

Request for Proposals

**Hardware and Associated Equipment and Services**

PROJECT NO. 060B2490022-2015



DEPARTMENT OF INFORMATION TECHNOLOGY  
(DoIT)

**Issue Date: January 13, 2016**

**Minority Business Enterprises are Encouraged to Respond to this Solicitation**

STATE OF MARYLAND
NOTICE TO OFFERORS/CONTRACTORS

In order to help us improve the quality of State Proposals solicitations, and to make our procurement process more responsive and business friendly, we ask that you take a few minutes and provide comments and suggestions regarding the enclosed solicitation. Please return your comments with your Proposals. If you have chosen not to submit a Proposal on this Contract, please email this completed form to hardwareproposals.doit@maryland.gov.

Title: Hardware and Associated Equipment and Services
Project No: 060B2490022-2015

- 1. If you have responded with a "no proposal", please indicate the reason(s) below:
( ) Other commitments preclude our participation at this time.
( ) The subject of the solicitation is not something we ordinarily provide.
( ) We are inexperienced in the work/commodities required.
( ) Specifications are unclear, too restrictive, etc. (Explain in REMARKS section.)
( ) The scope of work is beyond our present capacity.
( ) We cannot be competitive. (Explain in REMARKS section.)
( ) Time allotted for completion of the Proposals is insufficient.
( ) Proposals requirements (other than specifications) are unreasonable or too risky. (Explain in REMARKS section.)
( ) Prior State of Maryland Contract experience was unprofitable or otherwise unsatisfactory. (Explain in REMARKS section.)
( ) Other: \_\_\_\_\_

2. If you have submitted a Proposal, but wish to offer suggestions or express concerns, please use the Remarks section below.

REMARKS:
\_\_\_\_\_
\_\_\_\_\_

Offeror Name: \_\_\_\_\_ Date: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_

Address: \_\_\_\_\_

STATE OF MARYLAND  
DEPARTMENT OF INFORMATION TECHNOLOGY (DoIT)  
**KEY INFORMATION SUMMARY SHEET**

<b>RFP Title:</b>	<b>Hardware and Associated Equipment and Services</b>
<b>RFP Number:</b>	060B2490022-2015
<b>RFP Issue Date:</b>	January 13, 2016
<b>Proposal Due Date and Time:</b>	February 19, 2016 2:00 P.M., Local Time
<b>RFP Issuing Department:</b>	Department of Information Technology (DoIT) IT Procurement Office
<b>Send Questions (e-mail only) to:</b>	<a href="mailto:Gayle.mealy@maryland.gov">Gayle.mealy@maryland.gov</a> no later than Monday, February 1, 2016, 10:00 A.M. Local Time
<b>Questions Due Date and Time</b>	2/1/2016 at 10:00AM Local Time
<b>Procurement Officer:</b>	Gayle Mealy E-mail Address: <a href="mailto:gayle.mealy@maryland.gov">gayle.mealy@maryland.gov</a> Office Phone Number: 410-260-4074 Office FAX Number: 410-974- 5615
<b>Send Proposals to:</b>	Maryland Department of Information Technology 45 Calvert Street, Room 442A Annapolis, MD 21401 Attention: Gayle Mealy
<b>Contract Manager:</b>	Gayle Mealy E-mail Address: <a href="mailto:gayle.mealy@maryland.gov">gayle.mealy@maryland.gov</a> Office Phone Number: 410-260-4074 Office FAX Number: 410-974- 5615
<b>Contract Type</b>	Indefinite Quantity - Fixed Price and Labor Hour
<b>Contract Duration:</b>	12 Years
<b>MBE Goal:</b>	1%
<b>VSBE Subcontracting Goal</b>	0%
<b>Small Business Reserve</b>	No
<b>Pre-Proposal Conference:</b>	Tuesday, January 26 , 2016 at 10:00 AM EST Maryland State Building 100 Community Place Crownsville, Maryland 21032 See Attachment F for Directions and Response Form

## Table of Contents

<b>SECTION 1 - GENERAL INFORMATION.....</b>	<b>1</b>
1.1 SUMMARY STATEMENT .....	1
1.2 BACKGROUND .....	2
1.3 ABBREVIATIONS AND DEFINITIONS.....	2
1.4 MASTER CONTRACT TYPE .....	4
1.5 MASTER CONTRACT DURATION .....	4
1.6 PROCUREMENT OFFICER.....	5
1.7 CONTRACT MANAGER .....	5
1.8 PRE-PROPOSAL CONFERENCE.....	5
1.9 eMARYLAND MARKETPLACE (EMM).....	5
1.10 QUESTIONS .....	5
1.11 PROPOSALS DUE (CLOSING) DATE AND TIME.....	6
1.12 DURATION OF PROPOSAL .....	6
1.13 REVISIONS TO THE RFP .....	6
1.14 CANCELLATIONS.....	7
1.15 INCURRED EXPENSES .....	7
1.16 ECONOMY OF PREPARATION .....	7
1.17 PROTESTS/DISPUTES .....	7
1.18 MULTIPLE OR ALTERNATIVE PROPOSALS .....	7
1.19 PUBLIC INFORMATION ACT NOTICE.....	7
1.20 OFFEROR RESPONSIBILITIES .....	7
1.21 MANDATORY CONTRACTUAL TERMS .....	8
1.22 BID/PROPOSAL AFFIDAVIT.....	8
1.23 CONTRACT AFFIDAVIT.....	8
1.24 MINORITY BUSINESS ENTERPRISES.....	8
1.25 SMALL BUSINESS RESERVE .....	9
1.26 COMPLIANCE WITH LAWS/ARREARAGES .....	10
1.27 PROCUREMENT METHOD .....	10
1.28 VERIFICATION OF REGISTRATION AND TAX PAYMENT .....	10
1.29 FALSE STATEMENTS .....	10
1.30 NON-VISUAL ACCESS .....	11
1.31 PAYMENTS BY ELECTRONIC FUNDS TRANSFER.....	11
1.32 CONTRACT EXTENDED TO INCLUDE OTHER NON-STATE GOVERNMENTS OR AGENCIES	11
1.33 MERCURY AND PRODUCTS THAT CONTAIN MERCURY .....	12
1.34 CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE.....	12
1.35 PROMPT PAY POLICY .....	12
1.36 ELECTRONIC PROCUREMENTS AUTHORIZED.....	12
1.37 VETERAN-OWNED SMALL BUSINESS ENTERPRISE GOALS .....	14
1.38 LIVING WAGE REQUIREMENTS .....	14
1.39 LOCATION OF THE PERFORMANCE OF SERVICES DISCLOSURE .....	14
1.40 AWARD BASIS.....	14
1.41 PURCHASING AND RECYCLING ELECTRONIC PRODUCTS.....	14
<b>SECTION 2 – SCOPE OF WORK .....</b>	<b>16</b>

2.1 SCOPE ..... 16

2.2 GENERAL REQUIREMENTS ..... 16

2.3 FUNCTIONAL AREA I- SERVERS AND ASSOCIATED PERIPHERALS ..... 17

2.4 FUNCTIONAL AREA II- PRINTERS AND ASSOCIATED PERIPHERALS..... 17

2.5 FUNCTIONAL AREA III- NETWORK COMMUNICATIONS EQUIPMENT ..... 18

2.6 FUNCTIONAL AREA IV –INSTALLATION AND TRAINING SERVICES ..... 18

2.7 FUNCTIONAL AREA V – MANUFACTURER’S EXTENDED WARRANTY ..... 19

2.8 FUNCTIONAL AREA VI- SECURITY, CAMERAS AND ASSOCIATED PERIPHERALS ..... 19

2.9 WARRANTY ..... 20

2.10 PROCEDURE FOR ADDING A MANUFACTURER’S PRODUCT LINE..... 20

2.11 PORFP PROCEDURES ..... 20

2.12 ORDER PROCESSING PROCEDURE ..... 22

2.13 INSURANCE REQUIREMENTS ..... 22

2.14 INVOICING ..... 23

2.15 PERSONNEL QUALIFICATIONS (FUNCTIONAL AREA IV)..... 24

2.16 LABOR CATEGORIES AND QUALIFICATIONS..... 25

2.17 TRAVEL REIMBURSEMENT ..... 29

2.18 REPORTING ..... 29

**SECTION 3 – PROPOSAL FORMAT ..... 31**

3.1 TWO PART SUBMISSION ..... 31

3.2 PROPOSALS ..... 31

3.3 SUBMISSION..... 31

3.4 VOLUME I – TECHNICAL PROPOSAL..... 31

3.5 VOLUME II - FINANCIAL PROPOSAL..... 34

**SECTION 4 – EVALUATION CRITERIA AND SELECTION PROCEDURE ..... 36**

4.1 EVALUATION CRITERIA ..... 36

4.2 TECHNICAL CRITERIA ..... 36

4.3 FINANCIAL CRITERIA ..... 36

4.4 RECIPROCAL PREFERENCE ..... 36

4.5 SELECTION PROCEDURES ..... 36

ATTACHMENT A – HARDWARE AND ASSOCIATED EQUIPMENT AND SERVICES CONTRACT .. 39

ATTACHMENT B - BID/PROPOSAL AFFIDAVIT..... 58

ATTACHMENT C - CONTRACT AFFIDAVIT..... 65

ATTACHMENT D – MINORITY BUSINESS ENTERPRISE REQUIREMENTS..... 69

MBE ATTACHMENT D-1A: MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT & MBE PARTICIPATION SCHEDULE ..... 79

MBE ATTACHMENT D-1A: MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT & MBE PARTICIPATION SCHEDULE ..... 81

MBE ATTACHMENT D-1B WAIVER GUIDANCE ..... 84

MBE ATTACHMENT D-1C..... 90

MBE ATTACHMENT D- 2..... 95

MBE ATTACHMENT D-3A..... 96

MBE ATTACHMENT D-3B ..... 98

MBE ATTACHMENT D-4A MBE PRIME CONTRACTOR PAID/UNPAID MBE INVOICE REPORT ..... 100

MBE ATTACHMENT D-4B MBE PRIME CONTRACTOR REPORT ..... 102

MBE D-5 SUBCONTRACTOR PAID/UNPAID MBE INVOICE REPORT ..... 103

ATTACHMENT E- PRICE PROPOSAL FORM AND INSTRUCTIONS ..... 104

ATTACHMENT E-I - FUNCTIONAL AREA I - SERVERS AND ASSOCIATED PERIPHERALS MSRP COMMITMENT ..... 106

ATTACHMENT E-II - FUNCTIONAL AREA II - PRINTERS AND ASSOCIATED PERIPHERALS MSRP COMMITMENT ..... 107

ATTACHMENT E-III - FUNCTIONAL AREA III - NETWORK COMMUNICATIONS EQUIPMENT MSRP COMMITMENT ..... 108

ATTACHMENT E-IV FUNCTIONAL AREA IV - INSTALLATION AND TRAINING SERVICES LABOR RATE SCHEDULE ..... 109

ATTACHMENT E-V -FUNCTIONAL AREA V - MANUFACTURER’S WARRANTY SERVICES MSRP PRICE COMMITMENT ..... 110

ATTACHMENT E-VI - FUNCTIONAL AREA VI SECURITY, CAMERAS AND ASSOCIATED PERIPHERALS MSRP COMMITMENT ..... 111

ATTACHMENT F – PRE-PROPOSAL CONFERENCE RESPONSE FORM ..... 112

ATTACHMENT G - CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE ..... 114

ATTACHMENT H – MERCURY AFFIDAVIT ..... 115

ATTACHMENT I – OFFEROR INFORMATION SHEET ..... 116

## SECTION 1 - GENERAL INFORMATION

### 1.1 Summary Statement

**1.1.1** The Department of Information Technology (DoIT or the “Department”) is issuing this Request for Proposals (RFP) to procure hardware and associated equipment and services, installation and training services for the hardware, and manufacturer’s extended warranty, for the State of Maryland. The Master Contracts awarded as a result of this solicitation will provide the State with a flexible means of obtaining these products and services quickly, efficiently and cost effectively through the issuance of Purchase Order Requests for Proposals (PORFPs) specific to its needs. Laptops, tablets and desktops are excluded from this RFP.

**1.1.2** The scope of this solicitation encompasses six (6) functional areas as follows:

**Functional Area I** –Servers and Associated Peripherals

**Functional Area II**- Printers and Associated Peripherals

**Functional Area III**- Network Communications Equipment

**Functional Area IV**- Installation and Training Services

**Functional Area V**- Manufacturer’s Extended Warranty

**Functional Area VI**- Security, Cameras and Associated Peripherals

Offerors may propose to multiple functional areas, but should note that Functional Area IV (Installation and Training Services) **will not** be awarded on a standalone basis. In other words, Offerors may not propose to **only** Functional Area IV.

**1.1.3** DoIT intends to award Master Contracts to an unlimited number of qualified Offerors that are authorized by the Manufacturer or Distributor to sell the proposed products and services.

**1.1.4** A Master Contractor/Manufacturer Product Line matrix will be established and maintained by DoIT. Master Contractors may add manufacturers’ products and/or services from time to time throughout the life of the Master Contract by submitting Letters of Authorization from the manufacturer or distributor of the hardware in accordance with the procedure set forth in Section 2.10.

**1.1.5** Throughout the term of the Master Contract, each request for hardware, installation and/or training services, and/or manufacturer’s extended warranty will be issued and summarized by the Requesting Agency in a PORFP. All eligible Master Contractors will be invited to compete for the award and, based on the responses received, a Master Contractor will be selected to provide the requested hardware, installation and/or training services and/or manufacturer’s extended warranty. A Purchase Order (PO) will then be issued by the Requesting Agency to the selected Master Contractor, which will bind the Master Contractor to the terms of the PORFP response, including the price. Neither a PORFP, nor a PO, may, in any way, conflict with or supersede the Master Contract.

At specified intervals throughout the term of the Master Contract, DoIT may issue updated contractual language to reflect changes in program procedures and applicable law. Master Contractors will be required to execute contract modifications that incorporate these changes in order to remain eligible to compete for PORFPs issued through the program.

## 1.2 Background

This Hardware and Associated Equipment and Services Program, which began in 2012, is comprised of multiple Master Contracts with select Master Contractors. Every three years, DoIT will open Expansion Windows (described in section 1.5) to allow new vendors to propose to enter the program and to allow existing Master Contractors to add functional areas. As of November 2015, the hardware equipment and services purchased under this program totaled approximately \$ 86,756,035.00.

## 1.3 Abbreviations and Definitions

For purposes of this RFP, the following abbreviations or terms have the meanings indicated below:

- |    |  |   |
|----|--|---|
| a. | Agency Point of Contact (Agency POC)                                   | Requesting Agency contact listed in a PORFP   |
| b. | Business Day   | Monday through Friday (excluding State holidays)  |
| c. | COMAR  | Code of Maryland Regulations available on-line at <a href="http://www.dsd.state.md.us">www.dsd.state.md.us</a>  |
| d. | Contract or Master Contract  | The contract awarded to the successful Offeror(s) pursuant to this RFP, the form of which is attached to this RFP as Attachment A.  |
| e. | Contract Manager   | The State representative for the Master Contract who is primarily responsible for contract administration functions, including issuing written direction, invoice approval, monitoring the Master Contract to ensure compliance with the terms and conditions of the Master Contract, monitoring MBE and VSBE compliance, and achieving completion of the Master Contract on budget, on time, and within scope. |
| f. | Contractor or Master Contractor  | An Offeror awarded a Contract pursuant to this RFP.   |
| g. | Contractor Personnel   | Employees and agents and subcontractor employees and agents performing work at the direction of the Contractor under the terms of the Contract awarded from this RFP.   |
| h. | Contractor's Point of Contact (Contractor's POC)                       | Person designated at the time of Contract award by the Contractor as the single point of contact with the authority and knowledge to resolve contract issues.   |
| i. | Maryland Department of Information Technology (DoIT or the Department) | The unit of the Maryland State government procuring equipment and services through the Master Contract issued as a result of this RFP   |
| j. | Distributor  | First tier agent authorized by the requisite parties that own rights to the hardware product, to sell and/or service the hardware product   |
| k. | DGS  | Maryland Department of General Services   |
| l. | DoIT   | Maryland Department of Information Technology   |
| m. | eMM  | eMaryland Marketplace   |
| n. | Expansion Window   | A period during which new Offerors may propose to become Master Contractors.  |
| o. | Firm Fixed-Price PORFP   | A PORFP which places responsibility on the Contractor for the delivery of hardware and the  |

- complete performance of any services in accordance with the PORFP at a price that is not subject to adjustment
- p. Fixed Hourly Labor Category Rates Fully loaded hourly rates established in the Master Contract that include all direct and indirect costs and profit for the Master Contractor to perform Installation services required in a PORFP.
- q. Fully Loaded The inclusion in labor category billing rates of all profit, direct and indirect costs associated with performing Installation or Training services required in a PORFP. The indirect costs shall include all costs that would normally be considered general and administrative costs and/or routine travel costs, or which in any way are allocated by the Master Contractor against direct labor hours as a means of calculating profit or recouping costs which cannot be directly attributable to services required in a PORFP. Non-routine travel costs will be identified in a PORFP, when appropriate.
- r. Installation Transferring Manufacturer's electronic media to computer systems so that the hardware will provide the features and functions generally described in the user documentation
- s. IT Information Technology
- t. Letter of Authorization A document issued by the Manufacturer or Distributor authorizing the Offeror / Contractor to sell and/or provide services for the Manufacturer's product line
- u. Local Time Time in the Eastern Time zone as observed by the State of Maryland. Unless otherwise specified, all stated times shall be Local Time, even if not expressly designated as such.
- v. Manufacturer All entities engaged in the production, preparation, assembly, or construction of hardware and associated equipment and owning the right thereto.
- w. Minority Business Enterprise (MBE) A Minority Business Enterprise certified by the Maryland Department of Transportation under COMAR 21.11.03
- x. MSRP Manufacturer's Suggested Retail Price
- y. Normal State Business Hours Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: [www.dbm.maryland.gov](http://www.dbm.maryland.gov) – keyword: State Holidays
- z. Offeror An entity that submits a Proposal in response to this RFP
- aa. POC Point of Contact
- bb. Procurement Officer The State representative who is responsible for the Contract, determining scope issues and is the only State representative that can authorize changes to the Contract.

cc. Proposal	As appropriate, either or both an Offeror's Technical or Financial Proposal
dd. Purchase Order (PO)	Authorizes the selected Master Contractor to proceed with delivery of products and/or any services requested via a PORFP
ee. Purchase Order Request for Proposal (PORFP)	A request by the Requesting Agency for the proposal of the required Hardware, Installation and/or Manufacturer's extended warranty
ff. Request for Proposals (RFP)	This Request for Proposals for the Maryland Department of Information Technology, including any amendments / addenda thereto
gg. Requesting Agency	The unit of the Executive Branch of Maryland State government issuing the PORFP.
hh. SBR	Small Business Reserve - A procurement in accordance with Title 14, Subtitle 5 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended. See Section 1.25 for details.
ii. State	The State of Maryland
jj. Veteran-owned Small Business Enterprise (VSBE)	A business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13 and <a href="http://www.vetbiz.gov">http://www.vetbiz.gov</a> .
kk. Working Day(s)	Same as "Business Day"

#### **1.4 Master Contract Type**

The Master Contract shall be an Indefinite Quantity Contract as defined in COMAR 21.06.03.06. Fixed Price (FP) and Labor Hour PORFPs will be issued under the Master Contract as described in each respective PORFP, as appropriate to the type of products and/or services being requested.

#### **1.5 Master Contract Duration**

The term of this Contract shall be for a period of 12 years, beginning on or about May 1, 2016 and will terminate on July 31, 2027.

At three (3) year intervals following award, DoIT will announce Expansion Windows during which new Offerors may propose to become Master Contractors. Further, during an announced Expansion Window, DoIT will allow existing Master Contractors to propose to add functional areas to their Master Contract. Expansion Windows will continue through Year 9 of the Master Contract.

At specified intervals throughout the term of the Master Contract, DoIT may issue updated contractual language to reflect changes in program procedures and applicable law. Master Contractors will be required to execute contract modifications that incorporate these changes in order to remain in the COTS program.

**1.6 Procurement Officer**

The sole POC in the State for purposes of this RFP prior to the award of any Contract is the Procurement Officer as listed on the Key Information Sheet.

DoIT may change the Procurement Officer at any time by written notice.

**1.7 Contract Manager**

The DoIT Contract Manager for the Contract is listed on the Key Information Summary Sheet.

DoIT may change the Contract Manager at any time by written notice.

**1.8 Pre-proposal Conference**

1.8.1 A pre-proposal conference will be held at the time, date and location indicated on the Key Information Summary Sheet. Attendance at the Conference is not mandatory, but all interested Offerors are encouraged to attend in order to facilitate better preparation of their Proposals.

1.8.2 Seating at pre-proposal conference will be limited to two (2) attendees per company. Attendees should bring a copy of the solicitation and a business card to help facilitate the sign-in process.

1.8.3 The pre-proposal conference will be summarized in writing. As promptly as is feasible subsequent to the pre-proposal conference, the attendance record and pre-proposal summary will be distributed via the same mechanism described for amendments and questions.

1.8.4 In order to assure adequate seating and other accommodations at the pre-proposal conference, please e-mail the Pre-Proposal Conference Response Form (Attachment F) no later than the time and date indicated on the form. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please call the Procurement Officer no later than five (5) business days prior to the pre-proposal conference. The Department will make reasonable efforts to provide such special accommodation.

**1.9 eMaryland Marketplace (eMM)**

1.9.1 eMM is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the DoIT web site ([www.DoIT.maryland.gov](http://www.DoIT.maryland.gov)) and possibly using other means for transmitting the RFP and associated materials, the solicitation and summary of the pre-proposal conference, Offeror questions and the Procurement Officer's responses, addenda, and other solicitation related information will be provided via eMM.

1.9.2 In order to receive a Contract award, a company must be registered on Maryland Marketplace (eMM). Guidelines can be found on the eMaryland Marketplace website at <https://emaryland.buyspeed.com>.

**1.10 Questions**

1.10.1 All questions shall be submitted via e-mail to the Procurement Officer no later than the date and time indicated in the Key Information Summary Sheet. Please identify in the subject line the

Solicitation Number and Title. Answers to all questions that are not clearly specific only to the requestor will be distributed via the same mechanism as for RFP amendments and posted on eMM.

1.10.2 Only answers that have been answered in writing by the State can be considered final and binding.

### **1.11 Proposals Due (Closing) Date and Time**

- 1.11.1 Proposals, in the number and form set forth in Section 3.2 “Proposals,” must be received by the Procurement Officer no later than the date and time listed on the Key Information Summary Sheet in order to be considered.
- 1.11.2 Requests for extension of this date or time will not be granted. Offerors mailing Proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02, Proposals received by the Procurement Officer after the due date and time shall not be considered.
- 1.11.3 Proposals may be modified or withdrawn by written notice received by the Procurement Officer before the Proposals due time and date.
- 1.11.4 Proposals may not be submitted by e-mail or facsimile.
- 1.11.5 Companies not responding to this solicitation are requested to submit the “Notice to Offerors/Contractors” form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements).

### **1.12 Duration of Proposal**

Proposals submitted in response to this RFP are irrevocable for the latest of the following: 180 days following the closing date for submission of Proposals, best and final offers (if requested), or the date any protest concerning this RFP is finally resolved. This period may be extended at the Procurement Officer’s request only with the Offeror’s written agreement.

### **1.13 Revisions to the RFP**

- 1.13.1 If it becomes necessary to revise this RFP before the due date for Proposals, the Department shall endeavor to provide addenda to all prospective Offerors that were sent this RFP or which are otherwise known by the Procurement Officer to have obtained this RFP. In addition, addenda to the RFP will be posted on the Department’s procurement web page and through eMM. It remains the responsibility of all prospective Offerors to check all applicable websites for any addenda issued prior to the submission of Proposals. Addenda made after the due date for Proposals will be sent only to those Offerors that submitted a timely Proposal and that remain under award consideration as of the issuance date of the addenda.
- 1.13.2 Acknowledgment of the receipt of all addenda to this RFP issued before the Proposal due date shall be included in the Transmittal Letter accompanying the Offeror’s Technical Proposal. Acknowledgement of the receipt of addenda to the RFP issued after the Proposal due date shall be in the manner specified in the addendum notice. Failure to acknowledge receipt of an addendum does not relieve the Offeror from complying with the terms, additions, deletions, or corrections set forth in the addendum, and may cause the Proposal to be deemed not susceptible for award.

**1.14 Cancellations**

The State reserves the right to cancel this RFP, accept or reject any and all Proposals, in whole or in part, received in response to this RFP, to waive or permit cure of minor irregularities, and to conduct discussions with all qualified or potentially qualified Offerors in any manner necessary to serve the best interests of the State. The State also reserves the right, in its sole discretion, to award a Contract based upon the written Proposals received without prior discussions or negotiations.

**1.15 Incurred Expenses**

The State will not be responsible for any costs incurred by an Offeror in preparing and submitting a Proposal, in making an oral presentation, in providing a demonstration, or in performing any other activities related to submitting a Proposal in response to this solicitation.

**1.16 Economy of Preparation**

Proposals should be prepared simply and economically, providing a straightforward and concise description of the Offeror's Proposal to meet the requirements of this RFP.

**1.17 Protests/Disputes**

Any protest or dispute related respectively to this solicitation or the Contract shall be subject to the provisions of COMAR 21.10 (Administrative and Civil Remedies).

