

# Request for Proposals

## Push-to-Talk-over-Cellular (PTOC)- Services and Equipment”

PROJECT NO. 050R4800327



**Department of Budget and Management**  
**Office of Information Technology**  
**Issue Date: April 27, 2004**

### NOTICE

**Prospective Offerors who have received this document from the Department of Budget and Management web site or eMarylandMarketplace.com, or who have received this document from a source other than the Procurement Officer, and who wish to assure receipt of any changes or additional materials related to this RFP, should immediately contact the Procurement Officer and provide their name and mailing address so that amendments to the RFP or other communications can be sent to them.**

**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 fax this completed form to: 410-260-7678 to the attention of Gisela Blades.

Title:           **Push-to-Talk-over-Cellular- Services and Equipment**  
Project No:    050R4800327

If you have responded with a "no bid", 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.
- Doing business with Maryland Government is simply too complicated. (Explain in REMARKS section.)
- We cannot be competitive. (Explain in REMARKS section.)
- Time allotted for completion of the bid/proposals is insufficient.
- Start-up time is insufficient.
- Bonding/Insurance requirements are restrictive. (Explain in REMARKS section.)
- Bid/Proposals requirements (other than specifications) are unreasonable or too risky. (Explain in REMARKS section.)
- MBE requirements. (Explain in REMARKS section.)
- Prior State of Maryland contract experience was unprofitable or otherwise unsatisfactory. (Explain in REMARKS section.)
- Payment schedule too slow.
- Other: \_\_\_\_\_

2. If you have submitted a bid or proposal, but wish to offer suggestions or express concerns, please use the Remarks section below. (Use reverse or attach additional pages as needed.)

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

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

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

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

**KEY INFORMATION SUMMARY SHEET**

**STATE OF MARYLAND**

**Request For Proposals**

**PROJECT TITLE: Push-to-Talk-over-Cellular (PTOC)- Services and Equipment**

**PROJECT NUMBER 050R4800327**

**RFP Issue Date:** April 27, 2004

**RFP Issuing Office:** Department of Budget and Management  
Office of Information Technology

**Procurement Officer:** Robert Krysiak  
**Office Phone:** (410) 260-7179  
**Fax:** (410) 974-3274  
**e-mail:** rkrysiak@dbm.state.md.us

**Procurement Method:** Competitive Sealed Proposals (COMAR 21.05.03)

**Contract Term:** On or About September 1, 2004 through August 31, 2006 with 3 one (1) year renewal options

**Pre-Proposal Conference:** May 7, 2004, 2:00 PM (Local Time)  
Room L2  
201 W. Preston Street  
Baltimore, MD 21201  
For directions, call Roxann King at 410-767-4301

**Proposals are to be sent to:** Department of Budget and Management  
45 Calvert Street, Room 115  
Annapolis, MD 21401  
Attention: Robert Krysiak

**Closing Date and Time:** May 24, 2004, at 2:00 PM (Local Time)

**NOTE:**

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# SECTION 1 - GENERAL INFORMATION

## 1.1 Summary Statement

The Department of Budget and Management (DBM), Office of Information Technology, (OIT), Division of Telecommunications, Wireless Communications Services Unit is issuing this Request for Proposals (RFP) to procure **Push-to-Talk-over-Cellular (PTOC) Services and Equipment, with or without Cellular Service and Equipment**, on behalf of all State agencies that have a need for these services.

The scope of this RFP encompasses the following three (3) functional areas:

1. Push-to-Talk-over-Cellular-Service and Equipment only.
2. Push-to-Talk-over-Cellular-Service and Equipment with Basic Cellular Service and Equipment.
3. Push-to-Talk-over-Cellular-Service with Enhanced Cellular Service Cellular Service and Equipment included – Enhanced Cellular Service includes limited data services, including, but not limited to, SMS services, MMS, Mobile Email and Wireless Internet Access.

The scope of this RFP encompasses six (6) specific geographic regions. In the event that one single statewide contract cannot be awarded, the State may award up to two contracts for each functional area as listed above, proposed for each of the following geographical regions:

- Baltimore/Washington Metropolitan Area
- Western Maryland – Washington, Allegany and Garrett Counties
- Maryland Eastern Shore – Caroline, Cecil, Dorchester, Kent, Queen Anne, Somerset, Talbot, Wicomico and Worcester Counties
- Statewide – PTOC Service extends 15 miles around the State of Maryland and the District of Columbia
- Regional – U.S. East Coast consists of the States of Maryland, Delaware, New Jersey, Pennsylvania, Virginia, West Virginia, New York and North Carolina
- Nationwide – Consists of the contiguous states of the continental United States

The State reserves the right to award multiple contracts to multiple contractors. The State may award up to two contracts for each functional area in the geographic region or regions where the Offeror can provide coverage. This could result in up to thirty-six (36) contract awards.

The State does not guarantee that it will purchase any equipment or any service from any resulting contract. This contract will not be construed to require the State to procure exclusively from the Contractor. The State reserves the right to procure goods and services from other sources when it is in the best interest of the State to do so and without notice to the Contractor.

## 1.2 Abbreviations and Definitions

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

- a. Agency – the unit of State government procuring equipment and services.
- b. Agency Point of Contact – Person designated as the single point of contact for the Agency procuring equipment and services.
- c. ANSI – American National Standards Institute.
- d. Cellular – As used to describe wireless mobile telephone devices and systems generally including PCS type equipment and services.
- e. Contract – The Contract attached to this RFP as Attachment A.
- f. Contractor(s) – The selected Offeror(s), who are awarded a Contract pursuant to this RFP.
- g. COMAR – Code of Maryland Regulations.
- h. DBM – Department of Budget and Management.
- i. IEEE – Institute of Electrical and Electronic Engineers.
- j. NCRP – National Council on Radiation Protection and Measurements.
- k. Local Time – Time in the Eastern Time Zone as observed by the State.
- l. Offeror – An entity that submits a proposal in response to this RFP.
- m. Participating Provider – A partner and/or sub-contractor of the prime contractor whose primary mission is to provide expanded geographic coverage, higher throughput speeds and enhanced services or equipment not provided directly by the Contractor in support of this Contract. The Participating Provider must be able to provide seamless connectivity through the use of Priority Roaming Lists with the prime contractor and/or other Participating Providers.
- n. PCS – Personal Communications Systems – Operates in the 1.9 GHZ band. For this solicitation considered to be interchangeable with the term Cellular.
- o. Priority Roaming List – Method of programming equipment, that supports seamless operation, is transparent to the user, and takes advantage of the best radio frequency coverage or throughput speeds of multiple systems.
- p. RF – Radio Frequency.
- q. RFP – This Request for Proposals for Push-to-Talk-over-Cellular Services and Equipment, Project Number 050R4800327, dated April 27, 2004, including any amendments .
- r. Roaming Partner – A wireless service provider that will carry wireless traffic serving areas outside the Prime Contractor’s and Participating Provider’s geographic coverage area. The roaming partner exists to support general wireless communications public traffic and is not in place specifically in support of the State contract.
- s. State of Maryland business hours – 7:00 am – 7:00 pm Monday – Friday (excluding State holidays). For a listing of current State holidays, please go to

### **1.3 Contract Type**

The Master Contract shall be an Indefinite Quantity, Fixed Price contract. Orders issued under this Master Contract will be paid on a fixed price basis, utilizing the fixed rates proposed in the financial proposal submitted in response to this RFP as defined in COMAR 21.06.03.

### **1.4 Contract Price Adjustments**

#### **a. Price Adjustment**

On September 1, 2006, September 1, 2007 and again on September 1, 2008, the Contractor(s) shall be entitled to an adjustment to the contract service rates. At least fifteen (15) days prior to June 1 of the above year in question, the State shall advise the Contractor(s) of the permitted percentage adjustment for each contract service rate. Assuming the contract begins as expected on June 1, 2004, the first Option Year adjustment shall be based on the change in the Consumer Price Index from June 2005 to June 2006 (the second Option Year adjustment will be based on the CPI change from June 2006 to June 2007 and the third Option Year adjustment will be based on the CPI change from June 2007 to June 2008) as described in paragraph B below. However, the maximum annual increase for either Option Year shall be limited to 5% of the unit prices in effect at the time of the price adjustment.

#### **b. Consumer Price Index Information**

The adjustment shall be calculated by reference to the annual change in the U.S. Department of Labor, Bureau of Labor Statistics (BLS), the U.S. City Average Consumer Price Index - All Urban Consumers ("CPI-U"), all items, base period 1982-84=100, no seasonal adjustment, for the month of June released approximately mid-month in July.

The adjustment will be calculated as a percentage resulting from the annual change in the index from the preceding June. An example of the calculation is provided in paragraph 4. Within five (5) business days of the receipt of the State's notice of adjustment, the Contractor shall submit a schedule of revised rates.

In the event that the BLS discontinues the use of the index described in paragraph b above, adjustments shall be based upon the most comparable successor index to the CPI. The determination as to which index is most comparable shall be within the sole discretion of the State.

The following example illustrates the computation of percent change in Option Year 1 (assuming that Option Year starts 9/1/2006):

CPI for June 2006	136.0
Less CPI for June 2006	129.9
Equals index point change	6.1
Divided by June 2006 CPI	129.9

Equals	.047
Result multiplied by 100	0.047 x 100
Equals percent change	4.7%

## **1.5 Contract Duration**

The term of this Contract is for a period of about two (2) years commencing on the date that the Department executes this contract and terminating on August 31, 2006. The State, at its sole option, shall have the unilateral right to extend the contract for up to three (3) additional, successive one-year terms.

## **1.6 Procurement Officer/State Contract Manager**

1.6.1 The sole point of contact in the State for purposes of this RFP prior to the award of any contract is the Procurement Officer at the address listed below:

Robert Krysiak, Procurement Officer  
 Department of Budget and Management  
 Procurement Unit  
 45 Calvert St, Room 119  
 Annapolis, Maryland 21401  
 Telephone #: 410-260-7179  
 Fax #: 410-974-3274  
 E-mail: [rkrysiak@dbm.state.md.us](mailto:rkrysiak@dbm.state.md.us)

The Department of Budget and Management (DBM) may change the Procurement Officer at any time with written notice to the Contractors.

1.6.2 Contract Manager – The State representative that serves as the technical manager for the resulting contract. The Contract Manager monitors the daily activities of the contract and provides technical guidance to the Contractor. The State’s Contract Manager is:

Mr. G. Edward Ryan II  
 Department of Budget and Management  
 Division of Telecommunications, Wireless Communications  
 301 W. Preston St., Suite 1304  
 Baltimore, Maryland 21201  
 Telephone: 410-767-4219  
 Fax: 410-333-5163  
 E-mail: [ryan@dbm.state.md.us](mailto:ryan@dbm.state.md.us)

DBM may change the Contract Manager at any time with written notice to the Contractor.

## **1.7 Pre-Proposal Conference**

A Pre-Proposal Conference (Conference) will be held on May 7, 2004, beginning at 2:00 PM, at 201 West Preston Street, Room L2, Baltimore, MD 21201. Attendance at the Pre-Proposal Conference is not mandatory, but all interested Offerors are encouraged to attend in order to facilitate better preparation of their proposals. Attendance may facilitate the Offeror's understanding of RFP requirements.

The Conference will be transcribed. A copy of the transcript of the Pre-Proposal Conference will be made available to potential Offerors at a nominal charge directly from the transcription company. The identity of the company and details of how to obtain a transcript copy will be provided at the conference. In addition, as promptly as is feasible subsequent to the Conference, a summary of the Pre-Proposal Conference and all questions and answers known at that time will be distributed, free of charge, to all prospective Offerors known to have received a copy of this RFP.

In order to assure adequate seating and other accommodations at the Pre-Proposal Conference, it is requested that by 4:00 PM (local time) May 3, 2004, all potential Offerors planning to attend, return the Pre-Proposal Conference Response Form or call Robert Krysiak at (410) 260-7179 with such notice. The Pre-Proposal Conference Response Form is included as Attachment F to this RFP. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, it is requested that at least five days advance notice be provided. DBM will make reasonable efforts to provide such special accommodation.

## **1.8 Use of "e-Maryland Marketplace"**

"e-Maryland Marketplace" is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the Department of Budget and Management's web site (<http://www.dbm.state.md.us>) and other means for transmitting the RFP and associated materials, the solicitation and minutes of the pre-proposal conference, Offeror questions and DBM's responses, addenda, and other solicitation related information will be provided via e-Maryland Marketplace (<http://www.emarylandmarketplace.com/about.cfm>).

This means that all such information is immediately available to subscribers to e-Maryland Marketplace. Because of the instant access afforded by e-Maryland Marketplace, it is recommended that all Offerors interested in doing business with Maryland State agencies subscribe to e-Maryland Marketplace.

## **1.9 Questions**

The Procurement Officer, prior to the pre-proposal conference, will accept written questions from prospective Offerors. If possible and appropriate, such questions will be answered at the pre-proposal conference. (No substantive question will be answered prior to the pre-proposal conference.) Questions may be submitted by mail, facsimile, or preferably, by e-mail to the Procurement Officer. Questions, both oral and written, will also be accepted from prospective Offerors attending the Pre-Proposal Conference. If possible and appropriate, these questions will be answered at the Pre-Proposal Conference.

Questions will also be accepted subsequent to the Pre-Proposal Conference. All post-conference questions should be submitted in a timely manner to the Procurement Officer only. The Procurement Officer shall, based on the availability of time to research and communicate an answer, decide whether an answer can be given before the proposal due date. Answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be distributed to all vendors who are known to have received a copy of the RFP.

### **1.10 Proposals Due (Closing) Date**

An unbound original and five (5) bound copies of each proposal (technical and financial) must be received by the Procurement Officer, at the address listed in Section 1.6, no later than 2:00 PM (local time) on May 24, 2004, in order to be considered. An electronic version (diskette or CD) of the Technical Proposal in MS Word format must be enclosed with the original technical proposal. An electronic version (diskette or CD) of the Financial Proposal in MS Excel format must be enclosed with the original financial proposal. Insure that the diskettes are labeled with the Date, RFP title, RFP number, Offeror name and packaged with the original copy of the appropriate proposal (technical or financial).

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 21.05.02.10, proposals received by the Procurement Officer after the due date, May 24, 2004, at 2:00 PM (local time) will not be considered. Proposals may not be submitted by e-mail or facsimile.

