



Department of Information Technology
REQUEST FOR PROPOSALS (RFP)

Security Awareness Training

SOLICITATION NO. 060B8400002

Issue Date: October 3, 2017

NOTICE TO OFFERORS

A Prospective Offeror that has received this document from DoIT website or <https://emaryland.buyspeed.com/bsol/>, or that has received this document from a source other than the Procurement Officer, and that wishes to assure receipt of any changes or additional materials related to this RFP, should immediately contact the Procurement Officer and provide the Prospective Offeror's name and mailing address so that addenda to the RFP or other communications can be sent to the Prospective Offeror.

STATE OF MARYLAND

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

RFP Title:	Security Awareness Training
RFP Number:	060B8400002
RFP Issuing Department:	Department of Information Technology 100 Community Place Crownsville MD 21032
RFP Issue Date:	10/03/2017
Proposals Due Date and Time:	11/16/2017 at 01:00PM Local Time
Questions Due Date and Time:	10/12/2017 at 01:00PM Local Time
Procurement Officer:	Dapheny McCray Phone: 410-697-9671 e-mail: daphenymccray1@maryland.gov
Contract Manager:	Derek Wheeler Phone: 410-697-9396 e-mail: derek.wheeler@maryland.gov
Send Proposals to (e-mail delivery strongly preferred):	ATTN: Dapheny McCray Department of Information Technology 100 Community Place, Room 2.317 Crownsville MD 21032
Send Questions (e-mail only) to:	e-mail address: dapheny.mccray1@maryland.gov
Contract Type	Fixed Price
Contract Duration	Three (3) year base period and two (2) one-year option periods
MBE Subcontracting Goal:	0 %
VSBE Subcontracting Goal:	0 %
Small Business Reserve	No
Pre-Proposal Conference:	October 10, 2017 at 09:30AM Local Time Department of Information Technology 100 Community Place Room 4-402 Crownsville MD 21032 See Attachment E for Response Form

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

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

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

Additional Comments:

Please add suggestions for improvement here:

Name of commenter and Business (optional): _____

Contact Person (optional): _____ Phone (____) _____ -

Bid/proposal Number: **060B840002** Entitled: **Security Awareness Training**

Your comments will help us improve the procurement process.

Thank You.

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

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1 GENERAL INFORMATION

1.1 Summary Statement

- 1.1.1 The Department of Information Technology (DoIT or “the Department”) is issuing this Request for Proposals (RFP) to provide a Software as a Service (SaaS) application that provides Security Awareness Training for the State of Maryland employees and contractors.
- 1.1.2 It is the State’s intention to obtain products/services, as specified in this RFP, through a Contract between the successful Offeror and the State. The anticipated duration of the period of performance under the Contract is for a three (3) year base period and two (2) one-year option periods See Section 1.4 for more information.
- 1.1.3 The Department intends to make a single award as a result of this RFP.
- 1.1.4 Offerors, either directly or through their Subcontractor(s), must be able to provide all products/services and meet all of the requirements requested in this solicitation and the successful Offeror (the Contractor) shall remain responsible for Contract performance regardless of Subcontractor participation in the work.

1.2 Abbreviations and Definitions

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

Term	Definition
Agency	The unit of the Maryland State government procuring equipment and services through the Contract issued as a result of this RFP, as specified in Section 3A-302(b) of the State Finance and Procurement Article.
Access	The ability or the means necessary to read, write, modify, or communicate data/information or otherwise use any information system resource
Anti-Phishing	Prevention of unauthorized access to secure and/or sensitive information through the use of SPAM, malicious Web sites, email messages and instant messages to trick people into divulging sensitive information, such as bank and credit card accounts.
Business Day	Monday through Friday (excluding State holidays)
Code of Maryland Regulations (COMAR)	Code of Maryland Regulations available on-line at www.dsd.state.md.us
Contract	The Contract awarded to the successful Offeror pursuant to this RFP, the form of which is attached to this RFP as

Term	Definition
	Attachment A
Contract Manager	The State representative who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring the Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope
Contractor	The successful Offeror awarded the Contract
Contractor Personnel	Employees and agents and subcontractor employees and agents performing work at the direction of the Contractor under the terms of the Contract awarded from this RFP
Contractor's Point of Contact (POC)	Person designated at the time of Contract award by the Contractor as the single point of contact with the authority and knowledge to resolve contract issues.
Department of Information Technology (DoIT, or the Department)	The unit of the Executive Branch of Maryland State government issuing the RFP
eMaryland Marketplace (eMM)	Maryland's online procurement system
Fixed Price	Pricing option which places responsibility on the Contractor for the delivery of any products and the complete performance of any services in accordance with the RFP at a price that is not subject to adjustment
Information System	A discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information
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
Minority Business Enterprise (MBE)	A Minority Business Enterprise certified by the Maryland Department of Transportation under COMAR 21.11.03
Monthly Charges	For purposes of SLA credit calculation, Monthly Charges are defined as the charges invoiced during the month of the breach for the monthly fixed services as set forth in Attachment 1, Price Sheet.
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 – keyword: State

Term	Definition
	Holidays
Notice to Proceed (NTP)	A written notice from the Procurement Officer that work on the Contract, project, or Work Order shall begin on a specified date. Additional NTPs may be issued by either the Procurement Officer or the Contract Manager regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date.
NTP Date	The date specified in an NTP for work on the Contract, project, or Work Order to begin
Offeror	An entity that submits a proposal in response to this RFP
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's 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.
Point of Contact (POC)	The individual named as the person to coordinate on a particular topic
Procurement Officer	The State representative who is responsible for the Contract, determining scope issues and is the only State representative that can authorize changes to the Contract
Proposal	As appropriate, either or both an Offeror's Technical or Financial Proposal
Request for Proposals (RFP)	This Request for Proposals for the Department of Information Technology, including any amendments and addenda thereto
Sensitive Data	Means PII; PHI; information about an individual that (1) can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; (2) is linked or linkable to an individual, such as medical, educational, financial, and employment information; or other proprietary or confidential data as defined by the State, including but not limited to "personal information" under Md. Code Ann., Commercial Law § 14-3501(d) and Md. Code Ann., State Gov't. § 10-1301(c)

Term	Definition
Service Level Agreement (SLA)	Measurable levels governing TO Contractor performance and providing liquidated damages for failure to meet those performance standards
SLA Activation Date	The date on which SLA charges commence under this Task Order, which may include, but to, the date of (a) completion of Transition In, (b) a delivery, or (c) releases of work
Software as a Service (SaaS)	<p>Applications running on a cloud infrastructure. The applications are accessible from various client devices through a thin client interface such as a Web browser (e.g., Web-based email) or a program interface. The State does not manage or control the underlying cloud infrastructure, which may include networks, servers, operating systems, and storage, but may be permitted limited user-specific application configuration settings.</p> <p>With a SaaS service, the Contractor is responsible for the acquisition and operation of all hardware, software and network support related to the services being provided, and shall keep all software current. The technical and professional activities required for establishing, managing, and maintaining the environments are the responsibilities of the Contractor.</p>
State	The State of Maryland
Subcontractor	An agent, service provider, supplier, or vendor selected by the Contractor to provide subcontracted services or products under the direction of the Contractor or other Subcontractors, and including any direct or indirect Subcontractors of a Subcontractor. Subcontractors are subject to the same terms and conditions as the Contractor.
Technical Safeguards	The technology and the policy and procedures used to protect and control access to Sensitive Data
Total Evaluated Price	The Offeror's price as submitted on Attachment F - Price Sheet, upon which the Offeror's Financial Proposal will be evaluated. (see RFP Section 5.3)
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 COMAR 21.11.13 and http://www.vetbiz.gov .

Term	Definition
Vishing	Fraudulent practice of making phone calls or leaving voice messages purporting to be from reputable companies in order to induce individuals to reveal personal information, such as bank details, credit card numbers etc.

1.3 Contract Type

The Contract resulting from this RFP shall be Firm Fixed Price in accordance with Code of Maryland Regulations (COMAR) 21.06.03.02

1.4 Contract Duration

- 1.4.1 The Contract shall start from the date of mutual contract execution by the parties
- 1.4.2 As of the Notice to Proceed (NTP) Date contained in a NTP, the Contractor shall perform all activities required by the Contract, including the requirements of this solicitation and the offerings in its Technical Proposal, for the compensation described in its Financial Proposal.
- 1.4.3 The Contract resulting from this RFP shall be for 3 years from the Contract Start Date.
- 1.4.4 The State, at its sole option, may renew the term of the Contract through two (2) additional one-year renewal options for up to a total potential contract length of five (5) years.
- 1.4.5 The Contractor's obligations to pay invoices to subcontractors that provide products/services during the Contract term, as well as the audit, confidentiality, document retention, and indemnification obligations of the Contract (see Attachment A), shall survive expiration or termination of the Contract and continue in effect until all such obligations are satisfied.

1.5 Procurement Officer

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

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

1.6 Contract Manager

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

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

1.7 Pre-Proposal Conference

- 1.7.1 A pre-proposal conference will be held at the time, date and location indicated on the Key Information Summary Sheet. Attendance at the pre-proposal conference is not mandatory, but all interested companies are encouraged to attend in order to facilitate better preparation of their proposals.

- 1.7.2 Seating at the pre-proposal conference will be limited to two (2) attendees per company. Attendees should bring a copy of the solicitation and a business card to help facilitate the sign-in process.
- 1.7.3 The pre-proposal conference will be summarized in writing. As promptly as is feasible subsequent to the pre-proposal conference, the attendance record and pre-proposal summary will be distributed via the same mechanism described for amendments and questions.
- 1.7.4 In order to assure adequate seating and other accommodations at the pre-proposal conference, please e-mail the Pre-Proposal Conference Response Form (Attachment E) no later than the time and date indicated on the form. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please call the Procurement Officer no later than five (5) business days prior to the pre-proposal conference. The Department will make reasonable efforts to provide such special accommodation.

