

Request for Proposals

**CABLE AND WIRING MATERIAL & SERVICES
OUTSIDE PLANT**

PROJECT NO. 060B1400067



DEPARTMENT OF
INFORMATION TECHNOLOGY

Issue Date: August 22, 2011

NOTICE

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

Minority Business Enterprises are Encouraged to Respond to this Solicitation

**STATE OF MARYLAND
NOTICE TO OFFERORS/CONTRACTORS**

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

Title: **CABLE AND WIRING MATERIAL & SERVICES- OUTSIDE PLANT**
Project No: 060B1400067

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

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

REMARKS:

Offeror Name: _____ Date: _____

Contact Person: _____ Phone (____) _____ - _____

Address: _____

KEY INFORMATION SUMMARY SHEET

RFP Title:	CABLE AND WIRING MATERIALS & SERVICES- OUTSIDE PLANT
RFP Number :	060B1400067
RFP Issue Date:	August 22, 2011
Closing Date and Time:	September 20, 2011 2:00 P.M., Local Time
RFP Issuing Agency:	Department of Information Technology Strategic Planning Information Technology Procurement Office
Send Questions to:	Alayna Mande CableWiring@doit.state.md.us
Procurement Officer:	410-260-6044
Proposals are to be sent to:	Maryland Department of Information Technology 45 Calvert Street, Room 446 Annapolis, MD 21401 Attention: Alayna Mande
Contract Manager:	TBD
Contract Duration:	Five (5) Years
MBE Goal	25% (Functional Areas II & III only) With subgoals of 8% for Women, 7% African American and 2% Hispanic American owned businesses
Pre-Proposal Conference:	September 7, 2011 @ 2:00 pm 45 Calvert Street Annapolis, MD Room 164

NOTE

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

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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 (RFP) to procure cable and wiring- outside plant- materials, installation, testing and maintenance services for the State. Through the Master Contract(s) awarded as a result of this solicitation, the State will have a flexible means of obtaining these products and services, quickly, efficiently and cost effectively by issuing Task Order Requests for Proposals (TORFPs) and Purchase Order Requests for Proposals (PORFPs) specific to its needs.

1.1.2 The scope of this solicitation encompasses three (3) functional areas as follows:

Functional Area I – Materials & equipment,

Functional Area II- Installation, and

Functional Area III- Testing & maintenance.

DoIT intends to award a Master Contract to an unlimited number of Offerors that are determined by the State to be qualified. Offerors may propose to Functional Areas I, II or III, or any combination thereof, as specified in Section 2.

1.1.3 Each required service will be summarized in a TORFP. TORFPs will be issued, as needed, throughout the term of the Master Contract. All Offerors awarded a Master Contract for a functional area will be invited to compete for TORFPs through the submission of Task Order Proposals (TOP) solicited for the performance of each specific Task Order (TO) under that area. Based upon an evaluation of TOPs received, a single Master Contractor will be selected to conduct each TO. A specific Task Order Agreement (TOA) will then be entered into between the State and the selected Master Contractor, which will bind the Master Contractor to the contents of its TOP.

1.1.4 Each required purchase of Functional Area I systems, material and/or equipment without associated services from Functional Areas II and II will be summarized in a PORFP. PORFPs will be issued, as needed, throughout the term of the Master Contract. All Offerors awarded a Master Contract for Functional Area I will be invited to compete for PORFPs through the submission of Purchase Order Proposals (POP) solicited for the acquisition of materials and equipment. Based upon an evaluation of the POPs received, a single Master Contractor will be selected for award. A specific Purchase Order Agreement (POA) will then be entered into between the State and the selected Master Contractor, which will bind the Master Contractor to the contents of its POP.

1.1.5 A TORFP, a TOP, a TOA, a PORFP, a POP, a POA, or any other document issued by either party hereunder, shall not conflict with or supersede the Cable and Wiring Materials & Services- Outside Plant Master Contract. Offerors may propose to one or multiple areas; however, Offerors must be able to supply all

goods and services requested in this solicitation in the functional area(s) for which they propose.

1.2 Background

- 1.2.1 The current Cable and Wiring Master Contract providing for the purchase of materials and services will expire on October 31, 2011. The Master Contract will replace the Functional Area II portion of the current Cable and Wiring Master Contract.

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 or TORFP.
- b. **CAD** – Computer Aided Design.
- c. **Campus** – A campus is two or more buildings clustered together in a limited geographical area, such as buildings on the same piece of property that are already connected by an existing conduits system. Access to this conduit should not require management of traffic or cable pulls that exceed 5000 ft.
- d. **COMAR** – Code of Maryland Regulations, available on-line at www.dsd.state.md.us
- e. **Contract** – the Master Contract resulting from this RFP.
- f. **Contract Manager (State CM)** – The State representative that serves as the technical and contract manager for the resulting Master Contract. The State CM monitors the daily activities of the Master Contract and provides technical guidance to the Master Contractor(s). DoIT may change the State CM at any time by written notice to the Master Contractor(s). Reference section 1.7 for the State CM's information.
- g. **DoIT** – Maryland Department of Information Technology.
- h. **Financial Proposal**- As defined in Section 4.5 of this RFP.
- i. **Fixed-Price PORFP or TORFP** – A PORFP or TORFP that places responsibility on the Master Contractor(s) for the delivery of the equipment or

services in accordance with the PORFP/TORFP requirements, 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(s) to perform services required in a TORFP.
- k. **FOB** – Freight On Board.
- l. **Fully Loaded** – The inclusion in labor category billing rates of all profit, direct and indirect costs associated with performing services required in a TORFP. 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(s) against direct labor hours as a means of calculating profit or recouping costs which cannot be directly attributable to services required in a TORFP. Non-routine travel costs will be identified in a TORFP, when appropriate.
- m. **Installation** – Expertise, labor and materials to plan for, install and maintain cable and wiring.
- n. **Labor Hours Not-to-Exceed Ceiling** – A type of payment for performing a TOA whereby 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. 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 personnel, or those of subcontractors, totally and productively, in the performance of a TOA. Documentation of time of personnel or sub-contractors shall be provided to the TOM. The documentation shall be certified personnel time sheets or electronic time keeping records certified by the Master Contractor's Program Manager to be the actual time worked by the Master Contractor's personnel or its subcontractors.
- o. **Local Time** – Time in the Eastern Time zone as observed by the State.
- p. **Master Contract** – The Contract, the form of which is attached as Attachment A, between the State of Maryland Department of Information Technology and each of the Offerors determined technically capable of performing the requirements of this RFP.
- q. **Master Contractor** – An Offeror who is awarded a Master Contract under this RFP.
- r. **MBE** – A Minority Business Enterprise certified by the Maryland Department of Transportation under COMAR 21.11.03.

- s. **NEMA** – National Electrical Manufacturers Association
- t. **Not-to-Exceed Ceiling (NTE)** – This pertains to all time and materials and labor hours types of TOs awarded under this RFP. This means a discrete dollar amount, listed in the TOA that may not be exceeded. If a Master Contractor reaches this NTE Ceiling while performing a TOA, it shall stop performing any services for which it would seek additional payment beyond the NTE ceiling amount, unless the Requesting Agency Procurement Officer authorizes an increase to allow the continuation of services.
- u. **Notice To Proceed (NTP)** – A formal notification from the Requesting Agency that a specific Master Contractor has been selected to perform a TO and should immediately, or as of a date contained in the notice, begin performance of the TOA.
- v. **Offeror** – An entity that submits a Proposal.
- w. **POC** – Point of Contact.
- x. **Procurement Officer** – The State representative for the Master Contract. The Procurement Officer is responsible for the Master Contract, determining scope issues, and is the only State representative that can authorize changes to the Master Contract. DoIT may change the Procurement Officer at any time by written notice to the Master Contractor(s). Reference Section 1.6 for the Procurement Officer’s information.
- y. **Proposal** – An Offeror’s response to this RFP.
- z. **Purchase Order (PO)** – A document issued by the State in connection with a PORFP and the award of a POA authorizing the purchase of goods and materials.
- aa. **Purchase Order Agreement (POA)** – A signed contract between the Requesting Agency and the Master Contractor selected via a PORFP to perform a PO. A POA will deal only with the specific aspects of performing a PO under this RFP. All general terms and conditions are contained in the Cable and Wiring Materials & Services - Outside Plant Master Contract and shall apply to all POAs. A POA may not in any way amend, conflict with or supersede the Cable and Wiring Materials & Services - Outside Plant Master Contract.
- bb. **Purchase Order Contractor (PO Contractor)** – a Master Contractor awarded a POA.
- cc. **Purchase Order Proposal (POP)** – The technical and financial response by a Master Contractor to a PORFP.

- dd. **Purchase Order Request for Proposal (PORFP)** – A solicitation document that describes all specific circumstances regarding the acquisition, by State agencies, of systems, materials and equipment through the Cable and Wiring Materials & Services- Outside Plant Master Contract under Functional Area I.
- ee. **Request for Proposals (RFP)** – This RFP for the Maryland Department of Information Technology, Project Number 060B1400067 dated August 22, 2011, including any amendments.
- ff. **Requesting Agency** – The unit of the Executive Branch of Maryland State government issuing the TORFP or PORFP. May be referred to as “the State.”
- gg. **Requesting Agency Procurement Officer** – The Requesting Agency representative for a TORFP or PORFP. The Requesting Agency Procurement Officer is responsible for the TORFP or PORFP, issuing Notices to Proceed, determining scope issues, and is the only Requesting Agency representative that can authorize changes to a TOA/POA. The Requesting Agency may change the Requesting Agency Procurement Officer at any time by written notice to the Master Contractor(s).
- hh. **State** – State of Maryland.
- ii. **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.
- jj. **Task Order Contractor (TO Contractor)** – A Master Contractor awarded a TOA.
- kk. **Task Order Manager (TOM)** – The State’s representative who is identified in a TORFP or a TOA, who will supervise the Master Contractor rendering services for that respective TO.
- ll. **Task Order (TO)** – A written order for services in connection with a TORPF for which a TOA was awarded.
- mm. **Task Order Agreement (TOA)** – A signed contract between the Requesting Agency and the Master Contractor selected via a TORFP to perform a TO. A TOA will deal only with the specific aspects of performing a TO under this RFP. All general terms and conditions are contained in the Cable and Wiring Materials & Services - Outside Plant Master Contract and shall apply to all TOAs. A TOA may not in any way amend, conflict with or supersede the Cable and Wiring Materials & Services - Outside Plant Master Contract.
- nn. **Task Order Proposal (TOP)** – The technical and financial response by a Master Contractor to a TORFP.

- oo. **Task Order Request for Proposals (TORFP)** – A solicitation document which describes all specific circumstances regarding the performance of services involving agencies of the State. A TORFP will not amend, or conflict with any provision of the Cable and Wiring Materials & Services - Outside Plant Master Contract.
- pp. **Technical Proposal** – A defined in Section 4.4 of this RFP.
- qq. **Time and Materials (T&M)** – A type of payment for performing a TOA, whereby the Master Contractor will be paid for services performed based on direct labor hours billed at specific hourly rates, plus non-routine travel costs as may be identified in a TOA, plus the actual cost of any materials used or other direct expenses incurred in the performance of a TOA, up to a specified cost ceiling. The labor category hourly rates for a TOA 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 principals or employees, or those of subcontractors, totally and productively in the performance of a TOA. In addition, the Master Contractor must also provide documentation of the actual cost of materials or other activities directly used in the performance of a TOA. The Fixed Hourly Labor Category Rates plus the actual cost of materials, non-routine travel or other direct expenses will be the only payment made for this type of TOA.

1.4 Master Contract Type

The Master Contract shall be an Indefinite Quantity Contract as defined in COMAR 21.06.03.05 and 06. Fixed Price (FP) and Time and Material (TM) POs as described in each respective TORFP or PORFP will be issued under the Master Contract, as appropriate to the type of services being requested.

1.5 Master Contract Duration

The term of the Contract shall be for a period of about five (5) years, beginning on or about October 31, 2011 and will terminate on October 31, 2016.

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 at the address listed below:

Alayna Mande
Maryland Department of Information Technology

Information Technology Procurement Office
45 Calvert Street, Room 446
Annapolis, Maryland 21401
Phone Number: 410-260-6044
Email: CableWiring@doit.state.md.us

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

1.7 Contract Manager

The State CM monitors the daily activities of the Contract and provides technical guidance to the Master Contractor(s). The State CM will be:

TBD
Maryland Department of Information Technology
45 Calvert Street
Annapolis, Maryland 21401

DoIT may change the State CM at any time by written notice to the Master Contractor(s).

1.8 Pre-Proposal Conference

Due to the anticipated interest in this RFP, seating at the pre-proposal conference will be limited to two (2) attendees per company. **DoIT recommends that attendees bring a copy of the RFP and a business card to help facilitate the registration process.**

Attendance at the pre-proposal conference is not mandatory, but all interested Offerors are encouraged to attend in order to facilitate better preparation of their Proposals.

The pre-proposal conference will be summarized. As promptly as is feasible subsequent to the pre-proposal conference, a summary of the pre-proposal conference and all questions and answers known at that time will be distributed to all prospective Offerors known to have received a copy of this RFP. The information will also be posted on eMaryland Marketplace and the Department's website.

In order to assist with attaining adequate seating and other accommodations at the pre-proposal conference, please e-mail the Pre-Proposal Conference Response Form (Attachment E) to the attention of Alayna Mande email: CableWiring@doit.state.md.us no later than 1:00 PM on September 1, 2011. Although every attempt will be made to provide adequate seating, seating is not guaranteed. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please call no later than 1:00 PM on August 29th. DoIT will make reasonable efforts to provide such special accommodation.

1.9 eMaryland Marketplace (eMM)

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 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.

This means that all such information is immediately available to eMM subscribers. Because of the instant access afforded by eMM, all Offerors interested in doing business with State agencies should subscribe to eMM.

In order to receive a Contract award, an Offeror must be registered on eMM.

1.10 Questions

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.

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

An unbound original and two (2) bound copies of each proposal (technical and financial) must be received by the Procurement Officer, at the address listed in Section 1.6, no later than 2:00 PM (local time) on September 22, 2011 in order to be considered. An electronic version (diskette or CD) of the Technical Proposal in MS Word 2003 format must be enclosed with the original Technical Proposal. An electronic version (diskette or CD) of the Financial Proposal in Excel 2003 format must be enclosed with the original Financial Proposal. Ensure that the diskettes are labeled with the RFP title, RFP number, and Offeror name and packaged with the original copy of the appropriate proposal (technical or financial).

Requests for extension of this date or time will not be granted. Offerors mailing Proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02, Proposals received by the Procurement Officer after the due date, September 19, 2011 at 2:00 PM (local time) will not be considered.

Proposals may not be submitted by e-mail or facsimile.

1.12 Duration of Offer

Proposals are irrevocable for the later of: (1) 180 days following the closing date for Proposals or for Best and Final Offers (BAFOs), if requested, or (2) the date any protest concerning this RFP is finally resolved. This period may be extended at the Procurement Officer's request only with each Offeror's written agreement.

1.13 Revisions to the RFP

If it becomes necessary to revise this RFP before the due date for Proposals, amendments will be provided to all prospective Offerors who were sent this RFP or otherwise are known by the Procurement Officer to have obtained this RFP. In addition, amendments to the RFP will be posted on the DoIT Procurement web page and through eMM. Amendments made after the due date for Proposals will be sent only to those Offerors who submitted a timely Proposal.

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

1.14 Cancellations; Discussions

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

1.15 Incurred Expenses

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

1.16 Economy of Preparation

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

1.17 Protests/Disputes

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

1.18 Multiple 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 Access to Public Information Act Notice

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

Offerors are advised that the State intends to publish the prices in Attachment E-3 (Price Sheet for FA II and III) on a public web site; accordingly, Offerors may not identify the information in Attachment E-3 as confidential or proprietary in their Financial Proposal. The State understands this restriction may affect the quoted labor rates but Offerors are cautioned to not overcompensate with unusually high prices.

Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information can be disclosed (see COMAR 21.05.08.01).

1.20 Offeror Responsibilities

Any selected Offeror shall be responsible for all products and services required by this RFP within the functional area proposed. If an Offeror that seeks to perform or provide the services required by this RFP is a subsidiary of another entity, all information submitted by the Offeror, such as, but not limited to, references, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's Proposal must contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.

1.21 Mandatory Contractual Terms

By submitting a Proposal, 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 Proposal Affidavit

A Proposal submitted by an Offeror, shall 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, each 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 proposed Contract award.