### **1.11 Duration of Offer**

Proposals submitted in response to this RFP are irrevocable for 120 days following the closing date of proposals or of Best and Final Offers (BAFOs), if requested. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

### **1.12 Revisions to the RFP**

If it becomes necessary to revise this RFP before the due date for proposals, amendments will be provided to all prospective Offerors who were sent this RFP or otherwise are known by the Procurement Officer to have obtained this RFP. Amendments made after the due date for proposals will be sent only to those Offerors who submitted a timely proposal.

Acknowledgment of the receipt of all amendments to this RFP issued before the proposal due date must accompany the Offeror's proposal in the Transmittal Letter accompanying the Technical Proposal submittal. Acknowledgement of the receipt of amendments to the RFP issued after the proposal due date shall be in the manner specified in the amendment notice. Failure to acknowledge receipt of amendments does not relieve the Offeror from complying with all terms of any such amendment.

### **1.13 Cancellations; Discussions**

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 of Maryland. 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.

### **1.14 Oral Presentation**

Offerors may be required to make oral presentations to State representatives. Significant representations made by an Offeror during the oral presentation must be reduced to writing. All such representations will become part of the Offeror's proposal and are binding if the contract is awarded. The Procurement Officer will notify Offerors of the time and place of oral presentations. Typically oral presentations occur approximately 2 weeks after the proposal due date.

### **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 relative to this solicitation.

### **1.16 Economy of Preparation**

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

### **1.17 Protests/Disputes**

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

### **1.18 Multiple and Alternate Proposals**

Multiple or alternate proposals will not be accepted. Submitting a proposal which covers more than one geographic region or functional area is not considered a multiple proposal.

### **1.19 Access to Public Records Act Notice**

An Offeror should give specific attention to the clear identification of those portions of its proposal that it considers confidential, proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Access to Public Records Act, Title 10, Subtitle 6, of the State Government Article of the Annotated Code of Maryland.

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 can be disclosed. (See COMAR 21.05.08.01)

### **1.20 Offeror Responsibilities**

- a. The selected Offeror(s) shall be responsible for all products and services required by this RFP. Subcontractors, excluding those used solely to meet MBE participation goals, must be identified and a complete description of their role relative to the proposal must be included in the Offeror's proposal. Subcontractors retained for the sole purpose of meeting the established MBE participation goal for this solicitation must be identified as provided in Attachment D of this RFP.
- b. If an Offeror that seeks to perform or provide the services required by this RFP is a subsidiary of another entity, all information submitted by the Offeror, such as but not limited to, references and financial reports, must pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary.

### **1.21 Mandatory Contractual Terms**

By submitting an offer 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 as Attachment A. Any exceptions to this RFP or the Contract must be clearly identified in the Executive Summary of the technical proposal. A proposal that takes exception to these terms may be rejected.

### **1.22 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 must be provided within five (5) business days of notification of proposed contract award.

### **1.24 Minority Business Enterprises**

A minority business enterprise subcontractor participation goal of 5% has been established for this solicitation. The Contractor shall structure its awards of subcontracts under the contract in a good faith effort to achieve the goals in such subcontract awards by businesses certified by the State of Maryland as minority owned and controlled. MBE requirements are specified in Attachment D of this RFP.

A current directory of MBEs is available through the Maryland State Department of Transportation, Office of Minority Business Enterprise, P.O. Box 8755, B.W.I. Airport,

Maryland 21240-0755. The phone number is 410-865-1244. The directory is also available at <http://www.mdot.state.md.us>. Select the MBE Program label. The most current and up-to-date information on MBEs is available via the website.

### **1.25 Arrearages**

By submitting a response to this solicitation, each Offeror represents that it is not in arrears in the payment of any obligations due and owing 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 contract award.

### **1.26 Procurement Method**

This contract will be awarded in accordance with the Competitive Sealed Proposals process under COMAR 21.05.03.

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

Before a corporation can do business in the State of Maryland it must be registered with the Department of Assessments and Taxation, State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. It is strongly recommended that any potential Offeror 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 contract award.

### **1.28 False Statements**

Offerors are advised that Section 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland provides as follows:

In connection with a procurement contract a person may not willfully:

- Falsify, conceal, or suppress a material fact by any scheme or device;
- Make a false or fraudulent statement or representation of a material fact; or
- Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.

A person may not aid or conspire with another person to commit an act under subsection (a) of this section.

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 5 years or both.

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

For the purposes of an information technology or telecommunications procurements, pursuant to §3-702(b) of the State Finance and Procurement Article of the Annotated Code of Maryland, county, municipal, and other non-state governments or agencies may purchase from the

Contractor goods or services covered by this contract at the same prices chargeable to the State. All such purchases by non-State governments or agencies:

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

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

The bidder or Offeror warrants that the information technology offered under this bid or proposal (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 bidder or Offeror further warrants that the cost, if any, of modifying the information technology for compatibility with software and hardware used for non-visual access will not increase the cost of the information technology by more than five percent. For purposes of this RFP, 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.

### **1.31 Performance Evaluations**

State Agencies will be asked to submit periodic vendor performance evaluations. These evaluations will consist of questions relative to products and services provided by the Contractor(s).

Attachment H is a sample of the form (or general list of criteria) that may be used by the State to evaluate Contractor performance. The State may require the Contractor(s) to fill out the performance evaluation form (self-evaluation).

### **1.32 Electronic Funds Transfers**

By submitting a response to this solicitation, the Bidder/Offeror agrees to accept payments by electronic funds transfer unless the State Comptroller’s Office grants an exemption. The selected Bidder/Offeror shall register using the Attachment J: COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State comptroller’s Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption.

## SECTION 2 - SCOPE OF WORK

### 2.1 Purpose and Background

- 2.1.1 Various State agencies within the State of Maryland currently utilize over 2,800 Push-to-Talk-over-Cellular (PTOC) devices, with cellular services, offered by a single vendor. With all the major carriers now offering PTOC, the State is soliciting bids for PTOC service, with or without cellular service, and equipment from one or multiple vendors based on Contractor coverage and service offering. Primary offering shall be Push-to-Talk-over Cellular (PTOC) service with Cellular service secondary.
- 2.1.2 Transition Period. The Contractor(s) shall have one (1) month to transition all existing PTOC accounts in the contracted service area, if the Contractor is not the current PTOC service provider in that service area.

### 2.2 Geographic Coverage

- 2.2.1 Contractor(s) shall be capable of providing equipment and services be provided anywhere within the geographic region contracted.
- 2.2.2. Within the proposed geographic region, Offerors shall provide Push-to-Talk-over Cellular coverage for each of the major population centers within the geographic region and at least 90% geographic coverage of the less populated areas. Within the State of Maryland, major population centers include the Counties and Cities in the State of Maryland. Nationwide Push-to-Talk-over-Cellular (PTOC) offered by vendors shall provide coverage in every major metropolitan area (cities with a population greater than 50,000 as defined by the latest U.S. Census data) in the United States and shall include Statewide coverage as part of the offering.
- 2.2.3 The vendors shall provide expansion plans of the Contractor's systems, throughout the term of the contract, within the State to improve specific building penetration, coverage in rural areas and to relieve network congestion. Expansion plans should address specific coverage area deficiencies identified by the State during the testing period and term of any contract resulting from this solicitation. This expansion plan is to be submitted as part of the Contractor's response, and any Contractor awarded a contract shall submit an updated report to the State Contract Manager twice a year, no less than five months apart, with the initial report due five months after contract award.

### 2.3 Customer Service

- 2.3.1 Contractor(s) must provide for equipment ordering and activation of service during State of Maryland business hours.
- 2.3.2 Contractor(s) shall not charge a fee for activating, deactivating of service and changing of service, and will perform the activation or deactivation within 24 hours from verification of placement of the request.

- 2.3.3 Contractor(s) shall provide for network and end-user service to the proposed PTOC service on a 24 hour X 7 day basis and shall provide an Emergency Point of Contact (EPOC) and the Emergency Back-Up Point of Contact (EBPOC) list to the State Contract Manager for all emergencies. The Contractor(s) shall provide an escalation procedure and list in the event that the EPOC and/or the EBPOC cannot resolve the emergency to the State's satisfaction.
- 2.3.4 Contractor(s) shall respond to any on-site service request within 24 hours of the notification from the State Contract Manager. If the service problem cannot be resolved within the 24 hours, a daily status report must be given to the State Contract Manager contact by telephone.
- 2.3.5 Contractor(s) shall notify the State Contract Manager at least two calendar weeks in advance by email, for any planned service outages that may affect the State's services provided by the Contractor(s).
- 2.3.6 Contractor(s) will provide an internet web site for use by the State of Maryland describing contract pricing for service, equipment and accessories offered under any resulting contract.

## **2.4 Equipment**

- 2.4.1 All equipment provided by the Contractor(s) for purchase by the State of Maryland must be new and unused. Used, refurbished or remanufactured equipment will not be accepted.
- 2.4.2 The Contractor(s) shall provide two (2) different models of equipment for each functional area proposed. One of the phones proposed for each functional area must be a "flip"-phone. All equipment must be current production models and approved in writing by the State Contract Manager.

Functional Area 1 -Push-to-Talk-over-Cellular-Service and Equipment Only(Basic Device) – This device is to be provided free of charge with the activation of a new account, or with the transition of an existing PTOC account to take advantage of the enhanced coverage or features of the new contract. At a minimum, have the device must have the following functions and features:

- External Speaker
  - Recent Call list
  - Time-Date
  - One-touch Push-to-Talk-over-Cellular
  - Speed Dial/Emergency Dial/Vibrating Alert
  - See Attachment I for additional functions and features
- Functional Area 2 - Push-to-Talk-over-Cellular – Service and Equipment with Basic Cellular Service and Equipment (Standard Device) – This device is to be provided for the dollar amount proposed with the activation of a new account, replacement of a defective or obsolete device, or with the transition of an existing account to the new

contract if necessary to take advantage of enhanced coverage or features of the new contract.

Category 2 - Standard Push-to-Talk-over-Cellular device offered must, at a minimum, have the following functions and features:

- External Speaker
- Recent Call list
- Time-Date
- One-touch Push-to-Talk-over-Cellular
- Speed Dial/Emergency Dial/Vibrating Alert Speaker phone
- GPS enabled
- Call Preview
- Voice Record/Activation Capable
- Color display
- See Attachment I for additional functions and features

- Functional Area 3 – Push-to-Talk-over-Cellular with Enhanced Cellular Service Cellular Service and Equipment Included (Advanced Device) - This device is to be provided for the dollar amount proposed with the activation of a new account, replacement of a defective or obsolete device, or with the transition of an existing account to the new contract if necessary to take advantage of enhanced coverage or features of the new contract. The Advanced device offered should be the latest “top of the line” and “high-end” device capable of utilizing the most advanced features available from the carrier.

Category 3 - Advanced Push-to-Talk-over-Cellular device offered must, at a minimum, have the following functions and features:

- External Speaker
- Recent Call list
- Time-Date
- One-touch Push-to-Talk-over-Cellular
- Speed Dial/Emergency Dial/Vibrating Alert
- Speaker phone
- GPS enabled
- Call Preview
- Voice Record/Activation Capable
- Color display
- Advanced User Interface
- Voice Recorder
- Voice Activated Dialing
- Java applications

- See Attachment I for additional functions and features

- 2.4.3 All devices must be provided with a personal hands-free kit, in car DC charger, office AC charger and a belt clip or carrying case at no extra cost.
- 2.4.4 Additional or replacement accessories and spare batteries shall be provided as optional equipment and priced separately from the equipment.
- 2.4.5 Agencies may acquire equipment from sources other than this contract. It is mandatory that the Contractor(s) provide activation and service to compatible devices.
- 2.4.6 All equipment supplied by the Contractor(s) shall comply with all RF Safety Standards including, but not limited to:
- National Council on Radiation Protection and Measurements (NCRP. Report 86).
  - American National Standards Institute (ANSI)/IEEE C95.1-1992.
- 2.4.7 All equipment provided by the Contractor(s) shall be available for purchase exclusive of service.
- 2.4.8 Push-to-Talk-over-Cellular-over-Cellular devices offered shall be capable of supporting group calls of at least 10 participants.
- 2.4.9 Push-to-Talk-over-Cellular devices offered shall be capable of storing of at least 150 Push-to-Talk-over-Cellular contacts.
- 2.4.10 Push-to-Talk-over-Cellular call set up time shall be 10 seconds or better; Connect time (latency) shall be 5 seconds or better.
- 2.4.11 Calls between 2 Push-to-Talk-over-Cellular devices (Mobile-to-Mobile calls), subscribed to an Enhanced Service plan of the same Contractor under the State Contract, shall be free of charge
- 2.4.12 The Contractor(s) shall notify State Contract Manager of the availability of new software that may require devices to be updated. The Contractor(s) shall agree to “flash” devices with the latest available software and features, at no charge to the State for the duration of the contract, provided such devices are made available to the Contractor at the DBM office at 301 W. Preston Street, Baltimore Maryland or any other location agreed to by the Contractor and the requesting agency.
- 2.4.13 In the event of extreme emergency, as designated by the StateContract Manager or his designee, the Contractor(s) will be instructed to provide twenty (20) fully functional devices with office chargers to be delivered within three (3) hours notice to any emergency site specified within the State. These devices will be returned promptly to the Contractor(s) at the conclusion of the emergency situation. Airtime charges will be paid by the State at the regular contracted rates, pro0.rated for the time of actual use.
- 2.4.14 Contractor(s) must provide, at a minimum, a two (2) year warranty on all devices and/or parts provided under this contract. Any warranty period for equipment and services will not commence until acceptance of the equipment or services by the purchasing Agency. All defective items must be replaced promptly at no additional cost to the State.
- 2.4.15 In the case where a manufacturer discontinues a device offered by the Contractor(s) during the contract period, the device shall be substituted with a device with the same or more technical capabilities than the replaced equipment at the same or lower price.

## 2.5 Service Rates

2.5.1 The State of Maryland should not be viewed the same as an individual or corporate account. Retail and commercial rate plans are not applicable to this contract. The Contractor(s) is not required to furnish service to the State under any filed tariffs. The vast majority of usage will be during the normal business hours of the State.

Pricing shall be offered at the following service levels within each functional area:

1. Push-to-Talk-over-Cellular – Service and Equipment only: 250, 500 and Unlimited Push-to-Talk-over-Cellular Service for a fixed monthly fee.
2. Push-to-Talk-over-Cellular Service and Equipment with Basic Cellular Service: 250, 500 and Unlimited Push-to-Talk-over-Cellular Service for a fixed monthly fee and offered Basic Cellular Service on a per minute basis.
3. Push-to-Talk-over-Cellular Service with Enhanced Cellular Service and Equipment: Unlimited Push-to-Talk-over-Cellular Service which shall include a per minute cellular rate.

