



**Department of Information Technology (DoIT)**  
**REQUEST FOR PROPOSALS (RFP)**

**GIS Software Master Contract**

**SOLICITATION NO. 060B6400028**

**Issue Date: April 1, 2016**

**NOTICE TO OFFERORS**

**Minority Business Enterprises Are Encouraged to Respond to  
this Solicitation**

## STATE OF MARYLAND

*Department of Information Technology (DoIT)***RFP KEY INFORMATION SUMMARY SHEET**

<b>RFP Title:</b>	GIS Software Master Contract
<b>RFP Number:</b>	060B6400028
<b>RFP Issuing Department:</b>	DoIT 45 Calvert Street Annapolis, MD 21401
<b>RFP Issue Date:</b>	4/1/2016
<b>Proposals Due Date and Time:</b>	4/22/2016 at 2:00 PM Local Time
<b>Questions Due Date and Time:</b>	4/12/2016 at 12:00 PM Local Time
<b>Procurement Officer:</b>	Alicia Baltimore Phone: 410-260-6034 e-mail: Alicia.baltimore@maryland.gov
<b>Contract Manager:</b>	Julia Fischer Phone: 410-260-7062 e-mail: Julia.fischer@maryland.gov
<b>Send Proposals to:</b>	DoIT 45 Calvert Street, Room 442B Annapolis, MD 21401  Attention: Alicia Baltimore
<b>Send Questions (e-mail only) to:</b>	e-mail address: Alicia.baltimore@maryland.gov
<b>Contract Type</b>	Fixed Price
<b>Contract Duration</b>	Five (5) years with two (2) two-year option periods
<b>MBE Subcontracting Goal:</b>	0 %
<b>VSBE Subcontracting Goal:</b>	0 %
<b>Small Business Reserve</b>	No
<b>Pre-Proposal Conference:</b>	Conference Call: 1-855-244-8681 or 1-650-479-3207 Code: 649 327 461 Friday, April 8, 2016 at 2:00 PM Local Time

**STATE OF MARYLAND**  
**NOTICE TO OFFERORS/BIDDERS/CONTRACTORS**  
**Maryland Wants to Do Business with You**

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

- We do not offer the services/commodities requested.
- Busy with other commitments.
- Specifications are unclear or too restrictive.
- Timetable is unworkable.
- Bonding/Insurance requirements are prohibitive.
- Our experience with State of Maryland has not been satisfactory.
- Other (Please specify)

Additional Comments:

Please add suggestions for improvement here:

Name of commenter and Business (optional): \_\_\_\_\_

Contact Person (optional): \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_

Bid/proposal Number: **060B6400028** Entitled: ***GIS Software Master Contract***

Your comments will help us improve the procurement process.

**Thank You.**

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

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# 1 GENERAL INFORMATION

## 1.1 Summary Statement

1.1.1 The Department of Information Technology (DoIT or “the Department”) is issuing this Request for Proposals (RFP) to obtain software associated with geographic information systems (GIS) for use with at the State of Maryland. Through the Master Contracts awarded as a result of this solicitation, the State will have a flexible means of obtaining these products by issuing Purchase Order Requests for Proposals (PORFPs) specific to its needs.

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

- Functional Area I – Desktop/Server Software
- Functional Area II – Mobile Software
- Functional Area III – Manufacturer’s Software Maintenance and Support

1.1.3 DoIT intends to award a Master Contract to an unlimited number of Offerors that are authorized by the manufacturer to sell the proposed products, and/or Manufacturer’s Software Maintenance and Support, and determined by the State to be qualified. Offerors may propose to any or all Functional Areas I, II and/or, III.

1.1.4 Each request for software and/or manufacturer’s software maintenance, throughout the term of the Master Contract, will be issued and summarized by DoIT in a PORFP. A Master Contractor/Manufacturer Product Matrix for will be established and maintained by DoIT. All Offerors awarded a Master Contract for the specific manufacturer’s products, maintenance and/or Manufacturer’s Software Maintenance and Support for which a PORFP has been issued will be invited to compete for the award. Based upon PORFPs issued by DoIT, a Master Contractor will be selected to provide the requested software and/or manufacturer’s software maintenance. A Purchase Order (PO) will then be issued by the DoIT to the selected Master Contractor, which will bind the Master Contractor to the terms of the PORFP response, including the price. Master Contractors may add manufacturers’ products and/or services from time to time throughout the life of the Master Contract by submitting Letters of Authorization from the manufacturer of the software in accordance with the procedure set forth in Section 3.8.

1.1.5 Neither a PORFP, nor a PO, may, in any way, conflict with or supersede the Master Contract.

1.1.6 Offerors, either directly or through their Subcontractor(s), must be able to provide all products and meet all of the requirements requested in this solicitation and each successful Offeror (each a “Master Contractor”) shall remain responsible for Contract performance regardless of Subcontractor participation in the work.

1.1.7 The Contract applies exclusively to all entities of State of Maryland government subject to Section 3A-302(b) of the State Finance and Procurement Article.

1.1.8 By responding to this RFP and accepting a Contract award, an Offeror specifically agrees that for any software that it proposes for use by the State in response to this RFP, the State will have the right to purchase from another source, instead of from the selected Offeror.

## 1.2 Abbreviations and Definitions

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

Term	Definition
Business Day	Monday through Friday (excluding State holidays)
COMAR	Code of Maryland Regulations available on-line at <a href="http://www.dsd.state.md.us">www.dsd.state.md.us</a>
Commercial Off the Shelf (COTS)	Software without modification, in the same form in which it is sold in the commercial marketplace. Standard options are not considered modifications.
Contract ( also Master Contract)	The Contract awarded to each Offeror determined technically capable of performing the requirements of this RFP pursuant to this RFP, the form of which is attached to this RFP as Attachment A
Contract Manager	The State representative who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring the Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope
Contractor, also Master Contractor	An Offeror awarded a Master Contract
Contractor Personnel	Employees and agents and Subcontractor employees and agents performing work at the direction of the Contractor under the terms of the Contract
Contractor's Point of Contact (Contractor's POC)	Person designated at the time of Contract award by the Contractor as the single point of contact with the authority and knowledge to resolve Contract issues.
Department of Information Technology (DoIT, or the Department)	The unit of the Executive Branch of Maryland State government issuing the RFP
eMaryland Marketplace (eMM)	Maryland's online procurement system
Geographic Information Office (GIO)	Maryland Department of Information Technology's organization that coordinates geographic data on behalf of the State
Geographic Information System (GIS)	Software designed to capture, store, manipulate, analyze, manage, and present spatial or geographical data.

Fixed Price PORFP	A PORFP which places responsibility on the Master Contractor for the delivery of the GIS software or the complete performance of the services in accordance with the PORFP at a price that may be firm or may be subject to contractually specified adjustments.
Information Technology (IT)	All electronic information-processing hardware and software, including: (a) Maintenance; (b) Telecommunications; and (c) Associated consulting services
Letter of Authorization	A document issued by a product's manufacturer authorizing the Offeror/Master Contractor to sell and/or provide services for the manufacturer's product(s).
Local Time	Time in the Eastern Time zone as observed by the State of Maryland. Unless otherwise specified, all stated times shall be Local Time, even if not expressly designated as such
Manufacturer's Software Maintenance and Support	Electronic media and consulting services that includes, but is not limited to, upgrades and enhancements for technology advancements, improved functionality, and compatibility with new industry standards. Manufacturer's Software Maintenance and Support may also include: <ul style="list-style-type: none"> <li>• Direct access to experienced consultants of the software;</li> <li>• Flexible service options including telephone or e-mail support;</li> <li>• Timely problem resolution of reported discrepancies;</li> <li>• Remote technical support; and</li> <li>• Online self-help functions.</li> </ul>
Maryland Department of General Services (DGS)	
Manufacturer's Suggested Retail Price (MSRP)	Use of the term MSRP shall be construed to apply to each respective software title, or maintenance, as appropriate, as identified in a PORFP
Minority Business Enterprise (MBE)	A Minority Business Enterprise certified by the Maryland Department of Transportation under COMAR 21.11.03
Normal State Business Hours	Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: <a href="http://www.dbm.maryland.gov">www.dbm.maryland.gov</a> – keyword: State Holidays
Notice to Proceed (NTP)	A written notice from the Procurement Officer that work

	on the Contract shall begin on a specified date.
NTP Date	The date specified in a NTP for work on the Contract to begin
Offeror	An entity that submits a proposal in response to this RFP
Point of Contact (POC)	The individual named as the person to coordinate on a particular topic
Procurement Officer	The State representative who is responsible for the Contract, determining scope issues and is the only State representative who can authorize changes to the Contract
Proposal	As appropriate, either or both an Offeror's Technical or Financial Proposal
Purchase Order Request for Proposals (PORFP)	A request for the proposal of the required software or Manufacturer's Software Maintenance and Support
Purchase Order (PO)	Once signed by the State, a binding agreement between the State and the Contractor for items or services identified at the specified price. Authorizes the selected Master Contractor to proceed with delivery of products and/or any services requested via a PORFP.
Request for Proposals (RFP)	This Request for Proposals for the Department of Information Technology, including any amendments / addenda thereto
Requesting/Billed Agency	Any State executive branch unit under the resulting Contract with the State whose name appears on an invoice OR Any State executive branch unit that is identified as the recipient of work under a PO.
State	The State of Maryland
Subcontractor	An agent, service provider, supplier, or vendor selected by the Contractor to provide subcontracted services or products under the direction of the Contractor or other Subcontractors, and including any direct or indirect Subcontractors of a Subcontractor. Subcontractors are subject to the same terms and conditions as the Contractor.
Total Evaluated Price	The Offeror's price as submitted on Attachment F - Price Sheet, upon which the Offeror's Financial Proposal will be evaluated. (see RFP Section 5.3)

Upgrade	A new release of any component of the System containing major new features, functionality and/or performance improvements. An Upgrade would conventionally be indicated where the version number is changed by incrementing the numeric digits to the left of the decimal point, e.g., versions 1.0, 2.0, 3.0, and 4.0 would each typically be Upgrades to prior versions.
Veteran-owned Small Business Enterprise (VSBE)	A business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13 and <a href="http://www.vetbiz.gov">http://www.vetbiz.gov</a> .
Working Day(s)	Same as “Business Day”

## 1.2 Master Contract Type

The Master Contract shall be an Indefinite Quantity Contract as defined in COMAR 21.06.03.06. Fixed Price (FP) PORFPs, as described in each respective PORFP, will be issued under the Master Contract, as appropriate to the type of products and/or services being requested.

## 1.3 Master Contract Duration

- 1.3.1 The Contract shall start from the date of mutual Contract execution by the parties (“Effective Date”).
- 1.3.2 As of the NTP Date contained in a Notice to Proceed (NTP), the Contractor shall perform all activities required by the Contract, including the requirements of this solicitation and the offerings in its Technical Proposal, for the compensation described in its Financial Proposal.
- 1.3.3 The Contract shall be for five (5) years from the Effective Date. The State, at its sole option and discretion, may renew the term of the Contract through two (2) additional two-year renewal options for a total potential Contract length of up to nine (9) years.
- 1.3.4 The Contractor’s obligations to pay invoices to subcontractors that provide products/services during the Contract term, as well as the audit, confidentiality, document retention, and indemnification obligations of the Contract (see Attachment A), shall survive expiration or termination of the Contract and continue in effect until all such obligations are satisfied.
- 1.3.5 In accordance with BPW Advisory 1995-1, in the event there are unspent funds remaining on the Contract, prior to the Contract’s expiration date the Procurement Officer may modify the Contract to extend the Contract beyond its expiration date for a period up to, but not exceeding, one-third of the base term of the Contract (e.g., eight-month extension on a two-year contract) for the performance of work within the Contract’s scope of work. Notwithstanding anything to the contrary, no funds may be added to the Contract in connection with any such extension.
- 1.3.6 At specified intervals throughout the term of the Master Contract, DoIT may issue updated contractual language to reflect changes in program procedures and applicable law. Master

Contractors will be required to execute contract modifications that incorporate these changes in order to remain in the COTS program.

