

REQUEST FOR PROPOSALS FOR

Swap Advisory Services

ISSUING OFFICE

Pennsylvania Turnpike Commission

Contracts Administration Department

On behalf of the

Finance and Administration Department

RFP NUMBER

RFP 18-10320-8175

DATE OF ISSUANCE

February 15, 2018

REQUEST FOR PROPOSALS FOR

**Swap Advisory Services
RFP 18-10320-8175**

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CALENDAR OF EVENTS

RFP# 18-10320-8175

The Commission reserves the right to make changes or alterations to this schedule as the Commission determines is in its best interest.

Activity	Date	Time
Request for Proposals Issued	February 15, 2018	N/A
Deadline for Proposers to Submit Questions via email to RFP-Q@paturndpike.com	March 20, 2018	2:00 PM
Answers to Proposers questions posted to the Commission website at https://www.paturndpike.com/Procurement/Bidlist.aspx?RTYPE=O (<i>Estimate Only</i>)	March 27, 2018	N/A
Due Date for Proposals	April 17, 2018	2:00 PM
Oral Clarifications/Presentations (<i>If necessary</i>)	TBD	TBD
Anticipated Notice to Proceed (<i>Estimate Only</i>)	September 1, 2018	N/A

PART I

GENERAL INFORMATION FOR PROPOSERS

I-1. Purpose. This request for proposals (RFP) provides interested Proposers with sufficient information to enable them to prepare and submit proposals for consideration by the Pennsylvania Turnpike Commission (Commission) to satisfy a need for Swap Advisory Services.

I-2. Issuing Office. This RFP is issued for the Commission by the Contracts Administration Department on behalf of the Finance and Administration Department.

I-3. Scope. This RFP contains instructions governing the proposals to be submitted and the material to be included therein; a description of the service to be provided; requirements which must be met to be eligible for consideration; general evaluation criteria; and other requirements to be met by each proposal.

I-4. Problem Statement. The Commission currently has 22 interest rate swap ("swap") agreements among 9 counterparties with a total notional amount more than \$1.9 billion. The Commission has Credit Support Annexes in place for swap agreements. Indices used are: LIBOR, SIFMA and the 10-year swap rate. Given the complex nature of the Commission's swap portfolio, it is desirable to retain the services of a Swap Advisor.

I-5. Type of Contract. The Commission intends to award one contract as a result of this RFP. It is proposed that if a contract is entered into as a result of this RFP, it will be a fixed fee (billable monthly) plus transaction costs for review and/or execution of new swaps. The Commission may in its sole discretion undertake negotiations with Proposers whose proposals as to price and other factors show them to be qualified, responsible, responsive and capable of performing the work. A sample Contractual Agreement is provided in Appendix A.

I-6. Contractor Integrity Provisions. Contractor Integrity Provisions will apply to this contract upon award and the awarded vendor may be required to complete a Background Qualifications Questionnaire prior to entering into an Agreement with the Commission and attend annual ethics training provided by the Commission. Proposers can find the Integrity Provisions and other related documents on the Commissions website at www.paturnpike.com (Doing Business, General Information, Integrity Provisions).

Include full disclosure of any potential conflict with the State Adverse Interest of State Advisor or Consultant Statute by the prime or any subconsultant. If there is no adverse interest, you shall include the following statement: "I have reviewed the State Adverse Interest Statute and determined that there is no adverse interest for anyone on this Agreement team." This information should be included in your transmittal letter/cover page or executive summary.

I-7. Rejection of Proposals. The Commission reserves the right to reject any and all proposals received as a result of this request, or to negotiate separately with competing Proposers.

I-8. Subcontracting. Any use of subcontractors by a Proposer must be identified in the proposal. During the contract period use of any subcontractors by the selected Proposer, which were not previously identified in the proposal, must be approved in advance in writing by the Commission.

If a Joint Venture responds to this RFP, the Commission will not accept separate proposals from joint venture constituents. A firm will not be permitted to submit a proposal on more than one (1) joint venture for the same RFP. Also, a firm that responds to this RFP as a prime may not be included as a designated subconsultant to another firm that responds to the same RFP. Multiple responses under any of the forgoing situations will cause the rejection of all responses of the firm or firms involved. This does not preclude a firm from being set forth as a designated subconsultant to more than one prime consultant responding to the RFP.

I-9. Incurring Costs. The Commission is not liable for any costs the Proposer incurs in preparation and submission of its proposal, in participating in the RFP process or in anticipation of award of contract.

I-10. Procurement Schedule of Events. The current Schedule for Key Procurement Dates for this procurement process leading to an award of the Contract is provided in the Calendar of Events, page 1 of this RFP. The Commission reserves the right to make changes or alterations to this schedule as the Commission determines is in its best interest. All changes to these dates and/ or times up to and including the due date for Proposals will be issued as an addendum to this RFP and will become part of this RFP and will be posted to the Commission's website at <https://www.paturnpike.com/procurement/Bidlist.aspx?rtype=o>.

Unless otherwise notified in writing by the Commission, the dates indicated below for submission of items or for other required actions on the part of a Proposer shall constitute absolute deadlines for those activities and failure to fully comply by the time and date stated shall cause a Proposer to be disqualified. All times stated are in Harrisburg, PA local time and are subject to change.

I.11. Questions and Answers. There will be no pre-proposal conference for this RFP. No negotiations, decisions or actions shall be initiated or executed by a Proposer as a result of any oral discussions with any Commission member, employee, consultant/contractor. Written questions may be submitted to clarify any points in the RFP which may not have been clearly understood. Written questions shall be submitted by email to RFP-Q@paturnpike.com with **RFP 18-10320-8175 Swap Advisory Services** in the Subject Line to be received no later than the date and time provided on the Calendar of Events. All questions and written answers will be issued as an addendum to and become part of this RFP and will be posted to the Commission's website at (<http://www.paturnpike.com/procurement/Bidlist.aspx?rtype=o>), approximately on or before the date provided on the Calendar of Events and only if necessary. Proposers shall use the form provided in Appendix B to submit the questions.

I-12. Addenda to the RFP. If it becomes necessary to revise any part of this RFP before the proposal response date, addenda will be posted to the Commission's website under the original RFP document (<http://www.paturnpike.com/procurement/Bidlist.aspx?rtype=o>). It is the responsibility of the Proposer to periodically check the website for any new information or addenda to the RFP.

The Commission may revise a published advertisement. If the Commission revises published advertisement less than ten days before the RFP due date, the due date will be extended to maintain the minimum ten-day advertisement duration if the revision alters the project scope or selection criteria. Firms are responsible to monitor advertisements/addenda to ensure the submitted proposal complies with any changes in the published advertisement.

I-13. Response. To be considered, proposals must be delivered to the Pennsylvania Turnpike Commission's Contracts Administration Department, Attention: Stephanie Newbury, on or before the date and time provided on the Calendar of Events. The Commission will **not** accept proposals via email or facsimile transmission.

Overnight Delivery Address:

Contracts Administration Department
Attn: Stephanie Newbury
PA Turnpike Commission
700 South Eisenhower Blvd.
Middletown, PA 17057
Phone: (717) 831-7423

US Mail Delivery Address:

Contracts Administration Department
Attn: Stephanie Newbury
PA Turnpike Commission
P.O. Box 67676
Harrisburg, PA 17106

Please note that use of U.S. Mail, FedEx, UPS, or other delivery method, does not guarantee delivery to the Contracts Administration Department by the above listed time for submission. Proposers mailing proposals should allow sufficient delivery time to ensure timely receipt of their proposals. If the Commission office location to which proposals are to be delivered is closed on the proposal response date, due to inclement weather, natural disaster, or any other cause, the deadline for submission shall be automatically extended until the next Commission business day on which the office is open. Unless the Proposers are otherwise notified by the Commission, the time for submission of proposals shall remain the same.

I-14. Proposals. To be considered, Proposers should submit a complete response to this RFP, using the format provided in PART II. Each proposal should be submitted in five (5) hard copies of the Technical Submittal, five (5) hard copies of the Diverse Business (DB) participation submittal, and five (5) hard copies of the Cost Submittal. In addition to the hard copies of the proposal, two **complete and exact copies** of the Technical, Cost and DB submittals, along with all requested documents on CD-ROM or Flash Drive in Microsoft Office or Microsoft Office-compatible format. The electronic copy must be a mirror image of the hard copy. Proposer should ensure that there is no costing information in the technical submittal. The CD or Flash drive should clearly identify the Proposer and include the name and version number of the virus scanning software that was used to scan the CD or Flash drive before it was submitted. The Proposer shall present the proposal to the Contracts Administration Department only. No other distribution of proposals will be made by the Proposer. Each proposal page should be numbered for ease of reference.

An official authorized to bind the Proposer to its provisions must sign the proposal. If the official signs the Proposal Cover Sheet (Appendix C to this RFP) and the Proposal Cover Sheet is attached to the proposal, the requirement will be met. For this RFP, the proposal must remain valid for at least **120** calendar days. Moreover, the contents of the proposal of the selected Proposer will become contractual obligations if a contract is entered into.

Every Proposer submitting a proposal specifically waives any right to withdraw or modify it, except as hereinafter provided. Proposals may be withdrawn by written or fax notice (fax number (717) 986-8714) received at the Commission's address for proposal delivery prior to the exact hour and date specified for proposal receipt.

However, if the Proposer chooses to attempt to provide such written notice by fax transmission, the Commission shall not be responsible or liable for errors in fax transmission. A proposal may also be withdrawn in person by a Proposer or its authorized representative, provided his/her identity is made known and he/she signs a receipt for the proposal, but only if the withdrawal is made prior to the exact hour and date set for proposal receipt. A proposal may only be modified by the submission of a new sealed proposal or submission of a sealed modification which complies with the requirements of this solicitation.

I-15. Economy of Preparation. Proposals should be prepared simply and economically, providing a straightforward, concise description of the Proposer's ability to meet the requirements of the RFP.

The body of the proposal shall not exceed fifteen (15) pages of 12-point type, excluding required tables and appendices. The cost proposal, Commitment to Diversity items and Technical appendices are not included in the 15-page limit. However, the review of the Technical Evaluation Team will be primarily focused on the materials contained in the body of the proposal, rather than the appendices.

I-16. Discussions for Clarification. Proposers who submit proposals may be required to make an oral or written clarification of their proposals to the Issuing Office through the Contract Administration Department to ensure thorough mutual understanding and Proposer responsiveness to the solicitation requirements. The Issuing Office through the Contract Administration Department will initiate requests for clarification.