All rates shall be effective during the hours of Monday through Friday, 7 a.m. to 7 p.m. The Contractor shall not charge for calls placed on weekends and State of Maryland holidays, nor shall the Contractor charge for calls beginning after 7 p.m. or before 7 a.m. Monday through Friday.

2.5.2 Commencing with the RFP response, with the contract award, and thereafter semi-annually to the State Contract Manager, the Contractor(s) must provide a document certifying that:

- Rates provided to the State are the lowest rates provided by the carrier to any non-federal customer with an equivalent number of activated lines within the coverage area defined in the proposal; and
- Rates billed under this contract shall be the lowest rates quoted to any non-federal entity within the State. This includes any and all “promotions” or price reductions of equipment or service provided during the contract.

2.5.3 As part of the communications services provided within the contracted region(s), the State requires seamless capability. No one-time, recurring (daily, monthly, etc.) roaming or administrative fees may be assessed for calls placed or received within the contracted geographic region(s). Regardless of the location of the cellular tower or antenna that relays the signal for a call under this contract, the physical location of the caller will determine whether roaming charges are appropriate, based on the geographic area in which services are provided by the Contractor(s). Invoices will be reviewed and audited to determine if roaming charges are being applied when the call is initiated from within the State and refunds (not credits) of these calls will be mandatory.

2.5.4 Monthly Service Rates for Push-to-Talk-over-Cellular Services must include:

- Caller ID
- Call Waiting
- Paging

- 3-Way Calling
- Detailed Billing
- Wireless E-911 (This service must be provided when mandated by law)

2.5.5 Rates for Enhanced Services must include:

- Unlimited Internet Access
- Unlimited text messaging
- Voice Dialing
- No Answer/Busy Transfer
- Voice Information Services
- Limited data services such as text messaging, SMS services and basic email and web access.
- Higher Speed or Data Only Services
- Per Megabyte Airtime service
- Unlimited Airtime Service
- Transmission of Photographs or Files if device is capable
- Wireless E-911 (This service must be provided when mandated by law)

## 2.6 Reports

### 2.6.1 Monthly Reports

2.6.1.1 Monthly Reports shall be provided for each calendar month during the Contract term.

Electronic reports must be provided on CD by the 15th day of the month following the reporting period to the State Contract Manager regarding purchases of equipment or service associated with any contract as a result of this RFP in a format approved by the State. (Microsoft Access and Excel are preferred). These reports shall be structured in a column format and contain the data elements specified for each type of required report detailed below.

2.6.1.2 Monthly New Equipment or New Service Report – The report shall identify each new equipment or new service delivery (or order) in the report period, reported by functional area, subtotaled by functional area, with all functional areas grand totaled. The following information must be identified for each new equipment or new service:

- Purchase Order Number
- Agency Acronym, **Account Number and sub-account number** (e.g., DGS, DHMH, MDOT, etc.)
- Division Name (e.g., Telecommunications, Crownsville Hospital, State Highway Administration, etc.)
- Address where equipment or service was delivered
- User Name
- Date equipment or service was delivered
- Manufacturer and Model Number of equipment
- Service selected

- Electronic Serial Number of Equipment (ESN)
- Quantity
- Phone number
- Unit price
- Total price

2.6.1.3 Monthly Active Accounts Report. The report shall provide the following information for each account active during the report period:

- Agency Acronym, **Account Number and sub-account number** (e.g., DGS, DHMH, MDOT, etc.)
- Division Name (e.g., Telecommunications, Crownsville Hospital, State Highway Administration, etc.)
- User Name
- Address where invoiced is mailed
- Telephone number of each line
- Date line was activated
- Service selected
- Number of Push-to-Talk-over-Cellular minutes used
- Charges for Push-to-Talk-over-Cellular minutes used
- Number of cellular minutes used
- Charges of Cellular minutes used
- Total monthly charges
- Total number of active lines
- Month and year of report
- ESN of each device

2.6.1.4 Monthly Exception Report. Exceptions include the number of lines that have zero (0) minutes of usage, very low usage (1-20 minutes) and lines that were de-activated for a one-month period.

- Agency Acronym, **Account Number and sub-account number** (e.g., DGS, DHMH, MDOT, etc.)
- Division Name (e.g., Telecommunications, Crownsville Hospital, State Highway Administration, etc.)
- User Name
- Cellular telephone number
- Date line was activated
- Active lines that have zero (0) usage for a one-month period
- Active lines that have usage between one (1) and twenty (20) minutes for a one-month period

- Lines that have been deactivated for a one month period
- Month and year of report
- ESN

2.6.2 Fiscal Year-End Reports: Electronically on a CD, the Contractor(s) must submit to the StateContract Manager by July 15<sup>th</sup> of each year of the base term of the contract and any option years a report detailing the items for the State’s previous fiscal year (July 1- June 30). Reports shall contain, at a minimum, the following summary information for each account, sub-account and division:

- Agency Acronym, **Account Number and sub-account number** (e.g., DGS, DHMH, MDOT, etc.)
- Division Name (e.g., Telecommunications, Crownsville Hospital, State Highway Administration, etc.)
- User Name
- Cellular telephone number of each line
- Date line was activated
- Date line was deactivated (if applicable)
- Service Plan Subscription
- Number of Push-to-Talk-over-Cellular and Cellular minutes used per month
- Number of Push-to-Talk-over-Cellular and Cellular minutes used per year
- Total yearly charges

2.6.3 Minority Business Enterprise Reports. The Contractor(s) and any MBE subcontractors shall submit MBE reports as outlined in Attachment D.

2.6.4 Contract Close Report. The Contractor(s) shall prepare and submit to the State Contract Manager a closeout report due on the last day of the contract, to include a final inventory of all existing accounts in the same format as the monthly reports. The Contractor(s) shall cooperate and provide to any successor and/or State Agent to the contract information and records a successor or State Agent would require to continue services.

2.6.5 Failure to provide any of the required electronic reports by the 15<sup>th</sup> day of the month following the reporting period will result in liquidated damages being applied.

2.6.6 Electronic reports shall be submitted to the State Contract Manager for approval before forwarding to State Agencies for processing.

**2.7 Ordering Process**

2.7.1 The Contractor(s) shall receive purchase orders from using State agencies only through State Contract Manager. The purchase order will serve as a notice to proceed to the Contractor. The State will process and fax purchase orders to the Contractor through the State Contract Manager. Any purchase order not signed by the State shall not be considered valid and will require the vendor to expedite follow-up communication to the State Contract Manager within one business day to correct this error.

2.7.2 All shipments shall be accompanied by a packing list including the identification of the items shipped, quantities, agency Purchase Order number and the contract number. Drop

shipments must contain packing lists with the same information. All packages must have the purchase order number clearly marked on the outside. Shipments received without a packing list and/or Purchase Order number shown on the outside of the package may be refused and returned at the Contractor's expense.

- 2.7.3 Contractor(s) shall provide return authorization/asset recovery/exchange procedures in the event that a product arrives unusable, defective or was ordered incorrectly.
- 2.7.4 Items shall be delivered F.O.B. destination. Contractor(s) will be responsible for any loss and/or damages to any equipment before receipt of shipment by the State. All deliveries must conform to delivery instructions contained on the Purchase Order faxed to the Contractor, which may call for delivery to either a loading dock or a designated inside location. If delivery instructions are not included on a Purchase Order prior to shipping, the Contractor must contact the Agency point-of-contact for delivery instructions.
- 2.7.5 Contractor(s) shall work through the Agency point-of-contact shown on the Purchase Order for scheduling all at-site activity (i.e., pick-up, delivery).
- 2.7.6 Contractor(s) shall provide a Marketing Point of Contact (MPOC) and a Backup Marketing Point of Contact (BMPOC) to the State Contract Manager for routine equipment and service ordering.
- 2.7.7 Contractor(s) shall deliver any combination of ordered equipment and service within three (3) business days of the receipt of a Purchase Order from DBM. The State Contract Manager may grant exceptions for special circumstances. When exceptions are granted they will be documented by fax, email, or memorandum by the State Contract Manager.

## **2.8 Billing Information**

- 2.8.1 Services shall be billed on a calendar monthly basis, from the first of each month to the last calendar day of each month. All services provided during a monthly period must be billed in a timely and prompt fashion in the regular invoice for that month. Contractor will provide:
  - One single Master State Account Number for all services activated under the contract
    - The Master State Account is necessary to allow the Department of Budget and Management to manage the contract as a whole.
  - Sub-Accounts, with sub-account numbers, for all State Agencies.
    - The sub-accounts are necessary to allow the Agencies of the State to manage their individual billing under the contract.
  - Further sub-divided account numbers for units within State Agencies.
    - Further sub-divided accounts are necessary to allow units within an agency to monitor employee usage of the wireless service and to manage the pooled plan minutes.
- 2.8.2. The contractor(s) will send all invoices for all State agency accounts and sub-accounts on the fifth business day of the month. The invoice will cover the prior month. Invoices for Agency accounts and sub-accounts must be delivered to the Agency or sub-account point of contact. In addition, one invoice will be submitted electronically on a CD to the State Contract Manager on a monthly basis for the previous month's service by the 15<sup>th</sup> calendar day of the following month, i.e., a copy of June's bill will be submitted by the 15<sup>th</sup> of July.

Invoices for payment shall contain the Contractor's Federal Employer Identification Number (FEIN), and well as the information described below, and must be submitted

monthly directly to the State agency. The Contractor will collate and bill each State agency one total monthly invoice with the same breakdown as noted in Section 2.5.1.3 Monthly Active Accounts Report above. Any extraneous terms on Contractor's invoices shall be void and have no effect.

The invoice shall include all charges for the billing period and will include as a minimum:

- Agency Acronym, **Account Number and sub-account number** (e.g., DGS, DHMH, MDOT, etc.)
- User Name
- Originator's 10-digit phone number (in-bound and out-bound)
- 10-digit destination number (in-bound and out-bound)
- Calling location (Tower Location, City, State)
- Destination Location (City, State)
- Time of call beginning
- Duration or ending time of call
- Roaming Indicator
- Long distance minutes and charges if applicable
- Airtime minutes (may be the same as duration)
- Airtime charges
- Other charges that are valid on a "per call" basis
- Monthly charges for additional activated features

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, are prohibited. The final payment under the contract will not be made until after certification is received from the Comptroller of the State that all taxes have been paid.

- 2.8.3 The Contractor(s) will provide an internet website to review invoices. Contractor shall provide its' website URL as part of its' technical proposal. Each individual account will only be accessible to the authorized account holder. The State Contract Manager shall have electronic access to all State accounts.

A copy of all monthly invoices by agency will be retained on an individual CD and will be presented to the State Contract Manager as often as requested by The State.

- 2.8.4 The Contractor(s) will provide a Billing Point of Contract (BPOC) and a Backup Billing Point of Contact (BBPOC) to the State Contract Manager for routine equipment and service billing issues.

- 2.8.5 Security Standards and Standards for Internet Non-Visual Accessibility

The primary objectives of the State Security Policy (See Attachment H) are:

- To establish a secure environment for the processing of data
- To reduce information security risk
- To communicate the responsibilities for the protection of information

With this in mind, the vendors shall include in their methodology requested above for electronic invoicing capability the following:

- Access control to provide documents to authorized people
- Appropriate levels of access, without compromising confidentiality, privacy or security
- Broad availability and comprehensive security
- Search, retrieve and view documents with any web browser
- Printing of viewed documents
- System of access control, function rights, redaction level security, audit trails
- System administration of security controls to folders and documents, including redacted documents
- Hardware independence
- Ensures integrity, reliability, and accuracy
- The ability to integrate with Public Key Infrastructure (PKI) or digital signature software
- Secure Access to include:
  - Unique logon IDs with unique passwords will be created for each user of the web-based applications.
  - User logon ID should contain 20 maximum available spaces.
  - User logon IDs should be case sensitive.
  - Password must be a minimum of 8 alphanumeric characters and maximum of 10 alphanumeric characters and be case sensitive. Passwords must include numbers as well as letters.
  - User must have the capability to change their password once they've logged into the Internet.
  - User accounts will be administered by the Contractor where software is used to store and verify login ids.
  - Requires Secure Socket Layer, 128-bit encryption standards.
  - User must have ability to save and retrieve forms not ready for submission. These forms must not be accessible to other users.
  - Allow for multiple user access with security based on users, screens, fields, and roles.
  - Secures access to web applications and data through a firewall, HTTP and HTTPS protocols and SSL (128-bit encryption), client certificates and login ids, or Virtual Private Networking (VPN).
- The invoice area accessed over the Internet must have a minimum screen resolution of 800x600 capability; the screens will have a consistent look and feel, and be in accordance with Section 508 accessibility standards (at Section 1194.22). The Federal Section 508 Access Board's Guidelines for web-accessibility (available at [www.section508.gov](http://www.section508.gov)) contain the following sixteen minimal guidelines:
  - Provide a text equivalent for every non-text element, including both images and animated objects.
  - Equivalent alternatives for any multimedia presentation shall be synchronized with the presentation.
  - Web pages should be designed so that all information conveyed with color is also available without color, for example from context or markup.

- Documents shall be organized so they are readable without requiring an associated style sheet.
  - Redundant text links shall be provided for each active region of a server-side image map.
  - Client-side image maps shall be provided instead of server-side image maps except where the regions cannot be defined with an available geometric shape.
  - Row and column headers shall be identified for data tables.
  - Markup shall be used to associate data cells and header cells for data tables that have two or more logical levels of row or column headers.
  - Frames shall be titled with text that facilitates frame identification and navigation.
  - Pages shall be designed to avoid causing the screen to flicker with a frequency greater than 2Hz and lower than 55 Hz.
  - A text-only page, with equivalent information or functionality, shall be provided to make a Web site comply with the provisions of this part, when compliance cannot be accomplished in any other way. The content of the text-only page shall be updated whenever the primary page changes.
  - When pages utilize scripting languages to display content, or to create interface elements, the information provided by the script shall be identified with functional text that can be read by assistive technology.
  - When a Web page requires that an applet, plug-in or other application be present on the client system to interpret page content, the page must provide a link to a plug-in or applet that complies.
  - When electronic forms are designed to be completed on-line, the form shall allow people using assistive technology to access the information, field elements, and functionality required for completion and submission of the form, including all directions and cues.
  - A method shall be provided that permits users to skip repetitive navigation links.
  - When a timed response is required, the user shall be alerted and given sufficient time to indicate more time is required.
- Employees and Contractors: All Contractor personnel are responsible for: Being aware of their responsibilities for protecting IT assets of State agencies and the State; Exercising due diligence in carrying out the State's IT Security Policy; Being accountable for their actions relating to their use of all State IT Systems and Internet Access; Using IT resources and Internet Access only for intended purposes as defined by policies, laws and regulations of the State.

