



SUPPLIER GUIDE



COSTARS PROGRAM PARTICIPATION

Revised 11/26/2013

Forward

The purpose of this guide is to acquaint potential suppliers with the Commonwealth of Pennsylvania's cooperative purchasing program, "COSTARS", managed by the Department of General Services (DGS) Bureau of Procurement.

The COSTARS Program provides registered local public procurement units as well as state affiliated entities (together "members") and suppliers a tool to find and do business with each other effectively through the use of a contract established by DGS.

We welcome you as a potential supplier to the COSTARS Program.

Introduction

The passage of the Commonwealth Procurement Code, Act 57 of 1998 ("Code"), permitted local public procurement units (LPPUs) and state-affiliated entities to engage in cooperative purchasing with the Commonwealth. Initially, DGS limited the LPPUs' cooperative purchasing options to certain statewide agency contracts. In spring 2004, DGS developed the COSTARS Program to increase the cooperative purchasing options available to its members.

In 2004, the General Assembly passed an amendment to the Code that expanded DGS's authority, allowing DGS to enter into contracts exclusively for the benefit of LPPUs and state-affiliated entities. DGS has included these special non-Commonwealth agency contracts, known as "COSTARS-exclusive contracts", as part of its COSTARS Program. All DGS contracts through which LPPUs and state-affiliated entities may make purchases, including specific statewide agency contracts as well as COSTARS-exclusive contracts, are part of the COSTARS Program. Local purchasers using these contracts must be registered COSTARS members.

This guide is for suppliers who wish to do business with COSTARS members through the use of a COSTARS-exclusive contract established by DGS. (Commonwealth agencies may not make purchases from COSTARS-exclusive contracts.) While this guide addresses COSTARS-exclusive contract participation, suppliers may also do business with COSTARS members through the use of certain statewide agency contracts. For more information regarding statewide agency contracts participation, please visit the DGS Bureau of Procurement web-pages at www.dgs.state.pa.us/procurement.

Table of Contents

ONE OVERVIEW Page 6

- 1.1 Legislative History
- 1.2 Contracts
- 1.3 Member-Specific Benefits of COSTARS Participation
- 1.4 Supplier-Specific Benefits of COSTARS Participation
- 1.5 Frequently Asked Questions

TWO MEMBERS Page 8

- 2.1 Member Eligibility
- 2.2 Member Registration
- 2.3 Member Participation
- 2.4 Purchasers

THREE GENERAL REQUIREMENTS FOR SUPPLIERS Page 10

- 3.1 Supplier Registration
- 3.2 Registering with the PA Department of State
- 3.3 Department of General Services Certified Small Business

FOUR SOLICITATIONS & SOLICITATION RESPONSES Page 11

- 4.1 Bidding Opportunities
- 4.2 eAlert Notifications
- 4.3 Solicitations
- 4.4 Submission of Bids
- 4.5 Exceptions or Qualifications to Provisions
- 4.6 Facsimile Bids
- 4.7 Electronic Bidding
- 4.8 Bid Opening Date
- 4.9 Public Bid Openings (Paper Bids)

FIVE EVALUATION, AWARDS & PERFORMANCE Page 13

- 5.1 Signature of Bid
- 5.2 Questions
- 5.3 Multiple Awards
- 5.4 Administrative Fee
- 5.5 Bid Protest
- 5.6 COSTARS-Exclusive Contract Accessibility
- 5.7 Contractor Responsibility Provisions
- 5.8 Performance Bond (Security)
- 5.9 "Installation" when applicable as an Ancillary Service
- 5.10 Subcontracting
- 5.11 Right-to-Know Law

SIX	CONTRACT SALES	Page 16
------------	-----------------------	----------------

- 6.1 Ordering and Payments
- 6.2 Volume of Sales
- 6.3 Marketing
- 6.4 Sales Reporting
- 6.5 Suppliers' Gateway