1.8 eMaryland Marketplace

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

1.9 Questions

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

1.10 Procurement Method

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

1.11 Proposals Due (Closing) Date and Time

- 1.11.1 Proposals, in the number and form set forth in **Section 4 Proposal Format**, must be received by the Procurement Officer no later than the date and time listed on the Key Information Summary Sheet in order to be considered.

- 1.11.2 Requests for extension of this date or time shall not be granted. Offerors should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.02.10, Proposals received by the Procurement Officer after the due date and time shall not be considered.
- 1.11.3 Proposals may be modified or withdrawn by written notice received by the Procurement Officer before the Proposals due time and date.
- 1.11.4 Proposals delivered by facsimile shall not be considered.
- 1.11.5 Companies not responding to this solicitation are requested to submit the “Notice to Offerors/Bidders/Contractors” form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements).

1.12 Multiple or Alternate Proposals

Multiple and/or alternate Proposals will not be accepted.

1.13 Economy of Preparation

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

1.14 Public Information Act Notice

- 1.14.1 Offerors should give specific attention to the clear identification of those portions of their proposals that they deem to be confidential, proprietary commercial information or trade secrets and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, General Provisions Article, Title 4, Md. Code Ann. (Also, see RFP Section 4.2.2.2 “Claim of Confidentiality”). This confidential and/or proprietary information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical Proposal and if applicable, separately in the Financial Proposal.
- 1.14.2 Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information must be disclosed.

1.15 Award Basis

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

1.16 Oral Presentation

Offerors determined to be reasonably susceptible 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 then

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.

1.17 Duration of Proposal

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

1.18 Revisions to the RFP

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

1.19 Cancellations

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

1.20 Incurred Expenses

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

1.21 Protest/Disputes

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

1.22 Offeror Responsibilities

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

1.23 Substitution of Contractor Personnel

This section does not apply to this RFP.

1.24 Mandatory Contractual Terms

By submitting a Proposal in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached hereto as Attachment A. Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary of the Technical Proposal.

IMPORTANT: The volume and severity of exceptions to the Contract terms, including the terms of the RFP, will be considered in the evaluation process.

1.25 Bid/Proposal Affidavit

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

1.26 Contract Affidavit

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete a Contract Affidavit. A copy of this Affidavit is included for informational purposes as Attachment C Contract Affidavit of this RFP. This Affidavit must be provided within five (5) Business Days of notification of recommended award.

1.27 Compliance with Laws/Arrearages

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

1.28 Verification of Registration and Tax Payment

- 1.28.1 Before a business entity can do business in the State of Maryland it must be registered with the State Department of Assessments and Taxation (SDAT), State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. The SDAT website is <http://sdatcert3.resiusa.org/ucc-charter/>.
- 1.28.2 It is strongly recommended that any potential Offeror complete registration prior to the due date for receipt of Proposals. An Offeror's failure to complete registration with the SDAT may disqualify an otherwise successful Offeror from final consideration and recommendation for award.

1.29 False Statements

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

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

1.30 Payments by Electronic Funds Transfer

By submitting a response to this solicitation, the Offeror agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller's Office grants an exemption. Payment by EFT is mandatory for contracts exceeding \$200,000. The successful Offeror shall register using the COT/GAD X-10 Vendor EFT Registration Request Form.

Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption. The COT/GAD X-10 form can be downloaded at:

http://comptroller.marylandtaxes.com/Government_Services/State_Accounting_Information/Static_Files/APM/gadx-10.pdf.

1.31 Prompt Payment Policy

This procurement and the Contract to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs (GOMA) and dated August 1, 2008. Promulgated pursuant to Md. Code Ann., State Finance and Procurement Article, §§ 11-201, 13-205(a), and Title 14, Subtitle 3, and COMAR 21.01.01.03 and 21.11.03.01, the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The Contractor must comply with the prompt payment requirements outlined in the Contract, Sections 8 "Prompt Pay Requirements" and 20.14.3 "MBE Prompt Pay Requirements" (see Attachment A), should an MBE goal apply to this RFP. Additional information is available on GOMA's website at: <http://goma.maryland.gov/Pages/Legislation-and-Policy.aspx>.

1.32 Electronic Procurements Authorized

- 1.32.1 Under COMAR 21.03.05, unless otherwise prohibited by law, a primary procurement unit may conduct procurement transactions by electronic means, including the solicitation, bidding, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.
- 1.32.2 Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or the Contract.
- 1.32.3 "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/bs/>), and electronic data interchange.
- 1.32.4 In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., § 1.30 "Payments by Electronic Funds Transfer") and subject to the exclusions noted in section 1.32.5 of this subsection, the following transactions are authorized to be conducted by electronic means on the terms as authorized in COMAR 21.03.05:

1. The Procurement Officer may conduct the procurement using eMM, e-mail to issue:

- A. The solicitation (e.g., the RFP)
 - B. Any amendments
 - C. Pre-Proposal conference documents
 - D. Questions and responses
 - E. Communications regarding the solicitation or Proposal to any Offeror or potential offeror
 - F. Notices of award selection or non-selection
 - G. The Procurement Officer's decision on any solicitation protest or Contract claim
2. An Offeror or potential Offeror may use e-mail to:
 - A. Ask questions regarding the solicitation
 - B. Reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer's request or direction to reply by e-mail but only on the terms specifically approved and directed by the Procurement Officer
 - C. Submit a "No Bid/Proposal Response" to the solicitation
 3. The Procurement Officer, the Contract Manager, and the Contractor may conduct day-to-day Contract administration, except as outlined in Section 1.32.5 of this subsection, utilizing e-mail, or other electronic means if authorized by the Procurement Officer or Contract Manager.
- 1.32.5 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 protests;
 - B. Filing of Contract claims;
 - C. Submission of documents determined by the Department to require original signatures (e.g., Contract execution, Contract modifications); 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.
- 1.32.6 Any e-mail transmission is only authorized to the e-mail addresses for the identified person as provided in the solicitation, the Contract, or in the direction from the Procurement Officer or Contract Manager.

1.33 Minority Business Enterprise Participation Goal

There is no Minority Business Enterprise (MBE) subcontractor participation goal for this procurement.

1.34 Living Wage Requirements

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

- 1.34.2 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 DLLR website <http://www.dllr.state.md.us/labor/prev/livingwage.shtml>
- 1.34.3 Additional information regarding the State's living wage requirement is contained in Attachment G. Offerors must complete and submit the Maryland Living Wage Requirements Affidavit of Agreement (Attachment G-1) with their Proposals. If an Offeror fails to complete and submit the required documentation, the State may determine an Offeror to not be responsible under State law.
- 1.34.4 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.
- 1.34.5 The Offeror shall identify in the Proposal the location from which services will be provided.

NOTE: Whereas the Living Wage may change annually, the Contract price will not change because of a Living Wage change.

1.35 Federal Funding Acknowledgement

The Contract does not contain federal funds.

1.36 Conflict of Interest Affidavit and Disclosure

- 1.36.1 Offerors shall complete and sign the Conflict of Interest Affidavit and Disclosure (Attachment I) and submit it with their Proposal. All Offerors are advised that if a Contract is awarded as a result of this solicitation, the Contractor's personnel who perform or control work under this Contract and each of the participating subcontractor personnel who perform or control work under this Contract shall be required to complete agreements substantially similar to Attachment I Conflict of Interest Affidavit and Disclosure.
- 1.36.2 Additionally, contractors have an ongoing obligation to ensure that any necessary personnel or subcontractor personnel have completed such agreements prior to providing services under individual Task Orders issued under the Contract. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08.

- 1.36.3 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.
- 1.36.4 By submitting a Conflict of Interest Affidavit and Disclosure, the Contractor shall be construed as certifying all personnel and subcontractors are also without a conflict of interest as defined in COMAR 21.05.08.08A.

1.37 Non-Disclosure Agreement

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

1.38 Health Insurance Portability and Accountability Act - Business Associate Agreement

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

1.39 Non-Visual Access

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

1.40 Veteran-Owned Small Business Enterprise Goals

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

1.41 Location of the Performance of Services Disclosure

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

1.42 Contract Extended to Include Other Non-State Governments or Agencies

County, municipal, State entities that are not subject to DoIT's authority, including State non-executive branch entities, and non-State governments or agencies may purchase from the Contractor goods or

services covered by this Contract at the same maximum prices to which the State would be subject under the resulting Contract. All such purchases:

- (1) Shall constitute Contracts between the Contractor and that government, agency or organization;
- (2) For non-State entities, shall not constitute purchases by the State or State agencies under this Contract;
- (3) For non-State entities, shall not be binding or enforceable against the State; and
- (4) May be subject to other terms and conditions agreed to by the Contractor and the purchaser. The Contractor bears the risk of determining whether or not a government, agency or organization with which the Contractor is dealing is a State entity.

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

- (1) Shall constitute Contracts between the Contractor and that government, agency or organization;
- (2) For non-State entities, shall not constitute purchases by the State or State agencies under this Contract;
- (3) For non-State entities, shall not be binding or enforceable against the State; and
- (4) May be subject to other terms and conditions agreed to by the Contractor and the purchaser. The Contractor bears the risk of determining whether or not a government, agency or organization with which the Contractor is dealing is a State entity.

1.43 Retainage

This solicitation does not require retainage.

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2 COMPANY AND PERSONNEL QUALIFICATIONS

2.1 Offeror Minimum Qualifications

There are no Offeror Minimum Qualifications for this procurement.

2.2 Personnel Preferred Qualifications

There are no Personnel Preferred Qualifications for this procurement.

3 SCOPE OF WORK

3.1 Background and Purpose

The Department is issuing this solicitation in order to obtain a Software as a Service (SaaS) application that supports Security Awareness Training for State employees and contractors through comprehensive online or web-based courses that will provide an engaging and interactive positive employee experience, testing, and up- to- date content that is refreshed annually, along with full account management and service desk support.

The awarded Offeror shall be able to perform all requirements as detailed in all of Section 3.

