



**Consulting and Technical Services II (CATS II)  
Task Order Request for Proposals (TORFP)**

**HVAC Preventive Maintenance and Repair**

**SBR PROCUREMENT ONLY**

**CATS II TORFP # F50B0400004**

**Department of Information Technology  
Networks Division**

**ISSUE DATE: August 18, 2009**

## TABLE OF CONTENTS

<b>SECTION 1 - ADMINISTRATIVE INFORMATION</b> .....	<b>4</b>
1.1    RESPONSIBILITY FOR TORFP AND TO AGREEMENT.....	4
1.2    TO AGREEMENT.....	4
1.3    TO PROPOSAL SUBMISSIONS.....	4
1.4    MINORITY BUSINESS ENTERPRISE (MBE).....	4
1.5    ORAL PRESENTATIONS/INTERVIEWS.....	4
1.6    CONFLICT OF INTEREST.....	5
1.7    NON-DISCLOSURE AGREEMENT.....	5
1.8    LIMITATION OF LIABILITY CEILING.....	5
1.9    CONTRACT MANAGEMENT OVERSIGHT ACTIVITIES.....	5
<b>SECTION 2 – SCOPE OF WORK</b> .....	<b>6</b>
2.1    PURPOSE.....	6
2.2    REQUESTING AGENCY INFORMATION.....	6
2.3    MANAGEMENT ROLES AND RESPONSIBILITIES.....	6
2.4    SYSTEM BACKGROUND AND DESCRIPTION.....	6
2.5    REQUIREMENTS.....	7
2.5.1    TO CONTRACTOR PERSONNEL DUTIES AND RESPONSIBILITIES.....	7
2.5.2    SERVICE LEVEL AGREEMENT.....	8
2.6    TO CONTRACTOR PERSONNEL MINIMUM QUALIFICATIONS.....	8
2.7    TO CONTRACTOR EXPERTISE REQUIRED.....	8
2.8    INVOICE SUBMISSION.....	8
<b>SECTION 3 - TO PROPOSAL FORMAT AND SUBMISSION REQUIREMENTS</b> .....	<b>9</b>
3.1    REQUIRED RESPONSE.....	9
3.2    FORMAT.....	9
<b>SECTION 4 - PROCEDURE FOR AWARDING A TO AGREEMENT</b> .....	<b>11</b>
4.1    EVALUATION CRITERIA.....	11
4.2    TECHNICAL CRITERIA.....	11
4.3    SELECTION PROCEDURES.....	11
4.4    COMMENCEMENT OF WORK UNDER A TO AGREEMENT.....	11
<b>ATTACHMENT 1 PRICE PROPOSAL</b> .....	<b>12</b>
<b>ATTACHMENT 2 – MINORITY BUSINESS ENTERPRISE FORMS</b> .....	<b>14</b>
<b>ATTACHMENT 3 - TASK ORDER AGREEMENT</b> .....	<b>23</b>
<b>ATTACHMENT 4 - CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE</b> .....	<b>26</b>
<b>ATTACHMENT 5 - LABOR CLASSIFICATION PERSONNEL RESUME SUMMARY</b> .....	<b>27</b>
<b>ATTACHMENT 6 - DIRECTIONS TO THE PRE-TO PROPOSAL CONFERENCE</b> .....	<b>29</b>
<b>ATTACHMENT 7 - DELIVERABLE PRODUCT ACCEPTANCE FORM (DPAF)</b> .....	<b>30</b>
<b>ATTACHMENT 8 - NON-DISCLOSURE AGREEMENT (OFFEROR)</b> .....	<b>31</b>
<b>ATTACHMENT 9 - NON-DISCLOSURE AGREEMENT (TO CONTRACTOR)</b> .....	<b>32</b>
<b>ATTACHMENT 10 – TO CONTRACTOR SELF-REPORTING CHECKLIST</b> .....	<b>34</b>
<b>EXHIBIT A</b> .....	<b>36</b>

### KEY INFORMATION SUMMARY SHEET

This Consulting and Technical Services II (CATS II) Task Order Request for Proposals (TORFP) is issued to obtain the services necessary to satisfy the requirements defined in Section 2 - Scope of Work. All CATS II Master Contractors approved to perform work in the functional area under which this TORFP is released are invited to submit a Task Order (TO) Proposal to this TORFP. Master Contractors choosing not to submit a proposal must submit a Master Contractor Feedback form. The form is accessible via your CATS II Master Contractor login screen and clicking on TORFP Feedback Response Form from the menu. In addition to the requirements of this TORFP, the Master Contractors are subject to all terms and conditions contained in the CATS II RFP issued by the Maryland Department of Information Technology and subsequent Master Contract Project Number 060B9800035, including any amendments.

<b>TORFP NAME:</b>	HVAC Preventive Maintenance and Repair
<b>FUNCTIONAL AREA:</b>	FA 6 Systems/Facilities Management and Maintenance
<b>TORFP ISSUE DATE:</b>	August 18, 2009
<b>Closing Date and Time:</b>	August 26, 2009 at 2:00PM
<b>TORFP Issuing Office:</b>	Department of Information Technology, Networks Division
<b>Questions and Proposals are to be sent to:</b>	Gisela Blades <a href="mailto:gisela.blades@doit.state.md.us">gisela.blades@doit.state.md.us</a>
<b>TO Procurement Officer</b>	Gisela Blades Office Phone: 410.260.7678
<b>TO Manager:</b>	Timothy Kwong, Operation Manager Office Phone: 410.260.7423
<b>Project Number:</b>	F50B0400004
<b>TO Type:</b>	Fixed price/ time and material
<b>Period of Performance:</b>	September 1, 2009 to August 31, 2012
<b>MBE Goal:</b>	35%
<b>Small Business Reserve (SBR):</b>	yes
<b>Primary Place of Performance:</b>	Central Maryland – see TORFP
<b>State Furnish Work Site and/or Access to Equipment, Facilities or Personnel:</b>	
<b>TO Pre-Proposal Conference:</b>	DoIT 45 Calvert Street, Room 443 Annapolis, MD 21401 Thursday, August 20, 10:00 AM See Attachment 5 for Directions

# SECTION 1 - ADMINISTRATIVE INFORMATION

## 1.1 RESPONSIBILITY FOR TORFP AND TO AGREEMENT

The TO Procurement Officer has the primary responsibility for the management of the TORFP process, for the resolution of TO Agreement scope issues, and for authorizing any changes to the TO Agreement. See Section 2.15 for information on change orders.

The TO Manager has the primary responsibility for the management of the work performed under the TO Agreement; administration functions, including issuing written directions; ensuring compliance with the terms and conditions of the CATS II Master Contract; and, in conjunction with the selected Master Contractor, achieving on budget/on time/on target (e.g., within scope) completion of the Scope of Work.

