

Request for Proposals

Commercial Off-the-Shelf Software (COTS)

PROJECT NO. 060B2490021-2015



DEPARTMENT OF INFORMATION TECHNOLOGY (DoIT)

Issue Date: October 22, 2015

NOTICE

Prospective Offerors that have received this document from the Department of Information Technology's website or <https://emaryland.buyspeed.com/bsol/>, or that have received this document from a source other than the Procurement Officer, and that wish to assure receipt of any changes or additional materials related to this RFP, should immediately contact the Procurement Officer and provide the Prospective Offeror's name and mailing address so that addenda to the RFP or other communications can be sent to the Prospective Offeror.

Minority Business Enterprises are Encouraged to Respond to this Solicitation

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

RFP Title:	Commercial Off-the-Shelf Software (COTS)
RFP Number:	060B2490021-2015
RFP Issue Date:	10/22/2015
Proposal Due Date and Time:	11/30/2015 at 2:00 PM Local Time
RFP Issuing Agency:	Department of Information Technology (DoIT) IT Procurement Office
Send Questions (e-mail only) to:	gayle.mealy@maryland.gov
Questions Due Date and Time	11/9/2015 at 10:00 AM Local Time
Procurement Officer:	Gayle Mealy E-mail Address: gayle.mealy@maryland.gov Office Phone Number: 410-260-4074 Office FAX Number: 410-260-4080
Send Proposals to:	Department of Information Technology 45 Calvert Street, Room 434A Annapolis, MD 21401 Attention: Gayle Mealy
Contract Manager:	Ashton Ball Ashton.Ball@maryland.gov Office Phone Number: 410-260-7478
Contract Type	Indefinite Quantity and Fixed Price and Time and Materials
Contract Duration:	12 Years
MBE Subcontracting Goal:	0%
VSBE Subcontracting Goal	0%
Small Business Reserve	No
Pre-Proposal Conference:	11/2/2015 at 2:00 PM Local Time 45 Calvert Street, Room 164 Annapolis, MD 21401 See Attachment E for Directions and Response Form

STATE OF MARYLAND
NOTICE TO OFFERORS/BIDDERS/CONTRACTORS
Maryland Wants to Do Business with You

Please let us know why you are not proposing. (Check all that apply).

- We do not offer the services/commodities requested.
- Busy with other commitments.
- Specifications are unclear or too restrictive.
- Timetable is unworkable.
- Bonding/Insurance requirements are prohibitive.
- Our experience with State of Maryland has not been satisfactory.
- Other (Please specify)

Additional Comments:

Please add suggestions for improvement here:

Name of commenter and Business (optional): _____

Contact Person (optional): _____ Phone (____) _____ - _____

Project Number 060B2490021-2015 Entitled: Commercial Off-the-Shelf Software (COTS)
Your comments will help us improve the procurement process.

Thank You.

Please return your comments with your proposal. If you have chosen not to propose to this RFP, please e-mail this completed form to the Procurement Officer's e-mail address.

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SECTION 1 - GENERAL INFORMATION

1.1 Summary Statement

- 1.1.1 The Department of Information Technology (DoIT) is issuing this Request for Proposals to procure commercial off-the-shelf (COTS) software, installation and training services for the COTS software, and manufacturer's software maintenance, for the State of Maryland. The Master Contracts awarded as a result of this solicitation will provide the State with a flexible means of obtaining these products and services quickly, efficiently and cost effectively through the issuance of Purchase Order Requests for Proposals (PORFPs). Microsoft COTS software products are excluded from this RFP.
- 1.1.2 The scope of this solicitation encompasses the following three (3) functional areas:
- Functional Area I – COTS Software (Microsoft COTS software products are excluded)
 - Functional Area II – Installation and Training Services
 - Functional Area III- Manufacturer's Software Maintenance
- Offerors may propose to one of the following (as specified in Section 2):
- Functional Area I only
 - Functional Area III only
 - Functional Areas I and II
 - Functional Areas I and III
 - Functional Areas II and III
 - Functional Areas I, II, and III
- 1.1.3 DoIT intends to award Master Contracts to an unlimited number of qualified Offerors that are authorized by the Manufacturer or Distributor to sell the proposed products and services.
- 1.1.4 A Master Contractor/Manufacturer Product Line matrix for the COTS software will be established and maintained by DoIT. Master Contractors may add Manufacturers' Product Lines from time to time throughout the life of the Master Contract by submitting Letters of Authorization from the Manufacturer of the COTS software in accordance with the procedure set forth in Section 2.7.
- 1.1.5 Each request for COTS software, installation and/or training services, and/or manufacturer's software maintenance, throughout the term of the Master Contract, will be issued and summarized by the Requesting Agency in a PORFP. All eligible Master Contractors will be invited to compete for a PORFP and, based on the responses received, a Master Contractor will be selected to provide the requested services. The Requesting Agency will then issue a Purchase Order (PO) to the selected Master Contractor, which will bind the Master Contractor to the terms of the PORFP response, including the price. Neither a PORFP nor a PO, may, in any way, conflict with or supersede the Master Contract.
- 1.1.6 At specified intervals throughout the term of the Master Contract, DoIT may issue updated contractual language to reflect changes in program procedures and applicable law. Master Contractors will be required to execute contract modifications that incorporate these changes in order to remain eligible to compete for PORFPs issued through the COTS program.
- 1.1.7 The COTS Program does not include hardware.

1.2 Background

The COTS Program began in 2012 with awards to 53 qualified Master Contractors. As of the date of this RFP, COTS software purchases executed under the COTS Software Master Contract total approximately \$55,000,000, including Manufacturer's Software Maintenance.

1.3 Abbreviations and Definitions

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

- a. Agency Point of Contact (Agency POC) – Requesting Agency contact listed in a PORFP.
- b. COMAR – Code of Maryland Regulations, available on-line at www.dsd.state.md.us
- c. Contract Manager (CM) – The State representative who serves as the manager for the resulting Master Contract.
- d. COTS – Commercial Off-the-Shelf software, offered to the State, without modification, in the same form in which it is sold in the commercial marketplace. Standard options are not considered modifications. Microsoft products are excluded for purposes of this definition.
- e. COTS Software Training – Instruction on features or procedures of the COTS software.
- f. DoIT– Maryland Department of Information Technology
- g. DGS – Maryland Department of General Services
- h. Distributor –First tier agent authorized by the requisite parties that own rights to the COTS software product, to sell and/or service the COTS software product.
- i. Fixed-price PORFP – A PORFP which places responsibility on the Master Contractor for the delivery of the COTS software or the complete performance of the services in accordance with the PORFP at a price that may be firm or may be subject to contractually specified adjustments.
- j. Fixed Hourly Labor Category Rates – Fully loaded hourly rates established in the Master Contract that include all direct and indirect costs and profit for the Master Contractor to perform Installation or Training services required in a PORFP.
- k. Fully Loaded – The inclusion in labor category billing rates of all profit, direct and indirect costs associated with performing Installation or Training services required in a PORFP. The indirect costs shall include all costs that would normally be considered general and administrative costs and/or routine travel costs, or which in any way are allocated by the Master Contractor against direct labor hours as a means of calculating profit or recouping costs which cannot be directly attributable to services required in a PORFP. Non-routine travel costs will be identified in a PORFP, when appropriate.
- l. Installation – Transferring Manufacturer’s electronic media to computer systems so that the COTS software will provide the features and functions generally described in the User Documentation.
- m. IT – Information Technology
- n. Letter of Authorization – A document issued by the Manufacturer or Distributor authorizing the Offeror/Master Contractor to sell and/or provide services for the Manufacturer’s Product line.

- o. Local Time - Time in the Eastern Time zone as observed by the State of Maryland. Unless otherwise specified, all stated times shall be Local Time, even if not expressly designated as such.
- p. Manufacturer's Software Maintenance – Electronic media and consulting services that includes, but is not limited to, upgrades and enhancements for technology advancements, improved functionality, and compatibility with new industry standards. Software maintenance and support may also include:
 - 1. Direct access to experienced consultants of the software;
 - 2. Flexible service options including telephone or e-mail support;
 - 3. Timely problem resolution of reported discrepancies;
 - 4. Remote technical support; and
 - 5. Online self-help functions.
- q. Master Contract – The Contract between each of the Offerors determined technically capable of performing the requirements of this RFP and the State.
- r. Master Contractor – An Offeror who is awarded a Master Contract under this RFP..
- s. MBE – A Minority Business Enterprise certified by the Maryland Department of Transportation under COMAR 21.11.03.
- t. MSRP – Manufacturer’s Suggested Retail Price. The use of the term MSRP shall be construed to apply to each respective software title, or maintenance, as appropriate, as identified in a PORFP
- u. Offeror – An entity that submits a proposal in response to this RFP.
- v. Purchase Order (PO) – Authorizes the selected Master Contractor to proceed with delivery of products and/or any services requested via a PORFP.
- w. POC – Point of Contact
- x. Procurement Officer – The State representative, as identified in Section 1.6, responsible for this RFP, for the determination of the Master Contract scope issues, and the only State representative who can authorize changes to the Contract.
- y. Request for Proposals (RFP) – This RFP for the Maryland Department of Information Technology, Project Number 060B2490021-2015, dated 10/22/2015, including any amendments.
- z. Purchase Order Request for Proposal (PORFP) – A request by the Requesting Agency for the price of the required COTS software, installation and training services and/or manufacturer’s software maintenance.
- aa. Requesting Agency – The unit of the Executive Branch of Maryland State government issuing the PORFP.
- bb. SBR – Small Business Reserve – A procurement in accordance with Title 14, Subtitle 5 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended. See Section 1.25 for details.

cc. State – State of Maryland

1.4 Master Contract Type

The Master Contract shall be an Indefinite Quantity Contract with Firm Fixed Prices and Time and Materials as defined in COMAR 21.06.03.02, 21.06.03.05 and 21.06.03.06. Fixed Price (FP) and Labor Hour PORFPs will be issued under the Master Contract as described in each respective PORFP, as appropriate to the type of products and/or services being requested.

1.5 Master Contract Duration

The term of this Contract shall be for a period of 12 years, beginning on or about December 1, 2015 and terminating on September 30, 2027.