I-17. Best and Final Offers. The Issuing Office reserves the right to conduct discussions with Proposers to obtain "best and final offers." To obtain best and final offers from Proposers, the Issuing Office may do one or more of the following: a) enter into pre-selection negotiations; b) schedule oral presentations; and c) request revised proposals. The Issuing Office will limit any discussions to responsible Proposers whose proposals the Issuing Office has determined to be reasonably susceptible of being selected for award.

I-18. Prime Proposer Responsibilities. The selected Proposer will be required to assume responsibility for all services offered in its proposal whether or not it produces them. Further, the Commission will consider the selected Proposer to be the sole point of contact regarding contractual matters.

I-19. Proposal Contents. Proposals will be held in confidence and will not be revealed or discussed with competitors, unless disclosure is required to be made (i) under the provisions of any Commonwealth or United States statute or regulation; or (ii) by rule or order of any court of competent jurisdiction. All material submitted with the proposal becomes the property of the Pennsylvania Turnpike Commission and may be returned only at the Commission's option. Proposals submitted to the Commission may be reviewed and evaluated by any person other than competing Proposers at the discretion of the Commission. The Commission has the right to use any or all ideas presented in any proposal. Selection or rejection of the proposal does not affect this right.

In accordance with the Pennsylvania Right-to-Know Law (RTKL), 65 P.S. § 67.707 (Production of Certain Records), Proposers shall identify all portions of their Proposal that contains confidential proprietary information or is protected by a trade secret. Proposals shall include a written statement signed by a representative of the company/firm identifying the specific portion(s) of the Proposal that contains the trade secret or confidential proprietary information.

Proposers should note that “trade secrets” and “confidential proprietary information” are exempt from access under Section 708(b)(11) of the RTKL. Section 102 defines both “trade secrets” and “confidential proprietary information” as follows:

Confidential proprietary information: Commercial or financial information received by an agency: (1) which is privileged or confidential; **and** (2) the disclosure of which would cause substantial harm to the competitive position of the person that submitted the information.

Trade secret: Information, including a formula, drawing, pattern, compilation, including a customer list, program, device, method, technique or process that: (1) derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; **and** (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. The term includes data processing software by an agency under a licensing agreement prohibiting disclosure.

65 P.S. §67.102 (emphasis added).

The Office of Open Records has determined that a third party must establish a trade secret based upon factors established by the appellate courts, which include the following:

- the extent to which the information is known outside of his business;
- the extent to which the information is known by employees and others in the business;
- the extent of measures taken to guard the secrecy of the information;
- the value of the information to his business and to competitors;
- the amount of effort or money expended in developing the information; and
- the ease of difficulty with which the information could be properly acquired or duplicated by others.

See Crum v. Bridgestone/Firestone North Amer. Tire., 907 A.2d 578, 585 (Pa. Super. 2006).

The Office of Open Records also notes that with regard to “confidential proprietary information the standard is equally high and may only be established when the party asserting protection shows that the information at issue is either ‘commercial’ or ‘financial’ and is privileged or confidential, and the disclosure **would** cause substantial competitive harm.” (emphasis in original).

For more information regarding the RTKL, visit the Office of Open Records’ website at www.openrecords.state.pa.us.

I-20. Debriefing Conferences. Proposers whose proposals are not selected will be notified of the name of the selected Proposer and given the opportunity to be debriefed, at the Proposer’s request. The Issuing Office will schedule the time and location of the debriefing. The Proposer will not be compared with other Proposers.

I-21. News Releases. News releases pertaining to this project will not be made without prior Commission approval, and then only in coordination with the Issuing Office.

I-22. Commission Participation. Unless specifically noted in this section, Proposers must provide all services to complete the identified work.

I-23. Cost Submittal. The cost submittal shall be placed in a separately sealed envelope within the sealed proposal and kept separate from the technical submittal.

I-24. Term of Contract. The term of the contract will commence on the Effective Date (as defined below) and will end three (3) years from that date with options of up to two (2) one-year contract extensions. The Commission shall fix the Effective Date after the contract has been fully executed by the Contractor and by the Commission and all approvals required by Commission contracting procedures have been obtained.

I-25. Proposer's Representations and Authorizations. Each Proposer by submitting its proposal understands, represents, and acknowledges that:

- a. All information provided by, and representations made by, the Proposer in the proposal are material and important and will be relied upon by the Issuing Office in awarding the contract(s). Any misstatement, omission or misrepresentation shall be treated as fraudulent concealment from the Issuing Office of the true facts relating to the submission of this proposal. A misrepresentation shall be punishable under 18 Pa. C.S. 4904.
- b. The price(s) and amount of this proposal have been arrived at independently and without consultation, communication or agreement with any other Proposer or potential Proposer.
- c. Neither the price(s) nor the amount of the proposal, and neither the approximate price(s) nor the approximate amount of this proposal, have been disclosed to any other firm or person who is a Proposer or potential Proposer, and they will not be disclosed on or before the proposal submission deadline specified in the response section of this RFP.
- d. No attempt has been made or will be made to induce any firm or person to refrain from submitting a proposal on this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.
- e. The proposal is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.
- f. To the best knowledge of the person signing the proposal for the Proposer, the Proposer, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four (4) years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract, except as disclosed by the Proposer in its proposal.
- g. To the best of the knowledge of the person signing the proposal for the Proposer and except as otherwise disclosed by the Proposer in its proposal, the Proposer has no outstanding, delinquent obligations to the Commonwealth including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Proposer that is owed to the Commonwealth.

- h. The Proposer is not currently under suspension or debarment by the Commonwealth, or any other state, or the federal government, and if the Proposer cannot certify, then it shall submit along with the proposal a written explanation of why such certification cannot be made.
- i. The Proposer has not, under separate contract with the Issuing Office, made any recommendations to the Issuing Office concerning the need for the services described in the proposal or the specifications for the services described in the proposal.
- j. Each Proposer, by submitting its proposal, authorizes all Commonwealth agencies to release to the Commission information related to liabilities to the Commonwealth including, but not limited to, taxes, unemployment compensation, and workers' compensation liabilities.

I-26. Indemnification. The Proposer shall be responsible for, and shall indemnify, defend, and hold harmless the Commission and its Commissioners, officers, employees, and agents from any claim, liability, damages, losses, causes of action, and expenses, including reasonable attorneys' fees, arising from damage to life or bodily injury or real or tangible personal property caused by the negligence or other tortious acts, errors, and omissions of Proposer, its employees, or its subcontractors while engaged in performing the work of the Agreement or while present on the Commission's premises, and for breach of the Agreement regarding the use or disclosure of proprietary and confidential information where it is determined that Proposer is responsible for any use of such information not permitted by the Agreement. The indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or its subcontractors under Workers' Compensation Acts, Disability Benefits Acts, or other Employee Benefit Act.

I-27. Insurance. Proposer will comply with the Insurance requirements as described in Appendix D - Insurance Specification.

I-28. Diverse Business (DB) Requirements. Proposer will comply with the DB Requirements as described in Appendix E – Diverse Business (DB) Requirements.

PART II

INFORMATION REQUIRED FROM PROPOSERS

Proposals must be submitted in the format, including heading descriptions, outlined below. To be considered, the proposal must respond to all requirements in this part of the RFP. Any other information thought to be relevant, but not applicable to the enumerated categories, should be provided as an appendix to the proposal. All cost data relating to this proposal and all Diverse Business cost data should be kept separate from and not included in the Technical Submittal. Each proposal shall consist of three separately sealed submittals:

1. Technical Submittal, which shall be a response to RFP **Part II, Sections II-1 a through g**;
2. Diverse Business Participation Submittal, in response to RFP **Part II, Section II-2**; and
3. Cost Submittal, in response to RFP **Part II, Section II-3**.

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

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

II-1 Technical Submittal.

A. Proposal Cover Sheet (See Appendix C)

Show the name of your firm, Federal I.D. number, address, name of contact person, contact person's email and telephone number date and the subject: Swap Advisory Services, RFP 18-10320-8175. Appendix C must be signed by an individual who is authorized to negotiate terms, render binding decisions and commit your firm's resources. In addition, it is required that all information requested in Appendix C be provided including information pertaining to location of office performing the work, contact information, listing of all Pennsylvania offices and total number of Pennsylvania employees, and location of company headquarters.

B. Table of Contents

Include a clear identification of the material by section and by page number.

C. Executive Summary

Summarize your understanding of the work to be done and make a positive commitment to perform the work necessary. This section should summarize the key points of your submittal. (Limit to two pages.) Include in this section or in a transmittal letter/cover page a statement regarding full disclosure of any potential conflict with the State Adverse Interest of State Advisor or Consultant Statute as instructed in Proposal Section 1.6 Contractor Integrity Provisions.

D. Firm Overview

Provide a brief history and description of your firm's business organization and its Swap Advisory Service expertise and experience as it relates to the requirements discussed in Part IV of this RFP. Include the location of offices and the number and types of personnel, consultants or other relevant professional staff in each office. Discuss your firm's presence in and commitment to the Commonwealth of Pennsylvania. Include a discussion of the specific expertise and services that distinguish your firm.

If you propose to subcontract any portion of the work described in your response, the subcontracted firm or firms must be identified in this section. The role of the firm or firms should be explained along with a description of the specific expertise and services that the firm or firms contribute to the overall value of your proposal.

E. Personnel

Provide the names, proposed roles, background and experience, current professional licenses, office location and availability of the consulting personnel that would perform the Swap Advisory Services as described in Part IV of this RFP. Specifically identify the primary person(s) who will be responsible for managing the relationship with the Commission during this endeavor. Proposer must submit a current resume for all proposed staff listing relevant experience and applicable professional affiliations.

F. Relevant Experience and Expertise

Provide a narrative statement regarding your Swap Advisory Services expertise and experience as it relates to Part IV of this RFP. Additionally, include a statement regarding your understanding of the requirements as outlined in this RFP and your ability to provide Swap Advisory services in accordance with the same.

Describe your firm's experience in providing similar Swap Advisory Services to other clients, especially other governmental entities and/or similar public/private sector transportation organizations. Describe the business practices that enable you to complete these tasks in an efficient, timely and, at times, expeditious manner.

Provide a list of three references of clients for which your firm has performed similar work, as described in this RFP, within the past three years.

Include a statement regarding any other specialized Swap Advisory Services your firm may offer.

G. Approach

Provide a description of the proposed approach/methodology that you will follow, along with a project plan and realistic timeline that identifies the phases and tasks required to complete the services defined in Part IV. Include in this section the deliverables and reports that will be provided, the project controls that will be used, and the tasks that will be performed.

Provide a description of all the deliverables that you will provide as an output of the project plan.

Provide relevant samples of deliverables and project plans from similar services that your firm was primarily responsible for producing.