APPENDIX A	TERMS & CONDITIONS	Page 18
-------------------	-------------------------------	----------------

APPENDIX B	DEFINITIONS	Page 19
-------------------	--------------------	----------------

ONE

OVERVIEW

- 1.1 **Legislative History** – COSTARS is a program managed by the Department of General Services (DGS) for local public procurement units (LPPUs) and state affiliated entities within the Commonwealth of Pennsylvania as established by Section 1902 of Act 57 on May 15, 1998 (“Commonwealth Procurement Code”), as amended by Act 142 of December 3, 2002, 62 Pa. C.S. Section 1902 and Act 77 of July 15, 2004, 62 Pa. C.S. Sections 1902 and 2107. These acts authorize LPPUs and state affiliated entities (together “members”) to purchase from those contracts for supplies and services made available by DGS.
- 1.2 **Contracts** – DGS awards specific contracts for Commonwealth agencies' use statewide. Registered COSTARS members may also purchase from many of those statewide agency contracts for which suppliers have consented to participate. In 2004, the Pennsylvania General Assembly amended the Commonwealth Procurement Code to direct DGS to issue special contracts solely for the use of LPPUs and state-affiliated entities for certain supplies and services. DGS has included these special non-Commonwealth agency contracts, known as “COSTARS-exclusive contracts”, as part of its COSTARS Program. All DGS contracts through which LPPUs and state-affiliated entities may make purchases, including specific statewide agency contracts as well as COSTARS-exclusive contracts, are part of the COSTARS Program.
- 1.3 **Member-Specific Benefits of COSTARS Participation**
- **Flexibility** – Members have the option to purchase from COSTARS-exclusive contracts, from a large selection of statewide agency contracts for which suppliers have consented to participate, or from any other cooperative procurement contracts. Participation in any COSTARS purchasing is completely voluntary; each member is free to obtain supplies and services through its regular procurement procedures.
 - **Cooperative Purchasing Requirements** – Because the Commonwealth awards contracts through its own competitive bidding process, COSTARS procurements meet the cooperative purchasing requirements under the Commonwealth Procurement Code for local government purchasing. However, other statutory provisions, including but not limited to the requirement for prevailing wage determinations in certain circumstances and other construction-related requirements, may apply to specific purchase orders by particular types of entities.
 - **Dollar Savings** – Volume purchasing results in lower prices; using contracts established by DGS eliminates the need for specifications development, advertising, printing, mailing and bid evaluation.
 - **Best Value** – Members determine the “best value” for their purchase; each member decides what will best suit their needs. Factors considered may include administrative cost and time-savings, compatibility with existing equipment, delivery time, or keeping spend in their local community.
 - **Convenience** – Using contracts established by DGS facilitates the purchase of supplies and services by simply issuing a purchase order to a contractor.
 - **Education** – Free training, workshops and a quarterly newsletter are provided by COSTARS staff to assist members on how to use contracts, how to purchase from specific contracts of interest, as well as other topics of interest and trends in government purchasing.
- 1.4 **Supplier-Specific Benefits of COSTARS Participation**
- **Additional Business Opportunities** – There are several thousand COSTARS members taking advantage of existing contracts. A complete list of currently registered COSTARS members can be found on the DGS COSTARS web-pages.
 - **COSTARS Brand** – COSTARS participating contractors may use the COSTARS name and logo in broadcast or Internet media and on business cards, brochures, and other print publications, in accordance with contract terms and conditions.

- Flexibility – COSTARS-exclusive contracts do not dictate any specific lists of items. Rather, a bidder may offer any type or number of items within the scope of the contract. Resellers may bid as many manufacturers' product lines as the manufacturers authorize them to sell. A contractor may supplement its COSTARS-exclusive contract to provide pricing for additional items within the scope of the contract in accordance with the contract terms and conditions or to remove items or services it no longer wishes to offer at any time. A contractor may update its COSTARS-exclusive contract pricing information to adjust its pricing in accordance with the contract terms and conditions.
- Leases and Installment Purchases – Where applicable, leasing and installment purchases are options a contractor may offer.
- Ancillary Services – Certain COSTARS-exclusive contracts enable a contractor to offer ancillary services in conjunction with the products it provides to a purchaser. Sample ancillary services include, but are not limited to, special delivery, training, extended warranty, and post-warranty support and maintenance. However, any ancillary services offered must be: (1) expressly authorized in the original Invitation for Bids/Contract, (2) directly related to the delivery, installation or normal use of the product or component parts purchased, (3) limited to the actual product or component parts purchased, and (4) initiated/ordered at the time of product purchase. Stand-alone services are not within the scope of a supply contract.
- Dealer Network – All COSTARS-exclusive contracts enable a contractor to offer contract items through its local dealer network.
- Volume Sales – Members may purchase jointly to mutually benefit from quantity discounts.

- 1.5 **Frequently Asked Questions** – For more information regarding the COSTARS Program, please view the frequently asked questions along with their official answers via the [“FAQ’s”](#) on the DGS COSTARS web-pages.

TWO

MEMBERS

2.1 **Member Eligibility** – Entities eligible for COSTARS membership include any LPPU defined as:

- Any political subdivision (local government unit), such as a municipality, school district, or commission;
- Any public authority (including authorities formed under the Municipality Authorities Act of 1955 or other authorizing legislation, such as the Public Transportation Law or the Aviation Code);
- Any tax-exempt, nonprofit educational institution or organization;
- Any tax-exempt, nonprofit public health institution or organization;
- Any nonprofit fire, rescue, or ambulance company; and
- Any other entity that spends public funds for the procurement of supplies and services such as a council of governments, an area government, or an organization that receives public grant funds).

The Department reserves the right to review and determine eligible applicants as Local Public Procurement Units on a case-by-case basis.

A state-affiliated entity is a Commonwealth authority or other Commonwealth entity that is not a Commonwealth agency. The term includes:

- The Pennsylvania Turnpike Commission;
- The Pennsylvania Housing Finance Agency;
- The Pennsylvania Municipal Retirement System;
- The Pennsylvania Infrastructure Investment Authority;
- The State Public School Building Authority;
- The Pennsylvania Higher Education Facilities Authority; and
- The State System of Higher Education

The COSTARS Program is not available for use by Executive Agencies and Independent Agencies as defined by the Commonwealth Procurement Code, or any agency or entity using funds appropriated to the Department of General Services through Capital Budget Project Itemization legislation for the procurement of furniture, fixtures, and equipment.

