



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

**IBM MAINFRAME MULTIPLE VIRTUAL SYSTEMS (MVS)
SYSTEMS PROGRAMMING SUPPORT**

CATS TORFP PROJECT NUMBER J01P6200027

**Maryland Department of Transportation
Office of Transportation Technology Services**

ISSUE DATE: May 10, 2006

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KEY INFORMATION SUMMARY SHEET

This Consulting and Technical Services (CATS) 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 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. Those Master Contractors deciding not to submit a TO Proposal are required to submit the reason(s) why per Section 3.1 of the TORFP. In addition to the requirements of this TORFP, the Master Contractors are subject to all terms and conditions contained in the CATS RFP issued by the Maryland Department of Budget and Management (DBM), Office of Information Technology (OIT) and subsequent Master Contract Project Number 050R5800338, including any amendments.

Although information from the Contractors must be sent to concurrent individuals as stated in this Key Information Summary Sheet, all correspondence from MDOT to the Contractors shall be sent only by the MDOT Contracts Manager or designee.

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| TORFP NAME: | IBM Mainframe MVS Systems Programming Support |
| FUNCTIONAL AREA: | FA6 Systems/Facilities Mgmt. And Maintenance |
| TORFP ISSUE DATE: | May 10, 2006 |
| Closing Date and Time: | June 1, 2006 at 12:00 pm |
| TORFP Issuing Office: | Maryland Department of Transportation Office of Transportation Technology Services |
| Questions and Proposals are to be sent to: | Contracts Manager - Peter Arrey Email Address: parrey@mdot.state.md.us |
| Questions must be submitted no later than 7 working days prior to TORFP closing date! | Contracts Administrator – Carl Stein Email Address: cstein@mdot.state.md.us |
| | TO Manager – Cathy Caster Email Address: ccaster@mdot.state.md.us |
| TO Contracts Manager | Peter Arrey, Contracts Manager Office Phone (410) 865 - 1372 |
| TO Manager: | Cathy Caster Office Phone: (410) 787 – 7868 FAX : (410) 424-3752 Ccaster@mdot.state.md.us |
| Project Number: | J01P6200027 |
| TO Type: | Time and Materials |
| Period of Performance: | 2 years w/1 one year renewal option |
| MBE Goal: | 0% |
| Primary Place of Performance: | One Orchard Road Glen Burnie, Maryland 21060 |
| State Furnish Work Site and/or Access to Equipment, Facilities or Personnel: | Office Desk Space and networked PC with email and software applications for on-site staff. |
| TO Pre-Proposal Conference: | May 24, 2006 at 1:00 PM See Attachment 5 for Directions |

NOTICE TO MASTER CONTRACTORS

All CATS 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. Those Master Contractors deciding not to submit a TO Proposal are required to submit the reason(s) why per Section 3.1 of the TORFP. If you have chosen not to propose to this TORFP, you must complete and email this notice to the TO Procurement Officer, Peter Arrey. If you are submitting a TO Proposal, we also ask that you take a few minutes and provide comments and suggestions regarding the enclosed TORFP.

TORFP Title: IBM Mainframe MVS Systems Programming Support
TORFP No.: J01P6200027

1. If you have responded with a "not submitting Task Order Proposal", please indicate the reason(s) below:

- Other commitments preclude our participation at this time.
- The subject of the TORFP is not something we ordinarily provide.
- We are inexperienced in the services required.
- Specifications are unclear, too restrictive, etc. (Explain in REMARKS section.)
- The scope of work is beyond our present capacity.
- Doing business with the State of Maryland is too complicated. (Explain in REMARKS section.)
- We cannot be competitive. (Explain in REMARKS section.)
- Time allotted for completion of a Task Order Proposal is insufficient.
- Start-up time is insufficient.
- Bonding/Insurance requirements are too restrictive. (Explain in REMARKS section.)
- TORFP requirements (other than specifications) are unreasonable or too risky. (Explain in REMARKS section.)
- MBE requirements. (Explain in REMARKS section.)
- Prior State of Maryland contract experience was unprofitable or otherwise unsatisfactory. (Explain in REMARKS section.)
- Payment schedule too slow.
-

Other: _____.

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

Remarks:

Master Contractor

Name: _____ Date: _____

Contact Person: _____ Phone ____ - ____ - ____ email _____

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 2.14 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 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, a 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 the MDOT 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 #J01P6200027. The first file will be the TO Proposal technical response to this TORFP and titled, "CATS TORFP #J01P6200027 Technical". The second file will be the financial response to this CATS TORFP and titled, "CATS TORFP #J01P6200027 Financial".

