



**STATE OF MARYLAND**  
**DEPARTMENT OF INFORMATION TECHNOLOGY**  
**REQUEST FOR PROPOSALS (RFP)**  
**ASSISTIVE TELECOMMUNICATIONS EVALUATION**  
**SERVICES**

**RFP NUMBER 060B8400093**

**ISSUE DATE: JUNE 19, 2018**

**NOTICE TO OFFERORS**

**NOTICE**

A Prospective Offeror that has received this document from a source other than eMarylandMarketplace (eMM) <https://emaryland.buyspeed.com/bsol> should register on eMM.

**MINORITY BUSINESS ENTERPRISES ARE ENCOURAGED TO  
RESPOND TO THIS SOLICITATION.**

STATE OF MARYLAND  
NOTICE TO VENDORS

To help us improve the quality of State solicitations, and to make our procurement process more responsive and business friendly, take a few minutes and provide comments and suggestions regarding this solicitation. Please return your comments with your response. If you have chosen not to respond to this solicitation, please email or fax this completed form to the attention of the Procurement Officer (see Key Information Sheet below for contact information).

**Title: Assistive Telecommunications Evaluation Services**  
**Solicitation No: 060B8400093**

1. If you have chosen not to respond to this solicitation, please indicate the reason(s) below:
- Other commitments preclude our participation at this time
  - The subject of the solicitation is not something we ordinarily provide
  - We are inexperienced in the work/commodities required
  - Specifications are unclear, too restrictive, etc. (Explain in REMARKS section)
  - The scope of work is beyond our present capacity
  - Doing business with the State is simply too complicated. (Explain in REMARKS section)
  - We cannot be competitive. (Explain in REMARKS section)
  - Time allotted for completion of the Proposal is insufficient
  - Start-up time is insufficient
  - Bonding/Insurance requirements are restrictive (Explain in REMARKS section)
  - Proposal requirements (other than specifications) are unreasonable or too risky (Explain in REMARKS section)
  - MBE or VSBE requirements (Explain in REMARKS section)
  - Prior State of Maryland contract experience was unprofitable or otherwise unsatisfactory. (Explain in REMARKS section)
  - Payment schedule too slow
  - Other: \_\_\_\_\_

2. If you have submitted a response to this solicitation, but wish to offer suggestions or express concerns, please use the REMARKS section below. (Attach additional pages as needed.)

REMARKS:

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

Vendor Name: \_\_\_\_\_ Date: \_\_\_\_\_

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

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

E-mail Address: \_\_\_\_\_

**STATE OF MARYLAND**  
**DEPARTMENT OF INFORMATION TECHNOLOGY (DOIT)**  
**KEY INFORMATION SUMMARY SHEET**

<b>Request for Proposals</b>	Assistive Telecommunications Evaluation Services
<b>Solicitation Number:</b>	060B8400093
<b>RFP Issue Date:</b>	June 19, 2018
<b>RFP Issuing Office:</b>	Department of Information Technology
<b>Procurement Officer:</b>	Lashella Miller 100 Community Place Crownsville, MD 21032
<b>e-mail:</b>	Lashella.Miller@mayland.gov
<b>Office Phone:</b>	410-697-9669
<b>Proposals are to be sent to:</b>	Lashella.Miller@maryland.gov
<b>Pre-proposal Conference:</b>	June 28, 2018 at 10:00AM Local Time DoIT Telecommunications Access of Maryland 301 West Preston Street (Suite 1008A) Baltimore, MD 21201 See <b>Attachment A</b> for directions and instructions.
<b>Proposal Due (Closing) Date and Time:</b>	July 23, 2018 at 2:00PM Local Time Offerors are reminded that a completed Feedback Form is requested if a no-bid decision is made (see <b>page ii</b> ).
<b>MBE Subcontracting Goal:</b>	0%
<b>VSBE Subcontracting Goal:</b>	0%
<b>Contract Type:</b>	Indefinite Quantity - Fixed Price
<b>Contract Duration:</b>	3 year base period w/2, one-year option periods
<b>Primary Place of Performance:</b>	N/A
<b>SBR Designation:</b>	No
<b>Federal Funding:</b>	No
<b>Questions Due Date and Time</b>	June 29, 2018 at 2:00PM Local Time

## TABLE OF CONTENTS – RFP

<b>1</b>	<b>Minimum Qualifications</b> .....	<b>1</b>
1.1	Offeror Minimum Qualifications.....	1
<b>2</b>	<b>Contractor Requirements: Scope of Work</b> .....	<b>2</b>
2.1	Summary Statement.....	2
2.2	Background and Purpose .....	2
2.3	Requirements .....	3
2.4	Service Facility Assignments .....	4
2.5	Ticketing/Tracking System.....	4
2.6	Transition-In/Out Requirements.....	5
2.7	Assistive Communications Device Evaluator Qualifications.....	5
2.8	ADTE Facilities Staffing.....	5
<b>3</b>	<b>Contractor Requirements: General</b> .....	<b>7</b>
3.1	Insurance Requirements .....	7
3.2	Security Requirements.....	8
3.3	Problem Escalation Procedures .....	9
3.4	Invoicing.....	10
3.5	SOC 2 Type Audit Report .....	10
3.6	Minority Business Enterprise Reports .....	10
3.7	Veterans Small Business Enterprise Reports.....	11
3.8	Work Hours .....	11
<b>4</b>	<b>Procurement Instructions</b> .....	<b>12</b>
4.1	Pre-Proposal Conference .....	12
4.2	eMaryland Marketplace (eMM) .....	12
4.3	Questions .....	12
4.4	Procurement Method .....	13
4.5	Proposal Due (Closing) Date and Time.....	13
4.6	Multiple or Alternate Proposals.....	13
4.7	Economy of Preparation .....	13
4.8	Public Information Act Notice .....	13
4.9	Award Basis.....	14
4.10	Oral Presentation .....	14

4.11	Duration of Proposal.....	14
4.12	Revisions to the RFP .....	14
4.13	Cancellations .....	14
4.14	Incurred Expenses .....	15
4.15	Protest/Disputes .....	15
4.16	Offeror Responsibilities.....	15
4.17	Mandatory Contractual Terms.....	15
4.18	Proposal Affidavit .....	15
4.19	Contract Affidavit.....	15
4.20	Compliance with Laws/Arrearages .....	16
4.21	Verification of Registration and Tax Payment .....	16
4.22	False Statements .....	16
4.23	Payments by Electronic Funds Transfer .....	16
4.24	Prompt Payment Policy .....	17
4.25	Electronic Procurements Authorized.....	17
4.26	MBE Participation Goal .....	18
4.27	VSBE Goal .....	18
4.28	Living Wage Requirements .....	18
4.29	Federal Funding Acknowledgement.....	19
4.30	Conflict of Interest Affidavit and Disclosure .....	19
4.31	Non-Disclosure Agreement .....	1
4.32	HIPAA - Business Associate Agreement .....	1
4.33	Nonvisual Access .....	1
4.34	Mercury and Products That Contain Mercury .....	1
4.35	Location of the Performance of Services Disclosure .....	1
4.36	Department of Human Resources (DHR) Hiring Agreement.....	1
4.37	Small Business Reserve (SBR) Procurement .....	2
4.38	Travel Reimbursement .....	2
<b>5</b>	<b>Proposal Format .....</b>	<b>3</b>
5.1	Two Part Submission.....	3
5.2	Proposal Packaging and Delivery.....	3
5.3	Volume I - Technical Proposal.....	4
5.4	Volume II – Financial Proposal.....	8
<b>6</b>	<b>Evaluation and Selection Process.....</b>	<b>9</b>

6.1	Evaluation Committee .....	9
6.2	Technical Proposal Evaluation Criteria .....	9
6.3	Financial Proposal Ranking .....	9
6.4	Reciprocal Preference.....	9
6.5	Selection Procedures.....	10
6.6	Documents Required upon Notice of Recommendation for Contract Award .....	10
<b>7</b>	<b>RFP ATTACHMENTS AND APPENDICES.....</b>	<b>11</b>
<b>Attachment A.</b>	<b>Pre-Proposal Conference Response Form.....</b>	<b>12</b>
<b>Attachment B.</b>	<b>Financial Proposal Instructions &amp; Form.....</b>	<b>13</b>
<b>Attachment C.</b>	<b>Proposal Affidavit.....</b>	<b>14</b>
<b>Attachment D.</b>	<b>Minority Business Enterprise (MBE) Forms .....</b>	<b>21</b>
<b>Attachment E.</b>	<b>Veteran-Owned Small Business Enterprise (VSBE) Forms .....</b>	<b>22</b>
<b>Attachment F.</b>	<b>Maryland Living Wage Affidavit of Agreement for Service Contracts .....</b>	<b>23</b>
<b>Attachment G.</b>	<b>Federal Funds Attachments.....</b>	<b>27</b>
<b>Attachment H.</b>	<b>Conflict of Interest Affidavit and Disclosure .....</b>	<b>28</b>
<b>Attachment I.</b>	<b>Non-Disclosure Agreement (Contractor) .....</b>	<b>29</b>
<b>Attachment J.</b>	<b>HIPAA Business Associate Agreement.....</b>	<b>33</b>
<b>Attachment K.</b>	<b>Mercury Affidavit.....</b>	<b>34</b>
<b>Attachment L.</b>	<b>Location of the Performance of Services Disclosure .....</b>	<b>35</b>
<b>Attachment M.</b>	<b>Contract.....</b>	<b>36</b>
<b>Attachment N.</b>	<b>Contract Affidavit .....</b>	<b>53</b>
<b>Attachment O.</b>	<b>DHR Hiring Agreement .....</b>	<b>57</b>
<b>Appendix 1.</b>	<b>– Abbreviations and Definitions.....</b>	<b>58</b>
<b>Appendix 2.</b>	<b>– Offeror Information Sheet.....</b>	<b>60</b>

## 1 Minimum Qualifications

### 1.1 Offeror Minimum Qualifications

There are no Offeror Minimum Qualifications for this procurement.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**

## 2 Contractor Requirements: Scope of Work

### 2.1 Summary Statement

The Department of Information Technology (DoIT) is issuing this solicitation to obtain evaluation services for individuals applying for the loan of assistive telecommunications devices from the State. Contractors will provide individual telecommunication evaluations, training, product demonstrations, and installation of equipment for approved individual applicants referred by the Maryland Accessible Telecommunications (MAT) Program. These include individuals who are deaf, hard of hearing, deaf blind, speech-disabled, mobility-impaired, visually-impaired or cognitively-impaired.

### 2.2 Background and Purpose

The Telecommunications Access of Maryland (TAM) agency administers the MAT program, the purpose of which is to provide appropriate assistive telecommunication equipment to Maryland citizens. The MAT program evaluates individuals on a case by case basis to determine what equipment is appropriate for each individual. The MAT program performs approximately 900 evaluations per year.

See <http://doit.maryland.gov/mdrelay/Pages/Application-Process.aspx>. The MAT program is accessible and available to citizens throughout the State of Maryland. To maintain state wide accessibility, the program must have multiple evaluation centers and at least one qualified evaluator at each center.

The purpose of this solicitation is to obtain sufficient personnel to perform MAT evaluations throughout the State of Maryland.

For the purpose of this solicitation, DoIT has divided the State into ten (10) regions. Offerors may propose to one or more regions. For each region to which it proposes, an Offeror must propose one (1) staff person (or "Assistive Telecommunications Device Evaluator"), and one (1) physical service facility. A physical service facility can be located in the proposed region or in a neighboring region, and Offerors may subcontract the operation and/or staffing of physical service facilities, subject to DoIT approval.

DoIT may award more than one contract per each region. In the event of more than one contract in a region, Contractors will be assigned to specific counties within the region by DoIT.