II-2 Diverse Business (DB) Requirements (Appendix E).

The Commission's Diverse Business (DB) Requirements for this procurement and a resulting contract are identified in Appendix E. There is no minimum participation level (MPL) for DBs established for this contract. However, the utilization of DBs are encouraged and will be considered as a criterion in the evaluation of proposals and may be considered as a factor in the Commission's selection of a firm for this contract.

The proposer must include in its DB participation submittal that it meets the requirements set forth in the Commission's DB Requirements - Appendix E. In particular, the proposer shall address the section of the DB Requirements labeled, "Actions Required by Proposer during the procurement/consultant selection phase". In addition, the DB participation submittal shall indicate the amount of DB participation incurred in the proposal in terms of dollars committed or percentage of total contract amount.

II-3 Cost Submittal.

The information requested in this section shall constitute your cost submittal. **THE COST SUBMITTAL SHALL BE PLACED IN A SEPARATE SEALED ENVELOPE WITHIN THE SEALED PROPOSAL AND ON A CD-ROM, SEPARATE FROM THE TECHNICAL SUBMITTAL.**

Proposers should **not** include any assumptions in their cost submittals. If the proposer includes assumptions in its cost submittal, the Issuing Office may reject the proposal. Proposers should direct in writing to the Issuing Office pursuant to Part I-10, Questions and Answers of this RFP any questions about whether a cost or other component is included or applies. All Proposers will then have the benefit of the Issuing Office's written answer so that all proposals are submitted on the same basis.

The total cost you are proposing must be broken down but not limited to the following components:

A. Present a concise list of the scope of services and the work products that your firm proposes to provide. Given your proposed scope of services and work products, discuss your proposed fee arrangement *based on the following*:

1. Compensation on a fixed annual cost, payable monthly.
2. Plus, transaction costs for review and/or execution of new swaps.

B. Expectations for reimbursement of "Out-of-Pocket" Expenses.

The selected Proposer shall only perform work on the Contract after the Effective Date is affixed and the fully-executed contract sent to the selected Proposer. The Commission shall issue a written Notice to Proceed to the selected Proposer authorizing the work to begin on a date which is on or after the Effective Date. The selected Proposer shall not start the performance of any work prior to the date set forth in the Notice of Proceed and the Commission shall not be liable to pay the selected Proposer for any service or work performed or expenses incurred before the date set forth in the Notice to Proceed. No Commission employee has the authority to verbally direct the commencement of any work under the Contract.

PART III

CRITERIA FOR SELECTION

III-1. Mandatory Responsiveness Requirements. To be eligible for selection, a proposal shall be (a) timely received from a Proposer; and (b) properly signed by the Proposer.

III-2. Technical Nonconforming Proposals. The two (2) Mandatory Responsiveness Requirements set forth in Section III-1 above (a&b) are the only RFP requirements that the Commission will consider to be non-waivable. The Issuing Office reserves the right, in its sole discretion, to (1) waive any other technical or immaterial nonconformities in the proposal, (2) allow the Proposer to cure the nonconformity, or (3) consider the nonconformity in the evaluation of the proposal.

III-3. Proposal Evaluation. Proposals will be reviewed, evaluated, and rated by a Technical Evaluation Team (TET) of qualified personnel based on the evaluation criteria listed below. The TET will present the evaluations to the Professional Services Procurement Committee (PSPC). The PSPC will review the TET's evaluation and provide the Commission with the firm(s) determined to be highly recommended for this assignment.

The Commission will select the most highly qualified firm for the assignment or the firm whose proposal is determined to be most advantageous to the Commission by considering the TET's evaluation and the PSPC's determination as to each firm's rating. In making the PSPC's determination and the Commission's decision, additional selection factors may be considered taking into account the estimated value, scope, complexity and professional nature of the services to be rendered and any other relevant circumstances. Additional selection factors may include, when applicable, the following: geographic location and proximity of the firm, firm's Pennsylvania presence or utilization of Pennsylvania employees for the assignment; equitable distribution of work; diversity inclusion; and any other relevant factors as determined as appropriate by the Commission.

Award will only be made to a Proposer determined to be responsive and responsible in accordance with Commonwealth Management Directive 215.9, Contractor Responsibility Program.

III-4. Evaluation Criteria. The following criteria will be used, in order of relative importance from the highest to the lowest, in evaluating each proposal:

1. Proposer and Personnel Qualifications and Experience

- a. Proposer's relevant experience and expertise in conducting Swap Advisory Services as it relates to the requirements discussed in Part IV of this RFP.
- b. Qualifications, experience and competency of professional personnel who will be assigned to the contract by the Proposer including tenure with firm, length of time in the industry and type of experience.
- c. Financial ability of the Proposer to undertake a project of this size.
- d. Response of references if the Commission elects to solicit them.

2. Approach

- a. Understanding of the Commission's needs and scope of work.
- b. Soundness of proposed approach, methodology, and deliverables for conducting Swap Advisory Services as it relates to the requirements discussed in Part IV of this RFP.
- c. Responsiveness to the Commissions desire for expeditious timeline for completion.

- d. Quality, completeness and applicability of sample deliverables provided.
- e. Responsiveness, organization, and clarity of Proposal.

3. Cost.

While this area may be weighted heavily, it will not normally be the deciding factor in the selection process. The Commission reserves the right to select a proposal based upon all the factors listed above, and will not necessarily choose the firm offering the best price. The Commission will select the firm with the proposal that best meets its needs, at the sole discretion of the Commission.

4. **Commitment to Diversity and Inclusion.** This refers to the inclusion of DB firms, as described in Part II-2. Participation may be measured in terms of total dollars committed or percentage of total contract amount to certified DB firms.

PART IV

WORK STATEMENT

IV-1. Objectives.

- a. General.** The Commission is seeking a vendor for Swap Advisory Services.
- b. Specific.** The Swap Advisor will be required to prepare the Annual Swap Report, perform effectiveness testing as required by GASB Statement No. 53, monitor the Commission's exposure to interest rate derivatives, evaluate risks associated with the Commission's outstanding derivative agreements and provide all services necessary to meet the requirements and complete the tasks as listed in sections IV-3 and IV-4.

IV-2. Nature and Scope of the Work.

The Swap Advisor will develop and maintain a Swap portfolio database for monitoring and reporting purposes. The database should include a summary of the types and terms of all Swap Agreements including a list of Counterparties and their credit ratings, original notional amount, outstanding notional amounts and payment schedules, average life of each agreement, any collateral requirements and/or thresholds, termination exposure, basis risk exposure, value of a basis point and remaining term of each trade. The database should also include a summary of any outstanding bonds associated with any trade and a per-trade history and current accounting and verification of settlements paid and received by the Commission. Please provide sample reports. The database shall include a document repository to include ISDA, ISDA Schedule, CSA, confirms and board resolutions.

The Swap Advisor will be required to submit a monthly report as of the last day of each month on the state of the Swap portfolio. The report should include a list of Counterparties and their current credit ratings, notations of changes in credit ratings or Counterparty credit events (such as mergers, acquisitions and bankruptcies), aggregation of notional amount and exposure by Counterparty by dollar amount and percent, a combined outstanding notional value of the portfolio, and a mark-to-market valuation summary. The mark-to-market valuations should be identified for Swaps by issuer and by counterparty and should include a brief description of the payer and receiver terms of the trade. Please provide a sample report.

The Swap Advisor will be required to periodically review proposed swaps and other comparable products and provide recommendations to the Commission. If a new derivative transaction is undertaken, the contractor would be required to provide all necessary expertise, guidance and assistance necessary to the Commission to complete the transaction.

IV-3. Requirements. The Swap Advisor will be expected to provide advice, information and recommendations, which includes supporting analysis and schedules, to assist the Commission with the following: monitoring and updating policy, portfolio analysis and asset management, ongoing portfolio feedback, complying with Accounting Standards such as GASB Statement No. 53 – Accounting and Financial Reporting for Derivatives Instruments, to provide additional services related to the implementation of the Governmental Accounting Standards Board (GASB) Statement No. 72, preparing financial statement disclosures, all matters relating to swap terminations and swap restructurings, the tasks as described below and preparation of the Annual Swap Report. Proposer should note that the above list is not all inclusive. The Swap Advisor will be expected to perform or to assist with all matters related to the Commission's swap agreements in effect during the period of the Swap Advisor agreement.

IV-4. Tasks

1. The Swap Advisor will be expected to provide alerts whenever applicable to advise the Commission of the following developments:
 - a. Changes to the credit rating of any counterparty or any major credit event that occurs including, but not limited to, mergers, acquisitions and assignments.
 - b. Material changes in mark-to-market valuation levels that would require collateral action or impact risk exposure.
 - c. Mark-to-market valuations reaching a level at which Commission could advantageously terminate or restructure existing swaps.
 - d. Material events, legislation, products and happenings that could impact the Commission.
2. The Swap Advisor will be required to provide effectiveness testing on a monthly or quarterly basis (quarterly based on the Commission's fiscal quarters, not calendar quarters). Effectiveness testing must be performed every year with in three weeks of the Commission's year-end which is May 31st.
3. The Swap Advisor will be required to maintain a database to track, calculate, verify, and report all fixed and floating Swap settlements including reset rates and day counts according to the terms of the trade confirmations. The Swap Advisor will be expected to demonstrate confirmation of the calculations of the Counterparty at time payment is due. Please provide example of report with calculations.
4. The Swap Advisor will review the Commission's Swap policy at least annually and shall make recommendations for changes to such policy to meet changing needs and circumstances in both the portfolio and the market.
5. The Swap Advisor will be required to assess on a quarterly basis, the existing portfolio of swaps to provide recommendations regarding the appropriate balance and diversification of floating rate, synthetic fixed and fixed exposure taking full account of the Commission's assets and liabilities, rating agency, legal and regulatory requirements.
6. The Swap Advisor will be responsible for keeping the Commission informed of new products or swap opportunities that may be applicable to the portfolio, and for identifying and recommending any restructuring or optimization opportunities that exist portfolio-wide or within certain trades that may be to the Commission's advantage.
7. The Swap Advisor will also occasionally be required to provide analyses and feedback on, various solicited or unsolicited swap proposals and opportunities submitted to the Commission by banks, financial professionals and swap counterparties relating to bond transactions, program management or other opportunities.

