



Request for Proposals

TELECOMMUNICATION BILLING AUDIT SERVICES

PROJECT NO. 060B0400006

Issue Date: April 29, 2010

NOTICE

Prospective Offerors who have received this document from the Department of Information Technology's web site or eMarylandMarketplace.com, or who have received this document from a source other than the Procurement Officer, and who wish to appraise themselves of any changes or additional materials related to this RFP, should note that all communication related to this procurement will be posted on DoIT web site or eMarylandMarketplace ONLY. There will be no direct distribution of additional information.

Minority Business Enterprises are Encouraged to Respond to this Solicitation

**STATE OF MARYLAND
NOTICE TO OFFERORS**

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

Title: Telecommunication Billing Audit Services

Project No: 060B040000x

1. If you have responded with a "no bid", please indicate the reason(s) below:

- Other commitments preclude our participation at this time.
- The subject of the solicitation is not something we ordinarily provide.
- We are inexperienced in the work/commodities required.
- Specifications are unclear, too restrictive, etc. (Explain in REMARKS section.)
- The scope of work is beyond our present capacity.
- Doing business with Maryland Government is simply too complicated. (Explain in REMARKS section.)
- We cannot be competitive. (Explain in REMARKS section.)
- Time allotted for completion of the bid/proposals is insufficient.
- Start-up time is insufficient.
- Bonding/Insurance requirements are restrictive. (Explain in REMARKS section.)
- Bid/Proposals 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 proposal, but wish to offer suggestions or express concerns, please use the Remarks section below. (attach additional pages as needed.)

REMARKS: _____

Offeror Name: _____

Date: _____

Contact Person: _____ Phone (____) _____ -

Address: _____

KEY INFORMATION SUMMARY SHEET

STATE OF MARYLAND

Request For Proposals

Telecommunication Billing Audit Services

PROJECT NUMBER 060Bo400006

RFP Issue Date: April 29, 2010

RFP Issuing Office: Department of Information Technology
Information Technology Procurement Office (ITPO)

Procurement Officer: Gisela Blades
Office Phone: (410) 260-7678

e-mail: Gisela.Blades@doit.state.md.us

Proposals are to be sent to: Department of Information Technology
45 Calvert Street
Room 444
Annapolis, MD 21401
Attention: Gisela Blades

Pre-Proposal Conference: May 11, 2010
10:00 AM Local Time
45 Calvert Street
Conference Room 427
Annapolis, MD 21401

Closing Date and Time: June 1, 2010 - 2:00 PM Local Time

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SECTION 1 - GENERAL INFORMATION

1.1 Summary Statement

The Department of Information Technology (DoIT) is issuing this Request for Proposals (RFP) to procure Telecom Billing Audit Services for the State of Maryland. The Master Contract resulting from this RFP will provide DoIT with the flexibility of obtaining audit resources quickly and efficiently by issuing Task Order Requests for Proposals (TORFP) specific to its needs. DoIT intends to make awards to all Offerors responding to this RFP who will have been evaluated to be qualified.

1.2 Abbreviations and Definitions

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

- a. COMAR – Code of Maryland Regulations
- b. Contract – The Contract attached to this RFP as Attachment A
- c. Master Contractor– All selected Offerors awarded a contract
- d. Local Time – Time in the Eastern Time Zone as observed by the State
- e. MBE – Minority Business Enterprise
- f. Offeror – An entity that submits a proposal in response to this RFP
- g. RFP – Request for Proposals for Telecommunications Billing Audit, Project Number 060BO400006 dated April 29, 2010, including any amendments.
- h. State of Maryland business hours – 8:00 am – 5:00 pm Monday – Friday (Excluding State Holidays).
- i. Commission only: “Commission Only” means a type of payment for performance for an TORFP specifically, where exclusive payment to the Contractor is a percentage of monies owed to the State and recovered from a telecommunications vendor as a result of the Contractor’s TO findings. The commission percentage rate shall be applied against the full recovered amount, regardless whether recovery is in the form of cash, check or credit to the State. In the event that an audit indicates that a telecommunications vendor owes an amount to the State and that the State owes an amount to the telecommunications vendor, the discovery of the amount owed by the State to the telecommunications vendor shall not lower the commission owed to the Contractor; the commission percentage rate shall be applied against the amount owed by the telecommunications vendor to the State and subsequently recovered by the State. Contractor’s commission rate may not exceed 35% of recoveries or increased revenues. The commission percentage rate will **not** be applied against or paid for any amount of **future** cost avoidance or increased revenues (excluding credits to the State made for reimbursement of errors and past overbilling identified by the Contractor) that result from Contractor’s findings under the TORFP.

1.3 Contract Type

The Contract that results from this RFP shall be an Indefinite Quantity Contract, Fixed Price, in accordance with COMAR 21.06.03.06.

1.4 Contract Duration

The Contract resulting from this RFP shall be for a period of five years beginning on the Contract execution date and ending five years thereafter. Additional five one-year optional extensions may be executed at the sole discretion of the State.

1.5 Procurement Officer

The sole point of contact in the State for purposes of this RFP prior to the award of any Contract is the Procurement Officer at the address listed below:

Gisela Blades
Maryland Department of Information Technology
45 Calvert Street, Room 444
Annapolis, Maryland 21401
Phone Number: 410-260-7678
E-mail: gisela.blades@doit.state.md.us

The Procurement Officer is responsible for determination of contract scope issues and the only State representative who can authorize changes to the Contract.

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

1.6 Contract Manager

The Contract Manager is the State representative that serves as a technical manager for the Contract:

TBD
Department of Information Technology
E-mail:

The Contract Manager monitors the daily activities of the Contract and provides technical guidance to the Contractor.

DoIT may change the Contract Manager at any time by written notice to the Contractor.

1.7 Pre-Proposal Conference

A Pre-proposal Conference (Conference) will be held on May 11, 2010, beginning at 10:00 AM, at 45 Calvert Street, Annapolis, MD, Conference Room 427. Conference attendance is not mandatory, but all interested Offerors are encouraged to attend in order to facilitate better preparation of their proposals.

The Conference will be summarized. As promptly as is feasible subsequent to the Conference, a summary of the Conference and all questions and answers known at that time will be posted to the DoIT web site and eMarylandMarketplace.

In order to assure adequate seating and other accommodations at the Conference, please email the Conference Response Form to the attention of the Procurement Officer as provided in RFP Section 1.5 such notice no later than 5:00 PM May 10, 2010. The Conference Response Form is included as Attachment F to this RFP. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please advise no later than May 3, 2010. DoIT will make a reasonable effort to provide such special accommodation.

1.8 eMarylandMarketplace

eMM is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the DoIT web site (www.doit.maryland.gov) and other means for transmitting the RFP and associated materials, the solicitation and summary of the pre-proposal conference, Offeror questions and the

Procurement Officer's responses, addenda, and other solicitation related information will be provided via e-Maryland Marketplace.

In order to receive a contract award, a vendor must be registered on eMaryland Marketplace (eMM). Registration is free. Go here to register: <https://edidmarketplace.com/>. Click on "Registration" to begin the process and follow the prompts.

1.9 Questions

Written questions from prospective Offerors will be accepted by the Procurement Officer prior to the Pre-Proposal Conference. If possible and appropriate, such questions will be answered at the Pre-Proposal Conference. (No substantive question will be answered prior to the Pre-Proposal Conference.) Questions may be submitted by e-mail to the Procurement Officer. Questions, both oral and written, will also be accepted from prospective Offerors attending the Pre-Proposal Conference. If possible and appropriate, these questions will be answered at the Pre-Proposal Conference.

Questions will also be accepted subsequent to the Pre-Proposal Conference and should be submitted in a timely manner prior to the proposal due date to the Procurement Officer as provided in RFP, Section 1.5. Time permitting, answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be posted to the DoIT web site and EmarylandMarketplace.