**1.18 Multiple or Alternative Proposals**

Neither multiple nor alternate Proposals will be accepted. Submitting Proposals for more than one functional area is not considered a multiple or alternate Proposal.

**1.19 Public Information Act Notice**

1.19.1 Offerors should give specific attention to the clear identification of those portions of their Proposals that they deem to be confidential, proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, General Provisions Article, Title 4, Md. Code Ann. This confidential and/or proprietary information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical Proposal and if applicable, separately in the Financial Proposal.

1.19.2 Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information must be disclosed.

**1.20 Offeror Responsibilities**

1.20.1 The successful Offeror(s) shall be responsible for rendering products/services for which it has been selected as required by this RFP within the functional area proposed. All subcontractors shall be

identified and a complete description of their role relative to the Proposal shall be included in the Offeror's Proposal

1.20.2 If an Offeror that seeks to perform or provide the services required by this RFP is the subsidiary of another entity, all information submitted by the Offeror, such as, but not limited to, references, financial reports, or experience and documentation (e.g. insurance policies, bonds, letters of credit) used to meet minimum qualifications, if any, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's Proposal shall contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.

1.20.3 Although experience and documentation of an Offeror's parent may be used to satisfy minimum qualifications, a parental guarantee of the performance of the Offeror under this Section will not automatically result in crediting the Offeror with the experience and/or qualifications of the parent under any evaluation criteria pertaining to the actual Offeror's experience and qualifications. Instead, the Offeror will be evaluated on the extent to which the State determines that the experience and qualifications of the parent are transferred to and shared with the Offeror, any stated intent by the parent in its guarantee of performance for direct involvement in the performance of the Contract, and the value of the parent's participation as determined by the State.

### **1.21 Mandatory Contractual Terms**

By submitting a Proposal in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms of this RFP and the Contract, attached hereto as Attachment A. Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary of the Technical Proposal. A proposal that takes exception to these terms may be rejected.

### **1.22 Bid/Proposal Affidavit**

A Proposal submitted by an Offeror, must be accompanied by a completed Bid/Proposal Affidavit. A copy of this Affidavit is included as Attachment B of this RFP.

### **1.23 Contract Affidavit**

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete a Contract Affidavit. A copy of this Affidavit is included for informational purposes as Attachment C of this RFP. This Affidavit shall be provided within five (5) business days from notification of recommended award.

### **1.24 Minority Business Enterprises**

An overall MBE subcontractor participation goal of 1% has been established for the aggregate of all PORFPs awarded pursuant to this RFP. The State shall assess the potential for an MBE subcontractor participation goal for each PORFP issued which includes work in Functional Area IV (including any PORFP designated as a Small Business Reserve) and shall set a goal, if appropriate.

#### **1.24.1 RFP Requirements**

Each Offeror shall complete, sign and submit, without edits, Attachment D-A-Hardware Master Contract, Master Contractor, Acknowledgement of PORFP MBE Requirements **at the time it submits its technical response to this RFP**. Failure to do so will result in the State's rejection of the Offeror's Proposal to the RFP as nonresponsive.

#### 1.24.2 PORFP Requirements

Master Contractors responding to a PORFP containing Functional Area IV shall complete, sign, without edits, and submit all required MBE documentation - PORFP Attachments D-1 (Certified MBE Utilization and Fair Solicitation Affidavit) and D-2 (MBE Participation Schedule) at the time of PO Proposal submission. Failure to do so will result in the State's rejection of the Master Contractor's proposal to the PORFP.

Each Master Contractor, once awarded a PO, will be responsible for submitting the following forms to provide the State with ongoing monitoring of MBE Participation:

Attachment D-1A MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule  
**(must submit with Response to PORFP)**

Attachment D-1B Waiver Guidance

Attachment D-1C Good Faith Efforts Documentation to Support Waiver Request

Attachment D-2 Outreach Efforts Compliance Statement

Attachment D-3A MBE Subcontractor Project Participation Certification

Attachment D-3B MBE Prime Project Participation Certification

Attachment D-4A Prime Contractor Paid/Unpaid MBE Invoice Report

Attachment D-4B MBE Prime Contractor Report

Attachment D-5 Subcontractor/Contractor Unpaid MBE Invoice Report

The most current directory of certified MBEs is available on <http://www.mdot.state.md.us> through MDOT, Office of Minority Business Enterprise, 7201 Corporate Center Drive, Hanover, MD 21076, phone number 410-865-1269.

#### 1.24.3 MBE COMPLIANCE AND LIQUIDATED DAMAGES

It is critical to the success of the State's MBE Program that its contractors make good faith efforts to comply with the Program and contract provisions. To that end, COMAR 21.11.03.10 requires all contracts containing certified MBE participation goals to also contain a liquidated damages provision in the event the contractor fails to comply in good faith with the provisions of the State MBE laws or the pertinent contract terms.

By submitting a response to this solicitation, the Master Contractor agrees to make good faith efforts to comply with the MBE program, and agrees that it shall be subject to the Liquidated Damages provision set forth at §18.14 of the Master Contract (Attachment A).

### 1.25 Small Business Reserve

1.25.1 The State reserves the right to designate any PORFP issued pursuant to this RFP as a Small Business Reserve (SBR) PORFP. The Requesting Agency for a SBR PORFP must be a "designated procurement unit" pursuant to §14-501(b) of the State Finance and Procurement Article of the Maryland Annotated Code as amended from time to time. In such event, the resulting PO may only be awarded to a Contractor that meets the qualifications set out in §14-501(c), State Finance &

Procurement Article, Annotated Code of Maryland, and is registered with the Department of General Services SBR Program.

- 1.25.2 Throughout the term of the Master Contract, SBR Contractors shall notify the Contract Manager of any change in their status with the program. Should a Master Contractor become SBR-certified after award, that Master Contractor shall notify the Contract Manager and provide the Contract Manager with its DGS-assigned Small Business Qualification number.

### **1.26 Compliance with Laws/Arrearages**

- 1.26.1 By submitting a Proposal in response to this RFP, the Offeror, if selected for award, agrees that it will comply with all federal, State, and local laws applicable to its activities and obligations under the Contract.
- 1.26.2 By submitting a response to this solicitation, the Offeror represents that it is not in arrears in the payment of any obligations due to the State of Maryland, including the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of the Contract if selected for award.

### **1.27 Procurement Method**

This Contract will be awarded in accordance with the Competitive Sealed Proposals procurement method as described in COMAR 21.05.03.

### **1.28 Verification of Registration and Tax Payment**

- 1.28.1 Before a business entity can do business in the State, it must be registered with the Department of Assessments and Taxation, State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. The SDAT website is <http://sdatcert3.resiusa.org/ucc-charter/>.
- 1.28.2 It is strongly recommended that any potential Offeror should complete registration prior to the due date for receipt of Proposals. An Offeror's failure to complete registration with the Department of Assessments and Taxation may disqualify an otherwise successful Offeror from final consideration and recommendation for award.

### **1.29 False Statements**

Offerors are advised that section Md. Code Ann., of the State Finance and Procurement Article § 11-205.1 provides as follows:

- 1.29.1 In connection with a procurement contract a person may not willfully:
- a. Falsify, conceal, or suppress a material fact by any scheme or device;
  - b. Make a false or fraudulent statement or representation of a material fact; or
  - c. Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.
- 1.29.2 A person may not aid or conspire with another person to commit an act under subsection (1) of this section.

- 1.29.3 A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding five (5) years or both.

### **1.30 Non-Visual Access**

- 1.30.1 By submitting a Proposal in response to a PORFP, the Master Contractor warrants that any hardware or associated equipment offered under the PORFP (1) provides equivalent access for effective use by both visual and non-visual means; (2) will present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use; (3) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and (4) is available, whenever possible, without modification for compatibility with software and hardware for non-visual access. The Master Contractor further warrants that the cost, if any, of modifying the Information Technology (IT) for compatibility with software and hardware used for non-visual access will not increase the cost of the IT by more than five percent (5%). For purposes of this Master Contract, the phrase “equivalent access” means the ability to receive, use and manipulate information and operate controls necessary to access and use information technology by non-visual means. Examples of equivalent access include keyboard controls used for input and synthesized speech, Braille, or other audible or tactile means used for output.
- 1.30.2 The Non-visual Access Clause noted in COMAR 21.05.08.05 and referenced in this solicitation is the basis for the standards that have been incorporated into the Maryland regulations, which can be found at: [www.dbm.maryland.gov](http://www.dbm.maryland.gov) - keyword: NVA

### **1.31 Payments by Electronic Funds Transfer**

- 1.31.1 By submitting a response to this solicitation, the Offeror agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller’s Office grants an exemption. Payment by EFT is mandatory for contracts exceeding \$200,000. The successful Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form.
- 1.31.2 Any request for exemption shall be submitted to the State Comptroller’s Office for approval at the address specified on the COT/GAD X-10 form and shall include the business identification information as stated on the form and include the reason for the exemption. The COT/GAC X-10 form can be downloaded at:  
[http://comptroller.marylandtaxes.com/Vendor\\_Services/Accounting\\_Information/Static\\_Files/GAD\\_X10Form20150615.pdf](http://comptroller.marylandtaxes.com/Vendor_Services/Accounting_Information/Static_Files/GAD_X10Form20150615.pdf)

### **1.32 Contract Extended to Include Other Non-State Governments or Agencies**

For the purposes of an Information Technology or telecommunications procurement, pursuant to sections 3A-401(b) and 13-110 of the State Finance and Procurement Article of the Annotated Code of Maryland, county, municipal, State entities that are not subject to DoIT’s authority, including State non-executive branch entities, and non-State governments or agencies may purchase from the Contractor goods or services covered by this Contract at the same maximum prices to which the State would be subject under the resulting Contract. All such purchases:

- a. Shall constitute contracts between the Master Contractor and that government, agency or organization;
- b. For non-State entities, shall not constitute purchases by the State or State agencies under this Contract;
- c. For non-State entities , shall not be binding or enforceable against the State, and
- d. May be subject to other terms and conditions agreed to by the Master Contractor and the purchaser. Master Contractor bears the risk of determining whether or not a government or agency with which the Contractor is dealing is a State agency.

### **1.33 Mercury and Products That Contain Mercury**

This solicitation and resulting Purchase Orders require that all materials used in the performance of the Contract and subsequent Purchase Orders and shall be mercury-free products. The Offeror shall submit a Mercury Affidavit with its PORFP Proposal found in Attachment I.

### **1.34 Conflict of Interest Affidavit and Disclosure**

- 1.34.1 The successful Offeror(s) will provide hardware and associated equipment and services for State agencies, or component programs with those agencies and must do so impartially and without any conflicts of interest.
- 1.34.2 Master Contractors may be required to complete a Conflict of Interest Affidavit with a Proposal submitted in response to a PORFP. A copy of this Affidavit is included as Attachment H of this RFP. If the Procurement Officer makes a determination before award of a PO pursuant to a respective PORFP that facts or circumstances exist that give rise to or could in the future give rise to a conflict of interest within the meaning of COMAR 21.05.08.08A, the Procurement Officer may reject a Proposal under COMAR 21.06.02.03B.
- 1.34.3 By submitting a Conflict of Interest Affidavit and Disclosure, the Contractor shall be construed as certifying all personnel and subcontractors are also without a conflict of interest as defined in COMAR 21.05.08.08A.

### **1.35 Prompt Pay Policy**

This procurement and the Contract to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs (GOMA) and dated August 1, 2008. Promulgated pursuant to Md. Code Ann., State Finance and Procurement Article, §§ 11-201, 13-205(a), and Title 14, Subtitle 3, and COMAR 21.01.01.03 and 21.11.03.01, the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The Contractor must comply with the prompt payment requirements outlined in the Contract, Sections 8 "Prompt Pay Requirements" and 18.14.3 "MBE Prompt Pay Requirements" (see Attachment A), should an MBE goal apply to this RFP. Additional information is available on GOMA's website at: <http://goma.maryland.gov/Pages/Legislation-and-Policy.aspx>.

### **1.36 Electronic Procurements Authorized**

- 1.36.1 Under COMAR 21.03.05, unless otherwise prohibited by law, a primary procurement unit may conduct procurement transactions by electronic means, including the solicitation, bidding, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.
- 1.36.2 Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or the Contract.
- 1.36.3 “Electronic means” refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes facsimile, e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://emaryland.buyspeed.com/bsol/>), and electronic data interchange.
- 1.36.4 In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., § 1.31 “Payments by Electronic Funds Transfer”) and subject to the exclusions noted in section 1.36.5 of this subsection, the following transactions are authorized to be conducted by electronic means on the terms as authorized in COMAR21.03.05:
1. The Procurement Officer may conduct the procurement using eMM, e-mail, or facsimile to issue:
    - a. the solicitation (e.g., the RFP)
    - b. any amendments
    - c. pre-proposal conference documents
    - d. questions and responses
    - e. communications regarding the solicitation or Proposal to any Offeror or potential offeror
    - f. notices of award selection or non-selection
    - g. the Procurement Officer’s decision on any solicitation protest or Contract claim
  2. An Offeror or potential Offeror may use e-mail or facsimile to:
    - a. ask questions regarding the solicitation
    - b. reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer’s request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer
    - c. submit a "No Bid/Proposal Response" to the solicitation
  3. The Procurement Officer, the Contract Manager, and the Contractor may conduct day-to-day Contract administration, except as outlined in Section 1.36.5 of this subsection, utilizing e-mail, facsimile, or other electronic means if authorized by the Procurement Officer or Contract Manager.
- 1.36.5 The following transactions related to this procurement and any Contract awarded pursuant to it are *not authorized* to be conducted by electronic means:
- a. submission of initial Proposals;
  - b. filing of protests;
  - c. filing of Contract claims;

- d. submission of documents determined by the Department to require original signatures (e.g., Contract execution, Contract modifications); or
- e. any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Offeror be provided in writing or hard copy.

### **1.37 Veteran-Owned Small Business Enterprise Goals**

A Veteran-Owned Small Business Enterprise goal has not been established for this RFP.

### **1.38 Living Wage Requirements**

Living Wage Requirements are not applicable to this RFP.

### **1.39 Location of the Performance of Services Disclosure**

The Contract does not require a Location of the Performance of Services Disclosure.

### **1.40 Award Basis**

A Contract shall be awarded to the responsible Offerors submitting a Proposal that has been determined to meet proposal requirements, considering evaluation factors set forth in this RFP (see COMAR 21.05.03.03F), for providing the products/services as specified in this RFP. See RFP Section 4 for further award information.

### **1.41 Purchasing and Recycling Electronic Products**

- 1.41.1 Md. Code Ann., State Finance and Procurement §14-413 (effective October 1, 2012) requires State agencies purchasing computers and other electronic products in categories covered by EPEAT to purchase models rated EPEAT Silver or Gold unless the requirement is waived by the Department of Information Technology (DoIT). This information is located on the DGS web site: <http://www.dgs.maryland.gov/GreenOperations/GreenPurchasing/Guidelines/specs/ElectronicandITProductsSpecification.pdf>.
- 1.41.2 Guidelines provided by DGS require planning and coordination of the proper disposition of Information Technology equipment. Md. Code Ann., State Finance and Procurement §14-414 (effective October 1, 2012) requires state agencies awarding contracts for services to recycle electronic products to award the contract to a recycler that is R2 or e-Stewards certified. This information is located on the DGS web site: <http://www.dgs.maryland.gov/GreenOperations/GreenPurchasing/Guidelines/specs/ElectronicProductDisposalSpecification.pdf>.
- 1.41.3 Guidelines provided by DoIT discuss information and guidance on the proper disposition of IT equipment, media sanitization, and protecting confidential information stored on media. This information is located in the State's Information Technology (IT) Security Policy <http://doit.maryland.gov/support/pages/securitypolicies.aspx>. Section 6.5 Media Protection provides guidance on proper precautions to protect confidential information stored on media.

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## SECTION 2 – SCOPE OF WORK

### 2.1 Scope

**2.1.1** The scope of this solicitation encompasses the following six (6) functional areas. Manufacturer's Warranty is included with Functional Areas I, II, III, and VI.

- A) Functional Area I - Servers and Associated Peripherals
- B) Functional Area II - Printers and Associated Peripherals
- C) Functional Area III - Network Communications Equipment
- D) Functional Area IV - Installation and Training Services
- E) Functional Area V- Manufacturer's Extended Warranty
- F) Functional Area VI- Security, Cameras and Associated Peripherals

**2.1.2** This solicitation does not include stand-alone software, laptops or desktops.

### 2.2 General Requirements

Depending upon the requirements of PORFP, the following shall apply:

#### 2.2.1 Required Project Policies, Guidelines and Methodologies

The Master Contractor shall keep itself informed of and comply with all Federal, State and local laws, regulations, ordinances, policies, standards and guidelines affecting IT projects applicable to its activities and obligations under this Contract, as those laws, policies, standards and guidelines may be amended from time to time, and it shall obtain and maintain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract. These may include, but are not limited to:

- A) The State of Maryland System Development Life Cycle methodology at: [www.DoIT.maryland.gov](http://www.DoIT.maryland.gov) - keyword: SDLC;
- B) The State of Maryland Information Technology Security Policy and Standards at: [www.DoIT.maryland.gov](http://www.DoIT.maryland.gov) - keyword: Security Policy;
- C) The State of Maryland Information Technology Project Oversight at: [www.DoIT.maryland.gov](http://www.DoIT.maryland.gov) - keyword: IT Project Oversight;
- D) The State of Maryland Information Technology Non-Visual Standards at: <http://doit.maryland.gov/policies/Pages/ContractPolicies.aspx>
- E) The Master Contractor shall follow the project management methodologies that are consistent with the Project Management Institutes Project Management Body of Knowledge Guide. Contractor's staff and subcontractors are to follow a consistent methodology for all PORFP activities.

**2.2.2** Master Contractors shall provide prepaid delivery, FOB (the delivery destination specified in the PORFP) to any State eligible customer located within the State's geographic boundaries. Unless specified otherwise in a PORFP, all hardware is to be delivered, prepaid, to the location specified in a PORFP within ten (10) business days from the date of the receipt of the PO. The MSRP will be construed to include delivery within ten (10) business days from the date of the receipt of the PO.

Similarly, provided a PORFP allows at least ten (10) business days delivery time, any price proposed in response to a PORFP that is lower than MSRP will be construed to include delivery within ten (10) business days from the date of the receipt of PO.

If a PORFP specified delivery in less than ten (10) business days (which will be termed an expedited delivery) and an Offeror proposes the MSRP as its Proposal price, the Offeror may include as a separate distinct charge, the cost of the expedited delivery. However, if an Offeror proposes a price lower than the MSRP for a PORFP that requires expedited delivery, the PORFP Proposal price shall include the cost of the expedited delivery and no separate, additional charge will be permitted.

Title does not pass until the shipment reaches the destination, and the goods belong to seller while in transit.

- 2.2.3** Only Master Contractors authorized by the manufacturer or distributor of the hardware may provide hardware, services or maintenance.
- 2.2.4** Within 30 calendar days of receipt of any returned hardware, Master Contractors shall refund to the State the purchase price of the returned hardware, including shipping costs. The State shall not be charged restocking fees.

## **2.3 Functional Area I- Servers and Associated Peripherals**

Includes, but is not limited to, the following brand or generic name equipment:

- A) Servers,
- B) Components,
- C) Assorted related accessories,
- D) Storage units,
- E) Peripherals.

This equipment also includes associated hardware and operating system software that may allow the operation of the product as a stand-alone unit, a networked unit in a local area network (LAN), a networked unit in a wide area network (WAN), wireless applications or any combination of the four.

## **2.4 Functional Area II- Printers and Associated Peripherals**

Includes, but is not limited to, the following brand or generic name equipment:

- A) A single or multi-functional printer,
- B) Print drivers that may allow the operation as a stand-alone unit to a microcomputer,
- C) A networked unit in a local area network (LAN),
- D) A networked unit in a wide area network (WAN),
- E) Wireless applications or any combination of the above.

This equipment also includes associated hardware and operating system software that is manufacturer installed or manufacturer required.

**2.5 Functional Area III- Network Communications Equipment**

Data-centric communications equipment that includes, but is not limited to:

- A) Routers
- B) Gateways
- C) Switches
- D) Bridges
- E) Repeaters
- F) Multiplexors
- G) Remote access devices
- H) Firewalls
- I) Appliances
- J) DSU/CSUs
- K) Intrusion detection systems
- L) Content switching
- M) Load balancing, intelligent traffic management DNS devices
- N) Network performance devices (e.g. UPS devices and associated equipment)
- O) Console management and switching devices

This equipment also includes associated hardware and operating system software that is manufacturer installed or manufacturer required.

**2.6 Functional Area IV –Installation and Training Services**

NOTE: If proposing Functional Area IV, Offerors must also propose the corresponding equipment in at least one of Functional Area I, II, III and or VI.

**The MBE subcontracting goal for Functional Area IV is 1%.**

Installation and/or training services may only be purchased when purchasing Hardware and Associated Equipment and Services under Functional Areas I, II, III or VI. Functional Area IV services may not be purchased alone. In addition, Functional Area IV services may not exceed 49% of the total value of the PORFP. Hardware purchases acquired through other State contracts requiring installation and training services must be provided via a separate vehicle such as DoIT's Consulting and Technical Services (CATS+) contract or a stand-alone procurement.

**2.6.1** Installation services will be defined at the PORFP level. Installation services may include, but are not limited to:

- A) The Installation of the hardware with the configuration necessary to ensure that the hardware operates properly in the Requesting Agency's environment.
- B) The Installation of equipment that requires product specific technical expertise, especially for integration involving complex network systems or new technologies. These services typically include: network and traffic engineering, capacity planning, configuration and customization of the equipment.
- C) The preloading of agency software.

**2.6.2 Training Services**

Training may only be purchased contemporaneously with the original purchase of the hardware or with the purchase of manufacturer's extended warranty and shall include, but is not limited to:

- A) Formal on-site or off-site training that is planned in advance and that has a defined curriculum;
- B) Computer-based training that includes software that provides interactive, self-paced training at your desktop, workstation, or laptop computer; and
- C) Web-based training that provides courses or classes that are accessible via an internal Intranet or the Internet.

## **2.7 Functional Area V – Manufacturer's Extended Warranty**

**2.7.1** Manufacturer's extended warranty service may be purchased in conjunction with or separately from Functional Areas I, II, III and VI, at any time. Only Master Contractors authorized by the manufacturer or distributor of the hardware may provide manufacturer's warranty services. Manufacturer's warranty service shall include, but is not limited to:

- A) Electronic media and consulting services, upgrades and enhancements for technology advancements, improved functionality, and compatibility with new industry standards;
- B) Direct access to experienced consultants of the Hardware;
- C) Flexible service options including telephone or e-mail support;
- D) Timely problem resolution of reported discrepancies;
- E) Remote technical support;
- F) Online self-help functions;
- G) On-site warranty.

Any warranty period for equipment and services will not commence until acceptance of the equipment or services by the Requesting Agency. All defective items must be replaced at no additional cost to the State. If the products were provided under the Installation terms, the contractor is responsible for the Installation of the replacement equipment as defined in the PORFP. If the products were provided without Installation, the Contractor, at its option and at no additional cost to the State, may provide on-site service or next-day drop ship replacements for the Requesting Agency to install.

## **2.8 Functional Area VI- Security, Cameras and Associated Peripherals**

Includes, but is not limited to, the following brand or generic name equipment, when purchased as individual equipment such as spares and replacements:

- A) Still and video cameras (e.g – security, surveillance, dome – indoor & outdoor, HD, SD, license plate recognition – fixed, readers, & mobile automatic, traffic infrared, in-car digital, motion detectors, closed circuit television, mega-pixel covert)
- B) Hardware-based encoders and decoders
- C) Accessories/peripherals to support any of the above (e.g., memory cards, power supplies)
- D) Card Readers (e.g. – Credit Card Swipes, Digital Keys, Smart Card Proxy Reader)
- E) Access Control and Associated Peripherals (e.g. – Alarm Door Contacts Electric Door Locks, Panic Buttons, Alarm Keypads, Enrollment)

This equipment also includes associated hardware and operating system software that is manufacturer installed or manufacturer required.

Master Contractors should note that Requesting Agencies are expressly prohibited from using the Hardware and Associated Equipment and Services program to obtain and install new security systems or upgrades to existing systems. To that end, Requesting Agencies may not purchase Functional Area VI components in conjunction with Functional Area IV installation services in a manner that would suggest that they would be integrated into a prohibited systemic use.

## **2.9 Warranty**

Master Contractors shall provide the Manufacturer's warranty with their response to a PORFP for Functional Areas I, II, III, and VI. Master Contractors shall be responsible for coordinating warranty issues. On-site warranty will begin upon acceptance of the hardware by the Requesting Agency. Acceptance will be defined in the PORFP as either receipt or Installation. On-site warranty means the Master Contractor will either remotely access or travel, if necessary, to the facility where the warranty service is required at no additional cost to the Requesting Agency during the manufacturer's warranty period.

The Requesting Agency has the discretion of dealing directly with the Manufacturer on any warranty issue. Upgraded warranty requirements shall be defined in the PORFP by the Requesting Agency.

To ensure compliance with the requirements and specifications herein, the State, at its sole discretion, may perform acceptance tests within 30 days of receipt of:

- 1) The notice of completion of Installation from the Master Contractor, or
- 2) The delivery of equipment supplied without Installation and prior to acceptance and payment for each item installed or delivered.