1.4 MARYLANDMARKETPLACE FEE

COMAR 21.02.03.06 requires that each Master Contractor that wins a TO Agreement under this TORFP pay a fee to support the operation of eMarylandMarketplace. The fee will be due on each TO Agreement that exceeds \$25,000. The applicable fee will be based on TO value, including any options. Contractors shall pay the fee as provided by COMAR 21.02.03.06 and in accordance with guidelines issued by the Maryland Department of General Services. A copy of COMAR 21.02.03.06 and the guidelines issued by the Maryland Department of General Services can be found on the eMarylandMarketplace website at www.eMarylandMarketplace.com.

The rate(s) or price(s) of the proposal/bid shall include the appropriate fee as per the COMAR 21.02.06.03 fee schedule. Fees may not be quoted as a separate add-on price. A total TO Agreement value that is other than an even dollar amount will be rounded to the nearest whole dollar to determine the appropriate fee level. For example, a total TO Agreement value of \$50,000.49 will be rounded to \$50,000 and a Level 1 fee will apply. A total TO Agreement value of \$50,000.50 will be rounded to \$50,001 and a Level 2 fee will apply.

1.5 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 3 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.

1.6 NON-DISCLOSURE AGREEMENT

Certain system documentation may be available for potential Offerors to review at a reading room at OTTS One Orchard Road, Glen Burnie, Maryland 21060. 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 8.

1.7 LIMITATION OF LIABILITY CEILING

Pursuant to Section 28(C) of the CATS Master Contract, the limitation of liability per claim under this TORFP shall not exceed the total TO Agreement amount established.

SECTION 2 – SCOPE OF WORK

2.1 PURPOSE, AGENCY INFORMATION, BACKGROUND, AND OBJECTIVES

2.1.1 PURPOSE

The Maryland Department of Transportation (MDOT), Office of Transportation Technology Services (OTTS) wishes to continue to provide an IT computing infrastructure management program that is consistent with the State of Maryland best practices and standards. This TORFP is issued to acquire the services from a TO Contractor for technical support of the OTTS mainframe. The TO Contractor shall be accountable for maintaining high availability and integrity of the operating systems, sub-systems, and ISV program products for the IBM mainframe. These services will include the planned installation, testing, and maintenance of system software with the appropriate versions, releases and maintenance.

2.1.2 MDOT OTTS INFORMATION

The Maryland Department of Transportation (MDOT), Office of Transportation Technology Services (OTTS) provides enterprise-wide infrastructure support to the MDOT Transportation Business Units (TBUs) and to its external mainframe customers, including Public Safety, the Comptroller's Office, and the Court System. OTTS provides Mainframe and Network support at the Enterprise level. Additionally, support is provided for a variety of PC and web-based applications.

Our mission, vision, and values are stated below.

OTTS Mission: To provide high quality service and products to support our customers in reaching their goals through the combination of Skilled Personnel, Technological Excellence, Emerging Technologies, and Innovative Resources.

OTTS Vision: To support a World-class Transportation System through IT Excellence.

OTTS Values: We consider these values to be an important part of all our activities:

- Quality
- Respect
- Equality
- Flexibility
- Honesty
- Recognition
- Empowerment
- Communication
- Integrity
- Diversity
- Teamwork
- Innovation

2.1.3 BACKGROUND & OTTS OVERVIEW

OTTS operates a twenty-four (24) hours a day, seven (7) days a week data center and is tasked with providing all information technology services for all agencies within the MDOT. OTTS is responsible for the delivery and technical support of hardware and operating system platforms. These services include the systems programming and maintenance of an IBM mainframe

system. OTTS implements MDOT's information technology vision, standards, architecture, and planning processing, along with providing internal data, information, and communications services.

The OTTS data center services are mainframe-centric and the support services necessary shall include but not be limited to, the delivery of requisite systems programming/administrative skills and expertise to ensure high availability, reliability, and performance of the operating systems, sub-systems and ISV program products for the IBM zOS mainframe platform(s).

2.1.4 OBJECTIVE

The objective of this TORFP is to acquire services from a TO Contractor to effectively and efficiently maintain the availability and reliability of the operating systems, sub-systems, and ISV program products for the zSeries mainframe platform. These services will include the installation and maintenance of operating and system software at the appropriate versions, releases, and maintenance levels by senior-level personnel. The resources required will equate to two (2) full time employees (FTE's).

2.2 CURRENT SERVICE LEVELS

The following details the services that the TO Contractor's personnel shall be responsible for assisting OTTS staff to maintain.