#### **1.4 Procurement Officer**

The sole point of contact in the State for purposes of this RFP prior to the award of a contract is the Procurement Officer as listed in the Key Information Summary Sheet.

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

#### **1.5 Contract Manager**

The DoIT Contract Manager for the Contract is listed in the Key Information Summary Sheet.

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

#### **1.6 Pre-proposal Conference**

A pre-proposal conference call will be held on Friday, April 8, 2016 at 2:00 PM Local Time. Questions will be accepted in response to the conference and should be sent to [Alicia.Baltimore@maryland.gov](mailto:Alicia.Baltimore@maryland.gov).

#### **1.7 eMaryland Marketplace (eMM)**

- 1.7.1 eMaryland Marketplace (eMM) is an electronic commerce system administered by the Maryland Department of General Services (DGS). In addition to using the DoIT's website <http://doit.maryland.gov/contracts/Pages/bids.aspx> and possibly using other means for transmitting the RFP and associated materials, the RFP, pre-proposal conference summary and attendance sheet, Offerors' questions and the Procurement Officer's responses, addenda, and other solicitation related information will be made available via eMM.
- 1.7.2 In order to receive a contract award, a company must be registered on eMM. Guidelines can be found on the eMaryland Marketplace website at <http://emaryland.buyspeed.com>.

#### **1.8 Questions**

- 1.8.1 All questions shall be submitted via e-mail to the Procurement Officer no later than the date and time indicated in the Key Information Summary Sheet. Please identify in the subject line the Solicitation Number and Title. Answers to all questions that are not clearly specific only to the requestor will be distributed via the same mechanism as for RFP amendments and posted on eMM.
- 1.8.2 Only answers that have been answered in writing by the State can be considered final and binding.

#### **1.9 Procurement Method**

The Contract will be awarded in accordance with the Competitive Sealed Proposals procurement method as described in COMAR 21.05.03.

**1.10 Proposals Due (Closing) Date and Time**

- 1.10.1 Proposals, in the number and form set forth in Section 4 “Proposal Format,” must be received by the Procurement Officer no later than the date and time listed on the Key Information Summary Sheet in order to be considered.
- 1.10.2 Requests for extension of this date or time shall 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 21.05.02.10, Proposals received by the Procurement Officer after the due date and time shall not be considered.
- 1.10.3 Proposals may be modified or withdrawn by written notice received by the Procurement Officer before the Proposal’s due time and date.
- 1.10.4 Proposals delivered by e-mail or facsimile shall not be considered.
- 1.10.5 Potential Offerors not responding to this solicitation are requested to submit the “Notice to Offerors/Bidders/Contractors” form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements).

**1.11 Multiple or Alternate Proposals**

Multiple and/or alternate Proposals will not be accepted.

**1.12 Economy of Preparation**

Proposals should be prepared simply and economically and provide a straightforward and concise description of the Offeror’s Proposal to meet the requirements of this RFP.

**1.13 Public Information Act Notice**

- 1.13.1 Offerors should give specific attention to the clear identification of those portions of their Proposals that they deem to be 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, Md. Code Ann., General Provisions Article, Title 4 (Also, see RFP Section 4.2.2.2 “Claim of Confidentiality”). This confidential and/or proprietary information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical Proposal and if applicable, separately in the Financial Proposal.
- 1.13.2 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 must be disclosed.

**1.14 Award Basis**

A Contract shall be awarded to the responsible Offeror submitting the Proposal that has been determined to be the most advantageous to the State, considering price and evaluation factors set forth in this RFP (see COMAR 21.05.03.03F), for providing the products/services as specified in this RFP. See RFP Section 5 for further award information.

**1.15 Oral Presentation**

No Oral Presentations will be held for this RFP.

**1.16 Duration of Proposal**

Proposals submitted in response to this RFP are irrevocable for the latest of the following: 180 days following the closing date for submission of proposals, best and final offers (if requested), or 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.

**1.17 Revisions to the RFP**

- 1.17.1 If it becomes necessary to revise this RFP before the due date for Proposals, the Department shall endeavor to provide addenda to all prospective Offerors that were sent this RFP or which are otherwise known by the Procurement Officer to have obtained this RFP. In addition, addenda to the RFP will be posted on the Department's procurement web page and through eMM. It remains the responsibility of all prospective Offerors to check all applicable websites for any addenda issued prior to the submission of Proposals. Addenda made after the due date for Proposals will be sent only to those Offerors that submitted a timely Proposal and that remain under award consideration as of the issuance date of the addenda.
- 1.17.2 Acknowledgment of the receipt of all addenda to this RFP issued before the Proposal due date shall be included in the Transmittal Letter accompanying the Offeror's Technical Proposal. Acknowledgement of the receipt of addenda to the RFP issued after the Proposal due date shall be in the manner specified in the addendum notice. Failure to acknowledge receipt of an addendum does not relieve the Offeror from complying with the terms, additions, deletions, or corrections set forth in the addendum, and may cause the Proposal to be deemed not susceptible for award.

**1.18 Cancellations**

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 the 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 discussions or negotiations.

**1.19 Incurred Expenses**

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

**1.20 Protest/Disputes**

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

## 1.21 Offeror Responsibilities

- 1.21.1 The successful Offeror shall be responsible for rendering products and services for which it has been selected as required by this RFP. All subcontractors shall be identified and a complete description of their role relative to the Proposal shall be included in the Offeror's Proposal. If applicable, subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate Attachment(s) of this RFP (see Section 1.33 "Minority Business Enterprise Goals" and Section 1.41 "Veteran-Owned Small Business Enterprise Goals").
- 1.21.2 If an Offeror that seeks to perform or provide the products/services required by this RFP is the subsidiary of another entity, all information submitted by the Offeror, such as but not limited to, references, financial reports, or experience and documentation (e.g. insurance policies, bonds, letters of credit) used to meet minimum qualifications, if any, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's Proposal shall contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.
- 1.21.3 Although experience and documentation of an Offeror's parent may be used to satisfy minimum qualifications, a parental guarantee of the performance of the Offeror under this Section will not automatically result in crediting the Offeror with the experience and/or qualifications of the parent under any evaluation criteria pertaining to the actual Offeror's experience and qualifications. Instead, the Offeror will be evaluated on the extent to which the State determines that the experience and qualifications of the parent are transferred to and shared with the Offeror, any stated intent by the parent in its guarantee of performance for direct involvement in the performance of the Contract, and the value of the parent's participation as determined by the State.

## 1.22 Substitution of Contractor Personnel

Contractor Personnel will not be furnished as part of this Contract.

## 1.23 Mandatory Contractual Terms

By submitting a Proposal in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached hereto as Attachment A. Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary of the Technical Proposal. **The volume and severity of exceptions to the Contract terms, including the terms of the RFP, will be considered in the evaluation process, and may be grounds for finding an Offeror not reasonably susceptible for award.**

## 1.24 Bid/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.

## 1.25 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 (5) Business Days of notification of recommended award.

### **1.26 Compliance with Laws/Arrearages**

- 1.26.1 By submitting a Proposal in response to this RFP, the Offeror, if selected for award, agrees that it will comply with all federal, State, and local laws applicable to its activities and obligations under the Contract.
- 1.26.2 By submitting a response to this solicitation, the Offeror also represents that it is not in arrears in the payment of any obligations due to the State of Maryland, including the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of the Contract if selected for award.

### **1.27 Verification of Registration and Tax Payment**

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

### **1.28 False Statements**

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

- 1.28.1 In connection with a procurement contract a person may not willfully:
  - a. Falsify, conceal, or suppress a material fact by any scheme or device.
  - b. Make a false or fraudulent statement or representation of a material fact.
  - c. Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.
- 1.28.2 A person may not aid or conspire with another person to commit an act under subsection (1) of this section.
- 1.28.3 A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding five years or both.

### **1.29 Payments by Electronic Funds Transfer**

By submitting a response to this solicitation, the Offeror agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller's Office grants an exemption. Payment by EFT is mandatory for contracts exceeding \$200,000. The successful 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/GAD X-10 form can be downloaded at:  
[http://comptroller.marylandtaxes.com/Government\\_Services/State\\_Accounting\\_Information/Static\\_Files/APM/gadx-10.pdf](http://comptroller.marylandtaxes.com/Government_Services/State_Accounting_Information/Static_Files/APM/gadx-10.pdf).

### **1.30 Prompt Payment Policy**

This procurement and the Contract to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs (GOMA) and dated August 1, 2008. Promulgated pursuant to Md. Code Ann., State Finance and Procurement Article, §§ 11-201, 13-205(a), and Title 14, Subtitle 3, and COMAR 21.01.01.03 and 21.11.03.01, the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The Contractor must comply with the prompt payment requirements outlined in the Contract, Section 8 "Prompt Pay Requirements" (see Attachment A). Additional information is available on GOMA's website at: <http://goma.maryland.gov/Pages/Legislation-and-Policy.aspx>.

### **1.31 Electronic Procurements Authorized**

- 1.31.1 Under COMAR 21.03.05, unless otherwise prohibited by law, a primary procurement unit may conduct procurement transactions by electronic means, including the solicitation, bidding, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.
- 1.31.2 Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or the Contract.
- 1.31.3 "Electronic means" refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes facsimile, e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://maryland.buyspeed.com/bs0/>), and electronic data interchange.
- 1.31.4 In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., § 1.30 "Payments by Electronic Funds Transfer") and subject to the exclusions noted in section 1.32.5 of this subsection, the following transactions are authorized to be conducted by electronic means on the terms as authorized in COMAR 21.03.05:
  1. The Procurement Officer may conduct the procurement using eMM, e-mail, or facsimile to issue:
    - a. the solicitation (e.g., the RFP)
    - b. any amendments
    - c. pre-Proposal conference documents
    - d. questions and responses

- e. communications regarding the solicitation or Proposal to any Offeror or potential Offeror
- f. notices of award selection or non-selection
- g. the Procurement Officer's decision on any solicitation protest or Contract claim

2. An Offeror or potential Offeror may use e-mail to:
  - a. ask questions regarding the solicitation
  - b. reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer's request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer
  - c. submit a "No Bid/Proposal Response" to the solicitation
3. The Procurement Officer, the Contract Manager, and the Contractor may conduct day-to-day Contract administration, except as outlined in Section 1.32.5 of this subsection, utilizing e-mail, facsimile, or other electronic means if authorized by the Procurement Officer or Contract Manager.

1.31.5 The following transactions related to this procurement and any Contract awarded pursuant to it are *not authorized* to be conducted by electronic means:

- a. submission of initial Proposals;
- b. filing of protests;
- c. filing of Contract claims;
- d. submission of documents determined by the Department to require original signatures (e.g., Contract execution, Contract modifications); or
- e. any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Offeror be provided in writing or hard copy.

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

### **1.32 Minority Business Enterprise (MBE) Participation Goal**

There is no MBE subcontractor participation goal for this procurement.

### **1.33 Living Wage Requirements**

This RFP does not involve any Living Wage requirements.

### **1.34 Federal Funding Acknowledgement**

The Contract does not contain federal funds.

**1.35 Conflict of Interest Affidavit and Disclosure**

- 1.35.1 Offerors shall complete and sign the Conflict of Interest Affidavit and Disclosure (Attachment I) and submit it with their Proposal. All Offerors are advised that if a Contract is awarded as a result of this solicitation, the Contractor's personnel who perform or control work under this Contract and each of the participating subcontractor personnel who perform or control work under this Contract shall be required to complete agreements substantially similar to Attachment I Conflict of Interest Affidavit and Disclosure.
- 1.35.2 Contractors should be aware that the State Ethics Law, Md. Code Ann., General Provisions Article, Title 5, might limit the selected Contractor's ability to participate in future related procurements, depending upon specific circumstances.