The State does not assume ownership for equipment, nor do warranty periods begin, until the Requesting Agency POC accepts the Master Contractor's product and work as fully operational as provided herein.

## **2.10 Procedure for Adding a Manufacturer's Product Line**

Each Master Contractor, in a functional area, may add additional manufacturer product lines, in that Functional Area, throughout the life of the Hardware and Associated Equipment and Services Master Contract. To add a Manufacturer product line, a Master Contractor must submit a Letter of Authorization from the Manufacturer or Distributor for each new product line proposed. Once the Letter of Authorization has been confirmed by DoIT, the manufacturer product line will be added to that Master Contractor's list of product lines available.

Requests to add new product lines, with the required Letters of Authorization, shall be submitted to the Contract Manager for consideration by the 10th business day of each month. Approved requests will be added to the Manufacturer/Master Contractor matrix by the 1st business day of the following month.

## **2.11 PORFP Procedures**

### **2.11.1 PORFP Content**

The Requesting Agency will send out a PORFP to all Master Contractors authorized to sell the Manufacturer product line requested for the identified Functional Area. When generic specifications are

used, a PORFP will be sent to all Master Contractors for all manufacturers in a Functional Area. As an example, each PORFP may contain the following information:

- A) Requesting Agency;
- B) Agency POC;
- C) Description of the required hardware and any Installation and training services or Manufacturer's warranty;
- D) Delivery requirements;
- E) Invoicing instructions;
- F) Required date for submission of Proposal;
- G) Installation requirements, if applicable;
- H) Training requirements, if applicable;
- I) Type of PORFP (Fixed Price or Time and Materials);
- J) Manufacturer's warranty service requirements, if applicable;
- K) Performance period;
- L) Manufacturer's Extended warranty;
- M) Security requirements, if applicable;
- N) MBE requirements, if applicable;
- O) SBR requirements, if applicable;
- P) Conflict of Interest Affidavit.

To be eligible for receipt of a PORFP, a Master Contractor must have accepted all contractual language updates promulgated by DoIT and must have executed contract modifications evidencing the same. **Master Contractors who have not accepted all applicable updates will not be eligible for receipt of subsequent PORFPs.**

### 2.11.2 PORFP Submission Requirements

Upon receipt of a PORFP, each Master Contractor shall, no later than the PORFP due date and time, either prepare and submit a detailed Proposal, or provide a PORFP Feedback Form explaining why it does not intend to submit a Proposal. As an example, the Proposal may provide the following:

- A) Explanation of how the Master Contractor intends to meet the requirements of the PORFP;
- B) Description of the proposed hardware;
- C) Transportation and delivery schedule;
- D) Installation services provided and schedule, if applicable;
- E) Manufacturer's warranty services provided, if applicable;
- F) Copy of any software licensing agreement for any software to be licensed to the State in conjunction with a hardware purchase under this program (e.g., EULA, Enterprise License Agreements, Professional Service agreement, Master Agreement), if applicable;
- G) Training services provided and schedule, if applicable;
- H) Guarantee that any operating software included will be virus free;
- I) A statement that the Master Contractor is authorized by the Manufacturer or Distributor to provide the hardware and/or services as of the date of the response;
- J) Subcontractors, if any, including required letters of authorization;
- K) Proposed price;
- L) Captured hardware manufacturer or hardware distributor screen shot of current MSRP as of the date of the PORFP Proposal submission. Subject to the approval of the State, a comparable substitute directly from the hardware manufacturer or other hardware distributor may be acceptable;
- M) Mercury Affidavit (Attachment H);

- N) MBE documentation - PORFP Attachments D-1A (MBE Utilization and Fair Solicitation Affidavit) and others as applicable;
- O) Conflict of Interest Affidavit (Attachment G).

### **2.11.3 Procedure for Awarding a PORFP**

Evaluation criteria for award will be established at the PORFP level. The PO will be awarded to the Master Contractor whose Proposal is determined to be the most advantageous to the State, considering price and the evaluation factors set forth in the PORFP. The Requesting Agency POC will initiate and deliver a PO to the selected Master Contractor.

### **2.11.4 Delivery of Hardware and Services**

Delivery of hardware, Installation and/or training services and Manufacturer's warranty services, shall be initiated only upon issuance of a PO authorized by the Requesting Agency.

## **2.12 Order Processing Procedure**

- 2.12.1** The Master Contractor shall provide the order processing capabilities (see section 3.4.2.4) necessary to demonstrate how it will perform the requirements in a PORFP. The Master Contractor is expected to establish a POC to provide overall management of the Contract work. The Master Contractor shall manage dedicated personnel and all subcontractors.
- 2.12.2** The Master Contractor shall designate a primary POC, who will be responsible for the response to any PORFPs and overall price, schedule, and technical performance. This individual will be the principal POC throughout the duration of the Master Contract.

## **2.13 Insurance Requirements**

- 2.13.1** The Master Contractor shall maintain property and casualty insurance with minimum limits sufficient to cover losses resulting from or arising out of Master Contractor action or inaction in the performance of the contract by the Master Contractor, its agents, servants, employees or subcontractors.
- 2.13.2** The Master Contractor shall maintain a policy of general liability insurance that is of the proper type and of sufficient limits that the State and its officials, employees, agents, servants, guests and subcontractors are reasonably covered in the event of injury or death.
- 2.13.3** The State of Maryland will be named as an additional named insured on the policies of all property, casualty, liability, and other types of insurance evidencing this coverage. Certificates of insurance evidencing this coverage will be provided prior to the commencement of any activities in the Master Contract. All insurance policies must be with a company licensed to do business in Maryland.
- 2.13.4 General Liability**  
The Master Contractor shall maintain Commercial General Liability Insurance with limits sufficient cover losses resulting from, or arising out of, Contractor action or inaction in the performance of the Contract by the Contractor, its agents, servants, employees, or subcontractors, but no less than a Combined Single Limit for Bodily Injury, Property Damage, and Personal and Advertising Injury Liability of \$1,000,000 per occurrence and \$3,000,000 aggregate.

**2.13.5 Automobile and/or Commercial Truck Insurance**

The Master Contractor shall maintain Automobile and/or Commercial Truck Insurance as appropriate with Liability, Collision, and PIP limits no less than those required by the State where the vehicle(s) is registered, but in no case less than those required by the State of Maryland.

**2.13.6 Employee Theft Insurance**

The Master Contractor shall maintain Employee Theft Insurance with minimum limits of \$1,000,000 per occurrence.

**2.13.7 Certificates of Insurance**

The Master Contractor shall update certificates of insurance from time to time but no less than annually in multi-year contracts, as directed by the Contract Manager. Such copy of the Contractor's current certificate of insurance shall contain at minimum the following:

- a. Workers' Compensation – The Master Contractor shall maintain such insurance as necessary and/or as required under Workers' Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act.
- b. Commercial General Liability
- c. Automobile and/or Commercial Truck Insurance, as required
- d. Employee Theft Insurance, as required

**2.13.8 State Inclusion on Insurance**

The State shall be listed as an additional insured on the policies with the exception of Worker's Compensation Insurance and Professional Liability Insurance. All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Contract Manager, by certified mail, not less than 45 days' advance notice of any non-renewal, cancellation, or expiration. In the event the Contract Manager receives a notice of non-renewal, the Contractor shall provide the Contract Manager with an insurance policy from another carrier at least 30 days prior to the expiration of the insurance policy then in effect. All insurance policies shall be with a company licensed by the State to do business and to provide such policies.

**2.13.9 Subcontractor Insurance**

The Master Contractor shall require that any subcontractors providing products/services under this Contract obtain and maintain similar levels of insurance and shall provide the Contract Manager with the same documentation as is required of the Contractor.

**2.13.10 Notification of Insurance after Award**

The recommended awardee must provide a certificate of insurance with the prescribed limits set forth in Section 2.13 "Insurance Requirements," naming the State as an additional insured if required, within five (5) Business Days from notice of recommended award.

**2.14 Invoicing****2.14.1** All invoices shall be submitted by the Master Contractor within the time period required in the PORFP and shall include, at the minimum, the following information:

- A) Name and address of the Requesting Agency being billed;
- B) Master Contractor name;

- C) Products(s) and/or service(s) purchased listed separately including the amount for each individual charge (i.e., 5 – ABC Hardware @ \$2,000 Total \$10,000.00, 2 - CD Training @ \$100.00 Total \$200.00, Installation one-time cost \$300.00);
- D) Supporting Documentation (e.g., timesheets for Time and Materials PORFPs);
- E) E-mail address/phone number of Master Contractor's POC;
- F) Remittance address;
- G) Federal taxpayer identification or (if owned by an individual) Master Contractor's social security number;
- H) Invoice period, invoice date, invoice number and amount due, and
- I) PO number(s) being billed.

**2.14.2** Invoices submitted without the required information will not be processed for payment until the Master Contractor provides the required information.

**2.14.3** The Master Contractor shall submit the invoices for any PO as directed in the PO.

**2.14.4** The State is generally exempt from federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. The Master Contractor; however, is not exempt from such sales and use taxes and may be liable for the same.

## **2.15 Personnel Qualifications (Functional Area IV)**

**2.15.1** Master Contractors shall only propose staff available at the time of the PORFP. In response to each PORFP, Master Contractors shall provide personnel that satisfy the personnel qualifications specified within Section 2.16 for each of the labor categories required under the specific PORFP.

- A) Specific areas of required expertise may be further be defined in the PORFP. Master Contractors shall certify that all proposed personnel meet the required qualifications.
- B) The PORFP shall define specific requirements for the services required. The PORFP shall clearly identify all applicable experiences related to the hardware.
- C) The following substitutions may be permitted at the discretion of the State:
  - i. Substitution of Education for Experience
  - ii. Substitution of Professional Certificates for Experience. Professional certification may be substituted for up to two (2) years of general and specialized experience.
  - iii. Substitution of Experience for Education may be permitted at the discretion of the State.
- D) Any substitutions under this subsection shall be subject to the approval of the Requesting Agency.

### **2.15.2 Substitution of Personnel**

- A) Individuals proposed and accepted as personnel for PORFPs are expected to remain dedicated throughout the term of the PORFP award. Substitutions will be allowed only when the Requesting Agency specifically agrees to the substitution in writing or due to an emergency

- circumstance as described below. All proposed substitutes of personnel must have qualifications at least equal to that of the person initially proposed and evaluated and accepted in the PORFP. The burden of illustrating this comparison shall be on the Master Contractor. The resumes of the initially proposed personnel shall become the minimum requirement for qualifications for successor personnel for the duration of the total PORFP term. If one or more of the personnel are unavailable for work under a PORFP for a continuous period exceeding 15 calendar days, the Master Contractor shall immediately notify the Requesting Agency and propose to replace personnel with personnel of equal or better qualifications within 15 calendar days of notification to the Requesting Agency. All substitutions shall be made in accordance with this provision.
- B) During the performance period for a PORFP, no substitutions of personnel will be permitted unless such substitutions are necessitated by an individual's sudden illness, death, or as otherwise approved by the Requesting Agency. In any of these events, the Master Contractor shall promptly notify the Requesting Agency and provide the information required above. All proposed substitutions of personnel for other than emergency situations must be submitted in writing, at least 15 business days in advance of the proposed substitution, to the Requesting Agency, with the information required above. The Requesting Agency must agree to the substitution in writing before such substitution shall become effective.
- C) All requests for substitutions must provide a detailed explanation of the circumstances necessitating the proposed substitutions, a resume of the proposed substitute, and any other information requested by the Requesting Agency to make a determination as to the appropriateness of the proposed substitution. All proposed substitutes must have educational qualifications and work experience equal to or better than the resume initially proposed for personnel; the burden of illustrating this comparison shall be on the Master Contractor.
- D) Resumes shall be signed by all substituting individuals and their formal supervisor, and the official resume of the previous employee shall be provided for comparison purposes.

## 2.16 Labor Categories and Qualifications

### 2.16.1 Training Specialist/Instructor

**Duties:** Conducts the research necessary to develop and revise training courses and prepares appropriate training catalogs. Prepares all instructor materials (course outline, background material, and training aids). Prepares all student materials (course manuals, workbooks, handouts, completion certificates, and course critique forms). Trains personnel by conducting formal classroom courses, workshops, and seminars.

**Education:** A Bachelor's Degree from an accredited college or university with a major in Education/Training in the areas of Computer Science, Information Systems, Engineering, Business, or other related scientific or technical discipline. A Master's Degree is preferred. A Master's Degree in one of the above disciplines equals one year specialized and two years general experience.

**General Experience:** Must have four (4) years of experience in information systems development, training, or related fields.

**Specialized Experience:** At least two (2) years of experience in developing and providing IT and end user training on computer hardware and application software.

### 2.16.2 Project Manager

**Position Description:** The Project Manager is assigned the management of a specific project and the work performed under assigned POs. Performs day-to-day management of the project, identifies issues and risks and recommends possible issue and risk mitigation strategies associated with the project. Acts as a facilitator between a State agency and IT contractor. Is responsible for ensuring that work performed under PO is within scope, consistent with requirements and delivered on time and on budget. Identifies critical paths, tasks, dates, testing, and acceptance criteria. Provides solutions to improve efficiency (e.g., reduce costs while maintaining or improving performance levels). Monitors issues and provides resolutions for up-to-date status reports. Demonstrates excellent writing and oral communications skills.

**Education:** Bachelor's Degree from an accredited college or university in Engineering, Computer Science, Information Systems, Business or other related discipline. Master's degree or project management certification is preferred.

**General Experience:** At least five (5) years of experience in project management.

**Specialized Experience:** At least five (5) years of experience in managing IT related projects and must demonstrate a leadership role in at least three successful projects that were delivered on time and on budget.

### 2.16.3 Subject Matter Expert

**Duties:** Defines the problems and analyzes and develops plans and requirements in the subject matter area for moderately complex-to-complex systems. Coordinates and manages the preparation of analysis, evaluations, and recommendations for proper implementation of programs and systems specifications including, but not limited to: information technology, health care, education, public safety, social services, human resources, transportation, and environment.

**Education:** A Bachelor's Degree from an accredited college or university with a major in Computer Science, Information Systems, Engineering, Business, or other related scientific or technical discipline. A Master's Degree is preferred. A Master's Degree in one of the above disciplines equals one year specialized and two years general experience.

**General Experience:** Must have five (5) years of experience in the IT field.

**Specialized Experience:** At least five (5) years of combined new and related older technical experience in the IT field directly related to the required area of expertise.

### 2.16.4 Network Administrator

**Duties:** Performs a variety of network management functions related to the operation, performance or availability of data communications networks. Experience with cable/LAN meters, protocol analyzers, SNMF and RMON based software products. Knowledge of Ethernet, FDDI and high speed WANs and routers. Analyze client LANs/WANs, isolate source of problems, and recommend reconfiguration and implementation of new network hardware to increase performance. Requires an advanced knowledge of network operating systems. Modifies command language programs, network start up files, assigns/reassigns network device logicals, and participates in load balancing efforts throughout the network to achieve optimum device utilization and performance. Establishes new user accounts on the network granting access to required network files and programs. Manages network Email functions. Establishes

mailboxes and monitors mail performance on the network. Troubleshoots network/user problems, presents resolutions for implementation. Prepares a variety of network resource reports.

**Education and other Requirements:** An Associate's degree from an accredited college or university in Computer Science, Information Systems, Engineering or a related field, or two years of college or university study in Computer Science, Information Systems, Engineering or a related field. If applicable, should be certified as a network administrator for a specific network operating system as defined in the State solicitation. Certification criteria is determined by the network operating system manager. An additional year of specialized experience may be substituted for the required education.

**General Experience:** Two (2) years of experience in a computer-related field.

**Specialized Experience:** One (1) year of experience in one or more of the following areas: data communications engineering, data communications hardware or software analysis, network administration or management, data communications equipment installation and maintenance, or computer systems administration and management.

### 2.16.5 Senior Network Engineer

**Duties:** Responsible for the design and implementation of large data communications or telecommunications networks. Plans and monitors the installation of communications circuits. Manage and monitor local area networks and associated equipment (e.g., bridges, routers, modem pools, and gateways) Conducts short and long-term plan to meet c communications requirements. Responsible for the design and implementation of LANs/WANs using hub switching and router technology. Performs hardware/software analyses to provide comparative data of performance characteristics and suitability within the existing systems environment. Prepares tradeoff studies and evaluations for vendor equipment. Generates network monitoring/performance report, for LAN/WAN utilization studies. Recommends network design changes/enhancements for improved system availability and performance.

**Education:** A Bachelor's degree from an accredited college or university with a major in Computer Science, Information Systems, Engineering or other related scientific or technical discipline. If applicable, shall be certified as network engineer for the specific network operating system as defined in the State task request. The certification criteria are determined by the network operating system vendor. An additional year of specialized experience may be substituted for the required education.

**General Experience:** Five (5) years of experience in a computer-related field.

**Specialized Experience:** Seven (7) years of progressive experience in planning, designing, implementation, and analyzing data or telecommunications networks. Must have experience with network analysis/management tools and techniques and be familiar with Personal Computers (PCs) in a client/server environment. Must be familiar with IT technology and long distance and local carrier management.

### 2.16.6 Junior Network Engineer

**Duties:** Perform similar duties as directed or instructed by the senior network engineer. Conduct studies pertaining to network configuration and monitor traffic patterns such as protocols and peak usage. Stays current with technological changes.

**Education:** A Bachelor's degree from an accredited college or university with a major in Computer Science, Information Systems, Engineering or other related scientific or technical discipline. An additional year of specialized experience may be substituted for the required education.

**General Experience:** Three (3) years of experience in a computer-related field

**Specialized Experience:** Three (3) years of progressive experience in planning, designing, implementation, and analyzing data or telecommunications networks.

### 2.16.7 Senior Network Technician

**Position Description:** Adds or exchanges externally connected PC accessories and data communications equipment. Troubleshoots LANs/WANs and provides problem resolution for PC and data communications hardware. Adds or replaces boards, batteries, disks drives, and other PC components. Installs cabling for networks such as LANs and WANs. Attaches, detaches, or exchanges LAN cabling to workstations, servers, network devices, telecommunications and data communications equipment. Works independently, may provide supervision and guidance to 2 or more network technicians.

**Education:** An Associate's degree from an accredited college or university in Computer Science, Information Systems, Engineering or a related field; or Technical school certificate of completion in the data communications field including cable installation; or the equivalent military training. An additional year of specialized experience may be substituted for the required education.

**General Experience:** Five (5) years of experience in a computer-related field.

**Specialized Experience:** Five (5) years of experience in the following areas: installation, operation, and maintenance of data communication networks and devices.

### 2.16.8 Junior Network Technician

**Position Description:** Perform similar duties as directed or instructed by the senior network engineer. Adds or exchanges externally connected PC accessories and data communications equipment including cables, boards, batteries, disks drives, and other PC components. Attaches, detaches, or exchanges LAN cabling to workstations, servers, network devices, telecommunications and data communications equipment.

**Education:** An Associate's degree from an accredited college or university in Computer Science, Information Systems, Engineering or a related field; or Technical school certificate of completion in the data communications field including cable installation, or the equivalent military training. An additional year of specialized experience may be substituted for the required education.

**General Experience:** Two (2) years of experience in a computer-related field.

**Specialized Experience:** A minimum of two (2) years of experiences installing and maintaining shared resources for communication networks and devices.

### 2.16.9 Senior Computer Software/Integration Analyst

**Duties:** Must be knowledgeable in implementing computer systems in a phased approach of requirements analysis and conceptual design, site survey, system design review, critical design review, installation, integration, and testing. Must be knowledgeable in performing requirements analysis for a wide range of users in areas such as office automation, and finance and accounting. Must be able to present system designs for user approval at formal reviews. Must be capable of performing configuration management, software integration, interpreting software test results, and recommending solutions for unsatisfactory test

results. Must be knowledgeable in life-cycle support, including maintenance, administration, and management. Must be able to provide solutions to identified software problem reports.

**Education:** A Bachelor's Degree from an accredited college or university with a major in Computer Science, Information Systems, Engineering, Business, or other related scientific or technical discipline. A Master's Degree is preferred. A Master's Degree in one of the above disciplines equals one year specialized and two years general experience.

**General Experience:** Must have five (5) years of progressive working experience as a computer specialist or a computer systems analyst.

### 2.16.10 Junior Computer Systems Analyst

**Duties:** Develops requirements for information systems from a project's inception to conclusion. Develops required specifications for simple to moderately complex systems. Assists senior computer systems analyst in preparing input and test data for the proposed system.

**Education:** A Bachelor's Degree from an accredited college or university with a major in Computer Science, Information Systems, Engineering, Business, or other related scientific or technical discipline or three (3) years of equivalent experience in a related field. A Master's Degree in one of the above disciplines equals one year specialized and two years general experience.

**General Experience:** Must have three (3) years of computer experience in assignments of a technical nature working under close supervision and direction.

**Specialized Experience:** At least one (1) year of experience in analyzing and programming applications on large-scale or mid-tier computers (or LAN-based) with a minimum of one (1) year of design and programming of moderately complex IT systems.

## 2.17 Travel Reimbursement

Routine travel is travel within a 50-mile radius of Requesting Agency's base location, as identified in the PORFP, or the Master Contractor's facility, whichever is closer to the training or installation site. There will be no payment for labor hours for travel time or reimbursement for any travel expenses for work performed within these radiuses or at the Master Contractor's facility.

Non-routine travel is travel beyond the 50-mile radius of agency's base location, as identified in the PORFP, or the Master Contractor's facility, whichever is closer to the training or installation site. Non-routine travel will be identified within a PORFP, if appropriate, and will be reimbursed according to the State's travel regulations and reimbursement rates, which can be found at: [www.dbm.maryland.gov](http://www.dbm.maryland.gov) - keyword: Fleet Management. If non-routine travel is conducted by automobile, the first 50 miles of such travel will be treated as routine travel and will not be reimbursed. The Master Contractor may bill for labor hours expended in traveling by automobile beyond the identified 50-mile radius.

## 2.18 Reporting

### 2.18.1 MBE Reporting

The Master Contractor shall provide the PO Manager MBE reports as required in Attachment D.

### 2.18.2 Specialized Reports

Additional reports may be requested in the PORFP.

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## SECTION 3 – PROPOSAL FORMAT

### 3.1 Two Part Submission

Offerors shall submit Proposals in two separate volumes:

- Volume I - TECHNICAL PROPOSAL
- Volume II - FINANCIAL PROPOSAL

Offerors will be required to submit only one (1) Proposal, even if proposing multiple functional areas. Each Functional Area will be evaluated as a separate and independent Proposal. As described below, the Technical Proposal shall contain a section on Offeror experience and capabilities and separate sections for each Functional Area proposed. Offerors must follow the instructions within this section.

### 3.2 Proposals

**Note: Provide no pricing information in the Technical Proposal (Volume I). Include pricing information only in the Financial Proposal (Volume II).**

Offerors shall include a separate section for each Functional Area proposed describing what part of that Functional Area (as described in Section 2) the Offeror has the ability to provide and how the Offeror qualifies to provide what is proposed.

All pages of both Proposal Volumes shall be consecutively numbered from beginning (Page 1) to end (Page “x”).

### 3.3 Submission

Volume I- Technical Proposal shall be packaged and sealed separately from Volume II- Financial Proposal, but submitted simultaneously to the Procurement Officer.

Each sealed package shall bear on the outside of the package the RFP title and number, name and address of the Offeror, the Volume number (which is to be labeled Volume I- Technical Proposal and Volume II- Financial Proposal respectively), functional areas proposed and closing date and time for receipt of the Proposals.

Offerors shall submit only one Technical Proposal and one Financial Proposal, even if proposing to all six (6) Functional Areas.

Each package should contain an unbound original, so identified and two (2) copies of the volume being submitted. An electronic version (CD or flash drive) of the Volume I- Technical Proposal in MS Word and PDF format and the Volume II- Financial Proposal in MS Word and signed PDF format shall also be submitted with the unbound original technical or financial volumes, as appropriate. Electronic media shall bear a label on the outside containing the RFP number and name, the name of the Offeror, and the volume number.

### 3.4 Volume I – Technical Proposal

### 3.4.1 Transmittal Letter

A transmittal letter shall accompany the Technical Proposal. The purpose of this letter is to transmit the Proposal and acknowledge the receipt of any addenda. The transmittal letter should be brief and signed by an individual who is authorized to commit the Offeror to the services and requirements as stated in this RFP. See Offeror's Responsibilities in Section 1.20.

### 3.4.2 Format of Technical Proposal

Inside a sealed package described in Section 3.3, above, an unbound original, to be so labeled, two (2) copies and the electronic version shall be provided. Section 2 of this RFP provides requirements and Section 3 provides reply instructions. The paragraphs in these RFP sections are numbered for ease of reference. In addition to the instructions below, the Offeror's Technical Proposal shall be organized and numbered in the same order as this RFP. This Proposal organization will allow "mapping" Offeror responses directly to RFP requirements by paragraph number.

The Technical Proposal shall include the following sections in this order:

#### 3.4.2.1 Title and Table of Contents

The Technical Proposal shall begin with a title page bearing the name, address, eMM# and Federal Tax ID# of the Offeror and the name and number of this RFP. A table of contents shall follow the title page for the Technical Proposal.