8. The Swap Advisor will be expected to provide all calculations and schedules required for the Commission to comply with GASB Statement No. 53, Accounting and Financial Reporting for Derivative Instruments. The Swap Advisor will assist the Commission in drafting the notes to its financial statements. All GASB 53 information, schedules and effectiveness testing results for each fiscal year will be provided no later than June 21st.
9. The Swap Advisor will be expected to prepare the Commission's Annual Swap Report. The Commission will work with the selected swap advisor to finalize the format of the Annual Swap Report. Following should be considered minimum requirements of the report: the purpose of the report, a summary of the swap portfolio, counterparty credit exposure, ability to fund termination payments, events since the previous report, and liquidity support.
10. The Swap Advisor will be expected to assist in the preparation and review of disclosures relating to Swaps appearing in the financial disclosure contained in the offering documents used by the Commission bonds.
11. The Swap Advisor will also be expected to advise and update the Commission on accounting and regulatory proposals including GASB 53 compliance regarding Swaps and other derivative instruments.
12. The Swap Advisor will be required to assist with or handle, as applicable, all matters relating to swap terminations whenever applicable including, at a minimum:
 - a. Review of documents relating to termination.
 - b. Preparation of materials and presentation to the Commission for necessary approvals.
 - c. Preparation of pricing models and execution of "dry-run" termination pricings with Counterparties, including agreement on mid-market levels.
 - d. Negotiation of all-in spreads to mid-market price with counterparties.
 - e. Acting as liaison with market participants to determine and procure additional feedback on fair market price quotes for terminations.
 - f. Execution of termination pricing with Counterparties.
13. The Swap Advisor will be required to assist with or handle, as applicable, all matters relating to swap restructurings whenever applicable including, at a minimum:
 - a. Investigation, development and recommendation of optimal restructuring strategies and structures.
 - b. Review of documents relating to proposed restructurings.
 - c. Preparation of materials and presentation to the Commission for necessary approvals.
 - d. Preparation of pricing models and execution of "dry-run" pricings with Counterparties, including agreement on mid-market levels.
 - e. Negotiation of all-in spreads to mid-market price with Counterparties.
 - f. Acting as liaison with market participants to determine and procure additional feedback on fair market price quotes.
 - g. Execution of restructuring with Counterparties.

IV-5. Reports and Project Control. The Swap Advisor is expected to have web-based access to valuations and reports within proper portfolio groupings, payment and net payment calculations, and web-based access to transaction documents. Swap market values will be updated weekly, at a minimum.

a. Task Plan. A work plan for each task that identifies the work elements of each task, the resources assigned to the task, and the time allotted to each element and the deliverable items to be produced.

b. Status Report. An **as needed and at least yearly** progress report covering activities, problems, and recommendations; the report should be keyed to the work plan developed by the Proposer in its proposal, as amended or approved by the Commission.

c. Problem Identification Report. An “as required” report, identifying problem areas. The report should describe the problem and its impact on the overall project and on each affected task. It should list possible courses of action with advantages and disadvantages of each, and include Proposer recommendations with supporting rationale.

AGREEMENT

This **AGREEMENT** is made this _____ day of _____, 2018, between the **Pennsylvania Turnpike Commission** (“**COMMISSION**”), an instrumentality of the Commonwealth of Pennsylvania, with principal offices at 700 South Eisenhower, Blvd., Middletown, Pennsylvania 17057 (mailing address: P. O. Box 67676, Harrisburg, PA 17106-7676);

AND

(*name of contractor*) (“**CONTRACTOR**”), a (*state*) corporation, with its principal office at (*address*).

WITNESSETH:

WHEREAS, the **COMMISSION** desires to satisfy a need for the (*name of solicitation*);

WHEREAS, by Act No. 211 of the General Assembly of the Commonwealth of Pennsylvania, approved May 21, 1937, and its amendments, the **COMMISSION** is authorized and empowered to enter into an Agreement with the **CONTRACTOR**;

WHEREAS, the **COMMISSION** desires to retain the services of **CONTRACTOR** upon the following terms; and

NOW, THEREFORE, in consideration of these mutual covenants, and intending to be legally bound, the parties agree as follows:

Contractor’s Scope of Work

The **CONTRACTOR** will perform the work described in (*solicitation identification, i.e. RFP number*) dated (*date of solicitation*), titled (*Title of solicitation*) and the **CONTRACTOR’S** proposal dated (*date of contractor’s proposal*). These documents are made a part of this Agreement by reference.

Commission’s Responsibilities

(*As defined in Section I of the RFP, “Commission Participation”*)

The **COMMISSION** shall furnish the **CONTRACTOR** access to key personnel, relevant documents, and adequate workspace for completing the work.

Compensation

For the work, services, and material as defined in this Agreement, the **CONTRACTOR** shall be paid a not-to-exceed amount of (*agreement dollar value*).

The **CONTRACTOR** agrees that the **COMMISSION** may set off the amount of any state tax liability or other obligation of the **CONTRACTOR** or its subsidiaries to the Commonwealth against

any payments due the **CONTRACTOR** under any contract with the **COMMISSION**.

Duration of Agreement

The term of this Agreement shall be for a period of **(agreement term)** and shall commence on the Effective Date as defined below.

The Effective Date shall be fixed by the **COMMISSION** after the Agreement has been fully executed by the **CONTRACTOR** and by the **COMMISSION**, and after all approvals required by the **COMMISSION** contracting procedures have been obtained. Each contract will also include an end date for the original term of the contract. This date will be the same for all contracts as a result of this RFP and will be determined by adding **(agreement term)** to the effective date of the first fully executed contract.

This Agreement will not terminate until the **COMMISSION** accepts all work as complete and tenders final payment to the **CONTRACTOR**.

Termination

Either party may terminate this Agreement at any time upon thirty- (30) calendar days written notice. If this notice is given, the **CONTRACTOR** shall be paid only for the services already rendered upon the date of the notice and for the services rendered to the date of termination, subject to all provisions of this Agreement. The notice will be effective on the date of receipt. The right to cancel may be exercised as to the entire project, or as to any particular phase or phases, part or parts, and upon one or upon several occasions, but any termination may not be revoked except upon written consent of the parties through a supplemental Agreement to this Agreement.

Insurance

The **CONTRACTOR**, prior to execution of this Agreement, shall furnish to the **COMMISSION** the certificates of insurances as required in attached **Exhibit "X"** and made a part of this Agreement.

Diverse Business (DB) Requirements

The **CONTRACTOR** agrees to comply with the requirements set forth in the **COMMISSION'S** DB Requirements - **Exhibit X**, attached and made part of this Agreement. In particular, the **CONTRACTOR** agrees to comply with section (d) Consultant Requirements During Performance of Services.

Assignment and Delegation

The **CONTRACTOR** may not transfer, assign, or delegate any terms of this Agreement, in whole or in part, without prior written permission from the **COMMISSION**.

Governing Law

This Agreement will be interpreted according to the laws of the Commonwealth of Pennsylvania.

Observance of Laws

The **CONTRACTOR** agrees to observe all relevant federal, state, and local laws and to obtain in its name all necessary permits and licenses.

Work for Hire

Except for hardware, third party licensed software, and software previously developed by **CONTRACTOR**, all Deliverables, including but not limited to source code, software, specifications, plans, designs and engineering, drawings, data, information or other written, recorded, photographic, or visual materials, trademarks, service marks, copyrights or other Deliverables produced by **CONTRACTOR** or any supplier in the performance of this Agreement shall be deemed "Work Product". All Work Product shall be considered services for hire. Accordingly, except as set forth earlier in this paragraph, all Work Product shall be the exclusive property of the **COMMISSION**.

The **CONTRACTOR** agrees to notify the **COMMISSION** in writing before using any of **CONTRACTOR**'s previously developed software for services provided under this Agreement.

The **CONTRACTOR** and the **COMMISSION** will honor all applicable preexisting licenses, copyrights, trademarks, service marks, and patents. If as part of an expense item under this Agreement, the **CONTRACTOR** purchases the right to any license, the agreements for the use or ownership of such license will be placed in the name of the **COMMISSION** along with all other rights and obligations. In addition, the **CONTRACTOR** will mark all Turnpike content or previously unprotected work product designated by the **COMMISSION** with a notice as follows: "Pennsylvania Turnpike Commission, (Year)".

Audit/Retention of Records

CONTRACTOR and its subcontractors shall maintain books and records related to performance of this Agreement or subcontract and necessary to support amounts charged to the **COMMISSION** in accordance with applicable law, terms and conditions of this Agreement, and generally accepted accounting practice. **CONTRACTOR** shall maintain these books and records for a minimum of three (3) years after the completion of the Agreement, final payment, or completion of any contract, audit or litigation, whichever is later. All books and records shall be available for review or audit by the **COMMISSION**, its representatives, and other governmental entities with monitoring authority upon reasonable notice and during normal business hours. **CONTRACTOR** agrees to cooperate fully with any such review or audit. If any audit indicates overpayment to **CONTRACTOR**, or subcontractor, the **COMMISSION** shall adjust future or final payments otherwise due. If no payments are due and owing to **CONTRACTOR**, or if the overpayment exceeds the amount otherwise due, **CONTRACTOR** shall immediately refund all amounts which may be due to the **COMMISSION**. Failure to maintain the books and records required by this Section shall establish a presumption in favor of the **COMMISSION** for the recovery of any funds paid by the **COMMISSION** under this Agreement for which adequate books and records are not available to support the purported disbursement.

Dispute Resolution

All questions or disputes regarding any matter involving this Agreement or its breach shall be referred to the Board of Claims of the Commonwealth of Pennsylvania pursuant to 62 Pa.C.S.A. § 1701 *et seq.* If the Board of Claims either refuses or lacks jurisdiction, these questions or disputes shall proceed as provided in 42 Pa.C.S.A. § 7301 *et seq.* (Statutory Arbitration).

The panel of arbitrators will consist of a representative of each of the parties and a third party chosen by the representatives, or if the representatives are unable to choose, by the American Arbitration Association.

Indemnification

The **CONTRACTOR** shall be responsible for, and shall indemnify, defend, and hold harmless the **COMMISSION** and its Commissioners, officers, employees, and agents from any claim, liability, damages, losses, causes of action, and expenses, including reasonable attorneys' fees, arising from damage to life or bodily injury or real or tangible personal property caused by the negligence or other tortious acts, errors, and omissions of **CONTRACTOR**, its employees, or its subcontractors while engaged in performing the work of this Agreement or while present on the **COMMISSION's** premises, and for breach of this Agreement regarding the use or disclosure of proprietary and confidential information where it is determined that **CONTRACTOR** is responsible for any use of such information not permitted by this Agreement. The indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or its subcontractors under Workmen's Compensation Acts, Disability Benefits Acts, or other Employee Benefit Act.

Contractor Integrity Provisions

The Contractor Integrity Provisions are attached as **Exhibit X** and made a part of this Agreement.