2.2 **Member Registration** – DGS requires LPPUs and state affiliated entities to register as COSTARS members, and only those entities registered with DGS may purchase from contracts. Should the supplier become aware of, or be contacted by, any potential purchaser not currently registered as a COSTARS member, where the potential purchaser believes it may qualify for, and wishes to participate in, the COSTARS Program, the supplier may refer the potential purchaser to the DGS COSTARS web-pages to complete the *User Registration* and *COSTARS Membership* online application processes.

2.3 **Member Participation** – COSTARS members have the option to purchase from COSTARS-exclusive contracts, from a large selection of statewide agency contracts for which suppliers have consented to participate, or from any other cooperative procurement contracts. Member participation in any COSTARS purchasing is completely voluntary, meaning that each COSTARS member is also free to obtain products and services through its regular procurement procedures.

TWO

MEMBERS (Continued)

- 2.4 **Purchasers** – The supplier understands that it will not be providing any items directly to DGS or any other Commonwealth agency under a COSTARS-exclusive contract. Any contract that DGS bids as a COSTARS-exclusive contract is for **exclusive** use by LPPUs and state affiliated entities who have registered with DGS as COSTARS members.

Currently, there are several thousand registered COSTARS members, and the list of registered members continues to grow. A list of registered entities, updated frequently, is available on the DGS COSTARS web-pages.

THREE GENERAL REQUIREMENTS FOR SUPPLIERS

- 3.1 **Supplier Registration** – In spring 2007, DGS adopted the MySAP Supplier Relationship Management (SRM) system for suppliers of goods and services to the Commonwealth. SRM is a secure, web-based system that allows suppliers to search and respond to current statewide agency contracts, manage account information, and access other collaborative functions. In fall 2009, DGS extended SRM to procurement suppliers participating on COSTARS-exclusive contracts. A critical component of SRM is supplier registration.

Suppliers are required to register their business in the PA Supplier Portal and receive a six-digit vendor number as a prerequisite to bidding on a statewide agency or COSTARS-exclusive contract. The Supplier Registration process is available at www.pasupplierportal.state.pa.us. **NOTE: If your company already has a six-digit vendor number issued by the Commonwealth, you may already be registered.**

For more information regarding registration, please visit the “Supplier Service Center” at http://www.portal.state.pa.us/portal/server.pt/community/supplier_service_center/5104. The Supplier Service Center contains helpful tools to provide assistance throughout the Supplier Registration.

Registering and receiving a vendor number does not mean that you are an awarded supplier and able to sell your products to COSTARS members.

To become a COSTARS supplier, one needs to respond to bidding opportunities that are published on the DGS [COSTARS](#) or PA [eMarketplace](#) web-pages. A supplier that successfully responds to a contract solicitation may be awarded a contract.

- 3.2 **Registering with the PA Department of State** – Under Pennsylvania Law, every proceeding for the organization of corporations, both for-profit and nonprofit, and every ancillary transaction relating to such corporations is required to be filed with the [Department of State Corporation Bureau](#). Other businesses registering with the Bureau include: professional corporations, municipal authorities, and limited partnerships, foreign corporations (incorporated outside of Pennsylvania) qualifying to do business in the Commonwealth and individuals and corporations conducting business under an assumed or fictitious name.

DGS asks all bidders other than individuals using their given names to supply evidence with their bids to show compliance with these requirements. If your business is not incorporated or registered in Pennsylvania, you must take action to register prior to being approved for a COSTARS-exclusive contract.

Forms for registering with the Department of State can be found on their website at <http://www.dos.state.pa.us/portal/server.pt/community/corporations/12457/forms/571880>.

- 3.3 **Department of General Services Self-Certified Small Business** – Executive Order 2011-09 establishes the Small Business Procurement Initiative (SBPI) to develop and create more state contracting opportunities for small businesses. For the first time, small businesses will be able to bid on certain state contracting opportunities that have been reserved for competition among self-certified small businesses only. Although the COSTARS program has focused on small businesses since its inception in 2005 (two-thirds of COSTARS-authorized suppliers are small businesses), this initiative makes it easier for those businesses to compete for and be awarded state contracts.

In implementing the executive order, DGS has centralized the certification process for small businesses. To see if your firm qualifies as a DGS Self-Certified Small Business, information and a step-by-step instruction guide for self-certification is available at www.smallbusiness.pa.gov.

FOUR SOLICITATIONS & SOLICITATION RESPONSES

- 4.1 **Bidding Opportunities** – All COSTARS-exclusive contract [bidding opportunities](#) are published on the DGS COSTARS web-pages. DGS does not post on its website any one particular COSTARS member's request to contract for a specific purchase. Any contract that DGS bids as a COSTARS-exclusive contract is available for use to *all* COSTARS members.