## 1.2 TO AGREEMENT

Based upon an evaluation of TO Proposal responses, an SBR Master Contractor will be selected to conduct the work defined in Section 2 - Scope of Work. A specific TO Agreement, Attachment 2, will then be entered into between the State and the selected Master Contractor, which will bind the selected Master Contractor (TO Contractor) to the contents of its TO Proposal, including the price proposal.

## 1.3 TO PROPOSAL SUBMISSIONS

The TO Procurement Officer will not accept submissions after the stated date and **exact** time. The time will be local time as determined by **DoIT's e-mail system time stamp**. The TO Proposal is to be submitted via e-mail as two attachments in MS Word format. The "subject" line in the e-mail submission shall state the TORFP #50B0400004. The first file will be the TO Proposal technical response to this TORFP and titled, "CATS II TORFP #50B0400004 Technical". The second file will be the financial response to this CATS II TORFP and titled, "CATS II TORFP #50B0400004 Financial". The following proposal documents must be submitted with required signatures as .PDF files with signatures clearly visible:

- Attachment 1 – Price Proposal
- Attachment 2 - MBE Forms D-1 and D-2
- Attachment 4 - Conflict of Interest and Disclosure Affidavit

## 1.4 MINORITY BUSINESS ENTERPRISE (MBE)

A Master Contractor that responds to this TORFP shall complete, sign, and submit all required MBE documentation (Attachment 2 - MBE Forms D-1 and D-2) at the time it submits its TO Proposal. The MBE goal of 30 percent shall apply to each IV&V. Separate and complete MBE documentation is required for each individual IV&V submitted in the technical response. **Failure of the Master Contractor to complete, sign, and submit all required MBE documentation at the time it submits its TO Proposal will result in the State's rejection of the Master Contractor's TO Proposal.**

## 1.5 ORAL PRESENTATIONS/INTERVIEWS

Master Contractors and proposed staff may be required to make an oral presentation to State representatives. Significant representations made by a Master Contractor during the oral presentation shall be submitted in writing. All such representations will become part of the Master Contractor's proposal and are binding, if the Contract is awarded. The Procurement Officer will notify Master Contractor of the time and place of oral presentations.

## **1.6 CONFLICT OF INTEREST**

The TO Contractor awarded the TO Agreement shall provide IT consulting services for State agencies or component programs with those agencies, and must do so impartially and without any conflicts of interest. Each Master Contractor shall complete and include a Conflict of Interest Affidavit in the form included as Attachment 4 this TORFP with its TO Proposal. If the TO Procurement Officer makes a determination that facts or circumstances exist that give rise to or could in the future give rise to a conflict of interest within the meaning of COMAR 21.05.08.08A, the TO Procurement Officer may reject a Master Contractor's TO Proposal under COMAR 21.06.02.03B.

Master Contractors should be aware that the State Ethics Law, State Government Article, §15-508, might limit the selected Master Contractor's ability to participate in future related procurements, depending upon specific circumstances.

## **1.7 NON-DISCLOSURE AGREEMENT**

Certain system documentation may be available for potential Offerors to review at a reading room at 45 Calvert Street, Annapolis, MD 21401. Offerors who review such documentation will be required to sign a Non-Disclosure Agreement in the form of Attachment 7. Please contact the TO Procurement Officer of this TORFP to schedule an appointment.

In addition, certain documentation may be required by the TO Contractor awarded the TO Agreement in order to fulfill the requirements of the TO Agreement. The TO Contractor, employees and agents who review such documents will be required to sign, including but not limited to, a Non-Disclosure Agreement in the form of Attachment 7.

## **1.8 LIMITATION OF LIABILITY CEILING**

Pursuant to Section 27 (C) of the CATS II Master Contract, the limitation of liability per claim under this TORFP shall not exceed the total TO Agreement amount established.

## **1.9 CONTRACT MANAGEMENT OVERSIGHT ACTIVITIES**

DoIT is responsible for contract management oversight on the CATS II master contract. As part of that oversight, DoIT has implemented a process for self-reporting contract management activities of CATS II task orders (TO). This process shall typically apply to active TOs for operations, maintenance, and support valued at \$1 million or greater, but all CATS II TOs are subject to review.

Attachment 9 is the TO Contractor Self-Reporting Checklist. DoIT will send initial checklists out to applicable TO Contractors approximately three months after the award date for a TO. The TO Contractor shall complete and return the checklist as instructed on the checklist. Subsequently, at six month intervals from the due date on the initial checklist, the TO Contractor shall update and resend the checklist to DoIT.

## SECTION 2 – SCOPE OF WORK

### 2.1 PURPOSE

The DoIT Networks Divisions is issuing this CATS II TORFP to obtain the services of an SBR TO Contractor to perform scheduled maintenance, required repairs, and emergency repairs for HVAC equipment in three locations of central Maryland, as detailed in the Statement of Work.

### 2.2 REQUESTING AGENCY INFORMATION

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 transmission support system with numerous installations throughout the State. The three HVAC equipment locations covered under this contract provide environmental HVAC control at each of three main Points of Presence (POPs) which are central core operational facilities for the statewide network. All equipment has been professionally maintained and received periodic preventive maintenance under contract through August 2009.

Because of the reliance of the networkMaryland™ wide area network on the continuous availability of these HVAC systems, it is paramount they be maintained at peak level of performance with scheduled servicing meeting or exceeding all manufacturer's recommendations.

### 2.3 MANAGEMENT ROLES AND RESPONSIBILITIES

Preventive maintenance work at any location must be scheduled and coordinated through the DOIT **Operations Manager** before any work can begin. HVAC systems are located within secure locations and require the accompaniment of a networkMaryland™ representative for access

### 2.4 SYSTEM BACKGROUND AND DESCRIPTION

#### 1. ANNAPOLIS HVAC SYSTEM

Description: One (1) Liebert, Model # VH125AU-AAEL.