**1.36 Non-Disclosure Agreement**

Non Disclosure Agreements are not required for this Master Contract.

**1.37 HIPAA - Business Associate Agreement**

A HIPAA Business Associate Agreement is not required for this procurement.

**1.38 Non-Visual Access**

- 1.38.1 By submitting a Proposal, the Offeror warrants that the Information Technology offered under the Proposal: (1) provides equivalent access for effective use by both visual and non-visual means; (2) will present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use; (3) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and (4) is available, whenever possible, without modification for compatibility with software and hardware for non-visual access. The Offeror further warrants that the cost, if any, of modifying the Information Technology for compatibility with software and hardware used for non-visual access will not increase the cost of the Information Technology by more than five percent (5%). For purposes of this solicitation, the phrase "equivalent access" means the ability to receive, use and manipulate information and operate controls necessary to access and use Information Technology by non-visual means. Examples of equivalent access include keyboard controls used for input and synthesized speech, Braille, or other audible or tactile means used for output.
- 1.38.2 The Non-visual Access Clause noted in COMAR 21.05.08.05 and referenced in this solicitation is the basis for the standards that have been incorporated into the Maryland regulations, which can be found at: [www.doit.maryland.gov](http://www.doit.maryland.gov), keyword: NVA.

**1.39 Mercury and Products That Contain Mercury**

This solicitation does not include the procurement of products known to likely include mercury as a component.

**1.40 Veteran-Owned Small Business Enterprise Goals**

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

**1.41 Location of the Performance of Services Disclosure**

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

**1.42 Department of Human Resources (DHR) Hiring Agreement**

This solicitation does not require a DHR Hiring Agreement.

**1.43 Purchasing and Recycling Electronic Products**

This section does not apply to this solicitation.

**1.44 Contract Extended To Include Other Non-State Governments or Agencies**

For the purposes of an Information Technology or telecommunications procurement, pursuant to sections 3A-401(b) and 13-110 of the State Finance and Procurement Article of the Annotated Code of Maryland, county, municipal, State entities that are not subject to DoIT's authority, including State non-executive branch entities, and non-State governments or agencies may purchase from the Contractor goods or services covered by this Contract at the same maximum prices to which the State would be subject under the resulting Contract. All such purchases:

- (1) shall constitute Contracts between the Contractor and that government, agency or organization;
- (2) For non-State entities, shall not constitute purchases by the State or State agencies under this Contract;
- (3) For non-State entities, shall not be binding or enforceable against the State; and
- (4) may be subject to other terms and conditions agreed to by the Contractor and the purchaser.

The Contractor bears the risk of determining whether or not a government, agency or organization with which the Contractor is dealing is a State entity.

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## 2 COMPANY AND PERSONNEL QUALIFICATIONS

### 2.1 Offeror Minimum Qualifications

The Offeror must provide proof with its Offer that the following Minimum Qualifications have been met:

2.1.1 Proposed software must be able to read and export data stored in existing State enterprise databases (currently Esri-based), either directly from the software or through identified third party products.

Interoperability shall be described as the ability to successfully import and export data in a manner compatible with Esri data.

**Note: Subcontractor experience may not be used by Offeror to meet Minimum Qualifications. The minimum qualifications must be met by the Offeror/Contractor.**

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### 3 SCOPE OF WORK

#### 3.1 Scope

- 3.1.1 The Department is issuing this solicitation in order to obtain GIS software.
- 3.1.2 The scope of this solicitation encompasses the following three (3) functional areas.
  - Functional Area I – Desktop/Server Software
  - Functional Area II – Mobile Software
  - Functional Area III – Software Maintenance and Support
- 3.1.3 This solicitation does not include custom services or training.
- 3.1.4 The awarded Offeror shall be able to perform all requirements as detailed in Section 3 of the RFP. Offerors shall be required to furnish satisfactory evidence that they meet or exceed all minimum qualifications listed in Section 2 of this RFP.

#### 3.2 Agency / Project Background

- 3.2.1 The mission of the DoIT GIO is: 1) To improve the quality and lower the cost of State government services, by managing State data as an enterprise resource; 2) To help State agencies present information in compelling ways that enhance the understanding and utility of the data, and; 3) To facilitate the sharing of the data freely and publicly to the fullest extent possible in consideration of privacy and security. Cost-effective access to the most suitable GIS software for a given task is a critical component in lowering the cost of and improving government services.
- 3.2.2 The Department manages the distribution of GIS software to the agencies through two primary mechanisms – standalone desktop software and server-based software made available through a license manager. As more fully described in Section 3.4 and 3.5, the software products include extensions or add-ons offered by the manufacturer or third-party products available from the manufacturer or resellers.
- 3.2.3 In addition, the Department manages the enterprise GIS solution MD iMap (<http://imap.maryland.gov/Pages/default.aspx>). For several decades, Maryland state agencies have used GIS software products. Currently, most of the standalone and server-based desktop installations are Esri software products and extensions. The installed base of software includes:
  1. iMap Software
    - a. Standalone installations: 50-100 instances of Esri and other software products on individual laptops, desktops and other devices located all across the state.
    - b. Server-Based Installations (license manager/concurrent use)
      - i. Peak concurrent users of desktop software: 400
      - ii. Peak concurrent users of desktop and extensions: 1,120
      - iii. Unique users of desktop: 1,290

## 2. iMap Infrastructure

The MD iMap system is built on Department cloud technology. System highlights are provided below.

### Database Backend SQL Server 2014

- a) 125 GB of Vector data
  - 50 TB Raster data capacity with 15 TB in use
- a) Imagery (Raster)
  - JPEG 2000, MrSID, TIF, Mosaic SID
  - Map Service Cache
  - LiDAR (LAS files, DEMs)

### Services Provided

- a) Esri Map Services
- b) Esri Feature Services
- c) Esri Geocode Services
- d) Esri Geoprocessing Services
- e) OGC
  - WMS
  - WFS
  - KML

### System Environments

- a) Public Services
- b) Application Specific Services
- c) Historic Imagery Services
- d) Archived Vector Data Services
- e) Staging Services
- f) Development Services
- g) Beta Testing Services

## **3.3 General Requirements**

- 3.3.1 Only Master Contractors authorized by the manufacturer of the software at the time of PORFP proposal may sell software or Manufacturer's Software Maintenance and Support.
- 3.3.2 All software and software maintenance purchased under this Master Contract for the same product shall terminate on the same calendar day from the date of first purchase. As appropriate, software and software maintenance charges shall be pro-rated accordingly.
- 3.3.3 Master Contractors shall provide GIS software, in accordance with the guidelines provided hereunder. Master Contractors may add manufacturer products periodically throughout the term of the Master Contract in accordance with the terms of Section 3.8. This includes software licenses which grant the State the right to run or access the purchased software program within the terms and conditions of the license agreement.

3.3.4 Master Contractors shall refund to the State within 30 calendar days of receipt of the returned GIS software, the purchase price of the returned GIS software, including shipping costs. The State shall not be charged restocking fees.

3.3.5 Master Contractors shall not furnish software that is not compatible with enterprise GIS data stores, for any software that creates or modifies software. This can be accomplished by means of import/export of data, if necessary.

3.3.6 Software

3.3.6.1 For each software, the following information must be provided:

- i. Name
- ii. Manufacturer
- iii. Short description of capability
- iv. Version
- v. License type (user, CPU, node, transaction volume, etc.)
- vi. License term (annual, perpetual)
- vii. License restrictions, if any
- viii. Availability of a maintenance agreement
- ix. Offeror relationship with manufacturer (Reseller, partner, etc.)

a. Offerors may propose free/open source software, but the State reserves the right to select a commercial equivalent. For each open source software package, list a commercial equivalent that the State may use.

3.3.7 The Master Contractor shall provide software demonstrations upon request.

#### **3.4 Functional Area I - Desktop/Server Software**

Under Functional area I, the Master Contractor shall furnish GIS software for any of:

- a. Desktops
- b. Servers
- c. Standalone desktop software products
- d. Server-based software to be used in a concurrent user or license managed environment
- e. Extensions, add-ons or other modules that may be integrated with either desktop or server products

#### **3.5 Functional Area II - Mobile Software**

Under Functional area II, the Master Contractor shall furnish GIS software that supports mobile GIS solutions, including but not limited to the following generic capabilities:

- a. Mobile devices (tablets, smart phones)
- b. Handheld survey devices
- c. Ability to operate in both connected and disconnected environments
- d. Supports customer developed and COTS applications

- e. Capable of supporting multiple mobile operating systems (iOS, Android, Windows, other)
- f. Extensions or add-ons offered

### **3.6 Functional Area III – Manufacturer’s Software Maintenance and Support**

Manufacturer’s Software Maintenance and Support may be purchased at any time in conjunction with or separately from Functional areas I and II. Master Contractors authorized by the manufacturer of the GIS software may only provide Manufacturer’s Software Maintenance and Support. Manufacturer’s Software Maintenance Support shall include, but is not limited to:

- a. Annual (or other frequency) maintenance of all software products offered;
- b. Updates and fixes at no cost during the maintenance period;
- c. Any no-cost technical or customer support though limited authorized State callers;
- d. Electronic media and consulting services, upgrades and enhancements for technology advancements, improved functionality, and compatibility with new industry standards;
- e. Direct access to experienced consultants of the software;
- f. Flexible service options including telephone or e-mail support;
- g. Timely problem resolution of reported discrepancies;
- h. Remote technical support; and
- i. Online self-help functions.

**Offerors shall fully describe all maintenance and support capabilities and service levels as part of their Proposals.**

### **3.7 Warranty**

3.7.1 Master Contractors shall provide the manufacturer’s warranty with its response to a PORFP for Functional Areas I and II. Master Contractors shall be responsible for coordinating warranty issues. On-site warranty will begin upon acceptance of the GIS software by the State. Acceptance will be defined in the PORFP as either receipt or installation.

### **3.8 Procedure for Adding a Manufacturer’s Product**

- 3.8.1 Each Master Contractor, in a functional area may add additional manufacturers and products, in that functional area, throughout the life of the Master Contract. To add a manufacturer or product, a Master Contractor must submit a Letter of Authorization from the manufacturer for each new manufacturer and/or product proposed. Once the Letter of Authorization has been confirmed by DoIT, the manufacturer and/or product will be added to that Master Contractor’s list of products available.
- 3.8.2 Requests to add new manufacturers and/or products, with the required Letters of Authorization, shall be submitted to the Contract Manager for consideration by the 10th business day of each month. Approved requests will be added to the Manufacturer/Master Contractor matrix by the first business day of the following month.
- 3.8.3 Master Contractors shall, no less than annually, furnish updated MSRP pricing for the manufacturers and products offered.