1.24 Minority Business Enterprises

A minimum overall MBE subcontractor participation goal of 25% has been established for Master Contracts awarded pursuant to this RFP only under Functional Area II- Installation and Functional Area III- Testing and Maintenance with **subgoals** for Women of **8** percent, African American of **7** percent and Hispanic American of **2** percent. The State shall assess the potential for an MBE subcontractor participation goal, including sub goals, if applicable, for each TORFP issued under Functional Areas II and III of the RFP, and shall set a goal, if appropriate. Such goal would apply only to the Functional Areas II and III portion of such TORFP.

Each Offeror that includes in its Proposal a response to provide Functional Area II and III services, shall complete, sign and submit Attachment D-1A (Offeror Acknowledgement of MBE Participation Commitment), at the time it submits its Technical Proposal to this RFP. Failure of a Functional Area II and III Offeror to complete, sign, and submit Attachment D-1A (Offeror Acknowledgement of MBE Participation Commitment) at the time it submits its Technical Proposal to this RFP, will result in the State's rejection of the Offeror's Proposal to the RFP for Functional Area II and III.

MBE requirements for Functional Area II and III are specified in Attachment D of this RFP. When submitting a TOP for Functional Area II – Installation and Relocation and Functional Area III – Testing, Repair and Preventive and Routine Maintenance Services, a Master Contractor must complete and submit Attachment D-1 (MBE Utilization and Fair Solicitation Affidavit) and Attachment D-2 (MBE Participation Schedule). All

subcontractors named by a Master Contractor as part of its TORFP MBE participation plan must be MBE-certified.

Failure of a Master Contractor to complete, sign, and submit all required MBE documentation at the time it submits its TOP may result in the State's rejection of the Master Contractor's TOP.

A current directory of certified Minority Business Enterprises is available through the Maryland State Department of Transportation, Office of Minority Business Enterprise, 7201 Corporate Center Drive, Hanover, Maryland 21076. The phone number is 410-865-1269. The directory is also available at <http://www.mdot.state.md.us>. The most current and up-to-date information on Minority Business Enterprises is available via this website.

1.25 Small Business Reserve

The State reserves the right to designate any PORFP or TORFP issued pursuant to this RFP as a Small Business Reserve PORFP or TORFP. The Requesting Agency for an SBR PORFP or TORFP must be a "designated procurement unit" pursuant to §14-501(b) of the State Finance and Procurement Article of the Maryland Annotated Code as amended from time to time. In the event a PORFP or TORFP is designated as a Small Business Reserve, the TOA or POA awarded thereunder may only be awarded to a Master Contractor that is a certified small business, that meets the statutory qualifications of a Small Business as defined in §14-501(c), Annotated Code of Maryland, and is registered with the Department of General Services Small Business Reserve Program.

Throughout the term of the Master Contract, Contractors qualified under the Small Business Reserve, shall notify the State CM of any change in status. Should a Master Contractor become certified through the Small Business Reserve after award of a Master Contract, that Master Contractor shall notify the State CM and provide the State CM with its DGS-assigned Small Business Qualification number.

1.26 Arrearages

By submitting a Proposal, an Offeror represents that it is not in arrears in the payment of any obligations due and owing the State, including the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of the Contract if selected for Contract award.

1.27 Procurement Method

The Contract will be awarded in accordance with the competitive sealed proposals process under COMAR 21.05.03.

1.28 Verification of Registration and Tax Payment

Before a corporation 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. Any potential Offeror should complete registration prior to the due date for receipt of Proposals. Failure to complete registration with the Department of Assessments and Taxation may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

1.29 False Statements

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

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

By submitting a TOP or POP, a Master Contractor warrants that the equipment offered under the TOP or POP (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 equipment for non-visual access. A Master Contractor further warrants that the cost, if any, of modifying the Information Technology (IT) for compatibility with software and equipment used for non-visual access will not increase the cost of the IT by more than five percent. For purposes of the 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.

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: non-visual access

1.31 Payments by Electronic Funds Transfer

By submitting a Proposal, an Offeror agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. Any selected 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 shall include the business identification information as stated on the form and include the reason for the exemption. The COT/GAC X-10 form can be downloaded at: <http://compnet.comp.state.md.us/gad/pdf/GADX-10.pdf>

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

For the purposes of IT or telecommunications procurements, pursuant to §3-702(b) of the State Finance and Procurement Article of the Annotated Code of Maryland, county, municipal, and other non-state governments or agencies may purchase from a Master Contractor goods or services covered by the Contract at the same prices chargeable to the State. All such purchases by non-State governments or agencies:

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

1.33 Mercury and Products That Contain Mercury

This solicitation and resulting Master Contract requires that all materials used in the performance of the Contract, and any subsequent TOAs or POAs, shall be mercury-free products. An Offeror shall submit a Mercury Affidavit (found at Attachment I) with its Proposal.

1.34 Conflict of Interest

The successful Offeror(s) will provide cable and wiring materials and services - outside plant for State agencies, or component programs with those agencies and must do so impartially and without any conflicts of interest. Master Contractors will be required to

complete a Conflict of Interest Affidavit with each TOP and POP. A copy of this Affidavit is included as Attachment H of this RFP. If the Requesting Agency Procurement Officer makes a determination before award of a TOA or POA pursuant to a respective TORFP or 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 Requesting Agency Procurement Officer may reject a TOP or POP under COMAR 21.06.02.03B.

1.35 Living Wage Requirement

A solicitation for services under a State contract valued at \$100,000 or more may be subject to SFP Title 18. Additional information regarding the State's Living Wage requirement is contained in this solicitation (see Attachment K entitled Living Wage Requirements for Service Contracts). Each qualifying TOA will be subject to the Living Wage Law. **A Master Contractor submitting a TOP will be required to submit and complete the Living Wage Affidavit with its TOP (Attachment K). If a Master Contractor fails to submit and complete the Living Wage Affidavit of Agreement with its TOP, the State may determine the Master Contractor to be not responsive.** Each Task Order stands alone.

Master Contractors and subcontractors subject to the Living Wage Law shall pay each covered employee at least \$11.30 per hour, if State contract services valued at 50% or more of the total value of the TOA are performed in the Tier 1 Area. If State contract services valued at 50% or more of the total TOA value are performed in the Tier 2 Area, Master Contractors and subcontractors subject to the Living Wage Law shall pay each covered employee at least \$8.50 per hour. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State contract pursuant to §18-102 (d) shall assign the tier based upon where the recipients of the services are located. The tier determination will be made at the TORFP level.

1.36 Prompt Pay

This RFP and the resulting 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 dated August 1, 2008. The Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. An Offeror who is awarded a Contract under this RFP must comply with the prompt payment requirements outlined in the Contract, §37 (see Attachment A). Additional information is available on the GOMA website at <http://www.oma.state.md.us/>."

1.37 Performance and Payment Bond Requirements

There is no Performance Bond or Payment Bond requirement for the Master Contract, but Offerors should be aware that Performance and Payment Bonds (Bonds) may be required for a given TORFP. Master Contractors must submit an annually renewable Performance Bond (see Attachment L) and Payment Bond (see Attachment N), or other suitable securities as identified within COMAR 21.06.07 and/or set forth in the TORFP, in the amount required within the TORFP for the performance period of the TOA resulting from the TORFP. The cost of each required Bond, or other suitable security, is to be included in the total prices proposed in the TOP, and is not to be proposed, and will not be recoverable as a separate cost item. The TO Contractor shall deliver the required Bond or other suitable security to the State within five (5) days of issuance of a TOA. A letter must be submitted from a bonding company registered with the Maryland Insurance Administration and in good standing providing evidence that the TO Contractor is capable of securing the Bond required. Acceptable security for bid, performance, and payment bonds is limited to:

- A bond in a form satisfactory to the State underwritten by a surety company authorized to do business in this State;
- A bank certified check, bank cashier's check, bank treasurer's check, cash, or trust account;
- Pledge of securities backed by the full faith and credit of the United States government or bonds issued by the State;
- An irrevocable letter of credit in a form satisfactory to the Attorney General and issued by a financial institution approved by the State Treasurer;
- An Individual Surety Bond in accordance with COMAR 21.06.07.02 through .04.

The initial Bond, which shall be effective upon issuance of a TOA resulting from a TORFP that requires a Bond, and all subsequent Bonds shall automatically renew unless the Requesting Agency receives written notice of non-renewal from the issuer of the Bond at least one hundred twenty (120) day before the expiration of the then-effective Bond. In the event the Requesting Agency receives a notice of non-renewal, the TO Contractor must provide the Requesting Agency with a substitute Bond, in the form of RFP Attachment L and Attachment N as required, at least ninety (90) days prior to the expiration of the Bond then in effect. Failure by the TO Contractor to provide a substitute Bond shall authorize the Issuing Agency to find the TO Contractor in default which may result in termination of the TOA and/or the Master Contract with such TO Contractor.

If another form of security is used, the other form of security must be on the same terms: it is effective upon issuance of a TOA resulting from a TORFP that requires a Bond, renews automatically, contains the same provisions regarding failure to renew, notice to

the State and provision by the TO Contractor of substitute security, and authorizes the Requesting Agency to find the TO Contractor in default which may result in termination of the TOA and/or the Master Contract with such TO Contractor.

1.38 Bid Bond

A bid bond or other suitable security in the amount of 5% must be submitted with each Offeror's Technical Proposal. Acceptable security shall be as described below, identified within and excerpted from COMAR 21.06.07:

Acceptable security for bid, performance, and payment bonds is limited to:

- A bond in a form satisfactory to the State underwritten by a surety company authorized to do business in this State;
- A bank certified check, bank cashier's check, bank treasurer's check, cash, or trust account;
- Pledge of securities backed by the full faith and credit of the United States government or bonds issued by the State;
- An irrevocable letter of credit in a form satisfactory to the Attorney General and issued by a financial institution approved by the State Treasurer;

An Individual Surety Bond in accordance with COMAR 21.06.07.02 through .04.

The cost of this bond, or other suitable security, is to be included in the total prices proposed and is not to be proposed and will not be recoverable as a separate item. Attachment O is the bid bond required for this solicitation.

1.39 Surety Bond Assistance Program

Assistance in obtaining bid, performance and payment bonds may be available to qualifying small businesses through the Maryland Small Business Development Financing Authority (MSBDF). MSBDF can directly issue bid, performance or payment bonds up to \$750,000. MSBDF may also guarantee up to 90% of a surety's losses as a result of a Contractor's breach of Contract; MSBDF exposure on any bond guaranteed may not, however, exceed \$900,000. Bonds issued directly by the program will remain in effect for the duration of the Contract, and those surety bonds that are guaranteed by the program will remain in effect for the duration of the surety's exposure under the Contract. To be eligible for bonding assistance, a business must first be denied bonding by at least one surety on both the standard and specialty markets within 90 days of submitting a bonding application to MSBDF. The applicant must employ fewer than 500 full-time employees or have gross sales of less than \$50 million annually, have its principal place of business in Maryland or be a Maryland resident, must not subcontract

more than 75 percent of the work, and the business or its principals must have a reputation of good moral character and financial responsibility. Finally, it must be demonstrated that the bonding or guarantee will have a measurable economic impact, through job creation and expansion of the state's tax base. Applicants are required to work through their respective bonding agents in applying for assistance under the program. Questions regarding the bonding assistance program should be referred to:

Maryland Department of Business and Economic Development
Maryland Small Business Development Financing Authority
217 E. Redwood Street, 22nd Floor
Baltimore, Maryland 21202
Phone: (410) 333-4270
Fax: (410) 333-6931

1.40 Liquidated Damages

Time is an essential element of the Contract and it is important that the work be vigorously prosecuted until completion. For each day that any work shall remain uncompleted beyond the time(s) specified elsewhere in the Contract, TOA or POA, the Master Contractor shall be liable for liquidated damages, and not a penalty in the amount of \$700.00 per day.

1.41 Special Grant Requirements

Master Contractors shall comply with all Federal requirements applicable to the grant funding source as described in Exhibit I.

All Master Contractor agree to make the necessary financial, progress, and other reports, which shall include, but are not limited to, jobs created, milestones, and challenges.

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SECTION 2 – SCOPE OF WORK

2.1 Scope

The scope of this solicitation encompasses the following three functional areas:

Functional Area I – Materials and Equipment: Cable and wiring - outside plant-systems, material and equipment.

Functional Area II- Installation: Installation and relocation of outside plant fiber optic and communications cables.

Functional Area III- Testing and Maintenance: Testing, repair, preventive and routine maintenance of outside plant fiber optic and communications cables.

2.2 General Requirements

Depending upon the requirements of each PORFP or TORFP, the following shall apply:

2.2.1 Required Project Policies, Guidelines and Methodologies:

A 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 the 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 the Contract. These may include, but are not limited to:

- A) The State's System Development Life Cycle methodology at: www.dbm.maryland.gov - keyword: SDLC;
- B) The State Information Technology Security Policy and Standards at: www.dbm.maryland.gov - keyword: Security Policy;
- C) The State of Information Technology Project Oversight at: www.dbm.maryland.gov - keyword: IT Project Oversight;
- D) The State of Maryland Enterprise Architecture at www.dbm.maryland.gov - keyword: MTAF
- E) The Master Contractor(s) shall follow the project management methodologies that are consistent with the Project Management Institutes Project Management Body of Knowledge Guide (PMBOK). Master Contractor's staff and subcontractors are to follow a consistent methodology for all TORFP activities.

2.2.2 Master Contractors shall refund to the State within thirty (30) calendar days of receipt of any returned material and equipment, the purchase price of the returned material and equipment, including shipping costs. The State shall not be charged restocking fees.

2.2.3 *Delivery Requirements.* For each PORFP or TORFP, Master Contractors submitting a POP or TOP shall provide prepaid delivery, FOB (the delivery destination specified in the PORFP or TORFP) to any State contract eligible customer located within the State's boundaries. All material and equipment is to be delivered, prepaid, to the location specified in the PORFP or TORFP within ten (10) business days from the date of receipt of the POA or TOA. All proposed prices will include delivery within ten (10) business days from the date of receipt of the POA or TOA. A PORFP or TORFP may specify a delivery time frame, expressed in days from receipt of the POA TOA. If a delivery time frame of less than ten (10) business days is specified, it will be considered an "Expedited Delivery" request and subject to

2.2.3.1 If a delivery time frame of greater than ten (10) business days from receipt of the POA is specified, all proposed prices will include delivery within the specified time frame.

2.2.3.2 *Expedited Delivery.* If a PORFP or TORFP specifies a delivery time frame of less than ten (10) business days, a Master Contractor may include, as a separate distinct charge, the cost of the expedited delivery in its POP or TOP. Failure to meet a committed delivery date could result in an order cancellation and other possible consequences allowed under the Contract, POA and/or TOA depending on the circumstances.

2.2.3.3 Title shall not pass until the shipment reaches the destination. The equipment belongs to the TO and/or PO Contractor while in transit.

2.2.4 For new installations where the Requesting Agency provides the equipment, either new or used, Master Contractors shall be responsible for providing all necessary supporting hardware (connectors, cabling, etc.) to ensure a fully operational system.

2.2.5 Installation, repair and maintenance services shall be performed by the Master Contractor in accordance with the equipment manufacturer's instructions, standard industry practices and specifications in the TORFP.

2.2.5.1 Depending on the circumstances, these services may require an expedited response. Response time expectations will be set at the PORFP or TORFP level. It is expected that work will be performed during normal working hours. Normal working hours are defined as 8 to 5, Monday through Friday, except on State holidays.

2.2.5.2 For any work performed outside of normal hours (overtime, weekends and holidays), Master Contractors shall be allowed to charge prices for no more

than the premium rates in Attachment E-3 as submitted in their Financial Proposals. Work performed within normal working hours shall be charged at no more than the standard rates submitted in their Financial Proposals.

2.3 Functional Area I- Materials & Equipment

Systems, material, and equipment may include, but are not limited to:

- Fiber optic cabling
- Conduit
- Innerduct
- Outside plant enclosures
- Splicing and termination equipment
- Installation hardware

2.4 Functional Area II – Installation

Services under Functional Area II may include, but are not limited to:

2.4.1 Installation and relocation

- Installation of both aerial and underground conduit, fiber optic or copper telecommunications cables, splicing and terminations
- Both large scale (hundreds of miles) and small scale (less than a quarter mile) projects
- Bridge attachment, building entry, directional boring, rock boring and other specialized methods of construction
- Removal and reinstallation of conduit, fiber optic or copper telecommunications cables
- Design, integration, and optimization services

2.4.2 Services provided under Functional Area II are subject to the Davis Bacon Act as described in Attachment M.

2.5 Functional Area III –Testing & Maintenance

Services under Functional Area III may include, but are not limited to:

2.5.1 Testing, documentation, training and repair

- Routine and emergency testing of fiber optic or copper telecommunications cables
- Routine and emergency repair of fiber optic or copper telecommunications cables
- Documentation of fiber optic or copper telecommunications cables

2.5.2 Maintenance

Maintenance shall be performed by the Master Contractor in accordance with manufacturer's specifications.