Location: Basement Room  
45 Calvert Street  
Annapolis, Maryland 21401

#### 2. BALTIMORE HVAC SYSTEM

Description: Three (3) Liebert Units, Model # MMD24EXHEDO, M# MMD36EAE000, and M# MMD36EAE00

Location: Room 1208, Schaeffer Tower Building  
6 St. Paul Street  
Baltimore, MD 21202

### 3. COLLEGE PARK HVAC SYSTEM

Description: (4) Liebert Units, Model # BF067A-AAES

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

## **2.5 REQUIREMENTS**

### **2.5.1 TO CONTRACTOR PERSONNEL DUTIES AND RESPONSIBILITIES**

At a minimum, the work to be accomplished by the TO Contractor personnel under this TORFP shall consist of the following:

#### 2.5.1.1 Fixed Price Based:

- A) Provide cost effective manufacturer identified preventive maintenance of the eight (8) HVAC systems identified in section II once every three months on a schedule to be determined upon award of contract.
- B) Within the scope of such preventive maintenance perform standard tests, inspection and maintenance as identified by the manufacturer.
- C) Evaluate the results of all tests performed for abnormal or inconsistent performance.
- D) Preventive maintenance will include replacement of filters, belts and all other services recommended by the manufacturer on a schedule that meets or exceeds the manufacturer's recommendations.
- E) Any work that is not classified as "emergency" will be conducted between the hours of 7:30 am and 5:00pm, on weekdays only. (Emergency repair work will be performed as required to return HVAC system performance to normal as soon as possible.)
- F) Preventive maintenance work at any location must be scheduled and coordinated through the DoIT Operations Manager before any work can begin. HVAC systems are located within secure locations and require the accompaniment of a networkMaryland™ representative for access.
- G) The contractor will provide records of work performed, test results, periodic performance reporting, and written recommendations to the DoIT Operations Manager following any work performed

#### 2.5.1.2 Non-Recurring Duties – Time & Material, Work Order Based

A) Provide emergency and general repair of the HVAC systems not covered by scope of standard maintenance as identified by the TO Contractor and approved in writing by DoIT, at the hourly rate specified within the contractor's financial response to this RFP.

Any non-emergency work performed beyond the standard preventive maintenance must be pre-authorized and approved via written work order by the DoIT Operations Manager following receipt of a written estimate or quote. DoIT Operations Manager will perform acceptance testing prior to work order completion, and TO Contractor will perform corrective actions at no additional charge to the State..

## **2.5.2 SERVICE LEVEL AGREEMENT**

TO Contractor emergency personnel must be available on a 24-hour seven (7) days per week basis and must report to emergency site within (4) hours of notification by DoIT, 365 days a year. Resolve any operating issue and return to standard operational status as soon as possible.

## **2.6 TO CONTRACTOR PERSONNEL MINIMUM QUALIFICATIONS**

The following minimum qualifications are mandatory. The Master Contractor's staff must demonstrate expertise in the following:

The Contractor must have such certifications, licensing or training necessary to meet maintenance performance standards as recommended or identified by the HVAC Systems manufacturer of the systems described in Section II.

## **2.7 TO CONTRACTOR EXPERTISE REQUIRED**

The TO Contractor shall have experience maintaining no less than two (2) comparable HVAC Systems of the same size and type as described in Section II within the past three (3) years. The TO Contractor shall be capable of furnishing all necessary services required to successfully complete all tasks and work requirements and produce high quality deliverables described herein. The Master Contractor shall demonstrate, in its proposal, that it possesses such expertise in-house or has fostered strategic alliances with other firms for providing such services.

## **2.8 INVOICE SUBMISSION**

### **1. Preventive Maintenance, Fixed Price:**

Contractor shall submit invoices to the Operations Manager for one fourth of the annual preventive maintenance contract amount upon completion of each scheduled quarterly performance including a copy of the detailed work order for each individual system by location.

### **2. Special or Emergency Requested Service, Time and Material based work orders:**

Contractor shall submit invoices upon completion of any service requested by the Operations Manager beyond the preventive maintenance schedule within fifteen days of completion. All invoices must provide detailed information including labor rate, hours charged, and description and price of any parts or supplies used.

3. Each work order supporting any invoice, whether preventive maintenance or other requested work order service must include the signature of the networkMaryland™ representative present for the service.

### **2.8.1 INVOICE FORMAT**

A) The invoice shall identify DoIT, labor category, if applicable, associated TO Agreement number, date of invoice, period of performance covered by the invoice, and a TO Contractor point of contact with telephone number.

B) The TO Contractor shall send the original of each invoice and supporting documentation (itemized billing reference for employees, including detail of work hours) submitted for payment to DoIT at the following address:

Timothy Kwong  
410-260-7423  
tim.kwong@doit.state.md.us



- C) Invoices for final payment shall be clearly marked as “FINAL” and submitted when all work requirements have been completed and no further charges are to be incurred under the TO Agreement. In no event shall any invoice be submitted later than 60 calendar days from the TO Agreement termination date.

### **SECTION 3- TO PROPOSAL FORMAT AND SUBMISSION REQUIREMENTS**

#### **3.1 REQUIRED RESPONSE**

Each Master Contractor receiving this CATS II TORFP must respond within the submission time designated in the Key Information Summary Sheet. Each Master Contractor is required to submit one or two possible responses: 1) a proposal and/or 2) a completed Master Contractor Feedback form submitted electronically via the CATS II web site explaining why the Master Contractor will not be submitting a proposal. The form is accessible via, your CATS II Master Contractor login screen and clicking on TORFP Feedback Response Form from the menu.

#### **3.2 FORMAT**

If a Master Contractor elects to submit a TO Proposal, the Master Contractor shall do so in conformance with the requirements of this CATS II TORFP. The TO Proposal shall provide the following:

##### **3.2.1 THE TECHNICAL PORTION OF THE TO PROPOSAL SHALL INCLUDE:**

###### **A) Proposed Services**

- 1) Requirements: A detailed discussion of the Master Contractor’s understanding of the work and the Master Contractor’s capabilities, approach and solution to address the requirements outlined in Section 2.
- 2) Assumptions: A description of any assumptions formed by the Master Contractor in developing the Technical Proposal.

###### **B) Proposed Personnel**

- 1) Identify proposed personnel by labor category.
- 2) Certification that all proposed personnel meet the minimum required qualifications and possess the required certifications in Section 2.9.
- 3) Provide the names and titles of all key management personnel who will be involved with supervising the services rendered under this TO Agreement.
- 4) MBE Participation: For each IV&V the Master Contractor is proposing to perform, submit completed MBE documents Attachment 2 - Forms D-1 Certified MBE Utilization and Fair Solicitation Affidavit, and D-2 MBE Participation Schedule.

###### **C) Subcontractors**

- 1) Identify all proposed subcontractors, including MBEs, and their full roles in the performance of this TORFP Scope of Work.