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

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

1.6 Procurement Officer

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

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

1.7 Contract Manager

The State CM monitors the daily activities of the Contract and provides technical guidance to the Contractor. The State CM is listed on the Key Information Sheet.

DoIT may change the State CM at any time by written notice to the Contractor.

1.8 Pre-Proposal Conference

A pre-proposal conference will be held on Monday, November 2, 2015 at 2:00 PM Local Time. Attendance at the Conference is not mandatory, but all interested Offerors are encouraged to attend in order to facilitate better preparation of their proposals.

Seating at pre-proposal conference will be limited to one (1) attendee per company. Attendees should bring a copy of the solicitation and a business card to help facilitate the sign-in process.

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

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

1.9 eMaryland Marketplace (eMM)

- 1.9.1 eMM is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the DoIT web site (www.DoIT.maryland.gov) and possibly using other means for transmitting the RFP and associated materials, the solicitation and summary of the pre-proposal conference, Offeror questions and the Procurement Officer's responses, addenda, and other solicitation related information will be provided via eMM.
- 1.9.2 In order to receive a Contract award, an Offeror must be registered on eMM. Registration is free. Guidelines can be found on the eMM website at : <http://emaryland.buyspeed.com> . Click on "Registration" to begin the process and follow the prompts.

1.10 Questions

- 1.10.1 Written questions, from prospective Offerors, will be accepted by the Procurement Officer prior to the pre-proposal conference. 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.
- 1.10.2 Questions will also be accepted subsequent to the pre-proposal conference and should be submitted in a timely manner prior to the proposal due date to the Procurement Officer. Time permitting, 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.

1.11 Proposals Due (Closing) Date and Time

- 1.11.1 Proposals, in the number and form set forth in Section 3.2 "Proposals," must be received by the Procurement Officer listed on the Key Information Summary Sheet, no later than the date and time listed on the Key Information Summary Sheet in order to be considered.
- 1.11.2 Requests for extension of this date or time will not be granted. Offerors mailing proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02, proposals received by the Procurement Officer after the due date will not be considered.

- 1.11.3 Proposals may be modified or withdrawn by written notice received by the Procurement Officer before the Proposals due time and date.
- 1.11.4 Proposals may not be submitted by facsimile.
- 1.11.5 Companies not responding to this solicitation are requested to submit the “Notice to Offerors/Bidders/Contractors” form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements).

1.12 Duration of Proposal

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

1.13 Revisions to the RFP

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

1.14 Cancellations

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

1.15 Incurred Expenses

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

1.16 Economy of Preparation

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

1.17 Protests/Disputes

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

1.18 Multiple or Alternative Proposals

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

1.19 Public Information Act Notice

- 1.19.1 Offerors should give specific attention to the clear identification of those portions of their proposal that they deem to be confidential, proprietary commercial information, or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, General Provisions Article, Title 4, Md. Code Ann. This confidential and/or proprietary information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical Proposal and if applicable, separately in the Financial Proposal.
- 1.19.2 Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information can be disclosed.

1.20 Offeror Responsibilities

- 1.20.1 The successful Offeror(s) shall be responsible for rendering products/services for which it has been selected as required by this RFP. All subcontractors shall be identified and a complete description of their role relative to the Proposal shall be included in the Offeror's Proposal.
- 1.20.2 If an Offeror that seeks to perform or provide the services required by this RFP is the subsidiary of another entity, all information submitted by the Offeror, such as, but not limited to, references, financial reports, or experience and documentation (e.g. insurance policies, bonds, letters of credit) used to meet minimum qualifications, if any, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's proposal shall contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.
- 1.20.3 Although experience and documentation of an Offeror's parent may be used to satisfy minimum qualifications, a parental guarantee of the performance of the Offeror under this Section will not automatically result in crediting the Offeror with the experience and/or qualifications of the parent under any evaluation criteria pertaining to the actual Offeror's experience and qualifications. Instead, the Offeror will be evaluated on the extent to which the State determines that the experience and qualifications of the parent are transferred to and shared with the Offeror, any stated

intent by the parent in its guarantee of performance for direct involvement in the performance of the Contract, and the value of the parent's participation as determined by the State.

1.21 Mandatory Contractual Terms

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

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 shall be clearly identified in the Executive Summary of the technical proposal. A proposal that takes exception to these terms may be rejected.

1.22 Bid/Proposal Affidavit

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

1.23 Contract Affidavit

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

1.24 Minority Business Enterprises

A MBE goal has not been established for this RFP. However, MBE participation at the PORFP level is strongly encouraged.

1.25 Small Business Reserve

The State reserves the right to designate any PORFP issued pursuant to this RFP as a Small Business Reserve (SBR) PORFP. In such event, the resulting PO may only be awarded to a Contractor that meets the qualifications set out in §14-501(c), State Finance & Procurement Article, Annotated Code of Maryland, and is registered with the Department of General Services SBR Program.

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

1.26 Compliance with Laws/Arrearages

1.26.1 By submitting a Proposal in response to this RFP, the Offeror, if selected for award, agrees that it will comply with all federal, State, and local laws applicable to its activities and obligations under the Contract.

- 1.26.2 By submitting a response to this solicitation, the Offeror also represents that it is not in arrears in the payment of any obligations due to the State of Maryland, including the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of the Contract if selected for award.

1.27 Procurement Method

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

1.28 Verification of Registration and Tax Payment

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

1.29 False Statements

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

- 1.29.1 In connection with a procurement contract a person may not willfully:
- Falsify, conceal, or suppress a material fact by any scheme or device.
 - Make a false or fraudulent statement or representation of a material fact.
 - Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.
- 1.29.2 A person may not aid or conspire with another person to commit an act under subsection (1) of this section.
- 1.29.3 A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding five (5) years or both.

1.30 Non-Visual Access

- 1.30.1 By submitting a quotation in response to a PORFP, the Master Contractor warrants that the COTS software offered under the PORFP (1) provides equivalent access for effective use by both visual and non-visual means; (2) will present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use; (3) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and (4) is available, whenever possible, without modification for compatibility with software and hardware for non-visual access. The

Master Contractor further warrants that the cost, if any, of modifying the Information Technology (IT) for compatibility with software and hardware used for non-visual access will not increase the cost of the IT by more than five percent. For purposes of this Master Contract, the phrase “equivalent access” means the ability to receive, use and manipulate information and operate controls necessary to access and use information technology by non-visual means. Examples of equivalent access include keyboard controls used for input and synthesized speech, Braille, or other audible or tactile means used for output.

- 1.30.2 The Non-visual Access Clause noted in COMAR 21.05.08.05 and referenced in this solicitation is the basis for the standards that have been incorporated into the Maryland regulations, which can be found at: www.doit.maryland.gov - keyword: NVA

1.31 Payments by Electronic Funds Transfer

By submitting a response to this solicitation, the Offeror agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller’s Office grants an exemption. Payment by EFT is mandatory for contracts exceeding \$100,000. The successful Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form.

Any request for exemption shall be submitted to the State Comptroller’s Office for approval at the address specified on the COT/GAD X-10 form and include the business identification information as stated on the form and include the reason for the exemption. The COT/GAC X-10 form can be downloaded at: http://comptroller.marylandtaxes.com/Vendor_Services/Accounting_Information/Static_Files/GADX10Form20150615.pdf

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

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

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

1.33 Conflict of Interest

The successful Offeror (s) will provide COTS software and services for State agencies, or component programs with those agencies and must do so impartially and without any conflicts of interest.

Master Contractors may be required to complete a Conflict of Interest Affidavit with a proposal submitted in response to a PORFP. A copy of this Affidavit is included as Attachment I of this RFP. If the Procurement Officer makes a determination before award of a PO pursuant to a respective PORFP that facts or circumstances exist that give rise to or could in the future give rise to a conflict of interest within the meaning of COMAR 21.05.08.08A, the Procurement Officer may reject a proposal under COMAR 21.06.02.03B.

By submitting a Conflict of Interest Affidavit and Disclosure, the Contractor shall be construed as certifying all personnel and subcontractors are also without a conflict of interest as defined in COMAR 21.05.08.08A.

1.34 Prompt Pay Policy

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

1.35 Veteran-Owned Small Business Enterprise Goals

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

1.36 Living Wage Requirements

Living Wage Requirements will be determined at the PORFP level when there is a solicitation that includes services.

Master Contractors may be required to complete a Living Wage Requirements Affidavit of Agreement, the form of which is at Attachment G in connection with a PORFP. If an Offeror fails to complete and submit the required documentation when responding to a PORFP, the State may determine the Offeror to not be responsible under State law.

Following is an overview of the Maryland living wage requirements. Additional information is contained in Attachment G.

1.36.1 Maryland law requires that contractors meeting certain conditions pay a living wage to covered employees on State service contracts over \$100,000. Maryland Code, State Finance and Procurement, § 18-101 et al. The Commissioner of Labor and Industry at the Department of Labor, Licensing and Regulation requires that a contractor subject to the Living Wage law submit payroll records for covered employees and a signed statement indicating that it paid a living wage to covered employees; or receive a waiver from Living Wage reporting requirements. See COMAR 21.11.10.05.

1.36.2 If subject to the Living Wage law, Master Contractor agrees that it will abide by all Living Wage law requirements, including but not limited to reporting requirements in COMAR 21.11.10.05.

Contractor understands that failure of Contractor to provide such documents is a material breach of the terms and conditions and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions.

1.36.3 Additional information regarding the State's living wage requirement is contained in Attachment G. Offerors must complete and submit the Maryland Living Wage Requirements Affidavit of Agreement (Attachment G-1) with their PO Proposals. If an Offeror fails to complete and submit the required documentation, the State may determine an Offeror to not be responsible under State law.

1.36.4 Master Contractors and subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier area. The specific living wage rate is determined by whether a majority of services take place in a Tier 1 Area or a Tier 2 Area of the State. See COMAR 21.11.10.05.

1.36.5 The PO resulting from this solicitation has been deemed to be a Tier <<x>> contract.

1. If the Master Contractor provides 50% or more of the services from a location(s) in a Tier 1 jurisdiction(s) the Contract will be a Tier 1 Contract.
2. If the Master Contractor provides 50% or more of the services from a location(s) in a Tier 2 jurisdiction(s), the Contract will be a Tier 2 Contract.
3. If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located.

