Department of Information Technology (DoIT)

INVITATION FOR BIDS (IFB)

Data Center Power Supply Maintenance and Support

SOLICITATION NO. F50B6400025

Issue Date: March 8, 2016

NOTICE

Minority Business Enterprises Are Encouraged to Respond to this Solicitation

STATE OF MARYLAND

***Department of Information Technology* (*DoIT*)**

IFB KEY INFORMATION SUMMARY SHEET

IFB Title:	Data Center Power Supply Maintenance and Support
IFB Number:	**F50B6400025**
IFB Issue Date:	03/8/2016 at 2:00 P.M., Local Time
Questions Due Date and Time:	03/17/2016 at 2:00 P.M., Local Time
IFB Due Date and Time:	04/5/2016 at 2:00 P.M., Local Time
Bid Opening Date and Time	04/6/2016 at 2:00 P.M., Local Time
IFB Issuing Department:	Department of Information Technology (DoIT) 45 Calvert St Annapolis, MD 21401
Procurement Officer:	**Larif Hamm** Phone: 410-260-4040 Fax: 410-260-4080 E-mail: Larif.Hamm@maryland.gov
Send Questions (e-mail only) to:	Larif.Hamm@maryland.gov
Bids are to be sent to (e-mail delivery strongly preferred):	Maryland Department of Information Technology 45 Calvert Street, 4th Floor Annapolis, MD 21401 Attention: Larif Hamm
Contract Manager:	**Denis McElligott** Phone: 410-260-6125 E-mail: Denis.McElligott@maryland.gov
Contract Duration:	Five (5) years
MBE Subcontracting Goal:	0 %
VSBE Subcontracting Goal:	0 %
Small Business Reserve	No
Pre-Bid Conference	No pre-bid conference will be scheduled.

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STATE OF MARYLAND

NOTICE TO OFFERORS/BIDDERS/CONTRACTORS

Maryland Wants to Do Business with You

Bid/proposal Number: F50B6400025 Entitled: Data Center Power Supply Maintenance and Support

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

☐ We do not offer the services/commodities requested.

☐ Busy with other commitments.

☐ Specifications are unclear or too restrictive.

☐ Timetable is unworkable.

☐ Bonding/Insurance requirements are prohibitive.

☐ Our experience with State of Maryland has not been satisfactory.

☐ Other (Please specify)

Additional Comments:

Please add suggestions for improvement here:

Name of commenter and Business (optional): _____

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

Your comments will help us improve the procurement process.

Thank You.

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

1 GENERAL INFORMATION

1.1 Summary Statement

1.1.1 The Department of Information Technology (DoIT or the "Department") is issuing this Invitation for Bids (IFB) to obtain Maintenance and Support for the State's data center power systems.

1.1.2 It is the State's intention to obtain services/products, as specified in this IFB, through a Contract between the successful Bidder and the State. The anticipated duration of the period of performance under this Contract is five (5) years. See Section 1.4 for more information.

1.1.3 The Department intends to make a single award as a result of this IFB.

1.1.4 Bidders, either directly or through their subcontractor(s), must be able to provide all services/products and meet all of the requirements requested in this solicitation and the successful Bidder (the Contractor) shall remain responsible for Contract performance regardless of subcontractor participation in the work.

1.2 Abbreviations and Definitions

For the purposes of this IFB, the following abbreviations and terms have the meanings indicated below:

Bid	A statement of price offered by a Bidder in response to an IFB
Bidder	An entity that submits a bid in response to this IFB
Business Day	Monday through Friday (excluding State holidays)
COMAR	Code of Maryland Regulations. A version is available on-line at www.dsd.state.md.us
Contract	The Contract awarded to the successful Bidder pursuant to this IFB, the form of which is attached to this IFB as Attachment A.
Contract Manager	The State representative who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope.
Contractor	The successful Bidder awarded the Contract

Contractor Personnel	Employees and agents and subcontractor employees and agents performing work at the direction of the Contractor under the terms of the Contract awarded from this IFB
Contractor's Point of Contact (Contractor POC)	Person designated at the time of Contract award by the Contractor as the single point of contact with the authority and knowledge to resolve contract issues.
Data Center Power System	A system that provides distribution of both alternating current and direct current electrical power within a data center environment.
Department of Information Technology (DoIT or the Department)	The unit of the Executive Branch of Maryland State government issuing the IFB
DGS	Maryland Department of General Services
eMM	eMaryland Marketplace
Firm Fixed-Price	Pricing option which places responsibility on the Contractor for the delivery of any products and the complete performance of any services in accordance with the IFB at a price that is not subject to adjustment
Invitation for Bids (IFB)	This Invitation for Bids for the Department of Information Technology including any amendments / addenda thereto
Local Time	Time in the Eastern Time zone as observed by the State of Maryland. Unless otherwise specified, all stated times shall be Local Time, even if not expressly designated as such
Minority Business Enterprise (MBE)	A Minority Business Enterprise certified by the Maryland Department of Transportation under COMAR 21.11.03
Normal State Business Hours	Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: www.dbm.maryland.gov – keyword: State Holidays
Notice to Proceed (NTP)	A written notice from the Procurement Officer that work under the Contract shall begin on a specified date. After Contract commencement, additional NTPs may be issued by either the Procurement Officer or the Contract Manager regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date.
NTP Date	The date specified in an NTP for work on the Contract or project to begin.

Point of Contact (POC)	The individual named as the person to coordinate on a particular topic
Procurement Officer	The State representative who is responsible for the Contract, determining scope issues and is the only State representative that can authorize changes to the Contract.
State	The State of Maryland
Subcontractor	An agent, service provider, supplier, or vendor selected by the Contractor to provide subcontracted services or products under the direction of the selected Contractor or other Subcontractors, and including any direct or indirect Subcontractors of a Subcontractor.
Time and Materials	An arrangement under which a contractor is paid on the basis of actual cost of direct labor, cost of materials and equipment usage, and agreed upon fixed add-on to cover the contractor's overheads and profit.
Total Bid Price	The Bidder's total price for products/services in response to this solicitation, included in the Bid in Attachment F – Bid Form
Veteran-owned Small Business Enterprise (VSBE)	A business that is verified by the Center for Veterans Enterprise of the United States Department of Veterans Affairs as a veteran-owned small business. See (COMAR) 21.11.13.
Working Day(s)	Same as "Business Day"

1.3 Contract Type

The Contract that results from this IFB shall be Indefinite Quantity Contract with Firm Fixed- Prices in accordance with COMAR 21.06.03.02 and 21.06.03.06 and Time and Materials in accordance with COMAR 21.06.03.05.

1.4 Contract Duration

1.4.1 The Contract shall start from the date of full contract execution by the parties (the "Effective Date").

1.4.2 The Contract duration shall be five (5) years from the Effective Date.

1.4.3 The Contractor's obligations to pay invoices to subcontractors that provide products/services during the Contract term, as well as the audit, confidentiality, document retention, and indemnification obligations of the Contract (see Attachment A) shall survive expiration or termination of the Contract and continue in effect until all such obligations are satisfied.

1.5 Procurement Officer

The sole point of contact in the State for purposes of this IFB prior to the award of a contract is the Procurement Officer as listed Key Information Summary Sheet. DoIT may change the Procurement Officer at any time by written notice.

1.6 Contract Manager

The Contract Manager for this Contract is listed in the Key Information Summary Sheet. DoIT may change the Contract Manager at any time by written notice.

1.7 Pre-Bid Conference

There will be no Pre-Bid Conference for this solicitation.

1.8 eMaryland Marketplace (eMM)

1.8.1 eMaryland Marketplace (eMM) is an electronic commerce system administered by the Maryland Department of General Services (DGS). In addition to using the DoIT's website www.DoIT.maryland.gov and possibly other means for transmitting the IFB and associated materials, the summary of the Pre-Bid Conference (if one is held), Bidders' questions and the Procurement Officer's responses, addenda, and other solicitation related information will be provided via eMM.

1.8.2 In order to receive a contract award, a company must be registered on eMM. Guidelines can be found on the eMaryland Marketplace website at http://emaryland.buyspeed.com.

1.9 Questions

1.9.1 All questions shall be submitted via e-mail to the Procurement Officer no later than the date and time indicated in the Key Information Summary Sheet. Please identify in the subject line the Solicitation Number and Title. Answers to all questions that are not clearly specific only to the requestor will be distributed to all companies the same as for IFB amendments and posted on eMM.

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

1.10 Procurement Method

This contract will be awarded in accordance with the Competitive Sealed Bidding procurement method as described in COMAR 21.05.02.

1.11 Bid Due (Closing) Date and Time

1.11.1 Bids, in the number and form set forth in Section 4.4 "Required Bid Submissions," must be received by the Procurement Officer listed on the Key Information Summary Sheet, no later than the date and time listed on the Key Information Summary Sheet in order to be considered. To minimize Bid duplication costs, e-mail delivery of Bids is strongly preferred.

1.11.2 Requests for extension of this date or time shall not be granted. Bidders mailing bids should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.02.10, bids received by the Procurement Officer after the due date and time shall not be considered.

1.11.3 Bids may be modified or withdrawn by written notice received by the Procurement Officer before the time and date set for the opening.

1.11.4 **Bids delivered by facsimile shall not be considered.**

1.11.5 Companies not responding to this solicitation are requested to submit the "Notice to Offerors/Bidders/Contractors" form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements).

1.12 Multiple or Alternate Bids

Multiple and/or alternate Bids will not be accepted.

1.13 Receipt, Opening and Recording of Bids

1.13.1 Upon receipt, each Bid and any timely modification(s) to a Bid shall be stored in a secure place until the time and date set for Bid opening. Before Bid opening, the State may not disclose the identity of any Bidder.

1.13.2 Bids and timely modifications to Bids shall be opened publicly, at the time, date and place set forth in the Key Information Summary Sheet. The name of each Bidder, the Total Bid Price, and such other information as is deemed appropriate shall be read aloud or otherwise made available.

1.14 Confidentiality of Bids

1.14.1 The Bids shall be tabulated or a Bid abstract made. The opened Bids shall be available for public inspection at a reasonable time after Bid opening, but in any case before contract award, except to the extent the Bidder designates trade secrets or other proprietary data to be confidential as set forth in this solicitation. Material so designated as confidential shall accompany the Bid and shall be readily separable from the Bid in order to facilitate public inspection of the non-confidential portion of the Bid, including the Total Bid Price.

1.14.2 For requests for information made under the Public Information Act (PIA), the Procurement Officer shall examine the Bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. Nondisclosure is permissible only if approved by the Office of the Attorney General.

1.15 Award Basis

A Contract shall be awarded to the responsible Bidder submitting a responsive Bid with the most favorable Total Bid Price (as referenced in COMAR 21.05.02.13) for providing the products/services as specified in this IFB. **The most favorable Total Bid Price will be the lowest price on Attachment F- Bid Form.**

1.16 Tie Bids

Tie Bids will be decided pursuant to COMAR 21.05.02.14.

1.17 Duration of Bid

Bids submitted in response to this IFB are irrevocable for 180 days following the closing date for the submission of Bids. This period may be extended at the Procurement Officer's request only with the Bidder's written agreement.

1.18 Revisions to the IFB

1.18.1 If it becomes necessary to revise this IFB before the due date for Bids, the Department shall endeavor to provide addenda to all prospective Bidders that were sent this IFB or which are otherwise known by the Procurement Officer to have obtained this IFB. In addition, addenda to the IFB will be posted on the Department's procurement web page and through eMM. It remains the responsibility of all prospective Bidders to check all applicable websites for any addenda issued prior to the submission of Bids.

1.18.2 Acknowledgment of the receipt of all addenda to this IFB issued before the Bid due date shall be included in the Transmittal Letter accompanying the Bidder's Bid. Failure to acknowledge receipt of an addendum does not relieve the Bidder from complying with the terms, additions, deletions, or corrections set forth in the addendum, and may cause the Bid to be rejected as being non-responsive to the requirements of the IFB.

1.19 Cancellations

The State reserves the right to cancel this IFB, accept or reject any and all bids, in whole or in part, received in response to this IFB, and to waive or permit cure of minor irregularities.

1.20 Incurred Expenses

The State will not be responsible for any costs incurred by a Bidder in preparing and submitting a Bid, or in performing any other activities relative to this solicitation.