- 4.2 **eAlert Notifications** – The eAlert system is the mechanism the Bureau of Procurement utilizes to notify potential bidders of bidding opportunities and changes to any posted solicitations. EAlerts are accessible through the PA Supplier Portal at www.pasupplierportal.state.pa.us.

If you are not currently registered as a supplier via the PA Supplier Portal you must do so to be able to select the categories you wish to receive eAlerts for. Once registered using the PA Supplier Portal, select the following menu path: “*Bidder*” tab, “*Enterprise Applications*”, “*DGS e-mail Notifications (eAlerts)*” and select the categories your company may qualify for. If you fail to select your categories you will not receive any eAlert notifications.

If you are already registered on the PA Supplier Portal at www.pasupplierportal.state.pa.us, log in using your PA Supplier Portal registration information, and then follow the menu path: “*Bidder*” tab, “*Enterprise Applications*”, “*DGS e-mail Notifications (eAlerts)*”. If you fail to select a category you will not receive any eAlerts notifications.

The system will allow you to enter multiple e-mail addresses to receive these notifications. You can do this by selecting “Set Alternate e-mail Address” at the top of eAlerts page once logged in. Not setting an alternate address will have your email default to the address provided from your PA Supplier account.

- 4.3 **Solicitations** – DGS uses the Competitive Sealed Bidding process to establish COSTARS-exclusive contracts. Suppliers participate in the COSTARS Program as contractors by submitting a responsible and responsive bid to a COSTARS Invitation for Bids (IFB) to receive a COSTARS-exclusive contract award.

- 4.4 **Submission of Bids** – Refer to the *Instructions to Bidders for COSTARS Contracts* for detailed information on submission of bids.

- 4.5 **Exceptions or Qualifications to Provisions** – The *Instructions to Bidders for COSTARS Contracts* and *COSTARS Contract Standard Terms and Conditions* are uniform for all COSTARS-exclusive contracts. DGS does not change these provisions for any specific contract beyond what may be specific in the *Special Terms and Conditions* for that contract. Therefore, bidders should not propose changes to the terms and conditions with their bids, as proposing changes or noting exceptions may be grounds for rejection of the bid. If there is any question about these terms, the bidder should submit the question to the attention of the DGS Commodity Specialist identified in the COSTARS IFB.

- 4.6 **Facsimile Bids** – Facsimile Bids are not accepted.

- 4.7 **Electronic Bidding** – Electronic bidding is not available for COSTARS-exclusive contracts. However, the bidder should include in its hard-copy (printed) bid package an electronic submission of all offered items and pricing on a diskette or CD (Flash drive is not acceptable). It is the responsibility of the bidder to ensure that any electronic document it may submit is virus-free and in a format accessible by DGS (such as Microsoft Word, Excel, Adobe Acrobat, etc.).

FOUR SOLICITATIONS & SOLICITATION RESPONSES (Continued)

- 4.8 **Bid Opening Date** – All COSTARS-exclusive contract [bidding opportunities](#) are continuous. Continuous bidding permits prospective suppliers to submit a bid on a COSTARS-exclusive contract at any time, instead of waiting for a supplemental bidding opportunity.

Bids will be accepted on any given Commonwealth business day. Any bid received after the Bid Opening Time (1:30 PM Eastern) will be opened on the next Commonwealth business day.

- 4.9 **Public Bid Openings (Paper Bids)** – Public bid opening will consist of a Commonwealth Procurement Representative opening and announcing the suppliers whose bids were timely received. Suppliers will not be allowed to review the paper bids at the opening.

FIVE

EVALUATION, AWARDS & PERFORMANCE

- 5.1 **Signature of Bid** – The original Bid must be signed in ink. When the Bidder/Contractor is a corporation, the president or a vice president should sign the *COSTARS BID/CONTRACT* (Form GSPUR – 15COSTARS). If another corporate representative signs the Bid/Contract, the bidder should include a copy of a corporate resolution or by-laws authorizing that individual to sign the Bid/Contract on behalf of the corporation, to demonstrate that the individual has legal authority to bind the corporation. The *DGS Corporate Certification* form is also an acceptable proof of signature authority. If the bidder is a partnership, a general partner should sign the Bid/Contract; for a limited liability company, the manager should sign; and for sole proprietorships, the owner should sign the Bid/Contract. Any other signature on the Bid/Contract form requires a proof of delegation of authority acceptable to the Commonwealth.
- 5.2 **Questions** – Any questions concerning conditions and specifications must be directed to the attention of the DGS Commodity Specialist identified in the COSTARS IFB.
- 5.3 **Multiple Awards** – DGS awards COSTARS-exclusive contracts to all responsible and responsive bidders. Because everyone who is responsible and responsive will be awarded a contract, DGS will not compare bidders' pricing submittals for COSTARS-exclusive procurements. Although pricing will not be a factor in contract award, pricing may be a consideration when members select a contractor and place their orders. Consequently, each bidder should present their very best response to an IFB.
- 5.4 **Administrative Fee** – Suppliers are required to pay the appropriate fee in each contract period, for each COSTARS-exclusive contract, and according to the following criteria:

Bidder Classification	Required Administrative Fee
Department of General Services Self-Certified Small Business	\$500
All Other Bidders	\$1,500

If the bidder is a Department of General Services Self-Certified Small Business, the bidder must submit its active Small Business Procurement Initiative (SBPI) certificate with its bid and each year upon renewal.

