1. **Purpose.** This multi-award competitive sealed request for applications("Application") provides information to enable potential Offerors to prepare and submit proposals for the Pennsylvania Infrastructure Investment Authority's ("PENNVEST") consideration.

2. **Determination to use Competitive Sealed Proposal Method.** Pursuant to Section 513(a) of Procurement Code, 62 Pa.C.S Sec. 513(a), PENNVEST has determined that the competitive sealed proposals process is the most practical and advantageous method for awarding the proposed contract(s) under this RFP to obtain the best value for PENNVEST.

3. **Issuing Office.** PENNNVEST (the "Issuing Office") has issued this Application on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this Application is the contact listed below, who is the Issuing Officer for this Application. Please refer all inquiries to the Issuing Officer. Any violation of this condition may be cause for the Issuing Office to reject the offending Offeror's proposal. Offerors must agree not to distribute any part of their proposals beyond the Issuing Office. An Offeror who shares information contained in its proposal with other Commonwealth personnel and/or competing Offeror may be disqualified.

4. **Project Description.** On July 11, 2022, Act 54 of 2022 (July 11, 2022, P.L. 40, No. 54) ("Act 54") was signed into law amending the Pennsylvania Fiscal Code and providing for the implementation of the Commonwealth's 2022-2023 budget, among other things. Under Section 1603-S of Act 54, PENNVEST was directed to establish the Clean Water Procurement Program to provide for the purchase of verified nutrient or sediment reduction through a competitive bidding process consistent with 62 Pa.C.S. Pt. I (relating to Commonwealth Procurement Code). (the "PENNVEST Clean Water Procurement Program"). The long term objective of the PENNVEST Clean Water Procurement Program is to improve water quality in the Commonwealth through the purchase of verified nutrient (nitrogen/phosphorus) or sediment reduction resulting from the installation of practices or combinations of practices determined to be effective and practical to manage nutrient and sediment to protect surface water and groundwater ("Best Management Practices"), as further defined under Act 54, with the goal of helping the Commonwealth to achieve the most current total maximum daily load limits for nitrogen, phosphorus and sediment as established by the United States Environmental Protection Agency (the "Chesapeake Bay TMDL"), as further defined under Act 54.

5. **Type of Contract.** If the Issuing Office enters into a contract as a result of this Application, it will be a fixed price-per-reduction contract and will contain standard terms and conditions (as set forth in Attachment A) in a non-negotiable contract to be executed after issuance of a notice of award under the PENNVEST Clean Water Procurement Program.

6. **Rejection of Proposals.** The Issuing Office reserves the right, in its sole and complete discretion, to reject any proposal received as a result of this Application.

7. **Incurring Costs.** The Issuing Office is not liable for any costs the Offeror incurs in preparation and submission of its Application, in participating in the Application process, or in anticipation of award of any contract.

8. **Questions & Answers.** Questions must be submitted to PENNVEST by email to RA-PVCWPP@pa.gov. Questions must be submitted prior to the posted deadline. The Issuing Office shall not be bound by any verbal information, nor shall it be bound by any written information that is not either contained within the Application or formally issued by the Issuing Office. The Issuing Office does not consider questions to be a protest of the specifications or the solicitation.

9. **Response Date.** To be considered for selection, electronic proposals must be submitted on or before March 3, 2027, at 5:00 PM EST. The Issuing Office will reject any late proposals.

10. **Proposal Submission.** To be considered for selection, Offerors must submit a complete response to this Application by the due date and time from an official authorized to bind the Offeror to its provisions. Clicking the "Finish" button within the Application constitutes an electronic signature. A proposal being timely submitted and electronically signed by the Offeror are the two (2) mandatory responsiveness requirements and are non-waivable. The Issuing Office reserves the right, in its sole discretion, to (1) waive any other technical or immaterial nonconformities in an Offeror's proposal, (2) allow the Offeror to cure the nonconformity, or (3) consider the nonconformity in the scoring of the Offeror's proposal. The proposal must remain valid for **120 days** or until a contract is fully executed, whichever is later. If the Issuing Office selects the Offeror's proposal for award, the contents of the selected Offeror's proposal will become contractual obligations.

