\*\*TORFP Template version 4.01 September 14, 2017 – A **TORFP template version 4.0 or greater will be mandatory as of 9/28/2017.\*\***

\*\*TORFP authors,

DoIT presents this updated TORFP template to aid in producing a complete CATS+ IT solicitation. As you begin tailoring the document, there are a few items you and all contributors need to know. Please share the following information with all contributors.

1. As a major update to the prior IT template, we may need to post corrections. **Please return to the DoIT website prior to starting any new TORFP draft** (http://doit.maryland.gov/contracts/Pages/CATSplusServiceCenter.aspx).
2. You need to understand the basics for how Word’s **Styles** feature works and apply those styles to the text you paste into this document. Auto-numbering and other formatting in the document is achieved through use of these styles. **Please do not manually number ANY requirements.** See more styles-related instructions on page 1 (or perform a find for **\*\*Word Styles instructions\*\***). Note that ALL requirements are to be numbered (no “simple bullets” or plain paragraphs).
3. Data entry and tailoring instructions are flagged throughout the document using guillemets (<< and >>, also known as angle quotes). Where the text between the guillemets is one word such as <<solicitationName>>, perform a Word find and replace so that every instance is replaced throughout the document. See the **Basic tailoring of TORFP** **data** table below for more guidance.
	1. Tip! Perform a find on guillemets to find any remaining tailoring not yet completed.
4. What’s in this version of the TORFP?
	1. Re-sequenced to align with Statewide RFP template,
	2. Updated security, SOC 2 Type 2, invoicing language among others,
	3. Updated tailoring instructions throughout the document,
	4. Made updates in response to COMAR changes.

\*\*

|  |
| --- |
| **Basic tailoring of TORFP data**Perform a find and replace on the following text to begin customizing this TORFP. Be sure to select “Match Case” in the Word Find/Replace dialog box (Home tab, select Replace button, click More, check Match Case). Remove this *Basic tailoring* table prior to release.Note: Don’t change the default fields for any information you do not yet know (also we recommend you keep the appropriate line from this table until the substitution is made). \*\*Tip: delete an instruction once you’ve performed the action or associated tailoring. The remaining instructions will act as a reminder to complete the task.\*\* |
| To insert the correct value of: | Find TextType exactly as typed below in the find/replace dialog, including brackets << >> where indicated, with “Match Case” selected.  | Replace with TextDo NOT include brackets in the “Replace” text |
| Full name of the department or agency issuing the TORFP | <<issuingAgencyName>> | the correct name |
| Acronym of the department or agency issuing the TORFP | <<ISSUINGAGENCYACRONYM>> | the correct acronym |
| Correct term, such as “Department” or “Agency” used throughout the boilerplate text | <<typeofAgency>> | the correct word (e.g., Department, Agency, Administration, College) |
| Solicitation Title | <<solicitationTitle>>and again for all caps<<SOLICITATIONTITLE>> | the correct title |
| Solicitation Number | <<solicitationNumber>>and again for all caps<<SOLICITATIONNUMBER>> | the correct solicitation number |
| TO Procurement Officer | <<procurementOfficerName>> | the name of the TO Procurement Officer |
| TO Manager | <<contractManagerName>> | the name of the TO Manager |
| As you progress through the template, perform a find/replace on other values flagged with << to change all similar values throughout the document. |

Consulting and Technical Services+ (CATS+)

Task Order Request for Proposals (TORFP)



<<issuingAgencyName>> (<<ISSUINGAGENCYACRONYM>>)

SOLICITATION Number <<solicitationnumber>>

<<solicitationTitle>>

Issue date: <<issueDate>>

\*\*Remove the following if your TORFP is not a Small Business Reserve TORFP: \*\*

NOTICE TO OFFERORS

SMALL BUSINESS RESERVE

<<issuingAgencyName>> (<<ISSUINGAGENCYACRONYM>>)