The Administrative Fee is not a security; it is a fee charged to all COSTARS-exclusive contract suppliers. The Administrative Fee shall include a nonexclusive license to use the COSTARS Brand (COSTARS name and logo). Any bidder whose bid is rejected, where the Bidder has paid the fee, will receive a refund of this fee from the Commonwealth.

- 5.5 **Bid Protest** – Refer to the *Instructions to Bidders for COSTARS Contracts* for guidance regarding bid protest procedure.
- 5.6 **COSTARS-Exclusive Contract Accessibility** – DGS posts to the COSTARS web-pages a "Book of Awards" including contractor data, offered products and pricing, as well as any link to a contractor's website. Prospective COSTARS purchasers may access the "Book of Awards" by way of the COSTARS *Members* area.

FIVE EVALUATION, AWARDS & PERFORMANCE (Continued)

- 5.7 **Contractor Responsibility Provisions** – For detailed information on contractor responsibility provisions, please refer to the *COSTARS Contract Standard Terms and Conditions*. The bidder's bid submission including its signed Bid/Contract form functions as the certification of contractor responsibility. If the bidder is unable to make the certification because of a specific set of circumstances, the bidder must submit, along with its bid, a detailed written explanation.

The supplier may obtain a current [list of suspended or debarred](#) Commonwealth suppliers by searching the DGS Procurement web-pages.

- 5.8 **Performance Bond (Security)** – DGS does not require performance security for COSTARS-exclusive contracts. Though DGS holds the COSTARS-exclusive contracts for the benefit of third-party purchasers, as DGS is not a purchaser of the contracted items, the requirement of a bond would be difficult for DGS to administer or enforce. The COSTARS-exclusive contracts have several provisions providing substantial protection for the purchasers, including the potential that DGS could suspend or debar any contractor defaulting on any purchase order, which would affect that contractor's ability to do business in municipalities and states throughout the U.S., and potentially in other countries as well.

Performance bond, *if required by the purchaser*, shall be negotiated and executed between the purchaser and the contractor, without DGS involvement.

- 5.9 **"Installation" when applicable as an Ancillary Service** – Where applicable in certain COSTARS-exclusive contracts, installation is only allowed under very strict dollar thresholds. In addition, DGS offers the following guidance regarding the appropriate uses of the installation provision:

- a. Procurements in which the total project cost (including, but not limited to, all supplies, equipment, and installation labor) is less than the amount established by statute for local governmental entities and school districts for advertised competitive bidding or \$25,000, whichever is less, **and** require installation may be done under the COSTARS contract if such contract allows for installation. *Governmental entities and school districts are still required to comply with any applicable statutes including, but not limited to, requirements for performance or payment bonds.*
- b. Procurements in which the total project cost (including, but not limited to, all supplies, equipment, and installation labor) is more than the amount established by statute for local governmental entities and school districts for advertised competitive bidding or \$25,000, whichever is less, **and** require installation may not be done under the COSTARS contract.
- c. Procurements for the purchase of the **materials only**, where any installation will be done by employees of the local governmental entity or school district, may be done under COSTARS contract regardless of the total cost of the materials.

Governmental entities are not permitted to split up a project to bring the total project cost, which includes, but is not limited to, all supplies, equipment, and labor below certain statutory thresholds in order to circumvent statutory requirements. Rather than using the COSTARS contracts, which are primarily supply contracts and not structured for any type of construction activity, projects such as these should be bid in accordance with statutory requirements. It is important to note that the ultimate liability for failure to comply with those statutes and regulations for those projects lies with the local governmental entity.

- 5.10 **Subcontracting** – In accordance with Subsection 26.b. of the *COSTARS Contracts Standard Terms and Conditions*, "A Contractor shall not subcontract with any person without the Purchaser's prior written consent, which consent may be withheld at the Purchaser's sole and absolute discretion."

FIVE

EVALUATION, AWARDS & PERFORMANCE (Continued)

However, provided that the bidder includes the name of its subcontractor(s) in its bid submission, any COSTARS member ordering those services under the COSTARS-exclusive contract would by implication be approving the service subcontractor. Subsection 26.b. is intended to prevent a contractor from substituting a previously unspecified third party under its COSTARS-exclusive contract without the Purchaser's consent.

Please refer to the *COSTARS Contracts Standard Terms and Conditions*, Section 26, *Assignability and Subcontracting*, in its entirety.

- 5.11 **Right-to-Know Law** – The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, applies to COSTARS-exclusive contracts.

This legislation requires most state contracts, including COSTARS-exclusive contracts, to be available for public viewing on an internet website. To comply with this legislation, COSTARS-exclusive contracts are published within the COSTARS *Members* area of the COSTARS web-pages and are also accessible from the PA [eMarketplace](#) web-pages. This means that you are able to view your competitors' COSTARS-exclusive contracts and they are able to view yours.