Confidentiality Provisions

1. As a consequence of the performance of its duties with the **COMMISSION**, **CONTRACTOR** may learn, be given, or become aware of certain information, including, but not limited to, matters pertaining to internal communications, information, proprietary information, individually identifiable health information, trade practices, business operations, or other sensitive information collectively known as Confidential Information. Regardless of how transmitted or received by **CONTRACTOR**, whether by receipt, sending, or merely becoming available to **CONTRACTOR** through its relationship to the **COMMISSION**, **CONTRACTOR** agrees to maintain and treat as proprietary and confidential to the **COMMISSION** all such Commission Confidential Information, and shall not discuss, reveal, or use for any purpose outside the performance of its contract with the **COMMISSION** such Commission Confidential Information. Confidential Information shall not include any information that (i) is or becomes available to the public other than as a consequence of a breach by any individual, a partnership, a corporation, an association, a limited liability company, a joint stock company, a trust, a joint venture, an unincorporated organization (each a "Person") of any fiduciary duty or obligation of confidentiality, including, without limitation, catalogues, publications, product descriptions and sales literature that the **COMMISSION** has distributed to the public generally; or (ii) information

which at the time of disclosure to the **CONTRACTOR** is in the public domain; or (iii) is disclosed as required by a final, unappealable court order and no suitable protective order, or equivalent remedy, is available, or (iv) the **CONTRACTOR** was aware of prior to its disclosure to the **CONTRACTOR** by the **COMMISSION** from a source not bound by a confidential obligation and the **CONTRACTOR** provides the **COMMISSION** written notice of such fact prior to the execution of this Agreement or promptly upon the **CONTRACTOR**'s learning that the information was Confidential Information; or (v) information which the **CONTRACTOR** can demonstrate with competent written evidence was independently developed by or for the **CONTRACTOR** without use of or reliance on the Confidential Information.

2. With respect to its employees, **CONTRACTOR** agrees to:

- a) require all of its employees to maintain such confidentiality;
- b) take appropriate action against its employees, officers, and subcontractors for any and all violations of this Agreement.

3. With respect to any subcontractors that **CONTRACTOR** wishes to employ to perform any of its obligations under any agreement with the **COMMISSION**, **CONTRACTOR** agrees to require any such approved subcontractor to execute written confidentiality agreements that require each such **CONTRACTOR** and its employees to comply with all the requirements set forth above.

4. **CONTRACTOR** agrees that any breach of these Confidentiality Provisions may result in civil and/or criminal penalties, for **CONTRACTOR**, its officers and employees, and subcontractors.

5. Notwithstanding any other provision to the contrary, **CONTRACTOR** agrees that these provisions shall survive the termination of this and any and all agreements between the **CONTRACTOR** and the **COMMISSION**.

6. **CONTRACTOR** agrees to treat the information in the same way **CONTRACTOR** treats its own most confidential information and to inform each such person of these provisions.

7. **CONTRACTOR** agrees to immediately notify the **COMMISSION** of any information which comes to its attention which does or might indicate that there has been any loss of confidentiality or information.

8. **CONTRACTOR** shall return to the **COMMISSION** upon demand any and all Confidential Information entrusted to it by the **COMMISSION** pursuant to this Agreement (including any and all copies, abstracts, compilations or analyses thereof and memoranda related thereto or incorporating the Confidential Information) or the **CONTRACTOR** may request permission from the **COMMISSION**, which permission may be granted or denied in the **COMMISSION**'s sole discretion, to destroy all such Confidential Information and provide a certificate of destruction to the **COMMISSION** signed by the **CONTRACTOR**. The **CONTRACTOR** further agrees that neither itself nor its employees or representatives will copy, in whole or in part, any such Confidential Information without the prior written consent of the **COMMISSION**.

9. **CONTRACTOR** agrees that if they have had or will have an SSAE16 audit that they will comply with and abide by the findings of such audit to protect **COMMISSION** information.

Entire Agreement

This Agreement, together with any writings either attached as exhibits or incorporated by reference, constitutes the entire understanding between the parties and there are no other oral or extrinsic understandings of any kind between the parties.

Modification

This Agreement may be modified only by a writing signed by both parties.

[SIGNATURES ARE SET FORTH ON THE NEXT PAGE]

IN WITNESS WHEREOF, the **Pennsylvania Turnpike Commission** and **(Contractor Name)** have executed this Agreement by their duly authorized officers on the date written above.

ATTEST:

PENNSYLVANIA TURNPIKE COMMISSION

Ann Louise Edmunds
Assistant Secretary-Treasurer

Date

Leslie S. Richards
Chair

Date

APPROVED AS TO FORM AND LEGALITY:

Albert C. Peters II
General Litigation & Contracts Counsel

Date

Pennsylvania Attorney General

Date

ATTEST:

(Contractor Name)

Signature_____

Date

Signature_____

Date

Name_____

Name_____

Title_____

Title_____

Federal Tax ID No._____

CONTRACTOR INTEGRITY PROVISIONS

It is essential that those who seek to contract with the Pennsylvania Turnpike Commission (“Commission”) observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commission contracting and procurement process.

I. DEFINITIONS. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Section:

- a. “Affiliate”** means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
- b. “Consent”** means written permission signed by a duly authorized officer or employee of the Commission, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commission shall be deemed to have consented by virtue of the execution of this contract.
- c. “Contractor”** means the individual or entity, that has entered into this contract with the Commission, and “Contractor Related Parties” means any affiliates of the Contractor and the Contractor’s executive officers, Pennsylvania officers and directors, or owners of 5% or more interest in the Contractor
- d. “Financial Interest”** means either:
 - i. Ownership of more than a five percent interest in any business; or
 - ii. Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
- e. “Gratuity”** means tendering, giving, or providing anything of monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. See Commission Policy 3.10, Code of Conduct.
- f. “Non-bid Basis”** means a contract awarded or executed by the Commission with Contractor without seeking bids or proposals from any other potential bidder or offeror.

II. In furtherance of this policy, Contractor agrees to the following:

- 1.** Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting or procurement with the Commission.

2. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to Contractor activity with the Commission and Commission employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.
3. Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of the Public Official and Employees Ethics Act, 65 Pa.C.S. §§1101 et seq.; the State Adverse Interest Act, 71 P.S. §776.1 et seq.; Commission Policy 3.10, Code of Conduct or in violation of any other federal or state law in connection with performance of work under this contract, except as provided in this contract.
4. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commission in writing and the Commission consents to Contractor's financial interest prior to Commission execution of the contract. Contractor shall disclose the financial interest to the Commission at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.
5. Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Entities have not:
 - a. been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
 - b. been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
 - c. had any business license or professional license suspended or revoked;
 - d. had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
 - e. been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

If Contractor cannot so certify to the above, then it must submit along with its bid, proposal or contract a written explanation of why such certification cannot be made and the Commission will determine whether a contract may be entered into with the Contractor. The Contractor's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to immediately notify the Commission in writing if at any time during the term of the contract it becomes aware of any event which would cause the Contractor's certification or explanation to change. Contractor acknowledges that the

Commission may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made herein are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the contract.

6. Contractor shall comply with the requirements of the Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.) regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a).
7. When Contractor has reason to believe that any breach of ethical standards as set forth in law, Commission Policy 3.10, Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including but not limited to contact by a Commission officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commission contracting officer or the Chief Compliance Officer in writing.
8. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commission in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commission for the reasonable costs of investigation incurred by the Chief Compliance Officer for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commission that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
9. Contractor shall cooperate with the Chief Compliance Officer in investigating any alleged Commission agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of the Chief Compliance Officer, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Chief Compliance Officer to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commission and any such subcontractor, and no third party beneficiaries shall be created thereby.
10. For violation of any of these Contractor Integrity Provisions, the Commission may terminate this and any other contract with Contractor, claim liquidated damages in an

amount equal to the value of anything received in breach of these Provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commission may have under law, statute, regulation, or otherwise.

Appendix B
RFP #18-10320-8175

Proposer Questions			Pennsylvania Turnpike Commission (PTC)		
Proposer Name:					
#	Page	Section	Section Description	Proposer Question	Commission Response
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					

APPENDIX C – PROPOSAL COVER SHEET
Pennsylvania Turnpike Commission
Swap Advisory Services

RFP #18-10320-8175

Enclosed in three separately sealed submittals is the proposal for the Proposer identified below for the above referenced RFP:

Proposer Information:	
Proposer Company Name	
Proposer Mailing Address	
Proposer Website	
Proposer Contact Person/Title	
Contact Person's Phone Number	
Contact Person's Fax Number	
Contact Person's Email Address	
Proposer Federal ID Number	
Location of Headquarters	
Location of Office(s) Performing the Work	
Listing of all Pennsylvania Offices and Total Number of Pennsylvania Employees	

Submittals Enclosed and Separately Sealed:

<input type="checkbox"/> Technical Submittal <input type="checkbox"/> Diverse Business Participation Submittal <input type="checkbox"/> Cost Submittal
Signature
Signature of an official authorized to bind the Proposer to the provisions contained in the Proposer's proposal: _____
Print Name
Title

An official authorized to bind the Proposer to its provisions must sign the proposal. If the official signs this Proposal Cover Sheet and the Proposal Cover Sheet is attached to the proposal, the requirement will be met.

Appendix D
RFP 18-10320-8175

MINIMUM INSURANCE REQUIREMENTS

**The Pennsylvania Turnpike
Commission**

Before starting any work, the Proposer will maintain the following minimum levels of insurance at Proposer's own expense. Proposer shall furnish Certificates of Insurance showing the coverages as outlined below. No work may be performed until the required evidence of Insurance is provided in accordance with the terms of the contract.

- a) All insurance shall be procured from insurers permitted to do business in the State in which the project is taking place and having an A.M. Best Rating of at least "A-, Class VIII".
- b) Proposer shall not have a Self-Insured Retention (SIR) on any policy greater than \$50,000, which is the responsibility of the Proposer. If Proposer's policy(ies) has a Self-Insured Retention exceeding this amount, approval must be received from the Commission prior to starting work. In the event any policy includes an SIR, the Proposer is responsible for payment within the SIR of their policy(ies) and the Additional Insured requirements specified herein shall be offered within the SIR amount(s).
- c) All insurance required herein, except for Professional Liability Insurance, shall be written on an "occurrence" basis.
- d) The Proposer's insurance carrier(s) shall agree to provide at least thirty (30) days prior written notice to the Commission in the event coverage is canceled or non-renewed, unless cancellation is for non-payment of premium. In the event of cancellation or non-renewal of coverage(s) for any reason, it is the Proposer's responsibility to replace coverage to comply with the Contract requirements so there is no lapse of coverage for any time period.