## **2.9 Liquidated Damages**

- 2.9.1 It is critical to the success of the State's programs that the services be maintained in accordance with the schedules agreed upon by the State. It is also critical to the success of the State's programs that the Contractor operates in an extremely reliable manner.
- 2.9.2 It would be impracticable and extremely difficult to fix the actual damage sustained by the State in the event of delays in service, reporting, and contacting key Contractor personnel on scheduled work and provision of services to the citizens of the State. The State and the Contractor, therefore, presume that in the event of any such delay, the amount of damage which will be sustained from a delay will be the amount set forth in

the paragraphs below, and the Contractor agrees that in the event of any such delay, the Contractor shall pay such amount as liquidated damages and not as a penalty. The State, at its option for amount due the State as liquidated damages, may deduct such from any money payable to the Contractor or may bill the Contractor as a separate item.

2.9.2.1 Liquidated Damages for interruption of Service:

Reliability of the service is of the essence. Downtime on any part of the contracted service must be minimized by prompt response and corrective action within four clock hours of the detection of a loss of service by either the State agency or the Contractor. If the Contractor fails to return to service within the four hours, then the State may assess liquidated damages in the amounts:

For the first hour without service, an assessment of \$100.00 will be made against the Contractor. Each successive hour the assessment will include double. (i.e., two hours equals \$100 plus \$200 = \$300, three hours equals \$100 plus \$200 plus \$400 = \$700, etc.)

2.9.2.2 Liquidated Damages for failure to deliver reports:

Failure to provide any of the required electronic reports by the 15<sup>th</sup> day of the month following the reporting period will result in liquidated damages being applied. For the first day a report is past due, an assessment of \$100.00 will be made against the Contractor. Each successive day the assessment will include double. (i.e., two days equals \$100 plus \$200 = \$300, three days equals \$100 plus \$200 plus \$400 = \$700, etc.)

2.9.2.3 Liquidated Damages for failure to keep contact information up to date or meet contact times:

Provide up to date contact information or failure to meet contact times for the EPOC/BEPOC (1 Hour),

For the EPOC/BEPOC the first hour a contact is past due, an assessment of \$100.00 will be made against the Contractor. Each successive day the assessment will include double. (i.e., two days equals \$100 plus \$200 = \$300, three days equals \$100 plus \$200 plus \$400 = \$700, etc.),

Provide up to date contact information or failure to meet contact times for the BPOC/BBPOC or MPOC/BMPOC (1 Business day);

For the BPOC/BBPOC or MPOC/BMPOC first day a contact is past due, an assessment of \$100.00 will be made against the Contractor. Each successive day the assessment will include double. (i.e., two days equals \$100 plus \$200 = \$300, three days equals \$100 plus \$200 plus \$400 = \$700, etc.)

## SECTION 3 – PROPOSAL FORMAT

### 3.1 Two Part Submission

Offerors must submit proposals in two separate volumes for each functional area proposed:

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

*Offerors must submit separate Technical and Financial proposals in response to RFP requirements.*

### 3.2 Proposals

Volume I-Technical Proposal, must be sealed separately from Volume II-Financial Proposal, but submitted simultaneously to the Procurement Officer (address listed in Section 1.6 of this RFP). An unbound original, so identified, and five (5) copies of each volume are to be submitted. An electronic version of both the Volume I- Technical Proposal in MS Word format and the Volume II- Financial Proposal in MS Excel format must also be submitted with the unbound original technical or financial volumes, as appropriate. Electronic media may be 3-1/2” diskette or CD and shall bear the RFP number and name, name of the Offeror and the volume number.

### 3.3 Submission

Each Offeror is required to submit a separate sealed package for each "Volume," which is to be labeled Volume I-Technical Proposal and Volume II-Financial Proposal, each marked according to the Functional Area(s) proposed (1. Push-to-Talk-over-Cellular-Service and Equipment only, 2. Push-to-Talk-over-Cellular-Service and Equipment with Basic Cellular Service and Equipment, and 3. Push-to-Talk-over-Cellular-Service with Enhanced Cellular Service Cellular Service and Equipment included)and geographical region(s) proposed (Baltimore/Washington Metropolitan Area, Western Maryland, Maryland Eastern Shore, Statewide, Regional and Nationwide). Each sealed package must bear the RFP title and number, name and address of the Offeror, the volume number (I or II), and the closing date and time for receipt of the proposals on the outside of the package. All pages of both proposal volumes must be consecutively numbered from beginning (Page 1) to end (Page “x”).

### 3.4 Volume I – Technical Proposal

3.4.1 Transmittal Letter: A transmittal letter must accompany each 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, identify the Offeror by legal name, indicate receipt and acceptance of any amendments to the RFP, and be signed by an individual who is authorized to commit the Offeror to the services and requirements as stated in this RFP. Also, the transmittal letter must indicate which functional area(s) and geographic region(s) are being proposed. Only one transmittal letter is needed and it does not need to be bound with the technical proposal.

- 3.4.2 Format of Technical Proposal: Sections 2 and 3 of this RFP provide scope of work requirements and reply instructions and the paragraphs in these RFP sections are numbered for ease of reference. In addition to the instructions below, Offeror's technical proposals should be structured and numbered in the same order as this RFP. This proposal organization will allow State officials and the Evaluation Committee to "map" Offeror responses directly to RFP requirements by paragraph number. The technical proposal shall include:
- 3.4.3 Title and Table of Contents: The technical proposal should begin with a title page bearing the name and address of the Offeror and the name and number of this RFP. A table of contents for the technical proposal should follow the title page. Information that is claimed to be confidential is to be placed after the Title Page and before the Table of Contents in the Offeror's Technical Proposal, and if applicable, also in its Financial Proposal. Unless there is a compelling case, an entire proposal should not be labeled confidential but just those portions that can reasonably be shown to be proprietary or confidential.
- 3.4.4 Executive Summary: The Offeror shall condense and highlight the contents of the technical proposal in a separate section titled "Executive Summary". The summary shall identify any exceptions the Offeror has taken 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.
- 3.4.5 Offeror Technical Response to RFP Requirements: The Offeror shall describe in its technical proposal the equipment and services it proposes to provide in response to the requirements of Section 2 of the RFP. The Offeror must address each criterion in the technical proposal and describe how the proposed solution(s) meets the requirements.
- 3.4.6 In order to promptly evaluate the proposed equipment, service and coverage, the Offeror will provide no later than the proposal submission due date, five (5) programmed and activated phones for each carrier represented as a Participating Provider. The equipment must have a number local to Contractor proposed service area and must be representative of the basic model being offered. These phones need not be new but must be programmed identically to those to be provided under any resulting contract. An Evaluation Committee will travel the State and compare coverage, clarity of signal and features of the equipment. The Offeror will assess no charges for the testing period. The State estimates the period of evaluation for this equipment to be thirty (30) days. Equipment will be returned to the Offeror at the end of the testing period.
- 3.4.7 Management Plans  
Offerors shall provide the following management plans for submission with the technical proposal:
- 3.4.7.1 Implementation/Transition Plan  
The Implementation/Transition Plan shall describe the detailed steps to replace, re-program or otherwise transition service and/or equipment. The plan shall include a timeline, designated tasks, milestones and resources to be provided.
- 3.4.7.2 Service Delivery Plan  
The Service Delivery Plan shall describe the following:
- The team of individuals responsible for marketing, billing, and service problems.
  - The name of the Emergency Point of Contact (EPOC).

- The name of the Emergency Back-Up Point of Contact (EBPOC).
- Procedures for equipment ordering and activation of service including the name of the Marketing Point of Contact (MPOC) and a Backup Marketing Point of Contact (BMPOC) to the State Contract Manager for routine equipment and service ordering.
- Procedures for providing for questions and resolutions of billing issues during regular business hours. The Contractor must provide a Billing Point of Contact (BPOC) and a Backup Billing Point of Contact (BBPOC) to the State Contract Manager for routine equipment and service billing issues.
- Procedures for responding to any on-site service request within twenty-four hours from notification from the State Contract Manager.
- Procedures for notification to the State Contract Manager of any planned service outages that may affect the State’s services provided by the Contractors.
- Procedures for reporting problems or suspected service problems to the State Contract Manager.
- Timetable for escalation of problems with names and phone numbers of individuals to expedite resolution of service, billing, or equipment delivery problems.
- Indicate each locality where coverage is provided.
- Indicate from what localities they can provide a phone number for the equipment, accessible from the public switched network as a local call.
- Expansion Plan.
- U.S. map that delineates each proposed geographic area by Contractor, Participating Providers and Roaming Partners.
- Recent (within the last six months) RF propagation maps for the State of Maryland. These maps are to reflect both the current coverage and disclose any planned expansion of coverage for the first six (6) months of the contract for Push-to-Talk-over-Cellular and traditional cellular services. Marketing maps are not suitable for this purpose. Maps must be accompanied by all pertinent engineering documentation. Signal levels and point of reference of these signals must be noted on the maps. Maps shall be overlay type maps showing the coverage of the Prime Contractors system, the subcontracting “Participating Carriers” and any non-participating Carriers (roaming partners).

#### 3.4.7.3 Equipment Maintenance Plan

The Equipment Maintenance Plan shall outline the procedures for providing the two-year warranty for all equipment, replacement of broken devices/and or parts. Defective equipment shall be replaced within 24 hours from notification from DBM. During the warranty period, all defective items must be replaced at no cost to the State.

#### 3.4.8 Offeror Experience and Capabilities: Offerors shall include information on past experience with similar requirements. Offerors shall describe their experience and capabilities through a response to the following:

- An overview of the Offeror’s experience providing equipment and services similar to those included in this RFP. This description shall include:
  - A summary of the services offered
  - The number of years the Offeror has provided these services

- The number of clients and geographic locations the Offeror currently serves
- The Offeror must describe their proposed services that meet the requirements of Section 2.
- An organization chart of the Offeror showing all major component units, which component(s) will perform the requirements of this contract, where the management of this contract will fall within the organization, and what corporate resources will be available to support this contract in both primary and secondary, or back-up roles.

3.4.9 References. References of up to three of its customers who are capable of documenting:

- The Offeror's ability to manage projects of comparable size and complexity
- The quality and breadth of services provided by the Offeror
- Each client reference must include the following information:
  - Name of client organization
  - Name, title, and telephone number of Point of Contact for client organization
  - Value, type, and duration of contract(s) supporting client organization
  - The services provided, scope of the contract, geographic area being supported, and performance objectives satisfied, and improvements made to client systems (e.g. reduction in operation/maintenance costs while maintaining or improving current performance levels).
  - An explanation of why the Offeror is no longer providing the services to the client organization, should that be the case.

Note: The State shall have the right to contact any reference as part of the evaluation and selection process. The State also reserves the right to request site visits to the Offeror's offices for the purpose of evaluating proposals.

3.4.10 Financial Capability and Insurance: The Offeror shall include the following:

- Evidence that the Offeror has the financial capacity to provide the services.
- Financial Statements. Provide copies of the last two, year-end financial statements (independently audited preferred) and an analysis of those financial statements.
- A copy of the Offeror's current certificate of insurance, which, at a minimum, should contain the following:
  - Carrier (name and address)
  - Type of insurance
  - Amount of coverage
  - Period covered by insurance

### 3.4.11 Economic Benefit Factors

A general description of how the Offeror's performance under a contract will benefit Maryland. Because there is no guarantee of any level of usage under this contract that an Offeror cannot make specific commitments of personnel and resources in the proposal response. However, the Offeror should describe in general terms, the following:

The Offeror shall describe the benefits that will accrue to the State of Maryland economy as a direct or indirect result of the Offeror's performance of the contract resulting from this RFP. The Offeror will take into consideration the following elements. **(Do not include any detail of the financial proposals with this technical information):**

The estimated percentage of contract dollars to be recycled into Maryland's economy in support of the contract, through the use of Maryland subcontractors, suppliers and joint venture partners. Offerors should be as specific as possible and provide a percentage breakdown of expenditures in this category.

The estimated number and types of jobs for Maryland residents resulting from this contract. Indicate job classifications, number of employees in each classification, and the aggregate Maryland payroll percentages to which the Contractor has committed at both prime and, if applicable, subcontract levels.

Tax revenues to be generated for Maryland and its political subdivisions as a result of this contract. Indicate tax category (sales tax, inventory taxes and estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from the contract.

The estimated percentage of subcontract dollars committed to Maryland small businesses and MBEs.

In addition to the factors listed above, the Offeror should explain any other economic benefit to the State of Maryland that would result from the Offeror's proposal.

NOTE: Because there is no guarantee of any level of usage under this contract, in providing the information required in this section, the Offeror should state its level of commitment per \$1,000 of contract value. In other words, for each \$1,000 of contract value, state how many Maryland jobs will be created, what Maryland tax revenue will be generated, how much will be paid to Maryland subcontractors, etc.

3.4.12 Subcontractors: Offerors must identify subcontractors, if any, and the role these subcontractors will have in the performance of the contract.