1.21 Protests/Disputes

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

1.22 Bidder Responsibilities

1.22.1 The successful Bidder shall be responsible for rendering products/services for which it has been selected as required by this IFB. All subcontractors shall be identified and a complete description of their role relative to the Bid shall be included in the Bidder's Bid. If applicable, subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate Attachment(s) of this IFB (see Section 1.33 "Minority Business Enterprise Goals" and Section 1.40 "Veteran-Owned Small Business Enterprise Goals").

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

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

1.23 Substitution of Personnel

1.23.1 If the solicitation requires that a particular individual or personnel be designated by the Bidder to work on the Contract, any substitution of personnel after the Contract has commenced must be approved in writing by the Contract Manager prior to the substitution. If the Contractor substitutes personnel without the prior written approval of the Contract Manager, the Contract may be terminated for default which shall be in addition to, and not in lieu of, the State's remedies under the Contract or which otherwise may be available at law or in equity.

1.23.2 Prior to contract execution or within thirty (30) days after contract execution, the Offeror may substitute proposed personnel only under the following circumstances: vacancy occurs due to the sudden termination, resignation, or approved leave of absence due to an Extraordinary Personnel Event, or death of such personnel. To qualify for such substitution, the Offeror must demonstrate to the State's satisfaction the event necessitating substitution and that the originally proposed staff is actual full-time personnel employed directly with the Offeror (subcontractors, temporary staff or 1099 contractors do not qualify). Proposed substitutions shall be of equal caliber or higher, in the State's sole discretion. Proposed substitutes deemed by the State to be less qualified than the originally proposed individual may be grounds for pre-award disqualification or post-award termination.

1. **Extraordinary Personnel Event** – means leave under the Family Medical Leave Act; or an incapacitating injury or incapacitating illness; or other circumstances that in the sole discretion of the State warrant an extended leave of absence, such as extended jury duty or extended military service that precludes the individual from performing his/her job duties under the Contract.
2. **Incapacitating** – means any health circumstance that substantially impairs the ability of an individual to perform the job duties described for that individual's position in the RFP or the Contractor's Technical Proposal.

1.24 Mandatory Contractual Terms

By submitting a Bid in response to this IFB, a Bidder, if selected for award, shall be deemed to have accepted the terms and conditions of this IFB and the Contract, attached herein as Attachment A. Any exceptions to this IFB or the Contract must be raised prior to Bid submission.

Exceptions to this IFB or the Contract will result in Bid rejection. Material changes to the solicitation, including the Bid Form or Contract, made by the Bidder will result in Bid rejection.

1.25 Bid/Proposal Affidavit

A Bid submitted by a Bidder must be accompanied by a completed Bid/Proposal Affidavit. A copy of this Affidavit is included as Attachment B of this IFB.

1.26 Contract Affidavit

All Bidders are advised that if a Contract is awarded as a result of this solicitation, the successful Bidder will be required to complete a Contract Affidavit. A copy of this Affidavit is included for informational purposes as Attachment C of this IFB. This Affidavit must be provided within five (5) Business Days of notification of proposed award.

1.27 Compliance with Laws/Arrearages

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

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

1.28 Verification of Registration and Tax Payment

1.28.1 Before a business entity can do business in the State of Maryland it must be registered with the Department of Assessments and Taxation, State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. The SDAT website is http://sdatcert3.resiusa.org/ucc-charter/.

1.28.2 It is strongly recommended that any potential bidder complete registration prior to the due date for receipt of bids. A bidder's failure to complete registration with the Department of Assessments and Taxation may disqualify an otherwise successful bidder from final consideration and recommendation for award.

1.29 False Statements

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

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

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

1.29.2 A person may not aid or conspire with another person to commit an act under subsection (1) of this section.

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

1.30 Payments by Electronic Funds Transfer

By submitting a response to this solicitation, the Bidder agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller's Office grants an exemption. Payment by EFT is mandatory for contracts exceeding $200,000. The successful Bidder shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form.

Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption. The COT/GAD X-10 form can be downloaded at: http://comptroller.marylandtaxes.com/Government_Services/State_Accounting_Information/Static_Files/APM/gadx-10.pdf.

1.31 Prompt Payment Policy

This procurement and the Contract to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs (GOMA) and dated August 1, 2008. Promulgated pursuant to Md. Code Ann., State Finance and Procurement Article, §§ 11-201, 13-205(a), and Title 14, Subtitle 3, and COMAR 21.01.01.03 and 21.11.03.01, the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The Contractor must comply with the prompt payment requirements outlined in the Contract, Section 16 "MBE Prompt Pay Requirements" (see Attachment A), should MBE goals apply to this IFB. Additional information is available on GOMA's website at: http://goma.maryland.gov/Pages/Legislation-and-Policy.aspx

1.32 Electronic Procurements Authorized

1.32.1 Under COMAR 21.03.05, unless otherwise prohibited by law, a primary procurement unit may conduct procurement transactions by electronic means, including the solicitation, bidding, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.

1.32.2 Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Bidder to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or the Contract.

1.32.3 "Electronic means" refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes facsimile, e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., https://emaryland.buyspeed.com/bso/), and electronic data interchange.

1.32.4 In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., § 1.30 "Payments by Electronic Funds Transfer") and subject to the exclusions noted in section 1.32.5 of this subsection, the following transactions are authorized to be conducted by electronic means on the terms described (as authorized in COMAR21.03.05):

1. The Procurement Officer may conduct the procurement using eMM, e-mail, or facsimile to issue:
    a. the solicitation (e.g., the IFB)
    b. any amendments
    c. Pre-Bid Conference documents
    d. questions and responses
    e. communications regarding the solicitation or Bid to any Bidder or potential bidder
    f. notices of award selection or non-selection
    g. the Procurement Officer's decision on any Bid protest or Contract claim
2. A Bidder or potential Bidder may use e-mail or facsimile to:
    a. ask questions regarding the solicitation
    b. reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer's request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer
    c. submit a "No Bid Response" to the solicitation
3. The Procurement Officer, the Contract Manager, and the Contractor may conduct day-to-day Contract administration, except as outlined in Section 1.32.5 of this subsection utilizing e-mail, facsimile, or other electronic means if authorized by the Procurement Officer or Contract Manager.

1.32.5 The following transactions <u>related to this procurement</u> and any Contract awarded pursuant to it are *not authorized* to be conducted by electronic means:

1. filing of Bid Protests;
2. filing of Contract Claims;
3. submission of documents determined by the Department to require original signatures (e.g., Contract execution, Contract modifications); or
4. any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Bidder be provided in writing or hard copy.

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

1.33 Minority Business Enterprise (MBE) Participation Goal

There is no MBE subcontractor participation goal for this procurement.

1.34 Living Wage Requirements

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

1.34.2 If subject to the Living Wage law, Contractor agrees that it will abide by all Living Wage law requirements, including but not limited to reporting requirements in COMAR 21.11.10.05. Contractor understands that failure of Contractor to provide such documents is a material breach of the terms and conditions and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions.

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

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

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

1.34.5 The contract resulting from this solicitation has been deemed to be a Tier 1contract.

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

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

1.35 Federal Funding Acknowledgement

The Contract does not contain federal funds.

1.36 Conflict of Interest Affidavit and Disclosure

Bidders shall complete and sign the Conflict of Interest Affidavit and Disclosure (Attachment I) and submit it with their Bid. All Bidders are advised that if a Contract is awarded as a result of this solicitation, the Contractor's personnel who perform or control work under this Contract and each of the participating subcontractor personnel who perform or control work under this Contract shall be required to complete agreements substantially similar to Attachment I Conflict of Interest Affidavit and Disclosure. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08.

1.37 Non-Disclosure Agreement

All Bidders are advised that this solicitation and any resultant Contract(s) are subject to the terms of the Non-Disclosure Agreement (NDA) contained in this solicitation as Attachment J. This Agreement must be provided within five (5) Business Days of notification of proposed Contract award; however, to expedite processing, it is suggested that this document be completed and submitted with the Bid.

1.38 Non-Visual Access

1.38.1 By submitting a Bid, the Bidder warrants that the information technology offered under the Bid: (1) provides equivalent access for effective use by both visual and non-visual means; (2) will present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use; (3) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and (4) is available, whenever possible, without modification for compatibility with software and hardware for non-visual access. The Bidder further warrants that the cost, if any, of modifying the Information Technology for compatibility with software and hardware used for non-visual access will not increase the cost of the information technology by more than five percent (5%). For purposes of this solicitation, the phrase "equivalent access" means the ability to receive, use and manipulate information and operate controls necessary to access and use information technology by non-visual means. Examples of equivalent access include keyboard controls used for input and synthesized speech, Braille, or other audible or tactile means used for output.

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

1.39 Mercury and Products That Contain Mercury

All products or equipment provided pursuant to this solicitation shall be mercury-free products. The Bidder must submit a Mercury Affidavit in the form of Attachment L with its Bid.

1.40 Veteran-Owned Small Business Enterprise Goals

There is no Veteran-Owned Small Business Enterprise (VSBE) subcontractor participation goal for this procurement.

1.41 Location of the Performance of Services Disclosure

This solicitation does not require a Location of the Performance of Services Disclosure.

1.42 Department of Human Resources (DHR) Hiring Agreement

This solicitation does not require a DHR Hiring Agreement.

1.43 Purchasing and Recycling Electronic Products

1.43.1 State Finance and Procurement Article, Md. Code Ann. § 14-414 requires State agencies purchasing computers and other electronic products in categories covered by EPEAT to purchase models rated EPEAT Silver or Gold unless the requirement is waived by the Department of Information Technology (DoIT). This information is located on the DGS web site: http://www.dgs.maryland.gov/GreenOperations/GreenPurchasing/Guidelines/specs/ElectronicandITProductsSpecification.pdf.

1.43.2 Guidelines provided by DGS require planning and coordination of the proper disposition of Information Technology equipment. State Finance and Procurement Article, Md. Code Ann. § 14-415 requires state agencies awarding contracts for services to recycle electronic products to award the contract to a recycler that is R2 or e-Stewards certified. This information is located on the DGS web site: http://www.dgs.maryland.gov/GreenOperations/GreenPurchasing/Guidelines/specs/ElectronicProductDisposalSpecification.pdf.

1.43.3 Guidelines provided by DoIT discuss information and guidance on the proper disposition of IT equipment, media sanitization, and protecting confidential information stored on media. This information is located in the State's Information Technology (IT) Security Policy http://doit.maryland.gov/support/pages/securitypolicies.aspx. Section 6.5 Media Protection provides guidance on proper precautions to protect confidential information stored on media.

1.44 Economy of Preparation

Proposals should be prepared simply and economically and provide a straightforward and concise description of the Bid to meet the requirements of this IFB.

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2 CONTRACTOR QUALIFICATIONS

2.1 Contractor Qualifications

Bidders shall meet the following minimum qualification criteria to be eligible for consideration in the evaluation of this IFB:

2.1.1 The Contractor must have demonstrated experience in maintaining and supporting data center power systems. As evidence of meeting this minimum qualification, provide at least two (2) recent examples (within the past two years) of experience in maintenance and support of mission critical government data centers and provide a reference that can attest to each example.

2.1.2 The Contractor shall provide demonstrated experience designing data center power systems that support data centers of equal or greater capacity to those as described in Section 3.2.11. As proof of meeting this requirement, the Bidder shall provide with its Bid written two (2) summaries of each qualifying experience and a reference that can attest to the content of the summaries.

2.2 Labor Categories and Qualifications

The following section describes the labor categories to be provided under this IFB.

2.2.1 Electrician, Journeyman

Duties: Identify malfunctions in electrical and electro-mechanical instruments. Repair non-functioning electrical and electro-mechanical instruments. Calibrate scientific and industrial instruments. Use established maintenance procedures for scientific and industrial instruments. Test input/output parameters of electrical/mechanical devices. Assemble electrical and electro-mechanical devices. Identify electrical/electro-mechanical components, devices or systems in accordance with predetermined specifications. Present technical information in oral, written and graphic form, including use of microcomputers to manipulate content and access information.

Education: An Associate's degree from an accredited college or university in Electronics Technology or a related field; or Technical school certificate of completion in the electrical field; or the equivalent military training. An additional year of specialized experience may be substituted for the required education. Must have a master electrician license from the Maryland Board of Master Electricians.

General Experience: Five (5) years of experience in the electronics or related field.