- A. Responsible for CICS online systems (production/test), monitor products, zOS operating system
- B. DB2
- C. Capacity planning, general system performance and tuning plus associated reports; Direct Access Storage Device (DASD) management and ACF2 security system

2.3 TO CONTRACTOR'S PERSONNEL DUTIES AND RESPONSIBILITIES

2.3.1 IT SUPPORT

The TO Contractor's personnel tasks shall include, and not be limited to, the following:

- A. Operating systems, TCP/IP, VTAM network software installation, initial configuration, and maintenance.
 - zOS software installation, configuration, and maintenance, using SMP/E.
 - zOS software monitoring, using monitoring tools.
 - CICS Support.
 - Examine the current zOS disaster recovery processes and make recommendations based on business continuity best practices.
 - Perform periodic and regular disaster recovery and fail-over tests to ensure adequacy of plan. Recommend changes to plan based on results.

- B. Capacity planning and statistical reporting.
 - Performance monitoring and data collection, using IBM products.
 - Performance data analysis and reporting, using IBM products
 - Recommend changes to the operating system or sub-systems after statistical analysis
- C. Database software and management support for DB2 databases, and VSAM files.
 - Software installation, configuration, and maintenance.
 - Database resource allocation.
 - Database backup and recovery support for DB2 databases and VSAM files.
- D. ISV software installation, configuration, and maintenance.
 - Install, customize, and maintain ISV software products.
- E. Storage and recovery management support.
 - Storage management.
 - Installation, configuration, and maintenance of Storage Management Subsystem (SMS) software.
 - zOS DASD management.
 - Backup and recovery management.
 - Volume allocation.
 - Installation, configuration and maintenance of DASD management software.
 - zOS Tape management.
 - Installation, configuration and maintenance of tape management software.
- F. CICS online transaction-based system support, CICS software installation, configuration and maintenance.
 - CICS online system monitoring for performance issues.
- G. Configure IBM mainframe or ISV DASD hardware.
- H. Identify opportunities to improve overall performance.

2.3.2 OPERATIONS SUPPORT

In providing support for these services, the TO Contractor's personnel shall interface daily with OTTS System Software Support staff and also shall work with:

- A. Data Center Operations personnel to:
- Research and resolve production system problems.
 - Plan and document changes to the production environment.
 - Install, maintain, and upgrade hardware and software on a pre-determined and approved schedule.
 - Create procedures for system programming and support.
- B. Application programming personnel to:
- Research and resolve problems in development or production applications.
 - Assist in the design of applications from a non-functional perspective.
 - Test and evaluate new system features.
 - Answer any system-related questions.
- C. Database Management personnel to:
- Maintain and upgrade DB2 database software.
- D. MDOT management personnel to:
- Answer technical inquiries
 - Suggest better techniques or strategies to reach MDOT goals.
 - Install and maintain zOS operating system, using SMP/E
 - Assist in the design, implementation, and maintenance of IBM's LPAR (Logical Partition) environment
 - Install and maintain JES2, RMF, TSO/E, ISPF, DFHSM software
 - Install and use SAS software and IBM's Workload Manager to perform capacity planning and performance tuning
 - Install and maintain ACF/VTAM, TCP/IP and NCP network software
 - Install, use and maintain Netview software
 - Assist in the design and maintenance of Department's DASD management strategy
 - Design, implement, and maintain SMS DASD management system
 - Install and maintain ACF2 security software
 - Configure new mainframe and DASD hardware

- Install, maintain, and use the Omegamon monitoring tools for MVS, DB2, VTAM, and CICS.
- Install and maintain CICS online systems
- Install and maintain DB2 database management systems
- Ensure adequate system backups are performed and recovery strategy developed
- Assist in the development of disaster recovery strategy
- Assist application programming staff with various problems
- Analyze and solve operating system, database, CICS, network, application and security problems, as they occur
- Develop and support system exits and utility programs
- Perform system GEN's for hardware changes
- Perform system data collection and analysis and give recommendations
- Produce and maintain system documentation
- Assist in evaluation of new products or technologies
- Make recommendations for enhancements.

2.3.3 GENERAL RESPONSIBILITIES

The following are general responsibilities that, pursuant to other MDOT guidelines, the TO Contractor and TO Contractor's personnel shall be responsible for:

- A. Providing the services in conformance with the requirements of this TORFP.
- B. Conforming to changes in laws, regulations, policies and technology. Major changes shall be proposed on a project-by-project basis to alter the environment to conform to the new requirements.
- C. Reporting performance against prescribed service level requirements.
- D. Coordinating all changes to the Information Technology Infrastructure that may affect the service levels of any other service area.
- E. Maintaining a consistent level of service such as providing backup personnel in the event of illness, vacation, etc., and responding to "on call" service issues immediately.