#### 3.4.2.2 Executive Summary

The Offeror shall clearly identify the functional area(s) for which it is proposing. The Offeror shall condense and highlight the contents of the Technical Proposal in a separate section titled "Executive Summary". The Summary shall provide a broad overview of the contents of the entire Proposal. The summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (Attachment A), or any other attachments. **If there are no exceptions taken, the Offeror is to state that they have no exceptions to the requirements of this RFP, the Contract (Attachment A), or any other attachments.** Exceptions to terms and conditions may result in having the Proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award. In addition, the Offeror shall clearly identify each functional area for which they are proposing. Offerors certified under the Small Business Reserve and certified as a Maryland Minority Business Enterprise (MBE) are asked to provide those certification numbers.

#### 3.4.2.3 Manufacturer's or Distributor's Letter of Authorization

- A) Offerors must state each manufacturer product line that they propose selling through the Hardware and Associated Equipment and Services Master Contract.
- B) Manufacturer's Letters of Authorization are required for each manufacturer product line proposed by the Offeror. An Offeror may not propose a manufacturer product line without providing the required Letter of Authorization at the time it submits its Proposal. The Letter of Authorization shall certify that the Offeror is an authorized reseller or distributor of the manufacturer's hardware, or is authorized to provide installation, training and/or maintenance services. The Letter of Authorization shall be on the manufacturer or distributor's letterhead or in a manufacturer or distributor's e-mail. Each Letter of Authorization or e-mail should provide the following information:

1. Manufacturer or distributor POC name and the name of an alternate for verification;
2. Manufacturer POC mailing address;
3. Manufacturer or distributor POC telephone number;
4. Manufacturer or distributor POC email address;
5. If available, a Re-seller Identifier.

#### 3.4.2.4 Explanation of Offeror's Order Fulfillment Capabilities, including

1. Order receipt;
2. Order processing and routing;
3. Order tracking;
4. Customer service and inquiry support;
5. Shipping, including express shipping;
6. Invoicing;
7. Returns;
8. Quality control;
9. Order turnaround time;
10. Organization Chart.

#### 3.4.2.5 Offeror Experience and Capabilities

This section shall include the following:

- A) Provide three (3) examples of the Offeror's organizational experience, type of hardware and/or services provided and the length of time the organization has been providing the hardware and/or services.
- B) State of Maryland Experience

If applicable, the Offeror shall submit a list of all contracts it currently holds or has held within the past five years with any government entity of the State of Maryland. For each identified contract, the Offeror shall provide:

1. The State contracting entity;
2. A brief description of the services/goods provided;
3. The dollar value of the contract;
4. The term of the contract;
5. Whether the contract was terminated prior to the specified original contract termination date;
6. Whether any available renewal option was not exercised; and
7. The State employee contact person (name, title, telephone number and e-mail address).

Information obtained regarding the Offeror's level of performance on State contracts will be used by the Procurement Officer to determine the responsibility of the Offeror and considered as part of the experience and past performance evaluation criteria of the RFP.

The Department reserves the right to request additional references or utilize references not provided by an Offeror. Points of contact must be accessible and knowledgeable regarding Offeror performance.

#### 3.4.2.6 Other Required Submissions

- A) Completed Bid/Proposal Affidavit (Attachment B)
- B) A copy of the Offeror's current certificate of insurance described in Section 2.13, which, at a minimum, shall contain the following:
  - 1. Carrier (name and address);
  - 2. Type of insurance;
  - 3. Amount of coverage;
  - 4. Period covered by insurance;
  - 5. Exclusions.
- C) Completed Conflict of Interest Affidavit and Disclosure (Attachment G)
- D) Offeror MBE Form – Attachment D-A- COTS Master Contract, Master Contractor Acknowledgement of PORFP MBE Requirements.
- E) Offeror Information Sheet (Attachment I)

### **3.5 Volume II - Financial Proposal**

Under separate sealed cover from the Technical Proposal and clearly identified in the format requirements identified in Section 3.4, the Offeror shall submit an original unbound copy, two (2) copies, and an electronic version of the Financial Proposal as follows:

#### **3.5.1 For Functional Area I, II, III, and VI - Hardware and Functional Area V-Manufacturer's Extended Warranty:**

Offerors shall certify by signing Attachments E-I, E-II, E-III, E-V, and E-VI (as applicable), that the Offeror shall provide pricing no higher than the MSRP published as of the date of the response to the PORFP. The MSRP is being used as a ceiling for price only.

For items not having an MSRP, as in the case when a manufacturer is the only distributor of their own product, then the manufacturer's proposed price on its letterhead will be sufficient. The State will consider the procurement to be competitive if two or more qualified Proposals are received in response to a PORFP. If only one response is received for a PORFP, the procurement officer is required to provide a written determination that the price is fair and reasonable.

#### **3.5.2 For Functional Area IV – Installation and Training Services:**

- A) Installation Services:

If proposing to provide Installation services, the Offeror must complete Attachment E-IV- Installation and Training Services Labor Rate Schedule. The prices entered on form E-IV are the maximum prices that may be proposed by a Master Contractor for these services for the duration of the Master Contract term. Prices at the PORFP level may be proposed at or below the prices on form E-IV, and will be fixed for the duration of the associated PORFP. When combined with a

hardware purchase in the PORFP, the price(s) for installation must be priced separately from the price(s) of the hardware in the PORFP Proposal.

B) Training Services:

If proposing to provide training services, the Offeror must complete Attachment E-IV- Installation and Training Services Labor Rate Schedule. The prices entered on form E-IV are the maximum prices that may be proposed by a Master Contractor for these services for the duration of the Master Contract term. Prices at the PORFP level may be proposed at or below the prices on form E-IV, and will be fixed for the duration of the associated PORFP. When combined with a hardware purchase in the PORFP, the price(s) for training must be priced separately from the price(s) of the hardware in the PORFP Proposal.

3.5.3 Complete the price sheets as provided in Attachment E-IV- Price Proposal Form Instructions.

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## SECTION 4 – EVALUATION CRITERIA AND SELECTION PROCEDURE

### 4.1 Evaluation Criteria

Master Contracts will be awarded to all qualified Offerors in accordance with the Competitive Sealed Proposals procurement process under Code of Maryland Regulations 21.05.03.

### 4.2 Technical Criteria

The criteria to be applied to each Technical Proposal are listed in descending order of importance:

- A. Letter of Authorization (Sec.3.4.2.3)
- B. Offeror's order fulfillment capabilities (Sec. 3.4.2.4)
- C. Offeror's experience (Sec. 3.4.2.5)

### 4.3 Financial Criteria

Financial Proposals will be evaluated separately. Prices set by Master Contracts are the maximum prices the State will pay for any hardware, installation and training, and/or manufacturer's extended warranty.

### 4.4 Reciprocal Preference

4.4.1 Although Maryland law does not authorize procuring agencies to favor resident Offerors in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. COMAR 21.05.01.04 requires that procuring units apply a reciprocal preference under the following conditions:

4.4.1.1 The most advantageous offer is from a responsible Offeror whose headquarters, principal base of operations, or principal site that will primarily provide the products/services required under this RFP is in another state.

4.4.1.2. The other state gives a preference to its resident businesses through law, policy, or practice; and

4.4.1.3. The preference does not conflict with a Federal law or grant affecting the procurement Contract.

4.4.2 The preference given shall be identical to the preference that the other state, through law, policy, or practice gives to its resident businesses.

### 4.5 Selection Procedures

#### 4.5.1 General Selection Process

Master Contracts will be awarded in accordance with the Competitive Sealed Proposals process under Code of Maryland Regulations 21.05.03. The Competitive Sealed Proposals method is based on discussions and revision of Proposals during these discussions.

Accordingly, the State may hold discussions with all Offerors judged reasonably susceptible of being selected for award, or potentially so. However, the State also reserves the right to make an award without holding discussions. In either case of holding discussions or not doing so, the State may determine an Offeror to be not responsible and/or an Offeror's Proposal to be not reasonably susceptible of being selected for award, at any time after the initial closing date for receipt of Proposals and the review of those Proposals. If the State finds an Offeror to be not responsible and/or an Offeror's Technical Proposal to be not reasonably susceptible of being selected for award, an Offeror's Financial Proposal will be returned unopened.

#### **4.5.2 Selection Process Sequence**

- 4.5.2.1 The first step in the process will be an evaluation for technical merit. The purpose of this evaluation will be to assure a full understanding of the State's requirements and the Offeror's ability to perform.
- 4.5.2.2 Offerors must confirm in writing any substantive clarification of, or change in, their Proposals made in the course of clarification requests. Any such written clarification or change then becomes part of the Offeror's Proposal.
- 4.5.2.3 For Functional Area IV, the Financial Proposal of each qualified Offeror will be evaluated separately from the technical evaluation. After a review of the Financial Proposals of qualified Offerors, the Procurement Officer may again conduct discussions to further evaluate the Offeror's entire Proposal.
- 4.5.2.4 When in the best interest of the State, the Procurement Officer may permit Offerors who have submitted acceptable Proposals to revise their initial Proposals and submit, in writing, best and final offers.

#### **4.5.3 Award Determination**

Upon completion of all discussions and negotiations, the Procurement Officer will recommend award of a Master Contract to all technically qualified Offeror(s).

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## RFP ATTACHMENTS

### **ATTACHMENT A – Contract**

This is the sample contract used by the Department. It is provided with the RFP for informational purposes and is not required to be submitted at Proposal submission time. Upon notification of recommendation for award, a completed contract will be sent to the recommended awardee for signature. The recommended awardee must return to the Procurement Officer three (3) executed copies of the Contract within five (5) Business Days after receipt. Upon Contract award, a fully-executed copy will be sent to the Contractor.

### **ATTACHMENT B – Bid/Proposal Affidavit**

This Attachment must be completed and submitted with the Technical Proposal.

### **ATTACHMENT C – Contract Affidavit**

This Attachment must be completed and submitted by the recommended awardee to the Procurement Officer within five (5) Business Days of receiving notification of recommendation for award.

### **ATTACHMENT D – Minority Business Enterprise Forms**

These forms may be required for a PORFP. Offerors must submit form D-A at time of RFP Proposal submission.

### **ATTACHMENT E – Price Proposal Instructions and Price Sheet**

The Price Sheet must be completed and submitted with the Financial Proposal.

### **ATTACHMENT F – Pre-Proposal Conference Response Form**

It is requested that this form be completed and submitted as described in Section 1.8 by those potential Offerors that plan on attending the Pre-Proposal Conference.

### **ATTACHMENT G– Conflict of Interest Affidavit and Disclosure**

If required (see Section 1.34), this Attachment must be completed and submitted with the PORFP.

### **ATTACHMENT H – Mercury Affidavit**

If required (see Section 1.33), this Attachment must be completed and submitted with the PORFP.

### **ATTACHMENT I – Offeror Information Sheet**

This Attachment is to be completed and submitted with the Technical Proposal.

**ATTACHMENT A – Hardware and Associated Equipment and Services Contract**

## DEPARTMENT OF INFORMATION TECHNOLOGY (DoIT)

## Hardware and Associated Equipment and Services

060B2490022-2015

THIS CONTRACT (the “Contract”) is made this \_\_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_ and, on behalf of the STATE OF MARYLAND, the MARYLAND DEPARTMENT OF INFORMATION TECHNOLOGY (DoIT).

IN CONSIDERATION of the following, the parties agree as follows:

**1. Definitions**

In this Contract, the following words have the meanings indicated.

- 1.1. “COMAR” means the Code of Maryland Regulations.
- 1.2. “Contract” means this contract for Hardware and Associated Equipment and Services and related installation, training, and maintenance services. Except as otherwise provided, any reference to the Contract shall be deemed to include reference to a Purchase Order (PO).
- 1.3. “Contract Manager” means the individual identified in Section 1.6 of the Request for Proposals (RFP), or a successor designated by the Department.
- 1.4. “Contractor” means \_\_\_\_\_, whose principal business address is: \_\_\_\_\_.
- 1.5. “Department” means the Department of Information Technology (DoIT).
- 1.6. “eMM” means eMaryland Marketplace.
- 1.7. “Financial Proposal” means the Contractor’s financial proposal dated \_\_\_\_\_.
- 1.8. “Hardware and Associated Equipment and Services” means those services described in Section 2 of the RFP.
- 1.9. “Installation” means transferring manufacturer’s electronic media to computer systems so that the Hardware and Associated Equipment and Services will provide the features and functions generally described in the user documentation.
- 1.10. “Minority Business Enterprise” (MBE) means an entity meeting the definition at COMAR 21.0 1.02.01B(54), which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- 1.11. “Procurement Officer” means the person identified in Section 1.5 of the RFP or a successor designated by the Department.
- 1.12. “Proposal” means, as appropriate, either or both the Contractor’s Technical or Financial Proposal.
- 1.13. “Purchase Order” or “PO” means the authorization for Contractor to proceed with delivery of products and/or any services requested via a PORFP.
- 1.14. “PORFP” means Purchase Order Request for Quotation.
- 1.15. “Requesting Agency” means the unit of the State government issuing the PORFP.

- 1.16. "RFP" means the Request for Proposals for Hardware and Associated Equipment and Services No. 060B2490022-2015 and any amendments thereto issued in writing by the State.
- 1.17. "Sensitive Data" means any personally identifiable information (PII), protected health information (PHI) or other private/confidential data.
- 1.18. "Software" means the object code version of computer programs licensed pursuant to this Contract. Embedded code, firmware, internal code, microcode, and any other term referring to software that is necessary for proper operation is included in this definition of Software. Software includes all prior, current, and future versions of the Software and all maintenance updates and error corrections. "Software" also includes any upgrades, updates, bug fixes or modified versions or backup copies of the Software licensed to the State by Contractor or an authorized distributor.
- 1.19. "State" means the State of Maryland.
- 1.20. "Technical Proposal" means the Contractor's technical proposal dated\_\_\_\_\_.
- 1.21. Capitalized terms not defined herein shall be ascribed the meaning given to them in the RFP.

**2. Scope of Contract**

- 2.1. The Contractor shall provide Hardware and Associated Equipment and Services, installation and/or training, and/or manufacturer's extended warranty, as described in a PORFP or PO, in the following functional area(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- 2.2. These products and services shall be provided in accordance with the terms and conditions of this Contract and the following Exhibits, which are attached and incorporated herein by reference. If there are any inconsistencies between this Contract and the accompanying Exhibits, the terms of this Contract shall control. If there is any conflict among the Exhibits, the following order of precedence shall apply:

- Exhibit A – The RFP
- Exhibit B – The Contract Affidavit dated \_\_\_\_\_.
- Exhibit C – The Technical Proposal.
- Exhibit D –The Financial Proposal

- 2.3 A PORFP may specify terms in addition to the terms specified herein, including warranties, deliverables, and acceptance test requirements. PORFPs, POs and Reference BPOs may not limit the State's rights as provided by law, in this Contract, or in the RFP and may not change the terms of, or conflict with, this Contract or any of its Exhibits.

**3. Period of Performance**

- 3.1. The Contract shall be for a period of 12 years beginning << Contract start date>> and ending on << end date of Contract>>.
- 3.2. Audit, confidentiality, document retention, patents, copyright, intellectual property, warranty, and indemnification obligations under this Contract and any other obligations specifically identified

shall survive expiration or termination of the Contract.

#### 4. Consideration and Payment

- 4.1. In consideration of the satisfactory performance of the Contract and any PORFP and/or PO, the State will promptly process a proper invoice for payment in accordance with the terms of this Contract.
- 4.2. The total payment for products and services provided under a fixed price PO or the fixed price element of a combined fixed price – time and materials PO, shall be the firm fixed price submitted by the Contractor in its quotation or proposal submitted in response to a PORFP, regardless of the actual cost to the Contractor.
- 4.3. POs that include a time and materials element shall include a not-to-exceed (NTE) ceiling for payments. For time and materials PO, or POs which include both fixed price and time and materials elements, total payments to the Contractor for the time and materials portion may not exceed the identified PO NTE amount. The Contractor shall notify the Contract Manager, in writing, at least 60 days before time and material obligations are expected to reach the PO NTE Amount. The Contractor shall have no obligation to perform the time and materials requirements under this Contract after payments reach the PO NTE Amount. The cessation of the Contractor's obligation to perform under this paragraph 4.3 is expressly conditioned on the following: that prior to the PO NTE Amount being reached, the Contractor shall: (i) give the notice required under this paragraph 4.3; (ii) promptly consult with the Requesting Agency and cooperate in good faith with the Requesting Agency to establish a plan of action to assure that every reasonable effort has been undertaken by the Contractor to complete critical work in progress prior to the date the PO NTE Amount will be reached; and (iii) secure databases, systems, platforms and/or applications on which the Contractor is working so that no damage or vulnerabilities to any of the same will exist due to any such unfinished work. Any work performed by the Contractor in excess of PO NTE amount without the prior written approval of the Contract Manager is at the Contractor's risk of non-payment.
- 4.4. Invoices shall be submitted as specified in a PORFP. Invoices that contain both fixed price and time and material items must clearly identify the items as either fixed price or time and material billing. Each invoice must include the Contractor's Federal Tax Identification Number: <<enter the Contractor Tax ID number>>. The Contractor's eMM identification number is <<enter the Contractor's eMM ID number>>. Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the Requesting Agency's receipt of a proper invoice from the Contractor. Charges for late payment of invoices other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, as from time-to-time amended, are prohibited. The final payment under a PORFP will not be made until after certification is received from the Comptroller of the State that all taxes have been paid.
- 4.5. In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, then Contractor will be notified and provided a time specified by the State to cure the breach. If the breach is not cured within the time specified within the notification, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer.
- 4.6. PORFPs may specify periodic payments based on deliverables or stages of completion. A PORFP may further specify that a portion of the payments due will be withheld until completion of the PO. The amount withheld from each payment shall be paid to the Contractor within thirty (30) days of

the State's acceptance of all deliverables required under the PO and receipt from the Contractor of a release in a form prescribed by the State for any claims arising out of or related to the PORFP.

- 4.7. Payment of an invoice by the State is not evidence that services were rendered as required under this Contract or any applicable PORFP.

**5. Patents, Copyrights, Intellectual Property**

- 5.1. If the Contractor furnishes any design, device, material, process, or other item, which is covered by a patent or copyright, or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items.
- 5.2. Except as provided in Section 5.4 of this Contract, the Contractor agrees that all documents and materials, including but not limited to, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, software, graphics, mechanical, artwork, computations and data prepared by or for the Contractor for purposes of this Contract ("Work Product") shall become and remain the sole and exclusive property of the State and shall be available to the State at any time. The State shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.
- 5.3. Except as provided in Section 5.4 of this Contract, the Contractor agrees that at all times during the term of this Contract and thereafter, Work Product shall be "works made for hire" as that term is interpreted under U.S. copyright law and shall be owned by the State. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights and all information used to formulate such Work Product. In the event any Work Product is or may not be considered a work made for hire under applicable law, Contractor assigns and transfers to the State the entire right, title, and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof. Contractor shall execute all documents and perform such other proper acts as the State may deem necessary to secure for it the rights pursuant to this section.
- 5.4. Notwithstanding anything to the contrary in this Contract, to the extent (i) the Work Product incorporates any commercial-off-the shelf software (COTS) and/or any Pre-Existing Intellectual Property or (ii) any COTS and/or Pre-Existing Intellectual Property (other than a computer's operating system, supported internet browser, browser accessibility software or hardware if needed by the user, and software required to access a commonly-available data transmission tool or export format) is required to access, install, build, compile or otherwise use the Work Product (such COTS and Pre-Existing Intellectual Property individually and collectively referred to herein as "Third-party Intellectual Property," which shall be the sole property of Contractor or its third-party licensors, as applicable), Contractor hereby grants to the State, on behalf of itself and any third-party licensors, a royalty-free, paid-up, non-exclusive, unrestricted, unconditional, irrevocable, worldwide right and license, with the right to use, execute, reproduce, display, perform, distribute copies of internally, modify and prepare derivative works based upon, such Third-party Intellectual Property as may be necessary for the State to use the Work Product for the purposes for which such Work Product was designed and intended. "Pre-Existing Intellectual Property" means any program, utility or tool owned by Contractor or its third-party licensors that was created by Contractor or its third-party licensors independently from its performance of this Contract and not solely using funds from this Contract.
- 5.5. Subject to the terms of Section 6, Contractor shall defend, indemnify, and hold harmless the State, including, but not limited to, the Department or Requesting Agency and its agents, officers, and employees, from and against any and all claims, costs, losses, damages, liabilities, judgments and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with any claim the Work Product or any Third-party Intellectual Property infringes,

- misappropriates or otherwise violates any Third-party Intellectual Property rights. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent, which consent may be withheld in the State's sole and absolute discretion.
- 5.6. Except if Contractor has pre-existing knowledge of such infringement, Contractor's obligations under this section will not apply to the extent any Third-party Intellectual Property infringes, misappropriates or otherwise violates any third party intellectual rights as a result of modifications made by the State in violation of the license granted to the State pursuant to Section 5.4; provided that such infringement, misappropriation or violation would not have occurred absent such modification.
- 5.7. Without limiting Contractor's obligations under Section 5.5, if all or any part of the Work Product or any Third Party Intellectual Property is held, or Contractor or the State reasonably determines that it could be held, to infringe, misappropriate or otherwise violate any third party intellectual property right, Contractor (after consultation with the State and at no cost to the State): (a) shall procure for the State the right to continue using the item or service in accordance with its rights under this Contract; (b) replace the item or service with an item that does not infringe, misappropriate or otherwise violate any third party intellectual property rights and, in the State's sole and absolute determination, complies with the item's specifications as defined in this Contract, and all rights of use and/or ownership set forth in this Contract; or (c) modify the item or service so that it no longer infringes, misappropriates or otherwise violates any third party intellectual property right and, in the State's sole and absolute determination, complies with the item's specifications and all rights of use and/or ownership set forth in this Contract.
- 5.8. Except for any Pre-Existing Intellectual Property and Third-Party Intellectual Property, Contractor shall not acquire any right, title, or interest (including any intellectual property rights subsisting therein) in or to any goods, Software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the State to the Contractor. Notwithstanding anything to the contrary herein, the State may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a PORFP executed by the Contractor and an authorized representative of the State.
- 5.9. Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall use any Software or technology in a manner that will cause any patents, copyrights, or other intellectual property which are owned or controlled by the State or any of its affiliates (or for which the State or any of its subcontractors has received license rights) to become subject to any encumbrance or terms and conditions of any third-party or open source license (including, without limitation, any open source license listed on <http://www.opensource.org/licenses/alphabetical>) (each an "Open Source License"). These restrictions, limitations, exclusions and conditions shall apply even if the State or any of its subcontractors becomes aware of or fails to act in a manner to address any violation or failure to comply therewith. No act by the State or any of its subcontractors that is undertaken under this Contract as to any Software or technology shall be construed as intending to cause any patents, copyrights or other intellectual property that are owned or controlled by the State (or for which the State has received license rights) to become subject to any encumbrance or terms and conditions of any Open Source License.
- 5.10. The Contractor shall report to the Department or Requesting Agency, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Work Product delivered under this Contract.
- 5.11. This Section 5 shall survive expiration or termination of this Contract.

**6. Indemnification**

- 6.1. In addition to Contractor's indemnification obligations described in Section 5, Contractor shall indemnify, defend, and hold the State, its directors, officers, employees and agents harmless from liability for the following conduct arising from or relating to the performance of the Contractor or its subcontractors under this Contract: (a) tangible property damage, bodily injury and death, to the extent caused by or contributed to by Contractor or its subcontractors and (b) fraud or willful misconduct of Contractor or its subcontractors. Such indemnification shall include all related defense costs and expenses attributable to the claims of third parties, including, but not limited to, reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties.
- 6.2. Upon the State's request of indemnification under Section 5 or 6, Contractor shall be entitled to control the defense or settlement of the relevant claim with counsel reasonably satisfactory to the State. The State will: (a) provide reasonable cooperation to Contractor in connection with the defense or settlement of the claim, at Contractor's expense; and (b) be entitled to participate in the defense of the claim, at its own expense.
- 6.3. The State has no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim or action of any character is brought by any person not party to this Contract against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.
- 6.4. The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.
- 6.5. To the extent permitted by applicable law, the Contractor shall immediately notify the Procurement Officer of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from or relating to the Contractor's obligations under the Contract, and will cooperate, assist, and consult with the State in the defense or investigation of any third party claim, suit, or action made or filed against the State as a result of or relating to the Contractor's performance under this Contract.
- 6.6. This Section 6 shall survive expiration or termination of this Contract.

**7. Limitations of Liability**

Contractor shall be liable for any loss or damage to the State occasioned by the acts or omissions of Contractor, its subcontractors, agents or employees, including but not limited to personal injury; physical loss; or violations of the Patents, Copyrights, Intellectual Property sections of this Contract, as follows:

- 7.1. For infringement of patents, trademarks, trade secrets and copyrights as provided in Section 5 ("Patents, Copyrights, Intellectual Property") of this Contract;
- 7.2. Without limitation, for damages for bodily injury (including death) and damage to real property and tangible personal property; and
- 7.3. For all other claims, damages, loss, costs, expenses, suits, or actions in any way related to this Contract where liability is not otherwise set forth as being "without limitation," and regardless of the basis on which the claim is made, Contractor's liability shall not exceed one (1) time the total amount of the PORFP out of which the claim arises; provided however, the State may, in its sole discretion, decrease the ceiling established hereunder in any PORFP issued pursuant to this RFP. Third-party claims arising under

Section 6 (“Indemnification”) of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor’s liability for third-party claims arising under Section 6 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 6.