If the insurance carriers will not issue or endorse their policy(s) to comply with the above it is the responsibility of the Proposer to report any notice of cancellation or non-renewal at least thirty (30) days prior to the effective date of this notice.

- e) Proposer shall provide the Commission with Certificates of Insurance, showing the insurance coverages listed below, ten days prior to the start of work and thereafter upon renewal or replacement of each coverage. The Proposer shall not begin any work until the Commission has reviewed and approved the Certificate of Insurance.

Failure of the Commission to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the Commission to identify a deficiency from evidence that is provided shall not be construed as a waiver of Proposer's obligation to maintain such insurance.

- f) The Commission, and its Commissioners, officers, employees and agents shall be added as ADDITIONAL INSURED on all required liability policies (except Workers' Compensation and Professional Liability) for ongoing operations and completed operations on a primary noncontributory basis.

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MINIMUM INSURANCE REQUIREMENTS

**The Pennsylvania Turnpike
Commission**

There shall be no "Insured versus Insured Exclusion" on any policies; all policies will provide for "cross liability coverage".

- g) Waiver of Rights of Subrogation: Proposer shall waive all rights of recovery against the Commission and all the additional insureds for loss or damage covered by any of the required insurance (except Professional Liability).
- h) The amount of insurance in the required coverages shall not be construed to be a limitation of the liability on the part of the Proposer.
- i) The carrying of insurance described below shall in no way be interpreted as relieving the Proposer of any responsibility or liability under the contract.
- j) Any type of insurance or any increase in limits of liability not required by the Commission but which the Proposer requires for its own protection or on account of statute shall be its own responsibility and at its own expense.
- k) Proposer shall promptly notify the Commission and the appropriate insurance company(ies) in writing of any accident(s) as well as any claim, suit or process received by the insured Proposer arising in the course of operations under the contract. The Proposer shall forward such documents received to its insurance company(ies), as soon as practicable, or as required by its insurance policy(ies).

REQUIRED COVERAGES - the following may be provided through a combination of primary and excess policies in order to meet the minimum limits set forth below:

1. Workers' Compensation and Employer's Liability:

Provided in the State in which the work is to be performed and elsewhere as may be required and shall include:

- a) Workers' Compensation Coverage: Statutory Requirements
- b) Employers Liability Limits not less than:

Bodily Injury by Accident:	\$500,000 Each Accident
Bodily Injury by Disease:	\$500,000 Each Employee
Bodily Injury by Disease:	\$500,000 Policy Limit
- c) Includes sole proprietorships and officers of corporation who will be performing the work.

2. Commercial General Liability:

Provided on standard ISO forms or an equivalent form including Premises - Operations, Independent Proposers, Products/Completed Operations, Broad Form Property Damage, Contractual Liability, and Personal Injury and Advertising Injury.

- a) Occurrence Form with the following limits:

(1) General Aggregate:	\$2,000,000
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MINIMUM INSURANCE REQUIREMENTS

**The Pennsylvania Turnpike
Commission**

- (2) Products/Completed Operations
Aggregate: \$2,000,000
- (3) Each Occurrence: \$1,000,000
- (4) Personal and Advertising Injury: \$1,000,000

3. Automobile Liability:

- a) Coverage to include All Owned, Hired and Non-Owned Vehicles (or "Any Auto"). If Proposer does not have any Owned Vehicles, Proposer is still required to maintain coverage for Hired and Non-Owned Vehicles as either a stand-alone policy or endorsed onto the Commercial General Liability policy above
- b) Per Accident Combined Single Limit \$1,000,000

4. Commercial Umbrella Liability:

- a) Policy(ies) to apply on a Following Form Basis of the following:
 - (1) Commercial General Liability,
 - (2) Automobile Liability, and
 - (3) Employers Liability Coverage.
- b) Minimum Limits of Liability
 - Occurrence Limit: \$4,000,000
 - Aggregate Limit (where applicable): \$4,000,000

5. Professional Liability/Errors & Omissions Insurance:

- a) The definition of "Covered Services" shall include the services required in the scope of this contract.
- b) Minimum Limits of Liability:
 - Per Claim: \$5,000,000
 - Aggregate: \$5,000,000
- c) If the policy is issued on a claims-made form, the following requirements will apply:
 - 1. The retroactive date must be on or before the start of work under this contract;
 - 2. The Proposer must purchase "tail coverage/an extended reporting period" or maintain coverage for a period of three (3) years after the completion of their work/final payment.

6. Network Security and Privacy Liability:

- a) Proposer shall maintain the following coverage including but not limited to:
 - (1) Network Security Liability for third party liability arising out of hacking, network system intrusions, unauthorized access/use to data or systems, distribution of malicious code, denial of service and cyber extortion.
 - (2) Privacy Liability for third party liability arising out of breach of privacy, inclusive of confidential and proprietary business information, HIPAA violations and other breaches of personally identifiable information and /or protected health information that may arise from their work with this contract.

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MINIMUM INSURANCE REQUIREMENTS

The Pennsylvania Turnpike Commission

- b) Minimum Limits of Liability:
 - Per Claim: \$2,000,000
 - Aggregate: \$2,000,000
- c) Privacy Breach notification and Credit Monitoring: \$2,000,000 Per Occurrence

7. Crime Insurance:

- a) Include the Employee Theft and Theft, Disappearance and Destruction coverage parts. The Employee Theft Coverage part shall include the Clients' Property Endorsement (ISO Form CR 04 01, or its equivalent).
- b) Minimum Limits of Liability: Per Occurrence: \$1,000,000

APPENDIX E – RFP18-10320-8175

Pennsylvania Turnpike Commission

DIVERSE BUSINESS (DB) REQUIREMENTS

Diverse Business Participation. The Commission is committed to Diverse Business (DB) participation on competitive contracting opportunities. Firms or entities that have not previously performed work or provided services to the Commission are encouraged to respond to the solicitations. RFPs may include DB participation as part of the criteria for the evaluation of proposals, and the Commission may consider DB participation as a selection factor.

Minimum Participation Level (MPL). The minimum participation level (MPL) for the inclusion of DBs will be established in the RFP/advertisement as a percentage.

(a) General Requirements. Section 303 of Title 74 of the Pennsylvania Consolidated Statutes, 74 Pa.C.S. § 303, requires proposer on contracts funded pursuant to the provisions of Title 74 (Transportation) and 75 (Vehicle Code) administered and issued by the Commission to make Good Faith Efforts to solicit subconsultants that are Diverse Businesses (DBs) as defined in Section 303. The DB requirements of Section 303 apply to this contract.

Section 303 requires proposers to make Good Faith Efforts, as described below, to solicit subconsultants that are DBs during the proposal process to maximize participation of DBs in competitive contracting opportunities.

The Commission is committed to participation by DBs and will enforce the requirements of Section 303 and this section. Failure to make Good Faith Efforts and demonstrate such Good Faith Efforts in the solicitation of subconsultants may result in the proposer being declared ineligible for the contract.

Proposers shall document and submit to the Commission all Good Faith Efforts, as described in this section, to solicit subconsultants that are DBs during the solicitation process.

Proposers are encouraged to utilize and give consideration to consultants offering to utilize DBs in the selection and award of contracts.

Proposers shall not discriminate on the basis of gender, race, creed or color in the award and performance of contracts in accordance with 62 Pa.C.S. §3701.

Failure to comply with the requirements of Section 303 or this specification may result in the imposition of sanctions as appropriate under section 531 of the Procurement Code, 62 Pa.C.S. § 531 relating to debarment and suspension.

The Commission's Director of the Office of Diversity and Inclusion, or designee, is designated the Responsible Official who shall supervise the DB program and ensure that the Commission complies with the DB program.

(b) Definitions. The following definitions apply to terms used in this specification:

1. Disadvantaged Business – A business that is owned or controlled by a majority of persons, not limited to members of minority groups, who are subject to racial, social, ethnic prejudice or cultural bias.

2. Diverse Business – A disadvantaged business, minority-owned or women-owned business or service-disabled veteran-owned or veteran-owned small business that has been certified by a third-party certifying organization.

3. Minority-owned Business – A business owned and controlled by a majority of individuals who are African Americans, Hispanic Americans, Native Americans, Asian Americans, Alaskans or Pacific Islanders.

4. Professional Services – An industry of infrequent, technical or unique functions performed by independent contractors or consultants whose occupation is the rendering of the services, including: (1) design professional services as defined in 62 Pa.C.S. § 901 (relating to definitions); (2) legal services; (3) advertising or public relations services; (4) accounting, auditing or actuarial services; (5) security consultant services; (6) computer and information technology services; and (7) insurance underwriting services.

5. Pro Forma Effort-The act of completing a form or document identifying efforts to solicit DBs for a project in order to satisfy criteria with little or no expectation that the DBs contacted or identified will perform any of the work.

6. Service-Disabled Veteran-Owned Small Business – A business in the United States which is independently owned and controlled by a service-disabled veteran(s), not dominant in its field of operation, and employs 100 or fewer employees.

7. Subconsultant- Any individual, partnership, firm, or corporation entering into a contract with the prime consultant for work under the contract, including those providing professional and other services.

8. Third-party Certifying Organization – An organization that certifies a small business, minority-owned business, women-owned business or veteran-owned small business as a diverse business. The term includes: (1) the National Minority Supplier Development Council; (2) the Women’s Business Development Enterprise National Council; (3) the Small Business Administration; (4) The Department of Veteran Affairs; (5) the Pennsylvania Unified Certification Program.

9. Veteran-owned Small Business –A small business owned and controlled by a veteran or veterans.

10. Women-Owned Business – A business owned and controlled by a majority of individuals who are women.

(c) Actions Required by Proposer during the procurement/consultant selection phase

1. Submission Requirements – Consultant Responsiveness.

- a. **Minimum Participation Level (MPL) Documentation** - If the documentation submitted with the proposal demonstrates that the proposer has identified DBs sufficient to meet the MPL established for this contract, the proposer will be deemed to have satisfied the DB requirement during this phase. The proposer is required to provide the business name and business address of each DB and supporting documentation that includes proof of certification.

If the consultant’s proposal demonstrates the consultant’s inability to meet the MPL established for this contract, the proposer shall demonstrate Good Faith Efforts with its proposal. Failure to submit the required documentation demonstrating Good Faith Efforts as further described below with the proposal may result in a rejection of the proposal.

- b. If no MPL has been established for this contract, the proposer is required to either provide a statement of intent that it will self-perform 100% of the work for the agreement, or demonstrate Good Faith Efforts to solicit subconsultants that are DBs. In either case documentation shall be provided with the proposal.