### 3.9 PORFP Procedures

#### 3.9.1 PORFP Content

DoIT will submit a PORFP to all eligible Master Contractors authorized to sell the manufacturer product requested for the identified functional area. When generic specifications are used, a PORFP will be sent to all Master Contractors for all manufacturers in a Functional Area. As an example, each PORFP may contain the following information:

- A) Requesting/Billed Agency;
- B) Point of Contact;
- C) Description of the required software and version number;
- D) Delivery requirements;
- E) Invoicing instructions;
- F) Required date for submission of quotation;
- J) Manufacturer's Software Maintenance requirements, if applicable;
- K) Performance period; and

To be eligible for receipt of a PORFP, a Master Contractor must have accepted all updates to Contract terms and conditions promulgated by DoIT and must have executed valid contract modifications evidencing the same. **Master Contractors who have not accepted all applicable updates will not be eligible for receipt of subsequent PORFPs.**

#### 3.9.2 PORFP Submission Requirements

Upon receipt of a PORFP, each Master Contractor shall, no later than the PORFP due date and time, either prepare and submit a detailed quotation, or provide a PORFP Feedback Form explaining why they do not intend to submit a quotation. As an example, the quotation may provide the following:

- A) Explanation of how the Master Contractor intends to meet the requirements of the PORFP;
- B) Description of the proposed GIS software and version number;
- C) Transportation and delivery schedule;
- E) Manufacturer's Software Maintenance provided, if applicable;
- G) Guarantee that the software proposed will be virus free;
- H) A statement that the Master Contractor is authorized by the manufacturer to provide the software and/or services as of the date of the response;
- I) Subcontractors, if any, including required letters of authorization;
- J) Warranty terms;
- K) Copy of any software licensing agreement for any software to be licensed to the State under this Contract (e.g., End User Licensing Agreement, Enterprise License Agreements, Professional Service agreement, Master Agreement)
- L) Proposed price; and
- M) Captured manufacturer or other screen shot of current MSRP as of date of PORFP proposal submission.
- N) For proposed electronic delivery, description of procedures required to access and download GIS software

### 3.9.3 Procedure for Awarding a PORFP

Evaluation criteria for award will be established at the PORFP level. The PO will be awarded to the Master Contractor whose proposal is determined to be the most advantageous to the State, considering price and the evaluation factors set forth in the PORFP. DoIT will initiate and deliver a PO to the selected Master Contractor.

### 3.9.4 Delivery of Software and Services

#### 3.9.4.1 Delivery of GIS software and any Manufacturer's Software Maintenance and Support services shall be initiated only upon issuance of a PO authorized by DoIT.

#### 3.9.4.2 Electronic Delivery

Unless specified otherwise in a PORFP, all software is to be delivered electronically.

Master Contractors shall provide electronic delivery in a manner that permits the State to download the GIS software. The electronic delivery shall include a full version of the software that is identical to, or is the fully functional equivalent of, the version of the software that would be available on physical media. Unless specified otherwise in a PORFP, electronic download should be available within three (3) business days from the date of the PO.

Unless otherwise specified in a PORFP, "Electronic Delivery" shall include delivery, by email, of: (1) a link to a secured and verified download site or portal, (2) permanent product or license key(s) as required to access and/or install the GIS software, (3) full download and installation instructions, (4) all product documentation that would be provided with a physical delivery, and (5) detailed information as to the length of time the State has to access and download the GIS software. Should the download link, portal access, and/or product or license expire before the State completes installation, the Master Contractor shall provide a replacement.

In the event that the State is unable to access, download, and/or install GIS software that has been delivered electronically, Master Contractors shall provide or facilitate limited technical assistance to resolve the issue. If successful download and installation of electronically-delivered GIS software cannot be completed, Master Contractors shall, at the State's discretion, provide expedited physical delivery at no cost to the State (as described in Section 3.9.4.3 below) or issue a full refund of the purchase price.

Substitute expedited delivery or refund shall be completed within two (2) business days.

#### 3.9.4.3 Physical Delivery

Master Contractors shall provide prepaid delivery, FOB (the delivery destination specified in the PORFP) to any State eligible customer located within the State's geographic boundaries. Unless specified otherwise in a PORFP, any physical software delivery is to be delivered, prepaid, to the location specified in a PORFP within three (3) business days from the date of the PO. The MSRP will be construed to include delivery within three (3) business days from the date of the PO. Similarly, provided a PORFP allows at least three (3) business days delivery time, any price proposed in response to a PORFP that is lower than the MSRP will be construed to include delivery within three (3) business days from the date of the PO.

If a PORFP specifies delivery in less than three (3) business days (which will be termed an expedited delivery) and an Offeror proposes the MSRP as its proposal price, the Offeror may include as a separate distinct charge, the cost of the expedited delivery. However, if an Offeror proposes a price lower than the MSRP for a PORFP that requires expedited delivery, the PORFP proposal price shall include the cost of the expedited delivery and no separate, additional charge will be permitted.

Title does not pass until the shipment reaches the destination, and the goods belong to seller while in transit. If expedited shipping is required by the State, additional charges may apply for:

- Standard Overnight (delivery by 3:00 PM the next day)
- Priority Overnight (delivery by 10:30 AM the next business day)
- Saturday Delivery (delivery by 12:00 PM)

### **3.10 Order Processing Procedure**

3.10.1 The Master Contractor shall provide the order processing procedure necessary to demonstrate how it will perform the requirements in a PORFP. The Master Contractor is expected to establish a project organization/office to provide overall management of the Contract work. The Master Contractor shall manage all Subcontractors.

3.10.2 The Master Contractor shall designate a primary POC, who will be responsible for the response to any PORFPs and overall cost, schedule, and technical performance. This individual will be the principal POC throughout the duration of the Master Contract.

### **3.11 Insurance Requirements**

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

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

3.11.3 Insurance shall be provided as specified in the Contract (Attachment A).

3.11.4 The recommended awardee must provide a certificate(s) of insurance with the prescribed coverages, limits and requirements set forth in this Section 3.11 "Insurance Requirements," within five (5) Business Days from notice of recommended award. During the period of performance for multi-year contracts the Contractor shall update certificates of insurance annually, or as otherwise directed by the Contract Manager.

3.11.5 The following type(s) of insurance and minimum amount(s) of coverage are required:

3.11.5.1 General Liability - The Contractor shall maintain Commercial General Liability Insurance with limits sufficient to cover losses resulting from, or arising out of, Contractor action or inaction in the performance of the Contract by the Contractor, its agents, servants, employees, or subcontractors, but no less than a Combined

Single Limit for Bodily Injury, Property Damage, and Personal and Advertising Injury Liability of \$1,000,000 per occurrence and \$3,000,000 aggregate.

3.11.5.2 The Master Contractor shall maintain property and casualty insurance with minimum limits sufficient to cover losses resulting from or arising out of Master Contractor action or inaction in the performance of the contract by the Master Contractor, its agents, servants, employees or subcontractors.

3.11.5.3 The Master Contractor shall maintain a policy of general liability insurance that is of the proper type and of sufficient limits that the State and its officials, employees, agents, servants, guests and subcontractors are reasonably covered in the event of injury or death.

### 3.11.6 State Inclusion on Insurance

The State shall be listed as an additional insured on the policies of all property, casualty, liability, and other types of insurance evidencing this coverage. All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Contract Manager, by certified mail, not less than 45 days' advance notice of any non-renewal, cancellation, or expiration. In the event the Contract Manager receives a notice of non-renewal, the Contractor shall provide the Contract Manager with an insurance policy from another carrier at least 30 days prior to the expiration of the insurance policy then in effect.

### 3.11.7 Certificates of Insurance

The Contractor shall update certificates of insurance from time to time but no less than annually in multi-year contracts, as directed by the Contract Manager. Such copy of the Contractor's current certificate of insurance shall contain at minimum the following: a. Workers' Compensation – The Contractor shall maintain such insurance as necessary and/or as required under Workers' Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act. b. Commercial General Liability

## 3.12 Invoicing

3.12.1 All invoices shall be submitted by the Master Contractor within the time period required in the PORFP and shall include, at the minimum, the following information:

- A) Name and address of the Requesting/Billed Agency being billed;
- B) Master Contractor name;
- C) Products(s) and/or service(s) purchased listed separately including the amount for each individual charge (i.e., 5 - ABC Software @ \$2,000 Total \$10,000.00, 2 - CD Training @ \$100.00 Total \$200.00, Installation one-time cost \$300.00)
- D) any supporting documentation required
- E) E-mail address/phone number of Master Contractor's point of contact;
- F) Remittance address;
- G) Federal taxpayer identification or (if owned by an individual) Master Contractor's social security number;
- H) Invoice period, invoice date, invoice number and amount due, and;

I) PO number(s) being billed.

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

3.12.3 The Master Contractor shall send the original of each invoice as instructed in a PO, always with a copy e-mailed to the Contract Manager.

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

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

### **3.13 Travel Reimbursement**

The State will not reimburse for any travel performed under this Master Contract.

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## 4 PROPOSAL FORMAT

### 4.1 Two-Part Submission

Offerors shall submit Proposals in separate volumes:

- a) Volume I – TECHNICAL PROPOSAL
- b) Volume II – FINANCIAL PROPOSAL

### 4.2 Volume I – Technical Proposal

**Note: Provide no pricing information in the Technical Proposal (Volume I). Include pricing information only in the Financial Proposal (Volume II).**

#### 4.2.1 Format of Technical Proposal

The Technical Proposal will include all items detailed below. In addition to the following instructions, responses in the Offeror's Technical Proposal must reference the RFP's organization and section numbering (ex. "Section 3.2.1 Response"). This proposal organization will allow direct mapping between Offeror responses and RFP requirements by Section number and will aid in the evaluation process.

#### 4.2.2 The Technical Proposal shall include the following documents and information in the order specified as follows. Each section of the Technical Proposal shall be separated by a TAB as detailed below:

##### 4.2.2.1 Title Page and Table of Contents (Submit under TAB A)

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, organized by section, subsection, and page number.

##### 4.2.2.2 Claim of Confidentiality (If applicable, submit under TAB A-1)

Any information which is claimed to be confidential is to be noted by reference and included after the Title Page and before the Table of Contents, and if applicable, also in the Offeror's Financial Proposal. The entire Proposal cannot be given a blanket confidentiality designation - any confidentiality designation must apply to specific sections, pages, or portions of pages of the Proposal and an explanation for each claim shall be included (see Section 1.13 "Public Information Act Notice").

##### 4.2.2.3 Transmittal Letter (Submit under TAB B)

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 its Proposal and the requirements as stated in this RFP. The Transmittal Letter should include the following:

- A. Name and address of the Offeror;
- B. Name, title, e-mail address, and telephone number of primary contact for the Offeror;
- C. Solicitation Title and Solicitation Number that the Proposal is in response to;

- D. Signature, typed name, and title of an individual authorized to commit the Offeror to its Proposal;
- E. Federal Employer Identification Number (FEIN) of the Offeror, or if a single individual, that individual's Social Security Number (SSN);
- F. Offeror's eMM number;
- G. Offeror's MBE certification number (if applicable);
- H. Acceptance of all State RFP and Contract terms and conditions (see Section 1.24); if any exceptions are taken, they are to be noted in the Executive Summary (see Section 4.2.2.4); and
- I. Acknowledgement of all addenda to this RFP issued before the Proposal due date.

#### 4.2.2.4 Executive Summary (Submit under TAB C)

The Offeror shall condense and highlight the contents of the Technical Proposal in a separate section titled "Executive Summary."

In addition, the Offeror shall clearly identify each functional area for which it is proposing.

The Summary shall 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 the Offeror has taken no exceptions to the requirements of this RFP, the Executive Summary shall so state. Acceptance or rejection of exceptions is within the sole discretion of the State. If there are no assumptions, the Offeror shall so state.

#### 4.2.2.5 Minimum Qualifications Documentation (Submit under TAB C)

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

#### 4.2.2.6 Manufacturer's Letter of Authorization (Submit under TAB C)

- A) Offerors must state each manufacturer product that they propose selling through the GIS Software Master Contract.
- B) Manufacturer Letters of Authorization are required for each manufacturer product proposed by the Offeror. An Offeror may not propose a manufacturer product without providing the required Letter of Authorization at the time it submits its Proposal. The Letter of Authorization shall certify that the Offeror is an authorized reseller of the manufacturer's GIS software, or is authorized to resell a Manufacturer's Software Maintenance and Support.