3.4.13 Required Submissions to be Submitted by Offeror:

- Completed Bid/Proposal Affidavit (Attachment B – with original of Technical Proposal)
- Minority Business Enterprise Affidavit (Attachment D-1)
- US Map that delineates each proposed coverage area
- Recent (within the last six months) RF propagation maps for the State of Maryland

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

- 3.5.1 Under separate sealed cover from the Technical Proposal and clearly identified with the same information noted on the Technical Proposal, the Offeror must submit an unbound original, five (5) bound copies, and an electronic version in MS Excel of the Financial Proposal. The Financial Proposal must contain all cost information in the format specified below and the Proposal Price Forms must be submitted and completely filled in (no blanks or omissions).
- 3.5.2 Do not change or alter these forms. Alterations may cause the proposal to be rejected.
- 3.5.3 Each Proposal Price Form is to be signed and dated by an individual who is authorized to bind the Offeror to the prices offered. Enter the title of the individual and the company name in the spaces provided.
- 3.5.4 All criteria included in these Proposal Price Forms, i.e., the estimated quantity of various goods and services, etc., shown on these forms are for price evaluation purposes. The State reserves the right, at its sole discretion, to purchase the goods and services in different quantities than those referenced in these Proposal Price Forms. The State reserves the right, at its sole discretion, not to purchase any goods or service for which proposals are solicited under this RFP.
- 3.5.5 Vendors are required to record the Unit Price or Prices they are proposing for each element, calculate the Extended Price, and compute a total or totals as required for each Price Proposal Form.
- All Unit and Extended Prices must be clearly typed with dollars and cents, e.g., \$24.15.
  - All Unit Prices must be the actual price the State will pay for the proposed item price per this RFP and may not be contingent on any other factor or condition in any manner.
  - All goods or services required or requested by the State and prices offered by the vendor at No Cost to the State must be clearly typed in the Unit and Extended Price with N/C.
  - Vendors may complete one, some, or all Price Proposal Forms. All goods or services required or requested by the State and not offered by the vendor to the State must be clearly typed in the Unit and Extended Price with N/O. If an Offeror elects to propose for a specific Functional Area, it shall propose no less than an entire geographic region as defined in this RFP
  - Nothing shall be entered on these Price Proposal Forms that alters or proposes conditions or contingencies on the proposal response.
  - Recording \$0.00 or any variation will be treated and considered as No Cost to the State for that good or service.
- 3.5.6 For purposes of this solicitation, there are three (3) Proposal Price Forms as follows:
- Proposal Price Form E-1, for Push-to-Talk-over-Cellular Service only with Equipment
  - Proposal Price Form E-2, for Push-to-Talk-over-Cellular Service with Basic Traditional Cellular Service and Equipment.

- Proposal Price Form E-3, for Enhanced Cellular Service – Traditional Cellular Service with Push-to-Talk-over-Cellular included.

Offerors must submit their price proposals on the forms in accordance with the instructions on the form and as specified herein. Do not alter the form or the proposal will be deemed unacceptable.

- 3.5.7 Vendors may propose on any, or all of the Price Proposal Forms within the previously described limits. For each selected Price Proposal Form, all requested pricing information must be provided.
- 3.5.8 It is imperative that the prices included on Price Proposal Forms pages have been entered correctly and calculated accurately by the vendor and that the respective total prices agree with the entries on Proposal Price Forms. Any incorrect entries or inaccurate calculations by the vendor will be treated as provided in COMAR 21.05.03.03E and 21.05.02.12.

## **SECTION 4 – EVALUATION CRITERIA AND SELECTION PROCEDURE**

### **4.1 Evaluation Criteria**

A committee organized for that purpose will perform evaluation of the proposals. Evaluations will be based on the criteria set forth below. The Contract(s) resulting from this RFP will be awarded to the Offeror(s) whose proposal(s) is most advantageous to the State, considering price and the evaluation factors set forth herein. In making this determination, technical factors will receive greater weight than price factors.

### **4.2 Technical Criteria**

The criteria to be applied to each technical proposal are listed in descending order of importance:

- RF Coverage of the various Regions (maps and test phone)
- Ability to provide seamless coverage of the State of Maryland (or of the geographic region proposed)
- Technical Response to RFP Requirements
- Proposed Basic, Standard and Advanced Equipment
- Capability to provide billing and reporting as requested
- Management Plans
- Offeror Experience and Capabilities
- References
- Economic Benefit Factors

### **4.3 Financial Criteria**

All qualified Offerors will be ranked from the lowest to the highest price based on their total price proposed by Functional Area within the geographical region proposed.

### **4.4 Reciprocal Preference**

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. Therefore, as described in COMAR 21.05.01.04, a resident business preference will be given if: a responsible Offeror whose headquarters, principal base of operations, or principal site that will primarily provide the services required under this RFP is in another state submits the most advantageous offer; the other state gives a preference to its residents through law, policy, or practice; and, the preference does not conflict with a Federal law or grant affecting the procurement contract. The preference given shall be identical to the preference that the other state, through law, policy or practice gives to its residents.

## **4.5 Selection Procedures**

### 4.5.1 General Section Process

The contract 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

- 1) The first level of review will be an evaluation for technical merit. During this review oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the State's requirements and the Offeror's ability to perform, and to facilitate arrival at a contract that will be most advantageous to the State. For scheduling purposes, Offerors should be prepared to make an oral presentation and participate in discussions within two to four weeks of the delivery of proposals to the State. The Procurement Officer will contact Offerors when the schedule is set by the State.
- 2) Offerors must confirm in writing any substantive oral clarification of, or change in, their proposals made in the course of discussions. Any such written clarification or change then becomes part of the Offeror's proposal.
- 3) 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, at a minimum to give the Offeror an opportunity to question the State's development of a projected claim cost figure for the Offeror's proposal.
- 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 (BAFOs).

### 4.5.3 Award Determination

Upon completion of all discussions and negotiations, reference checks, and site visits, if any, the Procurement Officer will recommend award of the contract to the responsible Offeror(s) whose proposal is determined to be the most advantageous to the State considering technical evaluation factors and price factors as set forth in this RFP. In making the most advantageous Offeror determination, technical factors will be given greater weight than price factors.

# ATTACHMENTS

In accordance with State Procurement Regulations:

ATTACHMENT A is the State's contract. It is provided with the RFP for informational purposes and is not required at proposal submission time. However, it must be completed, signed and returned by the selected Offeror to the Procurement Officer upon notification of proposed contract award.

ATTACHMENT B - Bid/Proposal Affidavit. This form must be completed and submitted with the Offeror's technical proposal.

ATTACHMENT C – Contract Affidavit. IT is not required at proposals submission time. It must be submitted by the selected Offeror to the Procurement Officer within 5 working days of notification of proposed award.

ATTACHMENT D-1 must be submitted with the Technical Proposal.

ATTACHMENTS D-2, D-3, and D-4 must be submitted within 10 days of notification of contract award.

ATTACHMENT E1 through E-3 – Price Proposal Forms. These forms are to be completed by the Offeror and comprise the Offeror's Volume II – Financial Proposal.

ATTACHMENT F – Pre-Proposal Conference Response Form. It is requested that this form be completed and submitted as described in RFP section 1.7 by those potential Offerors who plan on attending the conference.

ATTACHMENT G – State Security Policy (for information purposes only).

ATTACHMENT H – Sample Contractor Performance Evaluation Form (for information purposes only).

ATTACHMENT I –Minimum Contract Equipment Requirements

ATTACHMENT J - COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form

ATTACHMENT K - Standards and General Application Information for Web-based Technology

**ATTACHMENT A—Contract**

**THIS CONTRACT** is made this \_\_\_\_\_ day of \_\_\_\_\_, 2004 by and between \_\_\_\_\_ and the **STATE OF MARYLAND**, acting through the **DEPARTMENT OF BUDGET AND MANAGEMENT, OFFICE OF INFORMATION TECHNOLOGY**.

**IN CONSIDERATION** of the premises and the covenants herein contained, the parties agree as follows:

**1. Definitions**

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

- 1.1 “Contract Manager” means Edward Ryan of the Department.
- 1.2 “Contractor” means \_\_\_\_\_ whose principal business address is \_\_\_\_\_ and whose principal office in Maryland is \_\_\_\_\_.
- 1.3 “Department” means the Department of Budget and Management.
- 1.4 “Financial Proposal” means the Contractor’s Financial Proposal dated \_\_\_\_\_.
- 1.5 “Procurement Officer” means Robert Krysiak of the Department.
- 1.6 “RFP” means the Request for Proposals for Push-to-Talk-over-Cellular (PTOC) – Services and Equipment, 050R4800327.
- 1.7 “State” means the State of Maryland.
- 1.8 “Technical Proposal” means the Contractor’s Technical Proposal, dated \_\_\_\_\_.

**2. Scope of Work**

**2.1** The Contractor shall provide Push-to-Talk-over-Cellular Services, with or without cellular services, and equipment. The services shall be provided in accordance with this Contract and the following exhibits, which are attached and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

- Exhibit A – Request for Proposals –Project No. 050R4800327.
- Exhibit B – Contractor’s Technical Proposal dated \_\_\_\_\_.
- Exhibit C - Contractor’s Financial Proposal dated \_\_\_\_\_.
- Exhibit D – State Contract Affidavit Addendum.

**2.2** The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract. 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, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order 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 the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

### **3. Time for Performance.**

Unless terminated earlier as provided in this Contract, the Contractor shall provide the services and equipment described in Contractor's Proposal in accordance with the RFP. The term of this Contract is for a period of two (2) years commencing on the later of September 1, 2004 or date that the Department executes this contract and terminating on August 31, 2006. The State, at its sole option, shall have the unilateral right to extend the contract for up to three (3) additional one-year terms.

### **4. Consideration and Payment**

**4.1** In consideration of the satisfactory performance of the work set forth in this Contract, the State shall pay the Contractor a sum not to exceed the rates established in Exhibit C, Contractor's Financial Proposal. As provided within the RFP, the Contractor may submit a request to adjust the contract services rates then in effect during the option years, if such options are exercised by the State. Any such adjustment shall be based upon a change in the Consumer Price Index (CPI), as described in Section 1.4 of the RFP.

**4.2** Payments to the Contractor shall be made no later than thirty (30) days after the agency's receipt of an invoice for services provided by the Contractor, acceptance by the purchasing agency of services provided by the Contractor, and pursuant to the conditions outlined in Section 4 of this Contract. Payments will not be made until after certification is received from the Comptroller of the State that all taxes have been paid.

**4.3** Each invoice for services rendered must include the Contractor's Federal Tax Identification Number which is \_\_\_\_\_. 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. Invoices shall be submitted to the Agency point-of-contact as provided in the RFP.

**4.4** 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, 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.

**4.5** Electronic funds transfer will be used by the State to pay the Contractor for this contract and any other State payments due Contractor unless the State's Comptroller's Office grants the Contractor an exemption.

## **5. Rights to Records**

**5.1** The Contractor agrees that all documents and materials including but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations and data prepared by the Contractor, solely for purposes of this Contract with the State of Maryland shall be the sole property of the Department and shall be available to the Department at any time. The Department shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.

**5.2** The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a deliverable under this contract, and services performed under this Contract shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created as a deliverable under this Contract are not works for hire for the Department, the Contractor hereby relinquishes, transfers, and assigns to the State all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.

**5.3** The Contractor shall report to the Procurement Officer, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all data delivered under this agreement.

**5.4** The Contractor shall not affix any restrictive markings upon any data and if such markings are affixed, the Department shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

## **6. Patents, Copyrights, Intellectual Property**

**6.1** 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.

**6.2** The Contractor will defend or settle, at its own expense, any claim or suit against the State alleging that any such item furnished by the Contractor infringes any patent, trademark, copyright, or trade secret. If a third party claims that a Product infringes that party's patent or copyright, the Contractor will defend the Agency against that claim at Contractor's expense and will pay all damages, costs and attorney fees that a Court finally awards, provided the Agency (i) promptly notifies the Contractor in writing of the claim; and (ii) allows Contractor to control and cooperates with Contractor in, the defense and any related settlement negotiations. The obligations of this paragraph are in addition to those stated in section 6.3 below.

**6.3** If any products furnished by the Contractor become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement, the Contractor will, at its option and expense: a) procure for the State the right to continue using the applicable item, b) replace the product with a non-infringing product substantially complying with the item's specifications, or

c) modify the item so that it becomes non-infringing and performs in a substantially similar manner to the original item.

## **7. 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 that 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.

## **8. Loss of Data**

In the event of loss of any State data or records held or maintained by the Contractor, where such loss is due to the intentional act or 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 Procurement Officer. The Contractor shall ensure that all data is backed up, and is recoverable by the Contractor.

## **9. Indemnification**

**9.1** The Contractor shall indemnify the State against liability for any costs, expenses, loss, suits, actions, or claims of any character arising from or relating to the performance of the Contractor or its subcontractors under this Contract. The State shall give Contractor prompt notice of any such claim received by the State.

**9.2** The State of Maryland 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.

**9.3** 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.

**9.4** 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 claim, suit, or action made or filed against the State as a result of or relating to the Contractor's performance under this Contract.

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

No official or employee of the State of Maryland, as defined under State Government Article, § 15-102, 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.

## **11. 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.

## **12. Maryland Law**

This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.

## **13. 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, ancestry, or disability of a qualified individual with a disability; (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.

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

## **15. Non-Availability of Funding**

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.

#### **16. Termination for Cause**

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.

#### **17. 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; provided, 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 21.07.01.12 (A)(2).

#### **18. Delays and Extensions of Time**

The Contractor agrees to perform this agreement continuously and diligently. No charges or claims for damages shall be made by the Contractor for any delays or hindrances, regardless of cause, in the performance of services under 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.

#### **19. Suspension of Work**

The State 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.

## **20. Pre-Existing Regulations**

In accordance with the provisions of Section 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, as from time to time amended, 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.

## **21. Financial Disclosure**

The Contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every person 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 the State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

## **22. Political Contribution Disclosure**

The Contractor shall comply with Election Law Article, §§14-101 – 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$100,000 or more, shall, file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

## **23. Retention of Records**

The Contractor shall retain and maintain all records and documents in any way relating to this Contract for three years after final payment by the State of Maryland under this Contract or any applicable statute of limitations, 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. All records related in any way to the Contract are to be retained for the entire time provided under this section.

## **24. Representations and Warranties**

The Contractor hereby represents and warrants that:

A. 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;

B. 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;

C. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and,

D. 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.

## **25. Costs and Price Certification**

By submitting cost or price information, the Contractor certifies to the best of its knowledge that the information submitted is accurate, complete, and current as of the date of its bid or offer.

The price under this Contract 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 of its bid or offer, was inaccurate, incomplete, or not current.

## **26. Subcontracting; Assignment**

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the State of Maryland, 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 subcontract or assignment shall include the terms of Sections 10 and 12 through 25 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 the subcontractors.

## **27. Limitation of Liability**

**27.1** For breach of this Agreement, negligence, misrepresentation or any other contract or tort claim, Contractor shall be liable as follows:

A. For infringement of patents and copyrights as provided in Section 6 of this Contract;

B. Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property;

C. For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract, regardless of the form, Contractor's liability shall be limited to three (3) times the total dollar amount invoiced under this Contract up to the date of settlement or final award of any such claim. Third party claims arising under Section (9) "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 9 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 9.

27.2 As provided in this section, the limitations contained in this section are the maximum for which the Contractor and its subcontractors are collectively responsible for damages arising as a result of this contract.