Failure to submit the required information identified above with the proposal may result in a rejection of the proposal.

2. Good Faith Effort Requirements: The documentation of Good Faith Efforts must include the business name and business address of each DB considered. Supporting documentation must also include proof of certification and any explanation of Good Faith Efforts the proposer would like the Commission to consider. Any services to be performed by a DB are required to be readily identifiable to the agreement. Good Faith efforts are demonstrated by seeking out DB participation in the project given all relevant circumstances. The Commission requires the proposer to demonstrate more than Pro Forma Efforts. Evidence of Good Faith Efforts includes, but is not limited to:

- a. Consultant solicits through all reasonable and available means the interest of all certified DBs with the capacity to perform the scope of work set forth in the agreement.
- b. The proposer must provide written notification at least 5 business days before proposals are due to allow the DBs to respond to the solicitation.
- c. The proposer must determine with certainty if DBs are interested by taking appropriate steps to follow up initial solicitations.
- d. The proposer must make efforts to select portions of the work to be performed by DBs to include, where appropriate, breaking out contract work into economically feasible units to facilitate DB participation;
- e. It is the proposer's responsibility to make a portion of the work available to DBs and, to select those portions of the work, so as to facilitate DB participation.
- f. The proposer shall provide evidence of such negotiations that include the names, addresses, and telephone numbers of DBs considered; A description of the information provided regarding the required work and services for the work selected for subconsultants; and evidence as to why additional agreements could not be reached for DBs to perform the work.
- g. Proposers cannot reject or withhold solicitation of DBs as being unqualified without sound reasons based on a thorough investigation of their capabilities.
- h. The DB's standing within its industry, membership in specific groups, organizations or associations and political or social affiliations (for example union v. non-union employee status) are not legitimate causes for the rejection or non-solicitation of proposals in the proposer's efforts to meet the Good Faith Efforts requirement.
- i. Efforts to assist interested DBs in obtaining bonding, lines of credit or insurance.

3. Actions Taken by the Commission. As part of the proposal review process, the Commission will review the submissions to determine whether the proposer has complied with Section 303 and this requirement in the selection of DB subconsultants. The Commission will determine whether the proposer has either met the MPL or provided acceptable documentation as noted above. The Commission reserves the right to contact proposers for clarification during the review and negotiation process.

If the Commission determines that the proposer has failed to either meet the MPL or provide acceptable documentation as noted above, the proposal may be rejected.

(d) Consultant Requirements During Performance of Services.

1. Replacement of a DB Subconsultant. Consultant must continue good faith efforts through completion of the contract. The obligation to make Good Faith Efforts to solicit subconsultants for any type of service extends to additional work required for any service which is identified to be performed by a DB. If at any time during the performance of the work, it becomes necessary to replace or add a subconsultant that is a DB, the consultant, as appropriate, shall immediately notify the Commission and seek approval in

writing in accordance with the Agreement of the need to replace the DB, which notice shall include the reasons for the replacement. If a prime consultant who originally indicated that it would self-perform all work subsequently decides to use a subconsultant for any work under the contract, the consultant must submit documentation of all Good Faith Efforts as to the work for which a subconsultant is obtained.

2. Records. Maintain project records as are necessary to evaluate DB compliance and as necessary to perform the reporting function addressed below. Maintain all records for a period of 3 years following acceptance of final payment. Make these records available for inspection by the Commission, its designees or agents. These records should indicate:

2.a. The number of DB and non-DB subconsultants and the type of services performed on or incorporated in this project.

2.b. The progress and efforts made in seeking out DB subconsultant organizations and individual DB consultants for work on this project to increase the amount of DB participation and/or to maintain the commitments made at the time of the proposal to DBs.

2.c. Documentation of all correspondence, contacts, telephone calls, and other contacts made to obtain the service of DBs on this project.

3. Reports. Maintain monthly reports and submit reports as required by the Commission concerning those contracts and other business executed with DBs with respect to the records referred to in subsection (e)2. above in such form and manner as prescribed by the Commission. At a minimum, the Reports shall contain the following:

3.a The number of Contracts with DBs noting the type of services provided, including the execution date of each contract.

3.b The amounts paid to each DB during the month, the dates of payment, and the overall amounts paid to date. If no payments are made to a DB during the month, enter a zero (\$0) payment.

3.c Upon request and upon completion of individual DB firm's work, submit paid invoices or a certification attesting to the actual amount paid. In the event the actual amount paid is less than the award amount, a complete explanation of difference is required.

4. Subconsultant Contracts

4.a. Subcontracts with DB firms will not contain provisions waiving legal rights or remedies provided by laws or regulations of the Federal Government or the Commonwealth of Pennsylvania or the Commission through contract provisions or regulations.

4.b. Prime consultant will not impose provisions on DB subconsultants that are more onerous or restrictive than the terms of the prime's contract with non-DBs.

4.c. Executed copies of subcontracts/purchase orders are to be received by the Commission before the commencement of work by the DB.

5. Payments to DB Subconsultants. Payments to DBs are to be made in accordance with the prompt payment requirements of Chapter 39, Subchapter D of the Procurement Code, 62 Pa.C.S. §3931 et seq. Performance of services by a DB subconsultant in accordance with the terms of the contract entitles the subconsultant to payment.

(e) Actions to be Taken by Commission After Performance of Services. Following completion of the Consultant's services, the Director of the Commission's Office of Diversity and Inclusion or his/her designee will review the overall DB participation to assess the Consultant's compliance with Section 303 and this contract. Appropriate sanctions may be imposed under 62 Pa.C.S. § 531 (relating to debarment or suspension) for a Consultant's failure to comply with Section 303 and the requirements of the contract.

Addendum No. 1

RFP #18-10320-8175

Swap Advisory Services

Prospective Respondents: You are hereby notified of the following information regarding the referenced RFP:

REVISION

1. Appendix D – Insurance Specifications, is revised as indicated below. A revised Appendix D– Insurance Specifications, Addendum #1 3-27-2018 in its entirety is provided as attached to this addendum.
 - The Professional Liability/Errors & Omissions Insurance requirement has been lowered from \$5M to \$2M.
 - Crime Insurance has been removed.

ADDITIONS

1. Data/Information Security Breach Notification

“Breach” shall mean any attempted or successful unauthorized acquisition, access, use, or disclosure of **COMMISSION** data that compromises the security or privacy of such data.

“Commission Data” means **COMMISSION** provided information and **COMMISSION** related information acquired as a result of the services provided to **COMMISSION** under this Agreement.

CONTRACTOR shall report to the **COMMISSION** any Breach affecting **COMMISSION** Data. The notice to be provided to the **COMMISSION** by **CONTRACTOR** shall be provided without unreasonable delay and no later than within 48 hours of **CONTRACTOR**’s discovery of any Breach. A Breach shall be deemed to be discovered on the first day on which the **CONTRACTOR** knows or reasonably should have known of the Breach. The notice to be provided to the **COMMISSION** by **CONTRACTOR** shall be made in writing to the **COMMISSION**’s Information Security Officer and shall include the following content: (i) the nature of the Breach; (2) the specific Commission Data affected by the Breach; (3) the steps the **CONTRACTOR** is taking to remediate the Breach; and (4) steps the **CONTRACTOR** is taking to mitigate future Breaches. Following notification of the Breach, **CONTRACTOR** shall cooperate with the **COMMISSION**’s investigation of the Breach and provide any other information regarding the Breach or the Commission Data affected which the **COMMISSION** may reasonably request. Should notice to individuals whose information was part of Commission Data be required under any applicable data privacy law, including, but not limited to, individual state data breach notice laws or federal laws such as HIPAA and Graham Leach Bliley Act, **CONTRACTOR** shall provide the **COMMISSION** with copies of any template notification letters and draft regulatory correspondence for **COMMISSION**’s prior approval. **CONTRACTOR** shall provide any notifications required under the applicable data privacy laws on behalf of the **COMMISSION** at the request of

COMMISSION. The **COMMISSION** reserves the right to handle any notifications required and shall notify **CONTRACTOR** if the **COMMISSION** will be handling the required notifications. Upon request, **CONTRACTOR** shall provide the **COMMISSION** with its cyber-security policies and procedures. **CONTRACTOR** agrees to reimburse the **COMMISSION** for any and all reasonable costs associated with the **COMMISSION**'s response to **CONTRACTOR**'s Breach, including any fees associated with the **COMMISSION**'s investigation of **CONTRACTOR**'s Breach, notification costs, and any reasonable offer of credit or identity monitoring product.

2. Virus, Malicious, Mischievous or Destructive Programming

Licensor warrants that the licensed product as delivered by Licensor does not contain any viruses, worms, Trojan Horses, or other malicious or destructive code to allow unauthorized intrusion upon, disabling of, or erasure of the licensed products (each a "Virus").

The Commission's exclusive remedy, and Licensor's sole obligation, for any breach of the foregoing warranty shall be for Licensor to (a) replace the licensed products with a copy that does not contain Virus, and (b) if the Commission, has suffered an interruption in the availability of its computer system caused by Virus contained in the licensed product, reimburse the Commission for the actual reasonable cost to remove the Virus and restore the Commission's most recent back up copy of data provided that:

- the licensed products have been installed and used by the Commission in accordance with the Documentation;
- the licensed products have not been modified by any party other than Licensor;
- the Commission has installed and tested, in a test environment which is a mirror image of the production environment, all new releases of the licensed products and has used a generally accepted antivirus software to screen the licensed products prior to installation in its production environment.

Under no circumstances shall Licensor be liable for damages to the Commission for loss of the Commission's data arising from the failure of the licensed products to conform to the warranty stated above.

Liquidated Damages

- (a) By accepting this Contract, the Contractor agrees to the delivery and acceptance requirements of this Contract. If a Contract schedule is not met, the delay will interfere with the Commission's program. In the event of any such delay, it would be impractical and extremely difficult to establish the actual damage for which the Contractor is the material cause. The Commission and the Contractor therefore agree that, in the event of any such delay the amount of damage shall be the amount set forth in this Section "Liquidated Damages" and agree that the Contractor shall pay such amount as liquidated damages, not as a penalty. Such liquidated damages are in lieu of all other damages arising from such delay.
- (b) The Commission and Contractor agree that the Deliverables identified in the Payment Schedule set forth in this Contract as "Major Deliverables" (the "Major Deliverables") shall be those for which liquidated damages shall be applicable in the event of delay of their completion beyond

the delivery date specified in the Contract. If Major Deliverables are not identified in the Contract, liquidated damages shall apply to the total value of the Contract.