Specialized Experience: Three (3) years of experience in the following areas: design, construction, testing, installation, maintenance and repair of electronic systems.

2.2.2 Electrician, Licensed Master

Duties: Identify malfunctions in electrical and electro-mechanical instruments. Repair non-functioning electrical and electro-mechanical instruments. Calibrate scientific and industrial instruments. Use established maintenance procedures for scientific and industrial instruments. Test input/output parameters of electrical/mechanical devices. Assemble electrical and electro-mechanical

devices. Identify electrical/electro-mechanical components, devices or systems in accordance with predetermined specifications. Present technical information in oral, written and graphic form, including use of microcomputers to manipulate content and access information.

Education: An Associate's degree from an accredited college or university in Electronics Technology or a related field; or Technical school certificate of completion in the electrical field; or the equivalent military training. An additional year of specialized experience may be substituted for the required education. Must have a master electrician license from the Maryland Board of Master Electricians.

General Experience: Seven (7) years of experience in the electronics or related field.

Specialized Experience: Five (5) years of experience in the following areas: design, construction, testing, installation, maintenance and repair of electronic systems

2.2.3 Electricians Helper

Duties: Performs task assigned by the Forman or Electrician with a minimum of supervision such as: terminate junction boxes; install required conduit and wiring including branch and feeder, above and below ground; install fixture connections and rough-ins; under supervision of the Foreman or an Electrician, operates a variety of electrical testing equipment in locating and determining types of electrical malfunctions; demonstrates basic knowledge of plans, drawings, specifications and work orders; and, conducts all tasks in a safe and efficient manner.

Education: A high school diploma or equivalent. An Associate's degree from an accredited college or university in Electronics Technology or a related field; or Technical school certificate of completion in the electrical field; or the equivalent military training is preferred. An additional year of specialized experience may be substituted for the required education. Must have a master electrician license from the Maryland Board of Master Electricians.

General Experience: One (1) years of experience in the electronics or related field.

Specialized Experience: Six (6) months experience in the following areas: design, construction, testing, installation, maintenance and repair of electronic systems.

2.2.4 Engineer, Facility Operations

Duties: Provides engineering support for facility and infrastructure projects. Support includes project development, design, bid proposal, schedule development, and technical support. May also manage and direct personnel in the operation, maintenance and repair of facilities, systems and institutional equipment. Includes building, heating, ventilation and air conditioning (HVAC) systems, boiler systems, generator systems and electrical systems.

Education: A Bachelor’s degree from an accredited college or university in civil, mechanical, electrical, industrial or facilities management engineering or other related field.

General Experience: This position typically requires eight (8) years of experience in facilities management or related field.

2.2.5 Engineer, Stationary

Duties: Operates and maintains one or more engineering systems which provide a facility the services to function in a variety of service areas, such as: Heating and Air Conditioning Refrigeration, Emergency Power Generation, Uninterrupted Power Supply (UPS) systems, Electrical Switchboard systems, Fuel Distribution and Treatment systems, and Water Treatment and Boiler Heating systems. Observe system's gauges, meters, charts for proper system's operations. Perform preventive and corrective maintenance on system's components.

Education: A Bachelor's degree from an accredited college or university in Electrical, Mechanical, or Industrial Engineering or other related field.

General Experience: This position typically requires eight (8) years of experience in industrial engineering or related field.

2.2.6 Facilities Specialist Level I

Duties: Performs installation, operation, maintenance, and repair of facilities, institutional equipment and systems. This may include, but is not limited to high and low pressure steam plant boilers; security and fire systems; portable and installed generator sets, automatic transfer sets, and uninterruptable power supplies, batteries and associated electrical wiring/components; air handling units, pumps, exchangers and cooling towers; and, carpentry, painting, plumbing, electrical and mechanical activities. May performs various mechanical functions associated with diagnostics, dismantling, and repair of machines and mechanical equipment.

Education: High School diploma or equivalent required.

General Experience: This position typically requires one (1) year of experience in facilities work or related field.

2.2.7 Facilities Specialist Level II

Duties: Performs installation, operation, maintenance, and repair of facilities, institutional equipment and systems. This may include, but is not limited to high and low pressure steam plant boilers; security and fire systems; portable and installed generator sets, automatic transfer sets, ancillary power distribution systems, and uninterruptable power supplies, batteries and associated electrical wiring/components; air handling units, pumps, exchangers and cooling towers; and, carpentry, painting, plumbing, electrical and mechanical activities. May perform various mechanical functions associated with diagnostics, dismantling, and repair of machines and mechanical equipment.

Education: High School diploma or equivalent required.

General Experience: This position typically requires two (2) years of related experience in facilities work or related field.

2.2.8 Facilities Specialist Level III

Duties: Performs installation, operation, maintenance, and repair of facilities, institutional equipment and systems. This may include, but is not limited to high and low pressure steam plant boilers; security and fire systems; portable and installed generator sets, automatic transfer sets, ancillary power distribution systems and uninterruptable power supplies, batteries and associated electrical wiring/components; air handling units, pumps, exchangers and cooling towers; and, carpentry,

painting, plumbing, electrical and mechanical activities. May perform various mechanical functions associated with diagnostics, dismantling, and repair of machines and mechanical equipment.

Education: High School diploma or equivalent required.

General Experience: This position typically requires five (5) years of experience in facilities work or related field.

2.2.9 Facilities Specialist - Lead

Duties: Oversees and directs daily activities involving the installation, operation, maintenance, and repair of facilities, institutional equipment and systems. This may include, but is not limited to high and low pressure steam plant boilers; security and fire systems; portable and installed generator sets, automatic transfer sets, and uninterruptable power supplies, batteries and associated electrical wiring/components; air handling units, pumps, exchangers and cooling towers; and, carpentry, painting, plumbing, electrical and mechanical activities. May perform various mechanical functions associated with diagnostics, dismantling, and repair of machines and mechanical equipment.

Education: High School diploma or equivalent, and knowledge of OSHA general safety standards related to work involving electrical and mechanical tasks in an industrial environment.

General Experience: This position typically requires eight (8) years of experience in facilities work or related field.

2.2.10 Facility Operations Supervisor

Duties: Supervises personnel engaged in the operation, maintenance and repair of facilities, systems, and equipment.

Education: Associate's degree (ASCE, ASEE, ASET, ASME or other related field) or equivalent.

General Experience: This position typically requires eight (8) years of related experience in facility operations or related field.

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3 SCOPE OF WORK

3.1 Background and Purpose

The purpose of this solicitation is for the Maintenance and Support of the State's Data Center Power Systems as detailed in Section 3 of the IFB. Bidders shall be required to furnish satisfactory evidence that they are qualified to perform scheduled maintenance, and required repairs for four (4) Data Center Power Systems listed in Section 3.2.11.3 and six (6) communication tower sites listed in Section 3.2.11.4.

networkMaryland™ is a statewide high-speed network infrastructure providing data transport to Maryland State agencies and other public entities. This program is a State owned and operated 24x7x365 critical data transmission support system with numerous installations throughout the State. Because networkMaryland™ relies on the immediate availability of these Data Center Power Systems it is paramount they be maintained at peak level of performance with servicing meeting or exceeding all manufacturer's minimum recommendations.

MDFIRST is a statewide interoperable radio system providing mission critical voice communications to first responders throughout the State of Maryland. This program is a State owned and operated 24x7x365 system with numerous installations throughout the State. These sites utilize a variety of alternating current and direct current power and battery backup systems to support radio system components.

The awarded Bidder shall be able to perform all requirements as detailed in Section 3 of the IFB. Bidders shall be required to furnish satisfactory evidence that they meet or exceed the Contractor qualifications listed in Section 2 of this IFB, and that they are qualified to perform systems design, scheduled maintenance, and required repairs for three Power Systems listed in Section 3.2.11.

3.2 Scope of Work – Requirements

3.2.1 Contractor shall provide the desired products/services within thirty (30) days of the receipt of the NTP.

3.2.2 **Power Systems**

3.2.2.1 The Contractor shall provide preventive maintenance, emergency repair, and non-emergency repair for the four (4) Data Center Power Systems and six (6) Communication Tower Sites supporting the statewide high-speed network identified as networkMaryland™ (listed in Section 3.2.11.).

3.2.3 **Repair**

3.2.3.1 The Contractor shall have replacement equipment inventory sufficient to fully support the Data Center Power Systems (listed in Section 3.2.11.) Long lead times for equipment repair or sourcing on the Contractor's end shall not impact the Contractor's ability to provide replacement equipment.

3.2.3.2 The Contractor shall have access to replacement equipment 24x7x365.

3.2.3.3 The Contractor shall provide maintenance for Data Center Power Systems regardless of the addition or removal of Data Center Power Systems components throughout the

duration of the Contract. Replacement parts shall be charged to the State at the Contractor's cost.

3.2.4 **Preventive Maintenance**

3.2.4.1 The Contractor shall perform preventive maintenance on the more frequent of: quarterly or, pursuant to the manufacturers' preventive maintenance and servicing schedule.

3.2.4.2 The Contractor shall conduct all preventive maintenance work between the hours of 8:00am and 6:00pm on weekdays.

3.2.4.3 The Contractor shall notify the Contract Manager by phone or e-mail at least seven (7) business days prior to conducting any preventive maintenance.

3.2.4.4 The Contractor shall identify and perform equipment repair as part of every on-site visit unless otherwise instructed by the Contract Manager. Sites may be added or removed from the preventive maintenance schedule at the direction of the Contract Manager.

3.2.4.5 The Contractor shall provide documentation and diagrams of the data center power distribution architecture. The Contractor shall deliver updated documents electronically to the State within one week (7 calendar days) of any architecture change(s).

3.2.5 **Emergency Repair**

3.2.5.1 The Contractor shall provide emergency repair of the Data Center Power Systems for both the State's data centers listed in Section 3.2.11.3 and communication towers listed in Section 3.2.11.3. Access to the Power Systems facilities will be coordinated through the operational contact designated in Section 3.2.11.1 of this IFB.

3.2.5.2 The Contractor shall provide emergency service response confirmation within 15 minutes of emergency call and on site response within four (4) hours of emergency call. Emergency repairs are to be completed within 24 hours.

3.2.6 The Contractor shall maintain records of work performed, test results, performance reporting, and written recommendations for every maintenance visit, and for any work recommended that is beyond the scope of the standard manufacturer's preventive maintenance and servicing schedule.

3.2.7 **Non-Emergency Repair**

3.2.7.1 The Contractor shall schedule non-emergency repair following access and notification requirements for preventive maintenance outlined in Section 3.2.4.

3.2.8 **Design Services**

3.2.8.1 The Contractor shall provide Data Center Power Systems design services on a time and materials basis, as requested by the State. Design recommendations shall include: Scope of Work, Bill of Materials and documentation/diagrams to reflect the proposed changes to the plant environment.

3.2.9 **Transition Out**

3.2.9.1 Within thirty (30) days of the end of the Contract, the Contractor shall provide to the Contract Manager up-to-date documentation and diagrams as a part of the transition.

3.2.10 Documentation Format

3.2.10.1 All documentation provided under the Contract shall be provided in Microsoft Word 2010 Format and all diagrams shall be provided in Microsoft Visio 2010 format.

3.2.11 Detailed Specifications

3.2.11.1 The operational contact for this Contract is Denis McElligott, 410-260-6125, Denis.McElligott@maryland.gov. All routine scheduling will be confirmed through the Operational Contact at least seven business days prior to any preventive maintenance or design work.