- **Region 1:** Worcester, Wicomico, Somerset, and Dorchester Counties
- **Region 2:** Caroline, Talbot, Queen Anne's, and Kent Counties
- **Region 3:** Cecil and Harford Counties
- **Region 4:** Frederick, and Washington Counties
- **Region 5:** Allegany County
- **Region 6:** Garrett County
- **Region 7:** Howard, Anne Arundel, Baltimore Counties and Baltimore City
- **Region 8:** Montgomery and Prince George's Counties
- **Region 9:** Calvert, Charles, and St. Mary's Counties
- **Region 10:** Carroll



## 2.3 Requirements

- 2.3.1 Offerors shall maintain a physical service facility in each region or a neighboring region to which they propose. A “neighboring region” is one that is adjacent to the region to be supported.
- 2.3.2 Offeror shall be willing to serve in all counties within each region they propose and have a physical service facility in that region.
- 2.3.3 Offerors shall staff each physical service facility with at least one employee, designated as an “Assistive Telecommunications Device Evaluator” or “Evaluator.”
- 2.3.4 Offerors shall provide follow-up in-home service visits as approved by TAM.
- 2.3.5 Offerors are required to provide evaluations of MAT-approved applicants as follows:
  - 2.3.5.1 New Customer Evaluations
    - A. Evaluate the needs of each new customer; and
    - B. Request TAM provide specified telecommunication equipment based on customer evaluation, subject to TAM approval.
  - 2.3.5.2 Follow-up Services
    - A. With TAM’s prior approval, the Contractor shall provide up to three follow-up service visits for each MAT customer, to include:
    - B. In-home product installation for each device;
    - C. Training and/or programming for each device;
    - D. In-home troubleshooting or repair of any device.
  - 2.3.5.3 Customer Re-Evaluations
    - A. Same service as New Customer Evaluation (Section 2.3.4.1); however, the Customer must meet following criteria:
    - B. Approval by TAM for the Customer to be re-evaluated ;
    - C. Customer whose disability has changed and/or their equipment no longer meets their communication needs as determined by TAM;
    - D. Customer who has reapplied to the MAT program after having their equipment for three years.
- 2.3.6 Unless directed by TAM, Contractor shall perform assistive telecommunication evaluations in person at the Contractor’s facility within the service region. Contractor may only provide in-home services if approved and as directed by the TAM Contract Manager.
- 2.3.7 Contractor shall maintain a dedicated room in their physical service facility to conduct assistive telecommunication evaluations. The evaluation room shall be equipped with an analog phone line, wireless internet, and wired internet. The Contractor shall ensure the evaluation room may only be accessed by authorized individuals and is locked at all times while not in use.
- 2.3.8 Assistive telecommunication equipment approved by TAM is provided by TAM to the Customer under a long-term, three-year loan. The Customer signs an agreement to this effect during the application process. The equipment loaned by TAM is tracked and recovered directly by TAM.

- 2.3.9 Contractor shall use assistive telecommunications equipment supplied by TAM for the evaluation of Customer requirements and demonstration.
- 2.3.10 Contractor shall provide a short-term loan of assistive telecommunication equipment for use by a Customer until the permanent assistive telecommunications equipment is delivered and installed. Contractor shall be responsible for tracking and recovering the equipment provided as a short-term loan.
- 2.3.11 Contractor shall provide TAM with access to the physical service facility upon request for the purpose of inspecting the facility, and shall permit TAM to perform on-site or remote inventory of equipment as needed.
- 2.3.12 Contractor shall attend all training as requested by TAM to stay abreast of updated information on Maryland Relay, new assistive telecommunication devices, and operations/administration needs
- 2.3.13 Contractor shall provide at least five (5) annual outreach events within their contracted region/s. The Contractor must receive approval from the Contract Manager prior to each outreach event. The State will provide outreach materials to the Contractor; however, no other expenses will be reimbursed.
- 2.3.14 Contractor Key Personnel shall be required to attend the Telecommunications Equipment Distribution Program Association (TEDPA) annual conference. Conference related expenses incurred by a Contractor may be paid for by the State on a per evaluation center basis through a sub-grant from MAT. In addition, Contractor Key Personnel shall attend all training as requested by TAM to stay abreast of updated information on Maryland Relay, new assistive telecommunication devices, and operations/administration needs.
- 2.3.15 The Contractor shall submit evaluation and incident reports in the form required and at the frequency specified by the Contract Manager

## **2.4 Service Facility Assignments**

TAM will send an email or letter to the Customer when they have been approved, and assign them to the nearest service facility which will conduct their evaluation. TAM will notify the assigned facility by email that the Customer has been approved for evaluation. If the assigned facility is not the most convenient for the Customer, the Customer may directly contact the facility most convenient to them.

## **2.5 Ticketing/Tracking System**

TAM utilizes a ticketing system to track Customers, service facilities and telecommunications evaluation services. Once an applicant is approved by MAT, TAM will create a Customer file in the ticketing system.

Contractors will be provided log-on access to the ticketing system. Contractors will be required to provide the results of all assistive telecommunication evaluations to the Contract Manager through the ticketing system (“Ticketing System”) as follows:

- 2.5.1 Contractor’s evaluator shall log the results of the evaluation in the Customer's evaluation record. Once the entry for the results of the evaluation is complete the record will be marked “closed complete.” A notification from the Ticketing System will be automatically sent to TAM.
- 2.5.2 If the follow-up service was for installation of equipment or training of a new Customer, the installation/training table on the Customer’s application must be completed.

- 2.5.3 Contractor must complete the appropriate equipment records in the Ticketing System, including, but not limited to equipment provided, serial number/s, installed and received date for a Customer.
- 2.5.4 TAM must receive notification from the Ticketing System in order for the Contractor to bill for any services provided. For follow-up services, the Contractor must have updated the Customer's record in the Ticketing System.

## **2.6 Transition-In/Out Requirements**

### **2.6.1 Transition-In Requirements**

- A. Contractor Key Personnel must attend training at the TAM Baltimore office prior to providing evaluation services.
  - 1) Training will be 2-5 full business days.
  - 2) Contractors will not be reimbursed for attendance to the training by Key Personnel.
  - 3) Approved travel expenses incurred while attending the training will be reimbursed by the State in accordance with RFP Section 4.38.
- B. Contractor shall schedule a TAM site visit to inspect each Contractor's evaluation room set-up prior to providing services. TAM will perform an inventory of equipment provided to the Contractor by TAM as part of the site visit.

### **2.6.2 Transition-Out Requirements**

- A. Each Contractor shall schedule a TAM site visit prior to the end of the Contractor to facilitate inventory collection, file close out, and to identify the following:
  - 1) All equipment that has been provided to MAT Customers.
  - 2) All equipment that is on temporary loan to the Contractor.
  - 3) All remaining State equipment that is stored and locked within the Contractor's physical service facility; Contractor shall return all remaining State equipment to TAM.

## **2.7 Assistive Communications Device Evaluator Qualifications**

The Offeror shall provide one Assistive Telecommunications Device Evaluator (ATDE) for each proposed region. Each ATDE shall be certified as an Assistive Technology Practitioner or possess at least two years of experience working with assistive technology. Experience may include hands-on experience with assistive technology evaluations, installations, training or troubleshooting, or providing daily assistance to individuals using assistive technology.

## **2.8 ADTE Facilities Staffing**

- 2.8.1 Each ATDE provided by Offeror shall be available as of the NTP Date and shall be assigned to the State of Maryland as a dedicated resource. Each ATDE shall perform continuously for the duration of the Contract.
- 2.8.2 Offeror shall provide a backup ATDE for the physical service facility in the event any individual ATDE is not available to staff the facility.

- 2.8.3 Offerors shall propose a contingency plan as part of its Technical Proposal so that each physical service facility is staffed in the event that an ATDE leaves the Offeror's employ, is transferred, promoted, or is unavailable due to illness, medical conditions, leave under the Family Medical Leave Act, an incapacitating injury or incapacitating illness, or other circumstances such as extended jury duty or extended military service.
- 2.8.4 Contractor shall promptly replace staff at a physical service facility whenever a vacancy occurs, including vacancies due to the sudden termination or resignation of an ATDE, or the indeterminate absence of an ATDE.
- 2.8.5 TAM may direct the Contractor to immediately replace any ATDE who, in TAM's sole discretion, is determined to be disruptive, unable to perform the job duties, or who has committed an infraction of law, State policies, or contract requirements.

## 3 Contractor Requirements: General

### 3.1 Insurance Requirements

#### 3.1.1 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 or employees, 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.

#### 3.1.2 Property and Casualty Insurance

Contractor shall maintain property and casualty insurance with minimum 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 or employees.

#### 3.1.3 Automobile and/or Commercial Truck Insurance

The Contractor shall maintain Automobile and/or Commercial Truck Insurance as appropriate with Liability, Collision, and PIP limits no less than those required by the State where the vehicle(s) is registered, but in no case less than those required by the State of Maryland.

#### 3.1.4 Employee Theft Insurance

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

#### 3.1.5 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
- C. Automobile and/or Commercial Truck Insurance, as required
- D. Employee Theft Insurance, as required

#### 3.1.6 State Inclusion on Insurance

The State shall be listed as an additional insured on the policies with the exception of Worker's Compensation Insurance and Professional Liability Insurance. All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Contract Manager, by certified mail, not less than 45 days' advance notice of any non-renewal, cancellation, or expiration. In the event the Contract Manager receives a notice of non-renewal, the Contractor shall provide the Contract Manager with an insurance policy from another carrier at least 30 days prior to the expiration of the insurance policy then in effect. All insurance policies shall be with a company licensed by the State of Maryland to do business and to provide such policies.

### **3.1.7 Notification of Insurance after Award**

The recommended awardee must provide a certificate of insurance with the prescribed limits set forth in Section 3.1 “Insurance Requirements,” naming the State as an additional insured if required, within five (5) Business Days from notice of recommended award.

## **3.2 Security Requirements**

### **3.2.1 Contractor Personnel**

Contractor shall provide Assistive Telecommunications Device Evaluators with company identification badges (“company ID badge”). Evaluators and other contractor employees performing work under this contract shall display their company ID badge in a visual location at all times while on State, customer, and evaluation premises, and while performing duties covered under this contract. Upon request of authorized State personnel, each such Contractor Personnel shall provide additional photo identification.

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

Contractor shall remove any Contractor Personnel from working on the Contract where the State determines, at its sole discretion that said Contractor Personnel has not adhered to the Security requirements specified herein.

The State reserves the right to request that the Contractor submit proof of employment authorization of non-United States Citizens, prior to commencement of work under the Contract.

### **3.2.2 Security Clearance / Criminal Background Check**

A criminal background check for each Contractor Key Personnel shall be completed prior to each Contractor Personnel providing any services under the Contract.

The Contractor shall obtain, at its own expense, a Criminal Justice Information System (CJIS) State and federal criminal background check, including fingerprinting, for all Contractor Personnel listed in subparagraph A. This check may be performed by a public or private entity. This check must be performed annually. For subsequent years, TAM will reimburse Contractor for reasonable expenses in obtaining criminal background checks.

The Contractor shall provide certification to the Department or Agency that the Contractor has completed the required criminal background check described in this RFP for each required Contractor Personnel prior to assignment, and that the Contractor Personnel have successfully passed this check.

The Contractor may not assign an employee with a criminal record unless prior written approval is obtained from the Contract Manager. The Contract Manager reserves the right to reject any individual based upon the results of the background check. Decisions of the Contract Manager as to acceptability of a candidate are final. The State reserves the right to refuse any individual Contractor Personnel to work on State premises, based upon certain specified criminal convictions, as specified by the State.

The CJIS criminal record check of each Contractor Personnel who will work on State premises shall be reviewed by the Contractor for convictions of any of the following crimes described in the Annotated Code of Maryland, Criminal Law Article:

§§ 6-101 through 6-104, 6-201 through 6-205, 6-409 (various crimes against property);  
any crime within Title 7, Subtitle 1 (various crimes involving theft);

§§ 7-301 through 7-303, 7-313 through 7-317 (various crimes involving telecommunications and electronics);  
§§ 8-201 through 8-302, 8-501 through 8-523 (various crimes involving fraud);  
§§9-101 through 9-417, 9-601 through 9-604, 9-701 through 9-706.1 (various crimes against public administration); or  
a crime of violence as defined in CL § 14-101(a).

Contractor Personnel who have been convicted of a felony or of a crime involving telecommunications and electronics from the above list of crimes shall not be permitted to work under this Contract;  
Contractor Personnel who have been convicted within the past five (5) years of a misdemeanor from the above list of crimes shall not be permitted to work under the Contract.

A particular on-site location covered by this Contract may require more restrictive conditions regarding the nature of prior criminal convictions that would result in Contractor Personnel not being permitted to work on those premises. Upon receipt of a location's more restrictive conditions regarding criminal convictions, the Contractor shall provide an updated certification regarding the Contractor Personnel working at or assigned to those premises.

### **3.3 Problem Escalation Procedures**

- 3.3.1 Contractor must provide and maintain a Problem Escalation Procedure (PEP) for both routine and emergency situations. The PEP must state how Contractor will address problem situations as they occur during the performance of the Contract, especially problems that are not resolved to the satisfaction of the State within appropriate timeframes.
- 3.3.2 Contractor must provide the PEP no later than ten (10) Business Days after Contract Commencement. The PEP, including any revisions thereto, must also be provided within ten (10) Business Days after the start of each Contract year and within ten (10) Business Days after any change in circumstance which changes the PEP. The PEP shall detail how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. The PEP shall include:
- A. The process for establishing the existence of a problem;
  - B. Names, titles, and contact information for progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;
  - C. For each individual listed in Contractor's PEP, the maximum amount of time a problem will remain unresolved with that individual before the problem escalates to the next contact person listed in the Contractor's PEP;
  - D. Expedited escalation procedures and any circumstances that would trigger expedited them;
  - E. The method of providing feedback on resolution progress, including the frequency of feedback to be provided to the State;
  - F. Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays, etc.) and on an emergency basis; and
  - G. A process for updating and notifying the Contract Manager of any changes to the PEP.