1.10 Proposals Due (Closing) Date

An original and three copies of each proposal (technical and financial) must be received by the Procurement Officer, at the address listed in RFP, Section 1.5, no later than **2:00 PM (local time) on June 1, 2010** in order to be considered. An electronic version (diskette or CD) of the Technical Proposal in MS Word format must be enclosed with the original technical proposal. An electronic version (diskette or CD) of the Financial Proposal in MS Word format must be enclosed with the original Financial Proposal. Label all diskettes with the RFP title, RFP number, and Offeror name, and package with the original copy of the appropriate proposal (technical or financial).

Requests for extension of this date or time will not be granted. Offerors mailing proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02, proposals received by the Procurement Officer after the due date, June 1, 2010 at 2:00 PM (local time) will not be considered.

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

1.11 Duration of Offer

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

1.12 Revisions to the RFP

If it becomes necessary to revise this RFP before the due date for proposals, amendments to the RFP will be posted on the DoIT Procurements web page and through eMarylandMarketplace. Amendments made after the due date for proposals will be sent only to those Offerors who submitted a timely proposal.

In the Transmittal Letter of the Technical Proposal, Offeror must acknowledge receipt of all amendments to this RFP issued before the proposal due date. Acknowledgement of the receipt of amendments to the RFP issued after the proposal due date shall be in the manner specified in the amendment notice. Failure to

acknowledge receipt of amendments does not relieve the Offeror from complying with all terms of any such amendment.

1.13 Cancellations; Discussions

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

1.14 Oral Presentation

Offerors may be required to make oral presentations to State representatives. Significant representations made by an Offeror during the oral presentation shall be submitted in writing. All such representations will become part of the Offeror's proposal and are binding if the Contract is awarded. The Procurement Officer will notify Offerors of the time and place of oral presentations. Typically oral presentations occur approximately two weeks after the proposal due date.

1.15 Incurred Expenses

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

1.16 Economy of Preparation

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

1.17 Protests/Disputes

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

1.18 Multiple or Alternate Proposals

Neither multiple nor alternate proposals will be accepted.

1.19 Access to Public Information Act Notice

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

Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information can be disclosed. Information which is claimed to be confidential is to be placed after the Title Page and before the Table of Contents in the Technical proposal and if applicable in the Financial proposal.

1.20 Offeror Responsibilities

The selected Offeror shall be responsible for all products and services required by this RFP. All subcontractors must be identified and a complete description of their role relative to the proposals must be included in the Offeror's proposals. Additional information regarding MBE subcontractors is provided under paragraph 1.24

below. If an Offeror that seeks to perform or provide the services required by this RFP is subsidiary of another entity, all information submitted by the Offeror, such as but not limited to, references and financial reports, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's proposal must contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.

1.21 Mandatory Contractual Terms

By submitting an offer in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms of this RFP and the Contract, attached as Attachment A. Any exceptions to this RFP or the Contract must be clearly identified in the Executive Summary of the technical proposal. A proposal that takes exception to these terms may be rejected.

1.22 Proposal Affidavit

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

1.23 Contract Affidavit

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

1.24 Minority Business Enterprises

An overall MBE subcontractor participation goal has not been established for the services resulting from this contract; **however, the State reserves the right to establish an appropriate MBE goal where reasonably indicated at the TORFP level.**

In that case, and **only at the so designated TORFP level**, each Master Contractor shall complete, sign and submit Attachment D-1 (Minority Business Enterprise Participation), and D-2 (Minority Business Enterprise Schedule) at the time it submits its technical response to the TORFP. **Completed and signed Attachment D-1 (Minority Business Enterprise Participation) and D-2 (Minority Business Enterprise Schedule) must be submitted with the technical response to the TORFP; failure to do so will result in the State's rejection of the Master Contractor's Proposal to the TORFP.**

After TO Agreement award, the TO Contractor will be responsible for submitting the following forms to provide the State with ongoing monitoring of MBE Participation:

- D-3 (Outreach Efforts compliance Statement)
- D-4 (Subcontractor Project Participation Statement)
- D-5 (MBE Participation Prime Contract Paid/Unpaid MBE Invoice Report)
- D-6 (MBE Subcontractor/Contractor Unpaid MBE Invoice Report)

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

1.25 Arrearages

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

1.26 Procurement Method

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

1.27 Verification of Registration and Tax Payment

Before a corporation can do business in the State it must be registered with the Department of Assessments and Taxation, State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. It is strongly recommended that any potential Offeror complete registration prior to the due date for receipt of proposals. An Offeror's failure to complete registration with the Department of Assessments and Taxation may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

1.28 False Statements

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

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

1.29 Payments by Electronic Funds Transfer

By submitting a response to this solicitation, the Offeror agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. The selected Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption. The COT/GAC X-10 form can be downloaded at:

<http://compnet.comp.state.md.us/gad/pdf/GADX-10.pdf>

1.30 Living Wage Requirement

A solicitation for services under a State contract valued at \$100,000 or more may be subject to Title 18, State Finance and Procurement (SFP) Article, Annotated Code of Maryland. Additional information regarding the State's Living Wage requirement is contained in this RFP (Attachment H - Living Wage Requirements for

Service Contracts). If the Offeror fails to submit and complete the Affidavit of Agreement (Attachment I), the State may determine an Offeror to be not responsible.

Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at least the required amount per hour as specified on the Department of Labor, Licensing and Regulation (“DLLR”) website at www.dllr.maryland.gov if State contract services valued at 50% or more of the total value of the contract are performed in the Tier 1 Area. If State contract services valued at 50% or more of the total contract value are performed in the Tier 2 Area, an Offeror shall pay each covered employee at least the required amount per hour as specified on the DLLR website. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George’s, Howard, Anne Arundel, and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State contract pursuant to §18-102 (d) shall assign the tier based upon where the recipients of the services are located.

1.30 Contract Extended to Include other Maryland Non-State Governments or Agencies

For the purposes of information technology or telecommunications procurements, pursuant to §13-110 of the State Finance and Procurement Article of the Annotated Code of Maryland, Maryland county, municipal, and other non-state governments or agencies within Maryland may purchase from the Contractor goods or services covered by this Contract at the same prices chargeable to the State. All such purchases by non-State governments or agencies:

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

1.31 Prompt Pay

This procurement and the contract to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor’s Office of Minority Affairs dated August 1, 2008. The Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The successful Offeror who is awarded a Contract under this RFP must comply with the prompt payment requirements outlined in the Contract, §32 (see Attachment A). Additional information is available on the GOMA website at <http://www.oma.state.md.us/>."

1.32 Non-Visual Access

Wherever applicable, the Contractor shall ensure compliance in any applicable support to the State of Maryland IT Non-Visual Access Standards. The standards should be incorporated to the fullest extent possible for Information Technology. These standards/policies may be revised from time to time and the Contractor shall comply with all such revisions. The Non-visual Access Clause noted in COMAR 21.05.08.05 and referenced in this solicitation is the basis for the standards that have been incorporated into the Maryland regulations, which can be found at: www.doit.maryland.gov - keyword nva.

1.33 Indemnity Insurance

a. The Contractor shall, at its own expense, procure and maintain during the entire performance period of this contract, insurance of at least the kinds set forth below in the minimum amount specified herein or in writing by the Procurement Officer.

(i) Worker's Compensation Insurance, in accordance with Maryland Statute.

(ii) Public Liability Insurance, covering Comprehensive basis, including Contingent Liability, in an amount of not less than \$1,000,000.00 combined single limit.

(iii) Automobile Liability Insurance, covering all owned, non-owned, and hired vehicles used in connection with the work, in the amounts indicated in (ii) above.