3.2.11.2 DoIT may change the operational contact at any time by written notice to the Contractor.

3.2.11.3 Location and Components of Data Center Power Systems

A. DATA CENTER POWER SYSTEM 1

Description: 1 each Emerson Candeo AP6C75 Power System with System Manager Module

2 Distribution Modules

1 Battery Control Module

16 50A AC-DC Rectifier Modules

4 Battery Strings consisting of 24 each of Type 100A-29 ABSOLYTE GNDIIP Batteries.

Location: Room 1203
The William Donald Schaefer Building
6 St. Paul Street
Baltimore, Maryland 21202

B. DATA CENTER POWER SYSTEM 2

Description: 1 each Emerson Candeo AP6C75 Power System with:

1 System Manager Module

2 Distribution Modules

1 Battery Control Module

3 Helios BDU 600/48

1Helios BDU 1200/48

10 50A AC-DC Rectifier Modules

4 Battery Strings consisting of 24 each Type 100A-33 ABSOLYTE GNB II P Batteries

Onyx Power Model 6421M Inverters with:

8 Power Modules

Location: Room 0302, Building 224
Computer Space Science Building, Farm Road
University of Maryland Campus
College Park, Maryland 20742

C. <u>DATA CENTER POWER SYSTEM 3</u>

Description: 1 Mitsubishi 2033A UPS system

Location: Basement utility room
45 Calvert St
Annapolis Maryland 21401

D. <u>DATA CENTER POWER SYSTEM 4</u>

Description: 1 APC Symmetra UPS, Model 0G-PD40G6FK1-M

Location: Room 2.204
100 Community Place
Crownsville, Maryland 21032

3.2.11.4 Location and Components of Communication Tower Site Power Systems

A. <u>UPS SYSTEM 1</u>

Description: 1 Nfinity Liebert 20kVA UPS

Location: Easton MSP (new shelter)
7053 Gateway
Easton, MD 21601

B. <u>UPS SYSTEM 2</u>

Description: 1 Nfinity Liebert 20kVA UPS

Location: SHA (shelter)
2024 E. Old Philadelphia Rd

Elkton, MD 21921

C. UPS SYSTEM 3

Description: 1 Eaton 9170 (DS917007D4N0006) 12kVA UPS (in switchgear room)

Location: Mt. Airy
North of 18809 Penn Shop Rd
Mt Airy. MD 21771

D. UPS SYSTEM 4

Description: 1 Nfinity Liebert 20kVA UPS

Location: BWI – Daily Parking Garage
7062 Elm Rd
Baltimore, MD 21240

E. UPS SYSTEM 5

Description: 3 Nfinity Liebert 20kVA UPS

Location: Pikesville (shelter)
1201 Reisterstown Rd
Pikesville, MD 21208

F. UPS SYSTEM 6

Description: 1 Nfinity Liebert 20kVA UPS with Cell Management Control, Extended Battery Cabinet and Batteries

Location: World Trade Center
401 E. Pratt St.
Baltimore, MD 21202

3.2.12 Warranty

3.2.12.1 All replacement parts and equipment shall be new and unused and of current production. All electrical items must meet all applicable Occupation Safety and Health Administration (OSHA) standards and regulations and bear the appropriate listing from Underwriters Laboratory (UL), or National Electrical Manufacturers Association (NEMA).

3.2.12.2 Manufacturer's standard warranty shall apply. The manufacturer has the primary responsibility to honor a manufacturer's warranty; however, Contractor shall assist the Department with respect to warranty claims. Warranty service, extended warranty and recall work to be performed under this Contract must be performed in accordance with the manufacturer's warranty, including any cost to the State for labor, materials, parts, installation or any other costs.

3.2.12.3 Contractor warrants that all parts, equipment and service delivered under this Contract shall conform to the specifications of this Contract. All parts and equipment are to be provided and installed as required to meet manufacturer's specifications and documented installation procedures. A manufacturer's warranty that includes parts and labor shall accompany all equipment/services. All defective items shall be replaced at no additional cost to the State.

3.2.13 The Contractor shall possess and maintain all required licenses and certifications, mandated by law, to perform direct and alternating current electrical work in the State of Maryland throughout the course of performance of the Contract.

3.3 Security Requirements

3.3.1 Employee Identification

3.3.1.1 Each person who is an employee or agent of the Contractor or subcontractor (Contractor Personnel) shall display his or her company ID badge at all times while on State premises. Upon request of authorized State personnel, each such Contractor Personnel shall provide additional photo identification.

3.3.1.2 At all times at any facility, the Contractor Personnel shall cooperate with State site requirements that include but are not limited to being prepared to be escorted at all times, providing information for badge issuance, and wearing the badge in a visual location at all times.

3.3.2 Information Technology

3.3.2.1 The Contractor and Contractor Personnel shall comply with and adhere to the State IT Security Policy and Standards. These policies may be revised from time to time and the Contractor shall comply with all such revisions. Updated and revised versions of the State IT Policy and Standards are available online at: www.doit.maryland.gov – keyword: Security Policy.

3.3.2.2 The Contractor and Contractor Personnel shall not connect any of its own equipment to a State LAN/WAN without prior written approval by the State. The Contractor shall complete any necessary paperwork as directed and coordinated with the Contract Manager to obtain approval by the State to connect Contractor-owned equipment to a State LAN/WAN.

3.3.3 Security Clearance / Criminal Background Check

A security clearance is not required for Contractor Personnel assigned to the Contract.

3.4 Insurance Requirements

3.4.1 The Contractor and all of its Subcontractors, shall maintain the insurance coverages outlined below for the duration of the Contract, including option periods, if exercised. The coverage limits set forth are the minimum required.

3.4.2 Any insurance furnished as a condition of this Contract shall be issued by a company authorized to business in this State.

3.4.3 General Liability

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

3.4.4 Errors and Omissions/Professional Liability

The Contractor shall maintain Errors and Omissions/Professional Liability insurance with minimum limits of $1,000,000 per occurrence.

3.4.5 Automobile and/or Commercial Truck Insurance

If equipment is delivered solely via common carrier and not by Contractor-furnished transportation, automobile and/or Commercial Truck Insurance is not required. Otherwise, the Contractor shall maintain Automobile and/or Commercial Truck Insurance as appropriate with Liability, Collision, and PIP limits no less than those required by the State where the vehicle(s) is registered, but in no case less than those required by the State of Maryland.

3.4.6 Employee Theft Insurance

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

3.4.7 Certificates of Insurance

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

1. Workers' Compensation – The Contractor shall maintain such insurance as necessary and/or as required under Workers' Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act.
2. Commercial General Liability
3. Errors and Omissions/Professional Liability
4. Automobile and/or Commercial Truck Insurance, as required
5. Employee Theft Insurance

3.4.8 State Inclusion on Insurance

The State shall be listed as an additional insured on the policies with the exception of Worker's Compensation Insurance and Professional Liability Insurance. All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Contract Manager, by certified mail, not less than 45 days' advance notice of any non-renewal, cancellation, or expiration. In the event the Contract Manager receives a notice of non-renewal,

the Contractor shall provide the Contract Manager with an insurance policy from another carrier at least 30 days prior to the expiration of the insurance policy then in effect. All insurance policies shall be with a company licensed by the State to do business and to provide such policies.

3.4.9 Subcontractor Insurance

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

3.4.10 Notification of Insurance after Award

The recommended awardee must provide a certificate of insurance with the prescribed limits set forth in Section 3.4 "Insurance Requirements," naming the State as an additional insured if required, within five (5) Business Days from notice of recommended award.

3.5 Problem Escalation Procedure

3.5.1 The Contractor must provide and maintain a Problem Escalation Procedure (PEP) for both routine and emergency situations. The PEP must state how the Contractor will address problem situations as they occur during the performance of the Contract, especially problems that are not resolved to the satisfaction of the State within appropriate timeframes.

3.5.2 The Contractor shall provide contact information to the Contract Manager, as well as to other State personnel, as directed, should the Contract Manager not be available.

3.5.3 The Contractor must provide the PEP no later than ten (10) Business Days after notice of recommended award or after the date of the NTP, whichever is earlier. The PEP, including any revisions thereto, must also be provided within ten (10) Business Days after the start of each Contract year and within ten (10) Business Days after any change in circumstance which changes the PEP. The PEP shall detail how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. The PEP shall include:

1. The process for establishing the existence of a problem;
2. The maximum duration that a problem may remain unresolved at each level in the Contractor's organization before automatically escalating the problem to a higher level for resolution;
3. Circumstances in which the escalation will occur in less than the normal timeframe;
4. The nature of feedback on resolution progress, including the frequency of feedback to be provided to the State;
5. Identification of, and contact information for, progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;
6. Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays) and on an emergency basis; and
7. A process for updating and notifying the Contract Manager of any changes to the PEP.

3.5.4 Nothing in this section shall be construed to limit any rights of the Contract Manager or the State which may be allowed by the Contract or applicable law.

3.6 Invoicing

3.6.1 All invoices shall be submitted by the Contractor within 30 days of delivery of products/services and shall include, at the minimum, the following information:

1. Name and address of the Department being billed
2. Contractor name
3. Products(s) and/or service(s) purchased listed separately including the amount for each individual charge (i.e., 5 – ABC Hardware @ $2,000 Total $10,000.00, 2 - CD Training @ $100.00 Total $200.00, Installation one-time cost $300.00)
4. Supporting Documentation
5. E-mail address/phone number of Contractor's POC
6. Remittance address
7. Federal taxpayer identification or (if owned by an individual) Contractor's social security number
8. Invoice period, invoice date, invoice number and amount due; and
9. Purchase order # being billed

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

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

3.7 SOC 2 Type II Audit Report

A SOC 2 Type II Report is not a requirement for this Contract.

3.8 Acceptance

The State does not assume ownership for equipment, nor do warranty periods begin, until the Department accepts the Contractor's product and work as fully operational.

3.9 Ordering and Delivery

This section does not apply to the this solicitation

3.10 Customer Inquiries

The Contractor's customer service representative shall respond to and initiate resolution of customer inquiries within one (1) Business Day of initial contact. These inquiries may include requests for product information; billing disputes; delivery disputes or problems; product returns; pricing information; adding or deleting account names, addresses and numbers; and requests for training.

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4 BID FORMAT

4.1 One-Part Submission

4.1.1 ***DoIT strongly desires e-mail delivery of Bids***.

4.1.2 Bidders must submit Bids via e-mail to the Procurement Officer at the address given in the Key Information Summary Sheet. Bidders must submit all required minimum qualification documentation (see Section 2), and all required Bid submissions (see Section 4.4) as attachments to the e-mail. All attachments must be in Microsoft Word/Excel (version 2007) or Adobe Acrobat PDF format.

4.1.3 DoIT can only accept e-mails that are less than or equal to 25 Mb. If your submission exceeds this size, split the submission into two or more parts.

4.1.4 Bidders choosing to provide paper submissions shall contact the Procurement Officer for submission instructions.

4.2 Labeling

4.2.1 The e-mail subject line shall bear the IFB title and number and the Bidder's name. If multiple e-mails are required due to size limitations, each e-mail subject line must: a) contain the IFB title and number and Bidder's name and be clearly identified as part of the same submission (e.g., Part 1 of 3) and b) all be received in the Procurement Officer's e-mail inbox by the designated Bid due date and time.

4.3 Bid Form

The Bid shall contain all price information in the format specified on the Bid Form (Attachment F). Complete the Bid Form only as instructed in Attachment F. Do not amend, alter, or leave blank any items on the Bid Form or include additional clarifying or contingent language on or attached to the Bid Form. Failure to adhere to any of these instructions may result in the Bid being determined to be non-responsive and rejected by the Department.

4.4 Required Bid Submissions

Bidders shall include the following with the Bid:

4.4.1 Transmittal Letter

A Transmittal Letter shall accompany the Bid. The purpose of this letter is to transmit the Bid and acknowledge the receipt of any addenda. The Transmittal Letter should be brief and signed by an individual who is authorized to commit the Bidder to its Bid and the requirements as stated in this IFB. The Transmittal Letter should include the following:

1. Name and address of the Bidder;
2. Name, title, e-mail address, and telephone number of primary contact for the Bidder;
3. Solicitation Title and Solicitation Number that the Bid is in response to;
4. Signature, typed name, and title of an individual authorized to commit the Bidder to its Bid;

5. Federal Employer Identification Number (FEIN) of the Bidder, or if a single individual, that individual's Social Security Number (SSN);
6. Bidder's eMM number;
7. Bidder's MBE certification number (if applicable); and
8. Acknowledgement of all addenda to this IFB issued before the Bid due date.

Any information which is claimed to be confidential is to be noted by reference and included after the Transmittal Letter. An explanation for each claim of confidentiality shall be included (see Section 1.14 "Confidentiality of Bids").

4.4.2 Minimum Qualifications Documentation

The Bidder shall submit any Minimum Qualifications documentation that may be required, as set forth in Section 2 "Bidder Minimum Qualifications."