- 7.4. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that all Subcontractors shall be held to be agents of Contractor.

## **8. Prompt Pay Requirements**

- 8.1. If the Contractor withholds payment of an undisputed amount to its subcontractor, the State, at its option and in its sole discretion, may take one or more of the following actions:
- (a) Not process further payments to the Contractor until payment to the subcontractor is verified;
  - (b) Suspend all or some of the Contract work without affecting the completion date(s) for the Contract work;
  - (c) Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due to the Contractor;
  - (d) Place a payment for an undisputed amount in an interest-bearing escrow account;
  - (e) Default Contractor for failing to perform in accordance with the requirement to promptly pay subcontractors; or
  - (f) Take other or further actions as appropriate to resolve the withheld payment.
- 8.2. An “undisputed amount” means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute. Such “undisputed amounts” include (a) retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor and (b) an amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
- 8.3. An act, failure to act, or decision of a Procurement Officer or a representative of the Department or Requesting Agency concerning a withheld payment between the Contractor and subcontractor under this Contract, may not:
- (a) Affect the rights of the contracting parties under any other provision of law;
  - (b) Be used as evidence on the merits of a dispute between the Department or Requesting Agency and the Contractor in any other proceeding; or
  - (c) Result in liability against or prejudice the rights of the Department or Requesting Agency.
- 8.4. The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise program.

## **9. Risk of Loss; Transfer of Title**

Risk of loss for conforming supplies, equipment and materials specified as deliverables to the State hereunder shall remain with the Contractor until the supplies, equipment, materials and other deliverables are received and accepted by the State. Title of all such deliverables passes to the State upon acceptance by the State.

## **10. Source Code Escrow**

Source Code Escrow is not required for this Contract.

#### **11. Loss of Data**

In the event of loss of any State data or records where such loss is due to the intentional act, omission, or negligence of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for recreating such lost data in the manner and on the schedule set by the Contract Manager. The Contractor shall ensure that all data is backed up and is recoverable by the Contractor. In accordance with prevailing federal or state law or regulations, the Contractor shall report the loss of non-public data as directed in Section 16.17.

#### **12. Markings**

The Contractor shall not affix (or permit any third party to affix), without the Department or Requesting Agency's consent, any restrictive markings upon any Work Product and if such markings are affixed, the Department or Requesting Agency shall have the right at any time to modify, remove, obliterate, or ignore such markings.

#### **13. Exclusive Use and Ownership**

Contractor shall not use, sell, sub-lease, assign, give, or otherwise transfer to any third party any other information or material provided to Contractor by the Department or Requesting Agency or developed by Contractor relating to the Contract, except that Contractor may provide said information to any of its officers, employees and subcontractors who Contractor requires to have said information for fulfillment of Contractor's obligations hereunder. Each officer, employee and/or subcontractor to whom any of the Department or Requesting Agency's confidential information is to be disclosed shall be advised by Contractor of and bound by the confidentiality and intellectual property terms of this Contract.

#### **14. Notification of Legal Requests**

The Contractor shall contact the State upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to the State's data under this Contract, or which in any way might reasonably require access to the data of the State, unless prohibited by law from providing such notice. The Contractor shall not respond to subpoenas, service of process and other legal requests related to the State without first notifying the State, unless prohibited by law from providing such notice.

#### **15. Effect of Contractor Bankruptcy**

All rights and licenses granted by the Contractor under this Contract are and shall be deemed to be rights and licenses to "intellectual property," and the subject matter of this Contract, including services, is and shall be deemed to be "embodiments of intellectual property" for purposes of and as such terms are used and interpreted under § 365(n) of the United States Bankruptcy Code ("Code") (11 U.S.C. § 365(n) (2010)). The State has the right to exercise all rights and elections under the Code and all other applicable bankruptcy, insolvency and similar laws with respect to this Contract (including all executory statement of works). Without limiting the generality of the foregoing, if the Contractor or its estate becomes subject to any bankruptcy or similar proceeding: (a) subject to the State's rights of election, all rights and licenses granted to the State under this Contract shall continue subject to the respective terms and conditions of this Contract; and (b) the State shall be entitled to a complete duplicate of (or complete access to, as appropriate) all such intellectual property and embodiments of intellectual property, and the same, if not already in the State's possession, shall be promptly delivered to the State, unless the Contractor elects to and does in fact continue to perform all of its obligations under this Contract.

**16. Confidentiality**

Subject to the Maryland Public Information Act and any other applicable laws, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided the data may be collected, used, disclosed, stored and disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law. This Section shall survive expiration or termination of the Contract.

**17. Parent Company Guarantee (If Applicable)**

[Corporate name of Parent Company] hereby guarantees absolutely the full, prompt and complete performance by "[Contractor]" of all the terms, conditions and obligations contained in this Contract, as it may be amended from time to time, including any and all exhibits that are now or may become incorporated hereunto, and other obligations of every nature and kind that now or may in the future arise out of or in connection with this Contract, including any and all financial commitments, obligations and liabilities. "[Corporate name of Parent Company]" may not transfer this absolute guaranty to any other person or entity without the prior express written approval of the State, which approval the State may grant, withhold, or qualify in its sole and absolute subjective discretion. "[Corporate name of Parent Company]" further agrees that if the State brings any claim, action, suit or proceeding against "[Contractor]", "[Corporate name of Parent Company]" may be named as a party, in its capacity as Absolute Guarantor.

**18. General Terms and Conditions**

Unless otherwise noted, the General Terms and Conditions are mandatory Contract Terms and cannot and will not be revised.

**18.1. Pre-Existing Regulations**

In accordance with the provisions of Section 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR 21) in effect on the date of execution of this Contract are applicable to this Contract.

**18.2. Maryland Law Prevails**

This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland. The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland) does not apply to this Contract, the Software, or any Software license acquired hereunder. Any and all references to the Annotated Code of Maryland contained in this Contract shall be construed to refer to such Code sections as from time to time amended.

**18.3. Multi-year Contracts Contingent Upon Appropriations**

If the General Assembly fails to appropriate funds or if funds are not otherwise made available

for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the State's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the State of Maryland from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

#### **18.4. Cost and Price Certification**

The Contractor, by submitting cost or price information certifies that, to the best of its knowledge, the information submitted is accurate, complete, and current as of a mutually determined specified date prior to the conclusion of any price discussions or negotiations. The price under this Contract (including any PO) and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date agreed upon between the parties, was inaccurate, incomplete, or not current.

#### **18.5. Contract Modifications**

The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract or a PO. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. Pursuant to COMAR 21.10.04, the Contractor must assert in writing its right to an adjustment under this section and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under Section 18.8, Disputes. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

#### **18.6. Termination for Default**

If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State of Maryland shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

#### **18.7. Termination for Convenience**

The performance of work under this Contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A(2).

#### **18.8. Disputes**

This Contract shall be subject to the provisions of Title 15, Subtitle 2, of the State Finance and Procurement Article of the Annotated Code of Maryland, as from time to time amended, and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision. Unless a lesser period is provided by applicable statute, regulation, or the Contract, the Contractor must file a written notice of claim with the Procurement Officer within 30 days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within 30 days of the filing of a notice of claim, but no later than the date of final payment under the Contract, the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

#### **18.9. Living Wage**

If a Contractor subject to the Living Wage law fails to submit all records required under COMAR 21.11.10.05 to the Commissioner of Labor and Industry at the Department of Labor, Licensing and Regulation, the Department or Requesting Agency may withhold payment of any invoice or retainage. The Department or Requesting Agency may require certification from the Commissioner on a quarterly basis that such records were properly submitted.

#### **18.10. Non-Hiring of Employees**

No official or employee of the State of Maryland, as defined under General Provisions Article, §5-101, Annotated Code of Maryland, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall during the pendency and term of this Contract and while serving as an official or employee of the State become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

#### **18.11. Nondiscrimination in Employment**

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, sexual orientation, sexual identity, ancestry, or disability of a qualified person with a disability, sexual orientation, or any otherwise unlawful use of characteristics; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

#### **18.12. Commercial Non-Discrimination**

- 18.12.1. As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry, national origin, sex, age, marital status, sexual orientation, sexual identity, disability, or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Contract, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.
- 18.12.2. As a condition of entering into this Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions.

### **18.13. Subcontracting and Assignment**

The Contractor may not subcontract any portion of the products or services provided under this Contract without obtaining the prior written approval of the Procurement Officer, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the State. Any such approvals shall be at the State's sole and absolute discretion. Any such subcontract or assignment shall include the terms of this Contract and any other terms and conditions that the State deems necessary to protect its interests. The State shall not be responsible for the fulfillment of the Contractor's obligations to any subcontractors.

### **18.14. Minority Business Enterprise Participation**

- 18.14.1. Establishment of Goal and Subgoals.

MBE subcontractor participation goal and subgoals have been established for this procurement as described in section 1.24 of the RFP.

- 18.14.2. Liquidated Damages

18.14.2.1. This Contract requires the Contractor to make good faith efforts to comply with the MBE Program and Contract provisions. The State and the Contractor acknowledge and agree that the State will incur damages, including but not limited to loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources, if the Contractor does not make good faith efforts to comply with the requirements of the MBE Program and MBE Contract provisions. The parties further acknowledge and agree that the damages the State might reasonably be anticipated to accrue as a result of such lack of compliance are difficult to ascertain with precision.

18.14.2.2. Therefore, upon a determination by the State that the Contractor failed to make good faith efforts to comply with one or more of the specified MBE Program requirements or Contract provisions, the Contractor agrees to pay liquidated damages to the State at the rates set forth below. The Contractor expressly agrees that the State may withhold payment on any invoices as a set-off against liquidated damages owed. The Contractor further agrees that for each specified violation, the agreed upon liquidated damages are reasonably proximate to the loss the State is anticipated to incur as a result of such violation.

- i. Failure to submit each monthly payment report in full compliance with COMAR 21.11.03.13B (3): \$<<insert value>> per day until the monthly report is submitted as required.
- ii. Failure to include in its agreements with MBE subcontractors a provision requiring submission of payment reports in full compliance with COMAR 21.11.03.13B (4): \$<<insert value>> per MBE subcontractor.
- iii. Failure to comply with COMAR 21.11.03.12 in terminating, canceling, or changing the scope of work/value of a contract with an MBE subcontractor and/or amendment of the MBE participation schedule: the difference between the dollar value of the MBE participation commitment on the MBE participation schedule for that specific MBE firm and the dollar value of the work performed by that MBE firm for the contract.
- iv. Failure to meet the Contractor's total MBE participation goal and sub goal commitments: the difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually achieved.
- v. Failure to promptly pay all undisputed amounts to an MBE subcontractor in full compliance with the prompt payment provisions of this Contract: \$<<insert appropriate rate following calculation instructions from GOMA>> per day until the undisputed amount due to the MBE subcontractor is paid.

Notwithstanding the use of liquidated damages, the State reserves the right to terminate the Contract and exercise all other rights and remedies provided in the Contract or by law.

#### 18.14.3. MBE Prompt Pay Requirements

18.14.3.1. To ensure compliance with certified MBE subcontract participation goals, the Department or Agency may, consistent with COMAR 21.11.03.13, take the following measures:

- A) Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule. This verification may include, as appropriate:
- (1) Inspecting any relevant records of the Contractor;
  - (2) Inspecting the jobsite; and
  - (3) Interviewing subcontractors and workers.
  - (4) Verification shall include a review of:
    - (a) The Contractor's monthly report listing unpaid invoices over 30 days old from certified MBE subcontractors and the reason for nonpayment; and
    - (b) The monthly report of each certified MBE subcontractor, which lists payments received from the Contractor in the preceding 30 days and invoices for which the subcontractor has not been paid.
- B) If the Department or Agency determines that the Contractor is not in compliance with certified MBE participation goals, then the Department or Agency will notify the Contractor in writing of its findings, and will require the Contractor to take appropriate corrective action. Corrective action may include, but is not limited to, requiring the Contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.
- C) If the Department or Agency determines that the Contractor is in material noncompliance with MBE Contract provisions and refuses or fails to take the corrective action that the Department or Agency requires, then the Department or Agency may:
- (1) Terminate the Contract;
  - (2) Refer the matter to the Office of the Attorney General for appropriate action; or
  - (3) Initiate any other specific remedy identified by this Contract.

- 18.14.3.2. Upon completion of the contract, but before final payment or release of retainage or both, the Contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

## **18.15. Insurance Requirements**

The Contractor shall maintain workers' compensation coverage, property and casualty and any other insurance as required in the RFP. The minimum limits of such policies must meet any minimum requirements established by law and the limits of insurance required by the RFP, and shall cover losses resulting from or arising out of Contractor action or inaction in the performance of services under the Contract by the Contractor, its agents, servants, employees or subcontractors. Effective no later than the date of execution of the Contract, and continuing for the duration of the Contract term, and any applicable renewal periods, the Contractor shall

maintain such insurance coverage and shall report such insurance annually or upon Contract renewal, whichever is earlier, to the Procurement Officer. The Contractor is required to notify the Procurement Officer in writing, if policies are cancelled or not renewed 5 days of learning of such cancellation and/or nonrenewal. Certificates of insurance evidencing this coverage shall be provided within five (5) days of notice of recommended award. All insurance policies shall be issued by a company properly authorized to do business in the State of Maryland. The State shall be named as an additional named insured on the property and casualty policy and as required in the RFP.

**18.16. Veteran Owned Small Business Enterprise Participation**

There is no VSBE subcontractor participation goal for this procurement.

**18.17. Security Requirements and Incident Response**

The Contractor agrees to abide by all applicable federal, State and local laws concerning information security and comply with current State and Department of Information Technology information security policy, currently found at <http://doit.maryland.gov/Publications/DoITSecurityPolicy.pdf>. Contractor shall limit access to and possession of Sensitive Data to only employees whose responsibilities reasonably require such access or possession and shall train such employees on the Confidentiality obligations set forth herein. This Section 18 shall survive expiration or termination of this Contract.

**18.18. Suspension of Work**

The Procurement Officer unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the Procurement Officer may determine to be appropriate for the convenience of the State.

**18.19. Nonvisual Accessibility Warranty**

18.19.1. The Contractor warrants that the information technology to be provided under the Contract.

- (a) provides equivalent access for effective use by both visual and non-visual means;
- (b) will present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use;
- (c) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and
- (d) is available, whenever possible, without modification for compatibility with Software and hardware for non-visual access.

18.19.2. The Contractor further warrants that the cost, if any, of modifying the information technology for compatibility with Software and hardware used for non-visual access does not increase the cost of the information technology by more than five percent. For purposes of this Contract, the phrase "equivalent access" means the ability to receive, use and manipulate information and operate controls necessary to access and use information technology by non-visual means. Examples of equivalent access include keyboard controls used for input and synthesized speech, Braille, or other audible or tactile means used for output.

**18.20. Compliance with Laws/Arrearages**

The Contractor hereby represents and warrants that:

- 18.20.1 It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- 18.20.2. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- 18.20.3. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and,
- 18.20.4. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

**18.21. Contingent Fee Prohibition**

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or bona fide agent working for the Contractor to solicit or secure this Contract, and that it has not paid or agreed to pay any person, partnership, corporation or other entity, other than a bona fide employee or bona fide agent, any fee or other consideration contingent on the making of this Contract.

**18.22. Delays and Extensions of Time**

The Contractor agrees to perform this Contract continuously and diligently. No charges or claims for damages shall be made by the Contractor for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract. Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

**18.23. Financial Disclosure**

The Contractor shall comply with the provisions of §13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more, shall, within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

**18.24. Political Contribution Disclosure**

The Contractor shall comply with the provisions of Md. Code Ann., Election Law Article, Title 14, which requires that every person that enters into a contract for procurement with the State, a county or a municipal corporation or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the aggregate \$200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any

contributions made during the reporting period to a candidate for elective office in any primary or general election and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period.. The statement shall be filed with the State Board of Elections: (1) before execution of a contract by the State, a county, municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (2) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on: (i) February 5, to cover the six-month period ending January 31; and (ii) August 5, to cover the six-month period ending July 31. Additional information is available on the State Board of Elections website: [http://www.elections.state.md.us/campaign\\_finance/index.html](http://www.elections.state.md.us/campaign_finance/index.html).

## **18.25. Retention of Records and Audit**

- 18.25.1. The Contractor and Subcontractors shall retain and maintain all records and documents in any way relating to this Contract for three (3) years after final payment by the State under this Contract, or any applicable statute of limitations, prevailing federal or State law or regulation, or condition of award, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or the Procurement Officer's designee, at all reasonable times. The Contractor shall, upon request by the Department, surrender all and every copy of documents needed by the State, including, but not limited to itemized billing documentation containing the dates, hours spent and work performed by the Contractor and its subcontractors under the Contract. The Contractor agrees to cooperate fully in any audit conducted by or on behalf of the State, including, by way of example only, making records and employees available as, where, and to the extent requested by the State and by assisting the auditors in reconciling any audit variances. Contractor shall not be compensated for providing any such cooperation and assistance. All records related in any way to the Contract are to be retained for the entire time provided under this section.
- 18.25.2 The State reserves the right, at its sole discretion and at any time, to perform an audit of the Contractor's and/or Subcontractors' performance under this Contract. In this Contract, an audit is defined as a planned and documented independent activity performed by qualified personnel, including but not limited to State and federal auditors, to determine by investigation, examination, or evaluation of objective evidence from data, statements, records, operations and performance practices (financial or otherwise) the Contractor's and/or Subcontractor's compliance with the Contract, including but not limited to the adequacy and compliance with established procedures and internal controls over the services being performed for the State.
- 18.25.3 Upon three (3) business days' notice, Contractor and/or Subcontractors shall provide the State reasonable access during normal business hours to their records to verify conformance to the terms of this Contract. The State shall be permitted to conduct these audits with any or all of its own internal resources or by securing the services of a third party accounting/audit firm, solely at the State's election. The State shall have the right to copy, at its own expense, any record related to the services performed pursuant to this Contract.
- 18.25.4 Contractor and/or Subcontractors shall cooperate with the State or the designated auditor and shall provide the necessary assistance for the State or the designated auditor to conduct the audit.
- 18.25.5 The right to audit shall include subcontracts in which goods or services are

subcontracted by Contractor and/or Subcontractors and that provide essential support to the services provided to the State under this Contract. Contractor and/or Subcontractors shall ensure the State has the right to audit with any lower tier Subcontractor.

18.25.6. This Section 18.25 shall survive expiration or termination of this Contract.

**18.26 Compliance with federal Health Insurance Portability and Accountability Act (HIPAA) and State Confidentiality Law**

HIPAA clauses do not apply to this Contract.

**19. Administrative Information**

**19.1. Procurement Officer and Contract Manager**

The day-to-day work to be accomplished under this Contract shall be performed under the direction of the Contract Manager and, as appropriate, the Procurement Officer. All matters relating to the interpretation of this Contract shall be referred to the Procurement Officer for determination.

**19.2. Notices**

All notices hereunder shall be in writing and either delivered personally or sent by certified or registered mail, postage prepaid as follows:

If to the State:

State of Maryland  
Department of Information Technology  
45 Calvert Street  
Annapolis, MD 21401-1907

With a copy to:

Gayle Mealy  
Department of Information Technology (DoIT)  
45 Calvert Street, Rm 424A  
Annapolis, MD 21401-1907  
Gayle.Mealy@maryland.gov

If to the Contractor:

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

Attn: \_\_\_\_\_

IN WITNESS THEREOF, the parties have executed this Contract as of the date hereinabove set forth.

CONTRACTOR

DEPARTMENT OF INFORMATION TECHNOLOGY

\_\_\_\_\_  
By:

\_\_\_\_\_  
By:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

Approved for form and legal sufficiency this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Assistant Attorney General

APPROVED BY BPW: \_\_\_\_\_  
(Date)

\_\_\_\_\_  
(BPW Item #)



**ATTACHMENT B - Bid/Proposal Affidavit**

(Authorized Representative and Affiant)

**A. AUTHORITY**

I hereby affirm that I, \_\_\_\_\_ (name of affiant) am the \_\_\_\_\_ (title) and duly authorized representative of \_\_\_\_\_ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

**B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION**

The undersigned Bidder/Offeror hereby certifies and agrees that the following information is correct: In preparing its Bid/Proposal on this project, the Bidder/Offeror has considered all quotes submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in § 19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. "Discrimination" means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendor's, supplier's, or commercial customer's employees or owners. "Discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination". Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the Bid/Proposal submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the Bid/Proposal. As part of its Bid/Proposal, the Bidder/Offeror herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the Bidder/Offeror discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder/Offeror agrees to comply in all respects with the State's Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

**B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.**

The undersigned Bidder/Offeror hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, § 14-308(a)(2), Annotated Code of Maryland, which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a Bid/Proposal and:

- (1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority proposal;
- (2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the Bid/Proposal;
- (3) Fail to use the certified minority business enterprise in the performance of the contract; or
- (4) Pay the certified minority business enterprise solely for the use of its name in the Bid/Proposal.

Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the Bid/Proposal submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the Bid/Proposal.

**B-2. CERTIFICATION REGARDING VETERAN-OWNED SMALL BUSINESS ENTERPRISES.**

The undersigned Bidder/Offeror hereby certifies and agrees that it has fully complied with the State veteran-owned small business enterprise law, State Finance and Procurement Article, § 14-605, Annotated Code of Maryland, which provides that a person may not:

- (1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;
- (2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran-owned small business enterprise in order to obtain or retain a Bid/Proposal preference or a procurement contract;
- (3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.12; or
- (6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of § B-2(1)-(5) of this regulation.

**C. AFFIRMATION REGARDING BRIBERY CONVICTIONS**

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, § 6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

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**D. AFFIRMATION REGARDING OTHER CONVICTIONS**

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

(1) Been convicted under state or federal statute of:

(a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract;  
or

(b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;

(2) Been convicted of any criminal violation of a state or federal antitrust statute;

(3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of Bids/Proposals for a public or private contract;

(4) Been convicted of a violation of the State Minority Business Enterprise Law, § 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(5) Been convicted of a violation of § 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)—(5) above;

(7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of Bids/Proposals for a public or private contract;

(8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract;

(9) Been convicted of a violation of one or more of the following provisions of the Internal Revenue Code:

(a) §7201, Attempt to Evade or Defeat Tax;

(b) §7203, Willful Failure to File Return, Supply Information, or Pay Tax,

(c) §7205, Fraudulent Withholding Exemption Certificate or Failure to Supply Information;

(d) §7206, Fraud and False Statements, or

(e) §7207 Fraudulent Returns, Statements, or Other Documents;

(10) Been convicted of a violation of 18 U.S.C. §286 Conspiracy to Defraud the Government with Respect to Claims, 18 U.S.C. §287, False, Fictitious, or Fraudulent Claims, or 18 U.S.C. §371, Conspiracy to Defraud the United States;

(11) Been convicted of a violation of the Tax-General Article, Title 13, Subtitle 7 or Subtitle 10, Annotated Code of Maryland;

(12) Been found to have willfully or knowingly violated State Prevailing Wage Laws as provided in the State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure act; and

(ii) Not overturned on judicial review;

(13) Been found to have willfully or knowingly violated State Living Wage Laws as provided in the State Finance and Procurement Article, Title 18, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure act; and

(ii) Not overturned on judicial review;

(14) Been found to have willfully or knowingly violated the Labor and Employment Article, Title 3, Subtitles 3, 4, or 5, or Title 5, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure act; and

(ii) Not overturned on judicial review; or

(15) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described

in §§ B and C and subsections D(1)—(14 above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

- (1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and
- (2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

G. SUBCONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

- (1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying Bid/Proposal that is being submitted;
- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the Bid/Proposal price of the Bidder/Offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying Bid/Proposal is submitted.

**I. CERTIFICATION OF TAX PAYMENT**

**I FURTHER AFFIRM THAT:**

Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

**J. CONTINGENT FEES**

**I FURTHER AFFIRM THAT:**

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

**K. CERTIFICATION REGARDING INVESTMENTS IN IRAN**

(1) The undersigned certifies that, in accordance with State Finance and Procurement Article, §17-705, Annotated Code of Maryland:

(a) It is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland; and

(b) It is not engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland.

2. The undersigned is unable to make the above certification regarding its investment activities in Iran due to the following activities: \_\_\_\_\_

**L. CONFLICT MINERALS ORIGINATED IN THE DEMOCRATIC REPUBLIC OF CONGO (FOR SUPPLIES AND SERVICES CONTRACTS)**

**I FURTHER AFFIRM THAT:**

The business has complied with the provisions of State Finance and Procurement Article, §14-413, Annotated Code of Maryland governing proper disclosure of certain information regarding conflict minerals originating in the Democratic Republic of Congo or its neighboring countries as required by federal law.

**M. I FURTHER AFFIRM THAT:**

Any claims of environmental attributes made relating to a product or service included in the bid or proposal are consistent with the Federal Trade Commission’s Guides for the Use of Environmental Marketing Claims as provided in 16 CFR §260, that apply to claims about the environmental attributes of a product, package or service in connection with the marketing, offering for sale, or sale of such item or service.

N. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this Bid/Proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

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

By: \_\_\_\_\_ (print name of Authorized Representative and Affiant)

\_\_\_\_\_ (signature of Authorized Representative and Affiant)

**ATTACHMENT C - Contract Affidavit**

**A. AUTHORITY**

I HEREBY AFFIRM THAT:

I, \_\_\_\_\_ (name of affiant), am the \_\_\_\_\_ (title) and duly authorized representative of \_\_\_\_\_ (name of business entity) and I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

**B. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION**

I FURTHER AFFIRM THAT:

The business named above is a (check applicable box):

- (1) Corporation —  domestic or  foreign;
- (2) Limited Liability Company —  domestic or  foreign;
- (3) Partnership —  domestic or  foreign;
- (4) Statutory Trust —  domestic or  foreign;
- (5)  Sole Proprietorship.

and is registered or qualified as required under Maryland Law. I further affirm that the above business is in good standing both in Maryland and (IF APPLICABLE) in the jurisdiction where it is presently organized, and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation. The name and address of its resident agent (IF APPLICABLE) filed with the State Department of Assessments and Taxation is:

Name and Department ID

Number: \_\_\_\_\_ Address: \_\_\_\_\_

and that if it does business under a trade name, it has filed a certificate with the State Department of Assessments and Taxation that correctly identifies that true name and address of the principal or owner as:

Name and Department ID Number: \_\_\_\_\_

Address: \_\_\_\_\_

**C. FINANCIAL DISCLOSURE AFFIRMATION**

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies

during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

#### D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a contract for a procurement with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on: (i) February 5, to cover the six (6) month period ending January 31; and (ii) August 5, to cover the six (6) month period ending July 31. Additional information is available on the State Board of Elections website: [http://www.elections.state.md.us/campaign\\_finance/index.html](http://www.elections.state.md.us/campaign_finance/index.html).

#### E. DRUG AND ALCOHOL FREE WORKPLACE

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head's designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency's undercover operations.)

I CERTIFY THAT:

(1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.

(2) By submission of its Bid/Proposal, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:

- (a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;
- (b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the

business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

(c) Prohibit its employees from working under the influence of drugs or alcohol;

(d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

(e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

(f) Establish drug and alcohol abuse awareness programs to inform its employees about:

- (i) The dangers of drug and alcohol abuse in the workplace;
- (ii) The business's policy of maintaining a drug and alcohol free workplace;
- (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
- (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

(g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §E(2)(b), above;

(h) Notify its employees in the statement required by §E(2)(b), above, that as a condition of continued employment on the contract, the employee shall:

- (i) Abide by the terms of the statement; and
- (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

(i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;

(j) Within 30 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:

- (i) Take appropriate personnel action against an employee, up to and including termination; or
- (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

(k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §E(2)(a)—(j), above.

(3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

(4) I acknowledge and agree that:

(a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;

(b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and

(c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Bid/Proposal Affidavit dated \_\_\_\_\_, 20\_\_\_\_, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

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

By: \_\_\_\_\_ (printed name of Authorized Representative and Affiant)

\_\_\_\_\_ (signature of Authorized Representative and Affiant)

**ATTACHMENT D – Minority Business Enterprise Requirements**

**EXHIBIT TO SOLICITATION  
STATE OF MARYLAND  
DEPARTMENT OF INFORMATION TECHNOLOGY  
MINORITY BUSINESS ENTERPRISE PARTICIPATION**

**PURPOSE**

Contractor shall structure its procedures for the performance of the work required in this contract to strive to achieve the Minority Business Enterprise (MBE) goal stated in the Request for Proposals for Hardware and Associated Equipment and Services, No. 060B2490022-2015. MBE performance must be in accordance with this Attachment, as authorized by Code of Maryland Regulations (COMAR) 21.11.03. Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this Attachment.

**DEFINITIONS**

As used in this Attachment, the following words have the meanings indicated.

- ◆ “Certification” means a determination made by the Maryland Department of Transportation that a legal entity is a minority business enterprise.
- ◆ “MBE Liaison” is the employee designated to administer this Department’s MBE program.
- ◆ “Minority Business Enterprise” or “MBE” means any legal entity, other than a joint venture, organized to engage in commercial transactions, that is:
  - (1) at least 51 percent owned and controlled by one or more individuals who are socially and economically disadvantaged; and
  - (2) managed by, and the daily business operations of which are controlled by, one or more of the socially and economically disadvantaged individuals who own it.

*Note:* A minority business enterprise also includes a not-for-profit entity organized to promote the interests of physically or mentally disabled individuals.

An MBE **must** be certified by the Maryland Department of Transportation (MDOT) in order to have its contract participation counted under the Department’s MBE program.

**MBE GOALS AND SUB-GOALS**

The Contractor shall achieve the MBE subcontracting goal and any sub-goals established for each individual Purchase Order (PO), by subcontracting to one or more MDOT-certified MBEs a sufficient portion of the Purchase Order Request for Proposal (PORFP) scope of work that results in total MBE payments that meet or exceed the PORFP MBE goal percentage.

If awarded a Master Contract:

- ◆ A prime contractor — including an MBE or a certified Small Business Reserve (SBR) prime contractor — must accomplish an amount of work not less than the MBE subcontract goal with certified MBE subcontractors, unless it has requested and been granted a waiver.

- ◆ A prime contractor comprising a joint venture that includes MBE partner(s) must accomplish the MBE subcontract goal with certified MBE subcontractors, unless it has requested and been granted a waiver.

### SOLICITATION AND CONTRACT FORMATION

#### *MASTER CONTRACT AWARDS*

- ◆ An Offeror must sign and submit Attachment D-A (Hardware Master Contractor Acknowledgement of Purchase Order MBE Requirements) with its Hardware Technical Proposal submission. By signing Attachment D-1A, the Offeror affirms that if it is awarded a master contract under one or more Functional Areas of the RFP, it will comply with all MBE requirements associated with any PORFP, including submission of waiver documentation where applicable. **Offeror's failure to submit Attachment D-A with its technical proposal will result in the Offeror's proposal being deemed not reasonably susceptible for award, and the Offeror being eliminated from consideration for a master contract award.**
- ◆ Offerors receiving notification from the State that they are an apparent master contract awardee will not be required to submit additional MBE documentation prior to final master contract execution. However, all PORFPs issued with an MBE participation goal will contain certain documents that the Contractor must submit at the time of its PORFP Proposal submission as well as documents that an apparent PORFP awardee must submit within 10 working days of notification of PORFP award. MBE affidavits, schedules, statements, and reports that will be used at the PORFP level are included herein as attachments D-1A – D5.

#### *PORFP AWARDS*

A Master Contractor submitting a PO Proposal for a PORFP with an MBE goal must include attachments in accordance with the instructions in that PORFP. **If the Master Contractor does not submit required MBE Attachments with its PO Proposal, the Master Contractor's PO Proposal will be eliminated from consideration for award.**

A Master Contract notified of apparent PORFP award must complete additional MBE Attachments. If the apparent PORFP awardee fails to return the requested documentation within the required time, the contract offer may be withdrawn.

### CONTRACT ADMINISTRATION REQUIREMENTS

For each PO, the Master Contractor shall: submit monthly reports as required by COMAR 21.11.03 and as instructed in the PORFP. The Master Contractor shall also include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit monthly reports as described in the PORFP.

1. Submit monthly to the Department/Agency a report listing all unpaid invoices over 30 days old received from a certified MBE subcontractor working under the TO Agreement, the amount of each invoice and the reason payment has not been made. For informational purposes only, a sample prime contractor unpaid invoice report is attached (see Attachment D-4A).
2. Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit monthly to the Department a report that identifies the prime contract and lists all payments received from Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices. For informational purposes only, a sample MBE Subcontractor Paid/Unpaid Invoice report is attached (see Attachment D-5).

**NOTE:** Each Department/Agency will designate, via PORFP, the specific format in which the prime contractor and subcontractor must submit monthly MBE reports, and to whom such reports shall be forwarded. **Under the Hardware Master Contract, all PORFP MBE payment reports shall be sent to the agency for the which the PORFP scope of work is being completed. Payment reports should not be sent to DoIT unless the PORFP was issued by DoIT.**

3. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed.
4. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. The Master Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the contract.
5. At the option of the procurement agency, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

### LANGUAGE FOR PORFPs

The following language, or similar, will be provided in PORFPs to guide Master Contractors regarding current expectations for fulfilling MBE subcontracting and corresponding MBE reporting requirements.

#### 1.33.2.1 Establishment of Goal and Subgoals

An overall MBE subcontractor participation goal has been established for this procurement as identified in the Key Information Summary Sheet, representing a percentage of the total contract dollar amount. In addition, the following subgoals have been established for this procurement:

- (African-American subgoal percentage) \_\_\_% for African-American MBEs,
- (Asian-American subgoal percentage) \_\_\_% for Asian-American MBEs,
- (Hispanic-American subgoal percentage) \_\_\_% for Hispanic-American MBEs, and
- (Woman-Owned subgoal percentage) \_\_\_% for Woman-Owned MBEs.

Notwithstanding any subgoals established above, the Contractor is encouraged to use a diverse group of subcontractors and suppliers from any/all of the various MBE classifications to meet the remainder of the overall MBE participation goal.

1.33.2.2 Attachments D-1A to D-5 – The following Minority Business Enterprise participation instructions, and forms are provided to assist Offerors:

Attachment D-1A	MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule ( <b>must submit with PO Proposal</b> )
Attachment D-1B	Waiver Guidance
Attachment D-1C	Good Faith Efforts Documentation to Support Waiver Request
Attachment D-2	Outreach Efforts Compliance Statement
Attachment D-3A	MBE Subcontractor Project Participation Certification
Attachment D-3B	MBE Prime Project Participation Certification
Attachment D-4A	Prime Contractor Paid/Unpaid MBE Invoice Report
Attachment D-4B	MBE Prime Contractor Report
Attachment D-5	Subcontractor/Contractor Unpaid MBE Invoice Report

1.33.2.3 A Offeror shall include with its Bid/Proposal a completed MBE Utilization and Fair Solicitation Affidavit (Attachment D-1A) whereby:

- (a) The Offeror acknowledges the certified MBE participation goal and commits to make a good faith effort to achieve the goal and any applicable subgoals, or requests a waiver, and affirms that MBE subcontractors were treated fairly in the solicitation process; and
- (b) The Offeror responds to the expected degree of MBE participation, as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of Proposal submission. The Offeror shall specify the percentage of total contract value associated with each MBE subcontractor identified on the MBE participation schedule, including any work performed by the MBE prime (including a prime participating as a joint venture) to be counted towards meeting the MBE participation goals.
- (c) A Offeror requesting a waiver should review Attachment D-1B (Waiver Guidance) and D-1C (Good Faith Efforts Documentation to Support Waiver Request) prior to submitting its request.

***If an Offeror fails to submit a completed Attachment D-1A with the Proposal as required, the Procurement Officer shall determine that the Proposal is not reasonably susceptible of being selected for award.***

1.33.2.4 Offerors are responsible for verifying that each of the MBE(s) (including any MBE primes and/or MBE primes participating in a joint venture), selected to meet the goal and any subgoals and subsequently identified in Attachment D-1A is appropriately certified and has the correct NAICS codes allowing it to perform the committed work.

- 1.33.2.5 Within ten (10) Working Days from notification of recommended award or the date of the actual award, whichever is earlier, the Offeror must provide the following documentation to the Procurement Officer.
- (a) Outreach Efforts Compliance Statement (Attachment D-2).
  - (b) MBE Prime/Subcontractor Project Participation Certification (Attachment D-3A/3B).
  - (c) If the recommended awardee believes a waiver (in whole or in part) of the overall MBE goal or of any applicable subgoal is necessary, the recommended awardee must submit a fully-documented waiver request that complies with COMAR 21.11.03.11.
  - (d) Any other documentation required by the Procurement Officer to ascertain Offeror responsibility in connection with the certified MBE subcontractor participation goal or any applicable subgoals.
- If the recommended awardee fails to return each completed document within the required time, the Procurement Officer may determine that the recommended awardee is not responsible and, therefore, not eligible for Contract award. If the Contract has already been awarded, the award is voidable.*
- 1.33.2.6 A current directory of certified MBEs is available through the Maryland State Department of Transportation (MDOT), Office of Minority Business Enterprise, 7201 Corporate Center Drive, Hanover, Maryland 21076. The phone numbers are (410) 865-1269, 1-800-544-6056, or TTY (410) 865-1342. The directory is also available on the MDOT website at <http://mbe.mdot.state.md.us/directory/>. The most current and up-to-date information on MBEs is available via this website. **Only MDOT-certified MBEs may be used to meet the MBE subcontracting goals.**
- 1.33.2.6 The Contractor, once awarded a Contract, will be responsible for submitting or requiring its subcontractor(s) to submit the following forms to provide the State with ongoing monitoring of MBE Participation:
- (a) Attachment D-4A (Prime Contractor Paid/Unpaid MBE Invoice Report).
  - (b) Attachment D-4B (MBE Prime Contractor Report)
  - (c) Attachment D-5 (MBE Subcontractor/Contractor Unpaid MBE Invoice Report).
- 1.33.2.7 An Offeror that requested a waiver of the goal or any of the applicable subgoals will be responsible for submitting the Good Faith Efforts Documentation to Support Waiver Request (Attachment D-1C) and all documentation within ten (10) Working Days from notification of recommended award or from the date of the actual award, whichever is earlier, as required in COMAR 21.11.03.11.
- 1.33.2.8 All documents, including the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (Attachment D-1A), completed and submitted by the Offeror in connection with its certified MBE participation commitment shall be considered a part of the resulting Contract and are hereby expressly incorporated into the Contract by reference thereto. All of the referenced documents will be considered a part of the Proposal for order of precedence purposes (see PO Contract – Attachment A, Section x.x).
- 1.33.2.9 The Offeror is advised that liquidated damages will apply in the event the Contractor fails to comply in good faith with the requirements of the MBE program and pertinent Contract provisions. (See PO Contract - Attachment A, Section x.x).

- 1.33.2.10 As set forth in COMAR 21.11.03.12-1(D) when a certified MBE firm participates on a contract as a prime contractor (including a joint-venture where the MBE firm is a partner), a procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own work force towards fulfilling up to fifty-percent (50%) of the MBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the contract.

In order to receive credit for self-performance, an MBE prime must list its firm in Section 4A of the MBE Participation Schedule (Attachment D-1A) and include information regarding the work it will self-perform. For the remaining portion of the overall goal and the subgoals, the MBE prime must also identify other certified MBE subcontractors (see Section 4B of the MBE Participation Schedule (Attachment D-1A)) used to meet those goals. If dually-certified, the MBE prime can be designated as only one of the MBE classifications but can self-perform up to 100% of the stated subgoal.

As set forth in COMAR 21.11.03.12-1, once the Contract work begins, the work performed by a certified MBE firm, including an MBE prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract.

- 1.33.2.11 With respect to Contract administration, the Contractor shall:
- (a) Submit by the <<10th (insert date here AND in MBE attachments)>> of each month to the Contract Manager and the Department's MBE Liaison Officer:
    - i. A Prime Contractor Paid/Unpaid MBE Invoice Report (Attachment D-4A) listing any unpaid invoices, over 45 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made; and
    - ii. (If Applicable) An MBE Prime Contractor Report (Attachment D-4B) identifying an MBE prime's self-performing work to be counted towards the MBE participation goals.
  - (b) Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit by the <<10th>> of each month to the Contract Manager and the Department's MBE Liaison Officer an MBE Subcontractor Paid/Unpaid Invoice Report (Attachment D-5) that identifies the Contract and lists all payments to the MBE subcontractor received from the Contractor in the preceding 30 days, as well as any outstanding invoices, and the amounts of those invoices.
  - (c) Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the Contract, the type of work performed by each, and the actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
  - (d) Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the Contract.

- (e) Upon completion of the Contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

**MINORITY BUSINESS ENTERPRISE PARTICIPATION FORMS**

**Must be submitted with Master Contract Proposal in response to this RFP:**

- ◆ ATTACHMENT D-A – Hardware Master Contractor Acknowledgement of Purchase Order MBE Requirements

**Must be submitted with PORFP Proposal:**

- ◆ ATTACHMENT D-1A - MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule

**Must be submitted within 10 working days of notification of PORFP apparent award:**

- ◆ ATTACHMENT D-1C – Good Faith Efforts Documentation to Support Waiver Request
- ◆ ATTACHMENT D-2 - Outreach Efforts Compliance Statement
- ◆ ATTACHMENT D-3A – MBE Subcontractor Project Participation Certification
- ◆ ATTACHMENT D-3B – MBE Prime Project Participation Certification

**Must be submitted on a monthly basis after award of a PORFP:**

- ◆ ATTACHMENT D-4A - Prime Contractor Paid/Unpaid MBE Invoice Report
- ◆ ATTACHMENT D-4B MBE Prime Contractor Report
- ◆ ATTACHMENT D-5 - Subcontractor/Contractor Unpaid MBE Invoice Report

**ATTACHMENT D-A**  
**Hardware and Associated Equipment and Services Master Contractor Acknowledgement of Purchase Order MBE Requirements**

**This document shall be included with the submittal of the Offeror’s response to the RFP. If the bidder or Offeror fails to complete and submit this form with its response to the RFP, the procurement officer shall determine that the Offeror’s response to the RFP is not reasonably susceptible of being selected for award.**

In conjunction with the offer submitted in response to Solicitation No. 060B2490022-2015, I affirm the following:

1. I understand that if I am awarded a master contract under the solicitation noted above, I will have the opportunity to compete for and win PORFP contracts that may contain MBE participation requirements.
2. If I am awarded a master contract under the solicitation noted above, and I respond to a PORFP that contains MBE requirements by submitting a PO Proposal, I understand that if I fail to comply with any of the MBE requirements outlined in the PORFP, my PO Proposal will be eliminated from further consideration.
3. If I am awarded a PO, I commit to making a good faith effort to achieve the MBE goal established for the PORFP.

I solemnly affirm under the penalties of perjury that the contents of this paper are true to the best of my knowledge, information, and belief.

\_\_\_\_\_  
Bidder/Offeror Name

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_

\_\_\_\_\_  
Printed Name, Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date

The following Attachments D-1A through D-5 are sample forms and do not need to be completed or submitted with Offeror's response to this RFP.

The forms are required to be completed and submitted after Master Contract award with Master Contractor's PORFP proposal pursuant to any applicable issued under this RFP.

**MBE ATTACHMENT D-1A: MBE UTILIZATION AND FAIR SOLICITATION  
AFFIDAVIT & MBE PARTICIPATION SCHEDULE****INSTRUCTIONS****PLEASE READ BEFORE COMPLETING THIS DOCUMENT**

**This form includes Instructions and the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule which must be submitted with the bid/proposal. If the Bidder/Offeree fails to accurately complete and submit this Affidavit and Schedule with the bid or proposal as required, the Procurement Officer shall deem the bid non-responsive or shall determine that the proposal is not reasonably susceptible of being selected for award.**

1. Contractor shall structure its procedures for the performance of the work required in this Contract to attempt to achieve the minority business enterprise (MBE) subcontractor participation goal stated in the Invitation for Bids or Request for Proposals. Contractor agrees to exercise good faith efforts to carry out the requirements set forth in these Instructions, as authorized by the Code of Maryland Regulations (COMAR) 21.11.03.

2. MBE Goals and Subgoals: Please review the solicitation for information regarding the Contract's MBE overall participation goals and subgoals. After satisfying the requirements for any established subgoals, the Contractor is encouraged to use a diverse group of subcontractors and suppliers from any/all of the various MBE classifications to meet the remainder of the overall MBE participation goal.

3. MBE means a minority business enterprise that is certified by the Maryland Department of Transportation ("MDOT"). Only entities certified by MDOT may be counted for purposes of achieving the MBE participation goals. In order to be counted for purposes of achieving the MBE participation goals, the MBE firm, including a MBE prime, must be MDOT-certified for the services, materials or supplies that it is committed to perform on the MBE Participation Schedule.

4. Please refer to the MDOT MBE Directory at [www.mdot.state.md.us](http://www.mdot.state.md.us) to determine if a firm is certified with the appropriate North American Industry Classification System ("NAICS") Code **and** the product/services description (specific product that a firm is certified to provide or specific areas of work that a firm is certified to perform). For more general information about NAICS, please visit [www.naics.com](http://www.naics.com). Only those specific products and/or services for which a firm is certified in the MDOT Directory can be used for purposes of achieving the MBE participation goals. **WARNING:** If the firm's NAICS Code is in graduated status, such products/services **may not be counted** for purposes of achieving the MBE participation goals. A NAICS Code is in the graduated status if the term "Graduated" follows the Code in the MDOT MBE Directory.

5. **NOTE: New Guidelines Regarding MBE Prime Self-Performance.** Please note that when a certified MBE firm participates as a prime contractor on a contract, a procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own forces toward fulfilling up to fifty-percent (50%) of the MBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the contract. In order to receive credit for self-performance, an MBE prime must list its firm in Section 4A of the MBE Participation Schedule, including the certification category under which the MBE prime is self-performing and include information regarding the work it will self-perform. For the remaining portion of the overall goal and the subgoals, the MBE prime must also identify other certified MBE subcontractors (see Section 4B of the MBE Participation Schedule) used to meet those goals or request a waiver. For example, for a construction contract that has a 27% MBE overall participation goal and subgoals of 7% for African American firms and 4% for Asian American firms, subject to Section 4 above and this Section 5, a certified African American MBE prime can self-perform (a) up to 13.5 % of the overall goal and (b) up to

7% of the African American subgoal. The remainder of the overall goal and subgoals would have to be met with other certified MBE firms or a waiver request.

For a services contract with a 30% percent MBE participation goal (overall) and subgoals of 7% for African-American firms, 4% for Asian American firms and 12% for women-owned firms, subject to Sections 4 above and this Section 5, a dually-certified Asian American/Woman MBE prime can self-perform (a) up to 15% of the overall goal and (b) up to four percent (4%) of the Asian American subgoal OR up to twelve percent (12%) of the women subgoal. Because it is dually-certified, the company can be designated as only ONE of the MBE classifications (Asian American or women) but can self-perform up to one hundred percent (100%) of the stated subgoal for the single classification it selects.

6. Subject to the restrictions stated in Section 5 above, when a certified MBE that performs as a participant in a joint venture, a procurement agency may count a portion of the total dollar value of the contract equal to the distinct, clearly-defined portion of the work of the contract that the certified MBE performs with its own forces toward fulfilling the contract goal, and not more than one of the contract subgoals, if any. For example, if a MBE firm is a joint venture partner and the State determines that it is performing with its own forces 35 percent of the work in the contract, it can use this portion of the work towards fulfilling up to fifty percent (50%) of the overall goal and up to one hundred percent (100%) of one of the stated subgoals, if applicable.

7. As set forth in COMAR 21.11.03.12-1, once the Contract work begins, the work performed by a certified MBE firm, including an MBE prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract. Please refer to COMAR 21.11.03.12-1 for more information regarding these requirements.

8. If you have any questions as to whether a firm is certified to perform the specific services or provide specific products, please contact MDOT’s Office of Minority Business Enterprise at 1-800-544-6056 or via e-mail to [mbe@mdot.state.md.us](mailto:mbe@mdot.state.md.us) sufficiently prior to the submission due date.

9. Worksheet: The percentage of MBE participation, calculated using the percentage amounts for all of the MBE firms listed on the Participation Schedule MUST at least equal the MBE participation goal **and** subgoals (if applicable) set forth in the solicitation. If a Bidder/Offeror is unable to achieve the MBE participation goal and/or any subgoals (if applicable), the Bidder/Offeror must request a waiver in Item 1 of the MBE Utilization and Fair Solicitation Affidavit (Attachment D-1A) or the bid will be deemed not responsive, or the proposal determined to be not susceptible of being selected for award. You may wish to use the Subgoal summary below to assist in calculating the percentages and confirm that you have met the applicable MBE participation goal and subgoals, if any.

**Subgoals (if applicable)**

Total African American MBE Participation: \_\_\_\_\_ %  
 Total Asian American MBE Participation: \_\_\_\_\_ %  
 Total Hispanic American MBE Participation: \_\_\_\_\_ %  
 Total Women-Owned MBE Participation: \_\_\_\_\_ %

**Overall Goal**

Total MBE Participation (include all categories): \_\_\_\_\_ %

**MBE ATTACHMENT D-1A: MBE UTILIZATION AND FAIR SOLICITATION  
AFFIDAVIT & MBE PARTICIPATION SCHEDULE**

**This MBE Utilization and Fair Solicitation Affidavit and MBE Participation Schedule must be included with the bid/proposal for any solicitation with an MBE goal greater than 0%. If the Bidder/Offeror fails to accurately complete and submit this Affidavit and Schedule with the bid or proposal as required, the Procurement Officer shall deem the bid non-responsive or shall determine that the proposal is not reasonably susceptible of being selected for award.**

In connection with the bid/proposal submitted in response to Solicitation No. 060B2490022-2015, I affirm the following:

**1. MBE Participation (PLEASE CHECK ONLY ONE) [Agency should insert the participation goal and subgoal amounts from the PRG and Subgoal Worksheet in the blanks below and delete any of the subgoals that do not apply to this solicitation and then delete this sentence of instruction.]**

\_\_\_ I acknowledge and intend to meet the overall certified Minority Business Enterprise (MBE) participation goal of \_\_\_ percent and, if specified in the solicitation, the following subgoals (complete for only those subgoals that apply):

- percent for African American-owned MBE firms
- percent for Hispanic American-owned MBE firms
- percent for Asian American-owned MBE firms
- percent for Women-owned MBE firms

Therefore, I am not seeking a waiver pursuant to COMAR 21.11.03.11.