###### **D) Master Contractor and Subcontractor Experience and Capabilities**

- 1) Provide two examples of work assignments that the proposed personnel have completed that were similar in scope to the one defined in this TORFP. Each of the two examples must include a reference complete with the following:

- a) Name of organization.
  - b) Name, title, and telephone number of point-of-contact for the reference.
  - c) Type and duration of contract(s) supporting the reference.
  - d) The services provided, scope of the contract and performance objectives satisfied as they relate to the scope of this TORFP.
  - e) Whether the proposed personnel are still providing these services and, if not, an explanation of why services are no longer provided to the client organization.
- 2) State of Maryland Experience: If applicable, the Master Contractor shall submit a list of all contracts it currently holds or has held within the past five years with any government entity of the State of Maryland. For each identified contract, the Master Contractor shall provide:
- a) The State contracting entity,
  - b) A brief description of the services/goods provided,
  - c) The dollar value of the contract,
  - d) The term of the contract,
  - e) Whether the contract was terminated prior to the specified original contract termination date,
  - f) Whether any available renewal option was not exercised,
  - g) The State employee contact person (name, title, telephone number and e-mail address).

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

E) State Assistance

- 1) Provide an estimate of expectation concerning participation by State personnel.

F) Confidentiality

- 1) A Master Contractor should give specific attention to the identification of those portions of its proposal that it considers confidential, proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Title 10, Subtitle 6, of the State Government Article of the Annotated Code of Maryland. Contractors are advised that, upon request for this information from a third party, the TO Procurement Officer will be required to make an independent determination regarding whether the information may be disclosed.

**3.2.2 THE FINANCIAL RESPONSE OF THE TO PROPOSAL SHALL INCLUDE:**

- A) A description of any assumptions on which the Master Contractor's Financial Proposal is based (Assumptions shall not constitute conditions, contingencies, or exceptions to the price proposal).
- B) Completed Financial Proposal - Attachment 1 including:

The Master Contractor should indicate on Attachment 1 the appropriate Labor Category being proposed, and the Fixed Hourly Labor Category Rate. Proposed rates are not to exceed the rates defined in the Master Contract.

## **SECTION 4 - PROCEDURE FOR AWARDING A TO AGREEMENT**

### **4.1 EVALUATION CRITERIA**

The TO Contractor will be selected from among all eligible Master Contractors within the appropriate functional area responding to the CATS II TORFP. In making the TO Agreement award determination, DoIT will consider all information submitted in accordance with Section 3.

### **4.2 TECHNICAL CRITERIA**

The following are technical criteria for evaluating a TO Proposal in descending order of importance:

- The Master Contractor's proposed solution and understanding of the TORFP Scope of Work based on the required response
- Personnel experience required
- Corporate experience

### **4.3 SELECTION PROCEDURES**

- 4.3.1 TO Proposals will be assessed throughout the evaluation process for compliance with the minimum personnel qualifications and quality of responses to Section 3.2.1 of the TORFP. Master Contractor proposals that fail to meet the minimum qualifications will be deemed not reasonably susceptible for award, i.e., disqualified and their proposals eliminated from further consideration.
- 4.3.2 TO Proposals deemed technically qualified will have their financial proposal considered. All others will receive e-mail notice from the TO Procurement Officer of not being selected to perform the work.
- 4.3.3 Qualified TO Proposal financial responses will be reviewed and ranked from lowest to highest price proposed.
- 4.3.4 The most advantageous TO Proposal offer considering technical and financial submission shall be selected for the work assignment. In making this selection, technical merit has greater weight than price.

### **4.4 COMMENCEMENT OF WORK UNDER A TO AGREEMENT**

Commencement of work in response to a TO Agreement shall be initiated only upon issuance of a fully executed TO Agreement, a Non-Disclosure Agreement (TO Contractor), a Purchase Order, and by a Notice to Proceed authorized by the TO Procurement Officer.

**ATTACHMENT 1 PRICE PROPOSAL**

**PRICE PROPOSAL FOR CATS II TORFP F50B0400004  
Time and Material**

<b>Labor Categories</b>	<b>A</b>	<b>B</b>	<b>C</b>
	<b>Hourly Labor Rate</b>	<b>Total Class Hours Annually</b>	<b>Total Proposed CATS II TORFP Price</b>
(Please note: No more than 30 hours per year are anticipated for these services. Master Contractor to allocate hours by and insert proposed labor categories for this TORFP for each of the three contract years)			
Year one (add lines as needed)	\$		\$
Year two	\$		\$
Year three	\$		\$
<b>Total Evaluated Price</b>			<b>\$</b>

\_\_\_\_\_  
Authorized Individual Name

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company Tax ID #

The Hourly Labor Rate is the actual rate the State will pay for services and must be recorded in dollars and cents. The Hourly Labor Rate cannot exceed the Master Contract Rate, but may be lower.

**PRICE PROPOSAL For CATS II TORFP F050B0400004  
Fixed Price**

<b>Identification</b>	<b>Deliverable</b>	<b>Proposed Price</b>
	Annual Maintenance Year One	
	Annual Maintenance Year two	
	Annual Maintenance Year Three	
<b>Total Proposed Fixed Price</b>		

\_\_\_\_\_  
Authorized Individual Name

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

---

Title

---

Company Tax ID #

SUBMIT WITH THE FINANCIAL RESPONSE

## ATTACHMENT 2 – MINORITY BUSINESS ENTERPRISE FORMS

### TO CONTRACTOR MINORITY BUSINESS ENTERPRISE REPORTING REQUIREMENTS

CATS II TORFP # **ADPICS PO**

These instructions are meant to accompany the customized reporting forms sent to you by the TO Manager. If, after reading these instructions, you have additional questions or need further clarification, please contact the TO Manager immediately.

1. As the TO Contractor, you have entered into a TO Agreement with the State of Maryland. As such, your company/firm is responsible for successful completion of all deliverables under the contract, including your commitment to making a good faith effort to meet the MBE participation goal(s) established for TORFP. Part of that effort, as outlined in the TORFP, includes submission of monthly reports to the State regarding the previous month's MBE payment activity. Reporting forms D-5 (TO Contractor Paid/Unpaid MBE Invoice Report) and D-6 (Subcontractor Paid/Unpaid MBE Invoice Report) are attached for your use and convenience.
2. The TO Contractor must complete a separate Form D-5 for each MBE subcontractor for each month of the contract and submit one copy to each of the locations indicated at the bottom of the form. The report is due no later than the 15<sup>th</sup> of the month following the month that is being reported. For example, the report for January's activity is due no later than the 15<sup>th</sup> of February. With the approval of the TO Manager, the report may be submitted electronically. Note: Reports are required to be submitted each month, regardless of whether there was any MBE payment activity for the reporting month.
3. The TO Contractor is responsible for ensuring that each subcontractor receives a copy (e-copy of and/or hard copy) of Form D-6. The TO Contractor should make sure that the subcontractor receives all the information necessary to complete the form properly, i.e., all of the information located in the upper right corner of the form. It may be wise to customize Form D-6 (upper right corner of the form) for the subcontractor the same as the Form D-5 was customized by the TO Manager for the benefit of the TO Contractor. This will help to minimize any confusion for those who receive and review the reports.
4. It is the responsibility of the TO Contractor to make sure that all subcontractors submit reports no later than the 15<sup>th</sup> of each month, regardless of whether there was any MBE payment activity for the reporting month. Actual payment data is verified and entered into the State's financial management tracking system from the subcontractor's D-6 report only. Therefore, if the subcontractor(s) do not submit their D-6 payment reports, the TO Contractor cannot and will not be given credit for subcontractor payments, regardless of the TO Contractor's proper submission of Form D-5. The TO Manager will contact the TO Contractor if reports are not received each month from either the prime contractor or any of the identified subcontractors. The TO Contractor must promptly notify the TO Manager if, during the course of the contract, a new MBE subcontractor is utilized. Failure to comply with the MBE contract provisions and reporting requirements may result in sanctions, as provided by COMAR 21.11.03.13.