While anyone may access COSTARS-exclusive contracts directly from these web-pages, this does not change the requirement that eligible LPPUs and state affiliated entities register as COSTARS members, and only those entities registered with DGS may purchase from a contract.

SIX CONTRACT SALES

- 6.1 **Ordering and Payments** – Any COSTARS member electing to purchase from a contract will order items directly from the Contractor and be responsible for payment directly to the Contractor. Each purchase order will incorporate the contract terms and conditions. The supplier is required to confirm membership using the online member database, “*List of COSTARS Members*”, on the DGS COSTARS web-pages.
- 6.2 **Volume of Sales** – As there are multiple awards and no requirement for COSTARS members to purchase from any particular awarded supplier, DGS does not guarantee volume of contract sales.
- 6.3 **Marketing** – It is the sole responsibility of the awarded supplier to promote their offered products and services to registered COSTARS members.

- **List of COSTARS Members** – A complete list of currently registered COSTARS members can be found on the DGS COSTARS web-pages. Contractors are encouraged to utilize this member database for their own marketing purposes.
- **COSTARS Brand** – DGS has registered the COSTARS name and logo (together, the “COSTARS Brand”) as a trademark with the Pennsylvania Department of State. COSTARS participating contractors may use the [COSTARS Brand](#) in broadcast or Internet media and on business cards, brochures, and other print publications, in accordance with contract terms and conditions.
- **Contractor Dedicated Website** – DGS strongly encourages each contractor to provide a dedicated website for COSTARS members to include a complete listing with contract pricing for all items required under the contract, product and customer support information, and the capability for COSTARS members to place online orders for contract items, in accordance with COSTARS-exclusive contract terms and conditions. Neither the manufacturers nor their authorized resellers are excluded from participation as COSTARS suppliers if they are unable to provide a dedicated website.

To introduce the COSTARS Program and increase awareness and participation, COSTARS Program staff may:

- Participate in expos, conventions, forums and trade shows.
- Conduct workshops throughout the Commonwealth.
- Attend state legislators’ grant workshops.
- Publicize contracts and opportunities using the DGS website and trade publications.
- Publish periodic [newsletters](#).
- Survey the membership to determine their needs and what new opportunities may exist to satisfy them.
- Conduct supplier forums.

- 6.4 **Sales Reporting** – Contractors are required to report their contract sales to COSTARS members to the DGS COSTARS Program Office on at least a quarterly basis, according to the terms and conditions of their contract. Contractors shall submit the reports using the web-based COSTARS *Supplier Gateway*.

This data is compiled and analyzed by COSTARS staff and reported to the appropriate reviewing organizations. In addition, this sales data is the primary accountability measure of the overall effectiveness of the COSTARS Program and assists DGS to institute program improvements.

SIX CONTRACT SALES (Continued)

6.5 **Supplier Gateway** – The COSTARS *Supplier Gateway* is accessible by way of the COSTARS *Suppliers* area web-page or by logging in directly to the PA Supplier Portal at www.pasupplierportal.state.pa.us and following the path “Bidder” and “Enterprise Applications”. The *Supplier Gateway* enables suppliers who have been awarded a COSTARS-exclusive contract to:

- Review Participation and System Training Materials
- Review and Update Contact Information
- Review Bid Item Workbook exactly as it appears to Members
- Review the Terms and Conditions of the Contract
- Electronically assemble and report quarterly contract sales
- Pay Contract Administrative Fee by credit card

APPENDIX A TERMS & CONDITIONS

The following documents comprise a COSTARS-exclusive contract IFB:

- i. Instructions To Bidders for COSTARS Contracts (COSTARS ITB)
- ii. COSTARS Bid/Contract (GSPUR-15COSTARS)
- iii. Bid Item Workbook and Checklist
- iv. GSPUR-89 Reciprocal Limitations Act Requirements
- v. COSTARS Contract Special Terms and Conditions (COSTARS SpTsCs)
- vi. COSTARS Contract Standard Terms and Conditions (COSTARS STD)
- vii. Contract Provisions - Right to Know Law

Please refer to COSTARS-exclusive contract [bidding opportunities](#) published on the DGS COSTARS web-pages to review these documents in detail.

APPENDIX B DEFINITIONS

The following are definitions of terms that may be used for purposes concerning COSTARS.

Act 57: *Act 57 of May 15, 1998.* (Known as Commonwealth Procurement Code, 62 Pa. C.S. 101) Section 1902 permits Local Public Procurement Units (LPPUs) to engage in cooperative purchasing with the Commonwealth.

Act 142: Amends the Commonwealth Procurement Code. Act 142 of December 3, 2002, 62 Pa. C.S. Section 1902 expands the definition of eligible entities.

Act 77: Amends the Commonwealth Procurement Code. Act 77 of July 15, 2004, 62 Pa. C.S. Sections 1902 and 2107 requires DGS to create contracts for the exclusive use of LPPUs and state-affiliated entities.

Advertising: The placement of a public notice of a contracting opportunity.

Agency: An executive or independent agency.

Agency Head: The Secretary, or other official, who is first in responsibility within an agency.