**28. Administrative**

28.1 Procurement Officer. The work to be accomplished under this Contract shall be performed under the direction of the Procurement Officer. All matters relating to the interpretation of this Agreement shall be referred to the Procurement Officer for determination.

28.2 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: Mr. G. Edward Ryan II, Director of Wireless Communication  
Department of Budget and Management  
Telecommunications Division  
301 W. Preston Street, Room 1304  
Baltimore, MD 21201

If to the Contractor: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

CONTRACTOR

MARYLAND DEPARTMENT OF  
BUDGET AND MANAGEMENT

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

\_\_\_\_\_  
By: Ellis Kitchen, Chief  
Office of Information Technology

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

Approved for form and legal  
sufficiency this \_\_\_\_\_ day  
of \_\_\_\_\_ 2004.

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

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

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

**ATTACHMENT B –Bid/Proposal Affidavit**

**A. AUTHORIZED REPRESENTATIVE**

I HEREBY AFFIRM THAT:

I am the [title]

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and the duly authorized representative of [business] \_\_\_\_\_

\_\_\_\_\_ and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

**B. 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, or any of its employees directly involved in obtaining or performing contracts with public bodies (as is defined in Section 16-101(f) of the State Finance and Procurement Article of the Annotated Code of Maryland), 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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**C. 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, or any of its employees directly involved in obtaining or performing contracts with public bodies, has:

- (a) been convicted under state or federal statute of a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract, fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property;
- (b) been convicted of any criminal violation of a state or federal antitrust statute;
- (c) 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 arising out of the submission of bids or proposals for a public or private contract;
- (d) been convicted of a violation of the State Minority Business Enterprise Law, Section 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (e) 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 subsection (a), (b), (c), or (d) above;
- (f) been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract;
- (g) admitted in writing or under oath, during the course of an official investigation or other proceeding, acts or omissions that would constitute grounds for conviction or liability under any law or statute described above, except as follows [indicate 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 the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment]:

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#### D. 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, or any of its employees directly involved in 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 for the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds for the debarment or suspension]:

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E. 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 [indicate the reason(s) why the affirmations cannot be given without qualification]:

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F. SUB-CONTRACT 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.

G. 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 or offer that is being submitted;
2. In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposals of the bidder or 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 or offer is submitted.

H. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of Section 13-221 of the State Finance and Procurement Article of the 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.

#### I. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, §§ 14-101 – 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

#### J. 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 meaning when used in this certification.
2. By submission of its bid or offer, 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 whom 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' 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 § 2(b), above;
- (h) Notify its employees in the statement required by § 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 Contract Officer within 10 days after receiving notice under 2(h)(ii), above, or otherwise receiving actual notice of a conviction;
- (j) Within 30 days after receiving notice under § 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 §§ 2(a) - (j), above.

3. If the business is an individual, the individual shall certify and agree as set forth in § 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 21.08.06.

**K. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT**

I FURTHER AFFIRM THAT:

1. The business named above is a (domestic \_\_\_\_ ) (foreign \_\_\_\_ ) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is:

Name: \_\_\_\_\_

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

[If not applicable, so state].

2. 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.

L. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The Contractor warrants that it 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 contractor to solicit or secure this agreement, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide salesperson or commercial selling agency, any fee or other consideration contingent on the making of this agreement.

M. 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 or proposals 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: \_\_\_\_\_  
(Authorized Representative and Affiant)

**ATTACHMENT C – Contract Affidavit**

COMAR 21.07.01.25

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the

\_\_\_\_\_

(title)

and the duly authorized representative of

\_\_\_\_\_

(business)

and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

B. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

(1) The business named above is a (domestic \_\_\_\_\_) (foreign \_\_\_\_\_) corporation registered in accordance with Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessment and Taxation is:

Name: \_\_\_\_\_

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

\_\_\_\_\_

(2) 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 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.

C. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgments contained in that certain Bid/Proposals Affidavit

dated \_\_\_\_\_, 20\_\_\_\_, and executed by me for the purposed 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: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Authorized Representative and Affidavit)

## ATTACHMENT D – Minority Business Enterprise Instruction and Forms

State of Maryland  
DEPARTMENT OF BUDGET & MANAGEMENT  
MINORITY BUSINESS ENTERPRISE PARTICIPATION

### PURPOSE

Contractor shall structure its procedures for the performance of the work required in this contract to attempt to achieve the minority business enterprise (MBE) goal stated in the Invitation for Bids or Request for Proposals. 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:

at least 51 percent owned and controlled by one or more individuals who are socially and economically disadvantaged; and 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 in order to have its contract participation counted under the Department’s MBE program.

### MBE GOALS AND SUB-GOALS

An overall MBE subcontract participation goal of 5 percent of the total contract dollar amount of all payments made to Master Contractors has been established for this procurement.

If awarded a Master Contract:

A prime contractor — including an MBE prime contractor — must accomplish an amount of work not less than the MBE subcontract goal with certified MBE subcontractors.

A prime contractor comprising a joint venture that includes MBE partner(s) must accomplish the MBE subcontract goal with certified MBE subcontractors.

### SOLICITATION AND CONTRACT FORMATION

An offeror must include with its offer a completed MBE Utilization and Fair Solicitation Affidavit (ATTACHMENT **D-1**) whereby the offeror acknowledges the certified MBE participation goal, commits to make a good faith effort to achieve the goal, and affirms that MBE subcontractors were treated fairly in the solicitation process. **If an offeror fails to submit this affidavit, the Department may deem the offeror not-**

**responsible or the offer not reasonably susceptible of being selected for award.**

Within 10 working days from notification that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee must provide the following documentation to the MBE Liaison. **If the apparent awardee fails to return each completed document within the required time, the award is voidable.**

Outreach Efforts Compliance (ATTACHMENT **D-2**)

MBE Participation Schedule (ATTACHMENT **D-3**)

Subcontractor Project Participation Statement (ATTACHMENT **D-4**)

In the rare event that the apparent awardee believes a waiver is necessary of the overall MBE goal or of any sub-goal by MBE classification, it may submit a waiver request that complies with COMAR 21.11.03.11 in the place of the MBE Participation Schedule.

Any other documentation required by the Department's MBE Liaison to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

### **CONTRACT ADMINISTRATION REQUIREMENTS**

Contractor shall:

Submit monthly to the Department a report listing all payments made to MBE subcontractors during the preceding 30 days, as well as any unpaid invoices, over 30 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made (**Attachment D-5**).

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 (**Attachment D-6**).

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.

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.

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.

### **ADDITIONAL ATTACHMENTS TO MINORITY BUSINESS ENTERPRISE PARTICIPATION FORMS**

**ATTACHMENT D-1** - *Certified MBE Utilization and Fair Solicitation Affidavit* (must be submitted with bid or offer)

**ATTACHMENT D-2** - *Outreach Efforts Compliance* (must be submitted within 10 working days of notification of apparent award)

**ATTACHMENT D-3** - *MBE Participation Schedule* (must be submitted with Attachment D-2)

**ATTACHMENT D-4** - *Subcontractor Project Participation Statement* (must be submitted with Attachment D-2)

**ATTACHMENT D-5** - Maryland Department of Budget and Management Minority Business Enterprise Participation – Prime Contractor Paid/Unpaid MBE Invoice Report

**ATTACHMENT D-6 - Maryland Department of Budget and Management Minority Business Enterprise Participation – Subcontractor Paid/Unpaid MBE Invoice Report**

**ATTACHMENT D-1 – 050R4800327**  
**CERTIFIED MBE UTILIZATION**  
**AND FAIR SOLICITATION**  
**AFFIDAVIT**

In conjunction with the bid or offer submitted in response to Solicitation No. 050R4800327, I affirm the following:

I acknowledge the overall certified Minority Business Enterprise (MBE) participation goal of 5 percent. I commit to make a good faith effort to achieve this goal.

I understand that if I am notified that I am selected for contract award, I must submit the documentation described in the MBE Participation Exhibit within 10 working days of receiving notice of the potential award or from the date of actual award, whichever is earlier. If I fail to do so, I understand any apparent award will be deemed voidable.

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

The solicitation process was conducted in such a manner so as to not place MBE subcontractors at a competitive disadvantage to non-MBE subcontractors.

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

\_\_\_\_\_  
Address

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

\_\_\_\_\_  
Date

**SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL**

**ATTACHMENT D-2**  
**OUTREACH EFFORTS COMPLIANCE**  
**STATEMENT**

In conjunction with the bid or offer submitted in response to Solicitation No. 050R4800327, I state the following:

Bidder/ Offeror identified opportunities to subcontract in these specific work categories:

Attached to this form are copies of written solicitations (with bidding instructions) used to solicit certified MBEs for these subcontract opportunities.

Bidder/Offeror made the following attempts to contact personally the solicited MBEs:

- Bidder/Offeror assisted MBEs to fulfill or to seek waiver of bonding requirements.  
(DESCRIBE EFFORTS)
  
- This project does not involve bonding requirements.
  
- Bidder/Offeror did/did not attend the pre-bid conference
  - No pre-bid conference was held.

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

By: \_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Address

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

\_\_\_\_\_  
Date

**ATTACHMENT D-3 – 050R4800327**

**MBE PARTICIPATION**

**SCHEDULE**

Prime Contractor (Firm Name, Address, Phone)	Project Description
Project Number	Total Contract Amount \$
List Information For Each Certified MBE Subcontractor On This Project	
A. Minority Firm Name, Address, Phone MBE Classification: _____	
MBE Certification Number	
Work To Be Performed	
Project Commitment Date	Project Completion Date
Agreed Dollar Amount	Percentage Of Total Contract
B. Minority Firm Name, Address, Phone MBE Classification: _____	
MBE Certification Number	
Work To Be Performed	
Project Commitment Date	Project Completion Date
Agreed Dollar Amount	Percentage Of Total Contract
C. Minority Firm Name, Address, Phone MBE Classification: _____	
MBE Certification Number	
Work To Be Performed	
Project Commitment Date	Project Completion Date
Agreed Dollar Amount	Percentage Of Total Contract
D. Minority Firm Name, Address, Phone MBE Classification: _____	
MBE Certification Number	
Work To Be Performed	
Project Commitment Date	Project Completion Date
Agreed Dollar Amount	Percentage Of Total Contract

MBE Firms Total Dollar Amount Overall \$ \_\_\_\_\_  
 MBE Firms Total Percentage Overall \_\_\_\_\_%  
 African American MBE Dollar Amount \$ \_\_\_\_\_  
 African American MBE Percentage \_\_\_\_\_%  
 Women MBE Dollar Amount \$ \_\_\_\_\_  
 Women MBE Percentage \_\_\_\_\_%

List Additional MBE Subcontractors Or  
 Provide Any Additional Comments on  
 Separate Paper.

Document Prepared By: (please print or type)

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

**ATTACHMENT D-4**  
**SUBCONTRACTOR PROJECT PARTICIPATION**  
**STATEMENT**

SUBMIT ONE FORM FOR EACH CERTIFIED MBE LISTED IN THE MBE PARTICIPATION SCHEDULE

Provided that \_\_\_\_\_ is awarded the State contract in  
(Prime Contractor Name)

conjunction with Solicitation No. 050R4800327, it and \_\_\_\_\_,  
(Subcontractor Name )

MDOT Certification No. \_\_\_\_\_, intend to enter into a contract by which  
Subcontractor shall:  
(describe work)

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

- No bonds are required of Subcontractor
- The following amount and type of bonds are required of Subcontractor:

\_\_\_\_\_  
Prime Contractor Signature

\_\_\_\_\_  
Subcontractor Signature

By: \_\_\_\_\_  
Name, Title

By: \_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**ATTACHMENTS D-5 & 6**  
**PRIME CONTRACTOR MBE REPORTING INSTRUCTIONS**

**RFP# 050R4800327**

**BPO#:** \_\_\_\_\_

These instructions are meant to accompany the customized reporting forms sent to you by the Procurement Officer for the contract referenced above. If, after reading these instructions, you have additional questions or need further clarification, please contact the Procurement Officer immediately.

- 1. As the prime contractor, you have entered into a contractual agreement with the State of Maryland. As such, your company/firm is responsible for successful completion of all deliverables under the contract, including your commitment to making a good faith effort to meet the MBE participation goal(s) established for this contract. Part of that effort, as outlined in the RFP, includes submission of monthly reports to the State regarding the previous month's MBE payment activity. Reporting forms D-5 (Prime Contractor Paid/Unpaid MBE Invoice Report) and D-6 (Subcontractor Paid/Unpaid MBE Invoice Report) are attached for your use and convenience.**

The prime contractor must complete a separate form D-5 for each MBE subcontractor for each month of the contract and submit one copy to each of the locations indicated at the bottom of the form. The report is due not later than the 15<sup>th</sup> of the month following the month that is being reported. For example, the report for January's activity is due not later than the 15<sup>th</sup> of February. With the approval of the contract manager, the report may be submitted electronically. **Note: Reports are required to be submitted each month, regardless of whether there was any MBE payment activity for the reporting month.**

The prime contractor is responsible for ensuring that each subcontractor receives a copy (e-copy and/or hard copy) of form D-6. The prime contractor should make sure that the subcontractor receives all the information necessary to complete the form properly, i.e., all of the information located in the upper right corner of the form. It may be wise to customize form D-6 (upper right corner of the form) for the subcontractor the same as the form D-5 was customized by the Procurement Officer for the benefit of the prime contractor. This will help to minimize any confusion for those who receive and review the reports.

**It is the responsibility of the prime contractor to make sure that all subcontractors submit reports not later than the 15<sup>th</sup> of each month regardless of whether there was any MBE payment activity for the reporting month.** Actual payment data is verified and entered into the State's financial management tracking system from the subcontractor's D-6 report only. Therefore, if the subcontractor(s) do not submit their D-6 payment reports, the prime contractor cannot and will not be given credit for subcontractor payments, regardless of the prime contractor's proper submission of the D-5 reports. The contract manager will contact the prime contractor if reports are not received each month from either the prime contractor or any of the identified subcontractors. The prime contractor must promptly notify the contract manager if, during the course of the contract, a new MBE subcontractor is utilized. Failure to comply with the MBE reporting requirements and/or failure to make a good faith effort to meet the MBE goal(s) will cause the prime contractor to have an unfavorable standing with the Department for future contracting opportunities.