2.3.4 PLANNING SUPPORT RESPONSIBILITIES

The TO Contractor shall provide planning, staff and supporting activities needed to successfully assist the current, State Staff in providing uninterrupted mainframe availability to

MDOT Customers. The TO Contractor must demonstrate the understanding and ability to assume existing contract responsibilities without negative impact to current operations and capabilities.

At a minimum, the TO Contractor shall provide the following services:

- A. Planning for, monitoring of, and reporting on mainframe-centric activities.
- B. Methodology including risk identification and mitigation: Identify and mitigate risk to the MDOT mainframe environment.
- C. Commitment of qualified staff at the beginning of and throughout the life of the task order.
- D. May be required to coordinate and work with existing TO Contractor's personnel during the transitional period.
- E. Acquire understanding of MDOT's business activities, application systems and IT infrastructure.
- F. Acquire knowledge of the State's existing MDOT Enterprise software, tools, and supporting resources, and identify any additional software, tools, and supporting resources as needed.

2.3.5 TECHNOLOGY REFRESH

The selected TO Contractor shall provide systems management of the current technology at all times. As the TO Contractor and/or MDOT identify new technologies, the TO Contractor shall assist in creating a plan for migrating to targeted technology. Technology refresh of the mainframe environment shall include timely action to acquire new releases of the Department's and/or State's standard operating or ISV software configuration.

Operating system software shall always be at the current release unless funding or other operational issues warrant otherwise (e.g., new hardware is required to support current release of operating system). The TO Contractor shall be proactive in understanding technology capabilities and related impacts to MDOT platforms and provide all necessary assistance and support in maintaining platform currency and consistency, subsequent to the review and approval by MDOT management.

2.3.6 SERVICE LEVELS AND PERFORMANCE MANAGEMENT

The TO Contractor's personnel shall monitor and report on service level targets and performance. Management procedures shall include monthly reports on volumes and service levels, and provision for problem reporting and escalation if performance falls short of agreed-upon service levels. MDOT OTTS will provide the format for reporting on the service levels to the TO Contractor at the beginning of the task work.

2.3.7 SOFTWARE, TOOLS AND SUPPORTING RESOURCES

The TO Contractor's personnel shall utilize available MDOT software, tools, and supporting resources to deliver services in support of the MDOT mainframe

2.3.8 TESTING

The TO Contractor's personnel shall develop all strategic and tactical plans and methodologies for verifying all changes applied to systems hardware and software. Plans shall include

detailed scenarios, approach, responsibilities, configuration prerequisites, expected outcomes, and, if necessary, back out and recovery procedures. A detailed regression plan shall be documented and maintained to ensure systems integrity. All testing shall initially be performed in an environment independent of all production workloads, e.g. in a test logical partition (LPAR), with a level of validation testing subsequent to changes being migrated into the production LPAR

2.3.9 TRAINING

The TO Contractor's personnel shall train appropriate State staff on proper system programming techniques and technical issues of the various software products.

It is the responsibility of the TO Contractor to ensure that its personnel are trained adequately to perform the functions in the scope of the TORFP and according to the standards of performance of this TORFP, at no additional cost to the State.

2.3.10 CONFIGURATION/CHANGE MANAGEMENT

The TO Contractor's personnel shall conform to all MDOT policies, standards and procedures relating to configuration and change management. This will include participation in change management meetings, architecture and design reviews, representing MDOT perspective in the identification and buy-in of all technical requirements, and collaborate in identification of system and environmental impacts including the identification and mitigation of all risks. The TO Contractor's personnel shall plan, install, and configure the operating system and network operating system, including but not limited to protocol details, user and group definitions, address schemes, backup and restore processes, disk space mappings, and monitor and report on service level delivery, hardware configurations, and access rights in conformance with said policy and procedures. The TO Contractor's personnel shall make recommendations to and create, provide and maintain complete documentation of any changes to hardware, software, or configuration. This documentation will be provided to the TO Manager, will also be maintained in appropriate system documentation files, and will be audited on a regular basis. The TO Contractor shall make no changes to any of the systems without the express approval of the TO Manager.

2.4 TO MANAGEMENT

The manager of Systems Software Support (SSS) will assign and track tasks accordingly to the personnel being provided and monitor the work being performed. Through the monthly accounting of hours deliverable for work types, actual work produced will be reconciled with the hours reported, using MDOT-provided project management tools. The Manager shall act as the Task Order (TO) Manager for their specific part of the work in this TORFP.

2.5 PERFORMANCE EVALUATION AND STANDARDS

TO Contractor personnel will be evaluated by the TO Manager on a quarterly basis for each assignment performed during that period. The established performance evaluation and standards are included as Exhibit B.