## ATTACHMENT 2 – MINORITY BUSINESS ENTERPRISE FORMS

### FORM D – 1

#### Certified MBE Utilization and Fair Solicitation Affidavit

**This document shall be included with the submittal of the Offeror's TO Proposal. If the Offeror fails to submit this form with the TO Proposal, the TO Procurement Officer shall determine that the Offeror's TO Proposal is not reasonably susceptible of being selected for award.**

In conjunction with the offer submitted in response to TORFP No. F50B0400004, I affirm the following:

1. I acknowledge the overall certified Minority Business Enterprise (MBE) participation goal of 35 percent. I have made a good faith effort to achieve this goal.

OR

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

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

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

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

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

\_\_\_\_\_  
Offeror Name

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

\_\_\_\_\_  
Address

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Date

**SUBMIT AS A .PDF FILE WITH TO RESPONSE**



**ATTACHMENT 2 – MINORITY BUSINESS ENTERPRISE FORMS**

**FORM D – 2**

**Minority Business Enterprise Participation Schedule**

This document shall be included with the submittal of the TO Proposal. If the Offeror fails to submit this form with the TO Proposal, the TO Procurement Officer shall determine that the TO Proposal is not reasonably susceptible of being selected for award.

TO Prime Contractor (Firm Name, Address, Phone)	Task Order Description
Task Order Agreement Number F50B0400004	
<b>List Information For Each Certified MBE Subcontractor On This Project</b>	
Minority Firm Name	MBE Certification Number
Work To Be Performed/SIC	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/SIC	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/SIC	
Percentage of Total Contract	

**USE ATTACHMENT D-2 CONTINUATION PAGE AS NEEDED**

**SUMMARY**

**TOTAL MBE PARTICIPATION:** \_\_\_\_\_ %

**TOTAL WOMAN-OWNED MBE PARTICIPATION:** \_\_\_\_\_ %

**TOTAL AFRICAN AMERICAN-OWNED MBE PARTICIPATION:** \_\_\_\_\_ %

Document Prepared By: (please print or type)

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

**ATTACHMENT 2 – MINORITY BUSINESS ENTERPRISE FORMS**

**FORM D – 2**

**Minority Business Enterprise Participation Schedule (Continued)**

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

SUBMIT AS A .PDF FILE WITH TO RESPONSE

**ATTACHMENT 2 – MINORITY BUSINESS ENTERPRISE FORMS**

**FORM D – 3**

**Outreach Efforts Compliance Statement**

In conjunction with the bid or offer submitted in response to TORFP # F50B0400004, I state the following:

- 6. Offeror identified opportunities to subcontract in these specific work categories:
  
- 7. Attached to this form are copies of written solicitations (with bidding instructions) used to solicit certified MBEs for these subcontract opportunities.
  
- 8. Offeror made the following attempts to contact personally the solicited MBEs:
  
- 9.  Offeror assisted MBEs to fulfill or to seek waiver of bonding requirements.  
(DESCRIBE EFFORTS)
  
- This project does not involve bonding requirements.
  
- 10.  Offeror did/did not attend the pre-proposal conference  
 No pre-proposal conference was held.

_____	By:	_____
Offeror Name		Name
_____		_____
Address		Title
		_____
		Date

**SUBMIT WITHIN 10 WORKING DAYS OF RECEIVING NOTICE OF THE POTENTIAL AWARD**

**ATTACHMENT 2 – MINORITY BUSINESS ENTERPRISE FORMS**

**FORM D – 4**

**Subcontractor Project Participation Statement**

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

Provided that \_\_\_\_\_ is awarded the TO Agreement in  
(Prime TO Contractor Name)  
conjunction with TORFP No. F50B0400004, it and \_\_\_\_\_,  
(Subcontractor Name)  
MDOT Certification No. \_\_\_\_\_, intend to enter into a contract by which the subcontractor shall:

(Describe work to be performed by MBE):

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

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

By:

By:

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

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

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

SUBMIT WITHIN 10 WORKING DAYS OF RECEIVING NOTICE OF THE POTENTIAL AWARD

**ATTACHMENT 2 – MINORITY BUSINESS ENTERPRISE FORMS**

**FORM D – 5**

**Minority Business Enterprise Participation TO Contractor Paid/Unpaid Invoice Report**

Report #: _____	CATS II TORFP #F50B0400004
Reporting Period (Month/Year): _____	Contracting Unit _____
<b>Report is due by the 15<sup>th</sup> of the following month.</b>	Contract Amount _____
	MBE Sub Contract Amt _____
	Contract Begin Date _____
	Contract End Date _____
	Services Provided _____

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

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

**Return one copy of this form to the following address:**

(TO MANAGER OF APPLICABLE POC NAME, TITLE) (AGENCY NAME) (ADDRESS, ROOM NUMBER) (CITY, STATE ZIP) (EMAIL ADDRESS)	(TO PROCUREMENT OFFICER OR APPLICABLE POC NAME, TITLE) (AGENCY NAME) (ADDRESS, ROOM NUMBER) (CITY, STATE ZIP) (EMAIL ADDRESS)
--	--