(iv) Owner's Protective Liability Insurance, in the amounts indicated in (ii) above. Notwithstanding the requirement of the Contractor to furnish certificates of insurance evidencing insurance coverage, the Contractor shall furnish a policy of Owner's Protective Liability Insurance set forth herein. This policy must be endorsed to indicate that any premium, whether deposit or final, will be the sole obligation of the Contractor.

b. The Public Liability Insurance coverage required in paragraph (ii) above should include those classifications listed in Standard Liability Insurance Manuals, which are applicable to the operations of the Contractor in the performance of this contract.

c. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Maryland, with the following qualifications as to management and financial strength. The Company shall be rated no less than "A" as to management, and no less than "AAA" as to strength, by the latest edition of Best's Insurance Guide, published by Alfred M. Best Co., Inc.

d. The Contractor shall furnish Certificates of Insurance to the Procurement Officer prior to commencing any operations under this contract. The Certificates shall clearly indicate the classifications, as required for strict compliance with this Article. The said Certificates must provide that in the event of any material change in or cancellation of the policies reflecting the required coverage, the Department will be given thirty (30) days advance notice thereof.

e. Compliance with the foregoing requirements as to the carrying of insurance shall not relieve the Contractor from its liability under any other portions of this Contract.

f. The Contractor shall indemnify and defend the Department, its officers, employees and agents, from any and all claims, liability, losses, damages, cost and expenses, and causes of actions which may arise out of or relate to the performance or non-performance by the Contractor, its employees or agents, of the contract. This provision shall not be construed as a waiver by the Department or its employees and agents of sovereign or any other immunity.

1.34 Conflict of Interest

Offerors, when submitting their proposals, shall identify all existing or potential conflicts of interest that would prevent a Master Contractor from fully performing the tasks described in this RFP. Such conflicts may affect an Offeror's potential of being reasonably susceptible of being selected for award. Disclosures of actual conflicts of interest will be a continuing requirement subsequent to award when responding to individual TORFPs.

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SECTION 2 – SCOPE OF WORK

2.1 Background and Purpose

DoIT is issuing this RFP to contract with an unlimited number of qualified Master Contractors to perform audits on past, present and future State telecommunications contracts that are subject to audit.

Each individual audit ordered will be summarized in a Task Order Request for Proposals (TORFP). TORFPs will be issued by the Procurement Officer, as needed, throughout the term of the Master Contract.

A list of all statewide telecommunication contracts and current providers can be located on our web site:

<http://doit.maryland.gov/contracts/Pages/TelecommContracts.aspx>

2.2 Master Contractor Requirement

In order to qualify for award of a Master Contract, Offeror must have conducted a comprehensive telecommunications billing audit on behalf of an entity of comparable size and complexity that also has multiple telecommunications locations. Such an audit, at a minimum, must have included the evaluation of telecommunications billings to identify billing discrepancies from the respective telecommunications vendor including incorrect tariffs, non-existent services, duplicate or excessive charges, etc.

2.3 TORFP Process

2.3.1 TORFPs will be initiated by DoIT and will define the actual scope, requirements and payment terms. At a minimum each TORFP will contain the following information:

- The due date, time, and place for responding to the TORFP, and any special price proposal instructions;
- Telecommunications contract(s) to be audited and any pertinent background information;
- Period of a telecommunications contract to be audited if less than a full contract period;
- Specific information to be provided by TO Contractor, such as: (1) a proposed work plan for the audit; (2) Contractor experience or capabilities; and, (3) personnel to perform the audit;
- Project and technical points of contact, and, if appropriate, Agency Task Order Contact;
- Whether there is an inventory component;
- Any maximum timeframe to complete the audit;
- Any required place(s) where audit work must be performed;
- State-furnished information, work site, and/or access to equipment, facilities, or personnel;
- Award selection criteria.

2.3.2 TORFP RESPONSE REQUIREMENTS

TORFPs will be sent to all Master Contractors except to those with an existing or potential conflict of interest. Master Contractors who receive a TORFP, and may have an existing or potential conflict of interest if awarded the TORFP, shall immediately so advise the Procurement Officer with a written notification of the conflict.

Each Master Contractor receiving a TORFP must respond with either a TORFP Response or complete and submit a Master Contractor Feedback Form, available off the DoIT web site. Master Contractors electing to submit a TORFP Response shall do so in conformance with the requirements of the TORFP. At a minimum the TORFP Response shall provide the following:

1. A complete description of the proposed work plan including time schedules, in narrative and GANTT chart formats, to accomplish the requisite tasks of the TORFP. This description shall include a schedule of resources and related tasks, including an explanation of how these tasks will be completed.
2. Those activities or phases that can be completed independently or simultaneously versus those that must be completed before another activity or phase can commence.
3. The personnel resources and estimated hours (by labor categories for potential T&M component of TORFPs) to complete the tasks identified. Key personnel who will work on all TORFPs must be identified. Resumes must be provided for all audit personnel that are proposed to work on TORFPs. Requests for personnel substitutions/changes must be submitted in writing to the Project Manager at least two weeks prior to the requested effective date of the substitution/change. In order for substitutions/changes to become effective they must be approved in writing by the Contract Manager.
4. An estimate of staff time to be required of State employees associated with this project.
5. A detailed written description of any work to be subcontracted, the name and address of the proposed subcontractor(s), including MBE subcontractors, if so indicated, and the proposed contractual agreement with the subcontracting organization, including the names of all officers of the subcontracting company.
6. Proposed approach to satisfying the requirements of the TORFP and development of TORFP deliverables.
7. Proposed cost or price; and,
8. Explanation of how the Contractor intends to meet the stated TORFP MBE requirement, if so indicated.

2.3.3 PROCEDURE FOR AWARDING A TORFP

A single TO Contractor will be selected from among all Master Contractors responding to each respective TORFP. In making the award determination, the State will consider all information, as mentioned in Section 2.3.2 above, required to be provided for that TORFP, including the specific corresponding commission percentage/bid price.

2.3.4 COMMENCEMENT OF WORK UNDER A TORFP

Work in response to an TORFP shall be initiated only upon issuance of a fully executed TO Agreement or by a Notice to Proceed authorized by the Project Manager.

2.4 Role, Function and Responsibility – TO Contractor

Upon award of a TO Agreement, TO Contractor shall conduct detailed analysis of payments made or revenues received by State agencies under various contracts for telecommunications activities.

As may be specified in respective TORFPs:

1. actual equipment and services currently in place within State agencies may have to be verified.
2. a physical inventory may be conducted
3. consisting of leased/owned telephones, including payphones, lines, circuits and any other telecommunications facilities and equipment included in the audit
4. provide the inventory included in the audit in electronic format
5. compare the results of the inventory to the current Vendor charges and credits
6. or revenue payments and all exceptions documented in writing.
7. compare exceptions to at least the last twelve Vendor billing or revenue payment periods to identify excess charges or revenue shortages. The State may choose to audit beyond 12 billing/revenue periods to realize additional cash refunds or revenues; however, the Contractor must notify the State of its intent to do so before proceeding.
8. submit recommendations and procedures that the State may consider to help ensure accurate inventory record keeping.
9. document and submit for review all identified errors, including charges, credits, and erroneous tariffs
10. provide supporting documentation to the Contract Manager at the conclusion of each ATO of all identified Vendor overcharges or revenue shortages.
11. submit monthly written status reports to both the Project Manager and respective Task Order Manager summarizing the activities being performed under each TORFP.
12. assist the State in negotiating refunds.
13. participate in any litigation that concerns the audit performed by the TO Contractor.

2.5 Master Contractor Proposed Team

The following section describes the labor categories to be provided under the RFP. Offerors must propose only these labor categories for a potential T&M component of a TORFP. All described requirements are **minimum** requirements for the respective labor categories.

2.5.1 AUDIT MANAGER

Experience: At least four (4) years of telecommunications billing audit experience. Such experience must have included the supervision of other auditors engaged in the telecommunications billing audit process.

