provided to Covered Entity. Such destruction must be performed in such a way that no readable or otherwise interpretable portion of the information continues to exist. If Business Associate believes that such a return or destruction is not feasible for any reason, Business Associate must contact Covered Entity to discuss the reason that return or destruction is not feasible and the extension of the protection of the Agreement to this information with the limitation of further usage and disclosures.

Confidentiality Business Associate agrees that all information, records, and data collected in connection with this Agreement shall be protected from unauthorized disclosures. In addition, Business Associate agrees to guard the confidentiality of resident information. Access to all individually identifiable information relating to residents that is obtained by Business Associate shall be limited by Business Associate to persons or agencies that require the information in order to perform their duties in accordance with this contract, and to such others as may be authorized by Covered Entity in accordance with applicable law.

No other party shall be granted access to confidential information unless the party complies with the requirements of Federal and State laws and regulations pertaining to such access. Covered Entity shall have absolute authority to determine if and when any other party has properly obtained the right to have access to this

confidential information. Nothing herein shall prohibit the disclosure of information in summary, statistical, or other form that does not identify particular individuals. Business Associate shall retain the right to use information for its Quality Improvement/Assurance and/or Utilization Management programs, subject to the requirements of this clause.

Business Associate agrees to take reasonable steps to ensure the physical security of data under its control, including, but not limited to: fire protection; protection against smoke and water damage; alarm systems; locked files; guards or other devices reasonably expected to prevent loss or unauthorized removal of manually held data; passwords, access logs, badges, or other methods reasonably expected to prevent loss or unauthorized access to electronically or mechanically held data; limited terminal access; limited access to input documents and output documents; and design provisions to limit use of resident names.

Business Associate agrees to inform each of its employees having any involvement with personal data or other confidential information, whether with regard to design, development, operation, or maintenance, of the laws and regulations relating to confidentiality.

Upon the termination of this Agreement, Business Associate may not use any such data or any material derived from the data for any purpose not permitted by law. Where so instructed by Covered Entity, Business Associate must destroy such data or material if permitted by law.

Termination of Agreement In the event of Business Associate's failure to conform to the requirements set forth in this Agreement, Covered Entity may immediately terminate this Agreement, notwithstanding provisions described elsewhere in this Agreement.

#### **40) ANTI-SWEATSHOP PROVISIONS**

By executing the bid document, the Supplier certifies that nothing has come to its attention that would lead it to believe that any of the goods or products provided herein were made under sweatshop conditions, as defined by Part 9, § 5-903.02 as amended, of Article 903 of the County's Administrative Code (Ordinance Number 08-07-OR)

If the County is presented with information that would lead the County to reasonably believe that the Supplier or its suppliers may be obtaining goods or products for sale, re-sale, lease or rental to the County that were made under sweatshop condition, upon request of the County, the Supplier shall disclose information, data and materials reflecting Supplier's practices as they pertain to the procurement and manufacturing of goods/products in compliance with the Anti-Sweatshop provisions of the County's Administrative Code.

#### **41) EXAMINATION OF FINANCIAL RECORDS**

Bidder/Contractor shall maintain books, program and financial records, documents and other evidence pertaining to costs and expenses related to this Bid/Agreement in such detail as will properly reflect all costs of labor, materials, equipment, supplies, services and other costs and expenses of whatever nature for which County funding has been provided under the provisions of this Bid/Agreement. The Bidder/Contractor shall maintain such books, records, documents and other materials in accordance with Generally Accepted Accounting Principles, where applicable. The Bidder/Contractor shall provide access, during normal business hours, to such books, program and financial records, documents and other evidence upon request of the County Manager, the County Controller or their designees upon receipt of reasonable advance notice, either oral or written. Bidder's/Contractor's books, records, program and financial records, documents and other evidence pertaining to services provided under this Bid/Agreement shall be preserved and made available for a period of three (3) years following the termination of this Bid/Agreement. The County Manager, the County Controller or their designees may audit, examine, review, photocopy, and/or make excerpts or transcripts of any of Bidder's/Contractor's books, records, program and financial records, documents and other evidence. Any deficiencies noted in any audit reports or otherwise must be fully resolved by the Bidder/Contractor, to the County's sole satisfaction, within thirty (30) days after the Bidder's/Contractor's receipt of written notice of such deficiencies. Failure of the Bidder/Contractor to comply with the provisions set forth in this paragraph may constitute a violation of this Bid/Agreement and, at the County's sole discretion, may result in the County withholding future payments.