The Letter of Authorization shall be on the manufacturer's letterhead or through a manufacturer's e-mail. Further, each Letter of Authorization shall be current or less than twelve (12) months old. Each Letter of Authorization or e-mail must provide the following information:

- Manufacturer POC name and alternate for verification
- Manufacturer POC mailing address

- Manufacturer POC telephone number
- Manufacturer POC email address
- If available, a Re-seller Identifier

#### 4.2.2.7 Explanation of Offeror's Order Fulfillment Capabilities, including

- Order receipt
- Order processing and routing
- Order Tracking
- Customer service and inquiry support
- Shipping, including express shipping
- Invoicing
- Returns
- Quality control
- Order turnaround time
- Process for electronic, on-line delivery of the GIS software

#### 4.2.2.8 Offeror Experience and Capabilities (Submit under TAB D)

The Master Contractor shall provide evidence of its capabilities to provide the products and/or services outlined in Section 2 for the GIS Software Master Contract RFP No. 060B6400028 for each functional area the Master Contractor wants to add. The Master Contractor shall provide a past performance documenting the successful provision of the required products and/or services for each proposed functional area (a past performance may be used for multiple functional areas). The Master Contractor must clearly list the functional areas that each past performance applies to. Each past performance shall include:

- A) Offeror's organization experience, type of GIS software and/or services provided and the length of time the organization has been providing the GIS software and/or services.
- B) A supporting reference with the following information:
  - a. Name of client organization
  - b. Name, title, email address and current telephone number for point of contact for client organization.

#### C) 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 (5) years with any government entity of the State of Maryland. For each identified contract, the Offeror shall provide:

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

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

Information obtained regarding the Offeror's level of performance on State contracts will be used by the Procurement Officer to determine the responsibility of the Offeror and considered as part of the experience and past performance evaluation criteria of the RFP.

#### 4.2.2.9 Subcontractors (Submit under TAB E)

Subcontractors are not relevant to this RFP.

#### 4.2.3 Additional Required Technical Submissions (Submit under TAB F)

The following documents shall be completed, signed, and included in the Technical Proposal, under TAB F that follows the material submitted in response to Section 4.2.2.

For paper submissions, submit two (2) copies of each with original signatures. All signatures must be clearly visible.

A. Completed Bid/Proposal Affidavit (Attachment B).

B. A copy of the Offeror's current certificate of insurance required by Section 3.11, which, at a minimum, shall contain the following:

- Carrier (name and address)
- Type of insurance
- Amount of coverage
- Period covered by insurance
- Exclusions

C. Completed Conflict of Interest Affidavit and Disclosure (Attachment I).

### 4.3 Volume II – Financial Proposal

The Financial Proposal shall contain all price information in the format specified in Attachment F. The Offeror shall complete the Price Sheet only as provided in the Price Sheet Instructions and the Price Sheet itself.

Offerors shall certify by signing Attachment F-1, F-2 and F-3 (as applicable), that the Offeror shall provide pricing no higher than MSRP as of the date of the PORFP proposal submission. For items not having A MSRP, as in the case when a manufacturer is the only distributor of its own product, the manufacturer's proposed price on its letterhead will be sufficient for MSR pricing.

### 4.4 Proposal Packaging

4.4.1 **Packaging** - Volume I – Technical Proposal and Volume II – Financial Proposal shall be sealed separately from one another. It is preferred, but not required, that the name, e-mail address, and telephone number of the Offeror be included on the outside of the packaging for each volume. Each Volume shall contain an unbound original, so identified, and two (2) copies.

Unless the resulting package will be too unwieldy, the State's preference is for the two (2) sealed Volumes to be submitted together in a single package to the Procurement Officer prior to the date and time for receipt of Proposals and including a label bearing:

- a. The RFP title and number,
- b. Name and address of the Offeror, and
- c. Closing date and time for receipt of Proposals

4.4.2 **Technical Proposal Electronic Versions** - An electronic version of the Technical Proposal in Microsoft Word format (version 2007 or greater) must be enclosed with the original Technical Proposal. A second electronic version of Volume I in searchable Adobe .pdf format shall be submitted to support Public Information Act (PIA) requests. This copy shall be redacted so that confidential and/or proprietary information has been removed (see Section 1.13 "Public Information Act Notice"). **Provide no pricing information on the media submitted in the Technical Proposal (Volume 1). Include pricing information only in the Financial Proposal media (Volume II).**

4.4.3 **Financial Proposal Electronic Versions** - An electronic version of the Financial Proposal in Microsoft Excel format (version 2007 or greater) must be enclosed with the original Financial Proposal. A second electronic version of Volume II in searchable Adobe .pdf format shall be submitted to support Public Information Act (PIA) requests. This copy shall be redacted so that confidential and/or proprietary information has been removed (see Section 1.13 "Public Information Act Notice").

4.4.4 **Media Labeling** - Electronic media (CD, DVD, or flash drive) must be labeled on the outside with the RFP title and number, name of the Offeror, and volume number. Electronic media must be packaged with the original copy of the appropriate Proposal (Technical or Financial).

4.4.5 **Page Numbering** - All pages of both proposal volumes shall be consecutively numbered from beginning (Page 1) to end (Page "x").

## 4.5 Proposal Delivery

4.5.1 Offerors may submit proposals by hand or by mail as described below to the address provided in the Key Information Summary Sheet.

- A. For U.S. Postal Service deliveries, any Proposal that has been received at the appropriate mailroom, or typical place of mail receipt, for the respective procuring unit by the time and date listed in the RFP will be deemed to be timely. If an Offeror chooses to use the U.S. Postal Service for delivery, the Department recommends that it use Express Mail, Priority Mail, or Certified Mail only as these are the only forms for which both the date and time of receipt can be verified by the Department. An Offeror using first class mail will not be able to prove a timely delivery at the mailroom, and it could take several days for an item sent by first class mail to make its way by normal internal mail to the procuring unit.
- B. Hand-delivery includes delivery by commercial carrier acting as agent for the Offeror. For any type of direct (non-mail) delivery, Offerors are advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery.

4.5.2 The Procurement Officer must receive all Technical and Financial Proposal material by the RFP due date and time specified in the Key Information Summary Sheet. If submitted via e-

mail, the date and time of submission is determined by the date and time of arrival in the Procurement Officer's e-mail box. Requests for extension of this date or time will not be granted. Except as provided in COMAR 21.05.03.02F, Proposals received by the Procurement Officer after the due date will not be considered.

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## 5 EVALUATION CRITERIA AND PROCEDURE

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

### 5.1 Technical Proposal Evaluation Criteria

The criteria to be used to evaluate each Technical Proposal are listed below in descending order of importance.

- Letter of Authorization (Sec.4.2.2.6)
- Offeror's order fulfillment capabilities (Sec. 4.2.2.7)
- Offeror's experience (Sec. 4.2.2.8)

### 5.2 Financial Proposal Evaluation Criteria

Financial Proposals will be evaluated separately. Prices set by Master Contracts are the maximum prices the State will pay for any GIS software, and/or Manufacturer's Software Maintenance and Support.

### 5.3 Reciprocal Preference

5.3.1 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. COMAR 21.05.01.04 requires that procuring units apply a reciprocal preference under the following conditions:

- 5.3.1.1 The most advantageous offer is from a responsible Offeror whose headquarters, principal base of operations, or principal site that will primarily provide the products/services required under this RFP is in another state.
- 5.3.1.2 The other state gives a preference to its resident businesses through law, policy, or practice; and
- 5.3.1.3 The preference does not conflict with a Federal law or grant affecting the procurement Contract.

5.3.2 The preference given shall be identical to the preference that the other state, through law, policy, or practice gives to its resident businesses.

### 5.4 Selection Procedures

#### 5.4.1 General

- 5.4.1.1 The Contract will be awarded in accordance with the Competitive Sealed Proposals (CSP) method found at COMAR 21.05.03. The CSP method allows for the conducting of discussions and the revision of Proposals during these discussions. Therefore, the State may conduct discussions with all Offerors that have submitted Proposals that are determined to be reasonably susceptible of being selected for contract award or potentially so. However, the State reserves the right to make an award without holding discussions.

5.4.1.2 In either case (i.e., with or without discussions), 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 prior to Contract award. 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, that Offeror's Financial Proposal will be returned if the Financial Proposal is unopened at the time of the determination.

#### 5.4.2 Selection Process Sequence

- 5.4.2.1 The first step in the process will be an evaluation for technical merit. The purpose of this evaluation will be to assure a full understanding of the State's requirements and the Offeror's ability to perform.
- 5.4.2.2 Offerors must confirm in writing any substantive clarification of, or change in, their proposals made in the course of clarification requests. Any such written clarification or change then becomes part of the Offeror's Proposal.
- 5.4.2.3 The Financial Proposal of each qualified Offeror will be evaluated separately from the technical evaluation. After a review of the financial proposals of qualified Offerors, the Procurement Officer may again conduct discussions to further evaluate the Offeror's entire Proposal.
- 5.4.2.4 When in the best interest of the State, the Procurement Officer may permit Offerors who have submitted acceptable Proposals to revise their initial Proposals and submit, in writing, best and final offers.

#### 5.4.3 Award Determination

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

### **5.5 Documents Required upon Notice of Recommended Award**

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

- A. Contract (Attachment A),
- B. Contract Affidavit (Attachment C),
- C. Evidence of meeting insurance certificate requirements (See Section 3.11.9)

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## RFP ATTACHMENTS

### **ATTACHMENT A – Contract**

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

### **ATTACHMENT B – Bid/Proposal Affidavit**

This Attachment must be completed and submitted with the Technical Proposal.

### **ATTACHMENT C – Contract Affidavit**

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

### **ATTACHMENT D – Minority Business Enterprise Forms**

Not Required for this RFP.

### **ATTACHMENT E – Pre-Proposal Conference Response Form**

It is requested that this form be completed and submitted as described in Section 1.7 by those potential Offerors that plan on attending the Pre-Proposal Conference.

### **ATTACHMENT F – Financial Proposal Instructions and Price Sheet**

The Price Sheet must be completed and submitted with the Financial Proposal.

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

Not Required for this RFP.

### **ATTACHMENT H – Federal Funds Attachment**

Not Required for this RFP.

### **ATTACHMENT I – Conflict of Interest Affidavit and Disclosure**

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

**ATTACHMENT A - CONTRACT**

Department of Information Technology (DoIT)

“GIS Software Master Contract”

060B6400028

THIS CONTRACT (the “Contract”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between \_\_\_\_\_ and, on behalf of the STATE OF MARYLAND, the MARYLAND Department of Information Technology (DoIT).

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

**1. Definitions**

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

- 1.1. “COMAR” means the Code of Maryland Regulations.
- 1.2. “Contract” means this contract for geographic information system Software. Except as otherwise provided, any reference to the Contract shall be deemed to include reference to a Purchase Order (PO).
- 1.3. “Contract Manager” means the individual identified in Section 1.5 of the Request for Proposals (RFP), or a successor designated by the Department.
- 1.4. “Contractor” means \_\_\_\_\_, whose principal business address is:  
\_\_\_\_\_.
- 1.5. “Department” means the Department of Information Technology (DoIT).
- 1.6. “eMM” means eMaryland Marketplace.
- 1.7. “Financial Proposal” means the Contractor’s financial proposal dated \_\_\_\_\_.
- 1.8. “Installation” means transferring manufacturer’s electronic media to computer systems so that the COTS Software will provide the features and functions generally described in the user documentation.
- 1.9. “Minority Business Enterprise” (MBE) means an entity meeting the definition at COMAR 21.0 1.02.01B(54), which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- 1.10. “Procurement Officer” means the person identified in Section 1.4 of the RFP or a successor designated by the Department.
- 1.11. “Proposal” means, as appropriate, either or both the Contractor’s Technical or Financial Proposal.
- 1.12. “Purchase Order” or “PO” means the authorization for Contractor to proceed with delivery of products and/or any services requested via a PORFP.
- 1.13. “PORFP” means Purchase Order Request for Quotation.
- 1.14. “Requesting Agency” means the unit of the State government issuing the PORFP.
- 1.15. “RFP” means the Request for Proposals for GIS Software Master Contract, Solicitation # 060B6400028 and any amendments thereto issued in writing by the State.