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



### 3.4 Invoicing

3.4.1 **General:** All invoices for services shall be signed by Contractor and submitted to the Contract Manager. Invoices submitted without the required information cannot be processed for payment until Contractor provides the required information. All invoices shall include the following information:

- 1) Contractor name and address
- 2) Remittance address
- 3) Federal taxpayer identification number (or if sole proprietorship, the individual's social security number)
- 4) Invoice period (time period during which services covered by invoice were performed)
- 5) Invoice date
- 6) Invoice number
- 7) State assigned Contract number
- 8) State assigned (Blanket) Purchase Order number(s)
- 9) Description of services provided including the locations and number of new Customer evaluations, follow-up and re-evaluation services
- 10) Supporting documentation from Ticketing/Tracking System
- 11) Amount due

3.4.2 Invoices submitted without TAM receiving the notification that Customer records have been completed in Ticketing/Tracking System (see § 2.5) will not be processed for payment until Contractor completes the Customer record indicating the services provided and that the services are completed.

3.4.3 The Department reserves the right to reduce or withhold Contract payment in the event Contractor materially breaches the terms and conditions of the Contract or until such time as the Contractor brings itself into full compliance. Also see the "Living Wage" provision of the Contract, if applicable, which allows for withholding of payment under certain circumstances. Any action on the part of the Department or dispute of action by the Contractor shall be in accordance with the provisions of MD. CODE ANN., STATE FIN. & PROC. §§ 15-215 – 15-223, and with COMAR 21.10.04.01 et seq.

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

### 3.5 SOC 2 Type Audit Report

A Soc 2 Type Audit Report is not required.

### 3.6 Minority Business Enterprise Reports

There is no Minority Business Enterprise (MBE) Goal for this RFP.



### **3.7 Veterans Small Business Enterprise Reports**

There is no Veterans Small Business (VSBE) Goal for this RFP.

### **3.8 Work Hours**

Business Hours Support: Contractor shall provide personnel under this Contract, including Assistive Telecommunications Device Evaluators, during the State's core business hours (8:30 AM to 5:00 PM), Monday through Friday except for State holidays, Service Reduction days, and furlough days observed by TAM.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**

## 4 Procurement Instructions

### 4.1 Pre-Proposal Conference

- 4.1.1 A Pre-Proposal Conference (the Conference) will be held at the date, time, and location indicated on the RFP Key Information Summary Sheet. All prospective Offerors are encouraged to attend in order to facilitate better preparation of their Proposals.
- 4.1.2 As promptly as is feasible after the Conference, a summary of the Conference will be distributed to all prospective Offerors known to have received a copy of this RFP. This summary will also be posted on eMaryland Marketplace. See RFP Section 4.2.
- 4.1.3 In order to assure adequate seating and other accommodations at the Conference, please e-mail the Pre-Proposal Conference Response Form (Attachment A) to the attention of the Procurement Officer at least five (5) Business Days prior to the Pre-Proposal Conference date. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please notify the Procurement Officer at least five (5) Business Days prior to the Pre-Proposal Conference date. The Department will make a reasonable effort to provide such special accommodation

### 4.2 eMaryland Marketplace (eMM)

- 4.2.1 Each Offeror is requested to indicate its eMaryland Marketplace (eMM) vendor number in the Transmittal Letter (cover letter) submitted at the time of its Proposal submission to this RFP.
- 4.2.2 eMM is an electronic commerce system administered by the Maryland Department of General Services. eMM, along with the DoIT website <http://doit.maryland.gov/contracts/Pages/bids.aspx> and possibly other means, will be used to transmit the RFP and associated materials, solicitation and summary of the Pre-Proposal Conference, Offeror questions, and Procurement Officer's responses, addenda, and other solicitation-related information.
- 4.2.3 In order to receive a contract award, a vendor must be registered on eMM. Registration is free. Go to <https://emaryland.buyspeed.com/bsol/login.jsp>, click on "Register" to begin the process, and then follow the prompts.

### 4.3 Questions

- 4.3.1 Questions from prospective Offerors should be submitted to the Procurement Officer via email no later than the date and time indicated in the Key Information Summary Sheet. The Solicitation Number and Title should be identified in the subject line of the email.
- 4.3.2 Questions received prior to the pre-proposal conference will be answered at the conference if possible and appropriate. The answers to all questions received by email will be released in a formal question and answer document following the conference.
- 4.3.3 The statements and interpretations contained in responses to any questions, whether responded to orally or in writing, are not binding on the Department. Not response to any question is to be construed as agreement to or acceptance by the Department of any statement or interpretation on the part of the entity asking the question

#### 4.4 Procurement Method

A Contract will be awarded in accordance with the Competitive Sealed Proposals method under COMAR 21.05.03.

#### 4.5 Proposal Due (Closing) Date and Time

- 4.5.1 Proposals, in the format set forth in RFP Section 5.2 “Proposals” must be received by the Procurement Officer at the Procurement Officer’s address no later than the Proposal Due date and time indicated on the RFP Key Information Summary Sheet in order to be considered.
- 4.5.2 Requests for extension of this time or date will not be granted. Offerors mailing Proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02.F. Proposals received after the due date and time listed in the RFP Key Information Summary Sheet will not be considered.
- 4.5.3 Proposals may be modified or withdrawn by written notice received by the Procurement Officer before the time and date set forth in the RFP Key Information Summary Sheet for receipt of Proposals.  
**Proposals will not be opened publicly.**
- 4.5.4 Vendors not responding to this solicitation are requested to submit the “Notice to Vendors” form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements, etc.). This form is located in the RFP immediately following the Title Page (page ii).

#### 4.6 Multiple or Alternate Proposals

Multiple and/or alternate Proposals will not be accepted.

#### 4.7 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.

#### 4.8 Public Information Act Notice

- 4.8.1 An Offeror should give specific attention to the clear identification of those portions of its Proposal that it considers confidential and/or proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State pursuant to a lawful request under the Maryland Public Information Act (“MPIA”), MD. CODE ANN., GEN. PROV. § 4-101, et seq. Any 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.
- 4.8.2 Offerors are advised that, upon request for this information from a third party pursuant to the MPIA, the Procurement Officer will make an independent determination whether the information must be disclosed.

## 4.9 Award Basis

Upon completion of all discussions and negotiations, the Procurement Officer will recommend award of a Contract to all responsible Offerors submitting a Proposal that has been determined to meet Proposal requirements and be the most advantageous to the State, considering the evaluation factors set forth below.

## 4.10 Oral Presentation

Offerors may be required to make oral presentations to State representatives. Offerors must confirm in writing any substantive oral clarification of or change in their Proposals made in the course of discussions. Any such written clarifications or changes will become part of the Offeror's Proposal and are binding if the Contract is awarded. The Procurement Officer will notify Offerors of the time and place of oral presentations.

## 4.11 Duration of Proposal

Proposals submitted in response to this RFP are irrevocable for 180 days following the closing date for submission of Proposals or best and final offers if requested. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

## 4.12 Revisions to the RFP

- 4.12.1 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 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 on 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 timely Proposals and that remain under award consideration as of the issuance date of the addenda.
- 4.12.2 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.

## 4.13 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, waive or permit the cure of minor irregularities, and 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.

#### 4.14 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, providing a demonstration, or performing any other activities related to submitting a Proposal in response to this solicitation.

#### 4.15 Protest/Disputes

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

#### 4.16 Offeror Responsibilities

- 4.16.1 A Contractor selected for award level shall be responsible for all services required by the Contract.
- 4.16.2 If an Offeror that seeks to perform or provide the services required by this RFP is the subsidiary of another entity, all information submitted by the Offeror, including 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 requested by the State, the Offeror shall submit with its Proposal an explicit statement, signed by an authorized representative of the parent organization, stating that the parent organization will guarantee the performance of the subsidiary.
- 4.16.3 Such a 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 Offeror's experience and qualifications. Instead, the Offeror will be evaluated on the extent to which the State determines that the experience and qualification of the parent are transferred to and shared with the Offeror, the parent is directly involved in the performance of the Contract, and the value of the parent's participation as determined by the State.

#### 4.17 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 herein as **Attachment M**. Any exceptions to this RFP or the Contract must be clearly identified in the Executive Summary of the Technical Proposal. A Proposal that takes exception to these terms may be rejected.

#### 4.18 Proposal Affidavit

A Proposal submitted by an Offeror must be accompanied by a completed Proposal Affidavit. A copy of this Affidavit is included as **Attachment C** of this RFP.

#### 4.19 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 N** of this RFP. This Affidavit must be provided within five (5) Business Days of notification of recommended award. For purposes of completing Section "B" of this Affidavit

(Certification of Registration or Qualification with the State Department of Assessments and Taxation), a business entity that is organized outside of the State of Maryland is considered a “foreign” business.

#### 4.20 Compliance with Laws/Arrearages

By submitting a Proposal in response to this RFP, an 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.

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

#### 4.21 Verification of Registration and Tax Payment

Before a business entity can do business in the State, it must be registered with the State Department of Assessments and Taxation (SDAT). SDAT is located at State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. For registration information, visit <https://www.egov.maryland.gov/businessexpress>.

It is strongly recommended that any potential Offeror complete registration prior to the Proposal due date and time. An Offeror’s failure to complete registration with SDAT may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

#### 4.22 False Statements

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

- 4.22.1 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.
- 4.22.2 A person may not aid or conspire with another person to commit an act under **Section 4.22.1**.
- 4.22.3 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 (5) years or both.

#### 4.23 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 selected Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State Comptroller’s Office for approval at the address specified on the COT/GAD X-10 form, must include the business identification information as stated on the form, and must include the reason for the exemption. The COT/GAD X-10 form may be downloaded from the Comptroller’s website at:

[http://comptroller.marylandtaxes.com/Government\\_Services/State\\_Accounting\\_Information/Static\\_Files/APM/X-1020130407.pdf](http://comptroller.marylandtaxes.com/Government_Services/State_Accounting_Information/Static_Files/APM/X-1020130407.pdf).

#### 4.24 Prompt Payment Policy

This procurement and the Contract(s) to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Small, Minority & Women Business Affairs (GOSBA) 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 shall comply with the prompt payment requirements outlined in the Contract, Section 31 "Prompt Pay Requirements" (see **Attachment M**), should an MBE goal apply to this RFP. Additional information is available on GOSBA's website at:

<http://www.gomdsmbiz.maryland.gov/documents/legislation/promptpaymentfaqs.pdf>

#### 4.25 Electronic Procurements Authorized

- 4.25.1 Under COMAR 21.03.05, unless otherwise prohibited by law, the Department may conduct procurement transactions by electronic means, including the solicitation, proposal, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.
- 4.25.2 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 contract. In the case of electronic transactions authorized by this RFP, electronic records and signatures by an authorized representative satisfy a requirement for written submission and signatures.
- 4.25.3 "Electronic means" refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://emaryland.buyspeed.com/bsol/>), and electronic data interchange.
- 4.25.4 In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., RFP § 4.23 describing payments by Electronic Funds Transfer), the following transactions are authorized to be conducted by electronic means on the terms as authorized in COMAR 21.03.05:
  - A. The Procurement Officer may conduct the procurement using eMM and e-mail to issue:
    - 1) The RFP
    - 2) Any amendments and requests for best and final offers;
    - 3) Pre-Proposal conference documents;
    - 4) Questions and responses;
    - 5) Communications regarding the solicitation or Proposal to any Offeror or potential Offeror;
    - 6) Notices of award selection or non-selection; and



- 7) The Procurement Officer's decision on any Proposal protest or Contract claim.
- B. An Offeror or potential Offeror may use e-mail to:
- 1) Submit proposals;
  - 2) Ask questions regarding the solicitation;
  - 3) 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, but only on the terms specifically approved and directed by the Procurement Officer and;
  - 4) Submit a "No Proposal Response" to the RFP
- C. The Procurement Officer, the Contract Manager, and the Contractor may conduct day-to-day Contract administration, except as outlined in Section 4.25.5 of this subsection utilizing e-mail, or other electronic means if authorized by the Procurement Officer or Contract Manager.
- 4.25.5 The following transactions related to this procurement and any Contract awarded pursuant to it are not authorized to be conducted by electronic means:
- A. Filing of Proposal Protests;
  - B. Filing of Contract Claims;
  - C. Submission of documents determined by the Department to require original signatures, unless otherwise directed by the Procurement Officer (e.g., Contract execution, Contract modifications, etc.); the Contractor may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same Contract. The Contractor may be executed by electronic (.pdf) signature, and electronic (.pdf) signature shall constitute an original for all purposes without delivery of an original signature being thereafter required; or
  - D. 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.
- 4.25.6 Any e-mail transmission is only authorized to the e-mail addresses for the identified person as provided in the solicitation, Contract, or direction from the Procurement Officer or Contract Manager.

## 4.26 MBE Participation Goal

There is no MBE subcontractor participation goal for this procurement.

## 4.27 VSBE Goal

There is no VSBE participation goal for this procurement.