4.4.3 Completed Required Attachments

For e-mail submissions, submit one (1) copy of each with original signatures. For paper submissions, submit two (2) copies of each with original signatures:

1. Completed Bid Form (Attachment F)
2. Completed Bid/Proposal Affidavit (Attachment B)
3. Completed Conflict of Interest Affidavit and Disclosure (Attachment I)
4. Completed Maryland Living Wage Requirements Affidavit of Agreement (Attachment G-1)

4.4.4 Additional Attachments

For e-mail submissions, submit one (1) copy of each with original signatures. For paper submissions, submit two (2) copies of each with original signatures:

1. Completed Mercury Affidavit (Attachment L)

4.4.5 References

At least three (3) references are requested from customers who are capable of documenting the Bidder's ability to provide the products/services specified in this IFB. References used to meet any Bidder Minimum Qualifications (see Section 2) may be used to meet this request. Each reference shall be from a client for whom the Bidder has provided products/services within the three (3) years immediately preceding issuance of this IFB and shall include the following information:

1. Name of client organization;
2. Name, title, telephone number, and e-mail address, if available, of point of contact for client organization; and
3. Value, type, duration, and description of products/services provided

Points of contact must be accessible and knowledgeable regarding bidder performance.

4.4.6 List of Current or Prior State Contracts

Provide a list of all contracts with any entity of the State of Maryland for which the Bidder is currently performing products/services or for which products/services have been completed within the last five (5) years. For each identified contract, the Bidder is to provide:

1. The State contracting entity
2. A brief description of the products/services provided
3. The dollar value of the contract
4. The term of the contract
5. The State employee contact person (name, title, telephone number, and, if possible, e-mail address)
6. Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised

Information obtained regarding the Bidder's level of performance on State contracts will be considered as part of the responsibility determination by the Procurement Officer.

4.4.7 Financial Capabilities

Financial Statements are not required for this IFB.

4.4.8 Certificate of Insurance

The Bidder shall provide a copy of the Bidder's current certificate of insurance in effect as of the Bid submission date (see Section 3.4).

4.4.9 Subcontractors

The Bidder shall provide a complete list of all subcontractors that will work on the Contract if the Bidder receives an award, including those utilized in meeting the MBE and/or VSBE subcontracting goal, if applicable. This list shall include a full description of the duties each subcontractor will perform.

4.4.10 Legal Action Summary

This summary shall include:

1. A statement as to whether there are any outstanding legal actions or potential claims against the Bidder and a brief description of any action;
2. A brief description of any settled or closed legal actions or claims against the Bidder over the past five (5) years
3. A description of any judgments against the Bidder within the past five (5) years, including the court, case name, complaint number, and a brief description of the final ruling or determination; and
4. In instances where litigation is on-going and the Bidder has been directed not to disclose information by the court, provide the name of the judge and location of the court.

4.5 Bid Delivery

4.5.1 Bidders may deliver Bids by electronic means as described below to the address provided in the Key Information Summary Sheet.

1. Electronic means includes e-mail, as requested by the Procurement Officer. If the Bid is to be submitted electronically, it must be submitted in MS Word and PDF formats. Any single e-mail must be no more than 25 Mb in size (See Sections 4.1 and 4.2 for additional labeling and packaging instructions).

4.5.2 The Procurement Officer must receive all files by the IFB due date and time specified in the Key Information Summary Sheet. If submitted via e-mail, the date and time of submission is determined by the date and time of arrival in the Procurement Officer's e-mail box. Requests for extension of this date or time will not be granted. Except as provided in COMAR 21.05.03.02F, Bids received by the Procurement Officer after the due date will not be considered.

4.6 Documents Required upon Notice of Recommended Award

Upon receipt of notice of recommended award, the following documents shall be completed and submitted by the recommended awardee within five (5) Business Days, unless noted otherwise. Submit three (3) copies of each with original signatures:

1. signed Contract (Attachment A)
2. completed Contract Affidavit (Attachment C)
3. signed Non-Disclosure Agreement (Attachment J);
4. Copy of a current Certificate of Insurance with the prescribed limits set forth in "Insurance Requirements," listing the State as an additional insured.

Upon receipt of notice of recommended award, the following documents shall be completed and submitted by the recommended awardee within ten (10) Business Days, unless noted otherwise.

1. Problem Escalation Procedure (PEP) in accordance with Section 3.5.3 (unless the date of any NTP is earlier)

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5 EVALUATION CRITERIA AND PROCEDURE

5.1 Evaluation Criteria

The Bids will be evaluated based on the Total Bid Price.

5.2 Financial Criteria

All qualified Bidders will be ranked from the lowest to the highest price based on their Total Bid Price proposed within the stated guidelines (as submitted in the Bid Form).

5.3 Reciprocal Preference

Although Maryland law does not authorize procuring agencies to favor resident Bidders 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) the resident business is a responsible bidder; (b) a responsible bidder whose principal office or principal base of operations is in another state submits the lowest responsive bid; (c) the state in which the nonresident's principal office is located or the state in which the nonresident has its principal operation through which it would provide the products or services gives a preference to its residents through law, policy, or practice; and (d) 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.

5.4 Award Determination

Award will be made to the responsible Bidder who submits the responsive Bid that has the lowest Total Bid Price to the State.

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IFB ATTACHMENTS

ATTACHMENT A – Contract

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

ATTACHMENT B – Bid/Proposal Affidavit

This Attachment must be completed and submitted with the Bid.

ATTACHMENT C – Contract Affidavit

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

ATTACHMENT D – Minority Business Enterprise Forms

If required (see Section 1.33), these Attachments include the MBE subcontracting goal statement, instructions, and MBE Attachments D-1 through D-5. Attachment D-1A must be properly completed and submitted with the Bidder's Bid or the Bid will be deemed non-responsive and rejected. Within ten (10) Working Days of receiving notification of recommendation for Contract award, the Bidder must submit Attachments D-2, D-3A, D-3B and, if the Bidder has requested a waiver of the MBE goal, usually Attachment D-1C.

ATTACHMENT E – Pre-Bid Conference Response Form

If a Pre-Bid Conference is to be held, it is requested that this form be completed and submitted as described in Section 1.7 by those potential Bidders that plan on attending the Pre-Bid Conference.

ATTACHMENT F – Bid Pricing Instructions and Bid Form

The Bid Form must be completed and submitted with the Bid.

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

If required (see Section 1.34) Attachment G-1 Living Wage Affidavit of Agreement must be completed and submitted with the Bid.

ATTACHMENT H – Federal Funds Attachment

If required (see Section 1.35), these Attachments must be completed and submitted with the Bid as instructed in the Attachments.

ATTACHMENT I – Conflict of Interest Affidavit and Disclosure

If required (see Section 1.36), this Attachment must be completed and submitted with the Bid.

ATTACHMENT J – Non-Disclosure Agreement

If required (see Section 1.37), this Attachment must be completed and submitted within five (5) Business Days of receiving notification of recommendation for award. However, to expedite processing, it is suggested that this document be completed and submitted with the Bid.

ATTACHMENT K – HIPAA Business Associate Agreement

If required, this Attachment is to be completed and submitted within five (5) Business Days of receiving notification of recommendation for award. However, to expedite processing, it is suggested that this document be completed and submitted with the Bid.

ATTACHMENT L – Mercury Affidavit

If required (see Section 1.39), this Attachment must be completed and submitted with the Bid.

ATTACHMENT M – Veteran-Owned Small Business Enterprise Forms

If required (see Section 1.40), these Attachments include the VSBE Attachments M-1 through M-4. Attachment M-1 must be completed and submitted with the Bid. Attachment M-2 is required to be submitted within ten (10) Business Days of receiving notification of recommendation for award.

ATTACHMENT N – Location of the Performance of Services Disclosure

If required (see Section 1.43), this Attachment must be completed and submitted with the Bid.

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

If required (see Section 1.44), this Attachment is to be completed and submitted within five (5) Business Days of receiving notification of recommendation for award.

ATTACHMENT A - CONTRACT

Department of Information Technology (DoIT)
"Data Center Power Supply Maintenance and Support"
F50B6400025

THIS CONTRACT (the "Contract") is made this ____ day of _____, 20__ by and between _____ and, on behalf of the STATE OF MARYLAND, the MARYLAND Department of Information Technology (DoIT).

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

1. Definitions

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

1.1. "Bid" means the Contractor's Bid, dated _____.

1.2. "COMAR" means the Code of Maryland Regulations available on-line at www.dsd.state.md.us.

1.3. "Contract" means this contract for Data Center Power Supply Maintenance and Support.

1.4. "Contract Manager" means the individual identified in Section 1.6 of the Invitation for Bids (IFB), or a successor designated by the Department.

1.5. "Contractor" means _____, whose principal business address is: _____.

1.6. "Department" means the Department of Information Technology (DoIT).

1.7. "eMM" means eMaryland Marketplace.

1.8. "IFB" means the Invitation for Bids for Data Center Power Supply Maintenance and Support, Solicitation # <<Solicitation Number>> and any amendments thereto issued in writing by the State.

1.9. "Minority Business Enterprise" (MBE) means an entity meeting the definition at COMAR 21.0 1.02.01B(54), which is certified by the Maryland Department of Transportation under COMAR 21.11.03.

1.10. "Procurement Officer" means the person identified in Section 1.5 of the IFB or a successor designated by the Department.

1.11 "State" means the State of Maryland.

1.12. "Veteran-owned Small Business Enterprise" (VSBE) means a business that is verified by the Center for Veterans Enterprise of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.

2. Scope of Contract

2.1. The Contractor shall provide products and services as described in the IFB.

2.2. These products and services shall be provided in accordance with the terms and conditions of this Contract and the following Exhibits, which are attached and incorporated herein by reference. If there are any inconsistencies between this Contract and Exhibits A through C, 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 IFB

Exhibit B – The Contract Affidavit dated _____

Exhibit C – The Bid

3. Period of Performance

3.1. The Contract shall start as of the date of full execution by the parties (the "Effective Date"). From this Effective Date, the Contract shall be for a period of five (5) years beginning <<anticipated Contract start date>> and ending on <<anticipated end date of base term of Contract>>.

3.2. The Contractor shall provide products and services under this Contract as of the date provided in a written Notice to Proceed.

3.3. Audit, confidentiality, document retention, Work Product retention (see §5.2), warranty and indemnification obligations under this Contract and any other obligations specifically identified shall survive expiration or termination of the Contract.

4. Consideration and Payment

4.1. In consideration of the satisfactory performance of the Contract, the Department shall promptly process a proper invoice for payment in accordance with the terms of this Contract.

4.2. The total payment for products and services provided under a fixed price contract or the fixed price element of a combined fixed price – time and materials contract, shall be the firm fixed price submitted by the Contractor in its Bid. For time and materials contracts, or contracts which include both fixed price and time and materials elements, total payments to the Contractor for the time and materials portion may not exceed $<<enter the Not to Exceed amount>> (the "NTE Amount"). The Contractor shall notify the Contract Manager, in writing, at least 60 days before time and material obligations are expected to reach the NTE Amount. The Contractor shall have no obligation to perform the time and materials requirements under this Contract after payments reach the NTE Amount. The cessation of the Contractor's obligation to perform under this paragraph 4.2 is expressly conditioned on the following: that prior to the NTE Amount being reached, the Contractor shall: (i) give the notice required under this paragraph 4.2; (ii) promptly consult with the Department and cooperate in good faith with the Department to establish a plan of action to assure that every reasonable effort has been undertaken by the Contractor to complete critical work in progress prior to the date the NTE Amount will be reached; and (iii) secure data bases, systems, platforms and/or applications on which the Contractor is working so that no damage or vulnerabilities to any of the same will exist due to the existence of any such unfinished work.

4.3. The Contractor shall submit invoices as required in the IFB. Invoices that contain both fixed price and time and material items must clearly identify the items to either fixed price or time and material billing. Invoices for third-party software support and maintenance will be paid on an <<enter the payment cycle (e.g., annual, monthly)>> basis. Each invoice must include the Contractor's Federal Tax Identification Number: <<enter the Contractor Tax ID number>>. The Contractor's eMM identification number is <<enter the Contractor's eMM ID number>>. Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the Department'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. Invoices shall be submitted to the Contract Manager. 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

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

5. Patents, Copyrights, Intellectual Property

5.1. If the Contractor furnishes any design, device, material, process, or other item, which is covered by a

patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items.