**This form is to be completed monthly by the prime contractor  
 ATTACHMENT D-5 – 050R4800327  
 Maryland Department of Budget and Management  
 Minority Business Enterprise Participation  
 Prime Contractor Paid/Unpaid MBE Invoice Report**

Report #: <u>  1  </u>  Reporting Period (Month/Year): <u>  /  </u>  <p style="text-align: center;"><b>Report Due By the 15<sup>th</sup> of the following Month.</b></p>	Contract # _____ Contracting Unit _____ Contract Amount _____ MBE Sub Contract Amt. _____ Contract Begin Date _____ Contract End Date _____ Services Provided _____
--	---

Prime Contractor:		Contact Person:	
Address:			
City:		State:	ZIP:
Phone:	FAX:		
Subcontractor Name:		Contact Person:	
Phone:	FAX:		
Subcontractor Services Provided:			
<b>List all payments made to MBE subcontractor named above during this reporting period.</b>  1.  2.  3.  4.  <b>Total Dollars Paid: \$</b> _____		<b>List dates/amounts of any unpaid invoices received from subcontractor during this reporting period.</b>  1.  2.  3.  4.  <b>Total Dollars Unpaid: \$</b> _____	

\*\*If more than one MBE subcontractor is used for this contract please use separate forms.

**Return one (1) copy of this form to each of the following addresses:**

Edward Ryan, Contract Manager Department of Budget and Management 45 Calvert Street, Room 110 Annapolis, MD 21401 <a href="mailto:eryan@dbm.state.md.us">eryan@dbm.state.md.us</a>	Janice Montague, MBE Liaison Officer Department of Budget and Management 45 Calvert Street, Room 109 Annapolis, MD 21401 <a href="mailto:jmontague@dbm.state.md.us">jmontague@dbm.state.md.us</a>
--	---

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

**This form is to be completed monthly by the MBE contractor**  
**ATTACHMENT D-6 – 050R4800327**  
**Maryland Department of Budget and Management**  
**Minority Business Enterprise Participation**  
**Subcontractor Paid/Unpaid MBE Invoice Report**

Report _____ Month/Year _____  <p style="text-align: center;"><b>Report Due By the 15<sup>th</sup> of the following Month.</b></p>	Contract # _____ Contracting Unit _____ Contract Amount _____ MBE Sub Contract Amt. _____ Contract Begin Date _____ Contract End Date _____ Services Provided _____
---	---

MBE Subcontractor Name:		
MDOT Certification #		
Contact Person		
Address:		
City	State:	ZIP:
Phone:	FAX:	
Subcontractor Services Provided:		
<b>List all payments received from Prime Contractor in the preceding 30 days.</b> 1.  2.  3.  <b>Total Dollars Paid: \$</b> _____	<b>List dates and amounts of any outstanding invoices.</b> 1.  2.  3.  <b>Total Dollars Unpaid: \$</b> _____	
Prime Contractor Name: _____ Contact Person: _____		

**Return one (1) copy of this form to each of the following addresses:**

Edward Ryan, Contract Manager Department of Budget and Management 45 Calvert Street, Room 110 Annapolis, MD 21401 <a href="mailto:eryan@dbm.state.md.us">eryan@dbm.state.md.us</a>	Janice Montague, MBE Liaison Officer Department of Budget and Management 45 Calvert Street, Room 109 Annapolis, MD 21401 <a href="mailto:jmontague@dbm.state.md.us">jmontague@dbm.state.md.us</a>
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Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Available Electronically**

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

**Project No.  
STATE OF MARYLAND 050R4800327**

A Pre-Proposal Conference will be held at 10:00 AM, on May 7 2004, 201 West Preston Street, Baltimore, MD, Room L-2. Please return this form by May 3, 2004 advising whether or not you plan to attend.

For directions to the meeting site, you may contact Roxann King at 410-767-4310.

Return or fax this form to the Procurement Officer:

Robert Krysiak, Procurement Officer  
Department of Budget and Management  
Procurement Unit  
45 Calvert St, Room 115  
Annapolis, Maryland 21401  
Telephone #: 410-260-7179  
Fax #: 410-974-3274  
E-mail: rkrysiak@dbm.state.md.us

Please indicate:

Yes, the following \_\_\_\_\_ (Company Name) representatives will be in attendance:

- 1.
- 2.
- 3.

No, we will not be in attendance.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
CONTACT NAME

\_\_\_\_\_  
CONTACT PHONE NUMBER

## ATTACHMENT G – State Security Policy

### A. Agency Computer Software and Records Security

THE FOLLOWING SECURITY PRACTICES ARE REQUIRED for all computer systems including mainframes, minicomputers, data communications facilities, local area network (LANs) file servers, microcomputer network nodes, and standalone microcomputers (desktops or notebooks/portables) which contain critical or sensitive data files. (Management must identify what are critical or sensitive data files).

1. Written procedures to safeguard application system data files must be prepared and followed.
2. The documentation for each application system must address sufficient controls for maintaining the security of source documents, before, during, and after the data entry process, and the distribution of all output.
3. All source and object programs must be maintained in a manner which prevents unauthorized access.
4. Each agency is required to maintain a list of its data processing applications and files.
5. Each agency is required to store copies of agency computer files and programs on a routine basis at an off-site location. An off-site location must be in a building other than the one that houses the primary computer files and programs.
6. Each agency is required to store at an off-site location copies of data systems documentation which would be vital in continuing the operation of the systems in an emergency situation which has resulted in the destruction of the original documentation.
7. When capabilities are available, each agency must use an automated method (e.g., a security software package) to safeguard application system data files.

THE FOLLOWING SECURITY PRACTICES ARE REQUIRED in all instances where agencies have standalone microcomputers (desktops or notebooks/portables) or LAN file servers and microcomputer network nodes.

- 8a. Because notebook/portable microcomputers are highly susceptible to theft, the devices must be protected via the use of access-control software, passwords and a boot or power-on password where feasible and practical. A power-on or boot password protects the device from use of a DOS or system bootable diskette to bypass the computer's access control software.
- 8b. The storage of network modem telephone numbers and network passwords in unsecured standalone microcomputers (desktops or notebook/portables) is strictly forbidden.

9. All agency software and files on removable media must be put into a locking storage unit when not in use or be maintained in areas that are locked when not in use.
10. To minimize the chance of computer viruses being introduced into microcomputers only authorized and properly licensed personal computer software packages are to be used on PC's. Authorized PC software packages are those developed and approved by agency management or those obtained from reliable and responsible vendors, e.g. State software BOA vendors, nation-wide distributors, etc. that are committed to assuring product quality. The use of unauthorized or unlicensed PC software and programs (i.e., software obtained from computer bulletin boards, friends, other employees, etc.) is strictly forbidden. Only work related PC software approved by agency management is to be installed on State microcomputer equipment.
11. As a means of recovering from a computer virus attack or disaster, backup procedures must be implemented on a routine basis for agency software and files stored in PCS and LANs.
12. All users of microcomputers must use a virus scan/protection program on a regular basis to minimize damage caused by virus attacks and to scan data files for viruses entering the computer. All virus scan/protection programs used for this process must be updated on a regular frequency. The frequency of the updates is a minimum of every two years.
13. All employees utilizing personal computers must sign the State of Maryland Software Code of Ethics Form (part of the Department of Budget and Management's Policy Number 95-1) which states that unauthorized duplication of copyrighted computer software violates the law and is contrary to the State's standards of conduct.
14. When a sensitive or critical PC application is created, the application author is responsible for documenting the application. Documentation may differ slightly from one type of application to another; however, all documentation must contain the following elements:
  - ◆ a written description of the application;
  - ◆ step by step instructions on how to use the application;
  - ◆ the names and the location of the PC files;
  - ◆ a copy of the output;
  - ◆ the backup procedure for the application.

The following documentation is suggested:

- ◆ a log of revisions (the log should include the name of the application, the original author, the date it was created, the date of each revision, the name of the individual who revised the application, and the reason for the revision).
15. A written plan to assure that all its critical and sensitive applications are "Year 2000" compliant must be adopted by each agency by December 31, 1997. Security software supporting those critical and sensitive applications must be "Year 2000" compliant.

16. A written PC security policy must be promulgated and adopted by each agency. This policy must include, as a minimum, items A.8. through A.15 above.

THE FOLLOWING SECURITY PRACTICES ARE RECOMMENDED.

Security should be considered in the design and development of each computerized record system. All agency programs should be maintained in a library which provides an audit trail of changes made to the programs. Wherever appropriate, each document which is used for initiating error corrections to computer records should contain a statement of justification and proper authorizations.

Agencies are encouraged to tie standalone PC's together into a Local Area Network (LAN) so that software can be loaded and managed centrally, critical and sensitive files can be stored and backed up more easily and sensitive files and applications can be more readily protected from virus attacks and other security threats.

B. Agency Computer Hardware Security

THE FOLLOWING SECURITY PRACTICES ARE REQUIRED in all instances where agencies have standalone or network microcomputers, notebook/portable microcomputers and computer terminals located in areas other than within secured computer facilities.

1. Agencies must take appropriate preventative actions to guard against damage to, or theft of, these devices.
2. Because notebook/portable microcomputers are highly susceptible to theft, none of these devices are to be left in unsecured areas while not in use e.g., the back seat of a parked vehicle.
3. Computer terminals, standalone microcomputers and microcomputer network nodes must not be left logged on to computer systems when unattended.
4. When capabilities are available, computer terminals and microcomputer network nodes must be automatically logged off by the operating system when there is no terminal activity for a pre-designated period of time.
5. When disposing of microcomputer processing units, an agency must take the appropriate action to delete all of the data that is contained on the processing unit's hard drive.
6. In a telecommuting environment, an agency must provide the same level of security on the microcomputer used at home as the microcomputer used in the workplace.

C. Password, Sign-on and Access Security

THE FOLLOWING SECURITY PRACTICES ARE REQUIRED for State agencies which utilize remote connectivity and data communications capabilities.

1. Individual user passwords must be used for every session, transmission or access to application systems.

THE FOLLOWING SECURITY PRACTICES ARE REQUIRED for State agencies where password, sign-on or access control security features are installed.

2. Passwords must be changed periodically.
3. The assignment of passwords must be tightly controlled.
4. Users must be advised that all passwords must be kept confidential and secure. The procedure for assigning passwords must reflect that efforts are made to retain the confidentiality of passwords.
5. Terminal and microcomputer network node users of the computer facilities must be restricted to accessing only files that they are individually authorized to access and also be limited to authorized operations that they may perform on or with these files.
6. System administrators must maintain a formal, written audit trail of all security access control activities on the system. The audit trail shall include, but not be limited to maintaining a log of all changes to all user access rights/logonid's and requests to change user passwords as long as the user access rights/logonid's are active on the system; maintaining a log of all deleted user access rights/logonid's for at least two years or until audited by the Legislative Auditor and maintaining a log of all security exceptions/violations for at least two years or until audited by the Legislative Auditor.
7. Agency management or a designee of agency management must periodically review and document the security privileges, data file and program access control rights of all personnel authorized to interface with critical or sensitive application systems, files and programs. Agency management personnel that perform this review task must not include persons who manage the access controls. The review documentation must be retained for at least two years or until audited by the Legislative Auditor.

THE FOLLOWING SECURITY PRACTICES ARE RECOMMENDED.

Password management software that allows system administrators to define the rules governing how users pick their passwords is available. Use of these systems strengthens data security significantly. With appropriate password management, administrators can specify that 1) passwords are not actual names or words, 2) are of a minimum and maximum length, 3) are not used over again, 4) contain at least one number, and 5) are not composed of repeating digits. Adequate password management also permits the development of special password validation programs for processing unique applications. It is therefore recommended, where capabilities exist, that administrators implement all or some of the aforementioned password management techniques to improve password security.

Also, it is important to ensure that users are who they say they are when they sign-on to a system. This includes incorporating the ability to check users authorization every time they access a new system resource. Software is available that are aimed at identifying possible intruders and preventing unauthorized entry into systems. Recommended features include 1) preventing a single user from signing on to more than one workstation at a time; 2) restricting individual users to workstations with specific addresses; and 3) scheduling capabilities that lets administrators specify the times of day

when users are allowed to sign-on to a system. It is therefore recommended, where capabilities exist, that administrators use the aforementioned sign-on techniques to the maximum extent possible.

D. Agency Information Technology Personnel Practices

These required and recommended security practices apply to all employees (contractual and permanent) and information technology consultants who interface with application systems that have been identified by agency management as being critical or sensitive. The types of duties or functions of personnel addressed by the foregoing shall include, but not be limited to security officers who grant system access rights to others, programmer-analysts, systems programmers, database administrators, network managers, information technology consultants and other personnel identified by agency management who have rights to access critical or sensitive application systems, files and programs.

THE FOLLOWING SECURITY PRACTICE IS REQUIRED.

All agency security officers must satisfactorily complete a course of instruction specified by the State Data Security Committee.

THE FOLLOWING SECURITY PRACTICES ARE RECOMMENDED.

1. It is recommended that each agency have a designated Certified Software Manager. A Certified Software Manager is defined as an individual who has participated in the Certified Software Manager Course Certification Exam program offered by the Software Publisher's Association (SPA) through its outsourcing provider, Fortress Technologies, at an approximate cost of \$400 per person. The one day, 6-hour course is designed for managers and specialists working in the areas of MIS, microcomputing, computer services and technical support in addition to auditors, counsel, and others responsible for software compliance. The course defines the skills necessary to be a Certified Software Manager so an individual can gain the full benefits of software and avoid the legal penalties of mismanaging it. By successfully completing the course an attendee will:

- ◆ understand copyright law and licensing agreements;
- ◆ understand the software audit process;
- ◆ understand the benefits and processes of software asset management;
- ◆ develop a workable software management plan.

Once attendees have completed the course, they must pass a one-hour exam in order to be certified. The exam will be administered by Sylvan Prometric for an additional \$100 fee that may be paid directly to Sylvan. The exam must be scheduled after the course is taken.

Course materials attendees will receive include the following:

- ◆ A 300-plus page comprehensive student guide
- ◆ SPA's anti-piracy video, posters, brochures and article reprints
- ◆ SP Audit software to accelerate the self-audit process saving staff time
- ◆ "A Road map for Buying Software" poster and guide

SPA offers the one day course during the year in Washington D.C. In order to receive a current schedule of course dates, agencies can contact the SPA at the following address: <http://www.spa.org>

2. If, in the opinion of agency management, a prospective employee will be interfacing with a sensitive or critical computer application, a criminal history record check should be conducted.