## 4.28 Living Wage Requirements

- 4.28.1 Maryland law requires that contractors meeting certain conditions pay a living wage to covered employees on State service contracts over \$100,000. Maryland Code Ann., State Finance and Procurement Article, § 18-101 et al. The Commissioner of Labor and Industry at the Department



of Labor, Licensing and Regulation requires that a contractor subject to the Living Wage law submit payroll records for covered employees and a signed statement indicating that it paid a living wage to covered employees; or receive a waiver from Living Wage reporting requirements. See COMAR 21.11.10.05.

- 4.28.2 If subject to the Living Wage law, Contractor agrees that it will abide by all Living Wage law requirements, including but not limited to reporting requirements in COMAR 21.11.10.05. Contractor understands that failure of Contractor to provide such documents is a material breach of the terms and conditions and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions. Information pertaining to reporting obligations may be found by going to the Maryland Department of Labor, Licensing and Regulation (DLLR) website <http://www.dllr.state.md.us/labor/prev/livingwage.shtml>
- 4.28.3 Additional information regarding the State's living wage requirement is contained in **Attachment F**. Offerors must complete and submit the Maryland Living Wage Requirements Affidavit of Agreement (**Attachment F-1**) with their Proposals. If an Offeror fails to complete and submit the required documentation, the State may determine the Offeror to not be responsible under State law.
- 4.28.4 Contractors and subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier area. The specific living wage rate is determined by whether a majority of services take place in a Tier 1 Area or a Tier 2 Area of the State. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located. See COMAR 21.11.10.07.
- 4.28.5 The Offeror shall identify in the Proposal the location from which services will be provided.
- IMPORTANT:** Whereas the Living Wage may change annually, the Contract price will not change because of a Living Wage change.

#### 4.29 Federal Funding Acknowledgement

This Contract does not contain federal funds.

#### 4.30 Conflict of Interest Affidavit and Disclosure

- 4.30.1 Offerors shall complete and sign the Conflict of Interest Affidavit and Disclosure (Attachment H) and submit it with their Proposals. 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 shall be required to complete agreements substantially similar to Attachment H, Conflict of Interest Affidavit and Disclosure.
- 4.30.2 Additionally, Contractors have an ongoing obligation to ensure that any necessary Contractor Personnel have completed such agreements prior to providing services under the Contract. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08.

- 4.30.3 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.
- 4.30.4 By submitting a Conflict of Interest Affidavit and Disclosure, the Contractor shall be construed as certifying all Personnel are also without a conflict of interest as defined in COMAR 21.05.08.08A.

### **4.31 Non-Disclosure Agreement**

#### **4.31.1 Non-Disclosure Agreement (Offeror)**

A Non-Disclosure Agreement (Offeror) is not required for this procurement.

#### **4.31.2 Non-Disclosure Agreement (Contractor)**

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

### **4.32 HIPAA - Business Associate Agreement**

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

### **4.33 Nonvisual Access**

- 4.33.1 The Offeror warrants that the information technology offered under this proposal (1) provides equivalent access for effective use by both visual and nonvisual means; (2) will present information, including prompts used for interactive communications, in formats intended for both visual and nonvisual 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 nonvisual access. The offeror further warrants that the cost, if any, of modifying the information technology for compatibility with software and hardware used for nonvisual access will not increase the cost of the information technology by more than 5 percent.
- 4.33.2 For purposes of this regulation, the phrase 'equivalent access' means the ability to receive, use, and manipulate information and operate controls necessary to access and use information technology by nonvisual means. Examples of equivalent access include keyboard controls used for input and synthesized speech, Braille, or other audible or tactile means used for output."

### **4.34 Mercury and Products That Contain Mercury**

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

### **4.35 Location of the Performance of Services Disclosure**

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

### **4.36 Department of Human Resources (DHR) Hiring Agreement**

This solicitation does not require a DHR Hiring Agreement.

#### **4.37 Small Business Reserve (SBR) Procurement**

This solicitation is not designated as a Small Business Reserve (SBR) Procurement.

#### **4.38 Travel Reimbursement**

There shall be no reimbursement for Routine Travel. Contractor shall not be reimbursed for Routine Travel without prior approval of the Contract Manager. Routine Travel is defined as travel within a 20-mile radius of the Contractor's facility, as identified in the RFP. There will be no payment for labor hours for travel time or reimbursement for any travel expenses for work performed within these radiuses or at the Contractor's facility.

Non-routine Travel is defined as travel beyond the 20-mile radius of Contactor's facility, as identified in the RFP. Non-routine travel will be reimbursed according to the State's travel regulations and reimbursement rates, which can be found at: [www.DBM.maryland.gov](http://www.DBM.maryland.gov) - search: Fleet Management. If non-routine travel is conducted by automobile, the first 20 miles of such travel will be treated as routine travel and as described in section 3.11.1 of this definition, and will not be reimbursed.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**

## 5 Proposal Format

### 5.1 Two Part Submission

Offerors shall submit Proposals in separate volumes:

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

### 5.2 Proposal Packaging and Delivery

5.2.1 Proposals delivered by facsimile shall not be considered.

5.2.2 Provide no pricing information in the Technical Proposal. Provide no pricing information on the media submitted in the Technical Proposal.

5.2.3 Offerors may submit Proposals by electronic means as described.

- A. Electronic means includes e-mail to the Procurement Officer address listed on the Key Information Summary Sheet.
- B. An Offeror wishing to deliver a hard copy (paper) Proposal shall contact the Procurement Officer for instructions.

5.2.4 E-mail Submissions

- A. All Proposal e-mails shall be sent with password protection.
- B. The Procurement Officer will not accept submissions after the date and exact time stated in the Key Information Summary Sheet. The date and time of submission is determined by the date and time of arrival in the Procurement Officer's e-mail box. Time stamps on outgoing email from Contractors shall not be accepted. 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.
- C. The State has established the following procedure to restrict access to Proposals received electronically: All Technical and Financial Proposals must be password protected, and the password for the TO Technical Proposal must be different from the password for the TO Financial Proposal. Offerors will provide these two passwords to DoIT upon request or their Proposal will be deemed not susceptible for award. Subsequent submissions of Proposal content will not be allowed.
- D. The TO Procurement Officer will only contact those Offerors with TO Proposals that are reasonably susceptible for award.
- E. Proposals submitted via e-mail must not exceed 25 MB. If a submission exceeds this size, split the submission into two or more parts and include the appropriate part number in the subject (e.g., part 1 of 2) after the subject line information below.
- F. The e-mail submission subject line shall state the RFP #060B840093 and either "Technical" or "Financial."

5.2.5 Two Part Submission:

- A. Technical Proposal consisting of:
  - 1) Technical Proposal and all supporting material in Microsoft Word format, version 2007 or greater,

- 2) the Technical Proposal in searchable Adobe PDF format,
  - 3) a second searchable Adobe copy of the Technical Proposal, redacted in accordance with confidential and/or proprietary information removed (see **Section 4.8**), and
- B. Financial Proposal consisting of:
- 1) Financial Proposal and all supporting material in PDF format,
  - 2) the Financial Proposal in searchable Adobe PDF format,
  - 3) a second searchable Adobe copy of the Financial Proposal, redacted in accordance with confidential and/or proprietary information removed (see **Section 4.8**).

### 5.3 Volume I - Technical Proposal

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

5.3.1 In addition to the instructions below, responses in the Offeror's Technical Proposal shall reference the organization and numbering of Sections in the RFP (e.g., "Section 2.2.1 Response . . . ; "Section 2.2.2 Response . . ."). All pages of both Proposal volumes shall be consecutively numbered from beginning (Page 1) to end (Page "x").

5.3.2 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:

A. 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.

B. Claim of Confidentiality (If applicable, submit under TAB A-1)

Any information which is claimed to be 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. 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).

C. Proposer Information Sheet and Transmittal Letter (Submit under TAB B)

The Offeror Information Sheet (see Appendix 2) and a Transmittal Letter shall accompany the Technical Proposal. The purpose of the Transmittal Letter is to transmit the Proposal and acknowledge the receipt of any addenda to this RFP issued before the Proposal due date and time. Transmittal Letter should be brief, signed by an individual who is authorized to commit the Offeror to its Proposal and the requirements as stated in this RFP, and contain acknowledgement of all addenda to this RFP issued before the Proposal due date.

D. Executive Summary (Submit under TAB C)

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

In addition, the Summary shall indicate whether the Offeror is the subsidiary of another entity, and if so, whether all information submitted by the Offeror pertains exclusively to the Offeror. If

not, the subsidiary Offeror shall include a guarantee of performance from its parent organization as part of its Executive Summary.

The Executive Summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (Attachment M), or any other exhibits or attachments. Acceptance or rejection of exceptions is within the sole discretion of the State.

**IMPORTANT: Exceptions to terms and conditions, including requirements, may result in having the Proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award.**

E. Offeror Technical Response to RFP Requirements Plan (Submit under TAB E)

- 1) The Offeror shall address each RFP requirement (Section 2 and Section 3) in the Technical Proposal with a cross reference to the requirement and describe how its proposed service will meet or exceed the requirements. If the State is seeking Offeror agreement to any requirement, the Offeror shall state its agreement or disagreement. Any paragraph in the Technical Proposal that responds to an RFP requirement shall include an explanation of how the work will be performed. The response shall address each requirement in Section 2 and Section 3 in order, and shall contain a cross reference to the requirement.
- 2) The Offeror shall identify the location(s) from which it proposes to provide services for each proposed region, including, if applicable, any current facilities that it operates, and any required construction to satisfy the State's requirements as outlined in this RFP.
- 3) The Offeror shall provide a draft Problem Escalation Procedure (PEP) that includes, at a minimum, titles of individuals to be contacted by the Contract Monitor should problems arise under the Contract and explains how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. Final procedures shall be submitted as indicated in Section 3.3.

F. Experience and Qualifications of Proposed Staff (Submit under TAB F)

The Offeror shall identify the qualifications and types of staff proposed to be utilized under the Contract. The Offeror's proposed Assistive Telecommunications Device Evaluators shall be certified as Assistive Technology Practitioners or possess assistive technology experience.

G. Offeror Qualifications and Capabilities (Submit under TAB G)

The Offeror shall include information on past experience with similar or services providing assistive technology evaluations. The Offeror shall describe how it can meet the requirements of this RFP and shall include the following:

- 1) The number of years the Offeror has provided the similar services;
- 2) The number of clients/customers and geographic locations that the Offeror currently serves;
- 3) The names and titles of headquarters or regional management personnel who may be involved with supervising the services to be performed under this Contract;
- 4) The Offeror's process for resolving billing errors; and
- 5) An organizational chart that identifies the complete structure of the Offeror including any parent company, headquarters, regional offices, and subsidiaries of the Offeror.

**H. References (Submit under TAB H)**

The Offeror shall have substantial experience providing, or coordinating the provision of, assistive technology evaluations. Offeror shall provide three references in the Technical Proposal to attest to the Offeror's experience in providing assistive telecommunications devices evaluations. Each reference shall be from a client for whom the Offeror has provided services within the past five (5) years and shall include the following information:

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

The Department reserves the right to request additional references or utilize references not provided by an Offeror. Points of contact must be accessible and knowledgeable regarding Offeror performance.

**I. List of Current or Prior State Contracts (Submit under TAB I)**

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

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

Information obtained regarding the 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.

**J. Financial Capability (Submit under TAB J)**

An Offeror must include in its Proposal a commonly-accepted method to prove its fiscal integrity. If available, the Offeror shall include Financial Statements, preferably a Profit and Loss (P&L) statement and a Balance Sheet, for the last two (2) years (independently audited preferred).

In addition, the Offeror may supplement its response to this section by including one or more of the following with its response:

- 1) Dun & Bradstreet Rating
- 2) Standard and Poor's Rating
- 3) Lines of credit
- 4) Evidence of a successful financial track record,
- 5) Evidence of adequate working capital

**K. Certificate of Insurance (Submit under TABK)**



The Offeror shall provide a copy of its current certificate of insurance showing the types and limits of insurance in effect as of the Proposal submission date. The current insurance types and limits do not have to be the same as described in **Section 3.6**. See **Section 3.6** for the required insurance certificate submission for the apparent awardee.