- (c) The amount of liquidated damages for any such Major Deliverable not completed by the deliverable schedule set out in the Contract shall be *[This % should be reviewed with each RFP/Agreement]* three-tenths of a percent (0.3%) of the price of the specifically identified Major Deliverable for each calendar day following the scheduled completion date of such Major Deliverable. Liquidated damages shall be assessed each calendar day until the date on which the Contractor completes such Major Deliverable, up to a maximum of thirty (30) calendar days. Contractor may recoup the total amount of liquidated damages assessed against previous Major Deliverables if the Contractor accelerates progress towards future Major Deliverables and meets the final project completion date set out in the Contract.
- (d) If, at the end of the thirty (30) day period specified in “Liquidated Damages - (c)” above, the Contractor has not met the schedule for completion of the Major Deliverable, then the Commission, at no additional expense and at its option, may either:
 - (1) immediately terminate the Contract and all software, documentation, reports, Developed Materials and any other materials provided for or created for the Commission as a result of this Contract shall be given to the Commission, and the Commission shall be entitled to its remedies under “Termination”; or
 - (2) order the Contractor to continue with no decrease in effort until the work is completed in accordance with the Contract and accepted by the Commission or until the Commission terminates the Contract. If the Contract is continued, any liquidated damages will also continue until the work is completed.
- (e) At the end of the Contract term, or at such other time(s) as identified in the Contract, liquidated damages shall be paid by the Contractor and collected by the Commission by deducting them from the invoices submitted under this Contract or any other contract Contractor has with the Commission, by collecting them through the performance security, if any, or by billing the Contractor as a separate item.
- (f) To the extent that the delay is caused by the Commission, no liquidated damages will be applied.
- (g) If the delays are caused by the default of a Subcontractor, and if such default arises out of causes beyond the control of both the Contractor and Subcontractor, and without their fault or negligence, the Contractor shall not be liable for liquidated damages for delays, unless the supplies or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule.

Following are the answers to questions submitted in response to the above referenced RFP as of March 20, 2018. All of the questions have been listed verbatim, as received by the Pennsylvania Turnpike Commission.

Proposer Questions			Pennsylvania Turnpike Commission (PTC)			RFP #18-10320-8175
			Swap Advisory Services			
#	Page	Section	Section Description	Proposer Question	Commission Response	
1.	8	I-27. Insurance	Compliance with insurance requirements.	The insurance listed is not typical for our line of business and differs from what we see for similar engagements as well as what the Commission required in its prior RFPs for Swap Advisor and Financial Advisor: for example, the heightened amount of coverage (e.g. Professional Liability), and other types of insurance required such as Network Security/Privacy Liability and Crime Insurance that appear to be more applicable for a different type of contract. Would the Commission consider limiting and/or reducing the necessary coverage types and/or amounts?	See Above Revision.	
2.	4	I-14. Proposals	Requirements for submission of proposals – electronic copies.	The Commission has requested that two copies of the submittals are included in Microsoft Office or Microsoft Office-compatible format. Is Adobe PDF considered a compatible format?	Yes, Adobe is a compatible format.	

3.	4	I-14. Proposals	Requirements for submission or proposals – electronic copies.	The Commission has requested two complete and exact copies of the Technical, Cost and DB submittals, along with all requested documents on CD-ROM or Flash Drive. Can you please clarify how the CD-ROM/Flash Drive(s) should be submitted? Should there be one CD-ROM/Flash Drive within each separate Submittal containing the two copies? Or, should there be two CD-ROMs/Flash Drives within each separate Submittal, each containing one copy?	Two CD-ROMs or Flash Drives containing a full and complete mirror copy of each submittal-Technical, Cost and DB submittals.
4.	4	I-14. Proposals	Signing of proposals.	Are any original signatures needed for the proposal, or are electronic/scanned signatures acceptable?	Electronic/scanned signatures are acceptable.
5.	5	I-15. Economy of Preparation	Page limit.	To confirm, is the Proposal Cover Sheet, Table of Contents, and any transmittal/cover letter included within the 15 page limit?	No, they are independent of the 15 page limit.
6.	5	I-15. Economy of Preparation	Page limit.	May resumes be included in an appendix, outside of the 15 page limit?	Yes, they may be included as an Appendix to the RFP.

All other terms, conditions and requirements of the original RFP dated February 15, 2018 remain unchanged unless modified by this Addendum.

MINIMUM INSURANCE REQUIREMENTS

The Pennsylvania Turnpike Commission

Before starting any work, the Proposer will maintain the following minimum levels of insurance at Proposer's own expense. Proposer shall furnish Certificates of Insurance showing the coverages as outlined below. No work may be performed until the required evidence of Insurance is provided in accordance with the terms of the contract.

- a) All insurance shall be procured from insurers permitted to do business in the State in which the project is taking place and having an A.M. Best Rating of at least "A-, Class VIII".
- b) Proposer shall not have a Self-Insured Retention (SIR) on any policy greater than \$50,000, which is the responsibility of the Proposer. If Proposer's policy(ies) has a Self-Insured Retention exceeding this amount, approval must be received from the Commission prior to starting work. In the event any policy includes an SIR, the Proposer is responsible for payment within the SIR of their policy(ies) and the Additional Insured requirements specified herein shall be offered within the SIR amount(s).
- c) All insurance required herein, except for Professional Liability Insurance, shall be written on an "occurrence" basis.
- d) The Proposer's insurance carrier(s) shall agree to provide at least thirty (30) days prior written notice to the Commission in the event coverage is canceled or non-renewed, unless cancellation is for non-payment of premium. In the event of cancellation or non-renewal of coverage(s) for any reason, it is the Proposer's responsibility to replace coverage to comply with the Contract requirements so there is no lapse of coverage for any time period.

If the insurance carriers will not issue or endorse their policy(s) to comply with the above it is the responsibility of the Proposer to report any notice of cancellation or non-renewal at least thirty (30) days prior to the effective date of this notice.

- e) Proposer shall provide the Commission with Certificates of Insurance, showing the insurance coverages listed below, ten days prior to the start of work and thereafter upon renewal or replacement of each coverage. The Proposer shall not begin any work until the Commission has reviewed and approved the Certificate of Insurance.

Failure of the Commission to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the Commission to identify a deficiency from evidence that is provided shall not be construed as a waiver of Proposer's obligation to maintain such insurance.

- f) The Commission, and its Commissioners, officers, employees and agents shall be added as ADDITIONAL INSURED on all required liability policies (except Workers' Compensation and Professional Liability) for ongoing operations and completed operations on a primary noncontributory basis.

There shall be no "Insured versus Insured Exclusion" on any policies; all policies will provide for "cross liability coverage".

MINIMUM INSURANCE REQUIREMENTS

The Pennsylvania Turnpike Commission

- g) Waiver of Rights of Subrogation: Proposer shall waive all rights of recovery against the Commission and all the additional insureds for loss or damage covered by any of the required insurance (except Professional Liability).
- h) The amount of insurance in the required coverages shall not be construed to be a limitation of the liability on the part of the Proposer.
- i) The carrying of insurance described below shall in no way be interpreted as relieving the Proposer of any responsibility or liability under the contract.
- j) Any type of insurance or any increase in limits of liability which the Proposer requires for its own protection or on account of statute shall be its own responsibility and at its own expense.
- k) Proposer shall promptly notify the Commission and the appropriate insurance company(ies) in writing of any accident(s) as well as any claim, breach, suit or process received by the insured Proposer arising in the course of operations under the contract. The Proposer shall forward such documents received to its insurance company(ies), as soon as practicable, or as required by its insurance policy(ies).

REQUIRED COVERAGES - the following may be provided through a combination of primary and excess policies in order to meet the minimum limits set forth below:

1. Workers' Compensation and Employer's Liability:

Provided in the State in which the work is to be performed and elsewhere as may be required and shall include:

- a) Workers' Compensation Coverage: Statutory Requirements
- b) Employers Liability Limits not less than:
 - Bodily Injury by Accident: \$500,000 Each Accident
 - Bodily Injury by Disease: \$500,000 Each Employee
 - Bodily Injury by Disease: \$500,000 Policy Limit
- c) Includes sole proprietorships and officers of corporation who will be performing the work.

2. Commercial General Liability:

Provided on standard ISO forms or an equivalent form including Premises - Operations, Independent Proposers, Products/Completed Operations, Broad Form Property Damage, Contractual Liability, and Personal Injury and Advertising Injury.

- a) Occurrence Form with the following limits:
 - (1) General Aggregate: \$2,000,000
 - (2) Products/Completed Operations Aggregate: \$2,000,000
 - (3) Each Occurrence: \$1,000,000
 - (4) Personal and Advertising Injury: \$1,000,000

MINIMUM INSURANCE REQUIREMENTS

The Pennsylvania Turnpike Commission

3. Automobile Liability:

- a) Coverage to include All Owned, Hired and Non-Owned Vehicles (or “Any Auto”). If Proposer does not have any Owned Vehicles, Proposer is still required to maintain coverage for Hired and Non-Owned Vehicles as either a stand-alone policy or endorsed onto the Commercial General Liability policy above
- b) Per Accident Combined Single Limit \$1,000,000

4. Commercial Umbrella Liability:

- a) Policy(ies) to apply on a Following Form Basis of the following:
 - (1) Commercial General Liability,
 - (2) Automobile Liability, and
 - (3) Employers Liability Coverage.
- b) Minimum Limits of Liability
 - Occurrence Limit: \$4,000,000
 - Aggregate Limit (where applicable): \$4,000,000

5. Professional Liability/Errors & Omissions Insurance:

- a) The definition of “Covered Services” shall include the services required in the scope of this contract.
- b) Minimum Limits of Liability:
 - Per Claim: \$2,000,000
 - Aggregate: \$2,000,000
- c) If the policy is issued on a claims-made form, the following requirements will apply:
 - 1. The retroactive date must be on or before the start of work under this contract;
 - 2. In the event of policy cancellation or non-renewal, the Proposer must purchase “tail coverage/an extended reporting period” or maintain coverage for a period of three (3) years after the completion of their work/final payment.

6. Network Security and Privacy Liability:

- a) Proposer shall maintain the following coverage including but not limited to:
 - (1) Network Security Liability for third party liability arising out of hacking, network system intrusions, unauthorized access/use to data or systems, distribution of malicious code, denial of service and cyber extortion.
 - (2) Privacy Liability for third party liability arising out of breach of privacy, inclusive of confidential and proprietary business information, HIPAA violations and other breaches of personally identifiable information and /or protected health information that may arise from their work with this contract.
- b) Minimum Limits of Liability:
 - Per Claim: \$2,000,000
 - Aggregate: \$2,000,000
- c) Privacy Breach notification and Credit Monitoring: \$2,000,000 Per Occurrence