- 1.16. “Sensitive Data” means any personally identifiable information (PII), protected health information (PHI) or other private/confidential data.
- 1.17. “Software” means the object code version of computer programs licensed pursuant to this Contract. Embedded code, firmware, internal code, microcode, and any other term referring to software that is necessary for proper operation is included in this definition of Software. Software includes all prior, current, and future versions of the Software and all maintenance updates and error corrections. “Software” also includes any upgrades, updates, bug fixes or modified versions or backup copies of the Software licensed to the State by Contractor or an authorized distributor.
- 1.18. “State” means the State of Maryland.
- 1.19. “Technical Proposal” means the Contractor’s technical proposal dated \_\_\_\_\_.
- 1.20. Capitalized terms not defined herein shall be ascribed the meaning given to them in the RFP.

## **2. Scope of Contract**

- 2.1. The Contractor shall provide COTS Software, Installation and/or training, and/or maintenance, as described in a PORFP or PO, in the following functional area(s):

- Functional Area I: Desktop/Server Software
- Functional Area II: Mobile Software
- Functional Area III: Software Maintenance and Support

- 2.2. These products and services shall be provided in accordance with the terms and conditions of this Contract and the following Exhibits, which are attached and incorporated herein by reference. If there are any inconsistencies between this Contract and the accompanying Exhibits, the terms of this Contract shall control. If there is any conflict among the Exhibits, the following order of precedence shall apply:

Exhibit A – The RFP

Exhibit B – The Contract Affidavit dated \_\_\_\_\_.

Exhibit C – The Technical Proposal.

Exhibit D –The Financial Proposal

- 2.3. A PORFP may specify terms in addition to the terms specified herein, including warranties, deliverables, and acceptance test requirements. PORFPs, POs and Reference BPOs may not limit the State’s rights as provided by law, in this Contract, or in the RFP and may not change the terms of, or conflict with, this Contract or any of its Exhibits.

## **3. Period of Performance**

- 3.1. The Contract shall be for a period of \_\_ years beginning \_\_\_\_\_ and ending on \_\_\_\_\_.
- 3.2. Audit, confidentiality, document retention, patents, copyright, intellectual property, warranty, and indemnification obligations under this Contract and any other obligations specifically identified shall survive expiration or termination of the Contract.
- 3.3. Upon termination of this Contract, the Contractor, at its own expense, shall deliver any

equipment, software, or other property provided by the State to the place designated by the Procurement Officer.

#### **4. Consideration and Payment**

- 4.1. In consideration of the satisfactory performance of the Contract and any PORFP and/or PO, the State will promptly process a proper invoice for payment in accordance with the terms of this Contract.
- 4.2. The total payment for products and services provided under a fixed price PO or the fixed price element of a combined fixed price – time and materials PO, shall be the firm fixed price submitted by the Contractor in its quotation or proposal submitted in response to a PORFP, regardless of the actual cost to the Contractor.
- 4.3. POs that include a time and materials element shall include a not-to-exceed (NTE) ceiling for payments. For time and materials POs, or POs which include both fixed price and time and materials elements, total payments to the Contractor for the time and materials portion may not exceed the identified PO NTE Amount. The Contractor shall notify the Contract Manager, in writing, at least 60 days before time and material obligations are expected to reach the PO NTE Amount. The Contractor shall have no obligation to perform the time and materials requirements under this Contract after payments reach the PO NTE Amount. The cessation of the Contractor's obligation to perform under this paragraph 4.3 is expressly conditioned on the following: that prior to the PO NTE Amount being reached, the Contractor shall: (i) give the notice required under this paragraph 4.3; (ii) promptly consult with the Requesting Agency and cooperate in good faith with the Requesting Agency to establish a plan of action to assure that every reasonable effort has been undertaken by the Contractor to complete critical work in progress prior to the date the PO NTE Amount will be reached; and (iii) secure databases, systems, platforms and/or applications on which the Contractor is working so that no damage or vulnerabilities to any of the same will exist due to any such unfinished work. Any work performed by the Contractor in excess of PO NTE amount without the prior written approval of the Contract Manager is at the Contractor's risk of non-payment.
- 4.4. Invoices shall be submitted as specified in a PORFP. Invoices that contain both fixed price and time and material items must clearly identify the items as either fixed price or time and material billing. Each invoice must include the Contractor's Federal Tax Identification Number: \_\_\_\_\_ . The Contractor's eMM identification number is \_\_\_\_\_ . Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the Requesting Agency's receipt of a proper invoice from the Contractor. Charges for late payment of invoices other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, as from time-to-time amended, are prohibited. The final payment under a PORFP will not be made until after certification is received from the Comptroller of the State that all taxes have been paid.
- 4.5. 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, then the Contractor will be notified and provided a time specified by the State to cure the breach. If the breach is not cured within the time specified within the notification, 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.

- 4.6. PORFPs may specify periodic payments based on deliverables or stages of completion. A PORFP may further specify that a portion of the payments due will be withheld until completion of the PO. The amount withheld from each payment shall be paid to the Contractor within thirty (30) days of the State's acceptance of all deliverables required under the PO and receipt from the Contractor of a release in a form prescribed by the State for any claims arising out of or related to the PORFP.
- 4.7. Payment of an invoice by the State is not evidence that services were rendered as required under this Contract or any applicable PORFP.

## 5. Patents, Copyrights, Intellectual Property

- 5.1. All copyrights, patents, trademarks, trade secrets, and any other intellectual property rights existing prior to the effective date of this agreement shall belong to the party that owned such rights immediately prior to the Effective Date ("Pre-Existing Intellectual Property").  
"Contractor Materials" means all Pre-Existing Intellectual Property of Contractor and all other intellectual property acquired or developed by Contractor outside of this Contract, and any modifications and derivatives thereof. If Pre-Existing Intellectual Property or Contractor Material includes any design, device, material, process, or other item, which is covered by a patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items pursuant to its rights granted under the Contract.
- 5.2. Except as provided in Section 5.4 of this Contract, the Contractor agrees that all documents and materials, including but not limited to, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, software, graphics, mechanical, artwork, computations and data prepared by or for the Contractor for purposes of this Contract ("Work Product") shall become and remain the sole and exclusive property of the State and shall be available to the 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.
- 5.3. Except as provided in Section 5.4 of this Contract, the Contractor agrees that at all times during the term of this Contract and thereafter, Work Product shall be "works made for hire" as that term is interpreted under U.S. copyright law and shall be owned by the State. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights and all information used to formulate such Work Product. In the event any Work Product is or may not be considered a work made for hire under applicable law, Contractor assigns and transfers to the State the entire right, title, and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof. Contractor shall execute all documents and perform such other proper acts as the State may deem necessary to secure for it the rights pursuant to this section.
- 5.4. Notwithstanding anything to the contrary in this Contract, to the extent (i) the Work Product incorporates any commercial-off-the shelf software (COTS) and/or any Pre-Existing Intellectual Property or (ii) any COTS and/or Pre-Existing Intellectual Property (other than a computer's operating system, supported internet browser, browser accessibility software or hardware if needed by the user, and software required to access a commonly-available data transmission tool or export format) is required to access, install, build, compile or otherwise use the Work Product (such COTS and Pre-Existing Intellectual Property individually and collectively referred to herein as "Third-party Intellectual Property," which shall be the sole property of Contractor or its third-party licensors, as applicable), Contractor hereby grants to

the State, on behalf of itself and any third-party licensors, a royalty-free, paid-up, non-exclusive, unrestricted, unconditional, irrevocable, worldwide right and license, with the right to use, execute, reproduce, display, perform, distribute copies of internally, modify and prepare derivative works based upon, such Third-party Intellectual Property as may be necessary for the State to use the Work Product for the purposes for which such Work Product was designed and intended. “Pre-Existing Intellectual Property” means any program, utility or tool owned by Contractor or its third-party licensors that was created by Contractor or its third-party licensors independently from its performance of this Contract and not solely using funds from this Contract.

- 5.5. Subject to the terms of Section 6, Contractor shall defend, indemnify, and hold harmless the State, including, but not limited to, the Department or Requesting Agency and its agents, officers, and employees, from and against any and all claims, costs, losses, damages, liabilities, judgments and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with any claim that products the Contractor provides to Department or the Requesting Agency, including Work Product and any Third-party Intellectual Property, infringes, misappropriates or otherwise violates any Third-party Intellectual Property rights. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent, which consent may be withheld in the State's sole and absolute discretion.
- 5.6. Except if Contractor has pre-existing knowledge of such infringement, Contractor's obligations under this section will not apply to the extent any Third-party Intellectual Property infringes, misappropriates or otherwise violates any third party intellectual rights as a result of modifications made by the State in violation of the license granted to the State pursuant to Section 5.4; provided that such infringement, misappropriation or violation would not have occurred absent such modification.
- 5.7. Without limiting Contractor's obligations under Section 5.5, if all or any part of the Work Product or any Third Party Intellectual Property is held, or Contractor or the State reasonably determines that it could be held, to infringe, misappropriate or otherwise violate any third party intellectual property right, Contractor (after consultation with the State and at no cost to the State): (a) shall procure for the State the right to continue using the item or service in accordance with its rights under this Contract; (b) replace the item or service with an item that does not infringe, misappropriate or otherwise violate any third party intellectual property rights and, in the State's sole and absolute determination, complies with the item's specifications as defined in this Contract, and all rights of use and/or ownership set forth in this Contract; or (c) modify the item or service so that it no longer infringes, misappropriates or otherwise violates any third party intellectual property right and, in the State's sole and absolute determination, complies with the item's specifications and all rights of use and/or ownership set forth in this Contract.
- 5.8. Except for any Pre-Existing Intellectual Property and Third-Party Intellectual Property, Contractor shall not acquire any right, title, or interest (including any intellectual property rights subsisting therein) in or to any goods, Software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the State to the Contractor. Notwithstanding anything to the contrary herein, the State may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a PORFP executed by the Contractor and an authorized

representative of the State.

- 5.9. Contractor, on behalf of itself and its subcontractors, hereby agrees not to incorporate, link, distribute or use any Third-party Intellectual Property in such a way that: (a) creates, purports to create or has the potential to create, obligations with respect to any State software (including any deliverable hereunder), including without limitation the distribution or disclosure of any source code; or (b) grants, purports to grant, or has the potential to grant to any third-party any rights to or immunities under any State intellectual property or proprietary rights. Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall incorporate, link, distribute or use, in conjunction with the Work Product, any code or software licensed under the GNU General Public License (“GPL”), Lesser General Public License (“LGPL”), Afferro GPL (“AGPL”), European Community Public License (“ECPL”), Mozilla, or any other open source license, in any manner that could cause or could be interpreted or asserted to cause any State software (or any modifications thereto) to become subject to the terms of the GPL, LGPL, AGPL, ECPL, Mozilla or such other open source software.
- 5.10. Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall use any Software or technology in a manner that will cause any patents, copyrights, or other intellectual property which are owned or controlled by the State or any of its affiliates (or for which the State or any of its subcontractors has received license rights) to become subject to any encumbrance or terms and conditions of any third-party or open source license (including, without limitation, any open source license listed on <http://www.opensource.org/licenses/alphabetical>) (each an “Open Source License”). These restrictions, limitations, exclusions and conditions shall apply even if the State or any of its subcontractors becomes aware of or fails to act in a manner to address any violation or failure to comply therewith. No act by the State or any of its subcontractors that is undertaken under this Contract as to any Software or technology shall be construed as intending to cause any patents, copyrights or other intellectual property that are owned or controlled by the State (or for which the State has received license rights) to become subject to any encumbrance or terms and conditions of any Open Source License.
- 5.11. The Contractor shall report to the Department or Requesting Agency, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Work Product delivered under this Contract.
- 5.12. This Section 5 shall survive expiration or termination of this Contract.