Amendment: A written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract.

Assignment: The transfer or taking over by another of a contract or any part of a contract or any contractual right or duty.

Bid: A firm and unconditional offer in response to an invitation for bids.

Bidder: A person that submits a bid in response to an invitation for bids.

Competitive Bidding: The offer of firm bids by individuals or entities competing for a contract, privilege, or right to supply specified materials or services.

Contract: A type of written agreement, regardless of what it may be called, for the procurement of supplies, services, or construction and executed by all parties in accordance with the *Commonwealth Attorney's Act, Act of October 15, 1980 (P. L. 950, No. 164)*.

Contract Modification: A written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract. Sometimes called an "amendment".

Contracting Officer: A person authorized to enter into and administer contracts and make written determinations with respect to contracts.

Contractor: Any person that has entered into a contract with a Commonwealth agency.

COSTARS: The Commonwealth's cooperative purchasing program managed by the Department of General Services, Bureau of Procurement, for local public procurement units (LPPUs) and state affiliated entities as established by Section 1902 of Act 57 on May 15, 1998 ("Commonwealth Procurement Code"), as amended by Act 142 of December 3, 2002, 62 Pa. C.S. Section 1902 and Act 77 of July 15, 2004, 62 Pa. C.S. Sections 1902 and 2107.

COSTARS Brand: COSTARS name and logo registered as a trademark with the Pennsylvania Department of State.

APPENDIX B DEFINITIONS (Continued)

COSTARS-Exclusive Contract: Non-Commonwealth agency contract established by the Pennsylvania Department of General Services through which registered local public procurement units and state-affiliated entities may make purchases.

Cure Notice: A notice, either oral or in writing, that informs the supplier that he or she is in default and states what the supplier has to do correct the deficiency. If the notice is oral it shall be confirmed in writing.

Debarment: Action taken by the head of the purchasing agency to remove a person or entity from consideration for an award of any Commonwealth contract or subcontract for a specified period of time.

Delivery Date: The date, as stated within the contract, when items are required to be delivered or services are to be rendered.

Department of General Services Certified Small Business: To self-certify and participate in the Small Business Procurement Initiative, a business must meet each of the following requirements:

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

Additional information and a step-by-step instruction guide for self-certification is available at www.smallbusiness.pa.gov.

DGS: The Department of General Services.

Effective Date: A date fixed by the contracting officer that is on or after the date the contract has been fully executed by the contractor and by the purchasing agency and all approvals required by Commonwealth contracting procedures have been obtained. The contract shall not be a legal and binding contract until after the Effective Date is affixed and the contract is sent to the contractor.

Electronic: Any electrical, digital, magnetic, optical, electromagnetic or other form of technology that entails capabilities similar to these technologies. Electronic includes transmission via a telefacsimile device.

Executive Agency: The Governor and the departments, boards, commissions, authorities, and other officers and agencies of the Commonwealth. The term does not include any court or other officer or agency of the unified judicial system, the General Assembly and its officers, and agencies or any independent agency or state-affiliated entity.

Expiration Date: The date on which a contract expires. The last date when work to be billed under the contract can be performed.

Evaluation of Bids: The process of examining a bid after opening to determine the bidder's responsibility, responsiveness to requirements, and other characteristics of the bid relating to selection for award.

APPENDIX B DEFINITIONS (Continued)

Force Majeure: An irresistible or extraordinary force, natural event, or effect that cannot be reasonably anticipated or foreseen, prevented, or controlled. An act of God.

Grant: A furnishing of assistance by the Commonwealth or any person, financial or otherwise, to any person to support a program. The term does not include an award whose primary purpose is to procure construction for the grantor. A contract resulting from such an award is a procurement contract and not a grant.

Independent Agency: Boards, commissions, and other agencies and officers of the Commonwealth which are not subject to the policy supervision and control of the Governor. The term does not include any state affiliated entity, any court or other officer or agency of the unified judicial system, the General Assembly and its officers and agencies, any state-related institution, political subdivision or any local, regional, or metropolitan transportation authority.

Invitation for Bids ("IFB"): All documents, including those either attached or incorporated by reference, used for soliciting bids.

License: Permission or authority to use personal property for specific purposes without possessing title to, or any interest in, the property itself.

Life Cycle Cost: The total cost of the supply in terms of purchase cost, installation cost, maintenance cost, energy cost, supply cost, and other costs.

Local Public Procurement Unit (LPPU): The term includes any political subdivision; any public authority; any tax-exempt, nonprofit educational institution or organization; any tax-exempt, nonprofit public health institution or organization; any nonprofit fire, rescue, or ambulance company; and any other entity that spends public funds for the procurement of supplies, services, and construction.

Materials: Supplies, excluding insurance.

Option to Renew: A provision of the IFB and included as a provision within the contract which allows the continuance of a contract for an additional time period.

PA Supplier Portal: A website which provides suppliers with access to Commonwealth procurement opportunities and procurement documents while allowing them to manage catalogs and update company data. It also supports communication between the Commonwealth and suppliers.

Party: Any person, corporation, unincorporated association, partnership, state governmental agency, political subdivision, authority, another state, or the government of the United States.