L. Legal Action Summary (Submit under TAB M) This summary shall include:

- 1) A statement as to whether there are any outstanding legal actions or potential claims against the Offeror and a brief description of any action;
- 2) A brief description of any settled or closed legal actions or claims against the Offeror over the past five (5) years;
- 3) A description of any judgments against the Offeror within the past five (5) years, including the court, case name, complaint number, and a brief description of the final ruling or determination; and
- 4) In instances where litigation is ongoing and the Offeror has been directed not to disclose information by the court, provide the name of the judge and location of the court.
- 5) Proposals that identify specific benefits as being contractually enforceable commitments will be rated more favorably than Proposals that do not identify specific benefits as contractual commitments, all other factors being equal.
- 6) Offerors shall identify any performance guarantees that will be enforceable by the State if the full level of promised benefit is not achieved during the Contract term.
- 7) As applicable, for the full duration of the Contract, including any renewal period, or until the commitment is satisfied, the Contractor shall provide to the Procurement Officer or other designated agency personnel reports of the actual attainment of each benefit listed in response to this section. These benefit attainment reports shall be provided quarterly, unless elsewhere in these specifications a different reporting frequency is stated.
- 8) In responding to this section, the following do not generally constitute economic benefits to be derived from this Contract:
  - a) Generic statements that the State will benefit from the Offeror's superior performance under the Contract
  - b) Descriptions of the number of Offeror employees located in Maryland other than those that will be performing work under this Contract
  - c) Tax revenues from Maryland-based employees or locations, other than those that will be performing, or used to perform, work under this Contract
- 9) Discussion of Maryland-based employees or locations may be appropriate if the Offeror makes some projection or guarantee of increased or retained presence based upon being awarded this Contract..

M. Required Forms and Certifications (Submit under TAB O)

All forms required for the Technical Proposal are identified in Table 1 of RFP Section 7. Unless directed otherwise by instructions within an individual form, complete, sign, and include all required forms in the Technical Proposal, under TAB O.



#### **5.4 Volume II – Financial Proposal**

The Financial Proposal shall contain all price information in the format specified in **Attachment B**. The Offeror shall complete the Financial Proposal Form only as provided in the Financial Proposal Instructions and the Financial Proposal Form itself.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**

## 6 Evaluation and Selection Process

### 6.1 Evaluation Committee

Evaluation of Proposals will be performed by a committee and based on the evaluation criteria set forth below. The Evaluation Committee will review Proposals, participate in Offeror oral presentations and discussions, and provide input to the Procurement Officer. The Department reserves the right to utilize the services of individuals outside of the Evaluation Committee for advice and assistance.

During the evaluation process, the Procurement Officer may determine at any time that a particular Offeror is not susceptible for award.

### 6.2 Technical Proposal Evaluation Criteria

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

- 6.2.1 Offeror's Technical response to requirements in the RFP that illustrates a comprehensive understanding of requirements and mastery of the subject matter, including an explanation of how the work will be performed;
- 6.2.2 Assistive Telecommunications Device Evaluators and physical service facility to be provided for each region(s);
- 6.2.3 Offeror qualifications, capabilities, experience in providing evaluations for assistive technology;
- 6.2.4 Evaluator qualifications and experience in providing evaluations for assistive technology;
- 6.2.5 Offeror's plan for maintaining evaluators in each proposed facility;
- 6.2.6 Offeror's plan for providing follow-up in-home service visits within each region

### 6.3 Financial Proposal Ranking

All Qualified Offerors (see **Section 6.5.2-D**) will be ranked from the lowest to the highest price based on the Total Proposal Price as submitted on **Attachment B - Financial Proposal Form**.

### 6.4 Reciprocal Preference

- 6.4.1 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:
  - A. The Maryland resident business is a responsible Offeror;
  - B. The most advantageous offer is from a responsible Offeror whose headquarters, principal base of operations, or principal site that will primarily provide the goods and services required under this RFP is in another state.
  - C. The other state gives a preference to its resident businesses through law, policy, or practice; and
  - D. The preference does not conflict with a federal law or grant affecting the procurement Contract.
- 6.4.2 The preference given shall be identical to the preference that the other state, through law, policy, or practice gives to its resident businesses.

## 6.5 Selection Procedures

### 6.5.1 General

- A. The Contract will be awarded in accordance with the Competitive Sealed Proposals (CSP) method described in 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.
- B. 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.

### 6.5.2 Selection Process Sequence

- A. Technical Proposals are evaluated for technical merit and ranked. During this review, oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the State's requirements and the Offeror's ability to perform the services, as well as to facilitate arrival at a Contract that is most advantageous to the State. Offerors will be contacted by the State as soon as any discussions are scheduled.
- B. Offerors must confirm in writing any substantive oral clarifications of, or changes in, their Technical Proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror's Technical Proposal. Technical Proposals are given a final review and ranked.
- C. The Financial Proposal of each Qualified Offeror (a responsible Offeror determined to have submitted an acceptable Proposal) will be evaluated and ranked separately from the Technical evaluation. After a review of the Financial Proposals of Qualified Offerors, the Evaluation Committee or Procurement Officer may again conduct discussions to further evaluate the Offeror's entire Proposal.
- D. When in the best interest of the State, the Procurement Officer may permit Qualified Offerors to revise their initial Proposals and submit, in writing, Best and Final Offers (BAFOs). The State may make an award without issuing a request for a BAFO.

### 6.5.3 Award Determination

Upon completion of the Technical Proposal and Financial Proposal evaluations and rankings, each Offeror will receive an overall ranking. The Procurement Officer will recommend award of the Contract to the responsible Offeror that submitted the Proposal determined to be the most advantageous to the State. In making this most advantageous Proposal determination, technical factors will receive greater weight than financial factors.

## 6.6 Documents Required upon Notice of Recommendation for Contract Award

Upon receipt of a Notification of Recommendation for Contract award, the apparent awardee shall complete and furnish the documents and attestations as directed in Table 1 of **Section 7 – RFP Attachments and Appendices**.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**

## 7 RFP ATTACHMENTS AND APPENDICES

Table 1: RFP ATTACHMENTS AND APPENDICES

Applies?	When to Submit	Label	Attachment Name
Y	Before Proposal	A	Pre-Proposal Conference Response Form
Y	With Proposal	B	Financial Proposal Instructions and Form
Y	With Proposal	C	Proposal Affidavit
N	10 Business Days after recommended award	D	MBE Forms D-2, D-3A, D-3B <b>Important:</b> Attachment D-1C, if a waiver has been requested, is also required within 10 days of recommended award.
N	As directed in forms	D	MBE Forms D-4A, D-4B, D-5
N	With Proposal	E	Veteran-Owned Small Business Enterprise (VSBE) Form E-1
N	5 Business Days after recommended award	E	VSBE Forms E-2, E-3
Y	With Proposal	F	Maryland Living Wage Requirements for Service Contracts and Affidavit of Agreement
N	With Proposal	G	Federal Funds Attachments
Y	With Proposal	H	Conflict of Interest Affidavit and Disclosure
Y	5 Business Days after recommended award	I	Non-Disclosure Agreement (Contractor)
N	5 Business Days after recommended award	J	HIPAA Business Associate Agreement
N	With Proposal	K	Mercury Affidavit
N	With Proposal	L	Location of the Performance of Services Disclosure
Y	5 Business Days after recommended award	M	Contract
Y	5 Business Days after recommended award	N	Contract Affidavit
N	5 Business Days after recommended award	O	DHR Hiring Agreement
<b>Appendices</b>			
Y	n/a	1	Abbreviations and Definitions
Y	With Proposal	2	Offeror Information Sheet

**Attachment A. Pre-Proposal Conference Response Form**

**Solicitation Number 060B8400093**

**Assistive Telecommunications Device Evaluation Services**

A Pre-Proposal Conference will be held at **June 28, 2018 at 10:00AM** Local Time at **Department of Information Technology; 301 West Preston Street (Suite 1008A); Baltimore, MD 21201**. See details indicated in the RFP Key Information Summary Sheet (near the beginning of the solicitation, after the Title Page and Notice to Vendors).

Please return this form by **June 26, 2018** prior to the Pre-Proposal Conference date, advising whether or not you plan to attend. The completed form should be returned via e-mail to the Procurement Officer. The Procurement Officer's contact information is provided in the RFP Key Information Summary Sheet:

Please indicate:

- \_\_\_\_\_ Yes, the following representatives will be in attendance.  
Attendees (Check the RFP for limits to the number of attendees allowed):  
1.  
2.  
3.  
\_\_\_\_\_ No, we will not be in attendance.

Please specify whether any reasonable accommodations are requested (see Section 4.1 Pre-proposal Conference):

Offeror: \_\_\_\_\_  
*Offeror Name (please print or type)*

By: \_\_\_\_\_  
*Signature/Seal*

Printed Name: \_\_\_\_\_  
*Printed Name*

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

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

**Directions to the Pre-Proposal Conference**

95 North/95 South to 395-North; Martin Luther King Jr. Boulevard to N. Eutaw Street to W. Preston Street.

295 North/295 South to Russell Street to Martin Luther King Jr. Boulevard to N. Eutaw Street to W. Preston Street.

**Attachment B. Financial Proposal Instructions & Form**

Please refer to the MS Excel version of the Price Sheet (Financial Proposals must be submitted password protected in PDF format)

**Attachment C. 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 Offeror hereby certifies and agrees that the following information is correct: In preparing its Proposal on this project, the Offeror has considered all Proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in “discrimination” as defined in § 19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. “Discrimination” means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, sexual identity, 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 Proposal submitted by the Offeror on this project, and terminate any contract awarded based on the Proposal. As part of its Proposal, the Offeror herewith submits a list of all instances within the past four (4) years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the 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. 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 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 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 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 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 Proposal submitted by the Offeror on this project, and terminate any contract awarded based on the Proposal.

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

The undersigned 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 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 21.11.13; or
- (6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of § B-2(1) -(5) of this regulation.

**C. AFFIRMATION REGARDING BRIBERY CONVICTIONS**

I FURTHER AFFIRM THAT:

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

\_\_\_\_\_

\_\_\_\_\_

**D. AFFIRMATION REGARDING OTHER CONVICTIONS**

I FURTHER AFFIRM THAT:

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



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

- (ii) Not overturned on judicial review;
  - (13) Been found to have willfully or knowingly violated State Living Wage Laws as provided in the State Finance and Procurement Article, Title 18, Annotated Code of Maryland, if:
    - (a) A court:
      - (i) Made the finding; and
      - (ii) Decision became final; or
    - (b) The finding was:
      - (i) Made in a contested case under the Maryland Administrative Procedure act; and
      - (ii) Not overturned on judicial review;
  - (14) Been found to have willfully or knowingly violated the Labor and Employment Article, Title 3, Subtitles 3, 4, or 5, or Title 5, Annotated Code of Maryland, if:
    - (a) A court:
      - (i) Made the finding; and
      - (ii) Decision became final; or
    - (b) The finding was:
      - (i) Made in a contested case under the Maryland Administrative Procedure act; and
      - (ii) Not overturned on judicial review; or
  - (15) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§ B and C and subsections D(1)—(14) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):
- 
- 

**E. AFFIRMATION REGARDING DEBARMENT**

I FURTHER AFFIRM THAT:

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

---

---

**F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES**

I FURTHER AFFIRM THAT:

- (1) The business was not established and does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and
  - (2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):
- 
- 

**G. SUBCONTRACT AFFIRMATION**

I FURTHER AFFIRM THAT:

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

**H. AFFIRMATION REGARDING COLLUSION**

I FURTHER AFFIRM THAT:

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

- (1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying Proposal that is being submitted; or
- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the Proposal price of the 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 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, State Department of Assessments and Taxation, and 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. NON-ISRAEL BOYCOTT CERTIFICATION**

The undersigned Offeror hereby certifies and agrees that the following information is correct: In preparing its bid or offer on this project, the Offeror has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not, in the solicitation, selection, or commercial treatment of any subcontractor, vendor, or supplier, refuses to transact or terminated business activities, or taken other actions intended to limit commercial relations, with a person or entity on the basis of Israeli national origin, or residence or incorporation in Israel and its territories. The Offeror also has not retaliated against any person or entity for reporting such refusal, termination, or commercially limiting actions. Without limiting any other provision of the solicitation or contract for this project, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to reject the bid or offer submitted by the Offeror on this project, and terminate any contract awarded based on the bid or offer

**M. 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.

**N. 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 C.F.R. §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.

**O. ACKNOWLEDGEMENT**

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

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

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

By: \_\_\_\_\_  
*Signature of Authorized Representative and Affiant*

Printed Name: \_\_\_\_\_  
*Printed Name of Authorized Representative and Affiant*

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

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

**Attachment D. Minority Business Enterprise (MBE) Forms**

This solicitation does not include a Minority Business Enterprise (MBE) subcontractor participation goal.

**Attachment E. Veteran-Owned Small Business Enterprise (VSBE) Forms**

This solicitation does not include a Veteran-Owned Small Business Enterprise goal.