NOTE: A criminal history record checking service is offered, at a fee, to state agencies by the State of Maryland's Department of Public Safety and Correctional Services (DPSCS). The procedure for this service is entitled "Criminal History Record Checks For Prospective State Employees". Request forms which must be signed by the appointing authority of a state department or agency are available from:

Customer Service Unit  
CJIS Central Repository  
P.O. Box 5743  
Pikesville, Maryland 21208-0195  
Phone #: 410-318-6021

State agencies are encouraged to hire applicants on a conditional basis pending receipt of the satisfactory criminal history record check.

Background checking should be performed for final candidates for these positions prior to selection for employment. Background checking is contacting previous employers, references, and other appropriate individuals or organizations to verify the education, training and/or experience needed to meet minimum qualifications.

Agency personnel with access to critical or sensitive data files should be advised periodically as to how data security violations should be reported. Whenever feasible, employees that work with security sensitive computerized record systems should be periodically rotated in their job functions. Agency data systems security procedures which pertain to agency personnel should also apply to temporary and contractual personnel.

To provide appropriate degrees of internal control over data processing operations, agency management should segregate functions so that information technology personnel who perform systems maintenance functions are not performing user type functions as a regular part of their duties and responsibilities. In addition, agency management should separate the following data processing duties and responsibilities among several employees:

- ◆ Performing computer operations functions,
- ◆ Maintaining application program software,
- ◆ Maintaining operating systems and databases and
- ◆ Performing data processing security functions.

## **II. State Computer Facility Security Practices**

This section applies to all State mainframe, minicomputer, data communications facilities and Local Area Network (LAN) installations that process critical or sensitive data files.

(Management must identify what are critical or sensitive data files).

A. Physical Security of Computer or Data Communications Operations Area

THE FOLLOWING SECURITY PRACTICES ARE REQUIRED.

1. All fire safety devices must be approved and periodically checked by the State Fire Marshal.
2. The facility must have a written procedure for the disposal of its own data processing materials.

THE FOLLOWING SECURITY PRACTICES ARE REQUIRED only at computer facilities with separated, restricted computer or data communications operations areas.

3. The facility is required to control the access to the computer or data communications operations area, permitting entry of authorized personnel only. Entry of maintenance and custodial personnel must be controlled. Former employees and visitors to the computer operations or data communications area must always be escorted.
4. If a building with a separate facility has security guards, these guards are to be scheduled to make routine checks of the facility. Management must identify the level of routine checking to be performed by security guards (e.g., perimeter checking only, full physical access, visual inspection, etc.).
5. If security guards are not available, an access alarm is to be used when the facility is unattended.

THE FOLLOWING SECURITY PRACTICES ARE RECOMMENDED.

When the size or schedule of the computer or data communications facility does not permit all employees to be known and recognized, every employee should be required to display an official identification containing a photograph of the employee.

The computer or data communications operations area should contain smoke and/or heat sensors for early detection of a fire. An automatic fire-suppressing system should be installed. The space under any raised flooring should be inspected periodically for possible hazards.

Some types of network protocol analyzers and test equipment are capable of monitoring (and some, of altering) data passed over the network. Use of such equipment should be tightly controlled since they emulate terminals and can monitor and modify sensitive information, or contaminate data.

B. Contingency Planning

THE FOLLOWING SECURITY PRACTICES ARE REQUIRED.

1. The computer or data communications facility management must routinely assess the relative probability of significant hazardous events occurring at the facility. As a minimum, a significant hazard means fire, flood, unauthorized entry or access, power failure and man made (e.g. terrorist) or natural disasters.

2. The computer or data communications facility management must routinely assess the vulnerability of the facility to the specified significant hazards.
3. The computer or data communications facility management must have a contingency plan which addresses and prescribes actions to be taken for all significant events which management has determined could place the facility at risk. Specifically, the contingency plan must address personnel, hardware, software, data, remote connectivity, and data communications networks. The plan also must contain a section dealing with the recovery from a major disaster that would render the facility unusable and require restarting operations at an alternate site. The major disaster recovery section must address the initial response, restart procedure, personnel assignments, backup resources and facilities, and emergency vendor contacts/vendor agreements.
4. The computer or data communications facility management must periodically validate the contingency plan. The following guidelines, listed in priority order, are to be used in conducting the validation:
  - a) Actual, live, full scale disaster recovery test exercises must be used wherever feasible and practical or,
  - b) Partial recovery test exercises or simulations (e.g. tabletop exercises) of disaster recovery procedures must be used when it is impractical to conduct full scale disaster recovery tests.

The computer or data communications facility management must periodically update the contingency plan to reflect deficiencies noted during validation tests and to assure that the plan is current, viable and complete.

#### THE FOLLOWING SECURITY PRACTICES ARE RECOMMENDED.

As an aid in securing upper management's support for on-going contingency planning efforts, the computer or data communications facility management should consider performing a risk analysis which will assist in striking an economic balance between the impact of risks and the cost of protective measures. A well executed risk analysis will improve security awareness, identify assets, significant hazardous events and controls, improve the basis for decisions and justify expenditures for security. Risk analysis steps include the following:

- ◆ Identify critical information assets;
- ◆ Determine significant hazardous events;
- ◆ Estimate likelihood of occurrences of significant hazardous events;
- ◆ Document the impact of a loss of critical information assets (compute annual loss expectancy);
- ◆ Identify applicable cost associated with controls to be implemented;
- ◆ Project annual savings of controls.

During the assessment of the contingency plan, the computer or data communications facility management should consider the merits of having arrangements for alternative computer processing capabilities at an off-site location for emergency needs. If this option is cost effective and practical, a formal agreement should be prepared with the organization responsible for the off-site facility.

Contingency planning in Client Server environments is more complicated than it is for a mainframe data center. Many Client Server systems utilize technologies produced by several vendors in a distributed computing environment, thus multiple points of failure may occur which can magnify the scope and severity of problems. An agency's Client Server disaster recovery plan is best managed by centralized information technology systems groups.

To plan for unseen calamities, the computer or data communications facility management should determine where critical Client Server information is stored and how it is used. It is recommended that:

- a) Physically distributed servers be pulled back into a centralized, controlled environment wherever feasible or practical to better manage and protect information, improve security, data integrity and asset tracking.
- b) Software tools should be employed in Client Server environments to help create ways to protect information and systems. These software tools can help agencies choose what is most essential to recover.

The computer or data communications facility management should consider installing fault tolerant hardware and fault management software features in all critical and sensitive networks and application systems to guard against data loss and to provide for high systems availability.

Network and application system fault tolerant hardware features that agencies should consider installing include, but are not limited to, are:

- ◆ Error correction code (ECC) memories;
- ◆ Redundant arrays of inexpensive disks (RAID) technologies;
- ◆ Hot-pluggable and hot spare disks;
- ◆ Dual redundant power supplies sized to support fully loaded configurations and
- ◆ Smart uninterruptable power supplies.

Network and application fault management software features that agencies should consider installing include, but are not limited to, the capability to monitor and report on the status of:

- ◆ Memory;
- ◆ Processors;
- ◆ Disk storage devices;
- ◆ Power usage;
- ◆ Network equipment and
- ◆ Internal temperatures of processor units.

#### C. Computer Records

THE FOLLOWING SECURITY PRACTICES ARE REQUIRED.

1. When capabilities are available, the computer system must provide an audit trail of all authorized and unauthorized attempted accesses to computer resources.
2. When capabilities are available, the computer system must use an automated method (e.g., a security software package) to safeguard computerized files.

D. Remote Connectivity and Data Communications

THE FOLLOWING SECURITY PRACTICES ARE REQUIRED for State computer facilities which utilize remote connectivity and data communications.

1. The computer facility must provide procedures to control access from the remote user locations during hours that remote user locations are closed.
2. Each user access must be terminated if the security code is still incorrect after a specific number of user attempts to log on.
3. Before being prompted for the user name and password, a banner must appear warning users of system monitoring procedures and State laws that apply to breaches of computer security. For example:

**WARNING: Unauthorized access to this computer is in violation of Article 27, Sections 45A and 146 of the Annotated Code of Maryland. This system is being monitored. Anyone using this system expressly consents to such monitoring. Detection of unlawful conduct may be referred to law enforcement officials.**

THE FOLLOWING SECURITY PRACTICES ARE RECOMMENDED.

User access logs should be regularly reviewed by an individual(s) outside of the computer operations area.

E. Dial-up Line Access

THE FOLLOWING SECURITY PRACTICES ARE REQUIRED for computer facilities which have dial-up communication lines.

1. The computer facility management must control the distribution of the computer telephone number used for a critical or sensitive application system. In these instances, the computer facility procedures for distributing the computer telephone number must reflect that efforts are made to retain the confidentiality of the telephone number.
2. When capabilities are available or can be reasonably acquired, dial-up activity sessions must be terminated when the telephone is hung up or the carrier is dropped.
3. When capabilities are available or can be reasonably acquired, each dial-up connection must be broken whenever an unauthorized attempt is made to access a facility's computer.
4. Any system implemented for the purpose of providing electronic services for the citizens of the State via public dial-in access or through a connection to the Internet

should be isolated/protected from an agency's internal computer network. This should be accomplished by ensuring the system has no internal network connection or is protected by a properly implemented network or application level firewall that enforces a responsible access control policy.

#### THE FOLLOWING SECURITY PRACTICES ARE RECOMMENDED

1. Systems accessible from dial-up terminals are particularly vulnerable to unauthorized access since the call can be initiated from virtually any telephone instrument. Official users of dial-up facilities should be distinguishable from public users if they are to be given access rights greater than those given public users. For services other than those authorized for the public, users of dial-up terminals should be positively and uniquely identifiable and their identity authenticated to the system before access. This should be implemented via a two level security procedure consisting of using either a call back facility or a Public Data Network (PDN) service to access the system. When using a call back facility, official users should be provided an automatic hang-up and call back feature, which calls back to only pre-authorized numbers. When using a PDN service, a separate, network User ID and user address code should be provided to official users by the PDN service. This is in addition to the computer system's User ID and password which is provided and maintained by the computer facility.
2. An agency should exercise a great deal of care in deciding what information can be properly housed on a publicly accessible system. The agency's assistant attorney general should be involved in this decision making process.

**ATTACHMENT H – Sample Contractor Performance Evaluation Form**

**TO BE COMPLETED BY AGENCY**

Name of Agency Providing Evaluation: \_\_\_\_\_

Contractor Name: \_\_\_\_\_ DBM Contract Manager: \_\_\_\_\_

Evaluation Period: \_\_\_\_\_ Last Date of performance evaluation conducted: \_\_\_\_\_

1. How do you rate the Contractor’s Push-to-Talk-over-Cellular service, i.e., traditional, enhanced, data (availability, clarity, etc.)?

\_\_\_ Very Good      \_\_\_ Satisfactory      \_\_\_ Marginal      \_\_\_ Unsatisfactory

2. How do you rate the Contractor’s response time for completing orders?

\_\_\_ Very Good      \_\_\_ Satisfactory      \_\_\_ Marginal      \_\_\_ Unsatisfactory

3. How do you rate the Contractor’s response time to questions and performance problems?

\_\_\_ Very Good      \_\_\_ Satisfactory      \_\_\_ Marginal      \_\_\_ Unsatisfactory

4. How do you rate the Contractor’s timeliness for submitting invoices and reports?

\_\_\_ Very Good      \_\_\_ Satisfactory      \_\_\_ Marginal      \_\_\_ Unsatisfactory

5. How do you rate the Contractor’s on accuracy of invoices and reports?

\_\_\_ Very Good      \_\_\_ Satisfactory      \_\_\_ Marginal      \_\_\_ Unsatisfactory

6. How do you rate the Contractor’s overall reliability?

\_\_\_ Very Good      \_\_\_ Satisfactory      \_\_\_ Marginal      \_\_\_ Unsatisfactory

Additonal Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contracting Agency: _____	Signature: _____
Date: _____	Title: _____

**ATTACHMENT I – Minimum Contract Equipment Requirements**

<b>(Note: X denotes required equipment feature)</b>			
<b>FEATURE</b> X = Device Must be Provided with. A = Must be Provided or Available	<b>BASIC</b>	<b>STANDARD</b>	<b>ADVANCED</b>
<b>Keypad Lock</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Assignable Ring Tones</b>		<b>X</b>	<b>X</b>
<b>Vibrating Option</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Voice Mail</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>SMS Messaging Capable</b>		<b>X</b>	<b>X</b>
<b>Two-Way Messaging Capable</b>		<b>X</b>	<b>X</b>
<b>Min 100-entry Phone Book</b>	<b>X</b>		
<b>Min 200-entry Phone Book</b>		<b>X</b>	
<b>Min 500-entry Phone Book</b>			<b>X</b>
<b>Signal Strength Indicator</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Voice Recorder</b>			<b>X</b>
<b>JAVA applications</b>			<b>X</b>
<b>Speaker Phone</b>		<b>X</b>	<b>X</b>
<b>Caller ID</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Numeric and text Paging</b>		<b>X</b>	<b>X</b>
<b>Color Display</b>			<b>X</b>
<b>Web Browser</b>			<b>X</b>
<b>E-911 Capable Phase 2 (After Effective Date of FCC Mandate)</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Data Capable ≥19.2 kbps</b>			<b>X</b>
<b>Nickel Metal Hydride or Lithium Battery</b>	<b>X</b>	<b>X</b>	<b>X</b>

<b>FEATURE</b> X = Device Must be Provided with. A = Must be Provided or Available	<b>BASIC</b>	<b>STANDARD</b>	<b>ADVANCED</b>
<b>Last Number Connect</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>One Touch Emergency Dialing</b>		<b>X</b>	<b>X</b>
<b>Conference Calling</b>		<b>X</b>	<b>X</b>
<b>Missed Call Indicator</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Battery Strength Indicator</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Call Timer</b>		<b>X</b>	<b>X</b>
<b>ACCESSORIES</b> X = Provided with Device A = Must be Provided or Available for Purchase	<b>BASIC</b>	<b>STANDARD</b>	<b>ADVANCED</b>
<b>Battery - Additional</b>	<b>A</b>	<b>A</b>	<b>A</b>
<b>Case or Belt Clip</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Home Charger – A.C. Power Charger</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Data Interface Cable</b>		<b>A</b>	<b>A</b>
<b>Hands Free Car Kit</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Cigarette Lighter Adapter – D.C. Power Adapter</b>	<b>X</b>	<b>X</b>	<b>X</b>

**ATTACHMENT J – COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request  
Form**

**Available Electronically**

**Available Electronically**