The minimum preventive maintenance routine will include assurance that equipment is within the limits of the manufacturer's specifications, and that "wear" items have been properly serviced, tightened, lubricated, etc., as required by good technical practices and the manufacturer's recommendations.

2.5.3 Examples of services include, but are not limited to:

- Preventive, routine and emergency repairs of all equipment, including the interfaces between equipment.
- Determining the source of faults within an affected system, which are attributable to other systems, and initiating a response to such problems through notification of the using agency.
- Maintenance of the equipment in the condition existing, as of the date of the NTP for any awarded TORFP.

2.5.4 Services provided under Functional Area III are subject to the Davis Bacon Act as described in Attachment M.

2.6 Additional General Requirements

- 2.6.1 Any changes or additions by the Master Contractor of their subcontractors shall be pre-approved by the Requesting Agency TOM.
- 2.6.2 All work performed for State agencies under the resulting Master Contract shall be performed under a TO or PO issued only by the State agency requesting the work.
- 2.6.3 Building materials and construction methods used will comply with the latest version of the Maryland Department of Transportation's "Standard Specifications for Construction and Materials" a copy of which can be purchased by contacting the State Highway Administration's Cashiers Office, 707 North Calvert Street, Room 108, P.O. Box 717, Baltimore, MD 21203-0717.
- 2.6.4 The Master Contractor shall assume total responsibility for project design, work, licenses, bonds, permits and liability insurance of any required items for the Master Contractor and any required subcontractors.
- 2.6.5 Any consumable or ancillary materials provided by the Master Contractor shall be included as part of the Fully Loaded labor rate for the relevant labor category. No additional fees or markups shall be allowed. The Master Contractor shall provide all invoices for materials. The procedure is noted in Invoicing Section 2.19. The State will not pay for unused materials and will not accept unused materials for delivery.

- 2.6.6 All equipment (network electronics, fiber optic cable, fiber panels, etc.) and materials acquired and installed under the Master Contract are to be purchased on behalf of the State. Documents evidencing ownership of such equipment and materials by the State shall be delivered to the State prior to payment of a final invoice under a TOA or POA. The Master Contractor shall provide all bills of sale and warranties for the supplied materials to be turned over to the Requesting Agency TOM prior to the final invoicing. Titles, certificates of origin, or other documentation shall be supplied for all material provided, in form and content satisfactory to the State. The documentation shall indicate that the material is the property of the State, free and clear of liens or other security interests.
- 2.6.7 Supplied materials, including, but not limited to, any conduit, manholes, splice cases, fiber distribution panels, inner-duct and fiber optic cable, shall be new, unused and shall meet the latest design and fabrication standards of the Electronics Industry Association (EIA).
- 2.6.8 The Master Contractor's work must be executed in such a manner that it minimizes disruption of day-to-day functions. Master Contractor(s) shall schedule an appointment with the Requesting Agency TOM to ensure necessary access to a facility.
- 2.6.9 The Master Contractor will designate a POC for the State with regard to all provisions of the Master Contract and provide the POC's contact information to the State CM within five (5) days of Contract start date. Changes will be reported to the State CM on or before the effective date of the change.
- 2.6.10 The Master Contractor shall be responsible for obtaining State Highway Administration (SHA) approval and construction permits to include applicable Standard Specifications for Construction and Materials and SHA Book of Standards. The Master Contractor is responsible for traffic control permits and appropriate onsite management during a project as required.
- 2.6.11 Installation shall be in accordance with the equipment manufacturer's instructions, specifications in this RFP, electrical (NEC), Electronic Industries Association/Telecommunications Industry Association (EIA/TIA), Building Industry Consulting Service, International (BICSI) standards, codes and specific instructions as outlined in the TOA or POA.
- 2.6.12 Exact placement of cable path and termination panels are subject to the approval of and shall be coordinated by the Requesting Agency POC (Point of Contact) or TOM prior to the submission of a TOP or quotation.
- 2.6.13 The Master Contractor shall ensure all fiber media and related connecting hardware, outlets, and other components shall be installed by qualified personnel.
- 2.6.14 In order to allow Master Contractors to charge an additional fee for jobs that are requested to be accomplished in other than normal State business hours, Attachment E contains a line item for a supplemental labor rate/hour that may be added to the quote beyond the embedded labor charge in materials for a small work order or TORFP in order for a Master Contractor to accomplish the job.

The supplemental labor rate/hour shall be for an installation technician and represent only the difference between the embedded labor amount in the materials price and the premium pay. The labor category for an installation technician is defined as a qualified individual capable of performing all tasks related to cable installation and repair to include all associated equipment to complete any job described in the RFP.

2.7 Technical Requirements

- 2.7.1 The Master Contractor shall be required to meet or exceed the applicable American National Standard Institute (ANSI) and EIA/TIA 568 and 569 specifications as well as all local, county, State and National and International (IBC) building and NEC codes.
- 2.7.2 In a TOP, Master Contractor(s) shall supply detailed specifications and design drawings of the proposed conduit path, fiber cable and associated termination panels utilizing the latest version of AutoCAD, Microstation or OSP Insight in one of the following file formats: Visio or .PDF. The Requesting Agency POC or TOM may specify the specific CAD software in the TORFP. The Requesting Agency reserves the right to request the design drawings in the latest version of the previously mentioned software.
- 2.7.3 The Master Contractor shall adhere to all standards determined as applicable by the Requesting Agency, including, by way of example only: National, State and Local electrical codes, laws and/or requirements for cable installations. The Master Contractor shall test installed products as specified in the TORFP to ensure they meet the standards and provide written certification test results of all cable installations, within seven (7) business days from job completion and prior to Requesting Agency's acceptance.
- 2.7.4 In a TOP, Master Contractor(s) shall state the specific brand and functional capability of the test equipment proposed for the acceptance testing.
- 2.7.5 Prior to Requesting Agency's acceptance, the Master Contractor shall provide, on a per job basis, written certification that all cables and services supplied as a result of this solicitation meet all current applicable ANSI EIA/TIA specifications. Cables, installation services and ancillary equipment shall adhere to the then current applicable ANSI EIA/TIA specifications when supplied.
- 2.7.6 All cable installations shall be completed in a safe, neat, professional, structured manner and conform to BICSI standards for installation.
- 2.7.7 The Master Contractor shall obtain all applicable permits needed for the installation of cabling prior to commencement of any work.
- 2.7.8 The Master Contractor shall provide two (2) sets of "as built drawings" for cable projects prior to the Requesting Agency's final acceptance and full payment.

2.7.9 Fiber optics provided and installed by the Master Contractor shall be tested in accordance with the following criteria:

- A) The Master Contractor shall provide test results at the following two (2) intervals for any and all fiber optic cables installed on Master Contract projects. The test results shall be in a hardcopy written format unless otherwise required in the POA or TOA for the test results to be provided electronically. The fiber optic cable shall meet or exceed EIA/TIA specifications:
 - 1) At the manufacturer's premise prior to shipment; and
 - 2) After installation.
- B) All fiber optic cable shall be tested, including tests for open or reversed fibers, their wave lengths and levels of attenuation with connecting hardware in place at the workstation (if applicable) end-to-end.
 - 1) All tests shall be conducted with an optical time domain reflectometer (OTDR) and may require bi-directional testing.
 - 2) These tests shall be conducted after installation and before Requesting Agency acceptance.
- C) Attenuation in terminated fiber optics shall be equal to or better than the manufacturer's specifications.
 - 1) Connectors associated with the fiber optic cable installation must not exceed 0.5 dB attenuation per pair; and
 - 2) Attenuation loss levels of greater than 9.0 dB will not be accepted for end-to-end fiber optic runs except when the Requesting Agency accepts otherwise or requires the specific design and function.
 - 3) These tests shall be conducted after installation and before Requesting Agency acceptance.
- D) The Requesting Agency shall require a final acceptance test after and before acceptance. Test requirements will be defined in the TORFP. Obtaining satisfactory results from this test shall be a necessary condition to the acceptance of cabling project and subsequent payment, unless otherwise agreed to by the local on-site agency contact or Requesting Agency POC or TOM in writing.

2.7.10 Copper cabling provided and installed by the Master Contractor shall be tested in accordance with the following criteria:

- A) All cabling and related connecting hardware, outlets, and other components installed shall be tested at the conclusion of the installation.

- B) All cables and connectors shall be tested for *continuity and polarity*, including tests for open, short, split, and reversed circuits (pairs) by the installer prior to the performance of final acceptance tests.
- C) The final acceptance test after installation and before Requesting Agency acceptance shall consist of a continuity test. Obtaining satisfactory results from this test will be a necessary condition to the acceptance of cabling project and subsequent payment, unless otherwise agreed to by the local on-site agency contact or Requesting Agency POC or TOM in writing.

2.7.11 Labeling Requirements

All components of the structured cabling system require physical labeling. At a minimum, the following components must be labeled:

- Communications outlets
- IDF/MDF connecting hardware
- Cables
- Terminal/equipment ports

2.7.12 Asbestos Related Installations

In circumstances where asbestos is found, the Master Contractor is to stop work and notify the Requesting Agency POC or TOM, and the proper State authorities immediately. Master Contractor personnel and subcontractors shall have current EPA-approved asbestos awareness training so that asbestos can be recognized when encountered. The Requesting Agency will notify the Master Contractor when the Master Contractor is authorized to resume work.

2.8 Functional Area Detailed Descriptions, Service Categories and Examples

The examples of TORFP or PORFPs listed in this section are not all inclusive of the services that may be required under the Master Contract.

2.8.1 Functional Area I –Material & Equipment

Fiber optic cabling, including but not limited to: 12, 24, 48, 96, 144 and 216 count cables that conform to the following general specifications:

- Shall conform to international standards ITU T G.652.D and Telcordia GR-20

AD Spec

1. Shall be comprised of All Dielectric (AD) materials.
2. Shall be a dry, gel-free cable design.

3. Shall incorporate dry, water-blocking elements.
4. Exterior of cable shall be colored black.
5. Shall be marked, in permanent white characters, with:
 - a. Manufacturer name
 - b. Month and year of manufacture
 - c. Number of optical fibers
 - d. Sequential length markings, minimum of every two (2) feet, in feet or every yard in meters

Armored Spec

1. Shall be comprised of armored materials.
 2. Shall be a dry, gel-free cable design.
 3. Shall incorporate dry, water blocking elements.
 4. Shall be marked, in permanent white characters, with:
 - e. Manufacturer name
 - f. Month and year of manufacture
 - g. Number of optical fibers
 - h. Sequential length markings, minimum of every two feet, in feet or every yard in meters
- Shall have a ribbonized strand design, or loose tube fiber as specified in the PORFP or TORFP.

Conduit, including but not limited to, underground, aerial, smooth, ribbed or corrugated wall, with or without string/mule tape, plugs, caps, connectors/couplers. All sizes and colors.

Innerduct, including but not limited to underground, aerial, plenum or riser rated, smooth, ribbed or corrugated wall, with or without tracer wire, plugs, caps, connectors/couplers. All sizes and colors.

Outside plant enclosures, including but not limited to both traffic bearing, load-bearing and non-load bearing NEMA or non-NEMA rated pedestals, underground vaults, handholes, manholes, building entrance enclosures, pads, covers and pull boxes. Materials should include but not be limited to metal, plastic, fiberglass, concrete or polymer.

Splicing and termination equipment, including but not limited to splice trays, splice enclosure, fiber optic jumpers, pigtails, cleaning & testing equipment and rack/wall mount fiber termination panels.

Installation hardware, to include, but not limited to fiber markers (post and disk), fiber identification (wrap around and zip tie tags), dual strand detectable mule tape, aerial lashing wire, aerial strand hardware, riser guards, anchors, snowshoes (aerial fiber

storage), guy wire guards, grounding rods, hand tools, specialty telecommunications tools, and telecommunication installation supplies.

2.8.2 Functional Area II – Installation

The installation and relocation of outside plant fiber optic and communications cables statewide including, but not limited to, the construction of new fiber paths between buildings, in the State Right of Way and connecting to existing State fiber resources. Functional Area II encompasses the design and construction of aerial and underground outside plant fiber optic and communications cables utilizing various installation techniques. The design of the cable paths will include the use of professional engineering services including CAD drawings and land surveying.

2.8.2.1 Relocation and Installation Services – Category I

A) Description – Design and implement new fiber path construction and relocate existing fiber optic cable paths while providing project management, scheduling, oversight, labor, materials and documentation. Design tasks will require professional services such as CAD design drawings and land surveying. The “as-built” documentation of all work performed under this Category may be requested in the TORFP. Create “turn-key” outside plant fiber and communications cable paths that terminate from an existing splice point to a building termination demark, from building termination demark to building termination demark and existing splice point to existing splice point over varying paths lengths.

B) Examples of Potential Task Orders:

- Survey of identified path and create CAD drawings for design and permit approval;
- Provide equipment and material recommendations as required;
- Relocate existing fiber optic cable paths utilizing both aerial and underground installation methods;
- Install new fiber optic cable paths utilizing both aerial and underground installation methods;
- Document fiber optic path with “as-built” drawings and Splice Matrixes; and
- Provide and install fiber marker posts or aerial fiber tags per the State’s specification.

2.8.3 Functional Area III –Testing and Maintenance

Preventive Maintenance of existing and future fiber paths includes, by example only, cable locating services, fiber marker replacement and manhole maintenance services.

Emergency response services to restore existing and future fiber paths in the event of an unplanned event resulting in damage to State communication cables.

Security Level Agreements for preventive maintenance and emergency repairs will be defined at the TORFP level.

2.8.3.1 Preventive Maintenance – Category I

A) Description – Complete communication maintenance services to ensure that outside plant fiber paths and communication cables are available and maintained to meet the needs of the States critical communications. The work is primarily performed during normal business hours unless specified in the TORFP. Tasks under this Functional Area include all labor, equipment, materials and documentation as specified in the TORFP.

B) Examples of Potential TORFPs:

- Provide utility locating services for State owned or utilized fiber optic cable, electrical cable and copper cables;
- Provide and install fiber optic markers as specified by the State along the Right of Way;
- Test fiber using an OTDR and/or power meter at various wavelengths and produce reports to document loss and distance of the fiber optic cable plant; and
- Repair and/or replace manholes in the Right of Way.

2.8.3.2 Emergency Response – Category II

A) Description – Complete emergency response services to ensure that outside plant fiber paths and communication cables are restored to service in a timely manner in the event of natural disaster, construction accident or other service interruption. The State may require that the work may be performed at any time of the day. The restoration work may include, by example only, the replacement of aerial fiber cable, temporary relocation of underground conduit and fiber cable and the installation of fiber splice cases for fiber counts of 12, 24, 48, 96, 144 and above. The communications cable may be single or multi-mode fiber cable or copper cable. Tasks under this Category include all labor, equipment, materials and documentation as specified in the TORFP. State agencies and local governments will pre-establish TOAs to provide emergency restoration services of outside plant fiber paths and communication cables.

B) Examples of Potential TORFPs- (Although examples, the likely scenario is that agencies requiring “insurance” against emergency failure would issue a TORFP for predetermined emergency services that would be:

- Respond to a request for emergency restoration within 2 hours 24/7/365 and reach the location of the damaged fiber optic path within 6 hours statewide;
- Perform restoration services;
- Replace necessary fiber cable and install splice cases;
- Provide traffic management as needed to meet all local, State and Federal requirements; and
- Provide the appropriate splicing and/or terminating equipment to restore single-mode and multi-mode fiber.

2.9 Material Costs

The State reserves the right to procure material from other sources when it is in the best interest of the State to do so and without notice to the Master Contractor(s). Any material charges incurred by a Master Contractor shall be with prior approval of the Requesting Agency. Consumable and ancillary materials shall be billed on a pass-through basis. No additional fees or mark-ups shall be allowed. Manufacturer's invoice must accompany any billing to the State to document the cost of replacement parts.

2.10 Personnel Qualifications (Functional Areas II & III)

Master Contractors shall only propose personnel available at the time of the TOP. In each TOP, Master Contractors shall provide personnel that satisfy the personnel qualifications specified within Section 2.11 for each of the labor categories required under the specific TORFP. In the event that labor categories are not identified in a TORFP, Master Contractors shall provide the appropriate labor categories for the TORFP from those specified in Section 2.11.