**Attachment F. Maryland Living Wage Affidavit of Agreement for Service Contracts**

- A. This contract is subject to the Living Wage requirements under Md. Code Ann., State Finance and Procurement Article, Title 18, and the regulations proposed by the Commissioner of Labor and Industry (Commissioner). The Living Wage generally applies to a Contractor or subcontractor who performs work on a State contract for services that is valued at \$100,000 or more. An employee is subject to the Living Wage if he/she is at least 18 years old or will turn 18 during the duration of the contract; works at least 13 consecutive weeks on the State Contract and spends at least one-half of the employee's time during any work week on the State Contract.
- B. The Living Wage Law does not apply to:
- (1) A Contractor who:
    - (a) Has a State contract for services valued at less than \$100,000, or
    - (b) Employs 10 or fewer employees and has a State contract for services valued at less than \$500,000.
  - (2) A subcontractor who:
    - (a) Performs work on a State contract for services valued at less than \$100,000,
    - (b) Employs 10 or fewer employees and performs work on a State contract for services valued at less than \$500,000, or
    - (c) Performs work for a Contractor not covered by the Living Wage Law as defined in B (1)(b) above, or B (3) or C below.
  - (3) Service contracts for the following:
    - (a) Services with a Public Service Company;
    - (b) Services with a nonprofit organization;
    - (c) Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement ("Unit"); or
    - (d) Services between a Unit and a County or Baltimore City.
- C. If the Unit responsible for the State contract for services determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.
- D. A Contractor must not split or subdivide a State contract for services, pay an employee through a third party, or treat an employee as an independent Contractor or assign work to employees to avoid the imposition of any of the requirements of Md. Code Ann., State Finance and Procurement Article, Title 18.
- E. Each Contractor/subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.
- F. The Commissioner shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's website. An employer subject to the Living Wage Law must



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

- G. A Contractor/subcontractor who reduces the wages paid to an employee based on the employer's share of the health insurance premium, as provided in Md. Code Ann., State Finance and Procurement Article, §18-103(c), shall not lower an employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413. A Contractor/subcontractor who reduces the wages paid to an employee based on the employer's share of health insurance premium shall comply with any record reporting requirements established by the Commissioner.
- H. A Contractor/subcontractor may reduce the wage rates paid under Md. Code Ann., State Finance and Procurement Article, §18-103(a), by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Contractor/subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413.
- I. Under Md. Code Ann., State Finance and Procurement Article, Title 18, if the Commissioner determines that the Contractor/subcontractor violated a provision of this title or regulations of the Commissioner, the Contractor/subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of \$20 per day for each employee paid less than the Living Wage.
- J. Information pertaining to reporting obligations may be found by going to the Division of Labor and Industry website <http://www.dllr.state.md.us/labor/prev/livingwage.shtml> and clicking on Living Wage for State Service Contracts.

**F-1 Maryland Living Wage Requirements Affidavit of Agreement**

Contract No. 060B8400093

Name of Contractor:

Address:

**If the Contract Is Exempt from the Living Wage Law**

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

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

**If the Contract Is a Living Wage Contract**

- A. The Undersigned, being an authorized representative of the above-named Contractor, hereby affirms its commitment to comply with Title 18, State Finance and Procurement Article, Annotated Code of Maryland and, if required, submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Offeror agrees to pay covered employees who are subject to living wage at least the living wage rate in effect at the time service is provided for hours spent on State contract activities, and ensure that its subcontractors who are not exempt also pay the required living wage rate to their covered employees who are subject to the living wage for hours spent on a State contract for services. The Contractor agrees to comply with, and ensure its subcontractors comply with, the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate established by the Commissioner of Labor and Industry, automatically upon the effective date of the revised wage rate.
- B. \_\_\_\_\_(initial here if applicable) The Offeror affirms it has no covered employees for the following reasons: (check all that apply):
  - The employee(s) proposed to work on the contract will spend less than one-half of the employee’s time during any work week on the contract
  - The employee(s) proposed to work on the contract is 17 years of age or younger during the duration of the contract; or
  - The employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

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

Name of Authorized Representative:

Signature of Authorized Representative : \_\_\_\_\_ Date: \_\_\_\_\_

Title:

Witness Name (Typed or Printed) \_\_\_\_\_

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

**SUBMIT THIS AFFIDAVIT WITH PROPOSAL**

**Attachment G. Federal Funds Attachments**

This solicitation does not include a Federal Funds Attachment.

**Attachment H. Conflict of Interest Affidavit and Disclosure**

**Reference COMAR 21.05.08.08**

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 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 Proposal is made.

C. The 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 Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the 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 Offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the Contractor shall continue performance until notified by the procurement officer of any contrary action to be taken.

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

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

(Authorized Representative and Affiant)

**SUBMIT THIS AFFIDAVIT WITH Bid/PROPOSAL**

**Attachment I. Non-Disclosure Agreement (Contractor)**

THIS NON-DISCLOSURE AGREEMENT (“Agreement”) is made by and between the State of Maryland (the “State”), acting by and through ([ISSUINGAGENCYNAME]) (the “Department”), and \_\_\_\_\_ (the “Contractor”).

**RECITALS**

**WHEREAS**, the Contractor has been awarded a contract (the “Contract”) following the solicitation for Assistive Telecommunications Evaluation Service Solicitation # 060B8400093; and

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

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

1. Regardless of the form, format, or media on or in which the Confidential Information is provided and regardless of whether any such Confidential Information is marked as such, “Confidential Information” means (1) any and all information provided by or made available by the State to the Contractor in connection with the Contract and (2) any and all personally identifiable information (PII) (including but not limited to personal information as defined in Md. Ann. Code, General Provisions §4-101(h)) and protected health information (PHI) that is provided by a person or entity to the Contractor in connection with this Contract. Confidential Information includes, by way of example only, information that the Contractor views, takes notes from, copies (if the State agrees in writing to permit copying), possesses or is otherwise provided access to and use of by the State in relation to the Contract.
2. The Contractor shall not, without the State’s prior written consent, copy, disclose, publish, release, transfer, disseminate, use, or allow access for any purpose or in any form, any Confidential Information except for the sole and exclusive purpose of performing under the Contract. The Contractor shall limit access to the Confidential Information to the Contractor’s Personnel who have a demonstrable need to know such Confidential Information in order to perform under the Contract and who have agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information. The names of the Contractor’s Personnel are attached hereto and made a part hereof as **Attachment I-2**. Contractor shall update **Attachment I-2** by adding additional names (whether Contractor’s Personnel or a subcontractor’s personnel) as needed, from time to time.
3. If the Contractor intends to disseminate any portion of the Confidential Information to non-employee agents who are assisting in the Contractor’s performance of the Contract or will otherwise have a role in performing any aspect of the Contract, the Contractor shall first obtain the written consent of the State to any such dissemination. The State may grant, deny, or condition any such consent, as it may deem appropriate in its sole and absolute subjective discretion.
4. The Contractor hereby agrees to hold the Confidential Information in trust and in strictest confidence, adopt or establish operating procedures and physical security measures, and take all other measures necessary to protect the Confidential Information from inadvertent release or disclosure to unauthorized third parties and to prevent all or any portion of the Confidential Information from falling into the public domain or into the possession of persons not bound to maintain the confidentiality of the Confidential Information.

5. The Contractor shall promptly advise the State in writing if it learns of any unauthorized use, misappropriation, or disclosure of the Confidential Information by any of the Contractor's Personnel or the Contractor's former Personnel. Contractor shall, at its own expense, cooperate with the State in seeking injunctive or other equitable relief against any such person(s).
6. The Contractor shall, at its own expense, return to the Department all Confidential Information in its care, custody, control or possession upon request of the Department or on termination of the Contract.
7. A breach of this Agreement by the Contractor or the Contractor's Personnel shall constitute a breach of the Contract between the Contractor and the State.
8. Contractor acknowledges that any failure by the Contractor or the Contractor's Personnel to abide by the terms and conditions of use of the Confidential Information may cause irreparable harm to the State and that monetary damages may be inadequate to compensate the State for such breach. Accordingly, the Contractor agrees that the State may obtain an injunction to prevent the disclosure, copying or improper use of the Confidential Information. The Contractor consents to personal jurisdiction in the Maryland State Courts. The State's rights and remedies hereunder are cumulative and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and seek damages from the Contractor and the Contractor's Personnel for a failure to comply with the requirements of this Agreement. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys' fees and disbursements) that are attributable, in whole or in part to any failure by the Contractor or any of the Contractor's Personnel to comply with the requirements of this Agreement, the Contractor shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and costs.
9. Contractor and each of the Contractor's Personnel who receive or have access to any Confidential Information shall execute a copy of an agreement substantially similar to this Agreement, in no event less restrictive than as set forth in this Agreement, and the Contractor shall provide originals of such executed Agreements to the State.
10. The parties further agree that:
  - a. This Agreement shall be governed by the laws of the State of Maryland;
  - b. The rights and obligations of the Contractor under this Agreement may not be assigned or delegated, by operation of law or otherwise, without the prior written consent of the State;
  - c. The State makes no representations or warranties as to the accuracy or completeness of any Confidential Information;
  - d. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement;
  - e. Signatures exchanged by facsimile are effective for all purposes hereunder to the same extent as original signatures;
  - f. The Recitals are not merely prefatory but are an integral part hereof; and
  - g. The effective date of this Agreement shall be the same as the effective date of the Contract entered into by the parties.

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

Contractor:

[ISSUINGAGENCYACRONYM]

---

By:  
(seal)

---

Printed Name:

---

Title:

---

Date:

---

---

By:

---

Printed Name:

---

Title:

---

Date:

---



I-2 NON-DISCLOSURE AGREEMENT

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

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

**I-3 NON-DISCLOSURE AGREEMENT**

**CERTIFICATION TO ACCOMPANY RETURN OR DELETION OF CONFIDENTIAL INFORMATION**

I AFFIRM THAT:

To the best of my knowledge, information, and belief, and upon due inquiry, I hereby certify that: (i) all Confidential Information which is the subject matter of that certain Non-Disclosure Agreement by and between the State of Maryland and \_\_\_\_\_ (“Contractor”) dated \_\_\_\_\_, 20\_\_\_\_ (“Agreement”) is attached hereto and is hereby returned to the State in accordance with the terms and conditions of the Agreement; and (ii) I am legally authorized to bind the Contractor to this affirmation. Any and all Confidential Information that was stored electronically by me has been permanently deleted from all of my systems or electronic storage devices where such Confidential Information may have been stored.

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

DATE: \_\_\_\_\_

NAME OF CONTRACTOR: \_\_\_\_\_

BY: \_\_\_\_\_  
(Signature)

TITLE: \_\_\_\_\_  
(Authorized Representative and Affiant)

**Attachment J. HIPAA Business Associate Agreement**

This solicitation does not require a HIPAA Business Associate Agreement.

**Attachment K. Mercury Affidavit**

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

**Attachment L. Location of the Performance of Services Disclosure**

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

**Attachment M. Contract**

Department of Information Technology (DoIT)  
Assistive Telecommunications Devices Evaluation Services  
060B8400093

THIS CONTRACT (the “Contract”) is made this \_\_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_ (the “Contractor”) and the STATE OF MARYLAND, acting through the MARYLAND Department of Information Technology [DoIT or the “Department”].

In consideration of the promises and the covenants herein contained, the adequacy and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

**1. Definitions**

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

- 1.1 “COMAR” means Code of Maryland Regulations.
- 1.2 “Contractor” means the entity first named above whose principal business address is (Contractor’s primary address) and whose principal office in Maryland is (Contractor’s local address), whose Federal Employer Identification Number or Social Security Number is (Contractor’s FEIN), and whose eMaryland Marketplace vendor ID number is (eMM Number).
- 1.3 “Financial Proposal” means the Contractor’s Financial Proposal dated \_\_\_\_\_ (Financial Proposal date), as modified by any Best and Final Offer thereto.
- 1.4 Minority Business Enterprise (MBE) – Any legal entity certified as defined at COMAR 21.01.02.01B (54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- 1.5 “RFP” means the Request for Proposals for Assistive Telecommunications Devices Evaluation Services, Solicitation # 060B8400093, and any amendments, addenda, and attachments thereto issued in writing by the State.
- 1.6 “State” means the State of Maryland.
- 1.7 “Technical Proposal” means the Contractor’s Technical Proposal dated. \_\_\_\_\_ (Technical Proposal date), as modified and supplemented by the Contractor’s responses to requests clarifications and requests for cure, and by any Best and Final Offer.
- 1.8 “Veteran-owned Small Business Enterprise” (VSBE) means 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.
- 1.9 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 perform in accordance with this Contract and Exhibits A-D, which are listed below and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall control. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A – The RFP

Exhibit B – The Contract Affidavit, executed by the Contractor and dated (date of Attachment C)

Exhibit C – The Technical Proposal

Exhibit D – The Financial Proposal

- 2.2 The Procurement Officer may, at any time, by written order, make unilateral changes in the work within the general scope of the Contract. No other order, statement, or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.
- 2.3 Without limiting the rights of the Procurement Officer under Section 2.2 above, the Contract may be modified by mutual agreement of the parties, provided: (a) the modification is made in writing; (b) all parties sign the modification; and (c) all approvals by the required agencies as described in COMAR Title 21, are obtained.