Required Skills and Abilities: This person must demonstrate that he/she has lead telecommunications billing audit projects that involve the successful management of teams composed of Audit Supervisors, Lead Auditors, and Staff Auditors. This person must also demonstrate writing and oral communications skills and the skills that are specified in the delivery of task orders to be managed.

Duties: Serves as the single point of contact for the Contractor with the State regarding the Master Contract and any TORFP. Performs day-to-day management of overall contract support operations, possibly involving multiple audits and groups of personnel at multiple locations.

Responsible for the overall direction and guidance of all ongoing audits for the State; responsible for audit report(s) and all findings contained therein; in coordination with the State's designated representative, assists with the collection of any amounts due to the State as a result of audits.

Organizes, directs, and coordinates the planning and production of all contract support activities, including subcontractors. Develops work breakdown structures and prepares charts, tables, graphs, major milestone calendars and diagrams to assist in analyzing problems and making recommendations.

Establishes and alters (as necessary) corporate management structure to direct effective contract support activities. Must be authorized to negotiate and make binding decisions for the Contractor(s). Must also be able to bring the full capabilities and assets of the Contractor to bear, thereby demonstrating corporate commitment to this project.

The person identified in the proposal to be the Audit Manager must perform that function for the full duration of the Master Contract, including any option periods that are exercised by the State, as long as that person is employed by the Contractor. As described in section 2.3.2, the resume of the intended Audit Manager must be provided in the offeror's proposal.

2.5.2 AUDIT SUPERVISOR

Experience: At least two (2) years of telecommunications billing audit experience. Such experience must have included the supervision of other auditors engaged in the telecommunications billing audit process.

Required Skills and Abilities: This person must demonstrate that he/she has lead telecommunications billing audit projects that involve the successful management of teams composed of Lead Auditors and Staff Auditors. This person must also demonstrate writing and oral communications skills and the skills that are specified in the delivery of task orders to be managed.

Duties: Performs day-to-day management of assigned projects that involve teams of Lead Auditors and Staff Auditors. Primarily responsible for developing and overseeing the execution of the audit plan; regularly communicates with and reviews the work of on-site Lead and Staff Auditors and gives directions as appropriate; attends meetings with State representatives and is otherwise available to the State's representatives, as required.

Organizes, directs, and coordinates the planning and production of all activities associated with assigned projects. Prepares and presents program level management products such as work breakdown structures, charts, tables, graphs, major milestone calendars and diagrams to assist in analyzing problems and making recommendations.

The person identified in an TORFP Response to be the Audit Supervisor for a particular ATO must perform that function for the full duration of the ATO, as long as that person is employed by the Contractor. A resume for this person is required for each ATO, per Section 2.3.2 above.

2.5.3 LEAD AUDITOR

Experience: At least two (2) years of telecommunications billing audit experience.

Required Skills and Abilities: This person must demonstrate that he/she can work independently or under the general direction of the Audit Supervisor. This person must also demonstrate writing and oral communications skills and the skills that are specified in the delivery of task orders to be managed.

Duties: Assists in developing the telecommunications billing audit plan; primarily responsible for the routine performance of the audit plan and in providing direction of assigned Staff Auditors; communicates on a regular basis with the State's designated representative on status and audit issues.

2.5.4 STAFF AUDITOR

Experience: At least one (1) year of telecommunications billing audit experience.

Duties: Assists in the performance of telecommunications billing audits under the guidance and direction of a lead auditor and/or audit supervisor.

2.6 Compensation

Exclusive payment to the Contractor will be a percentage of monies owed to the State and recovered from a telecommunications vendor as a result of the Contractor's TO findings, unless a T&M component is specified. The commission percentage rate shall be applied against the full recovered amount, regardless whether recovery is in the form of cash, check or credit to the State. In the event that an audit indicates that a telecommunications vendor owes an amount to the State and that the State owes an amount to the telecommunications vendor, the discovery of the amount owed by the State to the telecommunications vendor shall not lower the commission owed to the Contractor; the commission percentage rate shall be applied against the amount owed by the telecommunications vendor to the State and subsequently recovered by the State. Contractor's commission rate may not exceed 35% of recoveries or increased revenues. The commission percentage rate will **not** be applied against or paid for any amount of **future** cost avoidance or increased revenues (excluding credits to the State made for reimbursement of errors and past overbilling identified by the Contractor) that result from Contractor's findings under the TORFP.

The Contractor is not entitled to compensation for any cost reductions or avoidance, or revenues to which the State may be entitled, which occur after each TORFP is completed; i.e., there will be no ongoing compensation to the selected Contractor for savings or revenues realized beyond the duration of each TORFP.

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SECTION 3 – PROPOSAL FORMAT

3.1 Two Part Submission

Offerors shall submit proposals in separate sealed volumes:

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

3.2 Proposal Submission

Volume I-Technical Proposal shall be sealed separately from Volume II-Financial Proposal but submitted simultaneously to the Procurement Officer (address listed on Key Information Summary). An unbound original, so identified, and three copies of each volume are to be submitted. An electronic version (CD preferred) of both the Volume I- Technical Proposal in MS Word format and the Volume II- Financial Proposal in MS Word format shall also be submitted with the respective unbound originals technical or financial volumes. Each file shall bear the RFP title and number, name and address of the Offeror, the volume number (I or II), and closing date and time for receipt of the proposals. All pages of both proposal volumes shall be consecutively numbered from beginning (Page 1) to end (Page “x”).

3.3 Volume I – Technical Proposal

3.3.1 Transmittal Letter

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

3.3.2 Additional Required Technical Submissions - one submission with original Technical Proposal only

- Completed Bid/Proposal Affidavit (Attachment B)
- Completed and signed MBE forms D-1 and D-2
- Signed Living Wage Affidavit
- Proof of Insurance

3.4.3 Format of Technical Proposal

Inside a sealed package described in Section 3.2, above, an original, to be so labeled, three copies and the electronic version shall be provided. Section 2 of this RFP provides requirements and Section 3 provides reply instructions. The paragraphs in these RFP sections are numbered for ease of reference. In addition to the instructions below, the Offeror’s Technical Proposals should be organized and numbered in the same order as this RFP. This proposal organization will allow State officials and the Evaluation Committee to “map” Offeror responses directly to RFP requirements by paragraph number.

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

3.4.3.1 Title and Table of Contents

The Technical Proposal should begin with a title page bearing the name and address of the Offeror and the name and number of this RFP. A table of contents shall follow the title page for the Technical Proposal. Note: Information which is claimed to be confidential is to be placed after the Title page and before the Table of Contents in the Offeror’s Technical Proposal, and if applicable, also in the Offeror’s Financial Proposal. An explanation for each claim of confidentiality shall be included.

3.4.3.2 Executive Summary

The Offeror shall condense and highlight the contents of the technical proposal in a separate section titled “Executive Summary”.

The summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (Attachment A), or any other attachments. Exceptions to terms and conditions may result in having the proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award. If no exceptions to terms and conditions are made, the summary shall indicate this.