Information pertaining to reporting obligations may be found by going to the Maryland Department of Labor, Licensing and Regulation (DLLR) website <http://www.dllr.state.md.us/labor/prev/livingwage.shtml>

NOTE: Whereas the Living Wage may change annually, the Contract price may not be changed because of a Living Wage change.

1.37 HIPAA - Business Associate Agreement

A HIPAA Business Associate Agreement is not required for this procurement.

1.38 Federal Funding Acknowledgement

The Contract does not contain federal funds.

1.39 Location of the Performance of Services Disclosure

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

1.40 Department of Human Resources (DHR) Hiring Agreement

This solicitation does not require a DHR Hiring Agreement.

1.41 Non-Disclosure Agreement

A Non-Disclosure Agreement (Offeror) is not required for this procurement.

1.42 Award Basis

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

1.43 Electronic Procurements Authorized

- 1.43.1 Under COMAR 21.03.05, unless otherwise prohibited by law, a primary procurement unit may conduct procurement transactions by electronic means, including the solicitation, bidding, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.
- 1.43.2 Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or the Contract.
- 1.43.3 “Electronic means” refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes facsimile, e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://emaryland.buyspeed.com/bsol/>), and electronic data interchange.
- 1.43.4 In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., § 1.30 “Payments by Electronic Funds Transfer”) and subject to the exclusions noted in section E of this subsection, the following transactions are authorized to be conducted by electronic means on the terms (as authorized in COMAR21.03.05):
- 1) The Procurement Officer may conduct the procurement using eMM, e-mail, or facsimile to issue:
 - a) the solicitation (e.g., the RFP)
 - b) any amendments
 - c) pre-Proposal conference documents
 - d) questions and responses
 - e) communications regarding the solicitation or Bid/Proposal to any Offeror or potential Offeror
 - f) notices of award selection or non-selection
 - g) the Procurement Officer’s decision on any Bid protest or Contract claim
 - 2) An Offeror or potential Offeror may use e-mail to:
 - a) ask questions regarding the solicitation
 - b) reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer’s request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer

c) submit a "No Bid/Proposal Response" to the solicitation

3) The Procurement Officer, the Contract Manager, and the Contractor may conduct day-to-day Contract administration, except as outlined in Section E of this subsection utilizing e-mail, facsimile, or other electronic means if authorized by the Procurement Officer or Contract Manager.

1.43.5 The following transactions related to this procurement and any Contract awarded pursuant to it are not authorized to be conducted by electronic means:

a) submission of initial Bids or Proposals;

b) filing of Bid Protests;

c) filing of Contract Claims;

d) submission of documents determined by the Department to require original signatures (e.g., Contract execution, Contract modifications); or

e) any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Offeror be provided in writing or hard copy.

1.43.6 Any facsimile or e-mail transmission is only authorized to the facsimile numbers or e-mail addresses for the identified person as provided in the solicitation, the Contract, or in the direction from the Procurement Officer or Contract Manager.

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SECTION 2 – SCOPE OF WORK

2.1 Scope

The scope of this solicitation encompasses three functional areas as follows:

- 1) Functional Area I – COTS Software (**excluding Microsoft Software**)
- 2) Functional Area II – Installation and Training Services
- 3) Functional Area III – Manufacturer’s Software Maintenance (See RFP Definitions, 1.3p)

2.2 General Requirements

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

2.2.1 Required Project Policies, Guidelines and Methodologies

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

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

2.3 Functional Area I – COTS Software

2.3.1 Master Contractors shall provide COTS software, in accordance with the guidelines provided hereunder. Master Contractors may add Manufacturer Product Lines periodically throughout the term of the Master Contract in accordance with the terms of Section 2.7. This includes software licenses which grant the Requesting Agency the right to run or access the purchased software program within the terms and conditions of the license agreement.

2.3.2 Master Contractors shall refund to the State within 30 calendar days of receipt of the returned COTS software, the purchase price of the returned COTS software, including shipping costs. The State shall not be charged restocking fees.

2.3.3 Master Contractors shall provide prepaid delivery, FOB (the delivery destination specified in the PORFP) to any State eligible customer located within the State's geographic boundaries. Unless specified otherwise in a PORFP, all COTS software is to be delivered, prepaid, to the location specified in a PORFP within three (3) business days from the date of the PO. The MSRP will be construed to include delivery within three (3) business days from the date of the PO. Similarly, provided a PORFP allows at least three (3) business days delivery time, any price proposed in response to a PORFP that is lower than the MSRP will be construed to include delivery within three (3) business days from the date of the PO.

If a PORFP specifies delivery in less than three (3) business days (which will be termed an expedited delivery) and an Offeror proposes the MSRP as its proposal price, the Offeror may include as a separate distinct charge, the cost of the expedited delivery. However, if an Offeror proposes a price lower than the MSRP for a PORFP that requires expedited delivery, the PORFP proposal price shall include the cost of the expedited delivery and no separate, additional charge will be permitted.

Title does not pass until the shipment reaches the destination, and the goods belong to seller while in transit. If expedited shipping is required by the State, additional charges may apply for:

1. Standard Overnight (delivery by 3:00 PM the next day)
2. Priority Overnight (delivery by 10:30 AM the next business day)
3. Saturday Delivery (delivery by 12:00 PM)

2.4 Functional Area II –Installation and Training Services

Installation and/or Training services may only be purchased when purchasing COTS software under Functional Area I – COTS Software or Functional Area III – Manufacturer's Software Maintenance. Functional Area II services may not be purchased alone. In addition, Functional Area II services may not exceed 49% of the total value of the PORFP. Installation services required separately from the purchase of COTS software must be purchased via a separate vehicle such as Maryland's Consulting and Technical Services contracts or a stand-alone procurement.

2.4.1 Installation Services

Installation services are limited to the installation of the COTS software with only the configuration necessary to ensure that the COTS software operates properly in the Requesting Agency's environment. Installation services shall not include customization or installation-specific enhancements.

2.4.2 Training Services

Training may only be purchased contemporaneously with the original purchase of COTS software or with the purchase of Manufacturer's Software Maintenance and shall include, but is not limited to:

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

2.5 Functional Area III – Manufacturer’s Software Maintenance

2.5.1 Manufacturer’s software maintenance may be purchased in conjunction with or separately from Functional Area I – COTS Software, at any time, or in conjunction with Functional Area II – Installation and Training. Master Contractors authorized by the Manufacturer or Distributor of the COTS software may only provide manufacturer’s software maintenance. Manufacturer’s software maintenance shall include, but is not limited to:

1. Electronic media and consulting services, upgrades and enhancements for technology advancements, improved functionality, and compatibility with new industry standards;
2. Direct access to experienced consultants of the software;
3. Flexible service options including telephone or e-mail support;
4. Timely problem resolution of reported discrepancies;
5. Remote technical support; and
6. Online self-help functions.

2.6 Warranty

Master Contractors shall provide the Manufacturer’s Warranty with its response to a PORFP for Functional Area I. Master Contractors shall be responsible for coordinating warranty issues. On-site warranty will begin upon acceptance of the COTS software by the Requesting Agency. Acceptance will be defined in the PORFP as either receipt or installation. Onsite warranty means the Master Contractor will either remotely access or travel, if necessary, to the facility where the warranty service is required at no additional cost to the Requesting Agency during the manufacturer’s warranty period.

2.7 Procedure for Adding a Manufacturer’s Product Line

Each Master Contractor, in a Functional Area, may add additional Manufacturer Product Lines, in that Functional Area, throughout the life of the Software Master Contract. To add a Manufacturer product line, a Master Contractor must submit a Letter of Authorization from the Manufacturer for each new product line proposed. Once the Letter of Authorization has been confirmed by DoIT, the Manufacturer product line will be added to that Master Contractor’s list of product lines available.

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

2.8 PORFP Procedures

2.8.1 PORFP Content

The Requesting Agency will send out a PORFP to all eligible Master Contractors authorized to sell the manufacturer product line requested for the identified Functional Area. When generic specifications are used, a PORFP will be sent to all Master Contractors for all manufacturers in a Functional Area. As an example, each PORFP may contain the following information:

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

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

2.8.2 PORFP Submission Requirements

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

- A) Explanation of how the Master Contractor intends to meet the requirements of the PORFP;
- B) Description of the proposed COTS software and version number;
- C) Transportation and delivery schedule;
- D) Installation services provided and schedule, if applicable;
- E) Manufacturer's Software Maintenance provided, if applicable;
- F) Training Services provided and schedule, if applicable;
- G) Guarantee that the COTS proposed will be virus free;
- H) A statement that the Master Contractor is authorized by the Manufacturer or Distributor to provide the COTS software and/or services as of the date of the response;
- I) Subcontractors, if any, including required letters of authorization;

- J) Warranty terms;
- K) Copy of any software licensing agreement for any software to be licensed to the State (e.g., EULA, Enterprise License Agreements, Professional Service agreement, Master Agreement)
- L) Proposed price;
- M) Captured COTS publisher or other COTS distributor screen shot of current MSRP as of date of PORFP proposal submission. Subject to the approval of the State of Maryland, a comparable substitute directly from the COTS publisher or other COTS distributor may be acceptable.
- M) Location of the Performance of Services Affidavit (Attachment L), if applicable
- N) Living Wage Affidavit of Agreement, if applicable; and
- O) Conflict of Interest Affidavit (Attachment I).

2.8.3 Procedure for Awarding a PORFP

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

2.8.4 Delivery of Software and Services

Delivery of COTS software and any manufacturer's maintenance, installation and/or training services shall be initiated only upon issuance of a PO authorized by the Requesting Agency.

2.9 Order Processing Procedure

2.9.1 The Master Contractor shall provide the order processing procedure necessary to demonstrate how it will perform the requirements in a PORFP. The Master Contractor is expected to establish a project organization/office to provide overall management of the Contract work. The Master Contractor shall manage dedicated personnel, and all subcontractors.

2.9.2 The Master Contractor shall designate a primary POC, who will be responsible for the response to any PORFPs and overall cost, schedule, and technical performance. This individual will be the principal POC throughout the duration of the Master Contract.