11. **Proposal Format.** To be considered for selection, the Offeror must respond to all proposal requirements. Each proposal consists of the following submittal components: Application, Required Additional Documentation, Optional Supporting Documentation. Offerors should provide any other information thought to be relevant, but not applicable to the enumerated categories, as attachments. The Issuing Office reserves the right to request additional information which, in the Issuing Office's opinion, is necessary to assure that the Offeror's competence, number of qualified employees, business organization, and financial resources are adequate to perform according to the Application. The Issuing Office may make investigations as deemed necessary to determine the ability of the Offeror to perform the Project, and the Offeror shall furnish to the Issuing Office all requested information and data.

12. **Approved Verification Plan.** To be considered for selection, Offerors must submit their Chesapeake Bay Nutrient Trading Tool (CNBTT) data to the PA DEP Bureau of Clean Water no later 5:00 p.m. thirty (30) calendar days prior to the Response Date deadline set forth in Paragraph 9 above, in order to allow adequate time for the review and approval of the Offeror's Verification Plan. Applicants should refer to the DEP BMP Verification Project Plan Guidance located at: https://files.dep.state.pa.us/Water/ChesapeakeBayOffice/Appendix_H_2023_BMP_Verification_Project_Plan_QAPP_10-23-2023.pdf

13. **Eligible Reductions.** Only verified nutrient or sediment reductions resulting from annual Best Management Practices implemented on or after October 1st of 2026 will be eligible for purchase under this solicitation.

14. **Discussions for Clarification.** Offerors may be required to make an oral or written clarification of their proposals to the Issuing Office to ensure thorough mutual understanding and responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification. Clarifications may occur at any stage of the evaluation and selection process prior to contract execution.

15. **Prime Contractor Responsibilities.** The selected Offeror must perform the largest percentage of work as compared to its subcontractors and suppliers. Nevertheless, the contract will require the selected Offeror to assume responsibility for all services offered in its proposal whether it produces them itself or by subcontract. Further, the Issuing Office will consider the selected Offeror to be the sole point of contact with regard to all contractual matters.

16. **Proposal Contents.**

    A. Confidential Information. The Commonwealth is not requesting confidential proprietary information or trade secrets to be included as part of Offerors' submissions. Accordingly, except as provided herein, Offerors should not label proposal submissions as confidential or proprietary or trade secret protected. Any Offeror who determines that it must divulge such information as part of its proposal must submit a signed written statement. After contract award, the selected Offeror must additionally provide a redacted version of its proposal, which removes only the confidential proprietary information and trade secrets, for required public disclosure purposes.

    B. Commonwealth Use. All material submitted with the proposal shall be considered the property of the Commonwealth of Pennsylvania. The Commonwealth has the right to use any or all ideas not protected by intellectual property rights that are presented in any proposal regardless of whether the proposal becomes part of a contract. Notwithstanding any Offeror copyright designations contained in proposals, the Commonwealth shall have the right to make copies and distribute proposals internally and to comply with public record or other disclosure requirements under the provisions of any Commonwealth or United States statute or regulation, or rule or order of any court of competent jurisdiction.

    C. Public Disclosure. After the award of a contract pursuant to this Application, all proposal submissions are subject to disclosure in response to a request for public records made under the Pennsylvania Right-to-Know-Law, 65 P.S. § 67.101, et seq. If a proposal submission contains confidential proprietary information or trade secrets, a signed written statement to this effect must be provided with the submission in accordance with 65 P.S. § 67.707(b) for the information to be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests. If

financial capability information is submitted, such financial capability information is exempt from public records disclosure under 65 P.S. § 67.708(b)(26).

17. **News Releases.** Offerors shall not issue news releases, Internet postings, advertisements or any other public communications pertaining to this Project without prior written approval of the Issuing Office, and then only in coordination with the Issuing Office.

18. **Term of Contract.** The term of the contract will commence on the Effective Date and will end no later than ten (10) years after the Effective Date. The Issuing Office will fix the Effective Date after the contract has been fully executed by the selected Offeror and by the Commonwealth and all approvals required by Commonwealth contracting procedures have been obtained. Each contract will include any construction period and a maximum of five (5) years of reduction production (Production Period) during which the Offeror may deliver verified reductions provided that the total of the construction period and the five (5) year production period does not exceed the ten (10) year limit above. The selected Offeror shall not start the performance of any work prior to PENNVEST's issuance of a Notice to Proceed after the Effective Date of the contract.