CONTRACT AWARD

For

BITUMINOUS LIQUIDS

Russell Standard Corporation  
P.O. Box 802  
Mars, PA 16046

**Spec No. 6311**

ITEM #	ESTIMATED QUANTITY	DESCRIPTION	F.O.B. PICK UP PRICE PER GALLON	DELIVERED PRICE PER GALLON
	2,000 gallons	NTSS-1M Emulsified Asphalt Tack Coat		
28151		(Pick-Up)	\$3.765	
28152		(Delivered)		\$4.10
	4,000 gallons	AE-T Tack Coat Material		
3888		(Pick-Up)	\$1.71	
3889		(Delivered)		\$2.03
	2,000 gallons	NTSS-1M Emulsified Asphalt Tack Coat		
26370		(Pick-Up)	\$3.765	
26371		(Delivered)		\$4.10
	500 gallons	E-1 Bituminous Prime Coat		
3890		(Pick-Up)	\$2.55	
3891		(Delivered)		\$3.00
	500 gallons	CRS-2PM (E-3M) Polymer Modified Cationic Emulsified Asphalt		
3892		(Pick-Up)	\$2.42	
3893		(Delivered)		\$2.95
	500 gallons	CMS-2 (E-5) Emulsified Asphalt		
3894		(Pick-Up)	\$2.51	
3895		(Delivered)		\$3.10
	500 gallons	CSS-1H (E-8C) Emulsified Asphalt		
3896		(Pick-Up)	\$2.42	
3897		(Delivered)		\$2.95

ITEM #	ESTIMATED QUANTITY	DESCRIPTION	DELIVERED and APPLIED PRICE PER SQUARE YARD
	5,000 gallons	Polymer Modified Bituminous Emulsion Seal Coat with Manufactured Sand (two coat application)	
3898		(Delivered & Applied)	\$1.975 Single Seal
3899		(Delivered & Applied)	\$2.985 Double Seal

**PERIOD OF CONTRACT:** January 1, 2010 through December 31, 2010

YOU ARE ADVISED NOT TO MAKE ANY DELIVERIES OF GOODS OR OTHERWISE BEGIN PERFORMANCE UNTIL EXPRESSLY DIRECTED TO DO SO BY THE ALLEGHENY COUNTY'S PURCHASING DIVISION THROUGH A PURCHASE ORDER.

Your performance, when it begins, shall conform with the terms of your contract proposal and the County's Instruction to Bidders.

The bidder agrees to make this contract available to the Councils of Government, Municipalities and School Districts within Allegheny County at the prices quoted under this specification.

The bidder does not agree to make this contract available to all political sub-divisions and authorities of the Commonwealth of Pennsylvania all items contained in this bid at the prices quoted under this specification.

**BIDDER:** Certificate of Compliance should be attached to the packing slip when needed or requested.

**RECEIVING DEPARTMENT:** Certificate of Compliance should then be attached to the packing slip and evidence of receipt should be entered into JD Edwards, the County's ERP system.

**DELIVER F.O.B.**

**CONTACT PERSON:** Tim Mohny / P.O. Box 802, Mars, PA 16046 / phone: 724-625-1505 /  
fax: 724-625-1760 / [tim.mohny@russellstandard.com](mailto:tim.mohny@russellstandard.com)

**REMIT TO:** George Leach / P.O. Box 76748, Cleveland, OH 44101 / phone: 412-449-0700 /  
[george.leach@russellstandard.com](mailto:george.leach@russellstandard.com)