2.10 Insurance Requirements

2.10.1 The Master Contractor shall maintain property and casualty insurance with minimum limits sufficient to cover losses resulting from or arising out of Master Contractor action or inaction in the performance of the contract by the Master Contractor, its agents, servants, employees or subcontractors.

2.10.2 The Master Contractor shall maintain a policy of general liability insurance that is of the proper type and of sufficient limits that the State and its officials, employees, agents, servants, guests and subcontractors are reasonably covered in the event of injury or death.

2.10.3 The State of Maryland will be named as an additional named insured on the policies of all property, casualty, liability, and other types of insurance evidencing this coverage. Certificates of insurance

evidencing this coverage will be provided prior to the commencement of any activities in the Master Contract. All insurance policies must be with a company licensed to do business in Maryland.

2.10.4 General Liability

The Contractor shall maintain Commercial General Liability Insurance with limits sufficient to cover losses resulting from, or arising out of, Contractor action or inaction in the performance of the Contract by the Contractor, its agents, servants, employees, or subcontractors, but no less than a Combined Single Limit for Bodily Injury, Property Damage, and Personal and Advertising Injury Liability of \$1,000,000 per occurrence and \$3,000,000 aggregate.

2.10.5 Automobile and/or Commercial Truck Insurance

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

2.10.6 Employee Theft Insurance

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

2.10.7 Certificates of Insurance

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

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

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

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

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

2.10.8 State Inclusion on Insurance

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

2.10.9 Subcontractor Insurance

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

2.10.10 Notification of Insurance after Award

The recommended awardee must provide a certificate of insurance with the prescribed limits set forth in Section 2.10 "Insurance Requirements," naming the State as an additional insured if required, within five (5) Business Days from notice of recommended award.

2.11 Invoicing

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

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

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

2.11.3 The Master Contractor shall submit the invoices for any PO to the Requesting Agency identified in the PO.

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

2.12 Personnel Qualifications (Functional Area II)**2.12.1 For Training and Installation services only.**

- A) Labor Hour – A type of payment for labor provided in performing Installation or Training services as required in a PORFP. The Master Contractor will be paid for services performed based on direct labor hours billed at specific hourly rates fixed by labor category in the Master Contract, up to a specified cost ceiling, plus non-routine travel costs as may be identified in a PORFP. The labor category hourly rates for Installation or Training services may not exceed the hourly rates specified in the Master Contract. The Master Contractor will be required to provide time records and/or other documentation that all direct hours billed have actually been expended by its employees, or those of subcontractors, totally and productively in the performance of the Installation or Training services. The fixed hourly labor category rates plus non-routine travel will be the only payment made for this type of PORFP.
- B) Master Contractors shall only propose staff available at the time of the PORFP. In response to each PORFP, Master Contractors shall provide personnel that satisfy the personnel qualifications specified within Section 2.13 for each of the labor categories required under the specific PORFP.
- C) Specific areas of required expertise may be further defined in the PORFP. Master Contractors shall certify that all candidates meet the required qualifications.
- D) The PORFP shall define specific requirements for the services required. The PORFP shall clearly identify all applicable experiences related to the COTS software.
- E) Substitution of Education for Experience. Substitution shall be reviewed and approved by the State.
- F) Substitution of Experience for Education. Substitution of experience for education may be permitted at the discretion of the State.
- G) Substitution of Professional Certificates for Experience: Professional certification may be substituted for up to two (2) years of general and specialized experience. The Requesting Agency shall approve or disapprove substitutions.

2.12.2 Substitution of Personnel.

- A) Individuals proposed and accepted as personnel for PORFPs are expected to remain dedicated throughout the term of the PORFP award. Substitutions will be allowed only when the Requesting Agency specifically agrees to the substitution in writing or due to an emergency circumstance as described below. All proposed substitutes of personnel must have qualifications at least equal to that of the person initially proposed and evaluated and accepted in the PORFP. The burden of illustrating this comparison shall be the Master Contractor's. The resumes of the initially proposed personnel shall become the minimum requirement for qualifications for successor personnel for the duration of the total PORFP term. If one or more of the personnel are unavailable for work under a PORFP for a continuous period exceeding 15 calendar days, the Master Contractor shall immediately notify the Requesting Agency and propose to replace personnel with personnel of equal or better qualifications within 15 calendar days of notification to the Requesting Agency. All substitutions shall be made in accordance with this provision.

- B) During the performance period for a PORFP, no substitutions of personnel will be permitted unless such substitutions are necessitated by an individual's sudden illness, death, or as otherwise approved by the Requesting Agency. In any of these events, the Master Contractor shall promptly notify the Requesting Agency and provide the information required above. All proposed substitutions of personnel for other than emergency situations must be submitted in writing, at least 15 business days in advance of the proposed substitution, to the Requesting Agency, with the information required above. The Requesting Agency must agree to the substitution in writing before such substitution shall become effective.
- C) All requests for substitutions must provide a detailed explanation of the circumstances necessitating the proposed substitutions, a resume of the proposed substitute, and any other information requested by the Requesting Agency to make a determination as to the appropriateness of the proposed substitution. All proposed substitutes must have educational qualifications and work experience equal to or better than the resume initially proposed for personnel; the burden of illustrating this comparison shall be the Master Contractor's.
- D) Resumes shall be signed by all substituting individuals and their formal supervisor, and the official resume of the previous employee shall be provided for comparison purposes.
- E) Substitution of Experience for Education. Substitution of experience for education may be permitted at the discretion of the State.

2.13 Labor Categories and Qualifications

2.13.1 Training Specialist/Instructor

Position Description: The Training Specialist/Instructor conducts the research necessary to develop and revise training courses, and prepares appropriate training catalogs. This individual shall prepare all instructor materials (course outline, background material, and training aids) and student materials (course manuals, workbooks, handouts, completion certificates, and course critique forms). This individual is responsible for training personnel by conducting formal classroom courses, workshops, and seminars.

Education: This position requires a Bachelor's degree from an accredited college or university with a major in Education/Training in the areas of computer science, information systems, engineering, business, or a related scientific or technical discipline. (Note: A Master's degree is preferred.)

General Experience: The proposed candidate must have at least four (3) years of experience in information systems development, training, or related fields.

Specialized Experience: The proposed candidate must have at least two (2) years of experience in developing and providing IT and end user training on computer hardware and application software.

2.13.2 Network Administrator

Position Description: The Network Administrator performs a variety of network management functions related to the operation, performance, or availability of data communications networks. This individual is responsible for performing the following tasks:

- A. Analyzing client LANs/WANs, isolating the source of problems, and recommending reconfiguration and implementation of new network hardware to increase performance

- B. Modifying command language programs and network start up files, assigning/reassigning network device logical, and participating in load balancing efforts throughout the network to achieve optimum device utilization and performance
- C. Establishing new user accounts on the network, granting access to required network files and programs.
- D. Managing network E-mail functions
- E. Establishing mailboxes and monitoring mail performance on the network
- F. Troubleshooting network/user problems, and presenting resolutions for implementation
- G. Preparing a variety of network resource reports

Education: This position requires an Associate's degree from an accredited college or university in Computer Science, Information Systems, Engineering or a related field; or two (2) years of college or university study in Computer Science, Information Systems, Engineering or a related field. If applicable, the candidate should be certified as a network administrator for a specific network operating system as defined by the State. Certification criteria are determined by the network operating system vendor. Two (2) additional years of specialized experience may be substituted for the required education.

General Experience: The proposed candidate must have at least two (2) years of experience in a computer-related field. This individual must have advanced knowledge of network operating systems.

Specialized Experience: The proposed candidate must have at least one (1) year of experience in one or more of the following areas: data communications engineering, data communications hardware or software analysis, network administration or management, data communications equipment installation and maintenance, or computer systems administration and management. This individual must also have experience with cable/LAN meters, protocol analyzers, SNMP' and RMON based software products. Additionally, he/she must have knowledge of Ethernet, FDDI and high speed WANs and routers.

2.13.3 Subject Matter Expert

Position Description: The Subject Matter Expert defines the problems and analyzes and develops plans and requirements in the subject matter area for moderately complex-to-complex systems. This position performs the following tasks: Coordinates and manages the preparation of analysis, evaluations, and recommendations for proper implementation of programs and systems specifications including, but not limited to: information technology, health care, education, public safety, social services, human resources, transportation, and environment.

Education: This position requires a Bachelor's degree from an accredited college or university with a major in computer science, information systems, engineering, business, or other related scientific or technical discipline. (Note: A Master's degree is preferred.)

General Experience: The proposed candidate must have at least seven (7) years of experience in the IT field.

Specialized Experience: The proposed candidate must have at least five (5) years of combined new and related older technical experience in the IT field directly related to the required area of expertise.

2.14 Travel Reimbursement

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

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

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SECTION 3 – PROPOSAL FORMAT

3.1 Two Part Submission

Offerors shall submit proposals in two separate volumes:

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

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

3.2 Proposals

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

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

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

3.3 Submission

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

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

Offerors shall submit only one Technical Proposal and one Financial Proposal, even if proposing to all four (4) Functional Areas.

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

3.4 Volume I – Technical Proposal

3.4.1 Transmittal Letter

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

3.4.2 Format of Technical Proposal

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

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

3.4.2.1 Title and Table of Contents

The Technical Proposal shall begin with a title page bearing the name and number of this RFP and the Offerors:

- A. Name;
- B. Address;
- C. FEIN;
- D. Name and Number of this RFP;
- E. eMM Number; and
- F. MBE and/or SBR Registration Number (if applicable).

A table of contents shall follow the title page for the Technical Proposal.

3.4.2.2 Executive Summary

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

3.4.2.3 Manufacturer's Letter of Authorization

- A. Offerors must state each Manufacturer product line that they propose selling through the COTS Software Master Contract.