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

SUBMIT AS REQUIRED IN TO CONTRACTOR MBE REPORTING REQUIREMENTS

**ATTACHMENT 2 – MINORITY BUSINESS ENTERPRISE FORMS**

**FORM D – 6**

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

Report #: _____ Reporting Period (Month/Year): ___/_____ <b>Report Due By the 15<sup>th</sup> of the following Month.</b>	CATS II TORFP # <b>ADPICS PO</b> Contracting Unit _____ Contract Amount _____ MBE Sub Contract Amt _____ Contract Begin Date _____ Contract End Date _____ Services Provided _____	
MBE Subcontractor Name: _____		
MDOT Certification #: _____		
Contact Person: _____		
Address: _____		
City: _____	State: _____	ZIP: _____
Phone: _____	FAX: _____	
Subcontractor Services Provided: _____		
<b>List all payments received from Prime TO Contractor during reporting period indicated above.</b>  1. _____ 2. _____ 3. _____  <b>Total Dollars Paid: \$</b> _____	<b>List dates and amounts of any unpaid invoices over 30 days old.</b>  1. _____ 2. _____ 3. _____  <b>Total Dollars Unpaid: \$</b> _____	
Prime TO Contractor: _____		Contact Person: _____

**Return one copy of this form to the following address:**

(TO MANAGER OF APPLICABLE POC NAME, TITLE) (AGENCY NAME) (ADDRESS, ROOM NUMBER) (CITY, STATE ZIP) (EMAIL ADDRESS)	(TO PROCUREMENT OFFICER OR APPLICABLE POC NAME, TITLE) (AGENCY NAME) (ADDRESS, ROOM NUMBER) (CITY, STATE ZIP) (EMAIL ADDRESS)
--	--

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

Submit as required in TO Contractor MBE Reporting Requirements

### ATTACHMENT 3 - Task Order Agreement

#### CATS II TORFP # **ADPICS PO number** OF MASTER CONTRACT # 060B9800035

This Task Order Agreement (“TO Agreement”) is made this day of Month, 200X by and between **MASTER CONTRACTOR** and the STATE OF MARYLAND, **TO Requesting Agency**.

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

1. Definitions. In this TO Agreement, the following words have the meanings indicated:
  - a. “Agency” means the **TO Requesting Agency**, as identified in the CATS II TORFP # **ADPICS PO**.
  - b. “CATS II TORFP” means the Task Order Request for Proposals # **ADPICS PO**, dated **MONTH DAY, YEAR**, including any addenda.
  - c. “Master Contract” means the CATS II Master Contract between the Maryland Department of Information Technology and **MASTER CONTRACTOR** dated **xxx 2009**.
  - d. “TO Procurement Officer” means **TO Procurement Officer**. The Agency may change the TO Procurement Officer at any time by written notice to the TO Contractor.
  - e. “TO Agreement” means this signed TO Agreement between the **TO Requesting Agency** and **MASTER CONTRACTOR**.
  - f. “TO Contractor” means the CATS II Master Contractor awarded this TO Agreement, whose principal business address is \_\_\_\_\_ and whose principal office in Maryland is \_\_\_\_\_.
  - g. “TO Manager” means **TO Manager** of the Agency. The Agency may change the TO Manager at any time by written notice to the TO Contractor.
  - h. “TO Proposal - Technical” means the TO Contractor’s technical response to the CATS II TORFP dated **date of TO Proposal – Technical**.
  - i. “TO Proposal – Financial” means the TO Contractor’s financial response to the CATS II TORFP dated **date of TO Proposal - FINANCIAL**.
  - j. “TO Proposal” collectively refers to the TO Proposal – Technical and TO Proposal – Financial.
2. Scope of Work
  - 2.1. This TO Agreement incorporates all of the terms and conditions of the Master Contract and shall not in any way amend, conflict with or supersede the Master Contract.
  - 2.2. The TO Contractor shall, in full satisfaction of the specific requirements of this TO Agreement, provide the services set forth in Section 2 of the CATS II TORFP. These services shall be provided in accordance with the Master Contract, this TO Agreement, and the following Exhibits, which are attached and incorporated herein by reference. If there is any conflict among the Master Contract, this TO Agreement, and these Exhibits, the terms of the Master Contract shall govern. If there is any conflict between this TO Agreement and any of these Exhibits, the following order of precedence shall determine the prevailing provision:
    - a. The TO Agreement,
    - b. Exhibit A – CATS II TORFP
    - c. Exhibit B – TO Proposal-Technical
    - d. Exhibit C – TO Proposal-Financial

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

3. Time for Performance.

Unless terminated earlier as provided in the Master Contract, the TO Contractor shall provide the services described in the TO Proposal and in accordance with the CATS II TORFP on receipt of a Notice to Proceed from the TO Manager. The term of this TO Agreement is for a period of one year, commencing on the date of Notice to Proceed and terminating on **MONTH DAY, YEAR**.

4. Consideration and Payment

4.1 The consideration to be paid the TO Contractor shall be done so in accordance with the CATS II TORFP and shall not exceed **\$total amount of task order**. Any work performed by the TO Contractor in excess of the not-to-exceed ceiling amount of the TO Agreement without the prior written approval of the TO Manager is at the TO Contractor's risk of non-payment.

4.2 Payments to the TO Contractor shall be made as outlined Section 2 of the CATS II TORFP, but no later than thirty (30) days after the Agency's receipt of an invoice for services provided by the TO Contractor, acceptance by the Agency of services provided by the TO Contractor, and pursuant to the conditions outlined in Section 4 of this Agreement.

4.3 Each invoice for services rendered must include the TO Contractor's Federal Tax Identification Number which is **Federal ID number**. 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 must be submitted to the **Agency TO Manager unless otherwise specified herein**.

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

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

**TO CONTRACTOR NAME**

By: Type or Print TO Contractor POC

Date

Witness: \_\_\_\_\_



STATE OF MARYLAND, TO Requesting Agency

By: insert name, TO Procurement Officer

\_\_\_\_\_ Date

Witness: \_\_\_\_\_

**ATTACHMENT 4 - Conflict Of Interest Affidavit And Disclosure**

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

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

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

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

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

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

Date: \_\_\_\_\_ By: \_\_\_\_\_  
(Authorized Representative and Affiant)

SUBMIT AS A .PDF FILE WITH TECHNICAL RESPONSE

## ATTACHMENT 5 - Labor Classification Personnel Resume Summary

### INSTRUCTIONS:

1. Master Contractors must comply with all personnel requirements under the Master Contract RFP 060B9800035.
2. Only labor categories proposed in the Master Contractors Technical proposal may be proposed under the CATS II TORFP process.
3. For each person proposed in any of the labor categories, complete one Labor Category Personnel Resume Summary to document how the proposed person meets each of the minimum requirements. The summary is required at the time of the interview.

For example: If you propose John Smith who is your subcontractor and you believe he meets the requirements of the Group Facilitator, you will complete the top section of the form by entering John Smith's name and the subcontractor's company name. You will then complete the right side of the Group Facilitator form documenting how the individual meets each of the requirements. Where there is a time requirement such as 3 months experience, you must provide the dates from and to showing an amount of time that equals or exceeds mandatory time requirement.