3.4.3.3 Offeror General Information

This section shall include the following:

1. The Offeror’s corporation/organization size, experience, services provided, the length of time the organization has been providing the services listed, and key business relationships.
2. Statement of Fiscal Integrity for at least two full years. Documentation that addresses the Offeror’s financial solvency may include, but is limited to one, some or all of the following:
 - a. Current balance sheet,
 - b. Certified financial statement,
 - c. Dunn and Bradstreet rating,
 - d. Line of credit,
 - e. Successful financial track record, and
 - f. Evidence of adequate working capital.
3. Offeror MBE Form – Offeror Acknowledgement of TORFP MBE Participation Commitment (D-1-Offeror)

3.4.3.4 Past Performance

This section shall include the following:

1. The Offeror shall provide evidence of its capabilities to provide the services outlined in Section 2.4 of this RFP for each functional area proposed.
2. The Offeror shall provide an example of a successful project (on time, within budget, within scope) in each proposed functional area. The example(s) shall include the project name, the services provided, and the objectives satisfied.
3. For each example project provided, the Offeror shall include a supporting reference with the following information:
 - a. Name of client organization; and,
 - b. Name, title, and current telephone number of point of contact for client organization.
4. State of Maryland Experience: If applicable, the Offeror shall submit a list of all contracts it currently holds, or has held within the past five years, with any government entity of the State of Maryland. For each identified contract, the Offeror shall provide:
 - 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, and if yes, the reason(s) why;
 - f. Whether any available renewal option was not exercised; and
 - g. The State employee contact person (name, telephone number and email).

Please Note: It is critical that the contact information provided for any reference is current and accurate. The reference must be knowledgeable of the project and the Offeror's performance and available to discuss the Offeror's performance.

3.4 Volume II - Financial Proposal

Under separate sealed cover from the Technical Proposal and clearly identified in the format requirements identified in Section 3.4.3, the Offeror shall submit an original unbound copy, three copies, and an electronic version in MS Word of the Financial Proposal. The Financial Proposal shall contain all price information in the format specified in Attachment E.

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

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SECTION 4 – EVALUATION CRITERIA AND SELECTION PROCEDURE

4.1 Evaluation Criteria

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

4.2 Technical Criteria

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

- Offeror Past Performance (Section 3.4.3.4)
- Offeror Overall Qualification (Section 3.4.3.3)

4.3 Financial Criteria

Financial Proposals will be evaluated separately. Rates proposed are ceiling rates, the highest the State will pay, and may be adjusted at the TORFP level.

4.4 Reciprocal Preference

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

4.5 Selection Procedures

4.5.1 General Selection Process

The Contract will be awarded in accordance with the competitive sealed proposals process under COMAR 21.05.03. The competitive sealed proposals method is based on discussions and revision of proposals during these discussions.

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

4.5.2 Selection Process Sequence

4.5.2.1 The first step in the process will be an evaluation for technical merit to assure Offeror's full understanding of the State's requirements and the Offeror's ability to perform.

4.5.2.2 During the course of any potential discussions, an Offeror must confirm in writing any substantive oral clarification of, or change in, its proposals. Any such written clarification or change then becomes part of the Offeror's proposal.

4.5.2.3 The financial proposal of each qualified Offeror will be evaluated separately from the technical evaluation. After a review of the financial proposals of only the qualified Offerors, the Procurement Officer may conduct discussions to further evaluate the Offeror's entire proposal.

4.5.3 Award Determination

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

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ATTACHMENTS

ATTACHMENT A is the State's Contract. It is provided with the RFP for informational purposes and is not required at proposal submission time. However, it must be completed, signed and returned by the selected Offeror to the Procurement Officer expeditiously upon notification of proposed Contract award.

ATTACHMENT B – Bid/Proposal Affidavit. This form must be completed and submitted with the Offeror's technical proposal.

ATTACHMENT C – Contract Affidavit. It is not required at proposal submission time. It must be submitted by the selected Offeror to the Procurement Officer within 5 working days of notification of proposed award.

ATTACHMENT D – MBE Forms – see Section 1.24

ATTACHMENT E – Price Proposal. Price Proposal must be completed and submitted as the Financial Proposal.

ATTACHMENT F - Pre-Proposal Conference Response Form. It is requested that Offerors who plan to attend the conference complete and submit this form as described in RFP section 1.7

ATTACHMENT H – Living Wage Requirements

ATTACHMENT I - Living Wage Affidavit

ATTACHMENT A – CONTRACT

Telecommunication Billing Audit Services

THIS CONTRACT (the “Contract”) is made this ____ day of _____, 2010 by and between _____ and the STATE OF MARYLAND, acting through the DEPARTMENT OF INFORMATION TECHNOLOGY.

In consideration of the promises and the covenants herein contained, the parties agree as follows:

1. Definitions

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

- 1.1 “Contract Manager” means TBD of the Department.
- 1.2 “Contractor” means _____ whose principal business address is _____ and whose principal office in Maryland is _____.
- 1.3 “Department” means the Maryland Department of Information Technology.
- 1.4 “Financial Proposal” means the Contractor’s Financial Proposal dated _____.
- 1.5 “Procurement Officer” means Gisela Blades of the Department.
- 1.6 “RFP” means the Request for Proposals for Telecommunications Audit Services, Project 060B0400006, and any amendments thereto issued in writing by the State.
- 1.8 “State” means the State of Maryland.
- 1.9 “Technical Proposal” means the Contractor’s Technical Proposal, dated _____.

2. Scope of Work

2.1 The Contractor shall provide all deliverables as defined in the RFP Section 2. These services shall be provided in accordance with the terms and conditions of this Contract and the following Exhibits, which are attached hereto and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

- Exhibit A – The RFP
- Exhibit B – The Technical Proposal
- Exhibit C – The Financial Proposal
- Exhibit D - State Contract Affidavit, executed by the Contractor and dated _____

2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract or the RFP. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or

decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

2.3 Modifications to this Contract may be made provided (a) the modifications are made in writing; (b) all parties sign the modifications; and (c) approval by the required agencies, as described in COMAR, Title 21, is obtained.

3. Time for Performance.

The Contract resulting from this RFP shall be for a period of five years beginning on the Contract execution date and ending five years thereafter.

4. Consideration and Payment

4.1 Payments to the Contractor shall be made no later than thirty (30) days after the Department's receipt of a proper invoice for services provided by the Contractor, acceptance by the Department of services provided by the Contractor, and pursuant to the conditions outlined in Section 4 of this Contract. Each invoice for services rendered must include the Contractor's Federal Tax Identification Number which is _____. 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, are prohibited. Invoices shall be submitted to the Contract Manager. Electronic funds transfer shall be used by the State to pay Contractor pursuant to this Contract and any other State payments due Contractor unless the State Comptroller's Office grants Contractor an exemption. In consideration of the satisfactory performance of the work set forth in this Contract, the State shall pay the Contractor an amount not to exceed _____, which is the total amount of the Contract. Any work performed by the Contractor in excess of this not-to-exceed ceiling amount without the prior written approval of the Contract Manager (?) is at the Contractor's risk of non-payment.

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

4.3 Contractor's eMarylandMarketplace vendor ID number is _____.

5. Rights to Records

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

5.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a deliverable under this Contract, and services performed under this Contract shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created as a deliverable under this Contract are not works for hire for the State, the Contractor hereby relinquishes, transfers, and assigns to the State all of its rights, title, and interest (including all intellectual property rights) to all such

products created under this Contract, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.

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

5.4 The Contractor shall not affix any restrictive markings upon any data, documentation, or other materials provided to the State hereunder and if such markings are affixed, the State shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

6. Exclusive Use

The State shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable of being copyrighted, the State shall be the copyright owner and Contractor may copyright material connected with this project only with the express written approval of the State.

7. Patents, Copyrights, Intellectual Property

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

7.2 The Contractor will defend or settle, at its own expense, any claim or suit against the State alleging that any such item furnished by the Contractor infringes any patent, trademark, service mark, copyright, or trade secret. If a third party claims that a product infringes that party's patent, trademark, service mark, trade secret, or copyright, the Contractor will defend the State against that claim at Contractor's expense and will pay all damages, costs and attorney fees that a court finally awards, provided the State (i) promptly notifies the Contractor in writing of the claim; and (ii) allows Contractor to control and cooperates with Contractor in, the defense and any related settlement negotiations. The obligations of this paragraph are in addition to those stated in Section 7.3 below.