- B. Manufacturer Letters of Authorization are required for each Manufacturer product line proposed by the Offeror. An Offeror may not propose a Manufacturer product line without providing the required Letter of Authorization at the time it submits its proposal. The Letter of Authorization shall certify that the Offeror is an authorized reseller of the Manufacturer's COTS software, or is authorized to provide Installation, Training and/or Maintenance services. The Letter of Authorization shall be on the Manufacturer's letterhead or through a Manufacturer's e-mail. Each Letter of Authorization or e-mail must provide the following information:

1. Manufacturer POC name and alternate for verification
2. Manufacturer POC mailing address
3. Manufacturer POC telephone number
4. Manufacturer POC email address
5. Manufacturer POC fax number
6. If available, a Re-seller Identifier

3.4.2.4 Explanation of Offeror's Order Fulfillment Capabilities, including

- A. Order receipt
- B. Order processing and routing
- C. Order Tracking
- D. Customer service and inquiry support
- E. Shipping, including express shipping
- F. Invoicing
- G. Returns
- H. Quality control
- I. Order turnaround time
- J. Organization Chart

3.4.2.5 Offeror Experience and Capabilities

This section shall include the following:

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

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

1. The State contracting entity
2. A brief description of the services/goods provided
3. The dollar value of the contract
4. The term of the contract
5. Whether the contract was terminated prior to the specified original contract termination date
6. Whether any available renewal option was not exercised

7. The State employee contact person (name, title, telephone number and e-mail address)

Information obtained regarding the Offeror's level of performance on State contracts will be used by the Procurement Officer to determine the responsibility of the Offeror and considered as part of the experience and past performance evaluation criteria of the RFP. The Department or Agency reserves the right to request additional references or utilize references not provided by an Offeror. Points of contact must be accessible and knowledgeable regarding Offeror performance.

3.4.2.6 Other Required Submissions

- A. Completed Bid/Proposal Affidavit (Attachment B)
- B. A copy of the Offeror's current certificate of insurance required by Section 2.10 (property, casualty and liability), which, at a minimum, shall contain the following:
 1. Carrier (name and address)
 2. Type of insurance
 3. Amount of coverage
 4. Period covered by insurance
 5. Exclusions
- C. Conflict of Interest Affidavit and Disclosure (Attachment I)
- D. Offeror MBE Form – Attachment D-1A- COTS Master Contract, Master Contractor Acknowledgement of PORFP MBE Requirements.
- E. VSBE Attachment (Attachment M-V1A) Master Contractor Acknowledgement of PORFP VSBE Requirements.
- F. Offeror Information Sheet (Attachment P)

3.5 Volume II - Financial Proposal

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

3.5.1 Functional Area I – COTS Software and Functional Area III- Manufacturer's Software Maintenance:

Offeror's shall certify by signing Attachment F-1 and F-3 (as applicable), that the Offeror shall provide pricing no higher than MSRP published as of the date of the response to a PORFP. The MSRP is being used as a ceiling for price only.

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

3.5.2 Functional Area II –Installation and Training Services

Installation and Training Services:

If proposing to provide installation and/or training services, the Offeror shall complete Attachment F-2 Labor Rate Schedule for Software Installation and/or Training. The prices entered on Attachment F-2 are the maximum prices that may be proposed by a Master Contractor for these services for the duration of the Master Contract term. Prices at the PORFP level may be proposed at or below the prices on Attachment F-2, and will be fixed for the duration of the associated PORFP. When combined with a software purchase in the PORFP, the price(s) for installation and/or training shall be priced separately from the price(s) of the software in the PORFP Proposal.

Complete the Price sheets as provided in Attachment F - Price Proposal Form Instructions.

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SECTION 4 – EVALUATION CRITERIA AND SELECTION PROCEDURE

4.1 Evaluation Criteria

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

4.2 Technical Criteria

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

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

4.3 Financial Criteria

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

4.4 Reciprocal Preference

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

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

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

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

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

4.5 Selection Procedures

4.5.1 General Selection Process

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

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

4.5.2 Selection Process Sequence

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

4.5.3 Award Determination

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

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RFP ATTACHMENTS

ATTACHMENT A – Contract

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

ATTACHMENT B – Bid/Proposal Affidavit

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

ATTACHMENT C – Contract Affidavit

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

ATTACHMENT D – Minority Business Enterprise Forms

Not Required for this RFP.

ATTACHMENT E – Pre-Proposal Conference Response Form

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

ATTACHMENT F – Financial Proposal Instructions and Price Sheet

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

ATTACHMENT G – Maryland Living Wage Requirements for Service Contracts and Affidavit of Agreement

Not Required for this RFP. May be required for designated PORFPs.

ATTACHMENT H – Federal Funds Attachment

Not Required for this RFP.

ATTACHMENT I – Conflict of Interest Affidavit and Disclosure

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

ATTACHMENT J – Non-Disclosure Agreement

Not Required for this RFP.

ATTACHMENT K – HIPAA Business Associate Agreement

Not Required for this RFP.

ATTACHMENT L – Mercury Affidavit

Not Required for this RFP.

ATTACHMENT M – Veteran-Owned Small Business Enterprise Forms

Not Required for this RFP.

ATTACHMENT N – Department of Human Resources (DHR) Hiring Agreement

Not Required for this RFP.

ATTACHMENT O – Non-Disclosure Agreement (Offeror)

Not Required for this RFP.

ATTACHMENT P – OFFEROR INFORMATION SHEET

ATTACHMENT A - Commercial Off-the-Shelf Software (COTS) Contract

DEPARTMENT OF INFORMATION TECHNOLOGY (DoIT)

Commercial Off-the-Shelf Software

060B2490021-2015

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

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

1. Definitions

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

- 1.1. “COMAR” means the Code of Maryland Regulations.
- 1.2. “Contract” means this contract for Commercial Off-the-Shelf (COTS) Software and related Installation, Training, and Maintenance Services. Except as otherwise provided, any reference to the Contract shall be deemed to include reference to a Purchase Order (PO).
- 1.3. “Contract Manager” means the individual identified in Section 1.6 of the Request for Proposals (RFP), or a successor designated by the Department.
- 1.4. “Contractor” means _____, whose principal business address is: _____.
- 1.5. “Department” means the Department of Information Technology (DoIT).
- 1.6. “eMM” means eMaryland Marketplace.
- 1.7. “Financial Proposal” means the Contractor’s financial proposal dated _____.
- 1.8. “Installation” means transferring manufacturer’s electronic media to computer systems so that the COTS software will provide the features and functions generally described in the user documentation.
- 1.9. “Minority Business Enterprise” (MBE) means an entity meeting the definition at COMAR 21.0 1.02.01B(54), which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- 1.10. “Procurement Officer” means the person identified in Section 1.5 of the RFP or a successor designated by the Department.
- 1.11. “Proposal” means, as appropriate, either or both the Contractor’s Technical or Financial Proposal.
- 1.12. “Purchase Order” or “PO” means the authorization for Contractor to proceed with delivery of products and/or any services requested via a PORFP.
- 1.13. “PORFP” means Purchase Order Request for Quotation.
- 1.14. “Requesting Agency” means the unit of the State government issuing the PORFP.
- 1.15. “RFP” means the Request for Proposals for Commercial Off-the-Shelf Software, Solicitation # 060B2490021-2015 and any amendments thereto issued in writing by the State.

- 1.16. “Sensitive Data” means any personally identifiable information (PII), protected health information (PHI) or other private/confidential data.
- 1.17. “Software” means the object code version of computer programs licensed pursuant to this Contract. Embedded code, firmware, internal code, microcode, and any other term referring to software that is necessary for proper operation is included in this definition of Software. Software includes all prior, current, and future versions of the Software and all maintenance updates and error corrections. “Software” also includes any upgrades, updates, bug fixes or modified versions or backup copies of the Software licensed to the State by Contractor or an authorized distributor.
- 1.18. “State” means the State of Maryland.
- 1.19. “Technical Proposal” means the Contractor’s technical proposal dated _____.
- 1.20. Capitalized terms not defined herein shall be ascribed the meaning given to them in the RFP.

2. Scope of Contract

- 2.1. The Contractor shall provide COTS software, installation and/or training, and/or maintenance, as described in a PORFP or PO, in the following functional area(s):

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

Exhibit A – The RFP

Exhibit B – The Contract Affidavit dated _____.

Exhibit C – The Technical Proposal.

Exhibit D –The Financial Proposal

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

3. Period of Performance

- 3.1. The Contract shall be for a period of 12 years beginning << Contract start date>> and ending on << end date of Contract>>.
- 3.2. Audit, confidentiality, document retention, patents, copyright, intellectual property, warranty, and indemnification obligations under this Contract and any other obligations specifically identified shall survive expiration or termination of the Contract.
- 3.3. Upon termination of this Contract, the Contractor, at its own expense, shall deliver any equipment, software, or other property provided by the State to the place designated by the Procurement Officer.

4. Consideration and Payment

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

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

5. Patents, Copyrights, Intellectual Property

5.1. If the Contractor furnishes any design, device, material, process, or other item, which is covered by a patent or copyright, or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items.

5.2. Except as provided in Section 5.4 of this Contract, the Contractor agrees that all documents and materials, including but not limited to, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, software, graphics, mechanical, artwork, computations and data prepared by or for the Contractor for purposes of this Contract ("Work Product") shall become and remain the sole and exclusive property of the State and shall be available to the State at any time. The State shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.

5.3. Except as provided in Section 5.4 of this Contract, the Contractor agrees that at all times during the term of this Contract and thereafter, Work Product shall be "works made for hire" as that term is interpreted under U.S. copyright law and shall be owned by the State. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights and all information used to formulate such Work Product. In the event any Work Product is or may not be considered a work made for hire under applicable law, Contractor assigns and transfers to the State the entire right, title, and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof. Contractor shall execute all documents and perform such other proper acts as the State may deem necessary to secure for it the rights pursuant to this section.