## **6. Indemnification**

- 6.1. In addition to Contractor’s indemnification obligations described in Section 5, Contractor shall indemnify, defend, and hold the State, its directors, officers, employees and agents harmless from liability for the following conduct arising from or relating to the performance of the Contractor or its subcontractors under this Contract: (a) tangible property damage, bodily injury and death, to the extent caused by or contributed to by Contractor or its subcontractors and (b) fraud or willful misconduct of Contractor or its subcontractors. Such indemnification shall include all related defense costs and expenses attributable to the claims of third parties, including, but not limited to, reasonable attorneys’ fees and costs of investigation, litigation, settlement, judgments, interest and penalties.
- 6.2. Upon the State’s request of indemnification under Section 5 or 6, Contractor shall be entitled to control the defense or settlement of the relevant claim with counsel reasonably satisfactory to

the State. The State will: (a) provide reasonable cooperation to Contractor in connection with the defense or settlement of the claim, at Contractor's expense; and (b) be entitled to participate in the defense of the claim, at its own expense.

- 6.3. The State has no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim or action of any character is brought by any person not party to this Contract against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.
- 6.4. The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.
- 6.5. To the extent permitted by applicable law, 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 third party claim, suit, or action made or filed against the State as a result of or relating to the Contractor's performance under this Contract.
- 6.6. This Section 6 shall survive expiration or termination of this Contract.

## **7. Limitations of Liability**

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

- 7.1. For infringement of patents, trademarks, trade secrets and copyrights as provided in Section 5 ("Patents, Copyrights, Intellectual Property") of this Contract;
- 7.2. Without limitation, for damages for bodily injury (including death) and damage to real property and tangible personal property; and
- 7.3. For all other claims, damages, loss, costs, expenses, suits, or actions in any way related to this Contract where liability is not otherwise set forth as being "without limitation," and regardless of the basis on which the claim is made, Contractor's liability shall not exceed one (1) time the total amount of the PORFP out of which the claim arises; provided however, the State may, in its sole discretion, decrease the ceiling established hereunder in any PORFP issued pursuant to this RFP. Third-party claims arising under Section 6 ("Indemnification") of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor's liability for third-party claims arising under Section 6 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 6.
- 7.4. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that all Subcontractors shall be held to be agents of Contractor.

## **8. Prompt Pay Requirements**

- 8.1. If the Contractor withholds payment of an undisputed amount to its subcontractor, the State, at its option and in its sole discretion, may take one or more of the following actions:
  - (a) Not process further payments to the Contractor until payment to the subcontractor is verified;
  - (b) Suspend all or some of the Contract work without affecting the completion date(s) for the Contract work;
  - (c) Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due to the Contractor;
  - (d) Place a payment for an undisputed amount in an interest-bearing escrow account;
  - (e) Default Contractor for failing to perform in accordance with the requirement to promptly pay subcontractors; or
  - (f) Take other or further actions as appropriate to resolve the withheld payment.
- 8.2. An “undisputed amount” means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute. Such “undisputed amounts” include (a) retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor and (b) an amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
- 8.3. An act, failure to act, or decision of a Procurement Officer or a representative of the Department or Requesting Agency concerning a withheld payment between the Contractor and subcontractor under this Contract, may not:
  - (a) Affect the rights of the contracting parties under any other provision of law;
  - (b) Be used as evidence on the merits of a dispute between the Department or Requesting Agency and the Contractor in any other proceeding; or
  - (c) Result in liability against or prejudice the rights of the Department or Requesting Agency.
- 8.4. The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise program.

## **9. Risk of Loss; Transfer of Title**

Risk of loss for conforming supplies, equipment and materials specified as deliverables to the State hereunder shall remain with the Contractor until the supplies, equipment, materials and other deliverables are received and accepted by the State. Title of all such deliverables passes to the State upon acceptance by the State.

## **10. Source Code Escrow**

Source Code Escrow is not required for this Contract.

## **11. Loss of Data**

In the event of loss of any State data or records where such loss is due to the intentional act, omission, or negligence of the Contractor or any of its subcontractors or agents, the Contractor

shall be responsible for recreating such lost data in the manner and on the schedule set by the Contract Manager. The Contractor shall ensure that all data is backed up and is recoverable by the Contractor. In accordance with prevailing federal or state law or regulations, the Contractor shall report the loss of non-public data as directed in Section 16.

## **12. Markings**

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

## **13. Exclusive Use and Ownership**

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

## **14. Notification of Legal Requests**

The Contractor shall contact the State upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to the State's data under this Contract, or which in any way might reasonably require access to the data of the State, unless prohibited by law from providing such notice. The Contractor shall not respond to subpoenas, service of process and other legal requests related to the State without first notifying the State, unless prohibited by law from providing such notice.

## **15. Effect of Contractor Bankruptcy**

All rights and licenses granted by the Contractor under this Contract are and shall be deemed to be rights and licenses to "intellectual property," and the subject matter of this Contract, including services, is and shall be deemed to be "embodiments of intellectual property" for purposes of and as such terms are used and interpreted under § 365(n) of the United States Bankruptcy Code ("Code") (11 U.S.C. § 365(n) (2010)). The State has the right to exercise all rights and elections under the Code and all other applicable bankruptcy, insolvency and similar laws with respect to this Contract (including all executory statement of works). Without limiting the generality of the foregoing, if the Contractor or its estate becomes subject to any bankruptcy or similar proceeding: (a) subject to the State's rights of election, all rights and licenses granted to the State under this Contract shall continue subject to the respective terms and conditions of this Contract; and (b) the State shall be entitled to a complete duplicate of (or complete access to, as appropriate) all such intellectual property and embodiments of intellectual property, and the same, if not already in the State's possession, shall be promptly delivered to the State, unless the Contractor elects to and does in fact continue to perform all of its obligations under this Contract.

## **16. Confidentiality**

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

## **17. 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.

## **18. General Terms and Conditions**

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

### **18.1. Pre-Existing Regulations**

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

### **18.2. Maryland Law Prevails**

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

### **18.3. Multi-year Contracts Contingent Upon Appropriations**

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

#### **18.4. Cost and Price Certification**

The Contractor, by submitting cost or price information certifies that, to the best of its knowledge, the information submitted is accurate, complete, and current as of a mutually determined specified date prior to the conclusion of any price discussions or negotiations. The price under this Contract (including any PO) and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date agreed upon between the parties, was inaccurate, incomplete, or not current.

#### **18.5. Contract Modifications**

The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract or a PO. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. Pursuant to COMAR 21.10.04, the Contractor must assert in writing its right to an adjustment under this section and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under Section 18.8, Disputes. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

#### **18.6. Termination for Default**

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

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

#### **18.7. Termination for Convenience**

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

#### **18.8. Disputes**

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

#### **18.9. Living Wage**

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

#### **18.10. Non-Hiring of Employees**

No official or employee of the State of Maryland, as defined under General Provisions Article, §5-101, 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.

#### **18.11. Nondiscrimination in Employment**

The Contractor agrees: (a) not to discriminate in any manner against an employee or

applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, sexual orientation, sexual identity, ancestry, or disability of a qualified person with a disability, sexual orientation, or any otherwise unlawful use of characteristics; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

## **18.12. Commercial Non-Discrimination**

- 18.12.1. 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, national origin, sex, age, marital status, sexual orientation, sexual identity, disability, or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this 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.
- 18.12.2. As a condition of entering into this Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions.

## **18.13. Subcontracting and Assignment**

The Contractor may not subcontract any portion of the products or services provided under

this Contract without obtaining the prior written approval of the Procurement Officer, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the State. Any such approvals shall be at the State's sole and absolute discretion. Any such subcontract or assignment shall include the terms of this Contract and any other terms and conditions that the State deems necessary to protect its interests. The State shall not be responsible for the fulfillment of the Contractor's obligations to any subcontractors.

#### **18.14. Minority Business Enterprise Participation**

There is no MBE subcontractor participation goal for this Contract.

#### **18.15. Insurance Requirements**

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

#### **18.16. Veteran Owned Small Business Enterprise Participation**

There is no VSBE subcontractor participation goal for this procurement.

#### **18.17. Security Requirements and Incident Response**

The Contractor agrees to abide by all applicable federal, State and local laws concerning information security and comply with current State and Department of Information Technology information security policy, currently found at <http://doit.maryland.gov/Publications/DoITSecurityPolicy.pdf>. Contractor shall limit access to and possession of Sensitive Data to only employees whose responsibilities reasonably require such access or possession and shall train such employees on the Confidentiality obligations set forth herein.

#### **18.18. Suspension of Work**

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

#### **18.19. Nonvisual Accessibility Warranty**

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

- (a) provides equivalent access for effective use by both visual and non-visual means;
- (b) will present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use;
- (c) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and
- (d) is available, whenever possible, without modification for compatibility with Software and hardware for non-visual access.

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

## **18.20. Compliance with Laws/Arrearages**

The Contractor hereby represents and warrants that:

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

## **18.21. Contingent Fee Prohibition**

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

## **18.22. Delays and Extensions of Time**

The Contractor agrees to perform this Contract continuously and diligently. No charges or

claims for damages shall be made by the Contractor for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract. Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

#### **18.23. Financial Disclosure**

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

#### **18.24. Political Contribution Disclosure**

The Contractor shall comply with the provisions of Md. Code Ann., Election Law Article, Title 14, which requires that every person that enters into a contract for procurement with the State, a county or a municipal corporation or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the aggregate \$200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (1) before execution of a contract by the State, a county, municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (2) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on: (i) February 5, to cover the six-month period ending January 31; and (ii) August 5, to cover the six-month period ending July 31. Additional information is available on the State Board of Elections website: [http://www.elections.state.md.us/campaign\\_finance/index.html](http://www.elections.state.md.us/campaign_finance/index.html).

#### **18.25. Retention of Records and Audit**

- 18.25.1. The Contractor and Subcontractors shall retain and maintain all records and documents in any way relating to this Contract for three (3) years after final payment by the State under this Contract, or any applicable statute of limitations, prevailing federal or State law or regulation, or condition of award, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or the Procurement

Officer's designee, at all reasonable times. The Contractor shall, upon request by the Department, surrender all and every copy of documents needed by the State, including, but not limited to itemized billing documentation containing the dates, hours spent and work performed by the Contractor and its subcontractors under the Contract. The Contractor agrees to cooperate fully in any audit conducted by or on behalf of the State, including, by way of example only, making records and employees available as, where, and to the extent requested by the State and by assisting the auditors in reconciling any audit variances. Contractor shall not be compensated for providing any such cooperation and assistance. All records related in any way to the Contract are to be retained for the entire time provided under this section.