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

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

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

5.5. Subject to the terms of Section 6, Contractor shall defend, indemnify, and hold harmless the State, including, but not limited to, the Agency and its agents, officers, and employees, from and against any and all claims, costs, losses, damages, liabilities, judgments and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with any claim the Work Product or any Third-party Intellectual Property infringes, misappropriates or otherwise violates any Third-party Intellectual Property rights. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent, which consent may be withheld in the State's sole and absolute discretion. Contractor shall be entitled to control the defense or settlement of such claim (with counsel reasonably satisfactory to the State), provided that the State will, upon requesting indemnification hereunder: (a) provide reasonable cooperation to Contractor in connection with the defense or settlement of any such claim, at Contractor's expense; and (b) be entitled to participate in the defense of any such claim. Contractor's obligations under this section will not apply to the extent any Third-party Intellectual Property infringes, misappropriates or otherwise violates any third party intellectual rights as a result of modifications made by the State in violation of the license granted to the State pursuant to section 5.4; provided that such

infringement, misappropriation or violation would not have occurred absent such modification.

5.6. Without limiting Contractor's obligations under Section 5.5, if all or any part of the Work Product or any Third Party Intellectual Property is held, or Contractor or the State reasonably determines that it could be held, to infringe, misappropriate or otherwise violate any third party intellectual property right, Contractor (after consultation with the State and at no cost to the State): (a) shall procure for the State the right to continue using the item in accordance with its rights under this Contract; (b) replace the item with an item that does not infringe, misappropriate or otherwise violate any third party intellectual property rights and, in the State's sole and absolute determination, complies with the item's specifications, and all rights of use and/or ownership set forth in this Contract; or (c) modify the item so that it no longer infringes, misappropriates or otherwise violates any third party intellectual property right and, in the State's sole and absolute determination, complies with the item's specifications and all rights of use and/or ownership set forth in this Contract.

5.7. Except for any Pre-Existing Intellectual Property and Third-Party Intellectual Property, Contractor shall not acquire any right, title or interest (including any intellectual property rights subsisting therein) in or to any goods, software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the State to the Contractor. Notwithstanding anything to the contrary herein, the State may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a separate writing executed by the Contractor and an authorized representative of the State.

5.8. Contractor, on behalf of itself and its subcontractors, hereby agrees not to incorporate, link, distribute or use any Third-party Intellectual Property in such a way that: (a) creates, purports to create or has the potential to create, obligations with respect to any State software (including any deliverable hereunder), including without limitation the distribution or disclosure of any source code; or (b) grants, purports to grant, or has the potential to grant to any third-party any rights to or immunities under any State intellectual property or proprietary rights. Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall incorporate, link, distribute or use, in conjunction with the Work Product, any code or software licensed under the GNU General Public License ("GPL"), Lesser General Public License ("LGPL"), Affero GPL ("AGPL"), European Community Public License ("ECPL"), Mozilla, or any other open source license, in any manner that could cause or could be interpreted or asserted to cause any State software (or any modifications thereto) to become subject to the terms of the GPL, LGPL, AGPL, ECPL, Mozilla or such other open source software.

5.9. Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall use any software or technology in a manner that will cause any patents, copyrights or other intellectual property which are owned or controlled by the State or any of its affiliates (or for which the State or any of its subcontractors has received license rights) to become subject to any encumbrance or terms and conditions of any third-party or open source license (including, without limitation, any open source license listed on http://www.opensource.org/licenses/alphabetical) (each an "Open Source License"). These restrictions, limitations, exclusions and conditions shall apply even if the State or any of its subcontractors becomes aware of or fails to act in a manner to address any violation or failure to comply therewith. No act by the State or any of its subcontractors that is undertaken under this Contract as to any software or technology shall be construed as intending to cause any patents, copyrights or other intellectual property that are owned or controlled by the State (or for which the State has received license rights) to become subject to any encumbrance or terms and conditions of any Open Source License.

5.10. The Contractor shall report to the Department, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Work Product delivered under this Contract.

6. Indemnification

6.1. Contractor shall indemnify, defend, and hold the State, its directors, officers, employees and agents

harmless from third-party liability for tangible property damage, bodily injury and death, and for fraud or willful misconduct of Contractor, including all related defense costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties) arising from or relating to the performance of the Contractor or its subcontractors under this Contract.

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

6.3. 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.

6.4. 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.

6.5. Section 6 shall survive expiration of this Contract.

7. Limitations of Liability

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

7.1.1. For infringement of patents, trademarks, trade secrets and copyrights as provided in Section 5 ("Patents, Copyrights, Intellectual Property") of this Contract;

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

7.1.3. For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract, Contractor's liability shall be limited to two (2) times the total dollar amount invoiced under this Contract up to the date of settlement or final award of any such claim. Third-party claims arising under Section 6 ("Indemnification") of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor's liability for third-party claims arising under Section 6 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 6.

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

8. Prompt Pay Requirements

8.1. If the Contractor withholds payment of an undisputed amount to its subcontractor, the State, at its option and in its sole discretion, may take one or more of the following actions:

(a) Not process further payments to the Contractor until payment to the subcontractor is verified;

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

(c) Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due to the Contractor;

(d) Place a payment for an undisputed amount in an interest-bearing escrow account; or

(e) Take other or further actions as appropriate to resolve the withheld payment.

8.2. An "undisputed amount" means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute. Such "undisputed amounts" include (a) retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor and (b) an amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.

8.3. An act, failure to act, or decision of a Procurement Officer or a representative of the Department concerning a withheld payment between the Contractor and subcontractor under this Contract, may not:

(a) Affect the rights of the contracting parties under any other provision of law;

(b) Be used as evidence on the merits of a dispute between the Department and the Contractor in any other proceeding; or

(c) Result in liability against or prejudice the rights of the Department.

8.4 The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise program.

9. Risk of Loss; Transfer of Title

Risk of loss for conforming supplies, equipment and materials specified as deliverables to the State hereunder shall remain with the Contractor until the supplies, equipment, materials and other deliverables are received and accepted by the State. Title of all such deliverables passes to the State upon acceptance by the State, subject to the State's payment for the same in accordance with the terms of this Contract.

10. Source Code Escrow

Source code escrow does not apply to this Contract.

11. Loss of Data

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

12. Markings

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

13. Exclusive Use and Ownership

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

14. 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.

15. Parent Company Guarantee (If Applicable)

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

16. General Terms and Conditions

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

16.1. Pre-Existing Regulations

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

16.2. Maryland Law Prevails

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

16.3. Multi-year Contracts contingent upon Appropriations

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

nonrecurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

16.4. Cost and Price Certification

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

(1) A negotiated contract, if the total contract price is expected to exceed $100,000, or a smaller amount set by the Procurement Officer; or

(2) A change order or contract modification, expected to exceed $100,000, or a smaller amount set by the Procurement Officer.

16.4.2. 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 between the parties, was inaccurate, incomplete, or not current.

16.5. Contract Modifications

The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. Pursuant to COMAR 21.10.04, the Contractor must assert in writing its right to an adjustment under this section and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under Section 16.8, Disputes. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

16.6. Termination for Default

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

16.7. Termination for Convenience

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

hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12 (A)(2).

16.8. Disputes

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

16.9. Living Wage

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

16.10. Non-Hiring of Employees

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

16.11. Nondiscrimination in Employment

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

16.12. Commercial Non-Discrimination

16.12.1. 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, national origin, sex, age, marital status, sexual orientation, 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.

16.12.2. As a condition of entering into this Agreement, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State‘s Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Agreement and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions.

16.13. Subcontracting and 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 State, , each at the State’s sole and absolute discretion. Any such subcontract or assignment shall include the terms of this Contract and any other terms and conditions that the State deems necessary to protect its interests. The State shall not be responsible for the fulfillment of the Contractor’s obligations to any subcontractors.

16.14. Minority Business Enterprise Participation

There is no Minority Business Enterprise subcontractor participation goal for this Contract.

16.15. Insurance Requirements

The Contractor shall maintain workers’ compensation coverage, and property and casualty insurance as required in the IFB. The minimum limits of such policies must meet any minimum requirements established by law and the limits of insurance required by the IFB, and shall cover losses resulting from or arising out of Contractor action or inaction in the performance of services under the Contract by the Contractor, its agents, servants, employees or subcontractors. Effective no later than the date of execution of the Contract, and continuing for the duration of the Contract term, and any applicable renewal periods, the Contractor shall maintain such insurance coverage and shall report such insurance annually or upon Contract renewal, whichever is earlier, to the Procurement Officer. The Contractor is required to notify the Procurement Officer in writing, if policies are cancelled or not renewed 35 days in advance of such cancellation and/or nonrenewal. Certificates of insurance evidencing this coverage shall be provided within five (5) days of notice of recommended award. All insurance policies shall be issued by a company properly authorized to do business in the State of Maryland. The State shall be named as an additional named insured on the property and casualty policy and as required in the IFB.

16.16. Veteran Owned Small Business Enterprise Participation

There is no VSBE subcontractor participation goal for this procurement.

16.17. Security Requirements and Incident Response

16.17.1. The Contractor agrees to abide by all applicable federal, State and local laws concerning

information security and comply with current State and agency information security policy, currently found at http://doit.maryland.gov/Publications/DoITSecurityPolicy.pdf.

16.17.2. The Contractor agrees to notify the Department when any Contractor system that may access, process, or store State data or Work Product is subject to unintended access or attack. Unintended access or attack includes compromise by a computer malware, malicious search engine, credential compromise or access by an individual or automated program due to a failure to secure a system or adhere to established security procedures.

16.17.3. The Contractor further agrees to notify the Department within twenty-four (24) hours of the discovery of the unintended access or attack by providing notice via written or electronic correspondence to the Contract Manager, Department chief information officer and Department chief information security officer.

16.17.4. The Contractor agrees to notify the Department within two (2) hours if there is a threat to Contractor's product as it pertains to the use, disclosure, and security of the Department's data.

16.17.5. If an unauthorized use or disclosure of any personally identifiable information (PII), protected health information (PHI) or other private/confidential data (collectively "Sensitive Data") occurs, the Contractor must provide written notice to the Department within one (1) business day after Contractor's discovery of such use or disclosure and thereafter all information the State (or State Department) requests concerning such unauthorized use or disclosure.

16.17.6. The Contractor, within one day of discovery, shall report to the Department any improper or non-authorized use or disclosure of Sensitive Data. Contractor's report shall identify:

(a) the nature of the unauthorized use or disclosure;

(b) the Sensitive Data used or disclosed,

(c) who made the unauthorized use or received the unauthorized disclosure;

(d) what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and

(e) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure.

(f) The Contractor shall provide such other information, including a written report, as reasonably requested by the State.

16.17.7. The Contractor agrees to comply with all applicable laws that require the notification of individuals in the event of unauthorized release of PII or other event requiring notification. In the event of a breach of any of the Contractor's security obligations or other event requiring notification under applicable law, the Contractor agrees to assume responsibility for informing all such individuals in accordance with applicable law and to indemnify, hold harmless and defend the State (or State Department) and its officials and employees from and against any claims, damages, or other harm related to such security obligation breach or other event requiring the notification.

16.17.8. This Section shall survive expiration or termination of this Contract.

16.18. Suspension of Work

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

16.19. Nonvisual Accessibility Warranty

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

(a) provides equivalent access for effective use by both visual and non-visual means;

(b) will present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use;

(c) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and

(d) is available, whenever possible, without modification for compatibility with software and hardware for non-visual access.

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

16.20. Compliance with Laws/Arrearages

The Contractor hereby represents and warrants that:

16.20.1 It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;

16.20.2. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;

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

16.20.4. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

16.21. Contingent Fee Prohibition

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

16.22. Delays and Extensions of Time

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

of another contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

16.23. Financial Disclosure

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

16.24. Political Contribution Disclosure

The Contractor shall comply with the provisions of Article 33, Sections 14-101 through 14-108 of the Annotated Code of Maryland, which require that every person that enters into contracts, leases, or other agreements with the State of Maryland, a county or an incorporated municipality or their agencies, during a calendar year under which the person receives in the aggregate $200,000 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.

16.25. Retention of Records and Audit

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

16.25.2. This provision shall survive expiration of this Contract.

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

HIPAA clauses do not apply to this Contract.