2.10.1 Specific areas of required expertise may be further defined in a TORFP. The Master Contractors shall certify that all candidates meet the required qualifications. At the option of the State, the Master Contractor's personnel may be approved for performance in multiple skill categories for which they are qualified. However, personnel cannot perform in multiple labor categories at the same time in a given TOA.

2.10.2 Managers, seniors, and other lead labor categories may serve as a Task Leader on one or more TOAs. Task Leaders shall have supervisory or project leader experience. This experience is not in addition to the experience requirements for the skill category.

2.10.3 The TORFP will define specific project requirements. The TOP shall clearly identify applicable experiences related to projects and technologies being used.

2.10.4 Substitution of Personnel.

- A) At the State's discretion, non-qualified Master Contractor personnel may be used to perform a task. The State shall approve non-qualified personnel only for the specific circumstances involved.

- B) Individuals proposed and accepted as personnel for TOAs are expected to remain dedicated throughout the TOA commitment. Substitutions will be allowed only when the Requesting Agency TOM specifically agrees to the substitution in writing or due to an emergency circumstance as described in paragraph B of this Section 2.10.4. All proposed substitutes of personnel must have qualifications at least equal to those reflected in the RFP, Section 2.11. The burden of illustrating this comparison shall be the Master Contractors. If one or more of the personnel are unavailable for work under a TOA for a continuous period exceeding fifteen (15) calendar days, the Master Contractor shall immediately notify the Requesting Agency TOM and propose to replace personnel with personnel of equal or better qualifications within fifteen (15) calendar days of notification to the Requesting Agency TOM. All substitutions shall be made in accordance with this provision.
- C) During the performance period for a TOA, 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 TOM. In any of these events, the Master Contractor shall promptly notify the Requesting Agency TOM and provide the information required by paragraph B, above. All proposed substitutions of personnel for other than emergency situations must be submitted in writing, at least fifteen (15) business days in advance of the proposed substitution, to the Requesting Agency TOM, with the information required in paragraph B, above. The Requesting Agency TOM must agree to the substitution in writing before such substitution shall become effective.
- D) All requests for substitutions must provide a detailed explanation of the circumstances necessitating the proposed substitutions, a resume of the proposed substitute (see paragraphs B and C, above), and any other information requested by the Requesting Agency TOM to make a determination as to the appropriateness of the proposed substitution. All proposed substitutes must have work experience equal to or better than the labor category descriptions in the RFP, Section 2.11. The burden of illustrating this comparison shall be the Master Contractor's.
- E) Resumes shall be signed by all substituting individuals and their formal supervisor, and the official resume of the previous employee shall be provided for comparison purposes.

2.11 Labor Categories for Functional Area II

2.11.1 The following section describes the labor categories to be provided under the RFP for Functional Areas II & III. Offerors must propose only these labor categories. No additional categories will be added during the term of the Master Contract.

2.11.1.1 Program Manager

Duties: The Program Manager is the Master Contractor's manager for the TOA, and serves as the single point of contact for the Master Contractor with the State regarding the TOA. Performs overall management for TOA support operations. Organizes, directs, and coordinates the planning and production of all TOA activities, projects and support activities, including those of subcontractors. Oversees the development of or develops work breakdown structures, charts, tables, graphs, major milestone calendars and diagrams to assist in analyzing problems and making recommendations. Demonstrates excellent written and verbal communications skills. Establishes and alters corporate management structure to direct effective and efficient TOA support activities. Must be capable of negotiating and making binding decisions for the Master Contractor.

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

Specialized Experience: At least three (3) years of experience in supervision or oversight of the following related programs or projects:

1. The coordination and supply of emergency restoration services,
2. The coordination and supply of materials used to construct outside plant fiber optics; and
3. The coordination of term TOAs for maintenance of fiber optics paths in the Right of Way.

2.11.1.2 Project Manager

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

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

Specialized Experience: At least three (3) years of experience in managing aerial and underground outside fiber plant construction, and supplying and installing equipment and materials associated with fiber plant construction related projects

and must demonstrate a leadership role in at least three (3) successful projects that were delivered on time and on budget.

2.11.1.3 Senior Network Engineer

Duties: Responsible for the design and implementation of large data communications or telecommunications networks. Plans and monitors the installation of communications circuits. Conducts short and long-term plan to meet c communications requirements. Responsible for the design and implementation of LANs/WANs using hub switching and router technology. Prepares tradeoff studies and evaluations for vendor equipment. Generates network monitoring/performance report, for LAN/WAN utilization studies. Recommends network design changes/enhancements for improved system availability and performance.

General Experience: Nine (9) years of experience in a computer-related field.

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

2.11.1.4 Junior Network Engineer

Duties: Perform similar duties as directed or instructed by the senior network engineer. Performs design and implementation of large data communications or telecommunications networks. Conducts short and long-term planning to meet communications requirements. Plans and monitors the installation of communications circuits.

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

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

2.11.1.5 Geographic Information Systems (GIS) Technician I

Duties: Performs systems analysis, design, programming, documentation, and implementation of complex GIS applications. Develops logical and physical geodatabase designs; implements geodatabases, establishes recovery plans, and monitors geodatabase performance. Write programs and develop user interfaces, menus, and macro-level commands to meet user needs in addition to performing simple spatial analyses and producing reports according to customer specifications. Assist in the development of geographic information systems

which may link parcel maps or orthophotos with environmental data, historic data, transportation data and health data to produce maps or quantify information about the impacts of features on parcel ownership. Conducts geographic information system (GIS) program activities, utilizing GIS hardware and software to produce maps, spatial databases and thematic data (such as wetlands, road centerlines, cadastre, and historic sites). Creates, adjusts, corrects, converts and distributes base maps and thematic data. Digitize and maintain spatial databases of Maryland information; document procedures, validate data for accuracy and completeness, complete approved metadata forms and produce maps of the resulting information. Evaluate information and data from outside sources to determine the quality of the data. Provide geographic location coordinates from the GIS to facilitate spatial analysis and data manipulation, calculate distances and area of features and interpret legal descriptions and certify changes in boundary lines. Act as a “consultant” to internal customers during their use, development and quality assessment of spatial databases.

Education: A Bachelor’s Degree from an accredited college or university in Geography, GIS Technology, Cartography, Computer Science, or related field with at least nine (9) credit hours in courses specifically related to GIS operation/management. A Masters Degree from an accredited college or university in Geography, GIS Technology, Cartography, Computer Science, or related field with at least 9 undergraduate credit hours in courses specifically related to GIS operation/management is preferred.

Experience: A minimum of three (3) years of professional experience in GIS, cartography, CADD, or a related field.

2.11.1.6 Geographic Information Systems (GIS) Technician II

Duties: Conducts geographic information system (GIS) program activities, utilizing GIS hardware and software to produce maps, spatial databases and thematic data (such as wetlands, road centerlines, cadastre, and historic sites). Creates, adjusts, corrects, converts and distributes base maps and thematic data. Digitize and maintain spatial databases of Maryland information; document procedures, validate data for accuracy and completeness, complete approved metadata forms and produce maps of the resulting information. Evaluate information and data from outside sources to determine the quality of the data. Provide geographic location coordinates from the GIS to facilitate spatial analysis and data manipulation, calculate distances and area of features and interpret legal descriptions and certifies changes in boundary lines.

Education: Bachelor’s degree from an accredited college or university in Geography, GIS Technology, Cartography, Computer Science, Library Science or related field with at least nine (9) credit hours in courses specifically related to GIS operation/management.

Experience: A minimum of two (2) years of successful experience at the equivalent of the GIS Trainee level.

2.11.1.7 Outside Plant Technician

Duties: Performs necessary tasks to access, install, remove and/or test copper or fiber optic cable aerially or under the ground, install, repair, and maintain hand-holes and underground conduit. Assists Fiber Optic Splicer as needed to install and/or repair cable. Tests copper, single-mode and multi-mode fiber optic cable to ensure quality of cable.

General Experience: At least two (2) continuous years of documented (by references and work history) experience in outside plant work.

2.11.1.8 Fiber Optic Splicer

Duties: Prepares splice cases and fusion splicing of fiber optic cables. Installs fiber terminations, fiber panels and fiber patch cords. Tests single-mode and multi-mode fiber optic cable to ensure quality of cable.

General Experience: At least two (2) continuous years of documented (by references and work history) experience in fiber optic work.

2.11.1.9 Heavy Equipment Operator

Duties: Performs necessary tasks to access fiber optic cable under the ground, on a pole or attached to a bridge. Installs, repairs and maintains hand-holes and underground utilities through the operation of heavy equipment (backhoes, excavators, trenchers, bucket trucks, etc.).

General Experience: At least two (2) continuous years of documented (by references and work history) experience in operating heavy equipment.

2.11.1.10 Fiber Locator

Duties: Uses appropriate equipment to locate and mark fiber optic cable, copper cable and other utilities to prevent damage.

General Experience: At least two (2) continuous years of documented (by references and work history) experience in locating and work with cable.

2.12 Travel Reimbursement

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

2.13 Reports and Meetings

2.13.1 MBE Reporting

2.13.1.1 Master Contractors who have received at least one TO shall submit one prime contractor MBE payment report (Attachment D-5) each month for each MBE named on the contractor's MBE Participation Schedule submitted at the time of master contract award. The D-5 must be submitted regardless of whether the Master Contractor made payments to the MBE during the reporting period. Any proposed changes (additions, deletions, etc.) to the original MBE Participation Schedule after contract award must be requested in writing (submit requests to the Procurement Officer) and must be approved in writing by DoIT prior to implementation (COMAR 21.11.03.12 applies). If an MBE has been paid during a reporting period for work performed on multiple projects, payments should be aggregated on a single D-5 form. Any outstanding invoice amounts should be listed individually on the D-5.

MBE subcontractors must also submit one subcontractor payment report (Attachment D-6) each month for each Master Contractor for which the MBE signed and submitted a Subcontractor Project Participation Statement (RFP Attachment D-4), regardless of whether any payment was received by the MBE during the reporting period. Payments received from a prime contractor for work performed on multiple projects should be aggregated on one D-6 report. The prime contractor is responsible for ensuring that each MBE submits the payment reports within the required timeframe.

The D-5 and D-6 reports are due to the State by the 15th of the month following the month being reported, e.g., payments made/received from January 1st to January 31st should be reported by the 15th of February. See RFP Attachment D for additional details regarding monthly MBE reporting.

2.13.1.2 In addition to the monthly MBE payment reports, at the end of each contract quarter, Master Contractors shall submit the following information directly to the Department's MBE Liaison:

- a. For each agency work order received/awarded during the quarter: The agency name, the agency work order number, the dollar value of the work order, and the contract-to-date (CTD) dollar value of all work orders/awards received.
- b. By agency: The total actual payments received by the Master Contractor during the quarterly reporting period, and the CTD actual payments received.
- c. In addition to the monthly payment reports, at the end of each contract quarter, Master Contractors shall submit the "Prime Contractor Quarterly Activity Report" (See Attachment J) to the Department's MBE Liaison. Awards/payments for county, municipal or other non-State agencies should not be included in the quarterly report and will not be considered when determining compliance with the 30% MBE requirement. Quarterly reports must be submitted in MS Excel format via e-mail to MBEOfficer@doit.state.md.us not later than 5 business days after the end of the quarter.

2.13.2 Specialized Reports

Additional reports may be required in the TORFPs.

2.14 Task Order Process

2.14.1 TORFP Content

TORFPs will be initiated by the Requesting Agency Procurement Officer assigned by the agency requesting the services and shall define the scope and requirements of the specific requirement. At the minimum, each TORFP will contain the following information:

- A) Type of TOA with compensation and method of payment;
- B) Project, technical, and contractual point of contact;
- C) Due date, time and place for bidding on the TORFP;
- D) Background information including task objectives;
- E) Nature of the financial submission;
- F) Technical requirements;
- G) Performance objectives and /or deliverables, as applicable;
- H) Required documentation;
- I) Labor categories required;
- J) Period of performance;
- K) Place of performance;
- L) Deliverable/delivery schedule;

- M) Security requirements;
- N) State furnished information, work site, and/or access to equipment, facilities, or personnel;
- O) Inspection and acceptance criteria;
- P) Service level agreements (if applicable);
- Q) Set of measurable benefits improvement outcomes;
- R) TORFP award selection criteria; and
- S) Non-Visual Access Clause (if applicable).

2.14.2 TOP Submission Requirements

TORFPs will be sent to all Master Contractors awarded a Master Contract within the functional area applicable to that TORFP. Master Contractors who receive a TORFP, and who would have an existing or potential conflict of interest if awarded the TOA, shall immediately provide the Requesting Agency's Procurement Officer with a written notification of the conflict.

All Master Contractors receiving the TORFP must respond with either a TOP or a written notification to the Requesting Agency's Procurement Officer that it does not intend to submit a TOP and reason(s) why. Upon receipt of a TORFP, Master Contractors, other than those indicating they do not intend to respond, shall provide a TOP in response to the requirements of the TORFP. At a minimum the TOP shall provide the following:

- A) Proposed approach to satisfying the requirements of the TORFP and development of TOA deliverables;
- B) Breakdown of all hardware and software required to successfully execute TOA;
- C) Proposed schedule in GANTT chart format;
- D) *Applicable to Functional Area II & III only*- Proposed hours for each labor category (applicable for T&M TOAs);
- E) An estimate of staff time to be required of State employees associated with this project;
- F) Detailed written description of any work to be subcontracted, the name and address of the proposed subcontractor(s);
- G) *Applicable to Functional Area II & III only*- Proposed personnel with attached resumes; and
- H) Proposed price to be provided as defined in the TORFP.

2.14.3 Procedure for Awarding a TOA

The criteria for making a TOA award determination will be detailed in the TORFP.

2.14.4 Commencement of Work Under a TOA

Work in response to TOAs shall be initiated only upon issuance of a fully executed TOA and NTP authorized by the State.

2.14.5 Performance Period for Acceptance

The Requesting Agency may perform tests prior to acceptance and payment of each installation or service, to ensure compliance with the requirements and specifications of the Master Contract and specific TOA. Final acceptance shall only occur at such time as the Requesting Agency determines that any State acceptance tests have been successfully completed, all documentation has been delivered to the site, or as otherwise directed by the Agency, and all other requirements specified in the Master Contract and the specific TOA or POA have been met. Final acceptance shall be upon completion of the proof of performance and after all documentation is on site. The Requesting Agency will make this determination. This period shall not exceed fifteen (15) days unless notice is made to the Master Contractor detailing performance issues and determining the number of day's acceptance is being delayed.

2.14.6 Final acceptance of work by the Requesting Agency TOM shall occur:

A) For TOAs under Functional Area III, Categories 1 and 2:

Work will be accepted by the Requesting Agency TOM upon documented completion of the work associated with the request. The Requesting Agency TOM based on the scope of work will define the appropriate documentation in the TORFP.

B) For Task Orders under Functional Area II, Category 3:

- 1) After three (3) complete sets of "as-built" project documentation are received and filed with the Requesting Agency TOM for installation and/or relocation TORFPs.
- 2) Upon completion of all work specified in the TORFP and formal documentation submitted.
- 3) The State receives a satisfactory inspection report from an independent contractor, selected and funded by the State to perform a site inspection, and all deficient items identified in the inspection report have been corrected to the State's satisfaction. The Master Contractor shall submit within five (5) business days to the Requesting Agency TOM a plan detailing how and when the deficiency will be addressed.
- 4) All other deficiencies noted by the State have been corrected to the State's satisfaction.

2.15 PORFP Process

2.15.1 PORFP Content

The Requesting Agency Procurement Officer will submit a PORFP to all Master Contractors in Functional Area I. As an example, each PORFP may contain the following information:

- A) Requesting Agency;
- B) Agency POC;
- C) Description of the required systems, material or equipment;
- D) Delivery requirements;
- E) Invoicing instructions;
- F) Required date for submission of POP;
- G) Manufacturer's warranty service requirements, if applicable; and
- H) Warranty, if applicable.

2.15.2 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 POP, or provide a PORFP Feedback Form explaining why it does not intend to submit a POP. As an example, the POP may provide the following:

- A) Explanation of how the Master Contractor intends to meet the requirements of the PORFP;
- B) Description of the proposed systems, material or equipment;
- C) Transportation and delivery schedule;
- D) Manufacturer's warranty services provided, if applicable;
- E) Proposed price; and
- F) Captured screen shot of current MSRP as of the date of the POP submission.