2.6 MITIGATION PROCEDURES

Should an evaluation of any TO Contractor's personnel indicate poor or non-performance, the TO Manager will follow the established mitigation process included as Exhibit C., prior to

requesting that the TO Contractor provide a replacement employee.

2.7 WORK HOURS

During performance of this project, the TO Contractor personnel shall work very closely with the OTTS to develop detailed project and work plans required to deliver all related systems management services. The TO Contractor's staff shall conform to OTTS working hours, i.e. 8:00 a.m. – 5:00 p.m., Monday - Friday, along with providing twenty four (24) hours per day, seven (7) days per week on-call support for operational integrity. Due to the nature of the work being performed, some Sunday mornings between the hours of 6:00 a.m. and 10:00 a.m. shall be required working days.

2.8 DELIVERABLES

Deliverables will be as follows:

A. Personnel

The TO Contractor shall be responsible for providing, on a continual basis for all assigned tasks, the personnel required in this TORFP within the timeframe required as specified by the TO Manager.

B. Monthly DASD utilization reports.

OTTS will provide an EXCEL Template to create the reports. The TO Contractor, using IBM tools will update the spreadsheet monthly to provide a high-level management report that indicates the DASD utilization for the prior month to be used for planning purposes.

C. Monthly System Utilization Reports – Prime Time.

OTTS will provide an EXCEL Template to create the reports. The TO Contractor using IBM tools will update the spreadsheet monthly to provide a high-level management report that shows system utilization daily for Prime Time hours.

D. Monthly System Utilization Reports – Non Prime Time

OTTS will provide an EXCEL Template to create the reports. The TO Contractor using IBM tools will update the spreadsheet monthly to provide a high-level management report that shows system utilization daily for Non-Prime Time hours.

E. Monthly time sheet per resource

OTTS will provide a means of reporting time for each resource that will show hours spent on specific tasks and activities per month. These hours will be compared to the monthly invoice for this task.

2.9 REQUIRED POLICIES, GUIDELINES AND METHODOLOGIES

The TO Contractor shall be required to comply with all applicable laws, regulations, policies, standards and guidelines affecting information technology work, which may be created or changed periodically. The TO Contractor shall adhere to and remain abreast of current, new, and revised laws, regulations, policies, standards and guidelines affecting work execution. These may include, but are not limited to:

- A. The State's System Development Life Cycle (SDLC) methodology at: www.dbm.maryland.gov - keyword: SDLC.
- B. The State Information Technology Security Policy and Standards at: www.dbm.maryland.gov - keyword: Security Policy.
- C. The State Information Technology Project Oversight at: www.dbm.maryland.gov - keyword: IT Project Oversight.
- D. The State of Maryland Enterprise Architecture at www.dbm.maryland.gov - keyword: MTAF Guiding Principles.
- E. The Transportation Enterprise Data Network standards and MDOT Configuration Control Board procedures.

2.10 TO CONTRACTOR PERSONNEL MINIMUM QUALIFICATIONS AND CERTIFICATIONS

The Contractor's personnel must have a minimum of ten (10) years MVS Systems programming experience and most recent experience must have occurred within past year.

- Systems programming, installation, configuration, customization and maintenance of zOS and the supporting programs, utilizing SMP/E, TSO/E, JES2, NCP, and ACF/VTAM.
- Systems programming of zOS and zSeries hardware definitions, using HCD in an LPAR environment.
- Diagnosing zOS performance problems and tuning that operating system.
- Diagnosing performance problems in DB2 and CICS and then tuning subsystem.
- Implementing and supporting DFSMS/DFHSM storage management system.
- zOS dump reading and analysis.

2.11 TO CONTRACTOR EXPERTISE REQUIRED

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 TO 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.

2.12 SUBSTITUTION OF PERSONNEL

The TO Contractor shall only propose staff available at the time of the TO Proposal and that satisfy the personnel qualifications specified in the Master Contract. In addition, the TO Contractor shall abide by the substitution of personnel requirements in the Master Contract, Section 2.11.8.

2.13 NON-PERFORMANCE OF PERSONNEL

In the event that OTTS is dissatisfied with the TO Contractor's personnel for not performing to the specified standards specified in Section 2.4, the TO Contractor personnel may be removed at the TO Manager's discretion. Both parties will be in full communication as to the nature of the dissatisfaction and previous mitigation efforts included in Section 2.5. Replacement personnel must have qualifications equal to or greater than that of the non-performing person initially proposed and evaluated and accepted in the TO Agreement. The TO Manager will determine the amount of time the TO Contractor has to provide a replacement.