- 18.25.2 The State reserves the right, at its sole discretion and at any time, to perform an audit of the Contractor's and/or Subcontractors' performance under this Contract. In this Contract, an audit is defined as a planned and documented independent activity performed by qualified personnel, including but not limited to State and federal auditors, to determine by investigation, examination, or evaluation of objective evidence from data, statements, records, operations and performance practices (financial or otherwise) the Contractor's and/or Subcontractor's compliance with the Contract, including but not limited to the adequacy and compliance with established procedures and internal controls over the services being performed for the State.
- 18.25.3 Upon three (3) business days' notice, Contractor and/or Subcontractors shall provide the State reasonable access during normal business hours to their records to verify conformance to the terms of this Contract. The State shall be permitted to conduct these audits with any or all of its own internal resources or by securing the services of a third party accounting/audit firm, solely at the State's election. The State shall have the right to copy, at its own expense, any record related to the services performed pursuant to this Contract.
- 18.25.4 Contractor and/or Subcontractors shall cooperate with the State or the designated auditor and shall provide the necessary assistance for the State or the designated auditor to conduct the audit.
- 18.25.5 The right to audit shall include subcontracts in which goods or services are subcontracted by Contractor and/or Subcontractors and that provide essential support to the services provided to the State under this Contract. Contractor and/or Subcontractors shall ensure the State has the right to audit with any lower tier Subcontractor.
- 18.25.6. This Section 18.25 shall survive expiration or termination of this Contract.

## **18.26 Compliance with federal Health Insurance Portability and Accountability Act (HIPAA) and State Confidentiality Law**

HIPAA clauses do not apply to this Contract.

## **19. Administrative Information**

### **19.1. Procurement Officer and Contract Manager**

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

## 19.2. Notices

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

If to the State:

State of Maryland  
Department of Information Technology  
45 Calvert Street  
Annapolis, MD 21401-1907

With a copy to:

Alicia Baltimore  
Department of Information Technology (DoIT)  
45 Calvert Street, Rm 442B  
Annapolis, MD 21401-1907  
Alicia.Baltimore@maryland.gov

If to the Contractor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_

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

STATE OF MARYLAND

Department of Information Technology (DoIT)

---

By:

---

Date

---

By: Department Head

Or designee:

---

Date

---

Approved for form and legal sufficiency  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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Assistant Attorney General

APPROVED BY BPW: \_\_\_\_\_

(Date)

(BPW Item #)

**ATTACHMENT B - BID/PROPOSAL AFFIDAVIT****A. AUTHORITY**

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

**B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION**

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

**B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.**

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

- (1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority proposal;
- (2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the Bid/Proposal;
- (3) Fail to use the certified minority business enterprise in the performance of the contract; or
- (4) Pay the certified minority business enterprise solely for the use of its name in the Bid/Proposal.

Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the Bid/Proposal submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the Bid/Proposal.

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

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

- (1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;
- (2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran-owned small business enterprise in order to obtain or retain a Bid/Proposal preference or a procurement contract;
- (3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.12; or
- (6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of § B-2(1)-(5) of this regulation.

#### C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

##### I FURTHER AFFIRM THAT:

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

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#### D. AFFIRMATION REGARDING OTHER CONVICTIONS

##### I FURTHER AFFIRM THAT:

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

- (1) Been convicted under state or federal statute of:
  - (a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
  - (b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;
- (2) Been convicted of any criminal violation of a state or federal antitrust statute;
- (3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of Bids/Proposals for a public or private contract;
- (4) Been convicted of a violation of the State Minority Business Enterprise Law, § 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (5) Been convicted of a violation of § 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)—(5) above;
- (7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of Bids/Proposals for a public or private contract;
- (8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract;
- (9) Been convicted of a violation of one or more of the following provisions of the Internal Revenue Code:
  - (a) §7201, Attempt to Evade or Defeat Tax;
  - (b) §7203, Willful Failure to File Return, Supply Information, or Pay Tax,
  - (c) §7205, Fraudulent Withholding Exemption Certificate or Failure to Supply Information;
  - (d) §7206, Fraud and False Statements, or
  - (e) §7207 Fraudulent Returns, Statements, or Other Documents;
- (10) Been convicted of a violation of 18 U.S.C. §286 Conspiracy to Defraud the Government with Respect to Claims, 18 U.S.C. §287, False, Fictitious, or Fraudulent Claims, or 18 U.S.C. §371, Conspiracy to Defraud the United States;
- (11) Been convicted of a violation of the Tax-General Article, Title 13, Subtitle 7 or Subtitle 10, Annotated Code of Maryland;
- (12) Been found to have willfully or knowingly violated State Prevailing Wage Laws as provided in the State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland, if:
  - (a) A court:

- (i) Made the finding; and
- (ii) Decision became final; or

(b) The finding was:

- (i) Made in a contested case under the Maryland Administrative Procedure act; and
- (ii) Not overturned on judicial review;

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

(a) A court:

- (i) Made the finding; and
- (ii) Decision became final; or

(b) The finding was:

- (i) Made in a contested case under the Maryland Administrative Procedure act; and
- (ii) Not overturned on judicial review;

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

(a) A court:

- (i) Made the finding; and
- (ii) Decision became final; or

(b) The finding was:

- (i) Made in a contested case under the Maryland Administrative Procedure act; and
- (ii) Not overturned on judicial review; or

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

## E. AFFIRMATION REGARDING DEBARMENT

**I FURTHER AFFIRM THAT:**

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any

public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

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#### 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):

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#### G. SUBCONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

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

#### H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

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

- (1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying Bid/Proposal that is being submitted;
- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the Bid/Proposal price of the Bidder/Offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying Bid/Proposal is submitted.

#### I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury,

the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

#### J. CONTINGENT FEES

##### I FURTHER AFFIRM THAT:

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

#### K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

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

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

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

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

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

##### I FURTHER AFFIRM THAT:

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

#### M. I FURTHER AFFIRM THAT:

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

#### N. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this Bid/Proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of

the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

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

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

By: \_\_\_\_\_ (print name of Authorized Representative and Affiant)

\_\_\_\_\_ (signature of Authorized Representative and Affiant)

**ATTACHMENT C - CONTRACT AFFIDAVIT****A. AUTHORITY**

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

**B. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION****I FURTHER AFFIRM THAT:**

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

- (1) Corporation —  domestic or  foreign;
- (2) Limited Liability Company —  domestic or  foreign;
- (3) Partnership —  domestic or  foreign;
- (4) Statutory Trust —  domestic or  foreign;
- (5)  Sole Proprietorship.

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

Name and Department ID

Number: \_\_\_\_\_ Address: \_\_\_\_\_

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

Name and Department ID

Number: \_\_\_\_\_ Address: \_\_\_\_\_

**C. FINANCIAL DISCLOSURE AFFIRMATION****I FURTHER AFFIRM THAT:**

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

**D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION****I FURTHER AFFIRM THAT:**

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

#### E. DRUG AND ALCOHOL FREE WORKPLACE

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

#### I CERTIFY THAT:

- (1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.
- (2) By submission of its Bid/Proposal, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:
  - (a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;
  - (b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;
  - (c) Prohibit its employees from working under the influence of drugs or alcohol;
  - (d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;
  - (e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;
  - (f) Establish drug and alcohol abuse awareness programs to inform its employees about:

The dangers of drug and alcohol abuse in the workplace;

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

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

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

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

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

Abide by the terms of the statement; and

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

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

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

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

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

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

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

(4) I acknowledge and agree that:

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

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

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

#### F. CERTAIN AFFIRMATIONS VALID

#### I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Bid/Proposal Affidavit dated \_\_\_\_\_, 201\_\_\_\_, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

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

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

By: \_\_\_\_\_ (printed name of Authorized Representative and Affiant)

\_\_\_\_\_ (signature of Authorized Representative and Affiant)

**ATTACHMENT D - MINORITY BUSINESS ENTERPRISE FORMS**

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

**ATTACHMENT E - PRE-PROPOSAL CONFERENCE RESPONSE FORM**

Solicitation Number 060B6400028

GIS Software Master Contract

A Pre-proposal conference will be held at 2:00 PM EST, on April 8, 2016, via conference call. Please return this form by April 6, 2016, advising whether or not you plan to attend.

Return this form to the Procurement Officer via e-mail:

Alicia Baltimore

DoIT

E-mail: Alicia.Baltimore@maryland.gov

Please indicate:

Yes, the following representatives will be in attendance:

1.

2.

3.

No, we will not be in attendance.

Please specify whether any reasonable accommodations are requested (see RFP § 1.6 “Pre-proposal conference”):

---

Signature

Title

---

Name of Firm (please print)

**ATTACHMENT F - FINANCIAL PROPOSAL PRICING INSTRUCTIONS****Instructions**

In order to assist Offerors in the preparation of their Financial Proposal and to comply with the requirements of this solicitation, price instructions and price forms have been prepared. Offerors shall submit their Financial Proposal on the forms in accordance with the instructions on the forms and as specified herein. Do not alter the forms or the Financial Proposal may be rejected. The Price Form is to be signed and dated, where requested, by an individual who is authorized to bind the Offeror to all proposed prices. Any incorrect entries or inaccurate calculations by the Offeror will be treated as provided in COMAR 21.05.03E and 21.05.02.12.

**OFFERORS SHALL DETERMINE WHICH FUNCTIONAL AREAS TO PROPOSE****FORM F-1 FUNCTIONAL AREA I GIS DESKTOP/SERVER SOFTWARE MSRP COMMITMENT**

The Offeror must acknowledge the use of the MSRP as a ceiling price for the Master Contract and commit to charging no more than the MSRP published on-line at the time of the PORFP proposal submission.

**FORM F-2 FUNCTIONAL AREA II GIS MOBILE SOFTWARE MSRP COMMITMENT**

The Offeror must acknowledge the use of the MSRP as a ceiling price for the Master Contract and commit to charging no more than the MSRP published on-line at the time of the PORFP proposal submission.

**FORM F-3 FUNCTIONAL AREA III MANUFACTURER'S SOFTWARE MAINTENANCE****MSRP COMMITMENT**

The Offeror must acknowledge the use of the MSRP as a ceiling price for the Master Contract and commit to charging no more than the MSRP published on-line at the time of the PORFP proposal submission.

**ATTACHMENT F-1 - Functional Area I****GIS Software MSRP Commitment**

I acknowledge by signing this attachment, the requirement of providing pricing no higher than MSRP as of the date of the PORFP proposal submission.

OFFERORS SHALL STATE BELOW ALL MANUFACTURERS OF THE GIS SOFTWARE PROPOSED (Attach additional sheets, if necessary). Include a rate sheet listing MSRP at time of Proposal submission.

Submitted By:

---

Authorized Signature

Date

---

Printed Name And Title

---

Company Name

---

Company Address

---

FEIN Number

---

Telephone Number

**ATTACHMENT F-2 - Functional Area II****GIS Software MSRP Commitment**

I acknowledge by signing this attachment, the requirement of providing pricing no higher than MSRP as of the date of the PORFP proposal submission.

OFFERORS SHALL STATE BELOW ALL MANUFACTURERS OF THE GIS SOFTWARE PROPOSED (Attach additional sheets, if necessary). Include a rate sheet listing MSRP at time of Proposal submission.

Submitted By:

---

Authorized Signature

Date

---

Printed Name And Title

---

Company Name

---

Company Address

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FEIN Number

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Telephone Number

**ATTACHMENT F-3 - Functional Area III****Manufacturer's Software Maintenance MSRP Commitment**

I acknowledge by signing this attachment, the requirement of providing pricing no higher than MSRP for the specified manufacturer's software maintenance as of the date of the PORFP proposal submission.

OFFERORS SHALL STATE BELOW ALL MANUFACTURERS OF THE GIS SOFTWARE PROPOSED (Attach additional sheets, if necessary). Include a rate sheet listing MSRP at time of Proposal submission.

Submitted By:

---

Authorized Signature

Date

---

Printed Name And Title

---

Company Name

---

Company Address

---

FEIN Number

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Telephone Number

**ATTACHMENT G - LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS**

Not Applicable to this RFP

**ATTACHMENT H - FEDERAL FUNDS ATTACHMENT**

This solicitation does not include a Federal Funds Attachment.

**ATTACHMENT I - CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE**

Reference COMAR 21.05.08.08

**(submit with Bid/Proposal)**

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

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

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

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

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

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

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

(Authorized Representative and Affiant)