2.15.3 Procedure for Awarding a PORFP

Evaluation criteria for award will be established at the PORFP level. POAs will be awarded in accordance with the competitive sealed proposals process under COMAR 21.05.03. The Requesting Agency Procurement Officer will recommend award to the Master Contractor whose POP is determined to be the most advantageous to the State, considering price and the evaluation factors set forth in the PORFP. The Requesting Agency Procurement Officer will initiate and deliver a POA to the selected Master Contractor.

2.15.4 Delivery of Systems, Material and Equipment

Delivery of systems, material and equipment shall be initiated only upon issuance of a POA authorized by the Requesting Agency.

2.16 Warranty

All installation materials, network equipment, fiber optic cable, termination panels, splices and path restoration furnished by a Master Contractor shall be fully guaranteed against defects in materials and workmanship for a minimum period of one (1) year after installation and final acceptance. A standard manufacturer's warranty, on parts and labor or one (1) year warranty on parts and labor, whichever is greater, for new network equipment, fiber termination panels, fiber optic cable work shall be included as part of these conditions. All defective items must be replaced free of charge during the warranty period. All other terms and conditions of the warranty must be provided in the technical response. The Master Contractor shall provide documentation that the equipment is titled to the State from the manufacturer and warranty cards for the equipment.

Master Contractors shall provide the Manufacturer's Warranty with their POP for Functional Area I or TOP for Functional Areas I and/or II. Master Contractors shall be responsible for coordinating warranty issues. On-site warranty will begin upon acceptance of the equipment and/or services by the Requesting Agency. Acceptance will be defined in the PORFP or TORFP as either receipt or installation. On-site warranty means the Master Contractor will either remotely access or travel, if necessary, to the facility where the warranty service is required at no additional cost to the Requesting Agency during the manufacturer's warranty period. The Requesting Agency has the discretion of dealing directly with the Manufacturer on any Warranty issue. Upgraded Warranty requirements shall be defined in the PORFP or TORFP by the Requesting Agency.

All defective items must be replaced at no additional cost to the State. The warranty must include, at a minimum, standard 8:00 a.m. to 5:00 p.m., Monday through Friday, local time phone support and 24 hour on-site maintenance and repair services in cases where phone support cannot solve the problem. If the products were provided under the installation terms, the Master Contractor is responsible for the installation of the replacement equipment as defined in the agency solicitation. If the equipment was provided without installation, the Master Contractor, at its option and at no additional cost to the State, may provide on-site service or next-day drop ship replacements for the Requesting Agency to install.

To ensure compliance with the requirements and specifications of the Contract, the State may perform acceptance tests within thirty (30) days of receipt of:

- a. The notice of completion of installation from the Master Contractor, or
- b. The delivery of equipment supplied without installation; and prior to acceptance and payment for each item installed or delivered. The State does not assume ownership for equipment, nor do warranty periods begin, until the using State Agency point of contact accepts the Master Contractor's product and work as fully operational.

2.17 Insurance Requirements

- 2.17.1 Master Contractors shall maintain property and casualty insurance with minimum limits sufficient to cover losses resulting from or arising out of Contractor action or inaction in the performance of the contract by the Master Contractor, its agents, servants, employees or subcontractors.
- 2.17.2 Master Contractors shall maintain a policy of general liability insurance that is of the proper type and limits specified below.
- 2.17.3 A. Worker's Compensation - Master Contractors shall maintain such insurance as necessary and/or as required under Worker's Compensation Acts, U.S. Longshoremen's and Harbor Workers' Compensation Act, and the Federal Employers Liability Act.
- B. General Liability - Master Contractors shall purchase and maintain the following insurance protection for liability claims arising as a result of the Master Contractor's operations under this agreement.

Standard Insurance Service Office (ISO)
Commercial General Liability, Occurrence Form

- \$2,000,000 - General Aggregate Limit (other than products/completed operations)
- \$2,000,000 - Products/completed operations aggregate limit
- \$1,000,000 - Each Occurrence Limit
- \$1,000,000 - Personal and Accidental Injury Limits
- \$ 50,000 - Fire Damage Limit
- \$ 5,000 - Medical Expense

The State will be named as an Additional Insured on all liability policies (Workman's Compensation excepted) and Certificates of Insurance evidencing this coverage will be provided prior to the commencement of any activities. Upon execution of a contract with the State, then current certificates of insurance will be provided to the State and thereafter from time to time, as directed by the State.

The State shall receive written notification of non-renewal from the issuer of the insurance policies at least sixty (60) days before the expiration of the then-effective insurance policies. In the event the State receives a notice of non-renewal of a Master Contractor's insurance policy, the Master Contractor must provide the State with an insurance policy from another carrier at least thirty (30) days prior to the expiration of the insurance policy then in effect.

2.18 Invoicing

- 2.18.1 All invoices shall be submitted monthly no later than fifteen (15) calendar days after the end of the invoice period, unless specified differently in the PORFP or

TORFP, and include the following information: name and address of the State agency being billed, vendor name, remittance address, federal taxpayer identification or (if owned by an individual) his/her social security number, Invoice Period, Invoice Date, Invoice Number, Amount Due, and the Purchase Order Number(s) being billed. Additional information may be required in the future. Invoices submitted without the required information will not be processed for payment until the Master Contractor provides the required information. While the State is generally exempt from sales and use taxes, the Master Contractor, however, is not exempt from such sales and use taxes and shall pay the same.

2.18.2 Any materials, as previously noted, are provided only on a straight pass-through basis. No additional fees or markups shall be allowed. All material invoices must be signed and dated by the Master Contractor and the original suppliers invoice shall be submitted and attached along with the applicable monthly invoice.

2.18.3 Invoicing for TOAs Only

2.18.3.1 In addition to 2.18.1, the Master Contractor shall submit the invoices for any TOA to the State as identified in the TOA. While the State is generally exempt from sales and use taxes, the Master Contractor; however, is not exempt from such sales and use taxes and shall pay the same.

2.18.3.2 In addition to 2.18.1 and 2.18.2, fixed price invoicing shall be based on the deliverables/milestones of the TOA or POA; therefore, the scheduling requirements for fixed price invoicing shall be identified at the TOA or POA level.

2.18.4 Each invoice based on fixed price work shall include:

- A) For each fixed price POA or TOA: a proposed payment for accepted deliverables based on the Deliverables Acceptance Criteria Process as identified in the solicitation.
- B) For each invoice: information detailing the specific deliverable(s), phase or task as appropriate, the gross amount to invoice, any material cost(s), and net amount due.

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SECTION 3 – OFFEROR MINIMUM QUALIFICATIONS

3.1 Industry Experience

The State requires that all Master Contractors resulting from this procurement meet a certain set of standards. These standards are outlined in this section. Offerors must provide a section in the Technical Proposal that directly addresses their ability to meet each of these requirements.

3.1.1 Industry Experience

Each Offeror must demonstrate and document a minimum of three (3) years industry experience in one or more Functional Areas in order to qualify as a Master Contractor.

3.2 Functional Area Requirements

3.2.1 An Offeror that does not submit at least three (3) experience descriptions and references for Functional Area I– materials & equipment related experience will not be awarded a Master Contract for Functional Area I.

3.2.2 An Offeror that does not submit at least three (3) experience descriptions and references for Functional Area II – installation related experience will not be awarded a Master Contract for Functional Area II.

3.2.3 An Offeror that does not submit at least three (3) experience descriptions and references for Functional Area III – testing and maintenance related experience will not be awarded a Master Contract for Functional Area III.

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SECTION 4 – PROPOSAL FORMAT

4.1 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. 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.

4.2 Proposals

Volume I- Technical Proposal shall be sealed separately from Volume II- Financial Proposal, but submitted simultaneously to the Procurement Officer. An unbound original, so identified and two (2) copies of each volume are to be submitted. An electronic version of both the Volume I- Technical Proposal in MS Word 2003 or equivalent format and the Volume II- Financial Proposal in MS Excel 2003 or equivalent format shall also be submitted with the unbound originals technical or financial volumes, as appropriate. Electronic media shall be a CD and shall bear a label on the outside containing the RFP number and name, the name of the Offeror, and the volume number.

4.3 Submission

Each Offeror is required to submit a separate sealed package for each Volume, which is to be labeled Volume I- Technical Proposal and Volume II- Financial Proposal respectively. Each sealed package shall bear the RFP title and number, name and address of the Offeror, the Volume number (I or II), functional areas proposed and closing date and time for receipt of the Proposals on the outside of the package. Offerors shall submit only one Technical Proposal and one Financial Proposal, even if proposing to all three functional areas. 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 Volumes shall be consecutively numbered from beginning (Page 1) to end (Page “x”).

4.4 Volume I – Technical Proposal

4.4.1 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.

4.4.2 Additional Required Technical Proposal Submissions:

- A. Completed Bid/Proposal Affidavit (Attachment B – with original of Technical Proposal only)
- B. Completed Minority Business Enterprise (MBE) Participation Forms (Attachments D-1 and D-2 in the original Technical Proposal only).

4.4.3 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, each 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:

4.4.3.1 Title and Table of Contents

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

4.4.3.2 Executive Summary

Each Offeror shall condense and highlight the contents of its 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 it has 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,

an Offeror shall clearly identify each functional area for which it is proposing. Offerors certified under the Small Business Reserve and certified as a Maryland Minority Business Enterprise are asked to provide those certification numbers.

4.4.3.3 Offeror Experience and Capabilities

Offerors shall include information on past experience with similar projects and particularly with the cabling and wiring services for each Functional Area proposed. General requirements of the Offeror and personnel are outlined in Section 2. Offerors shall describe how their organization can meet the qualifications of this RFP and shall include the following:

4.4.3.3.1 An overview of the Offeror's experience and capabilities rendering services similar to those included in this RFP. This description shall include:

- A. Corporate/organization size, length of time the organization has been providing the services, key business partners, and the number of employees dedicated to providing installation and maintenance of the proposed services.
- B. A comprehensive description of the Offeror's experience in supplying and maintaining the proposed systems and services requested by this RFP;
- C. For Functional Areas II & III, a description of experience with the construction of both aerial and underground outside plant fiber optic cables;
- D. Technical skills and certifications of the Offeror's employees associated with providing installation and maintenance of proposed materials; and
- E. The number of clients and geographic locations the Offeror currently serves.

4.4.3.3.2 An organization chart of the Offeror showing all major component units, which component(s) will perform the requirements of the Contract, where the management of the Contract will fall within the organization, and what corporate resources will be available to support the Contract in primary, secondary, and back-up roles.

4.4.3.3.3 At least three (3) references from its customers who are capable of documenting:

- A. The Offeror's ability to manage projects.
- B. Each client reference shall be from a client for whom the Offeror provided service and shall include the following information:
 - Name of client organization
 - Name, title, and telephone number of Point of Contact for client organization

- Value, type, and duration of contract(s) supporting client organization
- The services provided, Scope of the Contract, objectives satisfied

4.4.3.4 Personnel – Functional Area II & III

Each Offeror shall describe its personnel capabilities in compliance with the RFP Sections 2.10 and 2.11 and respond in its Proposal as to how the requirements of these sections will be met.

4.4.3.5 Explanation of Offeror’s Order Fulfillment Capabilities, including

- Order receipt
- Order processing and routing
- Order tracking
- Customer service and inquiry support
- Shipping, including express shipping
- Invoicing
- Returns
- Quality control
- Order turnaround time
- Organization Chart

4.4.3.6 Offeror Experience and Capabilities

This section shall include the following:

- A) Offeror’s organization experience, type of Equipment and/or services provided and the length of time the organization has been providing the Equipment and/or services.
- B) State 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. For each identified contract, the Offeror shall provide:

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

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

This information will be considered as part of the experience and past performance evaluation criteria in the RFP.

4.4.3.7 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:
 - Carrier (name and address)
 - Type of insurance
 - Amount of coverage
 - Period covered by insurance
 - Exclusions
- C) Conflict of Interest Affidavit and Disclosure (Attachment H)
- D) Completed Attachment D-1 Offeror Acknowledgement of MBE Participation Commitment.

4.4.3.8 Economic Benefit Factors

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

- A. The estimated percentage of Contract dollars to be recycled into Maryland's economy in support of the Contract, through the use of Maryland subcontractors, suppliers and joint venture partners. Offerors should be as specific as possible and provide a percentage breakdown of expenditures in this category.
- B. The estimated number and types of jobs for Maryland residents resulting from the Contract. Indicate job classifications, number of employees in each classification, and the aggregate Maryland payroll percentages to which the Master Contractor has committed at both prime and, if applicable, subcontract levels.
- C. Estimate (provide a forecast) of the percentage of your total proposed price that will generate tax revenue for Maryland and its political subdivisions as a result of the Contract. Indicate tax category (sales tax, inventory taxes and personal income taxes for new employees).

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

4.4.3.9 Subcontractors

Offerors shall identify subcontractors, if any, and the role these subcontractors will have in the performance of the Contract.

4.5 Volume II - Financial Proposal

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

Offerors must complete Attachment E – 2 Labor Rate Schedule with Fully Loaded maximum labor rates.

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SECTION 5 – EVALUATION CRITERIA AND SELECTION PROCEDURE

5.1 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.

5.2 Technical Criteria

Once the minimum qualifications in Section 2 are satisfied, the following criteria will be applied to each Technical Proposal:

- Offeror Past Performance (Section 4.4.3.3)
- Offeror Overall Qualification (Section 4.4.3.6)
- Offeror's Order Fulfillment Capabilities (4.4.3.5)

5.3 Financial Criteria

Financial Proposals will be evaluated separately. Offerors shall provide prices for Contract years one through five for all labor categories proposed. These are the maximum prices the State will pay for all proposed labor categories. A Master Contractor will not be allowed to propose a labor category in response to a TORFP for which prices were not provided in its Proposal.

5.4 Reciprocal Preference

Although Maryland law does not authorize procuring agencies to favor resident Offerors in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. Therefore, as described in COMAR 21.05.01.04, a resident business preference will be given if: a responsible Offeror whose headquarters, principal base of operations, or principal site that will primarily provide the services required under this RFP that is in another state submits the most advantageous offer; the other state gives a preference to its residents through law, policy, or practice; and, the preference does not conflict with a Federal law or grant affecting the procurement contract. The preference given shall be identical to the preference that the other state, through law, policy or practice gives to its residents.

5.5 Selection Procedures

5.5.1 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.

5.5.2 Selection Process Sequence

5.5.2.1 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.

5.5.2.2 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.

5.5.2.3 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.

5.5.2.4 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.

5.5.3 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).

-End of Document-

**ATTACHMENT A – Cable and Wiring Material and Services- Outside Plant
Contract**

THIS CONTRACT is made as of this _____ day of _____, 2011 by and between _____ and the MARYLAND DEPARTMENT OF INFORMATION TECHNOLOGY.

IN CONSIDERATION of the premises and the covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Definitions

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

1.2 “Contract” means this Contract for Cable and Wiring Material and Services- Outside Plant.

1.3 “Contractor” means _____ whose principal business address is _____ and whose principal office in Maryland is _____.

1.4 “Contract Manager” means the individual identified in section 1.7 of the RFP or a successor designated by the Department.

1.5 “Department” means the Maryland Department of Information Technology.

1.6 “Financial Proposal” means the Contractor’s Financial Proposal submitted pursuant to the RFP.

1.7 “Purchase Order (PO)” authorizes Contractor to proceed with delivery of products and/or any services requested via a PORFP.

1.8 “TORFP” means Task Order Request for Proposals.

1.9 “PORFP” means Purchase Order Request for Proposals.

1.10 “Procurement Officer” means the individual identified in section 1.6 of the RFP or a successor designated by the Department.

1.11 “RFP” means the Request for Proposals for Cable and Wiring Material and Services, No. 060B1400067 dated August 22, 2011 and any amendments thereto issued in writing by the State.

1.12 “Materials and Associated Services” means those services described in Section 2 of the RFP.

1.13 “State” means the State of Maryland.

1.14 “Technical Proposal” means the Contractor’s Technical Proposal, dated _____.

1.15 All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the RFP.

2. Scope of Work

2.1 The Contractor shall provide Cable and Wiring - Outside Plant- Material, Equipment, Installation, Testing, Repair and Maintenance for the State as described in a PORFP and/or a TORFP underlying a POA and/or TOA awarded to the Contractor. These 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 Exhibits A, B, C, D, E, F and G, the terms of this Contract shall control. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A - The RFP.

Exhibit B- Task Order Agreement (when executed).

Exhibit C- TORFP/PORFP(when released).

Exhibit D- Master Contractor’s response to the TORFP/PORFP (when submitted).

Exhibit E - The Technical Proposal to the RFP.