3.2 Project Background

- 3.2.1 DoIT is responsible for providing Security Awareness Training for all State employees and contractors. DoIT currently hosts a web-based, 12-month term Security Awareness Training for 40,000 users. The current training has been used for the past three years and the while the content is still relevant, it is not updated to test for awareness of new and emerging threats to cyber security.
- 3.2.2 DoIT personnel currently provide a list of users for the creation or deletion of user accounts and act as a liaison for service desk support for the user. State employees and contractors will contact DoIT personnel if experiencing issues with the current training course and these tickets will be forwarded to the current contractor for mitigation.

3.3 General Requirements

3.3.1 Required Project Policies, Guidelines and Methodologies

The Contractor shall be required to comply with all applicable laws, regulations, policies, standards and guidelines affecting information technology projects, which may be created or changed periodically. It is the responsibility of the Contractor to ensure adherence and to remain abreast of new or revised laws, regulations, policies, standards and guidelines affecting project execution. These include:

- A. The State of Maryland System Development Life Cycle (SDLC) methodology at: www.DoIT.maryland.gov - keyword: SDLC;
- B. The State of Maryland Information Technology Security Policy and Standards at: www.DoIT.maryland.gov - keyword: Security Policy;
- C. The State of Maryland Information Technology Non-Visual Standards at: <http://DoIT.maryland.gov/policies/Pages/ContractPolicies.aspx>

3.3.2 Transition-Out Requirements

The State owns all right, title and interest in its data that is related to the services provided by this contract. Data, databases and derived data products created, collected, manipulated, or directly purchased as part of this contract shall become the property of the State. DoIT is the custodian of the State's data and may determine the use, access, distribution and other conditions based on the pertinent State statutes and regulations. Prior to termination of this contract, Contractor shall transmit and return to the State all State data, databases and derived

data products created, collected or manipulated as part of this contract, including all archived backups.

3.3.3 Backup and Disaster Recovery

3.3.3.1 Backups

The Contractor shall:

- A. Perform backups of the web server on a regular basis to safeguard against data loss. This shall include daily incremental backups and full weekly backups of all volumes of servers.
- B. Retain daily backups for one month, and weekly backups for two years on online storage by the Contractor.
- C. Archive weekly backups to off-line storage media and retain for the life of the Contract. The Contractor shall provide all archived backups as part of the transition-out activities.

3.3.3.2 Disaster Recovery

The Contractor shall maintain disaster avoidance procedures designed to safeguard State data and confidential information, Contractor's processing capability, and the availability of services. Contractor shall describe in its Proposal its disaster recovery approach, including an explanation of how the data will be recoverable.

3.3.4 Contractor-Supplied Hardware, Software, and Materials

The scope of this RFP will not include hardware. This procurement is for a web-based fully configured SaaS solution that meets all technical requirements in the RFP for Security Awareness Training. The SaaS applications shall be accessible from various client devices through a thin client interface such as a Web browser (e.g., Web-based email) or a program interface.

3.3.4.1 The Contractor is responsible for the acquisition and operation of all software and network support related to the services being provided, and shall keep all software current.

3.3.4.2 The Contractor shall provision all environments (test, development and production).

3.3.4.3 All upgrades shall be provided by the Contractor at no additional cost to the State.

3.3.4.4 Licensed and/or copyrighted data shall be governed by the terms and conditions identified in the Contract or the license. Offerors shall furnish any and all agreements the Offeror expects the State to sign in order to use the Offeror's services under this Contract to be reviewed by the State and subject to the State's approval. This includes physical copies of all agreements referenced and incorporated in primary documents and a copy of any software licensing agreement for any software proposed to be licensed to the State under this Contract (e.g., EULA, Enterprise License Agreements, Professional Service agreement, Master Agreement).

3.3.5 Data

3.3.5.1 Data, databases and derived data products created, collected, manipulated, or directly purchased as part of a RFP shall become the property of the State. The purchasing State agency is considered the custodian of the data and shall determine the use, access, distribution and other conditions based on appropriate State statutes and regulations.

3.3.6 Travel Reimbursement

Contractor shall not be reimbursed for travel or other expenses.

3.3.7 Contractor Responsibilities and Deliverables

The Contractor shall provide staffing and resources to fully supply the following services as identified:

1. Help Desk Services
2. Account Management Services
3. Technical Support Services
4. Backup and Recovery services

3.3.8 Technical Requirements

Attachment Q – Provides Technical Requirements for the SaaS solution for Security Awareness Training. This attachment contains a spreadsheet for Offerors to complete indicating whether the stated requirement is a standard feature in the Offeror's solution or whether the Offeror needs to configure or customize the solution in order to meet the requirement.

3.3.9 Content Requirements

The Contractor shall provide content that is engaging and interactive, utilizing a variety of instructional approaches. The content must utilize a basic vocabulary and communicate effectively to all staff at a non-technical level. The Contractor must demonstrate that the content will be kept current and refreshed on an annual basis. The Contractor shall demonstrate the content meets the following minimum standards:

1. Section 508/ADA compliant
2. Shareable Content Object Reference Model (SCORM) compliant
3. Able to be branded for the State

Content must address the following areas at a minimum:

1. Intro to Security Awareness
2. Email Security
3. Incident Reporting
4. Password Security
5. Anti-Phishing
6. Office Security
7. Social Networking and Engineering
8. Web Security
9. Public WiFi Use
10. Mobile Device Security
11. Identity Theft
12. Vishing
13. USB Drive Threat

14. Acceptable Use
15. Safe Disposal
16. Information Privacy

Content must have functionality to navigate back and forth through the training course and allow users to stop and pick up where they left off. The majority of lessons should be no more than 10 minutes in length.

3.3.10 Functional Requirements

The Contractor will provide the following:

1. Pre-launch support and testing
2. Account Management (Create, delete or modify user accounts)
3. Service Desk Support:
 - a. Available by either phone or email
 - b. Minimum support hours of 7 am to 7 pm Monday thru Friday
 - c. Email service desk requests will be acknowledged within one hour during normal service desk business hours.
 - d. Email requests during off hours, weekends, and holidays will be acknowledged within 24 hours of resumption of normal business hours

3.3.11 Reporting

The Contractor shall submit a monthly report of all State employees and contractors who have not completed the required training for the month as part of satisfactory performance under the Contract. The Contractor shall upon request, provide to any State agency a list of users who have not completed training.

3.4 Security Requirements

3.4.1 Information Technology

3.4.1.1 The Contractor agrees that it and Contractor Personnel shall (i) abide by all applicable federal, State and local laws, rules and regulations concerning Security of Information Systems and Information Technology security and (ii) comply with and adhere to the State IT Security Policy and Standards as each may be amended or revised from time to time. Updated and revised versions of the State IT Policy and Standards are available online at: www.DoIT.maryland.gov – keyword: Security Policy.

3.4.2 The State shall, at its discretion, have the right to review and assess the Contractor's compliance to the security requirements and standards defined in the Contract.

3.4.3 Contractor Personnel

3.4.3.1 Contractor Personnel shall display his or her company ID badge in a visual location at all times while on State premises. Upon request of authorized State personnel, each such Contractor Personnel shall provide additional photo identification.

- 3.4.3.2 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.
- 3.4.3.3 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.
- 3.4.3.4 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.

3.4.4 Security Clearance / Criminal Background Check

A security clearance is not required for Contractor Personnel assigned to the Contract.

3.4.5 On-site Security Requirement(s)

This section not applicable to this RFP.

3.4.6 Data Protection and Controls

Contractor shall ensure satisfaction of the following requirements:

- 3.4.6.1 Administrative, physical and technical safeguards shall be implemented to protect State data that are no less rigorous than accepted industry practices for information security such as those listed below (see 3.4.6.2), and all such safeguards, including the manner in which State data is collected, accessed, used, stored, processed, disposed of and disclosed shall comply with applicable data protection and privacy laws as well as the terms and conditions of this Contract.
- 3.4.6.2 To ensure appropriate data protection safeguards are in place, at minimum, the Contractor shall implement and maintain the following controls at all times throughout the term of the Contract (the Contractor may augment this list with additional controls):
1. Establish separate production, test, and training environments for systems supporting the services provided under this Contract and ensure that production data is not replicated in test and/or training environment(s) unless it has been previously anonymized or otherwise modified to protect the confidentiality of Sensitive Data elements.
 2. Apply software hardening procedures as recommended by the manufacturer and according to industry best practices to reduce the surface of vulnerability, eliminating as many security risks as possible and document what is not feasible and/or not performed according to best practices. Any hardening practices not implemented shall be documented with a plan of action and/or compensating control. These procedures may include but are not limited to removal of unnecessary software, disabling or removing unnecessary services, removal of unnecessary usernames or logins, and the deactivation of unneeded features in the system configuration files.
 3. Ensure that State data is not comingled with any other data through the proper application of compartmentalization security measures.

4. Apply data encryption to protect State data, especially personal identifiable information (PII), from improper disclosure or alteration. For State data the Contractor manages or controls, data encryption should be applied to State data in transit over networks and, where possible, at rest; as well as to State data when archived for backup purposes. Encryption algorithms which are utilized for this purpose must comply with current Federal Information Processing Standards (FIPS), “Security Requirements for Cryptographic Modules”, FIPS PUB 140-2.
<http://csrc.nist.gov/publications/fips/fips140-2/fips1402.pdf>
<http://csrc.nist.gov/groups/STM/cmvp/documents/140-1/1401vend.htm>
5. Enable appropriate logging parameters on systems to monitor user access activities, authorized and failed access attempts, system exceptions, and critical information security events as recommended by the operating system and application manufacturers and information security standards, including State of Maryland Department of Information Security Policy.
6. Retain the aforementioned logs and review them at least daily to identify suspicious or questionable activity for investigation and documentation as to their cause and remediation, if required. The Department shall have the right to inspect these policies and procedures and the Contractor’s performance to confirm the effectiveness of these measures for the services being provided under this Contract.
7. Ensure system and network environments are separated by properly configured and updated firewalls to preserve the protection and isolation of State data from unauthorized access as well as the separation of production and non-production environments.
8. Restrict network connections between trusted and untrusted networks by physically and/or logically isolating systems supporting the System from unsolicited and unauthenticated network traffic.
9. Review at regular intervals the aforementioned network connections, documenting and confirming the business justification for the use of all service, protocols, and ports allowed, including the rationale or compensating controls implemented for those protocols considered insecure but necessary.
10. Establish policies and procedures to implement and maintain mechanisms for regular vulnerability testing of operating system, application, and network devices. Such testing is intended to identify outdated software versions; missing software patches; device or software misconfigurations; and to validate compliance with or deviations from the Contractor’s security policy. Contractor shall evaluate all identified vulnerabilities for potential adverse effect on security and integrity and remediate the vulnerability promptly or document why remediation action is unnecessary or unsuitable. The Department shall have the right to inspect these policies and procedures and the performance of vulnerability testing to confirm the effectiveness of these measures for the services being provided under this Contract.
11. Enforce strong user authentication and password control measures to minimize the opportunity for unauthorized access through compromise of the user access controls. At a minimum, the implemented measures should be consistent with the most current State of Maryland Department of Information Technology’s

Information Security Policy

(<http://DoIT.maryland.gov/support/Pages/SecurityPolicies.aspx>), including specific requirements for password length, complexity, history, and account lockout.