Key Information Summary Sheet

|  |  |
| --- | --- |
| **Solicitation Title:** | <<solicitationTitle>> |
| **Solicitation Number (TORFP#):** | <<solicitationNumber>> |
| **Functional Area:** | <<catsFunctionalArea>> |
| **TORFP Issue Date:** | <<issueDate>> |
| **TORFP Issuing Office:** | <<issuingAgencyName>> (<<ISSUINGAGENCYACRONYM>> or the "<<typeofAgency>>") |
| **<<typeofAgency>> Location:** | <<issuingAgencyLocation>> |
| **TO Procurement Officer:** | <<procurementOfficerName>><<procurementOfficerAddress>> |
| **e-mail:****Office Phone:** | <<procurementOfficerEmail>><<procurementOfficerPhoneNumber>> |
| **TO Manager:** | <<contractManagerName>><<contractManagerAddress>> |
| **e-mail:****Office Phone:** | <<contractManagerEmail>><<contractManagerPhoneNumber>> |
| **TO Proposals are to be sent to:** | \*\*Only use ONE of the following three options and delete the other two\*\*<<procurementOfficerEmail>>\*\*OR\*\*<<issuingAgencyLocation>>Attention: <<procurementOfficerName>> |
| **TO Pre-proposal Conference:** | <<preProposalDateAndTime>> Local Time <<preProposalLocation>>See **Attachment A** for directions and instructions.  |
| **TO Proposals Due (Closing) Date and Time:**  | <<responseDueDateAndTime>> Local TimeOfferors are reminded that a completed Feedback Form is requested if a no-bid decision is made (see **Section 5**). |
| **MBE Subcontracting Goal:** | <<mbeGoal>>%\*\*Submit signed PRG showing MBE, VSBE, and SBR values at time of review for any TORFP over $50,000\*\*\*\*After completing the MBE Subgoal Worksheet pursuant to the MBE Subgoal Guidance, (i) insert the subgoal amounts for the applicable subgroups. If after the completion of the MBE Subgoal Worksheet no subgoals are established, then the following should be included instead, in black font: \*\*<<with no subgoals.>>\*\*OR\*\*with the following subgoals: <<mbeAfricanAmericanownedSubgoal>>% for African-American MBEs,<<mbeAsianAmericanSubgoal>>% for Asian-American MBEs,<<mbeHispanicAmericanownedSubgoal>>% for Hispanic-American MBEs, and<<mbeWomenownedSubgoal>>% for Woman-Owned MBEs.  |
| **VSBE Subcontracting Goal:** | <<vsbeGoal>>% |
| **Task Order Type:** | <<contractType>>\*\* e.g., firm fixed price, fixed price with cost adjustment, labor hour, indefinite quantity with fixed unit price. Indicate if a combination of more than one type, e.g. fixed price with cost adjustment, time & materials, Indefinite Quantity with Firm Fixed Prices with Work Orders of Time & Materials and Fixed Price.Example: **Indefinite Quantity with Firm Fixed Prices with Work Orders of Time and Materials and Fixed Price**\*\* |
| **Task Order Duration:** | <<basePeriodofPerformance>> base period with <<optionPeriods>> option periods, commencing from the Effective Date\*\*Enter contract duration including startup period, approximate NTP date and any option periods. Delete reference to option periods if no options are planned. Example: Three (3) year base period with two (2) one-year option periods. **Accepted CATS+ period of performance including all options is 5 years**.\*\* |
| **Primary Place of Performance:** | <<primaryPlaceofPerformance>>\*\*Agency or building name , full street address, TO Contractor’s location\*\* |
| **SBR Designation:** | <<sbrApplicable>>\*\*Yes or No\*\* |
| **Federal Funding:** | <<federalFunding>>\*\*Yes or No\*\* |
| **Questions Due Date and Time** | <<responseDueDateAndTime>> Local Time |

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# Minimum Qualifications

**\*\*\*\*Word Styles instructions\*\*\*\*\*\*\*\***

**This document contains some standard Word “styles” for you to** make formatting easier. **As you paste in text from other documents, your best bet is to paste the text with NO formatting and then apply the styles.** Take advantage of the Word feature “format painter” to mimic formats already in this TORFP to text you paste in.