### 3. Period of Performance

- 3.1 The term of this Contract begins on the date the Contract is signed by the Department following any required prior approvals, including approval by the Board of Public Works, if such approval is required (the "Effective Date") and shall continue until \_\_\_\_\_ ("Initial Term").
- 3.2 In its sole discretion, the Department shall have the unilateral right to extend the Contract for [enter the number of periods], successive [enter the length of the period] - [select either year(s), month(s), or day(s)] renewal options (each a "Renewal Term") at the prices established in the Contract. "Term" means the Initial Term and any Renewal Term(s). **\*\*Delete this section if there are no Option Years, and change the numbering of the next section to 3. \*\***
- 3.3. The Contractor's performance under the Contract shall commence as of the date provided in a written NTP.
- 3.4 The Contractor's obligation to pay invoices to subcontractors providing products/services in connection with this Contract, as well as the audit; confidentiality; document retention; patents, copyrights & intellectual property; warranty; indemnification obligations; and limitations of liability under this Contract; and any other obligations specifically identified, shall survive expiration or termination of the Contract.

### 4. Consideration and Payment

- 4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the Department shall pay the Contractor in accordance with the terms of this Contract and at the prices quoted in the Financial Proposal. Unless properly modified (see above Section 2.3), payment to the Contractor pursuant to this Contract, including the Initial Term and any Renewal Term, shall not exceed the Contracted amount.

**\*\*Use this paragraph for a fixed price contract or a contract that has a fixed price component\*\***The total payment under a fixed price Contract or the fixed price element of a combined fixed price – time and materials Contract shall be the firm fixed price submitted by the Contractor in its Financial Proposal.

**\*\*Use this paragraph for a contract with a time and materials component or has an indefinite quantity (IDIQ) component\*\***For time and materials Contracts, IDIQ Contracts, or Contracts which include either or both a time and materials or IDIQ element(s), total payments to the Contractor pursuant to this Contract for the time and materials and IDIQ portion(s) may not exceed \$\_\_\_\_\_ (the “NTE Amount”), which includes \$\_\_\_\_\_ for the Initial Term**\*\*if one or more option periods exist, then include:\*\*** and \$\_\_\_\_\_ for the Renewal Term(s).

**\*\*Use this paragraph for a contract with a time and materials component, labor hour component, or has an indefinite quantity (IDIQ) component\*\*** Contractor shall notify the Contract Monitor, in writing, at least sixty (60) days before payments reach the NTE Amount. After notification by the Contractor, if the State fails to increase the Contract amount, the Contractor shall have no obligation to perform under this Contract after payments reach the stated amount; provided, however, that, prior to the stated amount being reached, the Contractor shall: (a) promptly consult and work in good faith with the Department to establish a plan of action to assure that every reasonable effort is undertaken by the Contractor to complete State-defined critical work in progress prior to the date the NTE Amount will be reached; and (b) when applicable secure databases, systems, platforms, and/or applications on which the Contractor is working in an industry standard manner so as to prevent damage or vulnerabilities to any of the same due to the existence of any such unfinished work.

- 4.2 Unless a payment is unauthorized, deferred, delayed, or set-off under COMAR 21.02.07, payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the [typeofAgency]’s receipt of a proper invoice from the Contractor as required by RFP section 3.3.

The Contractor may be eligible to receive late payment interest at the rate of 9% per annum if:

- (1) The Contractor submits an invoice for the late payment interest within thirty days after the date of the State’s payment of the amount on which the interest accrued; and
- (2) A contract claim has not been filed under State Finance and Procurement Article, Title 15, Subtitle 2, Annotated Code of Maryland.

The State is not liable for interest:

- (1) Accruing more than one year after the 31st day after the agency receives the proper invoice; or
- (2) On any amount representing unpaid interest. Charges for late payment of invoices are authorized only as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable.

Final payment under this Contract will not be made until after certification is received from the Comptroller of the State that all taxes have been paid.

Electronic funds transfer shall be used by the State to pay Contractor pursuant to this Contract and any other State payments due Contractor unless the State Comptroller’s Office grants Contractor an exemption.

- 4.3 In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be

reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer.

- 4.4 Payment of an invoice by the Department is not evidence that services were rendered as required under this Contract.

## 5. Rights to Records

- 5.1 The Contractor agrees that all documents and materials including, but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations, and data prepared by the Contractor for purposes of this Contract shall be the sole property of the State and shall be available to the State at any time. The State shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.
- 5.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a Deliverable under this Contract (as defined in **Section 7.2**), and services performed under this Contract shall be “works made for hire” as that term is interpreted under U.S. copyright law. To the extent that any products created as a Deliverable under this Contract are not works made for hire for the State, the Contractor hereby relinquishes, transfers, and assigns to the State all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.
- 5.3 The Contractor shall report to the Contract Monitor, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all data delivered under this Contract.
- 5.4 The Contractor shall not affix any restrictive markings upon any data, documentation, or other materials provided to the State hereunder and if such markings are affixed, the State shall have the right at any time to modify, remove, obliterate, or ignore such warnings.
- 5.5 Upon termination of the 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.

## 6. Exclusive Use

- 6.1 The State shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable of being copyrighted, the State shall be the copyright owner and Contractor may copyright material connected with this project only with the express written approval of the State.
- 6.2 Except as may otherwise be set forth in this Contract, Contractor shall not use, sell, sub-lease, assign, give, or otherwise transfer to any third party any other information or material provided to Contractor by the Department or developed by Contractor relating to the Contract, except as provided for in **Section 8. Confidential or Proprietary Information and Documentation**.

## 7. Patents, Copyrights, and Intellectual Property

- 7.1. All copyrights, patents, trademarks, trade secrets, and any other intellectual property rights existing prior to the Effective Date of this Contract shall belong to the party that owned such rights immediately prior to the Effective Date (“Pre-Existing Intellectual Property”). If any design, device, material, process, or other item provided by Contractor 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.
- 7.2 Except for (1) information created or otherwise owned by the Department or licensed by the Department from third parties, including all information provided by the Department to Contractor; (2) materials created by Contractor or its subcontractor(s) specifically for the State under the Contract (“Deliverables”), except for any Contractor Pre-Existing Intellectual Property included therein; and (3) the license rights granted to the State, all right, title, and interest in the intellectual property embodied in the solution, including the know-how and methods by which the solution is provided and the processes that make up the solution, will belong solely and exclusively to Contractor and its licensors, and the Department will have no rights to the same except as expressly granted in this Contract. Any SaaS Software developed by Contractor during the performance of the Contract will belong solely and exclusively to Contractor and its licensors. For all Software provided by the Contractor under the Contract, Contractor hereby grants to the State a nonexclusive, irrevocable, unlimited, perpetual, non-cancelable, and non-terminable right to use and make copies of the Software and any modifications to the Software. For all Contractor Pre-Existing Intellectual Property embedded in any Deliverables, Contractor grants to the State a license to use such Contractor Pre-Existing Intellectual Property in connection with its permitted use of such Deliverable. During the period between delivery of a Deliverable by Contractor and the date of payment therefor by the State in accordance with this Contract (including throughout the duration of any payment dispute discussions), subject to the terms and conditions contained herein, Contractor grants the State a royalty-free, non-exclusive, limited license to use such Deliverable and to use any Contractor Materials contained therein in accordance with this Contract.
- 7.3. Subject to the terms of **Section 10**, Contractor shall defend, indemnify and hold harmless the State and its agents 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 third party claim that the Contractor-provided products/services infringe, misappropriate or otherwise violate 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.
- 7.4 Without limiting Contractor’s obligations under Section 5.3, if an infringement claim occurs, or if the State or the Contractor believes such a claim is likely to occur, 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 allegedly infringing component or service in accordance with its rights under this Contract; or (b) replace or modify the allegedly infringing component or service so that it becomes non-infringing and remains compliant with all applicable specifications.
- 7.5 Except as otherwise provided herein, Contractor shall not acquire any right, title or interest (including any intellectual property rights subsisting therein) in or to any goods, Software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the State to the Contractor. Notwithstanding anything to the contrary herein, the State may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a separate writing executed by the Contractor and an authorized representative of the State as well as all required State approvals.
- 7.6 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.

- 7.7 The Contractor shall report to the Department, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Deliverables delivered under this Contract.
- 7.8 The Contractor shall not affix (or permit any third party to affix), without the Department’s consent, any restrictive markings upon any Deliverables that are owned by the State, and if such markings are affixed, the Department shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

## 8. Confidential or Proprietary Information and Documentation

- 8.1 Subject to the Maryland Public Information Act and any other applicable laws including, without limitation, HIPAA, the HI-TECH Act, and the Maryland Medical Records Act and the implementation of regulations promulgated pursuant thereto, 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 and/or cloud infrastructure, if applicable) shall be held in confidence by the other party. Each party shall, however, be permitted to disclose, as provided by and consistent with applicable law, 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. Each officer, employee and/or subcontractor to whom any of the Department’s confidential information is to be disclosed shall be advised by Contractor of and bound by confidentiality and intellectual property terms substantially equivalent to those of this Contract.
- 8.2 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 rightfully in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

## 9. Loss of Data

- 9.1 In the event of loss of any State data or records where such loss is due to the act or omission of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for restoring or recreating, as applicable, such lost data in the manner and on the schedule set by the Contract Monitor. The Contractor shall ensure that all data is backed up and recoverable by the Contractor. At no time shall any Contractor actions (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms, and/or applications with which the Contractor is working hereunder.
- 9.2 In accordance with prevailing federal or state law or regulations, the Contractor shall report the loss of non-public data. **tion 3.8.**
- 9.3 Protection of data and personal privacy (as further described and defined in RFP Section 3.8) shall be an integral part of the business activities of the Contractor to ensure there is no inappropriate or unauthorized use of State information at any time. To this end, the Contractor shall safeguard the

confidentiality, integrity and availability of State information and comply with the conditions identified in **RFP Section 3.8.**

#### **10. Indemnification and Notification of Legal Requests**

- 10.1. At its sole cost and expense, Contractor shall (i) indemnify and hold the State, its employees and agents harmless from and against any and all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs and expenses (including but not limited to attorneys' fees and costs), whether or not involving a third party claim, which arise out of or relate to the Contractor's, or any of its subcontractors', performance of this Contract and (ii) cooperate, assist, and consult with the State in the defense or investigation of any such claim, demand, action or suit. 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.
- 10.2. The State has no obligation: (i) 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 against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations or performance under this Contract, or (ii) to pay any judgment or settlement of any such suit, claim or action. Notwithstanding the foregoing, the Contractor shall promptly notify the Procurement Officer of any such claims, demands, actions, or suits.
- 10.3. Notification of Legal Requests. In the event the Contractor receives a subpoena or other validly issued administrative or judicial process, or any discovery request in connection with any litigation, requesting State Pre-Existing Intellectual Property, of other information considered to be the property of the State, including but not limited to State data stored with or otherwise accessible by the Contractor, the Contractor shall not respond to such subpoena, process or other legal request without first notifying the State, unless prohibited by law from providing such notice. The Contractor shall promptly notify the State of such receipt providing the State with a reasonable opportunity to intervene in the proceeding before the time that Contractor is required to comply with such subpoena, other process or discovery request. .

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

No official or employee of the State, as defined under Md. Code Ann., General Provisions Article, § 5-101, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall, during the pendency and term of this Contract and while serving as an official or employee of the State, become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

#### **12. Disputes**

This Contract shall be subject to the provisions of Md. Code Ann., State Finance and Procurement Article, Title 15, Subtitle 2, 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 thirty (30) days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within thirty (30) days of the filing of a notice of claim, but no later than the date of final payment under the Contract, the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

#### **13. Maryland Law Prevails**

- 13.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.
- 13.2 The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland) does not apply to this Contract or any purchase order, task order, or Notice to Proceed issued thereunder, or any software, or any software license acquired hereunder.
- 13.3 Any and all references to the Maryland Code, annotated and contained in this Contract shall be construed to refer to such Code sections as are from time to time amended.

**14. Nondiscrimination in Employment**

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry, genetic information, or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

**15. Contingent Fee Prohibition**

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

**16. Non-Availability of Funding**

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

**17. Termination for 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 shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the

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

**18. Termination for Convenience**

The performance of work under this Contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract. 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).

**19. Delays and Extensions of Time**

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

**20. Suspension of Work**

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

**21. Pre-Existing Regulations**

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

**22. Financial Disclosure**

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

**23. Political Contribution Disclosure**

The Contractor shall comply with Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract 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 or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 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).

#### **24. Retention of Records**

- 24.1 The Contractor and subcontractors shall retain and maintain all records and documents in any way relating to this Contract for (i) three (3) years after final payment by the State hereunder, or (ii) any applicable federal or State retention requirements (such as HIPAA) or condition of award, , whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, as designated by the Procurement Officer, at all reasonable times. The Contractor shall provide copies of all documents requested 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. All records related in any way to the Contract are to be retained for the entire time provided under this section.
- 24.2 This provision shall survive expiration of this Contract.