Exhibit F- The Financial Proposal to the RFP.

Exhibit G - State Contract Affidavit, executed by the Contractor and dated _____

2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract, the PORFP, the TORFP the POA or the TOA. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor’s cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under Article 10, Disputes. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

3. Time for Performance

The Contractor shall provide services in accordance with this Master Contract and any PORFP or TORFP. The term of this Contract is for a period of about five (5) years, beginning on _____, 2011 and ending _____, 2016 unless terminated earlier as provided for in this Contract.

4. Consideration and Payment

4.1 In consideration of the satisfactory performance of the work set forth in this Contract, and any POA or TOA, the Department shall pay the Contractor in accordance with the not-to-exceed rates and terms of Exhibit E to the Financial Proposal to the RFP. POs and TOs that are on a time and materials basis shall include a not-to-exceed ceiling for payments. Any work performed by the Contractor in excess of the ceiling amount in any PO and/or TO without the prior written approval of the Contract Manager is at the Contractor's risk of non-payment. Payments under POs and TOs issued on a fixed price basis shall be limited to the price specified in the POA or TOA, regardless of the actual cost to the Contractor.

4.2 Invoices must be provided in the format and on the schedule identified in the PORFP or TORFP. Each invoice must reflect the Contractor's federal tax identification number, which is _____. The Contractor's eMM identification number is _____. Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the State'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. POAs and TOAs may specify periodic payments based on deliverables or stages of completion. A POA or TOA may specify that a portion of the payments due will be withheld until completion of the POA or TOA. 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 POA or TOA 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 POA or TOA. Notwithstanding anything to the contrary herein, the final payment under this Contract will not be made until after certification is received from the Comptroller of the State that all taxes have been paid.

4.3 In addition to any other available remedies if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer pursuant to this Contract, a POA or a TOA.

4.4 The State will use electronic funds transfer to pay the Contractor for this Contract and any POs or TOs issued there under and any other State payments due Contractor unless the State's Comptroller Office grants the Contractor an exemption.

5. PORFPs

A PORFP may specify terms in addition to the terms specified herein. Such additional terms may include warranties, deliverables, and acceptance test requirements. A POA 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 this Contract or the RFP.

6. TORFPs

A TORFP may specify terms in addition to the terms specified herein. Such additional terms may include warranties, deliverables, and acceptance test requirements. A TOA 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 this Contract or the RFP.

7. Rights to Records

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

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

7.3 The Contractor shall report to the Department, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all works created and services performed under this Contract.

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

8. 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.

9. Loss of Data

In the event of loss of any State data or records where such loss is due to the intentional act, omission, or negligence of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for recreating such lost data in the manner and on the schedule set by the Contract Manager. The Contractor shall ensure that all data is backed up and is recoverable by the Contractor.

10. Non-Hiring of Employees

No official or employee of the State of Maryland as defined under State Government Article section 15-102, Annotated Code of Maryland, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract shall, during the pendency and term of this Contract and while serving as an official or employee of the State become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

11. Disputes

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

12. Maryland Law

This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland. The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland) does not apply to this Contract 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.

13. Nondiscrimination in Employment

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

14. Contingent Fee Prohibition

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency 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, bona fide salesperson or commercial selling agency, any fee or other consideration contingent on the making of this Contract.

15. Nonavailability of Funding

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

16. Termination

Upon termination of this Contract, the Contractor, at its own expense, shall deliver any Materials, Equipment and Services or other property provided by the State to the place designated by the Procurement Officer.

17. Termination for Cause

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

18. Termination for Convenience

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

19. Delays and Extensions of Time

The Contractor agrees to perform the work under 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.

20. Suspension of Work

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

21. Pre-Existing Regulations

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

22. Financial Disclosure

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

23. Political Contribution Disclosure

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

24. Retention of Records

The Contractor shall retain and maintain all records and documents in any way relating to this Contract for three years after final payment by the State of Maryland under this Contract or any applicable statute of limitations, whichever is longer, and shall make them available for

inspection and audit by authorized representatives of the State, including by way of example only, the Procurement Officer or the Procurement Officer's designee, and the Contract Manager or the Contract Manager's designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section. 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

25. Compliance with Laws

The Contractor hereby represents and warrants that:

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

26. Cost and Price Certification

By submitting cost or price information, the Contractor certifies to the best of its knowledge that the information submitted is accurate, complete, and current as of a mutually determined specified date prior to the conclusion of any price discussions or negotiations.

The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date agreed upon by the parties, was inaccurate, incomplete, or not current.

27. Subcontracting; Assignment

The Contractor may not subcontract any portion of the 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 Procurement Officer, any such approvals to be in the State's sole and absolute subjective discretion; provided however, a Contractor may assign monies receivable under a PO after due notice to the State. Any such subcontract or assignment shall include the terms of sections 9, sections 11 through 25, and section 33 of this Contract and any other terms and conditions that the State deems necessary to protect its interests. The State shall not be responsible for the fulfillment of the Contractor's obligations to the subcontractors.

28. Indemnification

28.1 The Contractor shall hold harmless and indemnify the State against liability for any costs, expenses, loss, suits, actions, or claims of any character arising from or relating to the performance of the Contractor or its subcontractors under this Contract and any POA, and TOA awarded to the Contractor.

28.2 The State of Maryland has no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim or action of any character is brought by any person not party to this Contract against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract and any POA and TOA awarded to the Contractor.

28.3 The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract and any POA and TOA awarded to the Contractor.

28.4 The Contractor shall immediately notify the Procurement Officer of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from or relating to the Contractor's obligations under the Contract, and will cooperate, assist, and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of or relating to the Contractor's performance under this Contract and any POA and TOA awarded to the Contractor.

29. Administrative

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

29.2 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
Attn: _____

If to the Contractor: _____

Attn: _____

30. 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 accepted by the State, as evidenced by a written statement of acceptance from the State to the Contractor that expressly specifies the supplies, equipment, materials and other deliverables that are subject to such acceptance. Title of all such deliverables passes to the State upon acceptance by the State, subject to the State's payment for the same in accordance with the terms of this Contract.

31. Nonvisual Accessibility Warranty

The Contractor warrants that the information technology offered under the proposal (1) provides equivalent access for effective use by both visual and non-visual means; (2) will present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use; (3) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and (4) is available, whenever possible, without modification for compatibility with software and Equipment for non-visual access. The Contractor further warrants that the cost, if any, of modifying the information technology for compatibility with software and Equipment 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.

32. Commercial Nondiscrimination

A. As a condition of entering into this Agreement, 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 or national origin, sex, age, marital status, sexual orientation, or on the basis of 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 Agreement, 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.

B. The Contractor shall include the above Commercial Nondiscrimination clause, or similar clause approved by DoIT, in all subcontracts.

C. As a condition of entering into this Agreement, upon the Maryland Human Relations Commission's request, and only after the filing of a complaint against Contractor under Title 19

of the State Finance and Procurement Article, 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 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 is requested by the State. Contractor understands that violation of this clause is a material breach of this Agreement and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

33. Federal Uniform Administrative Requirements

The Contractor shall comply with all Federal requirements applicable to the grant funding source as described in Exhibit II, attached hereto and incorporated herein.

34. Liquidated Damages

Time is an essential element of the Contract and it is important that the work be vigorously prosecuted until completion. For each day that any work shall remain uncompleted beyond the period of performance specified in a given TORFP, the TO Contractor shall be liable for liquidated damages, and not as a penalty, in the amount of \$700 per day. The parties agree that it would be extremely difficult or impractical to quantify the actual damages to the State in the event that work remains uncompleted beyond the period of performance specified in a given TORFP and that the amounts set forth above are reasonable estimates of such actual damages.

The Contractor shall not be assessed liquidated damages when the delay arises out of causes beyond the control and without the fault or negligence of the Master Contractor. Such causes include, but are not limited to, acts of God or of the public enemy, actions of State in either its sovereign or contractual capacity, fires, floods, epidemics, freight embargoes, and unusually severe weather; but in every case the failure to perform shall be beyond the control and without the fault or negligence of the Master Contractor, provided however that the Master Contractor notifies the State of such circumstances and the State determines the event was beyond the control and without fault or negligence of the Master Contractor.

35. Patents, Copyrights, Intellectual Property

35.1 If the Contractor furnishes any design, device, material, process, or other item, which is covered by a patent, trademark or service mark, 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.

35.2 The Contractor will defend or settle, at its own expense, any claim or suit against the State alleging that any such item furnished by the Contractor infringes any patent, trademark, service mark, copyright, or trade secret. If a third party claims that a product infringes that party's patent, trademark, service mark, trade secret, or copyright, the Contractor will defend the State against that claim at Contractor's expense and will pay all damages, costs and attorney fees that a court finally awards, provided the State (i) promptly notifies the Contractor in writing of the claim; and (ii) allows Contractor to control and cooperates with Contractor in, the defense and

any related settlement negotiations. The obligations of this paragraph are in addition to those stated in Section 7.3 below.

35.3 If any products furnished by the Contractor become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement, the Contractor will, at its option and expense: a) procure for the State the right to continue using the applicable item, b) replace the product with a non-infringing product substantially complying with the item's specifications, or (c) modify the item so that it becomes non-infringing and performs in a substantially similar matter to the original item.

36. Limitation of Liability

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

A. For infringement of patents, copyrights, trademarks, service marks and/or trade secrets, as provided in Section 7 of this Contract;

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

C. For all other claims, damages, losses, costs, expenses, suits or actions in any way related to this Contract, regardless of the form, Contractor's liability shall be limited to three (3) times the total dollar amount of the Contract value up to the date of settlement or final award of any such claim. Third party claims arising under Section 10, "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 10 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 10.

37. Prompt Pay Requirements

37.1 If a contractor withholds payment of an undisputed amount to its subcontractor, the Agency, at its option and in its sole discretion, may take one or more of the following actions:

37.1.1 Not process further payments to the contractor until payment to the subcontractor is verified

37.1.2 Suspend all or some of the contract work without affecting the completion date(s) for the contract work;

37.1.3 Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;

37.1.4 Place a payment for an undisputed amount in an interest-bearing escrow account; or

37.1.5 Take other or further actions as appropriate to resolve the withheld payment.

37.2 An "undisputed amount" means an amount owed by a 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.

37.3 An act, failure to act, or decision of a Procurement Officer or a representative of the Department concerning a withheld payment between a contractor and subcontractor under this policy directive, may not:

37.3.1 Affect the rights of the contracting parties under any other provision of law;

37.3.2 Be used as evidence on the merits of a dispute between the Department and the contractor in any other proceeding; or

37.3.3 Result in liability against or prejudice the rights of the Department.

37.4 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.

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

37.5.1 Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule.

37.5.2 This verification may include, as appropriate:

37.5.2.1 Inspecting any relevant records of the contractor;

37.5.2.2 Inspecting the jobsite; and

37.5.2.3 Interviewing subcontractors and workers.

37.5.2.4 Verification shall include a review of:

37.5.2.4.1 The contractor's monthly report listing unpaid invoices over 30 days old from certified MBE subcontractors and the reason for nonpayment; and

37.5.2.4.2 The monthly report of each certified MBE subcontractor, which lists payments received from the contractor in the preceding 30 days and invoices for which the subcontractor has not been paid.

37.5.3 If the Department determines that a contractor is in noncompliance with certified MBE participation goals, then the Department will notify the contractor in writing of its findings, and will require the contractor to take appropriate corrective action. Corrective action may include, but is not limited to, requiring the contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.

37.5.4 If the Department determines that a contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that the Department requires, then the Department may:

37.5.4.1 Terminate the contract;

37.5.4.2 Refer the matter to the Office of the Attorney General for appropriate action; or

37.5.4.3 Initiate any other specific remedy identified by the Contract, including the contractual remedies required by this directive regarding the payment of undisputed amounts.

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

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

CONTRACTOR

MARYLAND DEPARTMENT OF
INFORMATION TECHNOLOGY

By:

By:

Date

Date

Witness

Witness

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

Assistant Attorney General

APPROVED BY BPW: _____
(Date)

(BPW Item #)

ATTACHMENT B - Bid/Proposal Affidavit

A. AUTHORITY

I HEREBY AFFIRM THAT:

I, _____ (print name), possess the legal authority to make this Affidavit.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals 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 submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder 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 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 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 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 or 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 or 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 or 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 submitted by the bidder on this project, and terminate any contract awarded based on the bid.

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 or 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 or 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; or

(9) 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)—(8) 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. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

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

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 or offer that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

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. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this bid or 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 – COMAR 21.07.01.25 CONTRACT AFFIDAVIT

A. AUTHORITY

I HEREBY AFFIRM THAT:

I, _____ (print name), possess the legal authority to make this Affidavit.

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 contracts, leases, or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

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 or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:

(a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;

(b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

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

(d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not

actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

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

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

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

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

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

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

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

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

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

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

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

(4) I acknowledge and agree that:

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

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

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

F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

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

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

Date: _____

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

_____ (signature of Authorized Representative and Affiant)

ATTACHMENT D – MINORITY BUSINESS ENTERPRISE PARTICIPATION

State of Maryland
DEPARTMENT OF INFORMATION TECHNOLOGY
MINORITY BUSINESS ENTERPRISE PARTICIPATION

Purpose

Contractor shall structure its procedures for the performance of the work required in this contract to attempt to achieve the minority business enterprise (MBE) goal stated in the Request for Proposals. MBE performance must be in accordance with this Exhibit, as authorized by Code of Maryland Regulations (COMAR) 21.11.03. Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this Exhibit.

MBE GOALS AND SUBGOALS

An MBE subcontract participation goal of 25 percent of the total contract dollar amount under Functional Area II– Installation and Functional Area III- Testing and Maintenance has been established for this procurement. By submitting a response to this solicitation, the bidder or offeror agrees that this dollar amount of the contract will be performed by certified minority business enterprises

AND

An overall MBE subcontract participation goal of 25 percent of the total contract dollar amount has been established for this procurement. This dollar amount includes:

- A sub-goal of 8 percent of the total contract dollar amount to be allocated to certified minority business enterprises classified as women-owned businesses.
- A sub-goal of 7 percent of the total contract dollar amount to be allocated to certified minority business enterprises classified as African American-owned businesses.
- A sub-goal of 2 percent of the total contract dollar amount to be allocated to certified minority business enterprises classified as Hispanic American-owned businesses.

By submitting a response to this solicitation, the bidder or offeror agrees that these dollar amounts of the contract will be performed by certified minority business enterprises as specified.

- ◆ A prime contractor — including an MBE prime contractor — must accomplish an amount of work not less than the MBE subcontract goal with certified MBE subcontractors.
- ◆ A prime contractor comprising a joint venture that includes MBE partner(s) must accomplish the MBE subcontract goal with certified MBE subcontractors.

SOLICITATION AND CONTRACT FORMATION

- ◆ A bidder or offeror must include with its bid or offer:
 - (1) A completed Certified MBE Utilization and Fair Solicitation Affidavit (Attachment D-1) whereby the bidder or offeror acknowledges the certified MBE participation goal or requests a waiver, commits to make a good faith effort to achieve the goal, and affirms that MBE subcontractors were treated fairly in the solicitation process.
 - (2) A completed MBE Participation Schedule (Attachment D-2) whereby the bidder or offeror responds to the expected degree of Minority Business Enterprise participation as stated in the solicitation, by identifying the specific commitment of certified Minority Business Enterprises at the time of submission. The bidder or offeror shall specify the percentage of contract value associated with each MBE subcontractor identified on the MBE Participation Schedule.

If a bidder or offeror fails to submit Attachment D-1 and Attachment D-2 at the time of submittal of the bid or offer, the Procurement Officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

- ◆ Within 10 working days from notification that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee must provide the following documentation to the Procurement Officer.
 - (1) Outreach Efforts Compliance Statement (Attachment D-3)
 - (2) Subcontractor Project Participation Statement (Attachment D-4)
 - (3) If the apparent awardee has requested a waiver (in whole or in part) of the overall MBE goal or of any sub-goal as part of the previously submitted Attachment D-1, it must submit documentation supporting the waiver request that complies with COMAR 21.11.03.11.
 - (4) Any other documentation required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

If the apparent awardee fails to return each completed document within the required time, the Procurement Officer may determine that the apparent awardee is not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.