4. Each form also includes examples of duties to perform. The proposed person must be able to fulfill those duties.
5. For each subject matter expert, the State will identify the particular area of expertise and the Master Contractor shall provide proof the individual has qualifications within that area of expertise.
6. Additional information may be attached to each Labor Category Personnel Resume Summary that may assist a full and complete understanding of the individual being proposed.

**ATTACHMENT 5  
LABOR CLASSIFICATION PERSONNEL RESUME SUMMARY  
(CONTINUED)**

<b>Proposed Individual's Name/Company:</b>	<b>How does the proposed individual meet each requirement?</b>
<b>LABOR CLASSIFICATION TITLE – (INSERT LABOR CATEGORY NAME)</b>	
Education: (Insert the education description from the CATS II RFP from section 2.12 for the applicable labor category.)	
Experience: (Insert the experience description from the CATS II RFP from section 2.12 for the applicable labor category.)	
Duties: (Insert the duties description from the CATS II RFP from section 2.12 for the applicable labor category.)	

The information provided on this form for this labor class is true and correct to the best of my knowledge:

**Contractor's Contract Administrator:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Proposed Individual:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

SUBMIT WITH TO RESPONSE  
SIGNATURE REQUIRED AT THE TIME OF THE INTERVIEW

## **ATTACHMENT 6 - Directions to the Pre-TO Proposal Conference**

### **From Baltimore Area:**

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

### **From the Eastern Shore or Route 2:**

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

### **From Either Direction:**

- Follow Rowe Blvd. to the third traffic light.
- Stay to the right when the road splits before the Treasury Building.
- Turn right onto Calvert St.
- 45 Calvert Street is the first building immediately on the right.
- Room 443 is on the fourth floor.
- Stop and register with the Security Guard; you will be directed to Room 164.

### **Parking:**

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

**ATTACHMENT 7 - DELIVERABLE PRODUCT ACCEPTANCE FORM  
(DPAF)**

**(Submit one DPAF for each deliverable)**

**TO Contractor:**  
**TO Requesting Agency:** DBM OIT Project Management Office  
**TO Agreement Name:** One Agency IV&Vs  
**TO Agreement #:** F \_\_\_\_\_  
**DBM OIT Contact:** (TO Manager)

**ATTACHMENT 8 - NON-DISCLOSURE AGREEMENT (OFFEROR)**

This Non- Disclosure Agreement (the "Agreement") is made this \_\_\_ day of \_\_\_\_\_ 200\_, by and between \_\_\_\_\_ (hereinafter referred to as "the OFFEROR ") and the State of Maryland (hereinafter referred to as " the State").

OFFEROR warrants and represents that it intends to submit a TO Proposal in response to CATS II TORFP #ADPICS PO for TORFP Title. In order for the OFFEROR to submit a TO Proposal, it will be necessary for the State to provide the OFFEROR with access to certain confidential information including, but not limited, to \_\_\_\_\_. All such information provided by the State shall be considered Confidential Information regardless of the form, format, or media upon which or in which such information is contained or provided, regardless of whether it is oral, written, electronic, or any other form, and regardless of whether the information is marked as "Confidential Information". As a condition for its receipt and access to the Confidential Information described in Section 1.8 of the TORFP, OFFEROR agrees as follows:

1. OFFEROR will not copy, disclose, publish, release, transfer, disseminate or use for any purpose in any form any Confidential Information received under Section 1.8, except in connection with the preparation of its TO Proposal.
2. Each employee or agent of the OFFEROR who receives or has access to the Confidential Information shall execute a copy of this Agreement and the OFFEROR shall provide originals of such executed Agreements to the State. Each employee or agent of the OFFEROR who signs this Agreement shall be subject to the same terms, conditions, requirements and liabilities set forth herein that are applicable to the OFFEROR.
3. OFFEROR shall return the Confidential Information to the State within five business days of the State’s Notice of recommended award. If the OFFEROR does not submit a Proposal, the OFFEROR shall return the Confidential Information to TO Procurement Officer, TO Requesting Agency on or before the due date for Proposals.
4. OFFEROR acknowledges that the disclosure of the Confidential Information may cause irreparable harm to the State and agrees that the State may obtain an injunction to prevent the disclosure, copying, or other impermissible use of the Confidential Information. 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/or to seek damages for the OFFEROR’S failure to comply with the requirements of this Agreement. The OFFEROR consents to personal jurisdiction in the Maryland State Courts.
5. 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 OFFEROR or any employee or agent of the OFFEROR to comply with the requirements of this Agreement, OFFEROR and such employees and agents of OFFEROR shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and/or costs.
6. This Agreement shall be governed by the laws of the State of Maryland.
7. OFFEROR acknowledges that pursuant to Section 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland, a person may not willfully make a false or fraudulent statement or representation of a material fact in connection with a procurement contract. Persons making such statements are guilty of a felony and on conviction subject to a fine of not more than \$20,000 and/or imprisonment not exceeding 5 years or both. OFFEROR further acknowledges that this Agreement is a statement made in connection with a procurement contract.
8. The individual signing below warrants and represents that they are fully authorized to bind the OFFEROR to the terms and conditions specified in this Agreement. If signed below by an individual employee or agent of the OFFEROR under Section 2 of this Agreement, such individual acknowledges that a failure to comply with the requirements specified in this Agreement may result in personal liability.

OFFEROR: \_\_\_\_\_

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

SUBMIT AS REQUIRED IN SECTION 1.7 OF THE TORFP

## ATTACHMENT 9 - NON-DISCLOSURE AGREEMENT (TO Contractor)

**THIS NON-DISCLOSURE AGREEMENT** (“Agreement”) is made as of this \_\_\_ day of \_\_\_\_\_, 200\_\_, by and between the State of Maryland (“the State”), acting by and through its **TO Requesting Agency** (the “Department”), and \_\_\_\_\_ (“TO Contractor”), a corporation with its principal business office located at \_\_\_\_\_ and its principal office in Maryland located at \_\_\_\_\_.

### RECITALS

**WHEREAS**, the TO Contractor has been awarded a Task Order Agreement (the “TO Agreement”) for **TORFP Title** TORFP No. **ADPICS PO** dated **release date for TORFP**, (the “TORFP”) issued under the Consulting and Technical Services II procurement issued by the Department, Project Number 060B9800035; and

**WHEREAS**, in order for the TO Contractor to perform the work required under the TO Agreement, it will be necessary for the State to provide the TO Contractor and the TO Contractor’s employees and agents (collectively the “TO Contractor’s Personnel”) with access to certain confidential information regarding \_\_\_\_\_ (the “Confidential Information”).