19. **Notification of Award.** The Issuing Office will notify all Offerors in writing of the Offerors selected for award. Prior to execution of the contracts resulting from the Application, the selected Offerors must be registered in the Commonwealth of Pennsylvania's Vendor Master file. In order to register, Offerors must visit the Pa Supplier Portal at https://www.pasupplierportal.state.pa.us/ or call the Customer Support Center at 877-435-7363.

20. **Debriefing Conferences.** Upon notification of award, Offerors whose proposals were not selected will be given the opportunity to be debriefed. The Issuing Office will schedule the debriefing at a mutually agreeable time. The debriefing will not compare the Offeror with other Offerors, other than the position of the Offeror's proposal in relation to all other Offeror proposals. An Offeror's exercise of the opportunity to be debriefed does not constitute nor toll the time for filing a protest.

21. **Application Protest Procedure.** The Application Protest Procedure is on the DGS website at click here .A protest by a party that has not or has not yet submitted a proposal must be filed no later than the proposal submission deadline. Offerors may file a protest within seven days after the protesting Offeror knew or should have known of the facts giving rise to the protest, but in no event may an Offeror file a protest later than seven days after the date the notice of award of the contract is posted on the DGS website. The date of filing is the date of receipt of the protest. A protest must be filed in writing with the Issuing Office. To be timely, the protest must be received by 4:00 p.m. on the seventh day.

22. **Attachments to the Application.** All attachments to the Application are incorporated into and made part of the Application.

23. **Evaluation Criteria.** The Issuing Office has selected a committee of qualified personnel to review and evaluate timely submitted proposals. The following criteria will be used in evaluating each proposal:

    A. Technical. The Issuing Office has established the weight for the Technical criterion for this Application as 60% of the total points. Evaluation will be based upon the Ranking Criteria set forth in the PENNVEST Clean Water Procurement Program Guidance.

    B. Cost. The Issuing Office has established the weight for the Cost criterion for this Application as 40% of the total points. The cost criterion is rated by giving the proposal with the lowest cost per pound of nitrogen removed the maximum number of Cost points available. The remaining proposals are rated by applying the Ranking Criteria set forth in the PENNVEST Clean Water Procurement Program Guidance. Costs per nitrogen reduction must be consistent over the entire production period and cannot vary irrespective of the quantity of reductions ultimately delivered or the year in which delivered. The intent of the five-year Production Period is to provide Offerors with opportunities to price reductions competitively and deliver reductions over a longer period of time so that applications are less dependent on project cost.

    C. Domestic Workforce Utilization. Any points received for the Domestic Workforce Utilization criterion are bonus points in addition to the total points for this Application. The maximum amount of bonus points available is 3% of the total points for this Application. To the extent permitted by the laws and treaties of the United States, each proposal will be scored for its commitment to use domestic workforce in the fulfillment of the contract. Maximum consideration will be given to those Offerors who will perform the contracted direct labor exclusively within the geographical boundaries of the United States or within the geographical boundaries of a country that is a party to the World Trade Organization Government Procurement Agreement. Those who propose to perform a portion of the direct labor outside of the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement will receive a correspondingly smaller score for this criterion. The Domestic Workforce Utilization Formula is at the following webpage: https://www.dgs.pa.gov/Materials-Services-Procurement/Procurement-Resources/Pages/Application_SCORING_FORMULA.aspx

24. **Offeror Responsibility.** To be responsible, an Offeror must submit a responsive proposal and possess the capability to fully perform the contract requirements in all respects and the integrity and reliability to assure good faith performance of the contract. In order for an Offeror to be considered responsible for this Application and therefore eligible for selection for contract negotiations, the review committee must determine, in its sole discretion, that the proposal meets minimum technical requirements and the Offeror must demonstrate the financial capability to assure good faith performance of the contract.

25. **Contractor Responsibility.** Further, the Issuing Office will award a contract only to an Offeror determined to be responsible in accordance with the most current version of Commonwealth Management Directive 215.9, Contractor Responsibility Program.

26. **Final Ranking and Award.** The Issuing Office will combine the evaluation committee's final technical scores, the final cost scores, and the domestic workforce utilization scores. The Issuing Office will rank responsible Offerors according to the total overall score assigned to each in descending order. The Issuing Office must select for contract negotiations the Offerors with the highest overall scores in accordance with the PENNVEST Clean Water Procurement Program Guidance. The Issuing Office has the discretion to reject all proposals or cancel the request for proposals at any time prior to the time a contract is fully executed when it is in the best interests of the Commonwealth. The reasons for the rejection or cancellation shall be made part of the contract file.