CONTRACT ADMINISTRATION REQUIREMENTS

Contractor shall:

1. Submit monthly to the Department a separate report (**Attachment D-5**) for each subcontractor that lists: a) all payments made to the MBE subcontractor during the previous 30 days, and, b) any unpaid invoices over 30 days old received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made.
2. Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit monthly to the Department a report (**Attachment D-6**) that identifies the prime contract and lists: a) all payments received from the prime Contractor during the previous 30 days, and, b) any outstanding invoices, and the amount of those invoices.
3. Submit to the Department the “Prime Contractor Quarterly Activity Report” within 5 business days of the end of the quarter. The quarterly report must be submitted via e-mail in Microsoft Excel spreadsheet format to DoIT.MBE@doit.state.md.us See RFP Attachment D.
4. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
5. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State’s representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the contract.
6. At the option of the procurement agency, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

Attachments

- | | |
|-----|---|
| D-1 | <u>Certified MBE Utilization and Fair Solicitation Affidavit</u> (must be submitted with bid or offer) |
| D-2 | <u>MBE Participation Schedule</u> (must be submitted with bid or offer) |
| D-3 | <u>Outreach Efforts Compliance Statement</u> (must be submitted within 10 working days of notification of apparent award or actual award, whichever is earlier) |
| D-4 | <u>Subcontractor Project Participation Statement</u> (must be submitted within 10 working days of notification of apparent award or actual award, whichever is earlier) |
| D-5 | <u>Prime Contractor Paid/Unpaid MBE Invoice Report</u> (must be submitted monthly by the Prime Contractor) |
| D-6 | <u>Subcontractor Paid/Unpaid MBE Invoice Report</u> (must be submitted monthly by the MBE subcontractor) |

Attachment D-1

Certified MBE Utilization and Fair Solicitation **Affidavit**

This document shall be included with the submittal of the bid or offer. If the bidder or offeror fails to submit this form with the bid or offer, the procurement officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

In conjunction with the bid or offer submitted in response to Solicitation No. 060B1400067, I affirm the following:

1. I acknowledge the certified Minority Business Enterprise (MBE) participation goal of 25 percent under Functional Area II- Installation and Functional Area III- Testing and Maintenance. I have made a good faith effort to achieve this goal.

OR

After having made a good faith effort to achieve the MBE participation goal, I conclude I am unable to achieve it. Instead, I intend to achieve an MBE goal of _____% and request a waiver of the remainder of the goal. If I submit the apparent low bid or am selected as the apparent awardee (competitive sealed proposals), I will submit written waiver documentation that complies with COMAR 21.11.03.11 within 10 business days of receiving notification that our firm is the apparent low bidder or the apparent awardee.

2. I have identified the specific commitment of certified Minority Business Enterprises by completing and submitting an **MBE Participation Schedule (Attachment D-2)** with the bid or proposal.
3. I acknowledge that the MBE subcontractors/suppliers listed in the MBE Participation Schedule will be used to accomplish the percentage of MBE participation that I intend to achieve.
4. I understand that if I am notified that I am the apparent awardee, I must submit the following documentation within 10 working days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier.
 - (a) Outreach Efforts Compliance Statement (Attachment D-3)
 - (b) Subcontractor Project Participation Statement (Attachment D-4)
 - (c) MBE Waiver Documentation per COMAR 21.11.03.11 (if applicable)
 - (d) Any other documentation required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

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

awarded, the award is voidable.

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

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

Bidder/Offeror Name

Signature of Affiant

Address

Printed Name, Title

Date

SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL

Attachment D-2
MBE Participation Schedule
(for submission with bid or proposal)

This document shall be included with the submittal of the bid or offer. If the bidder or offeror fails to submit this form with the bid or offer, the procurement officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

Prime Contractor (Firm Name, Address, Phone)	Project Description
Project Number	
List Information For Each Certified MBE Subcontractor On This Project	
Minority Firm Name	MBE Certification Number
Work To Be Performed/SIC	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/SIC	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/SIC	
Percentage of Total Contract	

USE ATTACHMENT D-2 CONTINUATION PAGE AS NEEDED

SUMMARY

TOTAL MBE PARTICIPATION:	_____ %
TOTAL WOMAN-OWNED MBE PARTICIPATION:	_____ %
TOTAL AFRICAN AMERICAN-OWNED MBE PARTICIPATION:	_____ %
TOTAL HISPANIC AMERICAN-OWNED MBE PARTICIPATION:	_____ %

Document Prepared By: (please print or type)
 Name: _____ Title: _____

Attachment D-2
 MBE Participation Schedule (continued)

List Information For Each Certified MBE Subcontractor On This Project	
Minority Firm Name	MBE Certification Number
Work To Be Performed/SIC	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/SIC	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/SIC	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/SIC	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/SIC	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/SIC	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/SIC	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/SIC	
Percentage of Total Contract	

Attachment D-3

Outreach Efforts Compliance Statement

In conjunction with the bid or offer submitted in response to Solicitation No. 060B1400067, I state the following:

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

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

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

4. Bidder/Offeror assisted MBEs to fulfill or to seek waiver of bonding requirements. (DESCRIBE EFFORTS)

- This project does not involve bonding requirements.

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

_____	By: _____
Bidder/Offeror Name	Name
_____	_____
Address	Title

	Date

Attachment D-4
Subcontractor Project Participation
Statement

Submit one form for each Certified MBE listed in the MBE Participation Schedule

Provided that _____ is awarded the State contract in conjunction with Solicitation

Prime Contractor Name

No. 060B1400067, it and _____, MDOT Certification No. _____,

Subcontractor Name

intend to enter into a contract by which subcontractor shall:

(describe work) _____

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

By:

By:

Prime Contractor Signature

Subcontractor Signature

Name

Name

Title

Title

Date

Date

PRIME CONTRACTOR MBE REPORTING INSTRUCTIONS

RFP#: _____

BPO#: _____

These instructions are meant to accompany the customized reporting forms sent to you by the Procurement Officer for the contract referenced above. If, after reading these instructions, you have additional questions or need further clarification, please contact the Department's MBE Liaison at DoIT.MBE@doit.state.md.us or at 410-260-7662.

1. As the prime contractor, you have entered into a contractual agreement with the State of Maryland. As such, your company/firm is responsible for successful completion of all deliverables under the contract, including your commitment to meet the MBE participation requirements established for this contract. Part of that requirement, as outlined in the contract, includes submission of monthly MBE payment reports to the State. Reporting forms D-5 (Prime Contractor Paid/Unpaid MBE Invoice Report) and D-6 (Subcontractor Paid/Unpaid MBE Invoice Report) are attached for your use and convenience.
2. The prime contractor must complete a separate form D-5 for each MBE subcontractor (each subcontractor reference herein means MBE subcontractor) for each month of the contract and submit one copy to the location(s) indicated at the bottom of the form. The report is due not later than the 15th of the month following the month that is being reported. For example, the report for January's activity is due not later than the 15th of February. It is preferred that the signed report be submitted in PDF or Word format with an electronic signature, however, reports sent via postal delivery are acceptable. **Note: Reports are required to be submitted each month, regardless of whether there was any MBE payment activity for the reporting month. For Statewide master contracts where contractors must compete for individual Task Order awards, only those prime contractors who have been awarded a Task Order Agreement (TOA) and have received a Task Order from the State are required to submit monthly reports along with their subcontractors.**
3. The prime contractor is responsible for ensuring that each subcontractor receives a copy (e-copy and/or hard copy) of form D-6. The prime contractor should make sure that the subcontractor receives all the information necessary to complete the D-6 form properly, i.e., all of the information located in the upper right corner of the D-5 form. It may be wise to enter the information on form D-6 for the subcontractor's convenience. This will help to minimize any confusion for those who receive and review the reports and will ensure that your company/firm receives proper credit for all MBE payments.

4. **It is the responsibility of the prime contractor to make sure that all subcontractors submit reports not later than the 15th of each month regardless of whether there was any MBE payment activity for the reporting month.** Actual payment data is verified and entered into the State's financial management tracking system from the subcontractor's monthly D-6 report only. Therefore, if the subcontractor(s) do not submit their D-6 payment reports, the prime contractor cannot and will not be given credit for subcontractor payments, regardless of the prime contractor's proper submission of the D-5 reports. The Department's MBE Liaison will contact the prime contractor if reports are not received each month from either the prime contractor or any of the identified subcontractors. Any changes to the prime contractor's MBE plan (MBE Participation schedule) after contract commencement must be requested in writing to the Procurement Officer and may not be implemented until approval has been received. Failure to comply with the MBE contract provisions and reporting requirements may result in sanctions, as provided by COMAR 21.11.03.13.

**ATTACHMENT D-5 (Sample)
 Minority Business Enterprise Participation
 Prime Contractor Unpaid MBE Invoice Report**

Report #: _____	Task Order #: _____
Reporting Period (Month/Year): _____	Contracting Unit: _____
Report is due by the 15th of the following month.	Contract Amount: _____
	MBE Subcontract Amt: _____
	Project Begin Date: _____
	Project End Date: _____
	Services Provided: _____

Prime Contractor:		Contact Person:	
Address:			
City:		State:	ZIP:
Phone:	FAX:		
Subcontractor Name:		Contact Person:	
Phone:	FAX:		
Subcontractor Services Provided:			
List all unpaid invoices over 30 days old received from the MBE subcontractor named above:			
1.			
2.			
3.			
Total Dollars Unpaid: \$ _____			

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

Return one copy (hard or electronic) of this form to the following address (electronic copy is preferred):

Contact Person: MBE Officer Dept.: Department of Information Technology Procurement Office 45 Calvert Street Annapolis, MD 21401 Email: DoIT.MBE@doit.state.md.us
--

Signature: _____ Date: _____

ATTACHMENT D-6 (Sample)
Minority Business Enterprise Participation
Subcontractor Paid/Unpaid MBE Invoice Report

Report#: _____ Reporting Period (Month/Year): _____ Report is due by the 15th of the following month.	Task Order #: _____ Contracting Unit: _____ Contract/PO Amount: _____ MBE Subcontract Amount: _____ Project Begin Date: _____ Project End Date: _____ Services Provided: _____
---	--

MBE Subcontractor Name:		
MDOT Certification #:		
Contact Person:		
Address:		
City:	State:	ZIP:
Phone:	FAX:	
Subcontractor Services Provided:		
List all payments received from Prime Contractor during reporting period indicated above. 1. 2. 3. Total Dollars Paid: \$ _____	List dates and amounts of any unpaid invoices over 30 days old. 1. 2. 3. Total Dollars Unpaid: \$ _____	
Prime Contractor:		Contact Person:

Return one copy (hard or electronic) of this form to the following address (electronic copy is preferred):

Contact Person: MBE Officer Dept.: Department of Information Technology Procurement Office 45 Calvert Street Annapolis, MD 21401 Email: DoIT.MBE@doit.state.md.us

Signature: _____ Date: _____

ATTACHMENT E – Price Proposal Instructions

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 shall 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.

Offerors are required to record the fully-loaded prices they are proposing for labor category listed. Please propose a price for all labor categories. Failure to propose to a labor category will make the Offeror ineligible for that labor category for the duration of the Master Contract.

- A) All Prices shall reflect full-loaded labor rates.
- B) All Prices must be clearly entered with dollars and cents, e.g., \$24.15.
- C) All Prices shall reflect the maximum labor rate that can be proposed in response to a TORFP during the term of the Master Contract.
- D) Every blank in the Labor Rate Schedule E-2 shall be filled in.
- E) Except as instructed on the Labor Rate Schedule E-2, nothing shall be entered on the forms that alters or proposes conditions or contingencies on the prices.
- F) It is imperative that the prices included on the Labor Rate Schedule E-2 have been entered correctly by the Offeror. Any incorrect entries or inaccurate calculations by the Offeror will be treated as provided in COMAR 21.05.03E and 21.05.02.12.

The actual Price Sheets are located in a separate Excel spreadsheet- Attachment E2.

ATTACHMENT F- Pre-Proposal Conference Response Form

Project No. **060B1400067**

Project Title: **Cable and Wiring- Outside Plant- Materials and Services**

A Pre-proposal Conference will be held on September 7, 2011. Registration begins at 1:30 pm and the meeting will begin promptly at 2:00 pm local time at 45 Calvert Street, Annapolis, MD, Room 164.

Directions to the pre-proposal conference site: See Attachment F

Please email this form by 1:00 PM on September 1, 2011 advising whether or not you plan to attend this Conference to:

Alayna Mande
CableWiring@doit.state.md.us

Please indicate:

_____ Yes, the following representatives will be in attendance (**Limit 2 per company**):

- 1.
- 2.

_____ No, although we plan to propose to the Cable & Wiring Material & Services- Outside Plant RFP, we will not be in attendance.

_____ No, we will not be attending.

Company/Firm/Offeror Name

Contract Name & Telephone

ATTACHMENT G - Pre-Proposal Conference Directions

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 must 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 H - Conflict Of Interest Affidavit And Disclosure

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

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

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

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

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

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

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

ATTACHMENT I – Mercury Affidavit

MERCURY AFFIDAVIT

AUTHORIZED REPRESENTATIVE THEREBY AFFIRM THAT:

I am the _____ (Title) and the duly authorized representative of _____ (Business). I possess the legal authority to make this affidavit on behalf of myself and the business for which I am acting.

MERCURY CONTENT INFORMATION:

[] The product(s) offered do not contain mercury.

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

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

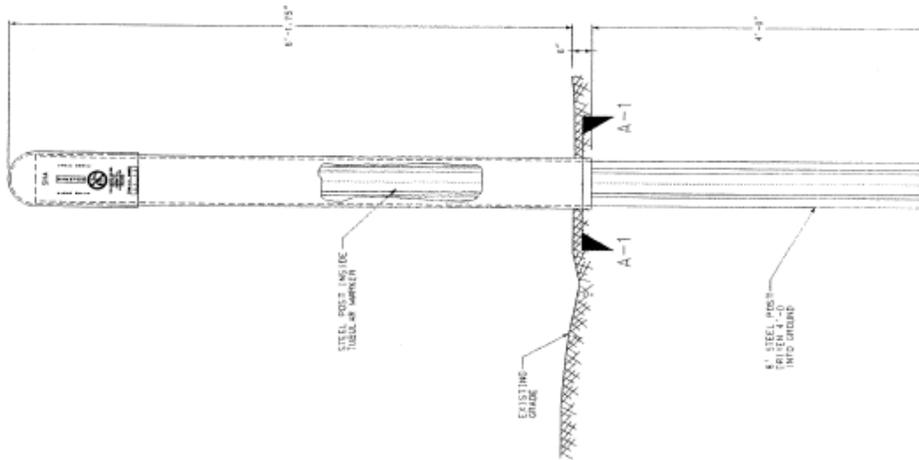
_____ By _____
Date Signature

Print Name: _____
Authorized Representative and Affiant

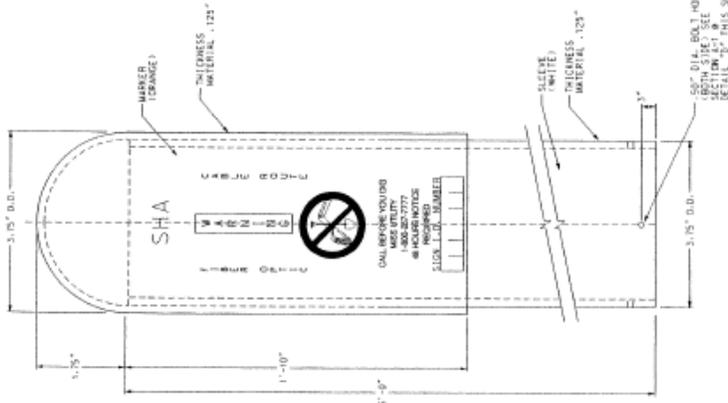
ATTACHMENT J – FIBER MARKER SPECIFICATIONS

TUBULAR MARKER DETAILS

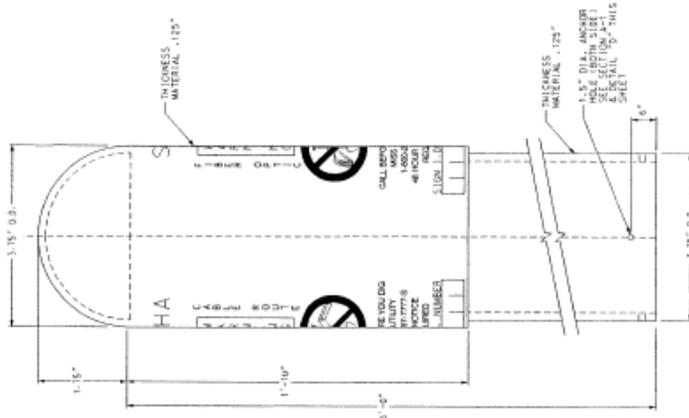
DETAIL A
INSTALLATION VIEW



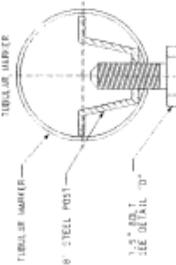
DETAIL B
FRONT VIEW



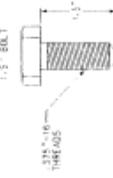
DETAIL C
SIDE VIEW



SECTION A-1
TUBULAR MARKER



DETAIL D
1.2\"/>



CALL BEFORE YOU DIG
1-800-487-7777
48 HOURS NOTICE
REQUIRED

ATTACHMENT K – Living Wage Affidavit of Agreement

Contract No. 060B1400067

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 our 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):

- All employee(s) proposed to work on the State contract will spend less than one-half of the employee’s time during every work week on the State contract;
- All employee(s) proposed to work on the State contract will be 17 years of age or younger during the duration of the State contract; or
- All employee(s) proposed to work on the State 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:

ATTACHMENT L – Performance Bond

PERFORMANCE BOND

Principal	Business Address of Principal
Surety a corporation of the State of _____	Obligee STATE OF MARYLAND
and authorized to do business in the State of Maryland	
OR an individual surety qualified in accordance with State Finance and Procurement Article, §13-207 or 17-104, Annotated Code of Maryland	By and through the following Administration
Penal Sum of Bond (express in words and figures)	Date of Contract _____, 20____
Description of Contract	Date Bond Executed _____, 20____
Contract Number: _____	

KNOW ALL MEN BY THESE PRESENTS, That we, the Principal named above and Surety named above, are held and firmly bound unto the Obligee named above in the Penal Sum of this Performance Bond stated above, for the payment of which Penal Sum we bind ourselves, our heirs, executors, administrators, personal representatives, successors, and assigns, jointly and severally, firmly by these presents. However, where Surety is composed of corporations acting as co-sureties, we the co-sureties, bind ourselves, our successors and assigns, in such Penal Sum jointly and severally as well as severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each co-surety binds itself, jointly and severally with the Principal, for the payment of such sum as appears above its name below, but if no limit of liability is indicated, the limit of such liability shall be the full amount of the Penal Sum.