2.14 INVOICING

Invoices shall be submitted monthly. Invoices will reflect costs for hours worked indicated in the accompanying monthly status reports (Deliverable 2.7D). Upon verification and acceptance of the invoices by the TO Manager, payment will be made to the TO Contractor.

Invoice payments to the TO Contractor shall be governed by the terms and conditions defined in the CATS Master Contract. Invoices for payment shall contain the TO Contractor's Federal Employer Identification Number (FEIN), as well as the information described below, and must be submitted to the TO Manager for payment approval. Payment of invoices will be withheld if a signed Acceptance of Deliverable form – Attachment 6, is not submitted.

On-call hours would be billed based on actual time worked.

2.14.1 INVOICE SUBMISSION PROCEDURE

This procedure consists of the following requirements and steps:

- A. The invoice shall identify MDOT OTTS, deliverable description, 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 MDOT OTTS at the following address:

One Orchard Road
Glen Burnie, Maryland
21060
Attention: Tom Reed
Bill Bryant

- 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.

2.15 CHANGE ORDERS

If the TO Contractor is required to perform additional work, or there is a work reduction due to unforeseen scope changes, a TO Change Order will be initiated. The TO Contractor and TO Manager shall negotiate a mutually acceptable price modification based on the TO Contractor's proposed rates in the Master Contract and scope of the work change. No scope of work

modifications shall be performed until a change order is approved by DBM and executed by the TO Procurement Officer.

SECTION 3 - TO PROPOSAL FORMAT AND SUBMISSION REQUIREMENTS

3.1 REQUIRED RESPONSE

Each Master Contractor receiving this CATS TORFP must respond within the submission time designated in the Key Information Summary Sheet. Each Master Contractor is required to submit one of two possible responses: 1) a proposal or 2) a completed Notice to Master Contractors explaining why the Master Contractor will not be submitting a proposal.

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 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 and provide resumes for all proposed personnel by labor category.
- 2) Certification that all proposed personnel meet the minimum required qualifications and possess the required certifications in Section 2.8.
- 3) Complete and provide Attachment 4 – Labor Classification Personnel Resume Summary.
- 4) Provide the names and titles of all key management personnel who will be involved with supervising the services rendered under this TO Agreement.

C) Subcontractors

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

D) Master Contractor and Subcontractor Experience and Capabilities

- 1) Provide three 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 three 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.

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.
- 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 TORFP. In making the TO Agreement award determination, MDOT OTTS 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:

- Technical Experience of Candidates being submitted for consideration
- Length of time performing the functions using the tools described in the scope of work.
- The Master Contractor's understanding of the work to be accomplished.

4.3 SELECTION PROCEDURES

4.3.1 Proposed personnel will be assessed for compliance with the minimum qualifications in Section 2.9 of the TORFP. Master Contractors' proposing personnel who fail to meet the minimum qualifications will be 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 The State will conduct interviews of all personnel proposed in each TO Proposal that meets minimum qualifications.

4.3.4 Qualified TO Proposal financial responses will be reviewed and ranked from lowest to highest price proposed.

4.3.5 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, Purchase Order and by a Notice to Proceed authorized by the TO Procurement Officer.

ATTACHMENT 1 - SAMPLE PRICE PROPOSAL

PRICE PROPOSAL FOR CATS TORFP # J01P6200027
LABOR CATEGORIES

| Labor Categories | A | B | C |
|---|-------------------|----------------------------|---------------------------------|
| | Hourly Labor Rate | Total Class Hours Annually | Total Proposed CATS TORFP Price |
| (Insert Proposed Labor Categories for this TORFP) | | | |
| Year 1 | | | |
| MVS Systems Programming Support | \$ | 2340 | \$ |
| MVS Systems Programming Support | \$ | 2340 | \$ |
| Year 2 | | | |
| MVS Systems Programming Support | \$ | 2340 | \$ |
| MVS Systems Programming Support | \$ | 2340 | \$ |
| Year 3 (Optional) | | | |
| MVS Systems Programming Support | \$ | 2340 | \$ |
| MVS Systems Programming Support | \$ | 2340 | \$ |
| | | | |
| | | | |
| Total Evaluated Price | | | \$ |

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. Time for travel will be reimbursed as allowed in Section 2.3.4 of the Master Contract.