12. Ensure Sensitive Data under this service is not processed, transferred, or stored outside of the United States.
13. The Contractor shall provide its services to the State and its end users solely from data centers in the United States. Storage of State data is not permitted on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. Access to State data remotely is permitted only as required to provide technical support.
14. Ensure Contractor's Personnel shall not connect any of its own equipment to a State LAN/WAN without prior written approval by the State, which may be revoked at any time for any reason. The Contractor shall complete any necessary paperwork as directed and coordinated with the Contract Manager to obtain approval by the State to connect Contractor-owned equipment to a State LAN/WAN.
15. Ensure that anti-virus and anti-malware software is installed and maintained on all systems supporting the services provided under this Contract; that the anti-virus and anti-malware software is automatically updated; and that the software is configured to actively scan and detect threats to the system for remediation.
16. Where website hosting or Internet access is the service provided or part of the service provided, the Contractor and/or Subcontractor shall conduct regular external vulnerability testing. External vulnerability testing is an assessment designed to examine the Contractor and/or Subcontractor's security profile from the Internet without benefit of access to internal systems and networks behind the external security perimeter. The Contractor and/or Subcontractor shall evaluate all identified vulnerabilities on Internet-facing devices for potential adverse effect on the system's security and/or integrity and remediate the vulnerability promptly or document why remediation action is unnecessary or unsuitable. The Department shall have the right to inspect these policies and procedures and the performance of vulnerability testing to confirm the effectiveness of these measures for the services being provided under this Contract.

3.4.6.3 Security Logs and Reports Access

The Contractor shall provide reports to the State in a mutually agreeable format.

Reports shall include latency statistics, user access, user access IP address, user access history and security logs for all State files related to this Contract.

3.5 Performance and Personnel

3.5.1 Work Hours

- A. Business Hours Support: The collective assigned Contractor Personnel shall provide support from 7 AM to 7 PM ("core business hours"), Monday through Friday except for State holidays, Service Reduction days, and Furlough days observed by the Department. Contractor personnel may also be required to provide occasional support outside of core

business hours, including evenings, overnight, and weekends, to support: specific efforts and emergencies to resolve system repair or restoration.

3.6 Service Level Agreement (SLA)

- 3.6.1 The State, in conjunction with the selected Offeror, intends to establish Service Level Agreements (SLAs) for the operations and service desk support of the Security Awareness Training SaaS solution.
- 3.6.2 It is important that the Offeror and the State enter into a contractual relationship that succinctly defines SLA agreements and commitments. It is the intent of this section to specifically define the minimum SLA criteria that is required by the State. The technical requirements that are presented throughout this RFP represent the State's minimum requirements. The Offeror shall detail in their Proposal its understanding of and compliance with the requirements in the RFP, including how the Offeror will comply. The Offeror shall consider carefully the resources that will be required to meet these SLAs.
- 3.6.3 Monthly diagnostic reports in the categories outlined below will be used to verify and analyze Offeror conformance with the defined SLAs. The State shall have access to all performance data, in raw and processed form, for the purpose of SLA verification.
- 3.6.4 The Offeror's Proposal shall describe how the Offeror will measure and report on each performance category below, on a monthly basis. Proposed measurement and reporting tools must be described, as well as how the State will receive the reports – e.g. via on-line access, CD-ROM, or other means.

3.7.4.1 Security Awareness Training SaaS Availability

This SLA shall address performance of the Security Awareness Training SaaS availability. The Security Awareness Training SaaS must be operational and available to customers 24 hours a day, 365 days per year. The only exception will be for pre-defined systems administration and maintenance. Individual applications may be unavailable based on the individual agency legacy application operational schedule. Scheduled downtime must be coordinated with and approved by the State with at least a seven (7) day advance notice prior to performing the scheduled downtime. Scheduled downtime must be scheduled during off-hours. The Offeror must describe its approach and experience on availability and the scheduling of routine maintenance downtime.

3.7.4.2 Security Management

The SLA shall address performance of security management. Security management includes all the components that make-up the security barriers to the application, data while being transmitted to or through the application and data available to the application. The security barriers may include firewalls, intrusion detection, virus protection, access control, authentication and other mechanism and techniques to ensure the system and data is protected.

3.7.4.6 Performance Monitoring and Problem Resolution

The Offeror shall describe its plans for performance monitoring and problem resolution. The Offeror shall describe procedures to be included for interfacing and consulting with software suppliers to identify and correct problems. The Contractor shall perform maintenance at

times that will not adversely impact daily operations. The Contractor shall coordinate maintenance schedules and procedures based on the State's requirements. The Offeror's plans for regularly performing normal and preventive software maintenance must be included in the proposal.

3.7 Insurance Requirements

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

3.7.1 General Liability

The Contractor shall maintain Commercial General Liability Insurance with limits sufficient to cover losses resulting from or arising out of Contractor action or inaction in the performance of the Contract by the Contractor, its agents, servants, employees, or subcontractors, but no less than a Combined Single Limit for Bodily Injury, Property Damage, and Personal and Advertising Injury Liability of \$1,000,000 per occurrence and \$3,000,000 aggregate.

3.7.2 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 Commercial General Liability.

3.7.3 State Inclusion on Insurance

The State shall be listed as an additional insured on the policies with the exception of 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 to do business and to provide such policies.

3.7.4 Subcontractor Insurance

The Contractor shall require that any subcontractors providing products or services under this Contract obtain and maintain similar levels of insurance and shall provide the Contract Manager with the same documentation as is required of the Contractor.

3.7.5 Notification of Insurance after Award

The recommended awardee must provide a certificate of insurance with the prescribed limits set forth in Section 3.4 "Insurance Requirements," naming the State as an additional insured if required, within five (5) Business Days from notice of recommended award.

3.8 Invoicing

3.8.1 Generally, it is not anticipated that the State will be invoiced directly for development and sustaining activities under the Contract resulting from this RFP. However, for those specific requested tasks in which direct invoicing will result, the following shall apply.

- 3.8.2 All invoices shall be submitted monthly no later than 15 calendar days after the end of the invoice period, unless specified differently in a Work Order, and include the following information:
- A. Name and address of the State agency being billed
 - B. Contractor name
 - C. Remittance address
 - D. Federal taxpayer identification number
 - E. Invoice Period
 - F. Invoice Date
 - G. Invoice Number
 - H. Amount Due
 - I. Work Order number being billed
- 3.8.3 Additional information may be required in the future. Invoices submitted without the required information will not be processed for payment.
- 3.8.4 The State is generally exempt from federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. The Contractor; however, is not exempt from such sales and use taxes and may be liable for the same.

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4 PROPOSAL FORMAT

4.1 Two-Part Submission

Offerors shall submit Proposals in separate volumes:

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

4.2 Volume I – Technical Proposal

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

4.2.1 Format of Technical Proposal

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

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

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

The Technical Proposal should begin with a Title Page bearing the name and address of the Offeror and the name and number of this RFP. A Table of Contents shall follow the Title Page for the Technical Proposal, organized by section, subsection, and page number.

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

Any information which is claimed to be confidential is to be noted by reference and included after the Title Page and before the Table of Contents, and if applicable, also in the Offeror's Financial Proposal. The entire Proposal cannot be given a blanket confidentiality designation - any confidentiality designation must apply to specific sections, pages, or portions of pages of the Proposal and an explanation for each claim shall be included (see Section 1.14 "Public Information Act Notice").

4.2.2.3 Transmittal Letter (Submit under TAB B)

A Transmittal Letter shall accompany the Technical Proposal. The purpose of this letter is to transmit the Proposal and acknowledge the receipt of any addenda. The Transmittal Letter should be brief and signed by an individual who is authorized to commit the Offeror to its Proposal and the requirements as stated in this RFP. The Transmittal Letter should include the following:

- A. Name and address of the Offeror;
- B. Name, title, e-mail address, and telephone number of primary contact for the Offeror;

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

4.2.2.4 Executive Summary (Submit under TAB C)

The Offeror shall condense and highlight the contents of the Technical Proposal in a separate section titled "Executive Summary" which must also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (Attachment A), or any other attachments, however Offerors are advised that exceptions may result in having the Proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award.

4.2.2.5 Offeror Technical Response to RFP Requirements and Proposed Work Plan (Submit under TAB E)

- A. The Offeror shall address each Scope of Work requirement (Section 3) in its Technical Proposal and describe how its SaaS solution, including the SaaS solution of any proposed subcontractor(s), will meet or exceed the requirement(s). If the State is seeking Offeror agreement to any requirement(s), the Offeror shall state its agreement or disagreement. Any paragraph in the Technical Proposal that responds to a Scope of Work requirement shall include an explanation of how the work will be performed. The response shall address each requirement in Section 3 of this RFP in order, and shall contain a cross reference to the RFP requirement.
- B. The Offeror shall identify the location(s) from which it proposes to provide the services, including, if applicable, any current facilities that it operates, and any required construction to satisfy the State's requirements as outlined in this RFP.