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

8. Confidentiality

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

9. Loss of Data

In the event of loss of any State data or records where such loss is due to the intentional act or omission or negligence of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for recreating such lost data in the manner and on the schedule set by the Contract Manager. The Contractor shall ensure that all data is backed up and recoverable by the Contractor. Contractor shall use its best efforts to assure that at no time shall any actions undertaken by the Contractor under this Contract (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms and/or applications with which the Contractor is working hereunder.

10. Indemnification

10.1 The Contractor shall hold harmless and indemnify the State from and against any and all losses, damages, claims, suits, actions, liabilities and/or expenses, including, without limitation, attorneys' fees and disbursements of any character that arise from, are in connection with or are attributable to the performance or nonperformance of the Contractor or its subcontractors under this Contract.

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

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

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

11. Non-Hiring of Employees

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

12. Disputes

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

13. Maryland Law

13.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.

13.2 The Maryland Uniform Computer Information Transactions Act, Maryland Code Annotated, Commercial Law Article, Title 22, does not apply to this Contract, or to any PO, or Notice to Proceed, issued under this Contract.

13.3 Any and all references to the Annotated Code of Maryland contained in this Contract shall be construed to refer to such Code sections as from time to time amended.

14. Nondiscrimination in Employment

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

15. Contingent Fee Prohibition

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

16. Non-availability of Funding

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

17. Termination for Cause

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

affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

18. Termination for Convenience

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

19. Delays and Extensions of Time

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

20. Suspension of Work

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

21. Pre-Existing Regulations

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

22. Financial Disclosure

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

23. Political Contribution Disclosure

The Contractor shall comply with Election Law Article, Sections 14-101 through 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$100,000 or more, shall, file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any

primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

24. Retention of Records

The Contractor shall retain and maintain all records and documents in any way relating to this Contract for three years after Contract closeout and final payment by the State under this Contract or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or the Procurement Officer's designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section. In the event of any audit, Contractor shall provide assistance to the State, without additional compensation, to identify, investigate and reconcile any audit discrepancies and/or variances.

25. Compliance with Laws

The Contractor hereby represents and warrants that:

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

26. Cost and Price Certification

By submitting cost or price information, the Contractor certifies to the best of its knowledge that the information submitted is accurate, complete, and current as of the date of its bid or offer.

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

27. Subcontracting; Assignment

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the State, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the State. Any such subcontract or assignment shall include the terms of Sections 11 and 13 through 26 of this Contract and any other terms and conditions that the State deems necessary to protect its interests. The State shall not be responsible for the fulfillment of the Contractor's obligations to the subcontractors.

28. Limitation of Liability

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

- A. For infringement of patents, copyrights, trademarks, service marks and/or trade secrets, as provided in Section 7 of this Contract;
- B. Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property;
- C. For all other claims, damages, losses, costs, expenses, suits or actions in any way related to this Contract, regardless of the form, Contractor's liability shall be limited to three (3) times the total dollar amount of the Contract value up to the date of settlement or final award of any such claim. Third party claims arising under Section 10, "Indemnification", of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor's liability for third party claims arising under Section 10 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 10.

29. Parent Company Guarantee (If Applicable)

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

30. Commercial Non-Discrimination

- 30.1 As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.
- 30.2 The Contractor shall include the above Commercial Nondiscrimination clause, or similar clause approved by DOIT, in all subcontracts.
- 30.3 As a condition of entering into this Contract, upon the Maryland Human Relations Commission's request, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article, as amended from time to time, Contractor agrees to provide within 60 days

after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past 4 years on any of its contracts that were undertaken within the state of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State’s Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

31. Administrative

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

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

If to the State: TBD

Attention: _____

If to the Contractor: _____

32. Prompt Pay Requirements

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

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

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

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

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

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

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

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

- 32.3.1 Affect the rights of the contracting parties under any other provision of law;
 - 32.3.2 Be used as evidence on the merits of a dispute between the Department and the contractor in any other proceeding; or
 - 32.3.3 Result in liability against or prejudice the rights of the Department.
- 32.4 The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise program.
- 32.5 To ensure compliance with certified MBE subcontract participation goals, the Department may, consistent with COMAR 21.11.03.13, take the following measures:
- 32.5.1 Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule.
 - 32.5.2 This verification may include, as appropriate:
 - 32.5.2.1 Inspecting any relevant records of the contractor;
 - 32.5.2.2 Inspecting the jobsite; and
 - 32.5.2.3 Interviewing subcontractors and workers.
 - 32.5.2.4 Verification shall include a review of:
 - 32.5.2.4.1 The contractor's monthly report listing unpaid invoices over 30 days old from certified MBE subcontractors and the reason for nonpayment; and
 - 32.5.2.4.2 The monthly report of each certified MBE subcontractor, which lists payments received from the contractor in the preceding 30 days and invoices for which the subcontractor has not been paid.
 - 32.5.3 If the Department determines that a contractor is in noncompliance with certified MBE participation goals, then the Department will notify the contractor in writing of its findings, and will require the contractor to take appropriate corrective action. Corrective action may include, but is not limited to, requiring the contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.
 - 32.5.4 If the Department determines that a contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that the Department requires, then the Department may:
 - 32.5.4.1 Terminate the contract;
 - 32.5.4.2 Refer the matter to the Office of the Attorney General for appropriate action; or
 - 32.5.4.3 Initiate any other specific remedy identified by the Contract, including the contractual remedies required by this directive regarding the payment of undisputed amounts.
 - 32.5.5 Upon completion of the Contract, but before final payment or release of retainage or both, the contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

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

CONTRACTOR

STATE OF MARYLAND

BY: DEPARTMENT OF INFORMATION TECHNOLOGY

By:

By: Elliot Schlanger, Secretary

Date

Date

Witness

Witness

Approved for form and legal
sufficiency this ____ day _____, 2010.

Assistant Attorney General

APPROVED BY BPW: _____ (Date) _____ (BPW Item #)

ATTACHMENT B – BID/PROPOSAL AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

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

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

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

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

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

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

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

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

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

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

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

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

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

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

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

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

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

(9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B and D(1)—(8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

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

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

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

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

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

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

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

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

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

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

I. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

J. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, Sections 14-101 through 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

K. DRUG AND ALCOHOL FREE WORKPLACE

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

I CERTIFY THAT:

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

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

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

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

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

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

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

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

(i) The dangers of drug and alcohol abuse in the workplace;

(ii) The business' policy of maintaining a drug and alcohol free workplace;

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

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

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

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

(i) Abide by the terms of the statement; and

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

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

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

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

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

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

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

(4) I acknowledge and agree that:

- (a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;
- (b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and
- (c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

L. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

(1) The business named above is a (domestic ___) (foreign ___) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is: Name: _____ Address: _____ .

(If not applicable, so state).

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

M. CONTINGENT FEES

I FURTHER AFFIRM THAT:

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

N. Repealed.

O. ACKNOWLEDGEMENT

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

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

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

ATTACHMENT C - CONTRACT AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

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

B. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

(1) The business named above is a (domestic___) (foreign___) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is: Name: _____
Address: _____.

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

C. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

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

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

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

STATE OF MARYLAND DEPARTMENT OF INFORMATION TECHNOLOGY

The Contractor shall structure its procedures for the performance of the work required in this contract to attempt to achieve the Minority Business Enterprise (MBE) participation goal stated in the Invitation for Bids (IFB) or Request for Proposals (RFP). MBE performance must be in accordance with this Attachment, as authorized by Minority Business Enterprise Policies as set forth by 21.11.03 of the Code of Maryland Regulations (COMAR). Accordingly, the Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this Attachment.

DEFINITIONS

As used in this Attachment, the following words have the meanings indicated.