17. Administrative Information

17.1. Procurement Officer and Contract Manager

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

17.2. 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:

Denis McElligott
45 Calvert St.
Annapolis, MD 21401
Phone Number: 410-260-6125
E-Mail: Denis.Mcelligott@maryland.gov

With a copy to:

Larif Hamm
Department of Information Technology (DoIT)
45 Calvert St.
Annapolis, MD 21401
Phone Number: 410-260-4040
E-Mail: Larif.Hamm@maryland.gov

If to the Contractor:

_____

_____

_____

Attn:_____

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

CONTRACTOR	STATE OF MARYLAND Department of Information Technology (DoIT)
_____	_____
By:	By: <<name and title of Department Head>>
_____	Or designee:
Date	
	_____

_____

Date

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

_____

Assistant Attorney General

If this solicitation requires BPW approval keep the text below, otherwise delete it.

APPROVED BY BPW: _____ _____

(Date) (BPW Item #)

ATTACHMENT B - BID/PROPOSAL AFFIDAVIT

A. AUTHORITY

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

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

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

B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.

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

(1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority proposal;

(2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the Bid/Proposal;

(3) Fail to use the certified minority business enterprise in the performance of the contract; or

(4) Pay the certified minority business enterprise solely for the use of its name in the Bid/Proposal.

Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the Bid/Proposal

submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the Bid/Proposal.

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

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

(1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;

(2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran–owned small business enterprise in order to obtain or retain a Bid/Proposal preference or a procurement contract;

(3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;

(4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;

(5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.12; or

(6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of § B-2(1)-(5) of this regulation.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

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

_____

_____

_____.

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

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

(ii) Not overturned on judicial review;

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

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

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

(ii) Not overturned on judicial review;

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

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

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

(ii) Not overturned on judicial review; or

(15) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§ B and C and subsections D(1)—(14) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

_____

_____

_____.

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

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

_____

_____

_____.

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

(1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and

(2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

_____

_____

_____.

G. SUBCONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

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

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

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

(1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying Bid/Proposal that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the Bid/Proposal price of the Bidder/Offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying Bid/Proposal is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

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

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

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

K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

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

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

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

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

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

I FURTHER AFFIRM THAT:

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

M. I FURTHER AFFIRM THAT:

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

N. ACKNOWLEDGEMENT

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

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

Date: _____

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

_____ (signature of Authorized Representative and Affiant)

ATTACHMENT C - CONTRACT AFFIDAVIT

A. AUTHORITY

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

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

I FURTHER AFFIRM THAT:

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

(1) Corporation — □ domestic or □ foreign;

(2) Limited Liability Company — □ domestic or □ foreign;

(3) Partnership — □ domestic or □ foreign;

(4) Statutory Trust — □ domestic or □ foreign;

(5) □ Sole Proprietorship.

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

Name and Department ID
Number: _____ Address:_____

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

Name and Department ID
Number: _____ Address:_____

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

E. DRUG AND ALCOHOL FREE WORKPLACE

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

I CERTIFY THAT:

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

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

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

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

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

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

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

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

The dangers of drug and alcohol abuse in the workplace;

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

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

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

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

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

Abide by the terms of the statement; and

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

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

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

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

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

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

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

(4) I acknowledge and agree that:

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 _____, 201___, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

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

Date: _____

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

_____ (signature of Authorized Representative and Affiant)

ATTACHMENT D - MINORITY BUSINESS ENTERPRISE FORMS

The Minority Business Enterprise (MBE) subcontractor participation goal for this solicitation is 0%.

ATTACHMENT E - BID PRICING INSTRUCTIONS AND FORM

In order to assist Bidders in the preparation of their Bid and to comply with the requirements of this solicitation, Bid Pricing Instructions and a Bid Form have been prepared. Bidders shall submit their Bid on the Bid Form in accordance with the instructions on the Bid Form and as specified herein. Do not alter the Bid Form or the Bid Form may be rejected. The Bid Form is to be signed and dated, where requested, by an individual who is authorized to bind the Bidder to the prices entered on the Bid Form.

The Bid Form is used to calculate the Bidder's TOTAL BID PRICE. Follow these instructions carefully when completing your Bid Form:

A) All Unit and Extended Prices must be clearly entered in dollars and cents, e.g., $24.15. Make your decimal points clear and distinct.

All Unit Prices must be the actual price per unit the State will pay for the specific item or service identified in this IFB and may not be contingent on any other factor or condition in any manner. The State will use the Unit Price in the event of a discrepancy between Unit Price and Extended Prices.

All calculations shall be rounded to the nearest cent, i.e., .344 shall be .34 and .345 shall be .35.

D) Any products or services required through this IFB and proposed by the vendor at No Cost to the State must be clearly entered in the Unit Price, if appropriate, and Extended Price with $0.00.

E) Every blank in every Bid Form shall be filled in. Any blanks may result in the Bid being regarded as non-responsive and thus rejected. Any changes or corrections required to the Bid Form must be handled through an amendment to the IFB.

Except as instructed on the Bid Form, nothing shall be entered on or attached to the Bid Form that alters or proposes conditions or contingencies on the prices. Alterations and/or conditions usually render the Bid non-responsive, which means it will be rejected.

G) It is imperative that the prices included on the Bid Form have been entered correctly and calculated accurately by the Bidder and that the respective total prices agree with the entries on the Bid Form. Any incorrect entries or inaccurate calculations by the Bidder will be treated as provided in COMAR 21.05.03.03E and 21.05.02.12, and may cause the Bid to be rejected.

H) If option years are included, Bidders must submit pricing for each option year. Any option to renew will be exercised at the sole discretion of the State and option years will be subject to all terms and conditions of the Contract in force at the time the option is exercised. If exercised, the option period shall be for a period identified in the IFB at the prices entered in the Bid Form.

All Bid prices entered below are to be fully loaded prices that include all costs/expenses associated with the provision of services as required by the IFB. The Bid price shall include, but is not limited to, all: labor, profit/overhead, general operating, administrative, and all other expenses and costs necessary to perform the work set forth in the solicitation. No other amounts will be paid to the Contractor. If labor rates are requested, those amounts shall be fully-loaded rates; no overtime amounts will be paid.

J) Unless indicated elsewhere in the IFB, sample amounts used for calculations on the Bid Form are typically estimates for bidding purposes only. The Department does not guarantee a minimum or maximum number of units or usage in the performance of this Contract.

K) Failure to adhere to any of these instructions may result in the Bid being determined non-responsive and rejected by the Department.

BID FORM

Solicitation Number F50B6400025

Data Center Power Supply Maintenance and Support

The Bid shall contain all price information in the format specified on these pages. The Total Bid Price shall include all costs of shipping and handling. Complete the Bid Form ONLY as instructed in the Bid Pricing Instructions. Do not amend, alter or leave blank any items on the Bid Form. If option years are included, Bidders must submit Bids for each option year. Failure to adhere to any of these instructions may result in the bid being determined non-responsive and rejected by the Department.

Services Bid (Fixed Price)

Description	Proposed Bid Price
Year 1	
Data Center Power System 1 - 6 St. Paul Street Baltimore, Maryland 21202- Preventive Maintenance	**$**
Data Center Power System 2 - Computer Space Science Building, University of Maryland Campus College Park, Maryland- Preventive Maintenance	**$**
Data Center Power System 3 - 45 Calvert St Annapolis MD 21401- Preventive Maintenance	**$**
Data Center Power System 4 – 100 Community Place , Crownsville, MD 21032 – Preventive Maintenance	
Communications Tower Site Power System - Preventive Maintenance (Price Per Site)	**$**
Year 1 Bid Price	**$**
Year 2	
Data Center Power System 1 - 6 St. Paul Street Baltimore, Maryland 21202- Preventive Maintenance	**$**
Data Center Power System 2 - Computer Space Science Building, University of Maryland Campus College Park, Maryland- Preventive Maintenance	**$**
Data Center Power System 3 - 45 Calvert St Annapolis MD 21401- Preventive Maintenance	**$**
Data Center Power System 4 -100 Community Place , Crownsville, MD 21032 – Preventive Maintenance	
Communications Tower Site Power System - Preventive Maintenance (Price Per Site)	**$**
Year 2 Bid Price	**$**

Year 3	
Data Center Power System 1 - 6 St. Paul Street Baltimore, Maryland 21202- Annual Preventive Maintenance	**$**
Data Center Power System 2 - Computer Space Science Building, University of Maryland Campus College Park, Maryland- Preventive Maintenance	**$**
Data Center Power System 3 - 45 Calvert St Annapolis MD 21401- Preventive Maintenance	**$**
Data Center Power System 4 – 100 Community Place , Crownsville, MD 21032 – Preventive Maintenance	
Communications Tower Site Power System - Preventive Maintenance (Price Per Site)	**$**
Year 3 Bid Price	**$**
Year 4	
Data Center Power System 1 - 6 St. Paul Street Baltimore, Maryland 21202- Preventive Maintenance	**$**
Data Center Power System 2 - Computer Space Science Building, University of Maryland Campus College Park, Maryland- Preventive Maintenance	**$**
Data Center Power System 3 - 45 Calvert St Annapolis MD 21401- Preventive Maintenance	**$**
Data Center Power System 4 – 100 Community Place , Crownsville, MD 21032 – Preventive Maintenance	
Communications Tower Site Power System - Preventive Maintenance (Price Per Site)	**$**
Year 4 Bid Price	**$**
Year 5	
Data Center Power System 1 - 6 St. Paul Street Baltimore, Maryland 21202- Preventive Maintenance	**$**
Data Center Power System 2 - Computer Space Science Building, University of Maryland Campus College Park, Maryland- Maintenance	**$**
Data Center Power System 3 - 45 Calvert St Annapolis MD 21401- Annual Preventive Maintenance	**$**
Data Center Power System 4 – 100 Community Place , Crownsville, MD 21032 – Preventive Maintenance	
Communications Tower Site Power System - Annual Preventive Maintenance (Price Per Site)	**$**

Year 5 Bid Price	**$**
Total Services Bid Price	**$**

Resource Bid (Time and Materials)

Item Number	**Labor Category (See Section 2.2)**	**Labor Rate (fully loaded) (A)**	**Estimated Hours (B)**	**Extended Price (A) x (B)**
Year 1				
2.2.1	Electrician, Journeyman (Routine Hours Repairs)	**$**	50	**$**
2.2.2	Electrician, Licensed Master Proposed by Bidder - (Routine Hours Repairs)	**$**	50	**$**
2.2.3	Electrician Helper (Emergency After Hours Repairs)	**$**	50	**$**
2.2.4	Engineer , Facility Operations (Routine Hours Repairs)	**$**	50	**$**
2.2.5	Engineer, Stationary (Routine Hours Repairs)	**$**	50	**$**
2.2.6	Facilities Specialist I	**$**	50	**$**
2.2.7	Facilities Specialist II	**$**	50	**$**
2.2.8	Facilities Specialist III	**$**	50	**$**
2.2.9	Facilities Specialist Lead	**$**	50	**$**
2.2.10	Facilities Operations Supervisor	**$**	50	**$**
Year 1 Resource Price				$
Year 2				
2.2.1	Electrician, Journeyman (Routine Hours Repairs)	**$**	50	**$**
2.2.2	Electrician, Licensed Master Proposed by Bidder - (Routine Hours Repairs)	**$**	50	**$**
2.2.3	Electrician Helper (Emergency After Hours Repairs)	**$**	50	**$**
2.2.4	Engineer, Facility Operations Proposed by Bidder - (Emergency After Hours	**$**	50	**$**

	Repairs)			
2.2.5	Engineer, Stationary	**$**	50	**$**
2.2.6	Facilities Specialist I	**$**	50	**$**
2.2.7	Facilities Specialist II	**$**	50	**$**
2.2.8	Facilities Specialist III	**$**	50	**$**
2.2.9	Facilities Specialist, Lead	**$**	50	**$**
2.2.10	Facilities Operations Supervisor	**$**	50	**$**
Year 2 Resource Price				$
Year 3				
2.2.1	Electrician, Journeyman (Routine Hours Repairs)	**$**	50	**$**
2.2.2	Electrician, Licensed Master Proposed by Bidder - (Routine Hours Repairs)	**$**	50	**$**
2.2.3	Electrician Helper (Emergency After Hours Repairs)	**$**	50	**$**
2.2.4	Engineer, Facility Operations Proposed by Bidder - (Emergency After Hours Repairs)	**$**	50	**$**
2.2.5	Engineer , Stationary	**$**	50	**$**
2.2.6	Facilities Specialist I	**$**	50	**$**
2.2.7	Facilities Specialist II	**$**	50	**$**
2.2.8	Facilities Specialist III	**$**	50	**$**
2.2.9	Facilities Specialist, Lead	**$**	50	**$**
2.2.10	Facilities Operations Supervisor	**$**	50	**$**
Year 3 Resource Price				$
Year 4				
2.2.1	Electrician, Licensed Master (Routine Hours Repairs)	**$**	50	**$**
2.2.2	Electrician, Journeyman Proposed by Bidder - (Routine Hours Repairs)	**$**	50	**$**