SUBMIT THIS WITH THE FINANCIAL RESPONSE

ATTACHMENT 2 - Task Order Agreement

CATS TORFP # J01P6200027.
OF MASTER CONTRACT # 050R5800338

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

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 Office of Transportation Technology Services, as identified in the CATS TORFP # J01P6200027.
 - b. “CATS TORFP” means the Task Order Request for Proposals # J01P6200027, dated **MONTH DAY, YEAR**, including any addenda.
 - c. “Master Contract” means the CATS Master Contract between the Maryland Department of Budget and Management and **MASTER CONTRACTOR** dated December 19, 2005.
 - 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 Office of Transportation Technology Services and **MASTER CONTRACTOR**.
 - f. “TO Contractor” means the CATS Master Contractor awarded this TO Agreement, whose principal business address is (need MDOT address) and whose principal office in Maryland is (need MDOT address)
 - g. “TO Manager” means Cathy Caster 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 TORFP dated **date of TO Proposal – Technical**.
 - i. “TO Proposal – Financial” means the TO Contractor’s financial response to the CATS 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 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 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 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 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 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 Tom Reed, Bill Bryant, Office of Transportation Technology Services – One Orchard Road, Glen Burnie, Maryland 21060.

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, MARYLAND DEPARTMENT OF TRANSPORTATION, OFFICE OF
TRANSPORTATION TECHNOLOGY SERVICES

By: **insert name**, TO Procurement Officer

Date

Witness: _____

ATTACHMENT 3 - 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 THIS WITH THE TECHNICAL RESPONSE

ATTACHMENT 4 - Labor Classification Personnel Resume Summary

INSTRUCTIONS:

1. Master Contractors must comply with all personnel requirements under the Master Contract RFP 050R5800338.
2. Only labor categories proposed in the Master Contractors Technical proposal may be proposed under the CATS 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.

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 4
LABOR CLASSIFICATION PERSONNEL RESUME SUMMARY
(CONTINUED)**

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

ATTACHMENT 5 - Directions to the Pre-TO Proposal Conference
Driving directions for MDOT Headquarters

7201 Corporate Center Dr.

Hanover, Md. 21076

Baltimore:

From 695; Take Baltimore –Washington Parkway (295) south to I-195 towards the BWI airport. Take I-195 to Md. Rte 170 south towards Dorsey. Go to the fifth traffic light and turn left on Stoney Run rd. Take Stoney Run rd. through traffic light to stop sign. Turn left on Old Stoney Run Rd. Take Old Stoney Run Rd. to stop sign at Ridge Rd. and turn right. Take Ridge Rd. to the traffic circle and turn right on Corporate Center Dr. Take Corporate Center Dr. to 7201 on left side of road. Parking is on right side of road.

Washington:

From Baltimore-Washington Parkway (295); Take Baltimore-Washington Parkway North to I-195 and exit towards the BWI Airport (East). Take I-195 towards the BWI Airport to Md. Rte.170. Take Md. Rte. 170 south towards Dorsey. Go to the fifth traffic light and turn left on Stoney Run rd. Take Stoney Run rd. through traffic light to stop sign. Turn left on Old Stoney Run Rd. Take Old Stoney Run Rd. to stop sign at Ridge Rd. and turn right. Take Ridge Rd. to the traffic circle and turn right on Corporate Center Dr. Take Corporate Center Dr. to 7201 on left side of road. Parking is on right side of road.

Annapolis:

From I-97; Take I-97 North to Rte.100 towards Columbia (west). Take Rte. 100 to Rte 170 north towards BWI Airport. Take Rte. 170 to the third traffic light and turn right on Stoney Run Rd. Take Stoney Run rd. through traffic light to stop sign. Turn left on Old Stoney Run Rd. Take Old Stoney Run Rd. to stop sign at Ridge Rd. and turn right. Take Ridge Rd. to the traffic circle and turn right on Corporate Center Dr. Take Corporate Center Dr. to 7201 on left side of road. Parking is on right side of road.

ATTACHMENT 6 - ACCEPTANCE OF DELIVERABLE FORM

Agency Name: Office of Transportation Technology Services

TORFP Title: IBM Mainframe MVS Systems Programming Support

TO Manager: Cathy Caster – (410) 787 - 7868

To: TO Contractor’s Contract Manager

The following deliverable, as required by TO Agreement #J01P6200027, has been received and reviewed in accordance with the TORFP.

Title of deliverable: _____

TORFP Contract Reference Number: Section # _____

Deliverable Reference ID # _____

This deliverable:

Is accepted as delivered.

Is rejected for the reason(s) indicated below.

REASON(S) FOR REJECTING DELIVERABLE:

OTHER COMMENTS:

TO Manager Signature

Date Signed

ISSUED BY THE TO MANAGER AS REQUIRED IN SECTION 2.12 OF THE TORFP.