Notwithstanding any subgoals established above, the Contractor is encouraged to use a diverse group of subcontractors and suppliers from any/all of the various MBE classifications to meet the remainder of the overall MBE participation goal.

**OR**

\_\_\_ I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. Within 10 Working days of receiving notice that our firm is the apparent awardee or as requested by the Procurement Officer, I will submit the completed Good Faith Efforts Documentation to Support Waiver Request (Attachment D-1C) and all required waiver documentation in accordance with COMAR 21.11.03.

**2. Additional MBE Documentation**

I understand that if I am notified that I am the apparent awardee or as requested by the Procurement Officer, I must submit the following documentation within 10 business days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier:

- (a) Outreach Efforts Compliance Statement (Attachment D-2);
- (b) MBE Subcontractor Project Participation Statement (Attachment D-3);
- (c) Any other documentation, including waiver documentation if applicable, required by the Procurement Officer to ascertain Bidder or Offeror responsibility in connection with the certified MBE participation goal and subgoals, if any.

I understand that if I fail to return each completed document within the required time, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.

**3. Information Provided to MBE firms**

In the solicitation of subcontract quotations or offers, MBE firms were provided not less than the same information and amount of time to respond as were non-MBE firms.

**4. MBE Participation Schedule**

Set forth below are the (i) certified MBEs I intend to use, (ii) the percentage of the total Contract amount allocated to each MBE for this project and, (iii) the items of work each MBE will provide under the Contract. I have confirmed with the MDOT database that the MBE firms identified below are performing work activities for which they are MDOT certified.

Prime Contractor: (Firm Name, Address, Phone)	Project Description:
Project Number:	

**LIST INFORMATION FOR EACH CERTIFIED MBE FIRM YOU AGREE TO USE TO ACHIEVE THE MBE PARTICIPATION GOAL AND SUBGOALS, IF ANY.**

**MBE PRIMES: PLEASE COMPLETE BOTH SECTIONS A AND B BELOW.**

**SECTION A: For MBE Prime Contractors ONLY (including MBE Primes in a Joint Venture )**

MBE Prime Firm Name: _____  MBE Certification Number: _____  (If dually certified, check only one box.)  <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American- Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification	Percentage of total Contract Value to be performed with own forces and counted towards the MBE overall participation goal (up to 50% of the overall goal): _____%  Percentage of total Contract Value to be performed with own forces and counted towards the subgoal, if any, for my MBE classification (up to 100% of not more than one subgoal): _____%  Description of the Work to be performed with MBE prime's own forces: _____ _____
---	--

**SECTION B: For all Contractors (including MBE Primes in a Joint Venture)**

MBE Prime Firm Name: _____ MBE Certification Number: _____ (If dually certified, check only one box.) <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American- Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification	Percentage of Total Contract to be performed by this MBE: _____%  Description of the Work to be Performed: _____ _____ _____
MBE Prime Firm Name: _____ MBE Certification Number: _____ (If dually certified, check only one box.) <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American- Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification	Percentage of Total Contract to be performed by this MBE: _____%  Description of the Work to be Performed: _____ _____ _____
MBE Prime Firm Name: _____ MBE Certification Number: _____ (If dually certified, check only one box.) <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American- Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification	Percentage of Total Contract to be performed by this MBE: _____%  Description of the Work to be Performed: _____ _____ _____
MBE Prime Firm Name: _____ MBE Certification Number: _____ (If dually certified, check only one box.) <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American- Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification	Percentage of Total Contract to be performed by this MBE: _____%  Description of the Work to be Performed: _____ _____ _____

**CONTINUE ON SEPARATE PAGE IF NEEDED**

I solemnly affirm under the penalties of perjury that I have reviewed the instructions for the MBE Utilization & Fair Solicitation Affidavit and MBE Schedule and that the information included in the Schedule is true to the best of my knowledge, information and belief.

\_\_\_\_\_  
 Bidder/Offeror Name  
 (PLEASE PRINT OR TYPE)

\_\_\_\_\_  
 Signature of Authorized Representative

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Printed Name and Title

\_\_\_\_\_  
 City, State and Zip Code

\_\_\_\_\_  
 Date

**SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL**

**MBE ATTACHMENT D-1B WAIVER GUIDANCE****GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET MBE PARTICIPATION GOALS**

In order to show that it has made good faith efforts to meet the Minority Business Enterprise (MBE) participation goal (including any MBE subgoals) on a contract, the Bidder/Offeror must either (1) meet the MBE Goal(s) and document its commitments for participation of MBE Firms, or (2) when it does not meet the MBE Goal(s), document its Good Faith Efforts to meet the goal(s).

**I. Definitions**

**MBE Goal(s)** – “MBE Goal(s)” refers to the MBE participation goal and MBE participation subgoal(s).

**Good Faith Efforts** – The “Good Faith Efforts” requirement means that when requesting a waiver, the Bidder/Offeror must demonstrate that it took all necessary and reasonable steps to achieve the MBE Goal(s), which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient MBE participation, even if those steps were not fully successful. Whether a Bidder/Offeror that requests a waiver made adequate good faith efforts will be determined by considering the quality, quantity, and intensity of the different kinds of efforts that the Bidder/Offeror has made. The efforts employed by the Bidder/Offeror should be those that one could reasonably expect a Bidder/Offeror to take if the Bidder/Offeror were actively and aggressively trying to obtain MBE participation sufficient to meet the MBE contract goal and subgoals. Mere *pro forma* efforts are not good faith efforts to meet the MBE contract requirements. The determination concerning the sufficiency of the Bidder's/Offeror's good faith efforts is a judgment call; meeting quantitative formulas is not required.

**Identified Firms** – “Identified Firms” means a list of the MBEs identified by the procuring agency during the goal setting process and listed in the procurement as available to perform the Identified Items of Work. It also may include additional MBEs identified by the Bidder/Offeror as available to perform the Identified Items of Work, such as MBEs certified or granted an expansion of services after the procurement was issued. If the procurement does not include a list of Identified Firms, this term refers to all of the MBE Firms (if State-funded) the Bidder/Offeror identified as available to perform the Identified Items of Work and should include all appropriately certified firms that are reasonably identifiable.

**Identified Items of Work** – “Identified Items of Work” means the bid items identified by the procuring agency during the goal setting process and listed in the procurement as possible items of work for performance by MBE Firms. It also may include additional portions of items of work the Bidder/Offeror identified for performance by MBE Firms to increase the likelihood that the MBE Goal(s) will be achieved. If the procurement does not include a list of Identified Items of Work, this term refers to all of the items of work the Bidder/Offeror identified as possible items of work for performance by MBE Firms and should include all reasonably identifiable work opportunities.

**MBE Firms** – “MBE Firms” refers to a firm certified by the Maryland Department of Transportation (“MDOT”) under COMAR 21.11.03. Only MDOT-certified MBE Firms can participate in the State's MBE Program.

**II. Types of Actions Agency will Consider**

The Bidder/Offeror is responsible for making relevant portions of the work available to MBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available MBE subcontractors and suppliers, so as to facilitate MBE participation. The following is a list of types of actions the procuring agency will consider as part of the Bidder's/Offeror's Good Faith Efforts when the Bidder/Offeror fails to meet the MBE Goal(s). This list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

**A. Identify Bid Items as Work for MBE Firms**

## 1. Identified Items of Work in Procurements

- (a) Certain procurements will include a list of bid items identified during the goal setting process as possible work for performance by MBE Firms. If the procurement provides a list of Identified Items of Work, the Bidder/Offeror shall make all reasonable efforts to solicit quotes from MBE Firms to perform that work.
- (b) Bidders/Offerors may, and are encouraged to, select additional items of work to be performed by MBE Firms to increase the likelihood that the MBE Goal(s) will be achieved.

## 2. Identified Items of Work by Bidders/Offerors

- (a) When the procurement does not include a list of Identified Items of Work or for additional Identified Items of Work, Bidders/Offerors should reasonably identify sufficient items of work to be performed by MBE Firms.
- (b) Where appropriate, Bidders/Offerors should break out contract work items into economically feasible units to facilitate MBE participation, rather than perform these work items with their own forces. The ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the Bidder/Offeror of the responsibility to make Good Faith Efforts.

**B. Identify MBE Firms to Solicit**

## 1. MBE Firms Identified in Procurements

- (a) Certain procurements will include a list of the MBE Firms identified during the goal setting process as available to perform the items of work. If the procurement provides a list of Identified MBE Firms, the Bidder/Offeror shall make all reasonable efforts to solicit those MBE firms.
- (b) Bidders/Offerors may, and are encouraged to, search the MBE Directory to identify additional MBEs who may be available to perform the items of work, such as MBEs certified or granted an expansion of services after the solicitation was issued.

## 2. MBE Firms Identified by Bidders/Offerors

- (a) When the procurement does not include a list of Identified MBE Firms, Bidders/Offerors should reasonably identify the MBE Firms that are available to perform the Identified Items of Work.
- (b) Any MBE Firms identified as available by the Bidder/Offeror should be certified to perform the Identified Items of Work.

**C. Solicit MBEs**1. Solicit all Identified Firms for all Identified Items of Work by providing written notice. The Bidder/Offeror should:

- (a) provide the written solicitation at least 10 days prior to bid opening to allow sufficient time for the MBE Firms to respond;
  - (b) send the written solicitation by first-class mail, facsimile, or e-mail using contact information in the MBE Directory, unless the Bidder/Offeror has a valid basis for using different contact information; and
  - (c) provide adequate information about the plans, specifications, anticipated time schedule for portions of the work to be performed by the MBE, and other requirements of the contract to assist MBE Firms in responding. (This information may be provided by including hard copies in the written solicitation or by electronic means as described in C.3 below.)
2. "All" Identified Firms includes the MBEs listed in the procurement and any MBE Firms you identify as potentially available to perform the Identified Items of Work, but it does not include MBE Firms who are no longer certified to perform the work as of the date the Bidder/Offeror provides written solicitations.
  3. "Electronic Means" includes, for example, information provided via a website or file transfer protocol (FTP) site containing the plans, specifications, and other requirements of the contract. If an interested MBE cannot access the information provided by electronic means, the Bidder/Offeror must make the information available in a manner that is accessible to the interested MBE.

4. Follow up on initial written solicitations by contacting MBEs to determine if they are interested. The follow up contact may be made:
  - (a) by telephone using the contact information in the MBE Directory, unless the Bidder/Offeror has a valid basis for using different contact information; or
  - (b) in writing *via* a method that differs from the method used for the initial written solicitation.
5. In addition to the written solicitation set forth in C.1 and the follow up required in C.4, use all other reasonable and available means to solicit the interest of MBE Firms certified to perform the work of the contract. Examples of other means include:
  - (a) attending any pre-bid meetings at which MBE Firms could be informed of contracting and subcontracting opportunities; and
  - (b) if recommended by the procurement, advertising with or effectively using the services of at least two minority focused entities or media, including trade associations, minority/women community organizations, minority/women contractors' groups, and local, state, and federal minority/women business assistance offices listed on the MDOT Office of Minority Business Enterprise website.

**D. Negotiate With Interested MBE Firms**

Bidders/Offerors must negotiate in good faith with interested MBE Firms.

1. Evidence of negotiation includes, without limitation, the following:
  - (a) the names, addresses, and telephone numbers of MBE Firms that were considered;
  - (b) a description of the information provided regarding the plans and specifications for the work selected for subcontracting and the means used to provide that information; and
  - (c) evidence as to why additional agreements could not be reached for MBE Firms to perform the work.
2. A Bidder/Offeror using good business judgment would consider a number of factors in negotiating with subcontractors, including MBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration.
3. The fact that there may be some additional costs involved in finding and using MBE Firms is not in itself sufficient reason for a Bidder's/Offeror's failure to meet the contract MBE goal(s), as long as such costs are reasonable. Factors to take into consideration when determining whether a MBE Firm's quote is excessive or unreasonable include, without limitation, the following:
  - (a) the dollar difference between the MBE subcontractor's quote and the average of the other subcontractors' quotes received by the Bidder/Offeror;
  - (b) the percentage difference between the MBE subcontractor's quote and the average of the other subcontractors' quotes received by the Bidder/Offeror;
  - (c) the percentage that the MBE subcontractor's quote represents of the overall contract amount;
  - (d) the number of MBE firms that the Bidder/Offeror solicited for that portion of the work;
  - (e) whether the work described in the MBE and Non-MBE subcontractor quotes (or portions thereof) submitted for review is the same or comparable; and
  - (f) the number of quotes received by the Bidder/Offeror for that portion of the work.
4. The above factors are not intended to be mandatory, exclusive, or exhaustive, and other evidence of an excessive or unreasonable price may be relevant.
5. The Bidder/Offeror may not use its price for self-performing work as a basis for rejecting a MBE Firm's quote as excessive or unreasonable.
6. The "average of the other subcontractors' quotes received" by the Bidder/Offeror refers to the average of the quotes received from all subcontractors. Bidder/Offeror should attempt to receive quotes from at least three subcontractors, including one quote from a MBE and one quote from a Non-MBE.
7. A Bidder/Offeror shall not reject a MBE Firm as unqualified without sound reasons based on a thorough investigation of the firm's capabilities. For each certified MBE that is rejected as unqualified or that placed a subcontract quotation or offer that the Bidder/Offeror concludes is not acceptable, the Bidder/Offeror must provide a written detailed statement listing the reasons for this

conclusion. The Bidder/Offeror also must document the steps taken to verify the capabilities of the MBE and Non-MBE Firms quoting similar work.

- (a) The factors to take into consideration when assessing the capabilities of a MBE Firm, include, but are not limited to the following: financial capability, physical capacity to perform, available personnel and equipment, existing workload, experience performing the type of work, conduct and performance in previous contracts, and ability to meet reasonable contract requirements.
- (b) The MBE Firm's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the efforts to meet the project goal.

#### **E. Assisting Interested MBE Firms**

When appropriate under the circumstances, the decision-maker will consider whether the Bidder/Offeror:

1. made reasonable efforts to assist interested MBE Firms in obtaining the bonding, lines of credit, or insurance required by the procuring agency or the Bidder/Offeror; and
2. made reasonable efforts to assist interested MBE Firms in obtaining necessary equipment, supplies, materials, or related assistance or services.

### **III. Other Considerations**

In making a determination of Good Faith Efforts the decision-maker may consider engineering estimates, catalogue prices, general market availability and availability of certified MBE Firms in the area in which the work is to be performed, other bids or offers and subcontract bids or offers substantiating significant variances between certified MBE and Non-MBE costs of participation, and their impact on the overall cost of the contract to the State and any other relevant factors.

The decision-maker may take into account whether a Bidder/Offeror decided to self-perform subcontract work with its own forces, especially where the self-performed work is Identified Items of Work in the procurement. The decision-maker also may take into account the performance of other Bidders/Offerors in meeting the contract. For example, when the apparent successful Bidder/Offeror fails to meet the contract goal, but others meet it, this reasonably raises the question of whether, with additional reasonable efforts, the apparent successful Bidder/Offeror could have met the goal. If the apparent successful Bidder/Offeror fails to meet the goal, but meets or exceeds the average MBE participation obtained by other Bidders/Offerors, this, when viewed in conjunction with other factors, could be evidence of the apparent successful Bidder/Offeror having made Good Faith Efforts.

### **IV. Documenting Good Faith Efforts**

At a minimum, a Bidder/Offeror seeking a waiver of the MBE Goal(s) or a portion thereof must provide written documentation of its Good Faith Efforts, in accordance with COMAR 21.11.03.11, within 10 business days after receiving notice that it is the apparent awardee. The written documentation shall include the following:

#### **A. Items of Work (Complete Good Faith Efforts Documentation Attachment D-1C, Part 1)**

A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBE Firms in order to increase the likelihood of achieving the stated MBE Goal(s).

#### **B. Outreach/Solicitation/Negotiation**

1. The record of the Bidder's/Offeror's compliance with the outreach efforts prescribed by COMAR 21.11.03.09C(2)(a). (**Complete Outreach Efforts Compliance Statement – Attachment D-2**).

2. A detailed statement of the efforts made to contact and negotiate with MBE Firms including:

- (a) the names, addresses, and telephone numbers of the MBE Firms who were contacted, with the dates and manner of contacts (letter, fax, e-mail, telephone, etc.) (**Complete Good Faith Efforts Attachment D-1C-Part 2, and submit letters, fax cover sheets, e-mails, etc. documenting solicitations**); and
- (b) a description of the information provided to MBE Firms regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed and the means used to provide that information.

C. Rejected MBE Firms (Complete Good Faith Efforts Attachment D-1C, Part 3)

1. For each MBE Firm that the Bidder/Offeror concludes is not acceptable or qualified, a detailed statement of the reasons for the Bidder's/Offeror's conclusion, including the steps taken to verify the capabilities of the MBE and Non-MBE Firms quoting similar work.
2. For each certified MBE Firm that the Bidder/Offeror concludes has provided an excessive or unreasonable price, a detailed statement of the reasons for the Bidder's/Offeror's conclusion, including the quotes received from all MBE and Non-MBE firms bidding on the same or comparable work. **(Include copies of all quotes received.)**
3. A list of MBE Firms contacted but found to be unavailable. This list should be accompanied by a MBE Unavailability Certificate (see Exhibit A to this Part 1) signed by the MBE contractor or a statement from the Bidder/Offeror that the MBE contractor refused to sign the MBE Unavailability Certificate.

D. Other Documentation

1. Submit any other documentation requested by the Procurement Officer to ascertain the Bidder's/Offeror's Good Faith Efforts.
2. Submit any other documentation the Bidder/Offeror believes will help the Procurement Officer ascertain its Good Faith Efforts.

**Exhibit A  
MBE Subcontractor Unavailability Certificate**

1. It is hereby certified that the firm of \_\_\_\_\_  
(Name of Minority firm)  
located at \_\_\_\_\_  
(Number) (Street)  
\_\_\_\_\_  
(City) (State) (Zip)

was offered an opportunity to bid on Solicitation No. \_\_\_\_\_  
in \_\_\_\_\_ County by \_\_\_\_\_  
(Name of Prime Contractor's Firm)

\*\*\*\*\*

2. \_\_\_\_\_ (Minority Firm), is either unavailable for  
the work/service or unable to prepare a bid for this project for the following reason(s):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**Signature of Minority Firm's MBE Representative      Title      Date**

\_\_\_\_\_  
MDOT Certification #      Telephone #

\*\*\*\*\*

3. To be completed by the prime contractor if Section 2 of this form is not completed by the minority firm.  
To the best of my knowledge and belief, said Certified Minority Business Enterprise is either unavailable  
for the work/service for this project, is unable to prepare a bid, or did not respond to a request for a price  
proposal and has not completed the above portion of this submittal.

\_\_\_\_\_  
**Signature of Prime Contractor      Title      Date**

**MBE ATTACHMENT D-1C**

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST**

Page \_\_ of \_\_

Prime Contractor:	Project Description:
Solicitation Number:	

**Parts 1, 2, and 3 must be included with this certificate along with all documents supporting your waiver request.**

I affirm that I have reviewed Attachment D-1B, Waiver Guidance. I further affirm under penalties of perjury that the contents of Parts 1, 2, and 3 of this Attachment D-1C Good Faith Efforts Documentation Form are true to the best of my knowledge, information, and belief.

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Signature of Representative

\_\_\_\_\_  
Address

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Date

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST**

**Part 1 – Identified items of work Bidder/Offeror made available to MBE firms**

Page \_\_\_ of \_\_\_

Prime Contractor:	Project Description:
Solicitation Number:	

Identify those items of work that the Bidder/Offeror made available to MBE Firms. This includes, where appropriate, those items the Bidder/Offeror identified and determined to subdivide into economically feasible units to facilitate the MBE participation. For each item listed, show the anticipated percentage of the total contract amount. It is the Bidder’s/Offeror’s responsibility to demonstrate that sufficient work to meet the goal was made available to MBE Firms, and the total percentage of the items of work identified for MBE participation equals or exceeds the percentage MBE goal set for the procurement. Note: If the procurement includes a list of bid items identified during the goal setting process as possible items of work for performance by MBE Firms, the Bidder/Offeror should make all of those items of work available to MBE Firms or explain why that item was not made available. If the Bidder/Offeror selects additional items of work to make available to MBE Firms, those additional items should also be included below.

Identified Items of Work	Was this work listed in the procurement?	Does Bidder/Offeror normally self-perform this work?	Was this work made available to MBE Firms? If no, explain why?
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Please check if Additional Sheets are attached.

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST**

**Part 2 – identified MBE firms and record of solicitations**

Page \_\_ of \_\_

Prime Contractor:	Project Description:
Solicitation Number:	

Identify the MBE Firms solicited to provide quotes for the Identified Items of Work made available for MBE participation. Include the name of the MBE Firm solicited, items of work for which bids/quotes were solicited, date and manner of initial and follow-up solicitations, whether the MBE provided a quote, and whether the MBE is being used to meet the MBE participation goal. MBE Firms used to meet the participation goal must be included on the MBE Participation Schedule. Note: If the procurement includes a list of the MBE Firms identified during the goal setting process as potentially available to perform the items of work, the Bidder/Offeror should solicit all of those MBE Firms or explain why a specific MBE was not solicited. If the Bidder/Offeror identifies additional MBE Firms who may be available to perform Identified Items of Work, those additional MBE Firms should also be included below. Copies of all written solicitations and documentation of follow-up calls to MBE Firms must be attached to this form. This list should be accompanied by a Minority Contractor Unavailability Certificate signed by the MBE contractor or a statement from the Bidder/Offeror that the MBE contractor refused to sign the Minority Contractor Unavailability Certificate (see Exhibit A to MBE Attachment D-1B). If the Bidder/Offeror used a Non-MBE or is self-performing the identified items of work, Part 4 must be completed.

Name of Identified MBE Firm & MBE Classification	Describe Item of Work Solicited	Initial Solicitation Date & Method	Follow-up Solicitation Date & Method	Details for Follow-up Calls	Quote Rec'd	Quote Used	Reason Quote Rejected
<b>Firm Name:</b>  <b>MBE Classification (Check only if requesting waiver of MBE subgoal.)</b> <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American-Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification		Date:  <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail	Date:  <input type="checkbox"/> Phone <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail	Time of Call:  Spoke With:  <input type="checkbox"/> Left Message	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Used Other MBE <input type="checkbox"/> Used Non-MBE  <input type="checkbox"/> Self-performing

Name of Identified MBE Firm & MBE Classification	Describe Item of Work Solicited	Initial Solicitation Date & Method	Follow-up Solicitation Date & Method	Details for Follow-up Calls	Quote Rec'd	Quote Used	Reason Quote Rejected
<b>Firm Name:</b>  <b>MBE Classification (Check only if requesting waiver of MBE subgoal.)</b> <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American-Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification		Date:  <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail	Date:  <input type="checkbox"/> Phone <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail	Time of Call:  Spoke With:  <input type="checkbox"/> Left Message	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Used Other MBE <input type="checkbox"/> Used Non-MBE  <input type="checkbox"/> Self-performing

Please check if Additional Sheets are attached.

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST**

**Part 3 – additional information regarding rejected MBE quotes**

Page \_\_ of \_\_

Prime Contractor:	Project Description:
Solicitation Number:	

This form must be completed if Part 1 indicates that a MBE quote was rejected because the Bidder/Offeror is using a Non-MBE or is self-performing the Identified Items of Work. Provide the Identified Items Work, indicate whether the work will be self-performed or performed by a Non-MBE, and if applicable, state the name of the Non-MBE. Also include the names of all MBE and Non-MBE Firms that provided a quote and the amount of each quote.

Describe Identified Items of Work Not Being Performed by MBE (Include spec/ section number from bid)	Self-performing or Using Non-MBE (Provide name)	Amount of Non-MBE Quote	Name of Other Firms who Provided Quotes & Whether MBE or Non-MBE	Amount Quoted	Indicate Reason Why MBE Quote Rejected & Briefly Explain
	<input type="checkbox"/> Self-performing  <input type="checkbox"/> Using Non-MBE	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing  <input type="checkbox"/> Using Non-MBE	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing  <input type="checkbox"/> Using Non-MBE	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other

Describe Identified Items of Work Not Being Performed by MBE (Include spec/ section number from bid)	Self-performing or Using Non-MBE (Provide name)	Amount of Non-MBE Quote	Name of Other Firms who Provided Quotes & Whether MBE or Non-MBE	Amount Quoted	Indicate Reason Why MBE Quote Rejected & Briefly Explain
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other

Please check if Additional Sheets are attached.

**MBE ATTACHMENT D- 2**

**OUTREACH EFFORTS COMPLIANCE STATEMENT**

Complete and submit this form within 10 working days of notification of apparent award or actual award, whichever is earlier.

In conjunction with the bid/proposal submitted in response to Solicitation No. \_\_\_\_\_, I state the following:

1. Bidder/Offeror identified subcontracting opportunities in these specific work categories: \_\_\_\_\_

2. Attached to this form are copies of written solicitations (with bidding/proposal instructions) used to solicit certified MBE firms for these subcontract opportunities.

3. Bidder/Offeror made the following attempts to personally contact the solicited MDOT-certified MBE firms: \_\_\_\_\_

**4. Please Check One:**

- This project does not involve bonding requirements.
- Bidder/Offeror assisted MDOT-certified MBE firms to fulfill or seek waiver of bonding requirements.