Performance Bond (Security): Security provided by a contractor solely for the protection of the purchasing or using entity receiving the materials or services, conditioned upon the faithful performance of the contract in accordance with plans, specifications, and conditions of the contract.

Procurement: Buying, purchasing, renting, leasing, licensing, or otherwise acquiring any material, service, or construction. The term also includes all functions that pertain to the obtaining of any material, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

Procurement Description: The words used in a solicitation to describe the material, service, or construction to be procured. The term includes specifications attached to or made a part of the solicitation. Sometimes called "Contract Scope".

Programs & Systems Division: A division within the DGS Bureau of Procurement responsible for managing the COSTARS Program. The Programs & Systems Division provides various services to

APPENDIX B DEFINITIONS (Continued)

suppliers, agencies, and communities and other non-profit organizations; in addition to the COSTARS Section, the [Programs & Systems Division](#) consists of the Supplier Development & Support Section, PIBH/CI Section, and Systems Section.

Protest: A written complaint about an administrative action or decision brought by a bidder to the appropriate administrative section with the intention of receiving a remedial result.

Purchase Order: Written authorization from a purchasing or using entity for a contractor to proceed to furnish a material or service in accordance with the terms of the IFB and the awarded bidder's bid or a contract.

Responsible Bidder: A bidder that has submitted a responsive bid and that possesses the capability to fully perform the contract requirements in all respects and the integrity and reliability to assure good faith performance.

Responsive Bid: A bid, which conforms in all material respects to the requirements and criteria in the invitation for bids.

Responsive Bidder: A person who has submitted a bid or proposal which conforms in all material respects to the invitation for bids.

Sealed Bid: A bid whose contents are not disclosed until the bid opening date and time. Bids are typically submitted in sealed envelopes to meet this requirement.

Services: The furnishing of labor, time, or effort by a contractor not involving the delivery of a specific end product other than drawings, specifications, or reports which are merely incidental to the required performance.

Signature: A distinctive mark or characteristic indicating identity.

Small Business Procurement Initiative (SBPI): Executive Order 2011-09 establishes the SBPI and directs DGS to develop initiatives to create more opportunities in procurement for small businesses. The executive order firmly establishes the Commonwealth's commitment to providing opportunities for small businesses to compete for prime contracting opportunities with the goal of promoting the economic growth and success of small businesses. Businesses interested in participating as a small business in the SBPI, must first register to do business with the Commonwealth and self-certify as a "small business".

Specifications: The description of the physical or functional characteristics or the nature of a material or service. It may include a description of any requirement for inspecting, testing, or preparing a material or service for delivery.

State-Affiliated Entity: A Commonwealth authority or a Commonwealth entity. The term includes the Pennsylvania Turnpike Commission, the Pennsylvania Housing Finance Agency, the Pennsylvania Municipal Retirement System, the Pennsylvania Infrastructure Investment Authority, the State Public School Building Authority, the Pennsylvania Higher Educational Facilities Authority and the State Systems of Higher Education. None of these terms includes any court or other officer or agency of the unified judicial system, the General Assembly and its officers and agencies, PHEAA, any political subdivision or any local, regional or metropolitan transportation authority.

Statewide Agency Contract: A contract entered into by DGS which covers the multi-year, annual, semiannual, or quarterly contract requirements of all Commonwealth agencies and allows the agencies to order needed materials, services, or construction directly from the contractor. Sometimes called a "Statewide Requirements Contract".

APPENDIX B DEFINITIONS (Continued)

Subcontractor: An individual, business, university, governmental entity, or nonprofit organization contracting to perform part, or all, of another entity's contract.

Supplier: A bidder or contractor offering to provide materials and/or services. May also be referred to as a "vendor".

Supplier Registration: A series of steps suppliers must complete in order to gain access to the PA Supplier Portal. All procurement suppliers must register to be considered a source of supply or services and to respond to Commonwealth contract solicitations.

Supplier Service Center: A website which provides suppliers with the tools necessary to conduct electronic business with the Commonwealth. The Supplier Service Center houses information related to viewing and responding to current Commonwealth Bids and Managing User and Company Data.

Supplies: Any property including, but not limited to, equipment, materials, printing, insurance, and leases of and installment purchases of tangible or intangible personal property. The term does not include real property or leases of real property.

Suspension: The temporary disqualification of a person or entity from consideration for an award of any Commonwealth contract or subcontract for a period of up to three (3) months pending further investigation or the completion of legal proceedings if there is probable cause for debarment.

Taxes: Certain purchasers may be exempt from excise taxes imposed by the Internal Revenue Service, Pennsylvania state sales tax, local sales tax, public transportation assistance taxes, and fees and vehicle rental taxes. A purchaser may be registered with the Internal Revenue Service to make tax-free purchases. DGS will require each Purchaser claiming any tax exemption to complete the appropriate areas on the PO form to notify the Contractor of the applicable tax exemptions. The Pennsylvania Department of Revenue's regulations provide that exemption certificates are not required for sales made to governmental entities and no such certificates are issued.