5.4. Notwithstanding anything to the contrary in this Contract, to the extent (i) the Work Product incorporates any commercial-off-the shelf software (COTS) and/or any Pre-Existing Intellectual Property or (ii) any COTS and/or Pre-Existing Intellectual Property (other than a computer's operating system, supported internet browser, browser accessibility software or hardware if needed by the user, and software required to access a commonly-available data transmission tool or export format) is required to access, install, build, compile or otherwise use the Work Product (such COTS and Pre-Existing Intellectual Property individually and collectively referred to herein as "Third-party Intellectual Property," which shall be the sole property of Contractor or its third-party licensors, as applicable), Contractor hereby grants to the State, on behalf of itself and any third-party licensors, a royalty-free, paid-up, non-exclusive, unrestricted, unconditional, irrevocable, worldwide right and license, with the right to use, execute, reproduce, display, perform, distribute copies of internally, modify and prepare derivative works based upon, such Third-party Intellectual Property as may be necessary for the State to use the Work Product for the purposes for which such Work Product was designed and intended. "Pre-Existing Intellectual Property" means any program, utility or tool owned by Contractor or its third-party licensors that was created by Contractor or its third-party licensors independently from its performance of this Contract and not solely using funds from this Contract.

5.5. Subject to the terms of Section 6, Contractor shall defend, indemnify, and hold harmless the State, including, but not limited to, the Department or Requesting Agency and its agents, officers, and employees, from and against any and all claims, costs, losses, damages, liabilities, judgments and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with any claim the Work Product or any Third-party Intellectual Property infringes, misappropriates or otherwise violates any Third-party Intellectual Property rights. Contractor shall not enter into any settlement involving third party claims that contains any admission of or

- stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent, which consent may be withheld in the State's sole and absolute discretion.
- 5.6. Except if Contractor has pre-existing knowledge of such infringement, Contractor's obligations under this section will not apply to the extent any Third-party Intellectual Property infringes, misappropriates or otherwise violates any third party intellectual rights as a result of modifications made by the State in violation of the license granted to the State pursuant to Section 5.4; provided that such infringement, misappropriation or violation would not have occurred absent such modification.
 - 5.7. Without limiting Contractor's obligations under Section 5.5, if all or any part of the Work Product or any Third Party Intellectual Property is held, or Contractor or the State reasonably determines that it could be held, to infringe, misappropriate or otherwise violate any third party intellectual property right, Contractor (after consultation with the State and at no cost to the State): (a) shall procure for the State the right to continue using the item or service in accordance with its rights under this Contract; (b) replace the item or service with an item that does not infringe, misappropriate or otherwise violate any third party intellectual property rights and, in the State's sole and absolute determination, complies with the item's specifications as defined in this Contract, and all rights of use and/or ownership set forth in this Contract; or (c) modify the item or service so that it no longer infringes, misappropriates or otherwise violates any third party intellectual property right and, in the State's sole and absolute determination, complies with the item's specifications and all rights of use and/or ownership set forth in this Contract.
 - 5.8. Except for any Pre-Existing Intellectual Property and Third-Party Intellectual Property, Contractor shall not acquire any right, title, or interest (including any intellectual property rights subsisting therein) in or to any goods, Software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the State to the Contractor. Notwithstanding anything to the contrary herein, the State may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a PORFP executed by the Contractor and an authorized representative of the State.
 - 5.9. Contractor, on behalf of itself and its subcontractors, hereby agrees not to incorporate, link, distribute or use any Third-party Intellectual Property in such a way that: (a) creates, purports to create or has the potential to create, obligations with respect to any State software (including any deliverable hereunder), including without limitation the distribution or disclosure of any source code; or (b) grants, purports to grant, or has the potential to grant to any third-party any rights to or immunities under any State intellectual property or proprietary rights. Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall incorporate, link, distribute or use, in conjunction with the Work Product, any code or software licensed under the GNU General Public License ("GPL"), Lesser General Public License ("LGPL"), Affero GPL ("AGPL"), European Community Public License ("ECPL"), Mozilla, or any other open source license, in any manner that could cause or could be interpreted or asserted to cause any State software (or any modifications thereto) to become subject to the terms of the GPL, LGPL, AGPL, ECPL, Mozilla or such other open source software.
 - 5.10. Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall use any Software or technology in a manner that will cause any patents, copyrights, or other intellectual property which are owned or controlled by the State or any of its affiliates (or for which the State or any of its subcontractors has received license rights) to become subject to any encumbrance or terms and conditions of any third-party or open source license (including, without limitation, any open source license listed on <http://www.opensource.org/licenses/alphabetical>) (each an "Open Source License"). These restrictions, limitations, exclusions and conditions shall

apply even if the State or any of its subcontractors becomes aware of or fails to act in a manner to address any violation or failure to comply therewith. No act by the State or any of its subcontractors that is undertaken under this Contract as to any Software or technology shall be construed as intending to cause any patents, copyrights or other intellectual property that are owned or controlled by the State (or for which the State has received license rights) to become subject to any encumbrance or terms and conditions of any Open Source License.

- 5.11. The Contractor shall report to the Department or Requesting Agency, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Work Product delivered under this Contract.
- 5.12. This Section 5 shall survive expiration or termination of this Contract.

6. Indemnification

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

7. Limitations of Liability

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

- 7.1. For infringement of patents, trademarks, trade secrets and copyrights as provided in Section 5 (“Patents, Copyrights, Intellectual Property”) of this Contract;
- 7.2. Without limitation, for damages for bodily injury (including death) and damage to real property and tangible personal property; and
- 7.3. For all other claims, damages, loss, costs, expenses, suits, or actions in any way related to this Contract where liability is not otherwise set forth as being “without limitation,” and regardless of the basis on which the claim is made, Contractor’s liability shall not exceed one (1) time the total amount of the PORFP out of which the claim arises; provided however, the State may, in its sole discretion, decrease the ceiling established hereunder in any PORFP issued pursuant to this RFP. Third-party claims arising under Section 6 (“Indemnification”) of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor’s liability for third-party claims arising under Section 6 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 6.
- 7.4. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that all Subcontractors shall be held to be agents of Contractor.

8. Prompt Pay Requirements

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

respect to subcontractors that have contracted pursuant to the Minority Business Enterprise program.

9. Risk of Loss; Transfer of Title

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

10. Source Code Escrow

Source Code Escrow is not required for this Contract.

11. Loss of Data

The State will own all right, title and interest in its data that is related to the services provided under this Contract. The Contractor and/or Subcontractor(s) shall not access public jurisdiction user accounts or public jurisdiction data, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract or (4) at the State's written request.

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

12. Markings

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

13. Exclusive Use and Ownership

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

14. Notification of Legal Requests

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

15. Effect of Contractor Bankruptcy

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

16. Confidentiality

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

17. Parent Company Guarantee (If Applicable)

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

18. General Terms and Conditions

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

18.1. Pre-Existing Regulations

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

18.2. Maryland Law Prevails

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

18.3. Multi-year Contracts Contingent Upon Appropriations

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

18.4. Cost and Price Certification

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

18.5. Contract Modifications

The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract or a PO. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. Pursuant to COMAR 21.10.04, the Contractor must assert in writing its right to an adjustment under this section and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree

to an adjustment under this section shall be a dispute under Section 18.8, Disputes. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

18.6. Termination for Default

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

18.7. Termination for Convenience

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

18.8. Disputes

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

18.9. Living Wage

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

18.10. Non-Hiring of Employees

No official or employee of the State of Maryland, as defined under General Provisions Article,

§5-101, Annotated Code of Maryland, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall during the pendency and term of this Contract and while serving as an official or employee of the State become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

18.11. Nondiscrimination in Employment

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

18.12. Commercial Non-Discrimination

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

18.13. Subcontracting and Assignment

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

18.14. Minority Business Enterprise Participation

There is no MBE subcontractor participation goal for this Contract.

18.15. Insurance Requirements

The Contractor shall maintain workers' compensation coverage, property and casualty and any other insurance as required in the RFP. The minimum limits of such policies must meet any minimum requirements established by law and the limits of insurance required by the RFP, and shall cover losses resulting from or arising out of Contractor action or inaction in the performance of services under the Contract by the Contractor, its agents, servants, employees or subcontractors. Effective no later than the date of execution of the Contract, and continuing for the duration of the Contract term, and any applicable renewal periods, the Contractor shall maintain such insurance coverage and shall report such insurance annually or upon Contract renewal, whichever is earlier, to the Procurement Officer. The Contractor is required to notify the Procurement Officer in writing, if policies are cancelled or not renewed 5 days of learning of such cancellation and/or nonrenewal. Certificates of insurance evidencing this coverage shall be provided within five (5) days of notice of recommended award. All insurance policies shall be issued by a company properly authorized to do business in the State of Maryland. The State shall be named as an additional named insured on the property and casualty policy and as required in the RFP.

18.16. Veteran Owned Small Business Enterprise Participation

There is no VSBE subcontractor participation goal for this procurement.

18.17. Security Requirements and Incident Response

- 18.17.1. The Contractor agrees to abide by all applicable federal, State and local laws concerning information security and comply with current State and Department of Information Technology information security policy, currently found at <http://doit.maryland.gov/Publications/DoITSecurityPolicy.pdf>. Contractor shall limit access to and possession of Sensitive Data to only employees whose responsibilities reasonably require such access or possession and shall train such employees on the Confidentiality obligations set forth herein.
- 18.17.2. The Contractor agrees to notify the Department when any Contractor system that may access, process, or store State data or Work Product is subject to unintended access or attack. Unintended access or attack includes compromise by a computer malware, malicious search engine, credential compromise or access by an individual or automated program due to a failure to secure a system or adhere to established security procedures.

- 18.17.3. The Contractor further agrees to notify the Department within twenty-four (24) hours of the discovery of the unintended access or attack by providing notice via written or electronic correspondence to the Contract Manager, Department chief information officer and Department chief information security officer.
- 18.17.4. The Contractor agrees to notify the Department within two (2) hours if there is a threat to Contractor's product as it pertains to the use, disclosure, and security of the State's data.
- 18.17.5. If an unauthorized use or disclosure of any Sensitive Data occurs, the Contractor must provide written notice to the Department within one (1) business day after Contractor's discovery of such use or disclosure and thereafter all information the requests concerning such unauthorized use or disclosure.
- 18.17.6. The Contractor, within one day of discovery, shall report to the Department any improper or non-authorized use or disclosure of Sensitive Data. Contractor's report shall identify:
- (a) the nature of the unauthorized use or disclosure;
 - (b) the Sensitive Data used or disclosed,
 - (c) who made the unauthorized use or received the unauthorized disclosure;
 - (d) what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and
 - (e) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure.
 - (f) The Contractor shall provide such other information, including a written report, as reasonably requested by the State.
- 18.17.7. The Contractor shall protect Sensitive Data according to a written security policy no less rigorous than that of the State, and shall supply a copy of such policy to the State for validation. The Contractor agrees to comply with all applicable laws that require the notification of individuals in the event of unauthorized release of Sensitive Data or other event requiring notification and, should an event occur that triggers an obligation to provide such notification, the Contractor agrees to assume responsibility for informing all such individuals in accordance with applicable law and to indemnify, hold harmless and defend the State and its officials and employees from and against any claims, damages, or other harm related to such security obligation breach or other event requiring the notification.
- 18.17.8. This Section 18.17 shall survive expiration or termination of this Contract.