WHEREAS, Principal has entered into or will enter into a contract with the State of Maryland, by and through the Administration named above acting for the State of Maryland, which contract is described and dated as shown above, and incorporated herein by reference. The contract and all items incorporated into the contract, together with any and all changes, extensions of time, alterations, modifications, or additions to the contract or to the work to be performed thereunder or to the Plans, Specifications, and Special Provisions, or any of them, or to any other items incorporated into the contract shall hereinafter be referred as "the Contract."

WHEREAS, it is one of the conditions precedent to the final award of the Contract that these presents be executed.

NOW, THEREFORE, during the original term of said Contract, during any extensions thereto that may be granted by the Administration, and during the guarantee and warranty period, if any, required under the Contract, unless otherwise stated therein, this Performance Bond shall remain in full force and effect unless and until the following terms and conditions are met:

1. Principal shall well and truly perform the Contract; and
2. Principal and Surety shall comply with the terms and conditions in this Performance Bond.

Whenever Principal shall be declared by the Administration to be in default under the Contract, the Surety may, within 15 days after notice of default from the Administration, notify the Administration of its election to either promptly proceed to remedy the default or promptly proceed to complete the contract in accordance with and subject to its terms and conditions. In the event the Surety does not elect to exercise either of the above stated options, then the Administration thereupon shall have the remaining contract work completed, Surety to remain liable hereunder for all expenses of completion up to but not exceeding the penal sum stated above.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligation on this Performance Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the Specifications.

This Performance Bond shall be governed by and construed in accordance with the laws of the State of Maryland and any reference herein to Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.

IN WITNESS WHEREOF, Principal and Surety have set their hands and seals to this Performance Bond. If any individual is a signatory under the Principal heading below, then each such individual has signed below on his or her own behalf, has set forth below the name of the firm, if any, in whose name he or she is doing business, and has set forth below his or her title as a sole proprietor. If any partnership or joint venture is a signatory under the Principal heading below, then all members of each such partnership or joint venture, and each member has set forth below his or her title as a general partner, limited partner, or member of joint venture, whichever is applicable. If any corporation is a signatory under the Principal or Surety heading below, then each such corporation has caused the following: the corporation's name to be set forth below, a duly authorized representative of the corporation to affix below the corporation's seal and to attach hereto a notarized corporate resolution of power of attorney authorizing such action, and each such duly authorized representative to sign below and set forth below his or her title as a representative of the corporation. If any individual acts as a witness to any signature below, then each such individual has signed below and has set forth below his or her title as a witness. All of the above has been done as of the Date of Bond shown above.

In Presence of: _____ Individual Principal
Witness: _____

_____ as _____ (SEAL)
to _____

In Presence of: _____ Co-Partnership Principal
Witness: _____

_____ (SEAL)

_____ as _____ (Name of Co-Partnership)
to _____ By: _____ (SEAL)
_____ as _____ (SEAL)
to _____ as _____ (SEAL)
to _____ (SEAL)

Corporate Principal
Attest: _____
(Name of Corporation)
AFFIX
_____ as By: _____ CORPORATE
to _____ President
Corporate Secretary SEAL

Attest: _____
(SEAL) (Individual or Corporate Surety)
By: _____ SEAL
Title _____
Signature _____
Bonding Agent's Name: _____
_____ (Business Address of Surety)
Agent's Address _____

Approved as to legal form and sufficiency this
_____ day of _____ 20 __

Asst. Attorney General

ATTACHMENT M- Minimum Wages for Laborers and Mechanics

Davis-Bacon Act –

29 C.F.R. § 5.5

(a) The State of Maryland is required] to insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in §5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, Provided, That such modifications are first approved by the Department of Labor): (To verify wage determinations for jobs by state and county for the state of Maryland please go to <http://www.wdol.gov/wdol/scafiles/davisbacon/md.html>.)

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the

classification of work actually performed, without regard to skill, except as provided in §5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii) (A) Any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The State of Maryland shall seek approval for an additional classification and wage rate and fringe benefits from the DOL-WHD therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the project federal contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of

receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) *Withholding.*

The Department of Commerce – NTIA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) *Payrolls and basic records.*

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Maryland Department of Information Technology (Prime Recipient) The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (*e.g.* , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social

security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) *Apprentices and trainees* —

(i) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) *Trainees.* Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of

trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) *Equal employment opportunity.* The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) *Compliance with Copeland Act requirements.*

The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) *Subcontracts.*

The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the State of Maryland may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) *Contract termination: debarment.*

A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) *Compliance with Davis-Bacon and Related Act requirements.*

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) *Disputes concerning labor standards.*

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) *Certification of eligibility.*

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

Additional provisions for prime contracts more than \$100,000

(b) *Contract Work Hours and Safety Standards Act.* Any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by §5.5(a) or 4.6 of part 4 of this title. As used in this paragraph, the terms *laborers* and *mechanics* include watchmen and guards.

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to

work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) *Withholding for unpaid wages and liquidated damages.* The State of Maryland shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in §5.1, the State of Maryland shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number,

correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the State of Maryland shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Commerce – NTIA and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

ATTACHMENT N - Payment Bond

PAYMENT BOND

Principal

Business Address of Principal

Surety

Obligee

a corporation of the State of _____

STATE OF MARYLAND

and authorized to do business in the State of Maryland

By and through the following
Administration ...Department of Information Technology

Penal Sum of Bond (express in words and figures)

Date of Contract

\$ _____

_____, 20__

Description of Contract: Cable & Wiring Materials &
Services – Outside Plant

Date Bond Executed

_____, 20__

Contract Number: 060B1400067

The required payment bond shall be in the form specified as follows:

KNOW ALL MEN BY THESE PRESENTS, That we, the Principal named above and Surety named above, being authorized to do business in Maryland, and having business address as shown above, are held and firmly bound unto the Obligee named above, for the use and benefit of claimants as hereinafter defined, in the Penal Sum of this Payment Bond stated above, for the payment of which Penal Sum we bind ourselves, our heirs, executors, administrators, personal representatives, successors, and assigns, jointly and severally, firmly by these co-sureties, bind ourselves, our successors and assigns, in such Penal Sum jointly and severally as well as severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each co-surety binds itself, jointly and severally with the Principal, for the payment of such sum as appears above its name below, but if no limit of liability is indicated, the limit of such liability shall be the full amount of the Penal Sum.

WHEREAS, Principal has entered into or will enter into a contract with the State, by and through the Administration named above acting for the State of Maryland, which contract is described and dated as shown above, and incorporated herein by reference. The contract and all items incorporated into the contract, together with any and all changes, extensions of time, alterations, modifications, or additions to the contract or to the work to be performed thereunder or to the Plans, Specifications, and Special Provisions, or any of them, or to any other items incorporated into the contract shall hereinafter be referred to as the "Contract".

WHEREAS, it is one of the conditions precedent to the final award of the Contract that these presents be executed.

NOW THEREFORE, the condition of this obligation is such that if the Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and materials furnished, supplied and reasonably required for use in the performance of the Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect, subject to the following conditions:

1. A claimant is defined to be any and all of those persons supplying labor and materials (including lessors of the equipment to the extent of the fair market value thereof) to the Principal or its subcontractors and subcontractors in the prosecution of the work provided for in the Contract, entitled to the protection provided by Section 9-113 of the Real Property Article of the Annotated Code of Maryland, as from time to time amended.

2. The above named Principal and Surety hereby jointly and severally agree with the Obligee that every claimant as herein defined, who has not been in full may, pursuant to and when in compliance with the provisions of the aforesaid Section 9-113, sue on this Bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant and have execution thereon. The Obligee shall not be liable for the payment of any costs or expenses of any such suit.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligation on this Payment Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the Specifications.

This Payment Bond shall be governed by and construed in accordance with the laws of the State of Maryland and any reference herein to Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.

IN WITNESS WHEREOF, Principal and Surety have set their hands and seals to this Payment Bond. If any individual is a signatory under the Principal heading below, then each such individual has signed below on his or her own behalf, has set forth below the name of the firm, if any, in whose name he or she is doing business, and has set forth below his or her title as a sole proprietor. If any partnership or joint venture is a signatory under the Principal heading below, then all members of each such partnership or joint venture have signed below, each member has set forth below the name of the partnership or joint venture, and each member has set forth below his or her title as a general partner, limited partner, or member of joint venture, whichever is applicable. If any corporation is a signatory under the Principal or Surety heading below, then each such corporation has caused the following: the corporation's name to be set forth below, a duly authorized representative of the corporation to affix below the corporation's seal and to attach hereto a notarized corporate resolution of power of attorney authorizing such action, and each such duly authorized representative to sign below and set forth below his or her title as a representative of the corporation. If any individual acts as a witness to any signature below, then each such individual has signed below and has set forth below his or her title as a witness. All of the above has been done as of the Date of Bond shown above.

In Presence of: Individual Principal
Witness: _____ as to _____ (SEAL)

In Presence of: Co-Partnership Principal
Witness: _____ (SEAL)

(Name of Co-Partnership)
By: _____ (SEAL)
_____ as to _____ (SEAL)
_____ as to _____ (SEAL)
_____ as to _____ (SEAL)

Corporate Principal
Attest: _____
(Name of Corporation)

AFFIX

_____ By: _____ CORPORATE
Corporate Secretary President SEAL

(Surety)
AFFIX

Attest: By: _____ CORPORATE
(SEAL) SEAL

_____ Title _____
Signature
Bonding Agent's Name: _____
Agent's Address _____
(Business Address of Surety)

Approved as to legal form and sufficiency this
_____ day of _____ 20 ____

Asst. Attorney General

ATTACHMENT O - Bid Bond

BID BOND

BOND NO. _____

BID REQUEST NO. _____

KNOW ALL MEN BY THESE PRESENTS, That we, _____ hereinafter called the Principal, as Principal, and of _____ a Corporation duly organized and existing under the laws of the State of _____ and authorized to do business in the State of Maryland, hereinafter called the Surety, as Surety, are held and firmly bound unto, the State of Maryland, hereinafter called the Obligee, in the sum of One Hundred Thousand (\$100,000.00), good and lawful money of the United States of America, to be paid upon demand of the Obligee, for payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT,

Whereas, the Principal has submitted to the Obligee a Bid for furnishing all labor, materials, equipment and incidentals thereto necessary for work generally described as

This Bid Bond shall be governed by and construed in accordance with the laws of the State of Maryland and any reference herein to Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.

NOW, THEREFORE, If the Obligee shall accept the Bid of the Principal and the Principal shall enter into a written agreement with the Obligee in accordance with the terms, conditions and price(s) set forth therein, and furnish such insurance and give such bond or bonds as may be specified in the Bidding or Contract Documents with good and sufficient surety for the faithful performance of such Agreement and for the prompt payment of labor and materials furnished in the prosecution thereof, then this obligation shall become null and void; otherwise, it shall remain in full force and effect; and the Surety shall, upon failure of the Principal to comply with any or all of the foregoing requirements immediately pay to the Obligee, upon demand, the amount hereof in good and lawful money of the United States of America, not as a penalty, but as liquidated damages.

IN TESTIMONY WHEREOF, the Principal and Surety have caused these presents to be duly signed and sealed this _____ day of _____, 20____.

Principal

By _____ (Seal)

Official Title

Surety

By _____
Attorney-in-Fact

By _____
Maryland Agent

(Accompany this bond with Attorney-in-Fact's authority from Surety Company certified to include the date of the bond)

EXHIBIT I- Applicable Federal Requirements

Contractors shall comply with the following federal requirements:

1. Compliance with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60).
2. Compliance with the Copeland Anti-Kickback Act ([18 U.S.C. 874](#)) as supplemented in Department of Labor regulations (29 CFR Part 3).
3. Compliance with the Davis-Bacon Act ([40 U.S.C. 276a to 276a7](#)) as supplemented by Department of Labor regulations (29 CFR Part 5). See Attachment M.
4. Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act ([40 U.S.C. 327330](#)) as supplemented by Department of Labor regulations (29 CFR Part 5).
5. Bidders for a lower tier covered transaction (except procurement contracts for goods and services under \$25,000 not requiring the consent of a DOC official) are subject to 2 CFR Part 1326, Subpart C “Governmentwide Debarment and Suspension (Nonprocurement).” In addition, bidders for a lower tier covered transaction for a subaward, contract, or subcontract greater than \$100,000 of Federal funds at any tier are subject to 15 CFR Part 28, “New Restrictions on Lobbying.” Bidders should familiarize themselves with these provisions, including the certification requirement. Therefore, bidders for a lower tier covered transaction must complete and execute Form CD-512, “Certification Regarding Lobbying – Lower Tier Covered Transactions,” without modification and return with their proposals. Form CD-512 is attached as Document “G.”
6. Any invention made under this contract is determined by the Bayh-Dole Act, Pub. L. 96-517, as amended, and codified in 35 U.S.C. § 200 et seq., except as otherwise required by law. Specific requirements governing the development, reporting, and disposition of rights are described in more detail in 37 CFR Part 401.
7. The Contractor may copyright any work produced under this contract. Such work is subject to the Department of Commerce’s royalty-free nonexclusive and irrevocable right to reproduce, publish or otherwise use the work or authorize others to do so for Government purposes. For works jointly owned, 17 U.S.C. § 105 applies.
8. The rights to any work produced or purchased under this contract are determined by 15 CFR § 24.34 and 15 CFR § 14.36. Such works may include data, databases, or software.

9. The Inspector General of the Department of Commerce, or any of his or her duly authorized representatives, shall have access to any pertinent books, documents, papers and records associated with this contract to make audits, inspections, excerpts, transcripts or other examinations as authorized by law.
10. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act ([42 U.S.C. 1857\(h\)](#)), section 508 of the Clean Water Act ([33 U.S.C. 1368](#)), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).
11. Compliance with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94163, 89 Stat. 871).
12. Compliance with the Whistleblower Protection requirements of the American Recovery and Reinvestment Act (Recovery Act), Section 553 of Division A, Title XV, Public Law 111-5, and posting of notice of the rights and remedies provided under the Act. The poster can be downloaded from the following web site: <http://www.oig.doc.gov/recovery/whistleblower.html>.
13. The Contractor shall comply with Section 1605 (Buy American Provision) of the American Recovery and Reinvestment Act of 2009 (ARRA). The Secretary of Commerce has, however, granted a limited waiver of the Recovery Act's Buy American provisions with respect to certain broadband equipment that will be used in projects funded under the BTOP. A description of this equipment is included in the notice of waiver published in the Federal Register at 74 FR31410 (July 1, 2009).