(DESCRIBE EFFORTS): \_\_\_\_\_

**5. Please Check One:**

- Bidder/Offeror did attend the pre-bid/pre-proposal conference.
- No pre-bid/pre-proposal meeting/conference was held.
- Bidder/Offeror did not attend the pre-bid/pre-proposal conference.

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Signature of Representative

\_\_\_\_\_  
Address

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Date

**MBE Attachment D-3A**

**MBE SUBCONTRACTOR PROJECT PARTICIPATION CERTIFICATION**

Please complete and submit one form for each certified MBE firm listed on the MBE Participation schedule (Attachment D-1A) within 10 Working Days of notification of apparent award. If the Bidder/Offeror fails to return this affidavit within the required time, the Procurement Officer may determine that the Bidder/Offeror is not responsible and therefore not eligible for Contract award.

Provided that \_\_\_\_\_ (Prime Contractor’s Name) is awarded the State contract in conjunction with Solicitation No. 060B2490022-2015, such Prime Contractor intends to enter into a subcontract with \_\_\_\_\_ (Subcontractor’s Name) committing to participation by the MBE firm \_\_\_\_\_ (MBE Name) with MDOT Certification Number \_\_\_\_\_ which will receive at least \$ \_\_\_\_\_ which equals to \_\_\_% of the Total Contract Amount for performing the following products/services for the Contract:

NAICS CODE	WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE)	DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES

Each of the Contractor and Subcontractor acknowledges that, for purposes of determining the accuracy of the information provided herein, the Procurement Officer may request additional information, including, without limitation, copies of the subcontract agreements and quotes. Each of the Contractor and Subcontractor solemnly affirms under the penalties of perjury that: (i) the information provided in this MBE Subcontractor Project Participation Affidavit is true to the best of its knowledge, information and belief, and (ii) has fully complied with the State Minority Business Enterprise law, State Finance and Procurement Article §14-308(a)(2), Annotated Code of Maryland which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a Bid/Proposal and:

- (1) fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified Minority Business Enterprise in its Bid/Proposal;
- (2) fail to notify the certified Minority Business Enterprise before execution of the Contract of its inclusion of the Bid/Proposal;
- (3) fail to use the certified Minority Business Enterprise in the performance of the Contract; or
- (4) pay the certified Minority Business Enterprise solely for the use of its name in the Bid/Proposal.

**PRIME CONTRACTOR**  
Signature of Representative:  
\_\_\_\_\_  
Printed Name and Title:  
\_\_\_\_\_  
Firm's Name:  
\_\_\_\_\_  
Federal Identification Number:  
\_\_\_\_\_  
Address:  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone:  
\_\_\_\_\_  
Date:  
\_\_\_\_\_

**SUBCONTRACTOR**  
Signature of Representative:  
\_\_\_\_\_  
Printed Name and Title:  
\_\_\_\_\_  
Firm's Name:  
\_\_\_\_\_  
Federal Identification Number:  
\_\_\_\_\_  
Address:  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone:  
\_\_\_\_\_  
Date:  
\_\_\_\_\_

**MBE Attachment D-3B**

**MBE PRIME PROJECT PARTICIPATION CERTIFICATION**

PLEASE COMPLETE AND SUBMIT THIS FORM TO ATTEST EACH SPECIFIC ITEM OF WORK THAT YOUR MBE FIRM HAS LISTED ON THE MBE PARTICIPATION SCHEDULE (ATTACHMENT D-1A) FOR PURPOSES OF MEETING THE MBE PARTICIPATION GOALS. THIS FORM MUST BE SUBMITTED WITHIN 10 WORKING DAYS OF NOTIFICATION OF APPARENT AWARD. IF THE BIDDER/OFFEROR FAILS TO RETURN THIS AFFIDAVIT WITHIN THE REQUIRED TIME, THE PROCUREMENT OFFICER MAY DETERMINE THAT THE BIDDER/OFFEROR IS NOT RESPONSIBLE AND THEREFORE NOT ELIGIBLE FOR CONTRACT AWARD.

Provided that \_\_\_\_\_ (Prime Contractor’s Name) with Certification Number \_\_\_\_\_ is awarded the State contract in conjunction with Solicitation No. 060B2490022-2015, such MBE Prime Contractor intends to perform with its own forces at least \$\_\_\_\_\_ which equals to \_\_\_% of the Total Contract Amount for performing the following products/services for the Contract:

NAICS CODE	WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE) For Construction Projects, General Conditions must be listed separately.	DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES	VALUE OF THE WORK

**MBE PRIME CONTRACTOR**

Signature of Representative:

\_\_\_\_\_

Printed Name and Title:

\_\_\_\_\_

Firm's Name:

\_\_\_\_\_

Federal Identification Number:

\_\_\_\_\_

Address:

\_\_\_\_\_

\_\_\_\_\_

Telephone:

\_\_\_\_\_

Date:

*This form must be completed monthly by the prime contractor.*

**MBE ATTACHMENT D-4A MBE Prime Contractor Paid/Unpaid MBE Invoice Report**

**<<Department Name>>  
Minority Business Enterprise Participation  
Prime Contractor Paid/Unpaid MBE Invoice Report**

Report #: _____ Reporting Period (Month/Year): _____ <b>Report is due to the MBE Officer by the 10th of the month following the month the services were provided.</b> <b>Note: Please number reports in sequence</b>	Contract #: _____ Contracting Unit: _____ Contract Amount: _____ MBE Subcontract Amt: _____ Project Begin Date: _____ Project End Date: _____ Services Provided: _____
---	--

Prime Contractor: _____		Contact Person: _____	
Address: _____			
City: _____		State: _____	ZIP: _____
Phone: _____	FAX: _____ E-mail: _____		
MBE Subcontractor Name: _____		Contact Person: _____	
Phone: _____	FAX: _____		
Subcontractor Services Provided:			
List all payments made to MBE subcontractor named above during this reporting period:		List dates and amounts of any outstanding invoices:	
Invoice#	Amount	Invoice #	Amount
1.		1.	
2.		2.	
3.		3.	
4.		4.	
Total Dollars Paid:		Total Dollars Unpaid:	
\$ _____		\$ _____	

**\*\*If more than one MBE subcontractor is used for this contract, you must use separate D-4A forms. Information regarding payments that the MBE prime will use for purposes of meeting the MBE participation goals must be reported separately in Attachment D-4B. \*\*Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):**

\_\_\_\_\_ Contract Manager  
 \_\_\_\_\_ Contracting Unit  
 (Department) \_\_\_\_\_  
 \_\_\_\_\_ mailto: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 (Required)

*This form must be completed monthly by MBE subcontractor*

**Sample MBE D-5 Subcontractor Paid/Unpaid MBE Invoice Report**

**Minority Business Enterprise Participation**

**Subcontractor Paid/Unpaid MBE Invoice Report**

Report#: _____	Contract #
Reporting Period (Month/Year): _____	Contracting Unit:
<b>Report is due by the 10th of the month following the month the services were performed.</b>	MBE Subcontract Amount:
	Project Begin Date:
	Project End Date:
	Services Provided:

MBE Subcontractor Name:		
MDOT Certification #:		
Contact Person:	E-mail:	
Address:		
City:	State:	ZIP:
Phone:	FAX:	
Subcontractor Services Provided:		

List all payments received from Prime Contractor during reporting period indicated above. <table border="0"> <tr> <td style="text-align: center;">Invoice Amount</td> <td style="text-align: center;">Date</td> </tr> <tr> <td>1.</td> <td></td> </tr> <tr> <td>2.</td> <td></td> </tr> <tr> <td>3.</td> <td></td> </tr> <tr> <td>4.</td> <td></td> </tr> <tr> <td colspan="2">Total Dollars Paid: \$_____</td> </tr> </table>	Invoice Amount	Date	1.		2.		3.		4.		Total Dollars Paid: \$_____		List dates and amounts of any unpaid invoices over 30 days old. <table border="0"> <tr> <td style="text-align: center;">Invoice Amount</td> <td style="text-align: center;">Date</td> </tr> <tr> <td>1.</td> <td></td> </tr> <tr> <td>2.</td> <td></td> </tr> <tr> <td>3.</td> <td></td> </tr> <tr> <td>4.</td> <td></td> </tr> <tr> <td colspan="2">Total Dollars Unpaid: \$_____</td> </tr> </table>	Invoice Amount	Date	1.		2.		3.		4.		Total Dollars Unpaid: \$_____	
Invoice Amount	Date																								
1.																									
2.																									
3.																									
4.																									
Total Dollars Paid: \$_____																									
Invoice Amount	Date																								
1.																									
2.																									
3.																									
4.																									
Total Dollars Unpaid: \$_____																									

Prime Contractor:	Contact Person:
-------------------	-----------------

**\*\*Return one copy of this form to the following address (electronic copy with signature & date is preferred):**

_____ Contract Manager
_____ Contracting Unit
(Department)
_____ mailto:

Signature: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 (Required)

**MBE Attachment D-4B MBE Prime Contractor Report**

<<Department Name>>  
**Minority Business Enterprise Participation**  
**MBE Prime Contractor Report**

MBE Prime Contractor: Certification Number: Report #: _____ Reporting Period (Month/Year): _____ <b>Report is due to the MBE Officer by the 10th of the month following the month the services were provided.</b> <b>Note: Please number reports in sequence</b>	Contract #: _____ Contracting Unit: _____ Contract Amount: _____ Total Value of the Work to the Self-Performed for purposes of Meeting the MBE participation goal/subgoals: _____ Project Begin Date: _____ Project End Date: _____
---	--

Contact Person: _____			
Address: _____			
City: _____	State: _____	ZIP: _____	
Phone: _____	Fax: _____	E-mail: _____	

INVOICE NUMBER	VALUE OF THE WORK	NAICS CODE	DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES

**Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):**

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

_____ Contract Manager _____ Contracting Unit (Department) _____ _____ _____ <a href="mailto:">mailto:</a>
---

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

(Required)

This form must be completed monthly by MBE subcontractor

**MBE D-5 Subcontractor Paid/Unpaid MBE Invoice Report**

**Minority Business Enterprise Participation  
Subcontractor Paid/Unpaid MBE Invoice Report**

Report#: _____	Contract #
Reporting Period (Month/Year): _____	Contracting Unit:
<b>Report is due by the 10th of the month following the month the services were performed.</b>	MBE Subcontract Amount:
	Project Begin Date:
	Project End Date:
	Services Provided:

MBE Subcontractor Name:		
MDOT Certification #:		
Contact Person:	E-mail:	
Address:		
City:	State:	ZIP:
Phone:	FAX:	
Subcontractor Services Provided:		
List all payments received from Prime Contractor during reporting period indicated above.		List dates and amounts of any unpaid invoices over 30 days old.
Invoice Amount	Date	Invoice Amount      Date
1.		1.
2.		2.
3.		3.
4.		4.
Total Dollars Paid: \$_____		Total Dollars Unpaid: \$_____
Prime Contractor:		Contact Person:
**Return one copy of this form to the following address (electronic copy with signature & date is preferred):		
_____ Contract Manager		
_____ Contracting Unit		
(Department)		
_____ mailto:		

Signature: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 (Required)

**ATTACHMENT E- Price Proposal Form and Instructions****Instructions**

In order to assist Offerors in the preparation of their price proposal and to comply with the requirements of this solicitation, Price Instructions and Price Forms have been prepared. Offerors shall submit their price proposal on the forms in accordance with the instructions on the forms and as specified herein. Do not alter the forms or the price proposal may be rejected. The Price Form is to be signed and dated, where requested, by an individual who is authorized to bind the Offeror to all proposed prices. Any incorrect entries or inaccurate calculations by the vendor will be treated as provided in COMAR 21.05.03E and 21.05.02.12. First year prices commence upon Contract award.

OFFERORS SHALL DETERMINE WHICH FUNCTIONAL AREAS TO PROPOSE EXCEPT, IF PROPOSING FUNCTIONAL AREA IV AN OFFEROR MUST ALSO PROPOSE FUNCTIONAL AREA I, II or III AND/OR FUNCTIONAL AREA V. FUNCTIONAL AREA IV CANNOT BE PROPOSED ALONE.

**FORM E-I FUNCTIONAL AREA I HARDWARE MSRP PRICE COMMITMENT**

The Offeror must acknowledge the use of the MSRP as a baseline for the Master Contract and commit to charging no higher than the MSRP published as of the date of the PORFP proposal submission. The MSRP is being used as a ceiling for price only.

**FORM E-II FUNCTIONAL AREA II HARDWARE MSRP PRICE COMMITMENT**

The Offeror must acknowledge the use of the MSRP as a baseline for the Master Contract and commit to charging no higher than the MSRP published as of the date of the PORFP proposal submission. The MSRP is being used as a ceiling for price only.

**FORM E-III FUNCTIONAL AREA III HARDWARE MSRP PRICE COMMITMENT**

The Offeror must acknowledge the use of the MSRP as a baseline for the Master Contract and commit to charging no higher than the MSRP published as of the date of the PORFP proposal submission. The MSRP is being used as a ceiling for price only.

**FORM E-IV FUNCTIONAL AREA IV INSTALLATION AND TRAINING SERVICES**

Offerors are required to record the fully-loaded, all-inclusive hourly prices they are proposing for each listed item. Record the hourly labor rate for all 15 years of the Master Contract for all labor categories.

**FORM E-V FUNCTIONAL AREA V MANUFACTURER'S EXTENDED WARRANTY MSRP PRICE COMMITMENT**

The Offeror must acknowledge the use of the MSRP as a baseline for the master contract and commit to charging no higher than the MSRP published as of the date of the PORFP proposal submission. The MSRP is being used as a ceiling for price only.

**FORM E-VI FUNCTIONAL AREA VI CAMERA AND ASSOCIATED PERIPHERALS  
MSRP PRICE COMMITMENT**

The Offeror must acknowledge the use of the MSRP as a baseline for the Master Contract and commit to charging no higher than the MSRP published as of the date of the PORFP proposal submission. The MSRP is being used as a ceiling for price only.

**ATTACHMENT E-I - Functional Area I - Servers and Associated Peripherals  
MSRP COMMITMENT**

I ACKNOWLEDGE BY SIGNING THIS ATTACHMENT, THE REQUIREMENT OF PROVIDING PRICING NO HIGHER THAN THE MSRP PUBLISHED AS OF THE DATE OF PORFP PROPOSAL SUBMISSION.

OFFERORS SHALL STATE BELOW THE MANUFACTURER HARDWARE PROPOSED (ATTACH ADDITIONAL SHEETS, IF NECESSARY):

Manufacturer(s):

SUBMITTED BY:

\_\_\_\_\_  
AUTHORIZED SIGNATURE DATE

\_\_\_\_\_  
PRINTED NAME AND TITLE

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

\_\_\_\_\_  
COMPANY ADDRESS

\_\_\_\_\_  
FEIN NUMBER

\_\_\_\_\_  
TELEPHONE NUMBER



**ATTACHMENT E-II - Functional Area II - Printers and Associated Peripherals  
MSRP COMMITMENT**

I ACKNOWLEDGE BY SIGNING THIS ATTACHMENT, THE REQUIREMENT OF PROVIDING PRICING NO HIGHER THAN THE MSRP PUBLISHED AS OF THE DATE OF PORFP PROPOSAL SUBMISSION.

OFFERORS SHALL STATE BELOW THE MANUFACTURER HARDWARE PROPOSED (ATTACH ADDITIONAL SHEETS, IF NECESSARY):

Manufacturer(s):

SUBMITTED BY:

\_\_\_\_\_  
AUTHORIZED SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRINTED NAME AND TITLE

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

\_\_\_\_\_  
COMPANY ADDRESS

\_\_\_\_\_  
FEIN NUMBER

\_\_\_\_\_  
TELEPHONE NUMBER

**ATTACHMENT E-III - Functional Area III - Network Communications Equipment  
MSRP COMMITMENT**

I ACKNOWLEDGE BY SIGNING THIS ATTACHMENT, THE REQUIREMENT OF PROVIDING PRICING NO HIGHER THAN THE MSRP PUBLISHED AS OF THE DATE OF PORFP PROPOSAL SUBMISSION.

OFFERORS SHALL STATE BELOW THE MANUFACTURER HARDWARE PROPOSED (ATTACH ADDITIONAL SHEETS, IF NECESSARY):

Manufacturer(s):

SUBMITTED BY:

\_\_\_\_\_  
AUTHORIZED SIGNATURE DATE

\_\_\_\_\_  
PRINTED NAME AND TITLE

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

\_\_\_\_\_  
COMPANY ADDRESS

\_\_\_\_\_  
FEIN NUMBER

\_\_\_\_\_  
TELEPHONE NUMBER

**ATTACHMENT E-IV FUNCTIONAL AREA IV - Installation and Training Services Labor Rate Schedule**

NOTE: COMPLETING D-IV REQUIRES OFFERORS TO ALSO COMPLETE E-1, E-II, E-III, or E-VI.

Offerors are required to record the fully-loaded, all-inclusive hourly prices they are proposing for each listed item. Record the hourly labor rate for all 12 years of the Master Contract for all labor categories.

<b>Labor Category</b>	<b>Training Specialist/ Instructor</b>	<b>Project Mgr.</b>	<b>Subject Matter Expert</b>	<b>Network Admin.</b>	<b>Sr. Network Engineer</b>	<b>Jr. Network Engineer</b>	<b>Sr. Network Tech.</b>	<b>Jr. Network Tech.</b>	<b>Sr. Computer Software/ Integration Analyst</b>	<b>Jr. Computer Systems Analyst</b>
<b>Year 1</b>	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Year 2</b>	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Year 3</b>	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Year 4</b>	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Year 5</b>	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Year 6</b>	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Year 7</b>	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Year 8</b>	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Year 9</b>	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Year 10</b>	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Year 11</b>	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
<b>Year 12</b>	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$

SUBMITTED BY

\_\_\_\_\_  
 AUTHORIZED SIGNATURE DATE

\_\_\_\_\_  
 PRINTED NAME AND TITLE

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

\_\_\_\_\_  
 COMPANY ADDRESS

\_\_\_\_\_  
 FEIN NUMBER

\_\_\_\_\_  
 TELEPHONE NUMBER

**ATTACHMENT E-V -FUNCTIONAL AREA V - Manufacturer's Warranty Services MSRP Price Commitment**

I ACKNOWLEDGE BY SIGNING THIS ATTACHMENT, THE REQUIREMENT OF PROVIDING PRICING NO HIGHER THAN THE MSRP AS OF THE DATE OF PORFP PROPOSAL SUBMISSION.

OFFERORS SHALL STATE BELOW THE MANUFACTURER OF THE LINE THAT WARRANTY IS PROPOSED (ATTACH ADDITIONAL SHEETS, IF NECESSARY):

SUBMITTED BY:

\_\_\_\_\_  
AUTHORIZED SIGNATURE DATE

\_\_\_\_\_  
PRINTED NAME AND TITLE

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

\_\_\_\_\_  
COMPANY ADDRESS

\_\_\_\_\_  
FEIN NUMBER

\_\_\_\_\_  
TELEPHONE NUMBER



**ATTACHMENT E-VI - Functional Area VI Security, Cameras and Associated Peripherals  
MSRP COMMITMENT**

I ACKNOWLEDGE BY SIGNING THIS ATTACHMENT, THE REQUIREMENT OF PROVIDING PRICING NO HIGHER THAN THE MSRP PUBLISHED AS OF THE DATE OF PORFP PROPOSAL SUBMISSION.

OFFERORS SHALL STATE BELOW THE MANUFACTURER HARDWARE PROPOSED (ATTACH ADDITIONAL SHEETS, IF NECESSARY):

Manufacturer(s):

SUBMITTED BY:

\_\_\_\_\_  
AUTHORIZED SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRINTED NAME AND TITLE

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

\_\_\_\_\_  
COMPANY ADDRESS

\_\_\_\_\_  
FEIN NUMBER

\_\_\_\_\_  
TELEPHONE NUMBER

**ATTACHMENT F – Pre-Proposal Conference Response Form**

Solicitation Number 060B2490022-2015  
Hardware and Associated Equipment and Services

A Pre-proposal conference will be held at 10:00 A.M. on Tuesday, January 26, 2016, at Maryland State Building, 100 Community Place, Crownsville, Maryland. Please return this form by Friday, January 22, 2016, advising whether or not you plan to attend.

Return this form to the Procurement Officer via e-mail or fax:

Gayle Mealy  
DoIT  
45 Calvert Street  
Annapolis, MD 21401

E-mail: [gayle.mealy@maryland.gov](mailto:gayle.mealy@maryland.gov)  
Fax #: (410) 974-5615

Please indicate:

Yes, the following representatives will be in attendance:

- 1.
- 2.

No, we will not be in attendance.

Please specify whether any reasonable accommodations are requested (see RFP § 1.8 “Pre-proposal conference”):

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Signature	Title
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Name of Firm (please print)

**PRE-PROPOSAL CONFERENCE DIRECTIONS**

**From Baltimore Area:**

Follow the Beltway (I-695) to Exit 4, I-97 towards Annapolis, 11 miles to Exit 5, Route 178. Two miles, to right on Crownsville Road, then immediately right onto Fairfield Loop Road, and left into the People's Resource Center (MARYLAND STATE BUILDING) at 100 Community Place.

**From Columbia :**

Follow Route 32 east to I-97 south towards Annapolis. Take first exit (Exit 5), Route 178 (towards Crownsville). Two miles, to right on Crownsville Road, then immediately right onto Fairfield Loop Road, and left into the People's Resource Center (MARYLAND STATE BUILDING) at 100 Community Place.

**From Washington:**

Follow the Beltway (I-495/95) to U.S. Route 50 east towards Annapolis (18 miles) to Route 450. Turn right towards Crownsville. Continue straight (becomes Route 178) for 4.5 miles to left on Crownsville Road, then immediately right onto Fairfield Loop Road, and left into the People's Resource Center (MARYLAND STATE BUILDING) at 100 Community Place.

**From Annapolis:**

Follow Rowe Boulevard to Bestgate Road to end. Right on Route 178 for 4 miles to left on Crownsville Road, then immediately right onto Fairfield Loop Road, and left into the People's Resource Center (MARYLAND STATE BUILDING) at 100 Community Place.

**Parking:**

On-site parking is available.

**ATTACHMENT G - Conflict Of Interest Affidavit And Disclosure**

A. "Conflict of interest" means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

B. "Person" has the meaning stated in COMAR 21.01.02.01B(64) and includes an offeror, contractor, consultant, or subcontractor or sub consultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a bid or offer is made.

C. The offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.

D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain detail—attach additional sheets if necessary):

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

E. The offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the offeror shall immediately make a full disclosure in writing to the procurement officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the contractor shall continue performance until notified by the procurement officer of any contrary action to be taken.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: \_\_\_\_\_ By: \_\_\_\_\_  
(Authorized Representative and Affiant)



**ATTACHMENT H – Mercury Affidavit**

**MERCURY AFFIDAVIT  
(submit with Bid/Proposal)**

**AUTHORIZED REPRESENTATIVE THEREBY AFFIRM THAT:**

I, \_\_\_\_\_ (name of affiant) am the  
\_\_\_\_\_ (title) and the duly authorized  
representative of \_\_\_\_\_ (name  
of the business). I possess the legal authority to make this affidavit on behalf of myself and the  
business for which I am acting.

**MERCURY CONTENT INFORMATION:**

- The product(s) offered do not contain mercury.
- OR
- The product(s) offered do contain mercury.

In an attachment to this Mercury Affidavit:

- (1) Describe the product or product component that contains mercury.
- (2) Provide the amount of mercury that is contained in the product or product component. Indicate the unit of measure being used.

**I ACKNOWLEDGE THAT** this affidavit is to be furnished to the procurement officer and may be distributed to units of (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this affidavit or any contract resulting from the submission of this Bid/Proposal shall be construed to supersede, amend, modify, or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this affidavit, (2) the contract, and (3) other affidavits comprising part of the contract.

**I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.**

\_\_\_\_\_ By: \_\_\_\_\_  
Date Signature

Print Name: \_\_\_\_\_  
Authorized Representative and Affiant



**ATTACHMENT I – Offeror Information Sheet**

Company Name: \_\_\_\_\_  
Tax ID: \_\_\_\_\_  
eMaryland Marketplace #: \_\_\_\_\_  
Website: \_\_\_\_\_

If applicable  
Maryland MBE#: \_\_\_\_\_  
Maryland SBR#: \_\_\_\_\_  
Federal VOSB#: \_\_\_\_\_

Corporate Contact Name: \_\_\_\_\_  
Corporate Contact Title: \_\_\_\_\_  
Corporate Address 1: \_\_\_\_\_  
Corporate Address 2: \_\_\_\_\_  
City State Zip: \_\_\_\_\_  
Corporate Contact Telephone#: \_\_\_\_\_  
Corporate Contact Fax#: \_\_\_\_\_  
Corporate Contact eMail Address: \_\_\_\_\_

Note: You may only designate **ONE** solicitation contact person  
Solicitation Contact Name: \_\_\_\_\_  
Solicitation Contact Title: \_\_\_\_\_  
Solicitation Address 1: \_\_\_\_\_  
Solicitation Address 2: \_\_\_\_\_  
City State Zip: \_\_\_\_\_  
Solicitation Contact Telephone#: \_\_\_\_\_  
Solicitation Contact Fax#: \_\_\_\_\_  
Solicitation Contact eMail Address: \_\_\_\_\_