4.2.2.6 Offeror Qualifications and Capabilities (Submit under TAB G)

The Offeror shall include information on past experience with similar projects and/or services. The Offeror shall describe how its organization can meet the requirements of this RFP and shall also include the following information:

- A. The number of years the Offeror has provided the similar services;
- B. The number of clients/customers and geographic locations that the Offeror currently serves;
- C. The names and titles of headquarters or regional management personnel who may be involved with supervising the services to be performed under this Contract;
- D. The Offeror's process for resolving billing errors; and

- E. An organizational chart that identifies the complete structure of the Offeror including any parent company, headquarters, regional offices, and subsidiaries of the Offeror.

4.2.2.7 References (Submit under TAB H)

At least three (3) references are requested from customers who are capable of documenting the Offeror's ability to provide the products/services specified in this RFP. References used to meet any Offeror Minimum Qualifications (see Section 2) may be used to meet this request. Each reference shall be from a client for whom the Offeror has provided products/services within the past five (5) years and shall include the following information:

- A. Name of client organization;
- B. Name, title, telephone number, and e-mail address, if available, of point of contact for client organization; and
- C. Value, type, duration, and description of products/services provided.

The Department reserves the right to request additional references or or contact any other person with knowledge of Offeror's past performance. Points of contact must be accessible and knowledgeable regarding Offeror performance.

4.2.2.8 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 products/services or for which services have been completed within the last five (5) years. For each identified contract, the Offeror is to provide:

- A. The State contracting entity;
- B. A brief description of the products/services provided;
- C. The dollar value of the contract;
- D. The term of the contract;
- E. The State employee contact person (name, title, telephone number, and, if possible, e-mail address); and
- F. 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.

4.2.2.9 Financial Capability (Submit under TAB J)

An Offeror must include in its Proposal Financial Statements, for the last two (2) years. In addition, the Offeror may supplement its response to this Section by including one or more of the following with its response:

- A. Dunn and Bradstreet Rating;
- B. Standard and Poor's Rating;
- C. Lines of credit;
- D. Evidence of a successful financial track record; and

E. Evidence of adequate working capital.

4.2.2.10 Certificate of Insurance (Submit under TAB K)

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 3.9.

4.2.2.11 Legal Action Summary (Submit under TAB M)

This summary shall include:

- A. A statement as to whether there are any outstanding legal actions or potential claims against the Offeror and a brief description of any action;
- B. A brief description of any settled or closed legal actions or claims against the Offeror over the past five (5) years;
- C. 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
- D. In instances where litigation is on-going and the Offeror has been directed not to disclose information by the court, provide the name of the judge and location of the court.

4.3 Volume II – Financial Proposal

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

4.4 Proposal Packaging

DoIT strongly desires e-mail delivery of Proposals. All attachments shall only be submitted in one of the following formats: Excel, Word, or Adobe PDF.

4.4.1 Offerors may submit Proposals by e-mail to the Procurement Officer address listed on the Key Information Summary Sheet. An Offeror wishing to deliver a hard copy (paper) Proposal shall contact the Procurement Officer for instructions.

4.4.2 E-mail submissions

- A. All Proposal e-mail attachments shall have 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 Offerors shall not be accepted.
- 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 Technical Proposal must be different from the password for the Financial

Proposal. An Offeror will provide these two passwords to DoIT upon request or its Proposal will be deemed not susceptible for award. Subsequent submissions of Proposal content will not be allowed.

- D. The Procurement Officer will only contact those Offerors with Proposals that are reasonably susceptible for award.
- E. Proposals submitted via e-mail are subject to a 25 MB limit. 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 SAT 060B8400023 and either “Technical Proposal” or “Financial Proposal” - <Offeror Name>.

4.4.3 Two Part Submission:

- A. Technical Proposal consisting of:
 - 1) the Technical Proposal and all supporting material in Microsoft Word format, version 2007 or greater (where Word is not the original format, an Adobe PDF may be substituted),
 - 2) the Technical Proposal in searchable Adobe PDF format,
 - 3) a second searchable Adobe copy of the Technical Proposal, with confidential and proprietary information redacted (see **Section 1.14** “Public Information Act Notice”), and
- B. Financial Proposal consisting of:
 - 1) Financial Proposal and all supporting material in Excel format,
 - 2) the Financial Proposal in searchable Adobe PDF format,
 - 3) a second searchable Adobe copy of the Financial Proposal, with confidential and proprietary information removed (see **Section 1.14** “Public Information Act Notice”).

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5 EVALUATION CRITERIA AND PROCEDURE

5.1 Evaluation Committee

Evaluation of Proposals will be performed in accordance with COMAR 21.05.03 by a committee established for that purpose 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 established Evaluation Committee for advice and assistance, as deemed appropriate.

5.2 Technical Proposal Evaluation Criteria

The criteria to be used to evaluate each Technical Proposal are listed below in descending order of importance. Unless stated otherwise, any sub-criteria within each criterion have equal weight.

5.2.1 Offeror's Technical Response to RFP Requirements and Work Plan (See RFP § 4.2.2.6)

The State prefers an Offeror's response to work requirements in the RFP that illustrates a comprehensive understanding of work requirements and mastery of the subject matter, including an explanation of how the work will be performed. Proposals which include limited responses to work requirements such as "concur" or "will comply" will receive a lower ranking than those proposals that demonstrate an understanding of the work requirements and include plans to meet or exceed them.

5.2.2 The proposed Security Awareness Training SaaS match with the features in Attachment Q - TECHNICAL REQUIREMENTS.

5.2.3 Offeror Qualifications and Capabilities (See RFP § 4.2.2.8 – 4.4.2.14)

5.3 Financial Proposal Evaluation Criteria

All Qualified Offerors (see Section 5.5.3) will be ranked from the lowest to the highest price based on the Total Proposal Price within the stated guidelines set forth in this RFP and as submitted on **Attachment F- Financial Proposal PRICING INSTRUCTIONS**. DoIT will only contact those Offerors with proposals that are reasonably susceptible for award. Offerors that are unable to provide a password that opens the financial submission will be deemed not susceptible for award, and subsequent submissions will not be allowed.

5.4 Reciprocal Preference

Although Maryland law does not authorize procuring agencies to favor resident Offerors in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. COMAR 21.05.01.04 requires that procuring units apply a reciprocal preference under the following conditions:

- A. The most advantageous offer is from a responsible Offeror whose headquarters, principal base of operations, or principal site that will primarily provide the products/services required under this RFP is in another state.
- B. The other state gives a preference to its resident businesses through law, policy, or practice; and

C. The preference does not conflict with a Federal law or grant affecting the procurement Contract.

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

5.5 Selection Procedures

5.5.1 General

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

5.5.1.2 In either case (i.e., with or without discussions), the State may determine an Offeror to be not responsible and/or an Offeror's Proposal to be not reasonably susceptible of being selected for award at any time after the initial closing date for receipt of Proposals and prior to Contract award. If the State finds an Offeror to be not responsible and/or an Offeror's Technical Proposal to be not reasonably susceptible of being selected for award, that Offeror's Financial Proposal will be returned if the Financial Proposal is unopened at the time of the determination.

5.5.2 Selection Process Sequence

5.5.2.1 Technical Proposals are evaluated for technical merit. 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. Technical Proposals are initially ranked by the Evaluation Committee.

5.5.2.2 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.

5.5.2.3 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) which includes both Technical and Financial Proposals. In response to a BAFO, 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 Proposal through the response to the BAFO. After the BAFO is reviewed, the Evaluation Committee will determine the final Technical and Financial Rankings.

5.5.2.4 The State may make an award without issuing a request for a BAFO.

5.5.3 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.

5.6 Documents Required upon Notice of Recommended Award

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

- A. Contract (Attachment A),
- B. Contract Affidavit (Attachment C),
- C. Evidence of meeting insurance certificate requirements, see **Section 3.7.2 Certificates of Insurance.**

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RFP ATTACHMENTS

ATTACHMENT A – Contract

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

ATTACHMENT B – Bid/Proposal Affidavit

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

ATTACHMENT C – Contract Affidavit

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

ATTACHMENT D – Minority Business Enterprise Forms

If required (see Section 1.33), these Attachments include the MBE subcontracting goal statement, instructions, and MBE Attachments D1-A through D-5. Attachment D-1A must be properly completed and submitted with the Offeror's Technical Proposal or the Proposal will be deemed non-responsive and rejected. Within 10 Working Days of receiving notification of recommended award, the Offeror must submit Attachments D-2, D-3A, D-3B and, if the Offeror has requested a waiver of the MBE goal, usually Attachment D-1C.

ATTACHMENT E – Pre-Proposal Conference Response Form

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

ATTACHMENT F – Financial Proposal Instructions and Price Sheet

The Price Sheet (Attachment F-1) must be completed and submitted with the Financial Proposal.

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

Attachment G-1 Living Wage Affidavit of Agreement must be completed and submitted with the Technical Proposal.

ATTACHMENT H – Federal Funds Attachment – Not Required

ATTACHMENT I – Conflict of Interest Affidavit and Disclosure

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

ATTACHMENT J – Non-Disclosure Agreement – Not Required

ATTACHMENT K – HIPAA Business Associate Agreement

ATTACHMENT L – Mercury Affidavit – Not Required

ATTACHMENT M – Veteran-Owned Small Business Enterprise Forms – Not Required

ATTACHMENT N – Location of the Performance of Services Disclosure – Not Required

ATTACHMENT O – Department of Human Resources (DHR) Hiring Agreement – Not Required

ATTACHMENT P – Non-Disclosure Agreement (Offeror) – Not Required

ATTACHMENT Q – Technical/Functional Requirements

See attached Excel Spreadsheet for Technical/Functional Requirements

ATTACHMENT A - CONTRACT

Department of Information Technology (DOIT)

“Security Awareness Training”

060B8400002

THIS CONTRACT (the “Contract”) is made this ____ day of _____, 20__ by and between _____ and, on behalf of the STATE OF MARYLAND, the MARYLAND Department of Information Technology (DOIT).