18.18. Suspension of Work

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

18.19. Nonvisual Accessibility Warranty

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

- (a) provides equivalent access for effective use by both visual and non-visual means;
 - (b) will present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use;
 - (c) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and
 - (d) is available, whenever possible, without modification for compatibility with Software and hardware for non-visual access.
- 18.19.2. The Contractor further warrants that the cost, if any, of modifying the information technology for compatibility with Software and hardware used for non-visual access does not increase the cost of the information technology by more than five percent. For purposes of this Contract, the phrase "equivalent access" means the ability to receive, use and manipulate information and operate controls necessary to access and use information technology by non-visual means. Examples of equivalent access include keyboard controls used for input and synthesized speech, Braille, or other audible or tactile means used for output.

18.20. Compliance with Laws/Arrearages

The Contractor hereby represents and warrants that:

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

18.21. Contingent Fee Prohibition

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

18.22. Delays and Extensions of Time

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

subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

18.23. Financial Disclosure

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

18.24. Political Contribution Disclosure

The Contractor shall comply with the provisions of Md. Code Ann., Election Law Article, Title 14, which requires that every person that enters into a contract for procurement with the State, a county or a municipal corporation or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the aggregate \$200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period.. The statement shall be filed with the State Board of Elections: (1) before execution of a contract by the State, a county, municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (2) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on: (i) February 5, to cover the six-month period ending January 31; and (ii) August 5, to cover the six-month period ending July 31. Additional information is available on the State Board of Elections website: http://www.elections.state.md.us/campaign_finance/index.html.

18.25. Retention of Records and Audit

- 18.25.1. The Contractor and Subcontractors shall retain and maintain all records and documents in any way relating to this Contract for three (3) years after final payment by the State under this Contract, or any applicable statute of limitations, prevailing federal or State law or regulation, or condition of award, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or the Procurement Officer's designee, at all reasonable times. The Contractor shall, upon request by the Department, surrender all and every copy of documents needed by the State, including, but not limited to itemized billing documentation containing the dates, hours spent and work performed by the Contractor and its subcontractors under the Contract. The Contractor agrees to cooperate fully in any audit conducted by or on behalf of the State, including, by way of example only, making records and employees available as, where, and to the extent requested by the State and by assisting the auditors in reconciling any audit variances. Contractor shall not be compensated for providing any such cooperation and assistance. All records related in any way to the Contract are to be retained for the entire time provided under this section.
- 18.25.2 The State reserves the right, at its sole discretion and at any time, to perform an audit of the Contractor's and/or Subcontractors' performance under this Contract. In this

Contract, an audit is defined as a planned and documented independent activity performed by qualified personnel, including but not limited to State and federal auditors, to determine by investigation, examination, or evaluation of objective evidence from data, statements, records, operations and performance practices (financial or otherwise) the Contractor's and/or Subcontractor's compliance with the Contract, including but not limited to the adequacy and compliance with established procedures and internal controls over the services being performed for the State.

- 18.25.3 Upon three (3) business days' notice, Contractor and/or Subcontractors shall provide the State reasonable access during normal business hours to their records to verify conformance to the terms of this Contract. The State shall be permitted to conduct these audits with any or all of its own internal resources or by securing the services of a third party accounting/audit firm, solely at the State's election. The State shall have the right to copy, at its own expense, any record related to the services performed pursuant to this Contract.
- 18.25.4 Contractor and/or Subcontractors shall cooperate with the State or the designated auditor and shall provide the necessary assistance for the State or the designated auditor to conduct the audit.
- 18.25.5 The right to audit shall include subcontracts in which goods or services are subcontracted by Contractor and/or Subcontractors and that provide essential support to the services provided to the State under this Contract. Contractor and/or Subcontractors shall ensure the State has the right to audit with any lower tier Subcontractor.
- 18.25.6 This Section 18.25 shall survive expiration or termination of this Contract.

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

HIPAA clauses do not apply to this Contract.

19. Administrative Information

19.1. Procurement Officer and Contract Manager

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

19.2. Notices

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

If to the State:

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

With a copy to:

Gayle Mealy
Department of Information Technology (DoIT)
45 Calvert Street, Rm 434A
Annapolis, MD 21401-1907
Gayle.Mealy@maryland.gov

If to the Contractor:

Attn: _____

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

CONTRACTOR

STATE OF MARYLAND

DEPARTMENT OF INFORMATION TECHNOLOGY (DoIT)

By:

By: Secretary David A. Garcia

Date

Or designee:

Date

Approved for form and legal sufficiency
this ____ day of _____, 20__.

Assistant Attorney General

APPROVED BY BPW: _____
(Date)

(BPW Item #)

ATTACHMENT B - Bid/Proposal Affidavit

(Authorized Representative and Affiant)

A. AUTHORITY

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

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

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

B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.

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

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

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

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

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

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

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

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

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

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

- (1) Been convicted under state or federal statute of:
 - (a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
 - (b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;
- (2) Been convicted of any criminal violation of a state or federal antitrust statute;
- (3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of Bids/Proposals for a public or private contract;
- (4) Been convicted of a violation of the State Minority Business Enterprise Law, § 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (5) Been convicted of a violation of § 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)—(5) above;
- (7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of Bids/Proposals for a public or private contract;
- (8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract;
- (9) Been convicted of a violation of one or more of the following provisions of the Internal Revenue Code:
 - (a) §7201, Attempt to Evade or Defeat Tax;
 - (b) §7203, Willful Failure to File Return, Supply Information, or Pay Tax,
 - (c) §7205, Fraudulent Withholding Exemption Certificate or Failure to Supply Information;
 - (d) §7206, Fraud and False Statements, or
 - (e) §7207 Fraudulent Returns, Statements, or Other Documents;
- (10) Been convicted of a violation of 18 U.S.C. §286 Conspiracy to Defraud the Government with Respect to Claims, 18 U.S.C. §287, False, Fictitious, or Fraudulent Claims, or 18 U.S.C. §371, Conspiracy to Defraud the United States;

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

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

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

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

(ii) Not overturned on judicial review;

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

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

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

(ii) Not overturned on judicial review;

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

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

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

(ii) Not overturned on judicial review; or

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

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

_____.

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

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

_____.

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

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

_____.

G. SUBCONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

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

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

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

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

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

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

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

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

K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

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

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

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

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

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

I FURTHER AFFIRM THAT:

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

M. I FURTHER AFFIRM THAT:

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

N. ACKNOWLEDGEMENT

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

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

Date: _____

By: _____ (print name of Authorized Representative and Affiant)

_____ (signature of Authorized Representative and Affiant)

ATTACHMENT C - Contract Affidavit

A. AUTHORITY

I HEREBY AFFIRM THAT:

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

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

I FURTHER AFFIRM THAT:

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

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

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

Name and Department ID
Number: _____ Address: _____

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

Name and Department ID Number: _____
Address: _____.

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more

shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, §§14 101 — 14-108, Annotated Code of Maryland, which requires that every person that enters into a contract for a procurement with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall, file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on: (i) February 5, to cover the six (6) month period ending January 31; and (ii) August 5, to cover the six (6) month period ending July 31.

E. DRUG AND ALCOHOL FREE WORKPLACE

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

I CERTIFY THAT:

- (1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.
- (2) By submission of its Bid/Proposal, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:
 - (a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;
 - (b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

- (c) Prohibit its employees from working under the influence of drugs or alcohol;
- (d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;
- (e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

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

- The dangers of drug and alcohol abuse in the workplace;

- The business's policy of maintaining a drug and alcohol free workplace;

- Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and

- The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

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

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

- Abide by the terms of the statement; and

- Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

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

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

- Take appropriate personnel action against an employee, up to and including termination;
 - or

- Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

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

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

(4) I acknowledge and agree that:

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

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

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

F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

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

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

Date: _____

By: _____ (printed name of Authorized Representative and Affiant)

_____ (signature of Authorized Representative and Affiant)

ATTACHMENT D – Minority Business Enterprise Forms

This Attachment does not apply.

ATTACHMENT E - Pre-Proposal Conference Response Form

Solicitation Number 060B2490021-2015

Commercial Off-the Shelf Software

A Pre-proposal conference will be held at 2:00PM , on Monday, November 2, 2015, at 45 Calvert Street, Room 164; Annapolis, MD 21401. Please return this form by Thursday, October 29, 2015, advising whether or not you plan to attend.

Return this form to the Procurement Officer via e-mail or fax:

Gayle Mealy
Department of Information Technology
45 Calvert St.
Annapolis, MD 21401
E-mail: gayle.mealy@maryland.gov
Fax #: 410-260-4080

Please indicate:

Yes, the following representatives will be in attendance:

- 1.
- 2.
- 3.

No, we will not be in attendance.

Please specify whether any reasonable accommodations are requested (see RFP § 1.7 “Pre-proposal conference”):

Signature	Title
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Name of Firm (please print)

DIRECTIONS TO PRE-PROPOSAL CONFERENCE

From Baltimore Area:

- Take I-97 off the Baltimore Beltway heading south to Annapolis.
- I-97 will end and turn into Route 50 East.
- Take Rowe Blvd. exit toward downtown Annapolis.

From the Eastern Shore or Route 2:

- Cross the Severn River Bridge and exit on Rowe Blvd.

From Either Direction:

- Follow Rowe Blvd. to the third traffic light.
- Stay to the right when the road splits before the Treasury Building.
- Turn right onto Calvert St.
- 45 Calvert Street is the first building immediately on the right.
- Room 164 is on the first floor.
- Stop and register with the Security Guard; you will be directed to Room 164.