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

1. Confidential Information means any and all information provided by or made available by the State to the TO Contractor in connection with the TO Agreement, 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 includes, by way of example only, information that the TO 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 TO Agreement.
2. TO 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 provided by the State except for the sole and exclusive purpose of performing under the TO Agreement. TO Contractor shall limit access to the Confidential Information to the TO Contractor’s Personnel who have a demonstrable need to know such Confidential Information in order to perform under the TO Agreement and who have agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information. The names of the TO Contractor’s Personnel are attached hereto and made a part hereof as Exhibit A. Each individual whose name appears on Exhibit A shall execute a copy of this Agreement and thereby be subject to the terms and conditions of this Agreement to the same extent as the TO Contractor. TO Contractor shall update Exhibit A by adding additional names as needed, from time to time.
3. If the TO Contractor intends to disseminate any portion of the Confidential Information to non-employee agents who are assisting in the TO Contractor’s performance of the TORFP or who will otherwise have a role in performing any aspect of the TORFP, the TO 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. TO 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. TO 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 TO Contractor’s Personnel or the TO Contractor’s former Personnel. TO Contractor shall, at its own expense, cooperate with the State in seeking injunctive or other equitable relief against any such person(s).
6. TO Contractor shall, at its own expense, return to the Department, all copies of the Confidential Information in its care, custody, control or possession upon request of the Department or on termination of the TO Agreement.



7. A breach of this Agreement by the TO Contractor or by the TO Contractor's Personnel shall constitute a breach of the TO Agreement between the TO Contractor and the State.
8. TO Contractor acknowledges that any failure by the TO Contractor or the TO 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 TO Contractor agrees that the State may obtain an injunction to prevent the disclosure, copying or improper use of the Confidential Information. The TO 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/or to seek damages from the TO Contractor and the TO 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 TO Contractor or any of the TO Contractor's Personnel to comply with the requirements of this Agreement, the TO Contractor shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and/or costs.
9. TO Contractor and each of the TO Contractor's Personnel who receive or have access to any Confidential Information shall execute a copy of an agreement substantially similar to this Agreement and the TO 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 TO 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; and
  - f. The Recitals are not merely prefatory but are an integral part hereof.

**Contractor/Contractor's Personnel:**

**TO Requesting Agency:**

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

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

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

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

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

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

**SUBMIT AS REQUIRED IN SECTION 1.7 OF THE TORFP**

## ATTACHMENT 10 – TO CONTRACTOR SELF-REPORTING CHECKLIST

The purpose of this checklist is for CATS II Master Contractors to self-report on adherence to procedures for task orders (TO) awarded under the CATS II master contract. Requirements for TO management can be found in the CATS II master contract RFP and at the TORFP level. The Master Contractor is requested to complete and return this form by the **Checklist Due Date** below. Master Contractors may attach supporting documentation as needed. Please send the completed checklist and direct any related questions to [contractoversight@doit.state.md.us](mailto:contractoversight@doit.state.md.us) with the TO number in the subject line.

<b>Master Contractor:</b>	
<b>Master Contractor Contact / Phone:</b>	
<b>Procuring State Agency Name:</b>	
<b>TO Title:</b>	
<b>TO Number:</b>	
<b>TO Type (Fixed Price, T&amp;M, or Both):</b>	
<b>Checklist Issue Date:</b>	
<b>Checklist Due Date:</b>	
<b>Section 1 – Task Orders with Invoices Linked to Deliverables</b>	
A) Was the original TORFP (Task Order Request for Proposals) structured to link invoice payments to distinct deliverables with specific acceptance criteria? <b>Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/> (If no, skip to Section 2.)	
B) Do TO invoices match corresponding deliverable prices shown in the accepted Financial Proposal? <b>Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/> (If no, explain why) _____	
C) Is the deliverable acceptance process being adhered to as defined in the TORFP? <b>Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/> (If no, explain why) _____	
<b>Section 2 – Task Orders with Invoices Linked to Time, Labor Rates and Materials</b>	
A) If the TO involves material costs, are material costs passed to the agency without markup by the Master Contractor? <b>Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/> (If no, explain why) _____	
B) Are labor rates the same or less than the rates proposed in the accepted Financial Proposal? <b>Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/> (If no, explain why) _____	
C) Is the Master Contractor providing timesheets or other appropriate documentation to support invoices? <b>Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/> (If no, explain why) _____	
<b>Section 3 – Substitution of Personnel</b>	
A) Has there been any substitution of personnel? <b>Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/> (If no, skip to Section 4.)	
B) Did the Master Contractor request each personnel substitution in writing? <b>Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/> (If no, explain why) _____	
C) Does each accepted substitution possess equivalent or better education, experience and qualifications than incumbent personnel? <b>Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/> (If no, explain why) _____	

D) Was the substitute approved by the agency in writing?

Yes  No  (If no, explain why) \_\_\_\_\_

#### Section 4 – MBE Participation

A) What is the MBE goal as a percentage of the TO value? (If there is no MBE goal, skip to Section 5)  
%

B) Are MBE reports D-5 and D-6 submitted monthly?

Yes  No  (If no, explain why) \_\_\_\_\_

C) What is the actual MBE percentage to date? (divide the dollar amount paid to date to the MBE by the total amount paid to date on the TO)  
%

(Example - \$3,000 was paid to date to the MBE sub-contractor; \$10,000 was paid to date on the TO; the MBE percentage is 30% ( $3,000 \div 10,000 = 0.30$ ))

D) Is this consistent with the planned MBE percentage at this stage of the project?

Yes  No  (If no, explain why) \_\_\_\_\_

E) Has the Master Contractor expressed difficulty with meeting the MBE goal?

Yes  No

(If yes, explain the circumstances and any planned corrective actions)  
\_\_\_\_\_

#### Section 5 – TO Change Management

A) Is there a written change management procedure applicable to this TO?

Yes  No  (If no, explain why) \_\_\_\_\_

B) Does the change management procedure include the following?

Yes  No  Sections for change description, justification, and sign-off

Yes  No  Sections for impact on cost, scope, schedule, risk and quality (i.e., the impact of change on satisfying TO requirements)

Yes  No  A formal group charged with reviewing / approving / declining changes (e.g., change control board, steering committee, or management team)

C) Have any change orders been executed?

Yes  No

(If yes, explain expected or actual impact on TO cost, scope, schedule, risk and quality)  
\_\_\_\_\_

D) Is the change management procedure being followed?

Yes  No  (If no, explain why) \_\_\_\_\_

**EXHIBIT A**

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

**Printed Name and Address  
of Employee or Agent**

**Signature**

**Date**

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Latest Update: July 28<sup>th</sup>, 2009