- ◆ “Certification” means a determination made by the Maryland Department of Transportation that a legal entity is a minority business enterprise.
- ◆ “MBE Liaison” is the employee designated to administer this Department’s MBE program.
- ◆ “Minority Business Enterprise” or “MBE” means any legal entity, other than a joint venture, organized to engage in commercial transactions, that is:
 - (1) at least 51 percent owned and controlled by one or more individuals who are socially and economically disadvantaged; and
 - (2) managed by, and the daily business operations of which are controlled by, one or more of the socially and economically disadvantaged individuals who own it.

Note: A minority business enterprise also includes a not-for-profit entity organized to promote the interests of physically or mentally disabled individuals. An MBE **must** be certified by the Maryland Department of Transportation (MDOT) in order to have its contract participation counted under the Department’s MBE program.

MINORITY BUSINESS ENTERPRISE INSTRUCTIONS AND FORMS

A. MBE Participation Goals and sub-goals

The Contractor shall achieve the MBE subcontracting goal and any sub-goals established for this contract, by subcontracting to one or more MDOT-certified Minority Business Enterprises a sufficient portion of the contract's scope of work that results in total MBE payments that meet or exceed the MBE participation goal.

If awarded the Contract:

- A prime contractor – including an MBE or certified Small Business Reserve (SBR) prime contractor – must accomplish an amount of work not less than the MBE participation goal with certified MBE subcontractors.
- A prime contractor comprising a joint venture that includes MBE partner(s) must accomplish the MBE participation goal with certified MBE subcontractors.

B. Solicitation and contract formation

1. Reporting Instructions for Submission of Bid or Offer:

a. The bidder or offeror must **include the following reports with its bid or offer:**

- 1) A completed Certified MBE Utilization and Fair Solicitation Affidavit (Attachment D-1) whereby the bidder or offeror acknowledges the certified MBE participation goal or requests a waiver, commits to make a good faith effort to achieve the goal, and affirms that MBE subcontractors were treated fairly in the solicitation process.
- 2) A completed MBE Participation Schedule (Attachment D-2) whereby the bidder or offeror responds to the expected degree of Minority Business Enterprise participation as stated in the solicitation, by identifying the specific commitment of certified Minority Business Enterprises at the time of submission. The bidder or offeror shall specify the specific percentage (not range) or dollar amount of contract value associated with each MBE subcontractor identified on the MBE Participation Schedule. **Attachment D-2 shall become part of the final contract, therefore, any changes (additions and/or deletions) must be submitted to the Procurement Officer in writing for approval.**

NOTE: The failure of an offeror to complete and submit the MBE Utilization Affidavit and the MBE Participation Schedule shall result in a determination that the proposal is not susceptible of being selected for award.

- 3) **Within 10 working days from notification** that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee must provide the following documentation to the Procurement Officer.

a) Outreach Efforts Compliance Statement (**Attachment D-3**)

- b) Subcontractor Project Participation Statement (**Attachment D-4**)
- c) If the apparent awardee has requested a waiver (in whole or in part) of the overall MBE goal or of any sub-goal as part of the previously submitted Attachment D-1, it must submit documentation supporting the waiver request that complies with COMAR 21.11.03.11.
- d) Any other documentation required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

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

C. CONTRACT ADMINISTRATION REQUIREMENTS:

Prime Contractor shall:

1. **Attachment D-5:** Submit monthly to the Department/Agency a report listing all unpaid invoices over 30 days old received from a certified MBE subcontractor working under the PORFP Agreement, the amount of each invoice and the reason payment has not been made. For informational purposes only, a sample prime contractor unpaid invoice report is attached.
2. **Attachment D-6:** Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit monthly to the Department/Agency a report that identifies the prime contract and lists all payments received from the Master Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices. For informational purposes only, a sample MBE Subcontractor Paid/Unpaid Invoice report is attached.
3. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed.
4. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Master Contractor must retain all records concerning MBE participation

and make them available for State inspection for three years after final completion of the contract.

5. **COMAR 21.11.03.13E**: A procurement agency may, upon completion of a contract, and before final payment and/or release of retainage or both, require that a prime contractor on any contract having an MBE subcontract goal, submit a final report, in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

MINORITY BUSINESS ENTERPRISE PARTICIPATION FORMS

These attachments must be submitted with technical response to the RFP:

ATTACHMENT D-1 – *Certified MBE Utilization and Fair Solicitation Affidavit*

ATTACHMENT D-2 - *MBE Participation Schedule*

These attachments must be submitted within 10 days after notification of apparent award of contract:

ATTACHMENT D3 - *Outreach Efforts Compliance Statement*

ATTACHMENT D-4 - *Subcontractor Project Participation Statement*

These attachments must be submitted on a monthly (by the 15th) basis after award of contract or as otherwise directed:

ATTACHMENT D-5 - *Prime Contractor Unpaid MBE Invoice Report*

ATTACHMENT D-6 - *Subcontractor Paid/Unpaid MBE Invoice Report*

Attachment D-1

CERTIFIED MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT

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

In conjunction with the bid or offer submitted in response to Solicitation No.060B0400003, I affirm the following:

1. Commitment to MBE Participation Goal or Request for Waiver (check applicable box):

I acknowledge the overall certified Minority Business Enterprise (MBE) participation goal of 35 percent and, if specified in the solicitation, sub-goals of ____ percent for MBEs classified as African American-owned and ____ percent for MBEs classified as women-owned. I have made a good faith effort to achieve this goal.

OR

I acknowledge the overall certified Minority Business Enterprise (MBE) participation goal of _____percent, and specified sub goals, however, I intend to exceed the overall goal by achieving an MBE participation goal of _____percent and exceed the sub-goals of ____ percent for MBEs classified as African American-owned and ____ percent for MBEs classified as women-owned. I have made a good faith effort to achieve this goal.

OR

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

2. ***I have identified the specific commitment (to include percentage of total contract) of each certified Minority Business Enterprise by completing and submitting the MBE Participation Schedule (Attachment D-2) with the bid or proposal.***

3. ***I acknowledge that the MBE subcontractors/suppliers listed on the MBE Participation Schedule will be used to accomplish the percentage of MBE participation that is included in the contract.***

4. I understand that if I am notified that I am the apparent awardee, I must submit the following documentation within 10 working days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier.

(a) Outreach Efforts Compliance Statement (**Attachment D-3**)

- (b) Subcontractor Project Participation Statement (**Attachment D-4**)
- (c) MBE Waiver Request per COMAR 21.11.03.11 (if applicable)
- (d) Any other documentation required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal. To include copies of subcontract agreement or agreements if requested

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

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

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

Bidder/Offeror Name

Signature of Affiant

Address

Printed Name, Title

Date

SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL

Attachment D-2
 MBE Participation Schedule
(must be submitted with the technical response to the bid or proposal)

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

Prime Contractor (Firm Name, Address, Phone)	Project Description
Project Number	
List Specific Information For Each Certified MBE Subcontractor On This Project	
Minority Firm Name	MBE Certification Number
A. Specific Work To Be Performed/NAICS	
B. Specific Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Specific Work To Be Performed/NAICS	
Specific Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Specific Work To Be Performed/NAICS	
Specific 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 D-2
MBE Participation Schedule (continued)**

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

Attachment D-3
Outreach Efforts Compliance Statement
(for submission within 10 days after notification of apparent award)

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

1. Bidder/ Offeror took the following efforts to identify subcontracting opportunities in these specific work categories:

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

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

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

- This project does not involve bonding requirements.

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

Bidder/Offeror Name

By: _____
Name

Address

Title

Date

Attachment D-4

**Subcontractor Project Participation Statement
(for submission within 10 days after notification of apparent contract award)**

SUBMIT ONE FORM FOR EACH MBE
LISTED ON THE MBE PARTICIPATION SCHEDULE

Provided that _____ is awarded the State contract in conjunction with
(Prime Contractor Name)

Solicitation No. _____, it and _____,
(Subcontractor Name)

MDOT Certification No. _____, **intend to enter into a contract by which subcontractor shall:** (This is not a subcontract agreement. A written copy of subcontractor agreement(s) shall be made available to Procurement Officer upon request)

(Describe specific work) _____

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

By: _____
Prime Contractor Signature

By: _____
Subcontractor Signature

Name

Name

Title

Title

Date

Date

This form is to be completed monthly by the prime contractor.