ATTACHMENT 7 - 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 TORFP #J01P6200027 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 1.7 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 1.7, 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 the TO Procurement Officer MDOT, OTTS 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 1.6 OF THE TORFP

ATTACHMENT 8 - 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 Office of Transportation Technology Services (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. J01P6200027 dated **release date for TORFP**, (the “TORFP”) issued under the Consulting and Technical Services procurement issued by the Department, Project Number 050R5800338; 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:

Name: _____

Title: _____

Date: _____

Office of Transportation Technology Services:

Name: _____

Title: _____

Date: _____

SUBMIT AS REQUIRED IN SECTION 1.6 OF THE TORFP

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

| | | |
|-------|-------|-------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

**EXHIBIT B
PERFROMANCE EVALUATION**

DATE:

CATS TORFP PROJECT NUMBER (ADPICS PO NUMBER)

EVALUATION PERIOD: XX/XX/XXXX – XX/XX/XXXX

TO MANAGER:

| <u>Evaluation Criteria</u> | <u>Rating (Last Quarter)</u> | <u>Rating (This Quarter)</u> | <u>Mediation Required (Yes or No)</u> |
|--|-------------------------------------|-------------------------------------|--|
| <u>All tasks for this reporting period were completed.</u> | | | |
| <u>Accuracy of work completed</u> | | | |
| <u>Lateness / Punctuality</u> | | | |
| <u>Overall satisfaction with Contractor Performance this period.</u> | | | |
| <u>Invoices delivered in timely fashion</u> | | | |
| <u>Accuracy of Invoices submitted</u> | | | |

Rating

- 3. Exceeded the customer expectation
- 2. Met the customers expectation
- 1. Did not meet the customers expectation

Customer will provide input on any area that did not meet the customer expectation.

Performance Evaluation Standards

Criteria

All tasks for this reporting period were completed

Standard

3. Tasks were completed ahead of schedule.
2. Tasks were completed on schedule.
1. Tasks were not completed on schedule.

Criteria

Accuracy of work completed

Standard

3. N/A
2. Work completed was accurate and required no follow up.
1. Work completed was not accurate.

Criteria

Lateness / Punctuality

Standard

3. N/A
2. Contractor personnel were on time and did not take unauthorized leave.
1. Contractor personnel were not on time or took unauthorized leave.

Criteria

Overall satisfaction with contractor performance this period.

Standard

3. Very Satisfied
2. Satisfied
1. Not Satisfied

Criteria

Invoices delivered in timely fashion

Standard

3. N/A
2. Invoices are submitted in a timely fashion
1. Invoices not submitted in a timely fashion.

Criteria

Accuracy of Invoices submitted

Standard

3. N/A
2. Invoices reflect accurate totals of hours worked and billed
1. Invoices do not reflect accurate totals of hours worked and billed

Customer Comments (Optional)

EXHIBIT C MITIGATION PROCEDURES

In the event the contractor fails to meet the expectation of the customer, the following mitigation steps will be followed.

1. Customer will notify the contractor and contractor personnel of the problem (i.e. Chronic lateness, failure to meet deadlines). This will be done in writing in the form of a letter provided in this attachment.
2. Customer may elect to discuss the problem directly with the contractor personnel or with both contractor and contractor personnel to determine the course of action to be taken to resolve the problem and the time frame to resolve it.
3. At the end of the time frame allowed to resolve the problem, the customer will notify the contractor that:
 - The problem has been resolved and there is no longer a need to track this problem
 - The problem is partially resolved and the customer is extending the time to resolve the problem
 - The problem is not resolved and the customer wishes to replace the contractor personnel with another resource agreed upon by both the contractor and customer as outlined in 2.12 NON-PERFORMANCE OF PERSONNEL

Note

Any infraction of a violent or criminal nature shall not follow the above mitigation process. The contractor shall provide a replacement resource upon notification from the customer that an act of violence or of a criminal nature has occurred.

Sample Mitigation Letter

Date:

CATS TORFP PROJECT NUMBER J01P6200027

To: TO Contractor

From: TO Manager

SUBJECT Initiation of Mitigation
Or
Request for Replacement Resource

The purpose of this letter is to inform you that MDOT / OTTS has:

___ initiated the mitigation process for a contractor resource

___ is requesting a replacement resource due to a Violent or Criminal act.

Description of problem

Customer will provide a description of the problem.

Mitigation steps where applicable

Customer and contractor personnel / contractor will outline the steps to be taken to resolve the problem.

If the problem is of a Violent or Criminal nature, the customer shall indicate that no mitigation will be applied. The contractor shall provide another resource at this time.

Customer Resolution Date:

Customer will assign a date when the problem is to be resolved. If the problem is not resolved by this date the customer make elect to extend the mitigation period or request a new resource from the contractor.