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

1. Definitions

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

- 1.1. “COMAR” means the Code of Maryland Regulations available on-line at www.dsd.state.md.us.
- 1.2. “Contract” means this contract for Security Awareness Training.
- 1.3. “Contractor” means _____, whose principal business address is: _____.
- 1.4. “Contract Manager” means the individual identified in Section 1.6 of the Request for Proposals (RFP), or a successor designated by the Department or Agency.
- 1.5. “Department or Agency” means the Department of Information Technology (DoIT).
- 1.6. “eMM” means eMaryland Marketplace.
- 1.7. “Financial Proposal” means the Contractor’s financial proposal dated _____.
- 1.8. “Minority Business Enterprise” (MBE) means an entity meeting the definition at COMAR 21.0 1.02.01B (54), which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- 1.9. “Procurement Officer” means the person identified in Section 1.5 of the RFP or a successor designated by the Department or Agency.
- 1.10. “Proposal” collectively refers to the Technical Proposal and Financial Proposal.
- 1.11. “RFP” means the Request for Proposals for Security Awareness Training, Solicitation # 060B8400002 and any amendments thereto issued in writing by the State.
- 1.12. “State” means the State of Maryland.
- 1.13. “Technical Proposal” means the Contractor’s technical proposal dated _____.
- 1.14. “Veteran-owned Small Business Enterprise” (VSBE) means a business that is verified by the Center for Veterans Enterprise of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.

2. Scope of Contract

- 2.1. The Contractor shall provide products and services as described in the RFP to obtain Security Awareness Training for State employees and contractors through comprehensive online or web-based courses.
- 2.2. These products and services shall be provided in accordance with the terms and conditions of this Contract and the following Exhibits, which are attached and incorporated herein by reference. If there

are any inconsistencies between this Contract and Exhibits A through C, the terms of this 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 dated _____.

Exhibit C – The Proposal.

Exhibit D – Service Provider’s Terms of Service (TOS) dated _____

3. Period of Performance

- 3.1. The Contract shall start as of the date of full execution by the parties (the “Effective Date”). From this date, the Contract shall be for a period of 3 years beginning <<anticipated Contract start date>> and ending on <<anticipated end date of base term of Contract>>. In its sole discretion, the Department or Agency shall have the right to exercise an option to extend the Contract for 2, one-year renewal options.
- 3.2. The Contractor shall provide products and services under this Contract as of the date provided in a written Notice to Proceed.
- 3.3. Audit, confidentiality, document retention, Work Product (see §5.2) retention, warranty and indemnification obligations under this Contract and any other obligations specifically identified shall survive expiration or termination of the Contract.
- 3.4. In its sole discretion, the Department shall have the right to exercise an option to extend the Contract for two (2,) one-year renewal periods.

4. Consideration and Payment

- 4.1. In consideration of the satisfactory performance of the Contract, the Department or Agency shall promptly process a proper invoice for payment in accordance with the terms of this Contract.
- 4.2. The total payment for products and services provided under a fixed price 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. For time and materials contracts, or contracts which include both fixed price and time and materials elements, total payments to the Contractor pursuant to this Contract may not exceed \$_____ (the “NTE Amount”), which includes \$_____ for the base period <<if one or more option periods exist, then include: and \$_____ for the option period(s)>>. The Contractor shall notify the Contract Manager, in writing, at least 60 days before time and material obligations are expected to reach the NTE Amount. The Contractor shall have no obligation to perform the time and materials requirements under this Contract after payments reach the NTE Amount. The cessation of the Contractor’s obligation to perform under this paragraph 4.2 is expressly conditioned on the following: that prior to the NTE Amount being reached, the Contractor shall: (i) give the notice required under this paragraph 4.2; (ii) promptly consult with the Department or Agency and cooperate in good faith with the Department or Agency to establish a plan of action to assure that every reasonable effort has been undertaken by the Contractor to complete critical work in progress prior to the date the NTE Amount will be reached; and (iii) secure data bases, systems, platforms and/or applications on which the Contractor is working so that no damage or vulnerabilities to any of the same will exist due to the existence of any such unfinished work.
- 4.3. The Contractor shall submit invoices as required in the RFP. Invoices that contain both fixed price and time and material items must clearly identify the items to either fixed price or time and material billing. Invoices for third-party software support and maintenance will be paid on an <<enter the payment cycle (e.g., annual, monthly)>> basis. Each invoice must include the Contractor’s Federal Tax Identification Number: <<enter the Contractor Tax ID number>>. The Contractor’s eMM identification number is <<enter the Contractor’s eMM ID number>>. Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the Department’s receipt of a proper invoice from the Contractor.

Charges for late payment of invoices other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, as from time-to-time amended, are prohibited. Invoices shall be submitted to the Contract Manager. The 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

- 4.4. 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.

5. Patents, Copyrights, Intellectual Property

- 5.1. If the Contractor furnishes any design, device, material, process, or other item, which is covered by a patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items.
- 5.2. Except as provided in Section 5.4 of this Contract, the Contractor agrees that all documents and materials, including but not limited to, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, software, graphics, mechanical, artwork, computations and data prepared by or for the Contractor for purposes of this Contract (Work Product) shall become and remain the sole and exclusive property of the State and shall be available to the Department or Agency at any time. The Department or Agency shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.
- 5.3. Except as provided in Section 5.4 of this Contract, the Contractor agrees that at all times during the term of this Contract and thereafter, the Work Product shall be "works made for hire" as that term is interpreted under U.S. copyright law and shall be owned by the State. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such Work Product. In the event any Work Product is or may not be considered a work made for hire under applicable law, Contractor assigns and transfers to the State the entire right, title and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof. Contractor shall execute all documents and perform such other proper acts as the State may deem necessary to secure for it the rights pursuant to this section.
- 5.4. Notwithstanding anything to the contrary in this Contract, to the extent (i) the Work Product incorporates any commercial-off-the shelf software (COTS) and/or any Pre-Existing Intellectual Property or (ii) any COTS and/or Pre-Existing Intellectual Property (other than a computer's operating system, supported internet browser, browser accessibility software or hardware if needed by the user, and software required to access a commonly-available data transmission tool or export format) is required to access, install, build, compile or otherwise use the Work Product (such COTS and Pre-Existing Intellectual Property individually and collectively referred to herein as "Third-party Intellectual Property," which shall be the sole property of Contractor or its third-party licensors, as applicable), Contractor hereby grants, on behalf of itself and any third-party licensors, to the State a royalty-free, paid-up, non-exclusive, unrestricted, unconditional, irrevocable, worldwide right and license, with the right to use, execute, reproduce, display, perform, distribute copies of internally, modify and prepare derivative works based upon, such Third-party Intellectual Property as may be necessary for the State to use the Work Product for the purposes for which such Work Product was designed and intended. "Pre-Existing Intellectual Property" means any program, utility or tool owned by Contractor or its third-party licensors that was created by Contractor or its third-party licensors independently from its performance of this Contract and not solely using funds from this Contract.
- 5.5. Subject to the terms of Section 6, Contractor shall defend, indemnify, and hold harmless the State, including, but not limited to, the Agency and its agents, officers, and employees, from and against any and all claims, costs, losses, damages, liabilities, judgments and expenses (including without limitation

reasonable attorneys' fees) arising out of or in connection with any claim the Work Product or any Third-party Intellectual Property infringes, misappropriates or otherwise violates any Third-party Intellectual Property rights. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent, which consent may be withheld in the State's sole and absolute discretion. Contractor shall be entitled to control the defense or settlement of such claim (with counsel reasonably satisfactory to the State), provided that the State will, upon requesting indemnification hereunder: (a) provide reasonable cooperation to Contractor in connection with the defense or settlement of any such claim, at Contractor's expense; and (b) be entitled to participate in the defense of any such claim. Contractor's obligations under this section will not apply to the extent any Third-party Intellectual Property infringes, misappropriates or otherwise violates any third party intellectual rights as a result of modifications made by the State in violation of the license granted to the State pursuant to section 5.4; provided that such infringement, misappropriation or violation would not have occurred absent such modification.

- 5.6. Without limiting Contractor's obligations under Section 5.5, if all or any part of the Work Product or any Third Party Intellectual Property is held, or Contractor or the State reasonably determines that it could be held, to infringe, misappropriate or otherwise violate any third party intellectual property right, Contractor (after consultation with the State and at no cost to the State): (a) shall procure for the State the right to continue using the item in accordance with its rights under this Contract; (b) replace the item with an item that does not infringe, misappropriate or otherwise violate any third party intellectual property rights and, in the State's sole and absolute determination, complies with the item's specifications, and all rights of use and/or ownership set forth in this Contract; or (c) modify the item so that it no longer infringes, misappropriates or otherwise violates any third party intellectual property right and, in the State's sole and absolute determination, complies with the item's specifications and all rights of use and/or ownership set forth in this Contract.
- 5.7. Except for any Pre-Existing Intellectual Property and Third-Party Intellectual Property, Contractor shall not acquire any right, title or interest (including any intellectual property rights subsisting therein) in or to any goods, software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the State to the Contractor. Notwithstanding anything to the contrary herein, the State may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a separate writing executed by the Contractor and an authorized representative of the State.
- 5.8. Contractor, on behalf of itself and its subcontractors, hereby agrees not to incorporate, link, distribute or use any Third-party Intellectual Property in such a way that: (a) creates, purports to create or has the potential to create, obligations with respect to any State software (including any deliverable hereunder), including without limitation the distribution or disclosure of any source code; or (b) grants, purports to grant, or has the potential to grant to any third-party any rights to or immunities under any State intellectual property or proprietary rights. Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall incorporate, link, distribute or use, in conjunction with the Work Product, any code or software licensed under the GNU General Public License ("GPL"), Lesser General Public License ("LGPL"), Affero GPL ("AGPL"), European Community Public License ("ECPL"), Mozilla, or any other open source license, in any manner that could cause or could be interpreted or asserted to cause any State software (or any modifications thereto) to become subject to the terms of the GPL, LGPL, AGPL, ECPL, Mozilla or such other open source software.
- 5.9. Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall use any software or technology in a manner that will cause any patents, copyrights or other intellectual property which are owned or controlled by the State or any of its affiliates (or for which the State or any of its subcontractors has received license rights) to become subject to any encumbrance or terms and conditions of any third-party or open source license (including, without limitation, any open source license listed on <http://www.opensource.org/licenses/alphabetical>) (each an "Open Source License").