**Attachment D-5
Maryland Department of INFORMATION TECHNOLOGY
Minority Business Enterprise Participation
Prime Contractor Paid/Unpaid MBE Invoice Report**

Report #: _____	Contract #: _____
Reporting Period (Month/Year): _____	Contracting Unit: _____
Report is due to the MBE Officer by the 15th of the month following the month the services were provided.	Contract Amount: _____
	MBE Subcontract Amt: _____
	Project Begin Date: _____
	Project End Date: _____
	Services Provided: _____
Note: Please number reports in sequence	

Prime Contractor:		Contact Person:	
Address:			
City:		State:	ZIP:
Phone:	FAX:	Email:	
Subcontractor Name:		Contact Person:	
Phone:	FAX:		
Subcontractor Services Provided:			
List all payments made to MBE subcontractor named above during this reporting period:		List dates and amounts of any outstanding invoices:	
	Invoice#	Amount	
1.			1.
2.			2.
3.			3.
4.			4.
Total Dollars Paid: \$ _____		Total Dollars Unpaid: \$ _____	

****If more than one MBE subcontractor is used for this contract, you must use separate D-5 forms.**

****Return one copy (hard or electronic) of this form to the following address (electronic copy with signature and date is preferred):**

MBE Liaison Officer
Department of Information Technology
Procurement Unit
45 Calvert Street, 4th Floor
Annapolis, MD 21401
MBEOfficer@doit.state.md.us

Signature: _____ (Required) Date: _____

This form is to be completed monthly by the prime contractor.

**Attachment D-5
Maryland Department of INFORMATION TECHNOLOGY
Minority Business Enterprise Participation
Subcontractor Paid/Unpaid MBE Invoice Report**

Report#: _____ Reporting Period (Month/Year): _____ Report is due to the MBE Officer by the 15th of the month following the month the services were performed. Note: Please number reports in sequence.	Contract # _____ Contracting Unit: _____ MBE Subcontract Amount: _____ Project Begin Date: _____ Project End Date: _____ Services Provided: _____
---	--

MBE Subcontractor Name:																																																		
MDOT Certification #:																																																		
Contact Person:																																																		
Address:																																																		
City:	State: Maryland	ZIP:																																																
Phone:	FAX:	Email:																																																
Subcontractor Services Provided:																																																		
List all payments received from Prime Contractor during reporting period indicated above. <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:50%;"></th> <th style="width:50%; text-align: center;"><u>Invoice Amt</u></th> <th style="width:50%;"></th> <th style="width:50%; text-align: center;"><u>Invoice #</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td><td></td></tr> <tr> <td>Total Dollars Paid: \$</td> <td colspan="2">_____</td> <td></td> </tr> </tbody> </table>			<u>Invoice Amt</u>		<u>Invoice #</u>	1.				2.				3.				4.				Total Dollars Paid: \$	_____			List dates and amounts of any unpaid invoices over 30 days old. <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:50%;"></th> <th style="width:50%; text-align: center;"><u>Invoice Amt</u></th> <th style="width:50%;"></th> <th style="width:50%; text-align: center;"><u>Invoice #</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td><td></td></tr> <tr> <td>Total Dollars Unpaid: \$</td> <td colspan="2">_____</td> <td></td> </tr> </tbody> </table>		<u>Invoice Amt</u>		<u>Invoice #</u>	1.				2.				3.				4.				Total Dollars Unpaid: \$	_____		
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Total Dollars Paid: \$	_____																																																	
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3.																																																		
4.																																																		
Total Dollars Unpaid: \$	_____																																																	
Prime Contractor:		Contact Person																																																

****Return one copy (hard or electronic) of this form to the following address (electronic copy with signature and date is preferred):**

Signature: _____ Date: _____
(Required)

ATTACHMENT E - Price Proposal

Telecommunication Audit – Project #060Bo400006

Commission Only Offers:

Exclusive payment to the Contractor will be a percentage of monies owed to the State and recovered from a telecommunications vendor as a result of the Contractor’s ATO findings. The commission percentage rate shall be based on the full recovered amount, regardless whether recovery is in the form of cash, check or credit to the State. In the event that an audit indicates that a telecommunications vendor owes an amount to the State and that the State owes an amount to the telecommunications vendor, the discovery of the amount owed by the State to the telecommunications vendor shall not lower the commission owed to the Contractor; the commission percentage rate shall be applied against the amount owed by the telecommunications vendor to the State and subsequently recovered by the State in the form of cash, check or credit.

Special Note: Offeror’s commission rate may not exceed 35% of recoveries or increased revenues. The commission percentage rate will **not** be applied against or paid for any amount of **future** cost avoidance or increased revenues (excluding credits to the State made for reimbursement of errors and past overbilling identified by the Contractor) that result from a Contractor’s findings under any ATO.

Maximum commission rate _____ %

#	LABOR CATEGORY	Labor Rate Schedule				
		HOURLY LABOR RATES CONTRACT YEAR*				
		Year 1	Year 2	Year 3	Year 4	Year 5
		Offeror Price	Offeror Price	Offeror Price	Offeror Price	Offeror Price
1	Audit Manager					
2	Audit Supervisor					
3	Lead Auditor					
4	Staff Auditor					

* Contract year one begins on the date of contract award and continues for one year, contract year two begins one year after contract award and continues one year, etc.

Signature/Title

Date

Printed Name Company Name FEIN #

ATTACHMENT F – PRE-PROPOSAL CONFERENCE RESPONSE FORM

**Project No. 060Bo400006
Telecommunication Billing Audit Services**

A Pre-Proposal Conference will be held at 10:00 AM on May 11, 2010 , at 45 Calvert Street, Annapolis, Maryland 21401, Room 427. Please return this form by May 10, 2010, advising whether or not you plan to attend.

Return via email this form to the Procurement Officer:

Gisela Blades
gisela.blades@doit.state.md.us

Please indicate:

_____ Yes, the following representatives will be in attendance:

- 1.
- 2.

_____ No, we will not be in attendance.

Signature

Title

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 164 is on the first floor.
- Stop and register with the Security Guard; you will be directed to Room 164.

Parking:

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

ATTACHMENT H – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS

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

B. The Living Wage Law does not apply to:

(1) A Contractor who:

- (A) has a State contract for services valued at less than \$100,000, or
- (B) employs 10 or fewer employees and has a State contract for services valued at less than \$500,000.

(2) A Subcontractor who:

- (A) performs work on a State contract for services valued at less than \$100,000,
- (B) employs 10 or fewer employees and performs work on a State contract for services valued at less than \$500,000, or
- (C) performs work for a contractor not covered by the Living Wage Law as defined in B(1)(B) above, or B(3) or C below.

(3) Service contracts for the following:

- (A) services with a Public Service Company;
- (B) services with a nonprofit organization;
- (C) services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement ("Unit"); or
- (D) services between a Unit and a County or Baltimore City.

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

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

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

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

term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.

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

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

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

J. Information pertaining to reporting obligations may be found by going to the DLLR Website <http://www.dllr.state.md.us/> and clicking on Living Wage.

ATTACHMENT I – LIVING WAGE AFFIDAVIT OF AGREEMENT

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

If the Contract is Exempt from the Living Wage Law

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

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

If the Contract is a Living Wage Contract

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

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

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

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

Name of Authorized Representative: _____
Signature of Authorized Representative: _____
Date: _____ Title: _____
Witness Name (Typed or Printed): _____
Witness Signature & Date: _____