#### **25. Right to Audit**

- 25.1 The State reserves the right, at its sole discretion and at any time, to perform an audit of the Contractor's performance under 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 compliance with the Contract, including but not limited to adequacy and compliance with established procedures and internal controls over the services performed pursuant to the Contract.
- 25.2 Upon three (3) Business Days' notice, the State shall be provided reasonable access to Contractor's records to perform any such audits. The Department may conduct these audits with any or all of its own internal resources or by securing the services of a third party accounting or audit firm, solely at the Department's election. The Department may copy any record related to the services performed pursuant to the Contract. The Contractor agrees to fully cooperate and assist 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.
- 25.3 The right to audit shall include any of the Contractor's subcontractors including but not limited to any lower tier subcontractor(s). The Contractor and/or subcontractor(s) shall ensure the Department has the right to audit such subcontractor(s).

#### **26. Compliance with Laws**

The Contractor hereby represents and warrants that:

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

- b. It is not in arrears with respect to the payment of any monies due and owing the State, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the Term;
- c. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- d. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

## **27. Cost and Price Certification**

- 27.1 The Contractor, by submitting cost or price information certifies that, to the best of its knowledge, the information submitted is accurate, complete, and current as of the date of its Proposal.
- 27.2 The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date of its Proposal, was inaccurate, incomplete, or not current.

## **28. Subcontracting; Assignment**

The Contractor may not subcontract any of its obligations 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 Procurement Officer, each at the State's sole and absolute discretion; provided, however, that a Contractor may assign monies receivable under a contract after written notice to the State. Any subcontracts shall include such language as may be required in various clauses contained within this Contract, exhibits, and attachments. The Contract shall not be assigned until all approvals, documents, and affidavits are completed and properly registered. The State shall not be responsible for fulfillment of the Contractor's obligations to its subcontractors.

## **29. Limitations of Liability**

- 29.1 Contractor shall be liable for any loss or damage to the State occasioned by the acts or omissions of Contractor, its subcontractors, agents or employees as follows:
  - (a) For infringement of patents, trademarks, trade secrets and copyrights as provided in Section 5 "Patents, Copyrights, Intellectual Property") of this Contract;
  - (b). Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and
  - (c) For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract and regardless of the basis on which the claim is made, Contractor's liability shall not exceed [two (2) ]times the total value of the Contract or \$1,000,000, whichever is greater. 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. The above limitation of liability is per incident.
  - (d) 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.

- 29.2 Contractor's indemnification obligations for 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 indemnification 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.
- 29.3. 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 it is responsible for performance of the services and compliance with the relevant obligations hereunder by its subcontractors.

### **30. Commercial Nondiscrimination**

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

### **31. Prompt Pay Requirements**

- 31.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the Department, at its option and in its sole discretion, may take one or more of the following actions:
- (a) Not process further payments to the Contractor until payment to the subcontractor is verified;



- (b) Suspend all or some of the Contract work without affecting the completion date(s) for the Contract work;
- (c) Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due to the Contractor;
- (d) Place a payment for an undisputed amount in an interest-bearing escrow account; or
- (e) Take other or further actions as appropriate to resolve the withheld payment.

31.2 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, without limitation: (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.

31.3 An act, failure to act, or decision of a Procurement Officer or a representative of the Department concerning a withheld payment between the Contractor and a subcontractor under this **section 31**, may not:

- (a) Affect the rights of the contracting parties under any other provision of law;
- (b) Be used as evidence on the merits of a dispute between the Department and the Contractor in any other proceeding; or
- (c) Result in liability against or prejudice the rights of the Department.

31.4 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 MBE program.

31.5 To ensure compliance with certified MBE subcontract participation goals, the Department may, consistent with COMAR 21.11.03.13, take the following measures:

- (a) Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule. This verification may include, as appropriate:
  - i. Inspecting any relevant records of the Contractor;
  - ii. Inspecting the jobsite; and
  - iii. Interviewing subcontractors and workers.

Verification shall include a review of the:

- i. The Contractor’s monthly report listing unpaid invoices over thirty (30) days old from certified MBE subcontractors and the reason for nonpayment; and
  - ii. The monthly report of each certified MBE subcontractor, which lists payments received from the Contractor in the preceding thirty (30) days and invoices for which the subcontractor has not been paid.
- (b) If the Department determines that the Contractor is not in compliance with certified MBE participation goals, then the Department will notify the Contractor in writing of its findings, and will require the Contractor to take appropriate corrective action. Corrective action may include, but is not limited to, requiring the Contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.

- (c) If the Department determines that the Contractor is in material noncompliance with MBE Contract provisions and refuses or fails to take the corrective action that the Department requires, then the Department may:
  - i. Terminate the Contract;
  - ii. Refer the matter to the Office of the Attorney General for appropriate action; or
  - iii. Initiate any other specific remedy identified by the Contract, including the contractual remedies required by any applicable laws, regulations, and directives regarding the payment of undisputed amounts.
- (d) Upon completion of the Contract, but before final payment or release of retainage or both, the Contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from, MBE subcontractors.

### **32. Living Wage**

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

### **33. Use of Estimated Quantities**

Unless specifically indicated otherwise in the State's solicitation or other controlling documents related to the Scope of Work, any sample amounts provided are estimates only and the Department does not guarantee a minimum or maximum number of units or usage in the performance of this Contract.

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

Risk of loss for conforming supplies, equipment, materials and Deliverables furnished to the State hereunder shall remain with the Contractor until such supplies, equipment, materials and Deliverables are received and accepted by the State, following which, title shall pass to the State.

### **35. 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.

### **36. Miscellaneous**

- 36.1 Any provision of this Contract which contemplates performance or observance subsequent to any termination or expiration of this Contract shall survive termination or expiration of this Contract and continue in full force and effect.
- 36.2 If any term contained in this Contract is held or finally determined to be invalid, illegal, or unenforceable in any respect, in whole or in part, such term shall be severed from this Contract, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.
- 36.3 Headers Provision. The headings of the sections contained in this Contract are for convenience only and shall not be deemed to control or affect the meaning or construction of any provision of this Contract.
- 36.4 Electronic signatures provision. This Contract may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Signatures provided by facsimile or other electronic means, e.g, and not by way of limitation, in Adobe .PDF sent by electronic mail, shall be deemed to be original signatures.

**37. Contract Monitor and Procurement Officer**

- 37.1 The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor's responsibilities. The Department may change the Contract Monitor at any time by written notice to the Contractor.
- 37.2 The Procurement Officer has responsibilities as detailed in the Contract, and is the only State representative who can authorize changes to the Contract. The Department may change the Procurement Officer at any time by written notice to the Contractor.

**38. 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:

Brenda Kelly-Frey

301 West Preston Street, Suite 1008A, Baltimore, MD 21201-2305

Phone Number: 410-767-5891

E-Mail: [Brenda.kelly-frey@maryland.gov](mailto:Brenda.kelly-frey@maryland.gov)

With a copy to:

LaShella Miller

DOIT

100 Community Place; Crownsville, MD 21032

Phone Number: 410-697-9669

E-Mail: [Lashella.Miller@maryland.gov](mailto:Lashella.Miller@maryland.gov)

If to the Contractor:

(Contractor's Name)

(Contractor's primary address)

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

**[39.] Limited English Proficiency**

**\*\*Keep this section when there is the probability of customers with limited ability in speaking English. Delete this clause if not applicable, and revise the numbering of the clauses in this Contract accordingly. Otherwise, delete this section and its heading, renumbering any subsequent sections. \*\***

The Contractor shall provide equal access to public services to individuals with limited English proficiency in compliance with Md. Code Ann., State Government Article, §§ 10-1101 et seq., and Policy Guidance issued by the Office of Civil Rights, Department of Health and Human Services, and DHMH Policy 02.06.07.

SIGNATURES ON NEXT PAGE

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

Contractor

State of Maryland  
[ISSUINGAGENCYNAME]  
([ISSUINGAGENCYACRONYM])

By:

By: [agencyContractSigner],  
[agencyContractSignerTitle]

Or designee:

Date

PARENT COMPANY (GUARANTOR) (if applicable)

By:

\_\_\_\_\_

\_\_\_\_\_

By:

Date

\_\_\_\_\_

Date

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

\_\_\_\_\_

Assistant Attorney General

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

(Date) (BPW Item #)

**Attachment N. 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 or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 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 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:
    - (i) The dangers of drug and alcohol abuse in the workplace;
    - (ii) The business's policy of maintaining a drug and alcohol free workplace;
    - (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
    - (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

- (g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §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:
    - (i) Abide by the terms of the statement; and
    - (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;
  - (i) Notify the procurement officer within 10 days after receiving notice under §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:
    - (i) Take appropriate personnel action against an employee, up to and including termination; or
    - (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and
  - (k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §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:
- (a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;
  - (b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and
  - (c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

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



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

**Attachment O. DHR Hiring Agreement**

This solicitation does not require a DHR Hiring Agreement.

## Appendix 1. – Abbreviations and Definitions

- A. Access - The ability or the means necessary to read, write, modify, or communicate data/information or otherwise use any information system resource
- B. Business Day(s) – The official working days of the week to include Monday through Friday. Official working days excluding State Holidays (see definition of “Normal State Business Hours” below).
- C. COMAR – Code of Maryland Regulations available on-line at <http://www.dsd.state.md.us/COMAR/ComarHome.html>.
- D. Contract – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of **Attachment M**.
- E. Contract Monitor – The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor’s responsibilities. The Department may change the Contract Monitor at any time by written notice to the Contractor.
- F. Contractor – The selected Offeror that is awarded a Contract by the State.
- G. Contractor Personnel Employees and agents and subcontractor employees and agents performing work at the direction of the Contractor under the terms of the Contract awarded from this RFP.
- H. eMM – eMaryland Marketplace (see RFP **Section 4.2**).
- I. 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.
- J. Maryland Accessible Telecommunications (MAT) program - The MAT program provides free amplified and captioned phones, ring signalers, hands-free phones, TTYs and other assistive devices to qualified applicants who have functional difficulty using the telephone.
- K. Maryland Relay - A public service provided by the Maryland Department of Information Technology/Telecommunications Access of Maryland that enables standard telephone users to communicate with deaf, hard -of-hearing, deaf/blind or speech - disabled people who use a TTY.
- L. Minority Business Enterprise (MBE) – Any legal entity certified as defined at COMAR 21.01.02.01B (54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- M. Normal State Business Hours - Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: [www.dbm.maryland.gov](http://www.dbm.maryland.gov) – keyword: State Holidays.
- N. Notice to Proceed (NTP) – A written notice from the Procurement Officer that work under the Contract, project, Task Order or Work Order (as applicable) is to begin as of a specified date. The NTP Date is the start date of work under the Contract, project, Task Order or Work Order. Additional NTPs may be issued by either the Procurement Officer or the Contract Monitor

regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date.

- O. NTP Date – The date specified in a NTP for work on Contract, project, Task Order or Work Order to begin.
- P. Offeror – An entity that submits a Proposal in response to this RFP.
- Q. Personally Identifiable Information (PII) – Any information about an individual maintained by the State, including (1) any information that can be used to distinguish or trace an individual identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.
- R. Procurement Officer – Prior to the award of any Contract, the sole point of contact in the State for purposes of this solicitation. After Contract award, the Procurement Officer has responsibilities as detailed in the Contract (**Attachment M**), and is the only State representative who can authorize changes to the Contract. The Department may change the Procurement Officer at any time by written notice to the Contractor.
- S. Proposal – As appropriate, either or both of an Offeror’s Technical or Financial Proposal.
- T. Protected Health Information (PHI) – Information that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) that identifies the individual; or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- U. Request for Proposals (RFP) – This Request for Proposals issued by the [Department of Information Technology (DoIT), with the Solicitation Number and date of issuance indicated in the Key Information Summary Sheet, including any amendments thereto.
- V. State – The State of Maryland.
- W. TAM - Telecommunications Access of Maryland
- X. TTYs – Text telephone
- Y. Total Proposal Price - The Offeror’s total proposed price for services in response to this solicitation, included in the Financial Proposal with **Attachment B** – Financial Proposal Form, and used in the financial evaluation of Proposals (see RFP **Section 5.4**).
- Z. 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.

**Appendix 2. – Offeror Information Sheet**

<b>Offeror</b>	
<b>Company Name</b>	
<b>Street Address</b>	
<b>City, State, Zip Code</b>	
<b>Contractor Federal Employer Identification Number (FEIN)</b>	
<b>Contractor eMM ID number</b>	As of the date of Proposal submission, are you registered to do business with the state of Maryland?
<b>SBE / MBE/ VSBE Certification</b>	
<b>SBE</b>	Number: Expiration Date:
<b>VSBE</b>	Number: Expiration Date:
<b>MBE</b>	Number: Expiration Date: Categories to be applied to this solicitation (dual certified firms must choose only one category).
<b>Offeror Primary Contact</b>	
<b>Name</b>	
<b>Title</b>	
<b>Office Telephone number (with area code)</b>	
<b>Cell Telephone number (with area code)</b>	
<b>e-mail address</b>	
<b>Authorized Offer Signatory</b>	
<b>Name</b>	
<b>Title</b>	
<b>Office Telephone number (with area code)</b>	
<b>Cell Telephone number (with area code)</b>	
<b>e-mail address</b>	