2.2.3	Electrician, Helper (Emergency After Hours Repairs)	**$**	50	**$**
2.2.4	Engineer, Facility Operations Proposed by Bidder - (Emergency After Hours Repairs)	**$**	50	**$**
2.2.5	Engineer, Stationary	**$**	50	**$**
2.2.6	Facilities Specialist I	**$**	50	**$**
2.2.7	Facilities Specialist II	**$**	50	**$**
2.2.8	Facilities Specialist III	**$**	50	**$**
2.2.9	Facilities Specialist, Lead	**$**	50	**$**
2.2.10	Facilities Operations Supervisor	**$**	50	**$**
Year 4 Resource Price				$
Year 5				
2.2.1	Electrician, Journeyman (Routine Hours Repairs)	**$**	50	**$**
2.2.2	Electrician, Licensed Master Proposed by Bidder - (Routine Hours Repairs)	**$**	50	**$**
2.2.3	Electrician Helper (Emergency After Hours Repairs)	**$**	50	**$**
2.2.4	Engineer, Facility Operations Proposed by Bidder - (Emergency After Hours Repairs)	**$**	50	**$**
2.2.5	Engineer, Stationary	**$**	50	**$**
2.2.6	Facilities Specialist I	**$**	50	**$**
2.2.7	Facilities Specialist II	**$**	50	**$**
2.2.8	Facilities Specialist III	**$**	50	**$**
2.2.9	Facilities Specialist Lead	**$**	50	**$**
2.2.10	Facilities Operations Supervisor	**$**	50	**$**
Year 5 Resource Price				$
Total Resource Bid Price				$

Bid Summary

Services Bid – Years 1 to 5	**$**
Resource Bid – Years 1 to 5	**$**
Total Bid Price	**$**

Submitted By: _____

Authorized Signature: _____ Date: _____

Printed Name and Title: _____

Company Name : _____

Company Address: _____

Location(s) from which services will be performed (City/State): _____

FEIN: _____

eMM #: _____

Telephone: (_____) _____ – _____

Fax: (_____) _____ – _____

E-mail: _____

ATTACHMENT F - LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS

Living Wage Requirements for Service Contracts

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

B. The Living Wage Law does not apply to:

(1) A Contractor who:

(a) Has a State contract for services valued at less than $100,000, or

(b) Employs 10 or fewer employees and has a State contract for services valued at less than $500,000.

(2) A Subcontractor who:

(a) Performs work on a State contract for services valued at less than $100,000,

(b) Employs 10 or fewer employees and performs work on a State contract for services valued at less than $500,000, or

(c) Performs work for a Contractor not covered by the Living Wage Law as defined in B(1)(b) above, or B(3) or C below.

(3) Service contracts for the following:

(a) Services with a Public Service Company;

(b) Services with a nonprofit organization;

(c) Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement ("Unit"); or

(d) Services between a Unit and a County or Baltimore City.

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

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

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

F. The Commissioner shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of

each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.

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

H. A Contractor/Subcontractor may reduce the wage rates paid under Md. Code Ann., State Finance and Procurement Article, §18-103(a), by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413.

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

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

ATTACHMENT F-1

Maryland Living Wage Requirements Affidavit of Agreement

(submit with Bid/Proposal)

Contract No. _____

Name of Contractor _____

Address_____

City_____ State_____ Zip Code _____

If the Contract Is Exempt from the Living Wage Law

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

___ Bidder/Offeror is a nonprofit organization

___ Bidder/Offeror is a public service company

___ Bidder/Offeror employs 10 or fewer employees and the proposed contract value is less than $500,000

___ Bidder/Offeror employs more than 10 employees and the proposed contract value is less than $100,000

If the Contract Is a Living Wage Contract

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

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

___ The employee(s) proposed to work on the contract will spend less than one-half of the employee's time during any work week on the contract

___ The employee(s) proposed to work on the contract is 17 years of age or younger during the duration of the contract; or

___ The employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

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

Name of Authorized Representative: _____

_____

Signature of Authorized Representative Date

_____

Title

_____

Witness Name (Typed or Printed)

_____

Witness Signature Date

(submit with Bid/Proposal)

ATTACHMENT G - FEDERAL FUNDS ATTACHMENT

This solicitation does not include a Federal Funds Attachment.

ATTACHMENT H - CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

Reference COMAR 21.05.08.08

(submit with Bid/Proposal)

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

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

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

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

E. The Bidder/Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the Bidder/Offeror shall immediately make a full disclosure in writing to the procurement officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the Bidder/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 - NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT ("Agreement") is made by and between the State of Maryland (the "State"), acting by and through (Department) (the "Department"), and _____ (the "Contractor").

RECITALS

WHEREAS, the Contractor has been awarded a contract (the "Contract") following the solicitation for (solicitation title) Solicitation # (solicitation number); and

WHEREAS, in order for the Contractor to perform the work required under the Contract, it will be necessary for the State at times to provide the Contractor and the Contractor's employees, agents, and subcontractors (collectively the "Contractor's Personnel") with access to certain information the State deems confidential information (the "Confidential Information").

NOW, THEREFORE, in consideration of being given access to the Confidential Information in connection with the solicitation and the Contract, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties do hereby agree as follows:

1. Regardless of the form, format, or media on or in which the Confidential Information is provided and regardless of whether any such Confidential Information is marked as such, Confidential Information means (1) any and all information provided by or made available by the State to the Contractor in connection with the Contract and (2) any and all personally identifiable information (PII) (including but not limited to personal information as defined in Md. Ann. Code, State Govt. § 10-1301) and protected health information (PHI) that is provided by a person or entity to the Contractor in connection with this Contract. Confidential Information includes, by way of example only, information that the Contractor views, takes notes from, copies (if the State agrees in writing to permit copying), possesses or is otherwise provided access to and use of by the State in relation to the Contract.
2. Contractor shall not, without the State's prior written consent, copy, disclose, publish, release, transfer, disseminate, use, or allow access for any purpose or in any form, any Confidential Information except for the sole and exclusive purpose of performing under the Contract. Contractor shall limit access to the Confidential Information to the Contractor's Personnel who have a demonstrable need to know such Confidential Information in order to perform under the Contract and who have agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information. The names of the Contractor's Personnel are attached hereto and made a part hereof as ATTACHMENT J-1. Contractor shall update ATTACHMENT J-1 by adding additional names (whether Contractor's personnel or a subcontractor's personnel) as needed, from time to time.
3. If the Contractor intends to disseminate any portion of the Confidential Information to non-employee agents who are assisting in the Contractor's performance of the Contract or who will otherwise have a role in performing any aspect of the Contract, the Contractor shall first obtain the written consent of the State to any such dissemination. The State may grant, deny, or condition any such consent, as it may deem appropriate in its sole and absolute subjective discretion.
4. Contractor hereby agrees to hold the Confidential Information in trust and in strictest confidence, to adopt or establish operating procedures and physical security measures, and to take all other measures necessary to protect the Confidential Information from inadvertent

release or disclosure to unauthorized third parties and to prevent all or any portion of the Confidential Information from falling into the public domain or into the possession of persons not bound to maintain the confidentiality of the Confidential Information.

5. Contractor shall promptly advise the State in writing if it learns of any unauthorized use, misappropriation, or disclosure of the Confidential Information by any of the Contractor's Personnel or the Contractor's former Personnel. Contractor shall, at its own expense, cooperate with the State in seeking injunctive or other equitable relief against any such person(s).
6. Contractor shall, at its own expense, return to the Department all Confidential Information in its care, custody, control or possession upon request of the Department or on termination of the Contract.
7. A breach of this Agreement by the Contractor or by the Contractor's Personnel shall constitute a breach of the Contract between the Contractor and the State.
8. Contractor acknowledges that any failure by the Contractor or the Contractor's Personnel to abide by the terms and conditions of use of the Confidential Information may cause irreparable harm to the State and that monetary damages may be inadequate to compensate the State for such breach. Accordingly, the Contractor agrees that the State may obtain an injunction to prevent the disclosure, copying or improper use of the Confidential Information. The Contractor consents to personal jurisdiction in the Maryland State Courts. The State's rights and remedies hereunder are cumulative and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and to seek damages from the Contractor and the Contractor's Personnel for a failure to comply with the requirements of this Agreement. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys' fees and disbursements) that are attributable, in whole or in part to any failure by the Contractor or any of the Contractor's Personnel to comply with the requirements of this Agreement, the Contractor shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and costs.
9. Contractor and each of the Contractor's Personnel who receive or have access to any Confidential Information shall execute a copy of an agreement substantially similar to this Agreement, in no event less restrictive than as set forth in this Agreement, and the Contractor shall provide originals of such executed Agreements to the State.
10. The parties further agree that:

    a. This Agreement shall be governed by the laws of the State of Maryland;

    b. The rights and obligations of the Contractor under this Agreement may not be assigned or delegated, by operation of law or otherwise, without the prior written consent of the State;

    c. The State makes no representations or warranties as to the accuracy or completeness of any Confidential Information;

    d. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement;

    e. Signatures exchanged by facsimile are effective for all purposes hereunder to the same extent as original signatures;

    f. The Recitals are not merely prefatory but are an integral part hereof; and

    g. The effective date of this Agreement shall be the same as the effective date of the Contract entered into by the parties.

IN WITNESS WHEREOF, the parties have, by their duly authorized representatives, executed this Agreement as of the day and year first above written.

Contractor: _____	Department of Information Technology
By: _____ (SEAL)	By: _____
Printed Name: _____	Printed Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

NON-DISCLOSURE AGREEMENT - ATTACHMENT I-1

LIST OF CONTRACTOR'S EMPLOYEES AND AGENTS WHO WILL BE GIVEN ACCESS TO THE CONFIDENTIAL INFORMATION

Printed Name and Address of Individual/Agent	Employee (E) or Agent (A)	Signature	Date

NON-DISCLOSURE AGREEMENT – ATTACHMENT I-2

CERTIFICATION TO ACCOMPANY RETURN OF CONFIDENTIAL INFORMATION

I AFFIRM THAT:

To the best of my knowledge, information, and belief, and upon due inquiry, I hereby certify that: (i) all Confidential Information which is the subject matter of that certain Non-Disclosure Agreement by and between the State of Maryland and _____ ("Contractor") dated _____, 20_____ ("Agreement") is attached hereto and is hereby returned to the State in accordance with the terms and conditions of the Agreement; and (ii) I am legally authorized to bind the Contractor to this affirmation.

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, HAVING MADE DUE INQUIRY.

DATE:_____

NAME OF CONTRACTOR: _____

BY:_____
(Signature)

TITLE: _____
(Authorized Representative and Affiant)

ATTACHMENT J - HIPAA BUSINESS ASSOCIATE AGREEMENT

This solicitation does not require a HIPAA Business Associate Agreement.

ATTACHMENT K - MERCURY AFFIDAVIT

MERCURY AFFIDAVIT
(submit with Bid/Proposal)

AUTHORIZED REPRESENTATIVE THEREBY AFFIRM THAT:

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

MERCURY CONTENT INFORMATION:

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

OR

[ ] The product(s) offered do contain mercury.

In an attachment to this Mercury Affidavit:

(1) Describe the product or product component that contains mercury.

(2) Provide the amount of mercury that is contained in the product or product component. Indicate the unit of measure being used.

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

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

_____ By: _____
Date Signature

Print Name: _____
Authorized Representative and Affiant

ATTACHMENT L - VETERAN-OWNED SMALL BUSINESS ENTERPRISE

The Veteran-Owned Small Business Enterprise (VSBE) subcontractor participation goal for this solicitation is 0%.

ATTACHMENT M - LOCATION OF THE PERFORMANCE OF SERVICES DISCLOSURE

This solicitation does not require a Location of the Performance of Services Disclosure.

ATTACHMENT N - DHR HIRING AGREEMENT

This solicitation does not require a DHR Hiring Agreement.