Parking:

- The closest garage is next to 45 Calvert St. but shall be entered from Clay St. This is the second right turn after turning onto Calvert St. Turn right onto Clay St. immediately after passing 45 Calvert St.
- Another garage is available about a half of a block down from 45 Calvert St. on the left, called Gotts' Garage.
- There is also limited metered parking available on Calvert and surrounding streets.

ATTACHMENT F - Financial Proposal Forms and Instructions**Instructions**

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

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

FORM F-1 FUNCTIONAL AREA I COTS SOFTWARE MSRP COMMITMENT

The Offeror must acknowledge the use of the MSRP as a ceiling price for the master contract and commit to charging no more than the MSRP published on-line at the time of the PORFP proposal submission.

FORM F-2 FUNCTIONAL AREA II INSTALLATION AND TRAINING SERVICES

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

FORM F-3 FUNCTIONAL AREA III MANUFACTURER'S SOFTWARE MAINTENANCE MSRP COMMITMENT

The Offeror must acknowledge the use of the MSRP as a ceiling price for the master contract and commit to charging no more than MSRP published on-line at the time of the PORFP proposal submission response.

ATTACHMENT F-1 - Functional Area I

COTS Software MSRP Commitment

I acknowledge by signing this attachment, the requirement of providing pricing no higher than MSRP as of the date of the PORFP proposal submission.

OFFERORS SHALL STATE BELOW THE MANUFACTURER OF THE COTS SOFTWARE PROPOSED (Attach additional sheets, if necessary):

Submitted By:

Authorized Signature Date

Printed Name And Title

Company Name

Company Address

FEIN Number

Telephone Number

ATTACHMENT F-2 - Functional Area II

Installation and Training Services Labor Rate Schedule

NOTE: COMPLETING D-2 REQUIRES OFFERORS TO ALSO COMPLETE D-1 FOR THE CORRESPONDING SOFTWARE AND/OR D-3 FOR MAINTENANCE

Labor Category:	Training Specialist/Instructor	Network Administrator	Subject Matter Expert
Year 1	\$	\$	\$
Year 2	\$	\$	\$
Year 3	\$	\$	\$
Year 4	\$	\$	\$
Year 5	\$	\$	\$
Year 6	\$	\$	\$
Year 7	\$	\$	\$
Year 8	\$	\$	\$
Year 9	\$	\$	\$
Year 10	\$	\$	\$
Year 11	\$	\$	\$
Year 12	\$	\$	\$

Example: Contract year one begins on the date of the contract award and continues until July 31, 2015, contract year two begins on August 1, 2015 and continues for one year until July 31, 2016, etc.

Submitted By

Authorized Signature

Date

Printed Name and Title

Company Name

Company Address

FEIN Number

Telephone Number

ATTACHMENT F-3 - Functional Area III

Manufacturer's Software Maintenance MSRP Commitment

I acknowledge by signing this attachment, the requirement of providing pricing no higher than MSRP for the specified manufacturer's software maintenance as of the date of the PORFP proposal submission.

OFFERORS SHALL STATE BELOW THE MANUFACTURER LINE(S) FOR WHICH MAINTENANCE IS BEING PROPOSED (Attach additional sheets, if necessary):

Submitted By:

Authorized Signature Date

Printed Name and Title

Company Name

Company Address

FEIN Number

Telephone Number

ATTACHMENT G – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS

Living Wage Requirements for Service Contracts

A. This contract is subject to the Living Wage requirements under Md. Code Ann., State Finance and Procurement Article, Title 18, and the regulations proposed by the Commissioner of Labor and Industry (Commissioner). The Living Wage generally applies to a Contractor or Subcontractor who performs work on a State contract for services that is valued at \$100,000 or more. An employee is subject to the Living Wage if he/she is at least 18 years old or will turn 18 during the duration of the contract; works at least 13 consecutive weeks on the State Contract and spends at least one-half of the employee's time during any work week on the State Contract.

B. The Living Wage Law does not apply to:

- (1) A Contractor who:
 - (a) Has a State contract for services valued at less than \$100,000, or
 - (b) Employs 10 or fewer employees and has a State contract for services valued at less than \$500,000.
- (2) A Subcontractor who:
 - (a) Performs work on a State contract for services valued at less than \$100,000,
 - (b) Employs 10 or fewer employees and performs work on a State contract for services valued at less than \$500,000, or
 - (c) Performs work for a Contractor not covered by the Living Wage Law as defined in B(1)(b) above, or B(3) or C below.
- (3) Service contracts for the following:
 - (a) Services with a Public Service Company;
 - (b) Services with a nonprofit organization;
 - (c) Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement ("Unit"); or
 - (d) Services between a Unit and a County or Baltimore City.

C. If the Unit responsible for the State contract for services determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.

D. A Contractor must not split or subdivide a State contract for services, pay an employee through a third party, or treat an employee as an independent Contractor or assign work to employees to avoid the imposition of any of the requirements of Md. Code Ann., State Finance and Procurement Article, Title 18.

E. Each Contractor/Subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.

F. The Commissioner shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.

G. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of the health insurance premium, as provided in Md. Code Ann., State Finance and Procurement Article, §18-103(c), shall not lower an employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413. A

Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of health insurance premium shall comply with any record reporting requirements established by the Commissioner.

H. A Contractor/Subcontractor may reduce the wage rates paid under Md. Code Ann., State Finance and Procurement Article, §18-103(a), by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A

Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413.

I. Under Md. Code Ann., State Finance and Procurement Article, Title 18, if the Commissioner determines that the Contractor/Subcontractor violated a provision of this title or regulations of the Commissioner, the Contractor/Subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of \$20 per day for each employee paid less than the Living Wage.

J. Information pertaining to reporting obligations may be found by going to the Division of Labor and Industry website <http://www.dllr.state.md.us/labor/> and clicking on Living Wage for State Service Contracts.

ATTACHMENT G-1 Maryland Living Wage Requirements Affidavit of Agreement

Contract No. _____
Name of Contractor _____
Address _____
City _____ State _____ Zip Code _____

If the Contract Is Exempt from the Living Wage Law

The Undersigned, being an authorized representative of the above named Contractor, hereby affirms that the Contract is exempt from Maryland’s Living Wage Law for the following reasons (check all that apply):

- ___ Bidder/Offeror is a nonprofit organization
- ___ Bidder/Offeror is a public service company
- ___ Bidder/Offeror employs 10 or fewer employees and the proposed contract value is less than \$500,000
- ___ Bidder/Offeror employs more than 10 employees and the proposed contract value is less than \$100,000

If the Contract Is a Living Wage Contract

A. The Undersigned, being an authorized representative of the above-named Contractor, hereby affirms its commitment to comply with Title 18, State Finance and Procurement Article, Annotated Code of Maryland and, if required, to submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Bidder/Offeror agrees to pay covered employees who are subject to living wage at least the living wage rate in effect at the time service is provided for hours spent on State contract activities, and to ensure that its subcontractors who are not exempt also pay the required living wage rate to their covered employees who are subject to the living wage for hours spent on a State contract for services. The Contractor agrees to comply with, and ensure its subcontractors comply with, the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate established by the Commissioner of Labor and Industry, automatically upon the effective date of the revised wage rate.

B. _____(initial here if applicable) The Bidder/Offeror affirms it has no covered employees for the following reasons: (check all that apply):

- ___ The employee(s) proposed to work on the contract will spend less than one-half of the employee’s time during any work week on the contract
- ___ The employee(s) proposed to work on the contract is 17 years of age or younger during the duration of the contract; or
- ___ The employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

The Commissioner of Labor and Industry reserves the right to request payroll records and other data that the Commissioner deems sufficient to confirm these affirmations at any time.

Name of Authorized Representative: _____

Signature of Authorized Representative _____ Date _____

Title _____

Witness Name (Typed or Printed)

Witness Signature

Date

(submit with Bid/Proposal)

ATTACHMENT H – Federal Funds Attachment

This Attachment does not apply.

ATTACHMENT I - Conflict of Interest Affidavit and Disclosure

Reference COMAR 21.05.08.08
(submit with Bid/Proposal)

A. "Conflict of interest" means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

B. "Person" has the meaning stated in COMAR 21.01.02.01B(64) and includes a bidder, offeror, contractor, consultant, or subcontractor or sub-consultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a Bid/Proposal is made.

C. The bidder or offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.

D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain in detail—attach additional sheets if necessary):

E. The bidder or offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the bidder or offeror shall immediately make a full disclosure in writing to the procurement officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the bidder or offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the contractor shall continue performance until notified by the procurement officer of any contrary action to be taken.

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

Date: _____ By: _____
(Authorized Representative and Affiant)

ATTACHMENT J – Non-Disclosure Agreement

This Attachment does not apply.

ATTACHMENT K – HIPAA Business Associate Agreement

The Attachment does not apply

ATTACHMENT L – Mercury Affidavit

The Attachment does not apply

ATTACHMENT M – Veteran-Owned Small Business Enterprise Forms

The Attachment does not apply

ATTACHMENT N – DEPARTMENT OF HUMAN RESOURCES HIRING AGREEMENT

This Attachment does not apply.

ATTACHMENT O – NON-DISCLOSURE AGREEMENT (OFFEROR)

This Attachment does not apply.

ATTACHMENT P – OFFEROR INFORMATION SHEET

Company Name: _____
Tax ID: _____
eMaryland Marketplace #: _____
Website: _____

If applicable
Maryland MBE#: _____
Maryland SBR#: _____
Federal VOSB#: _____

Corporate Contact Name: _____
Corporate Contact Title: _____
Corporate Address 1: _____
Corporate Address 2: _____
City State Zip: _____
Corporate Contact Telephone#: _____
Corporate Contact Fax#: _____
Corporate Contact eMail Address: _____

Note: You may only designate **ONE** solicitation contact person

Solicitation Contact Name: _____
Solicitation Contact Title: _____
Solicitation Address 1: _____
Solicitation Address 2: _____
City State Zip: _____
Solicitation Contact Telephone#: _____
Solicitation Contact Fax#: _____
Solicitation Contact eMail Address: _____