These restrictions, limitations, exclusions and conditions shall apply even if the State or any of its subcontractors becomes aware of or fails to act in a manner to address any violation or failure to comply therewith. No act by the State or any of its subcontractors that is undertaken under this Contract as to any software or technology shall be construed as intending to cause any patents, copyrights or other intellectual property that are owned or controlled by the State (or for which the State has received license rights) to become subject to any encumbrance or terms and conditions of any Open Source License.

- 5.10. The Contractor shall report to the Department or Agency, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Work Product delivered under this Contract.

6. Indemnification

- 6.1. Contractor shall indemnify, defend, and hold the State, its directors, officers, employees and agents harmless from third-party liability for tangible property damage, bodily injury and death, and for fraud or willful misconduct of Contractor, including all related defense costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties) arising from or relating to the performance of the Contractor or its subcontractors under this Contract.
- 6.2. The State has no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim or action of any character is brought by any person not party to this Contract against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.
- 6.3. The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.
- 6.4. The Contractor shall immediately notify the Procurement Officer of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from or relating to the Contractor's obligations under the Contract, and will cooperate, assist, and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of or relating to the Contractor's performance under this Contract.
- 6.5. Section 6 shall survive expiration of this Contract.

7. Limitations of Liability

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

- 7.1 For infringement of patents, trademarks, trade secrets and copyrights as provided in Section 6 ("Patents, Copyrights, Intellectual Property") of this Contract;
- 7.2 Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property;
- 7.3 For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract, regardless of the form, Contractor's liability per claim shall not exceed five (5) times the total amount of the Contract or WO Agreement out of which the claim arises; provided however, the State may, in its sole discretion, decrease the ceiling established hereunder in any Contract or WO Agreement issued pursuant to this RFP. Third party claims arising under Section 6 ("Indemnification") of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor's liability for third party claims arising under Section 6 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 6.

8. Prompt Pay Requirements

Prompt pay does not apply to this Contract.

9. Risk of Loss; Transfer of Title

Risk of loss for conforming supplies, equipment and materials specified as deliverables to the State hereunder shall remain with the Contractor until the supplies, equipment, materials and other deliverables are received and accepted by the State. Title of all such deliverables passes to the State upon acceptance by the State, subject to the State's payment for the same in accordance with the terms of this Contract.

10. Source Code Escrow

Source code escrow does not apply to this Contract.

11. Loss of Data

In the event of loss of any State data or records where such loss is due to the intentional act, omission, or negligence of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for recreating such lost data in the manner and on the schedule set by the Contract Manager. The Contractor shall ensure that all data is backed up and is recoverable by the Contractor. In accordance with prevailing federal or state law or regulations, the Contractor shall report the loss of non-public data as directed in Section 16.17.

12. Markings

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

13. Exclusive Use and Ownership

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

14. Confidentiality

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

15. Parent Company Guarantee (If Applicable)

[Corporate name of Parent Company] hereby guarantees absolutely the full, prompt and complete performance by "[Contractor]" of all the terms, conditions and obligations contained in this Contract, as it may be amended from time to time, including any and all exhibits that are now or may become incorporated hereunto, and other obligations of every nature and kind that now or may in the future arise out of or in

connection with this Contract, including any and all financial commitments, obligations and liabilities. "[Corporate name of Parent Company]" may not transfer this absolute guaranty to any other person or entity without the prior express written approval of the State, which approval the State may grant, withhold, or qualify in its sole and absolute subjective discretion. "[Corporate name of Parent Company]" further agrees that if the State brings any claim, action, suit or proceeding against "[Contractor]", "[Corporate name of Parent Company]" may be named as a party, in its capacity as Absolute Guarantor.

16. General Terms and Conditions

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

16.1. Pre-Existing Regulations

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

16.2. Maryland Law Prevails

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

16.3. Multi-year Contracts contingent upon Appropriations

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

16.4. Cost and Price Certification

16.4.1. 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 a mutually determined specified date prior to the conclusion of any price discussions or negotiations for:

- (1) A negotiated contract, if the total contract price is expected to exceed \$100,000, or a smaller amount set by the Procurement Officer; or
- (2) A change order or contract modification, expected to exceed \$100,000, or a smaller amount set by the Procurement Officer.

16.4.2. 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 agreed upon between the parties, was inaccurate, incomplete, or not current.

16.5. Contract Modifications

The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. Pursuant to COMAR 21.10.04, the Contractor must assert in writing its right to an adjustment under this section and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under Section 16.8, Disputes. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

16.6. Termination for Default

If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State of Maryland shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

16.7. Termination for Convenience

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

16.8. Disputes

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

16.9. Living Wage

If a Contractor subject to the Living Wage law fails to submit all records required under COMAR 21.11.10.05 to the Commissioner of Labor and Industry at the Department of Labor, Licensing and Regulation, the Department or Agency may withhold payment of any invoice or retainage. The

Department or Agency may require certification from the Commissioner on a quarterly basis that such records were properly submitted.

16.10. Non-Hiring of Employees

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

16.11. Nondiscrimination in Employment

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

16.12. Commercial Non-Discrimination

16.12.1. As a condition of entering into this Agreement, 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, disability, or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, 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.

16.12.2. As a condition of entering into this Agreement, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Agreement and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions.

16.13. Subcontracting and Assignment

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

16.14. Minority Business Enterprise Participation

There is no Minority Business Enterprise subcontractor participation goal for this Contract.

16.15. Insurance Requirements

The Contractor shall maintain workers' compensation coverage, and property and casualty insurance as required in the RFP. The minimum limits of such policies must meet any minimum requirements established by law and the limits of insurance required by the RFP, and shall cover losses resulting from or arising out of Contractor action or inaction in the performance of services under the Contract by the Contractor, its agents, servants, employees or subcontractors. Effective no later than the date of execution of the Contract, and continuing for the duration of the Contract term, and any applicable renewal periods, the Contractor shall maintain such insurance coverage and shall report such insurance annually or upon Contract renewal, whichever is earlier, to the Procurement Officer. The Contractor is required to notify the Procurement Officer in writing, if policies are cancelled or not renewed 35 days in advance of such cancellation and/or nonrenewal. Certificates of insurance evidencing this coverage shall be provided within five (5) days of notice of recommended award. All insurance policies shall be issued by a company properly authorized to do business in the State of Maryland. The State shall be named as an additional named insured on the property and casualty policy and as required in the RFP.

16.16. Veteran Owned Small Business Enterprise Participation

There is no VSBE subcontractor participation goal for this procurement.

16.17. Security Requirements and Incident Response

- 16.17.1. The Contractor agrees to abide by all applicable federal, State and local laws concerning information security and comply with current State and agency information security policy, currently found at <http://DoIT.maryland.gov/Publications/DoITSecurityPolicy.pdf>.
- 16.17.2. The Contractor agrees to notify the Department or Agency when any Contractor system that may access, process, or store State data or Work Product is subject to unintended access or attack. Unintended access or attack includes compromise by a computer malware, malicious search engine, credential compromise or access by an individual or automated program due to a failure to secure a system or adhere to established security procedures.
- 16.17.3. The Contractor further agrees to notify the Department or Agency within twenty-four (24) hours of the discovery of the unintended access or attack by providing notice via written or electronic correspondence to the Contract Manager, Department or Agency chief information officer and Department or Agency chief information security officer.
- 16.17.4. The Contractor agrees to notify the Department or Agency within two (2) hours if there is a threat to Contractor's product as it pertains to the use, disclosure, and security of the Department or Agency's data.
- 16.17.5. If an unauthorized use or disclosure of any personally identifiable information (PII), protected health information (PHI) or other private/confidential data (collectively "Sensitive Data") occurs, the Contractor must provide written notice to the Department or Agency

within one (1) business day after Contractor's discovery of such use or disclosure and thereafter all information the State (or State Department or Agency) requests concerning such unauthorized use or disclosure.

- 16.17.6. The Contractor, within one day of discovery, shall report to the Department or Agency any improper or non-authorized use or disclosure of Sensitive Data. Contractor's report shall identify:
- (a) the nature of the unauthorized use or disclosure;
 - (b) the Sensitive Data used or disclosed,
 - (c) who made the unauthorized use or received the unauthorized disclosure;
 - (d) what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and
 - (e) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure.
 - (f) The Contractor shall provide such other information, including a written report, as reasonably requested by the State.
- 16.17.7. The Contractor agrees to comply with all applicable laws that require the notification of individuals in the event of unauthorized release of PII or other event requiring notification. In the event of a breach of any of the Contractor's security obligations or other event requiring notification under applicable law, the Contractor agrees to assume responsibility for informing all such individuals in accordance with applicable law and to indemnify, hold harmless and defend the State (or State Department or Agency) and its officials and employees from and against any claims, damages, or other harm related to such security obligation breach or other event requiring the notification.
- 16.17.8. This Section shall survive expiration or termination of this Contract.

16.18. Suspension of Work

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

16.19. Nonvisual Accessibility Warranty

- 16.19.1. The Contractor warrants that the information technology to be provided under the Contract.
- (a) provides equivalent access for effective use by both visual and non-visual means;
 - (b) will present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use;
 - (c) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and
 - (d) is available, whenever possible, without modification for compatibility with software and hardware for non-visual access.
- 16.19.2. The Contractor further warrants that the cost, if any, of modifying the information technology for compatibility with software and hardware used for non-visual access does not increase the cost of the information technology by more than five percent. For purposes of this Contract, the phrase "equivalent access" means the ability to receive, use and manipulate information and operate controls necessary to access and use information technology by non-visual means. Examples of equivalent access include keyboard controls

used for input and synthesized speech, Braille, or other audible or tactile means used for output.

16.20. Compliance with Laws/Arrearages

The Contractor hereby represents and warrants that:

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

16.21. Contingent Fee Prohibition

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

16.22. Delays and Extensions of Time

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

16.23. Financial Disclosure

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

16.24. Political Contribution Disclosure

The Contractor shall comply with the provisions of Article 33, Sections 14-101 through 14-108 of the Annotated Code of Maryland, which require that every person that enters into contracts, leases, or other agreements with the State of Maryland, a county or an incorporated municipality or their agencies, during a calendar year under which the person receives in the aggregate \$200,000 or more, shall file with the State Board of Elections a statement disclosing contributions in excess of

\$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

16.25. Retention of Records and Audit

16.25.1. The Contractor shall retain and maintain all records and documents in any way relating to this Contract for three (3) years after close out of this Contract and final payment by the State under this Contract, or any applicable statute of limitations, prevailing federal or State law or regulation, or condition of award, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or the Procurement Officer's designee, at all reasonable times. The Contractor shall, upon request by the Department or Agency, surrender all and every copy of documents needed by the State, including, but not limited to itemized billing documentation containing the dates, hours spent and work performed by the Contractor and its subcontractors under the Contract. The Contractor agrees to cooperate fully in any audit conducted by or on behalf of the State, including, by way of example only, making records and employees available as, where, and to the extent requested by the State and by assisting the auditors in reconciling any audit variances. Contractor shall not be compensated for providing any such cooperation and assistance. All records related in any way to the Contract are to be retained for the entire time provided under this section.

16.25.2. This provision shall survive expiration of this Contract.

16.26 Compliance with federal Health Insurance Portability and Accountability Act (HIPAA) and State Confidentiality Law

HIPAA clauses do not apply to this Contract.

17. Administrative Information

17.1. Procurement Officer and Contract Manager

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

17.2. Notices

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

If to the State:

Derek Wheeler

100 Community Place
Crownsville MD 21032

Phone Number: 410-697-9396

E-Mail: derek.wheeler@maryland.gov

With a copy to:

Dapheny McCray

Department of Information Technology (DOIT)
100 Community Place
Crownsville MD 21032
Phone Number: 410-697-9671
E-Mail: Dapheny.mccray1@mayland.gov

If to the Contractor:

Attn: _____

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

CONTRACTOR

STATE OF MARYLAND

Department of Information Technology (DOIT)

By:

By: Albert G. Bullock, Chief of Staff

Date

Or designee:

Date

Approved for form and legal sufficiency
this ____ day of _____, 20__.

Assistant Attorney General

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

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

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

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

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

B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.

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

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

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

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

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

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

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

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

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

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

_____.

G. SUBCONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

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

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

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

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

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the Bid/Proposal price of the Bidder/Offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying Bid/Proposal is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

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

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

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

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

K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

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

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

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

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

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

I FURTHER AFFIRM THAT:

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

M. I FURTHER AFFIRM THAT:

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

N. ACKNOWLEDGEMENT

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

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

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

Date: _____

By: _____ (print name of Authorized Representative and Affiant)

_____ (signature of Authorized Representative and Affiant)

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

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

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

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

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

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

Name and Department ID

Number: _____ Address: _____

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

Name and Department ID

Number: _____ Address: _____

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

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

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

E. DRUG AND ALCOHOL FREE WORKPLACE

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

I CERTIFY THAT:

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

The dangers of drug and alcohol abuse in the workplace;

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

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

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

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

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

Abide by the terms of the statement; and

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

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

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

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

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

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

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

(4) I acknowledge and agree that:

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

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

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

F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

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

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

Date: _____

By: _____ (printed name of Authorized Representative and Affiant)

_____ (signature of Authorized Representative and Affiant)

ATTACHMENT D - MINORITY BUSINESS ENTERPRISE FORMS

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

ATTACHMENT E - PRE-PROPOSAL CONFERENCE RESPONSE FORM

Solicitation Number 060B8400002

Security Awareness Training

A Pre-proposal conference will be held at 09:30AM, on October 10, 2017, at 100 Community Place, Crownsville, MD 21032. Please return this form by October 6, 2017, advising whether or not you plan to attend.

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

Dapheny McCray

DOIT

100 Community Place
Crownsville MD 21032

E-mail: Dapheny.mccray1@maryland.gov

Please indicate:

_____ Yes, the following representatives will be in attendance:

- 1.
- 2.
- 3.

_____ No, we will not be in attendance.

Please specify whether any reasonable accommodations are requested (see RFP § 1.7 “Pre-proposal conference”):

Signature

Title

Name of Firm (please print)

ATTACHMENT F - FINANCIAL PROPOSAL PRICING INSTRUCTIONS

In order to assist Offerors in the preparation of their Financial Proposal and to comply with the requirements of this solicitation, Price Sheet Instructions and a Price Sheet have been prepared. Offerors shall submit their Financial Proposal on the Price Sheet in accordance with the instructions on the Price Sheet and as specified herein. Do not alter the Price Sheet or the Proposal may be determined to be not reasonably susceptible of being selected for award. The Price Sheet is to be signed and dated, where requested, by an individual who is authorized to bind the Offeror to the prices entered on the Price Sheet.

The Price Sheet is used to calculate the Offeror's TOTAL EVALUATED PRICE. Follow these instructions carefully when completing your Price Sheet:

- A) All Unit and Extended Prices must be clearly entered in dollars and cents, e.g., \$24.15. Make your decimal points clear and distinct.
- B) All Unit Prices must be the actual price per unit the State will pay for the specific item or service identified in this RFP and may not be contingent on any other factor or condition in any manner.
- C) All calculations shall be rounded to the nearest cent, i.e., .344 shall be .34 and .345 shall be .35.
- D) Any goods or services required through this RFP and proposed by the vendor at No Cost to the State must be clearly entered in the Unit Price, if appropriate, and Extended Price with \$0.00.
- E) Every blank in every Price Sheet shall be filled in. Any changes or corrections made to the Price Sheet by the Offeror prior to submission shall be initialed and dated.
- F) Except as instructed on the Price Sheet, nothing shall be entered on or attached to the Price Sheet that alters or proposes conditions or contingencies on the prices. Alterations and/or conditions may render the Proposal not reasonably susceptible of being selected for award.
- G) It is imperative that the prices included on the Price Sheet have been entered correctly and calculated accurately by the Offeror and that the respective total prices agree with the entries on the Price Sheet. Any incorrect entries or inaccurate calculations by the Offeror will be treated as provided in COMAR 21.05.03.03E and 21.05.02.12, and may cause the Proposal to be rejected.
- H) If option years are included, Offerors must submit pricing for each option year. Any option to renew will be exercised at the sole discretion of the State and will comply with all terms and conditions in force at the time the option is exercised. If exercised, the option period shall be for a period identified in the RFP at the prices entered in the Price Sheet.
- I) All Financial Proposal prices entered below are to be fully loaded prices that include all costs/expenses associated with the provision of services as required by the RFP. The Financial Proposal price shall include, but is not limited to: all labor, profit/overhead, general operating, administrative, and all other expenses and costs necessary to perform the work set forth in the solicitation. No other amounts will be paid to the Contractor. If labor rates are requested, those amounts shall be fully-loaded rates; no overtime amounts will be paid.
- J) Unless indicated elsewhere in the RFP, sample amounts used for calculations on the Price Sheet are typically estimates for evaluation purposes only. Unless stated otherwise in the RFP, the Department or Agency does not guarantee a minimum or maximum number of units or usage in the performance of this Contract.

K) Failure to adhere to any of these instructions may result in the Proposal being determined not reasonably susceptible of being selected for award.

ATTACHMENT F -1- PRICE SHEET

See Attached Excel Sheet

ATTACHMENT G - LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS

Living Wage Requirements 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/> and clicking on Living Wage for State Service Contracts.

ATTACHMENT G-1 Maryland Living Wage Requirements Affidavit of Agreement

Contract No. _____

Name of Contractor _____

Address _____

City _____ State _____ Zip Code _____

If the Contract Is Exempt from the Living Wage Law

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

Bidder/Offeror is a nonprofit organization

Bidder/Offeror is a public service company

Bidder/Offeror employs 10 or fewer employees and the proposed contract value is less than \$500,000

Bidder/Offeror employs more than 10 employees and the proposed contract value is less than \$100,000

If the Contract Is a Living Wage Contract

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

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

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 with Bid/Proposal)

ATTACHMENT H - FEDERAL FUNDS ATTACHMENT

This solicitation does not include a Federal Funds Attachment.

ATTACHMENT I - CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

Reference COMAR 21.05.08.08

(submit with Bid/Proposal)

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

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

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

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

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

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

Date: _____ By: _____

(Authorized Representative and Affiant)

ATTACHMENT J - NON-DISCLOSURE AGREEMENT (CONTRACTOR)

This solicitation does not require a Non-Disclosure Agreement.

ATTACHMENT K - HIPAA BUSINESS ASSOCIATE AGREEMENT

This solicitation does not require a HIPAA Business Associate Agreement.

ATTACHMENT L - MERCURY AFFIDAVIT

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

ATTACHMENT M - VETERAN-OWNED SMALL BUSINESS ENTERPRISE

The Veteran-Owned Small Business Enterprise (VSBE) subcontractor participation goal for this solicitation is 0%.

ATTACHMENT N - LOCATION OF THE PERFORMANCE OF SERVICES DISCLOSURE

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

ATTACHMENT O - DHR HIRING AGREEMENT

This solicitation does not require a DHR Hiring Agreement.

Attachment P - NON-DISCLOSURE AGREEMENT (OFFEROR)

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

ATTACHMENT Q - TECHNICAL REQUIREMENTS

Offerors are required to complete the attached spreadsheet for their proposed Security Awareness Training System by selecting in the Response column whether the requirement is:

- A. Standard Feature in System
- B. Requires Customization
- C. Not Available

Offerors may enter explanations for any line item they feel the need to elaborate on. Prior to contract award, the State may request access to the proposed System to verify Offeror's response to the requirements as stated in this RFP.