Plain paragraph text: MD Text 0, and if indenting needed MD Text #Indent 1, MD Text #Indent 2, MD Text #Indent 3

**X.X Level heading**: **Heading 2**

X.X.X Level heading (when it’s a heading label only): **Heading 3**

x.x.x Numbering when it’s a requirement: **MD Text 1**

A., B., C., List: **MD ABC**

Basic paragraph text: **MD Text 0**

*DoIT requires all list items to be uniquely numbered-* ***do not use “simple” bullets****\*\*\*\*\*\*\*\*\*\*\*\*\*\*\**

\*\*Authors, as of January 2017 DoIT made a policy decision to remove minimum qualifications from all TORFPs with the exception of those personnel minimum qualifications identified in Section 2.10 of the CATS+ RFP for labor categories. On a case by case basis, DoIT will consider exceptions to this minimum qualification policy. Contact DoIT with your desired minimum requirements. \*\*Agencies are urged to carefully assess those criteria that would make an Offeror’s proposal undesirable, and ensure that the evaluation criteria clearly identify those items.

In finding that a particular company may not be susceptible for award, TO Procurement Officers must clearly state the evaluation criteria which support this conclusion

DoIT urges agencies that decide to utilize this capability **to carefully coordinate with DoIT at the time of making** the decision to ensure smooth completion of recommended award.

## Offeror Personnel Minimum Qualifications

Offeror Personnel shall meet the following minimum qualification criteria to be eligible for consideration in the evaluation of this TORFP:

Proposed Personnel experience starting dates and ending dates must be clearly identified for each applicable minimum requirement.

\*\*If offeror specifies the labor category, insert the following text: \*\*

Offeror must specify the labor category corresponding to the following position(s):

\*\*otherwise delete the line above\*\*

### <<Insert Labor Category Name>> or <<Position Title>>

Meets the identified labor category description as described in **CATS + RFP Section 2.10** (<http://doit.maryland.gov/contracts/Documents/CATSPlus2016/060B2490023-2016CATSPlus2016RFP.pdf>).

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

# TO Contractor Requirements: Scope of Work

## Summary Statement

The <<issuingAgencyName>> (<<ISSUINGAGENCYACRONYM>> or the "<<typeofAgency>>") is issuing this CATS+ TORFP in order to <<\*\*Enter a **brief** description of the services to be performed or goods to be furnished. \*\*>>.

\*\*For a COTS or SaaS solution consider including and tailoring or remove the following language: \*\*

The purpose of this solicitation is to procure a state-of-the-art commercially available COTS application to <<\*\*briefly describe the business need and/or required functionality of the software application\*\*>>.

The State does not wish to procure a software application still under development. The COTS software utilized in the solution shall be operational (i.e., not under development) and generally available by the due date of the TO Proposal.

\*\*Instruction for staffing TORFPs: Add the following text. Note that you do NOT have to issue a work order for personnel that begin at the commencement of the Task Order. However, without a work order you will need to issue a change order to cancel any services. Remove the paragraph below if you do not intend to use work orders. \*\*

<<ISSUINGAGENCYACRONYM>> anticipates issuing a Work Order immediately upon Task Order award for <<xx (x)>>resources according to the Work Order Process in **Section 3.14**. <<ISSUINGAGENCYACRONYM>> will have the option of adding up to <<xx (x)>> additional resources to this Task Order for a maximum total of <<xx (x)>> resources. All resources beyond the initial <<xx>> will be requested through a Work Order process (See **Section 3.14**).

\*\*Instruction: The text below is not required if only one role is sought for this TORFP:

<<ISSUINGAGENCYACRONYM>> intends to award this Task Order to one (1) Master Contractor that proposes a team of resources and a Staffing Plan that can best satisfy the Task Order requirements.

Master Contractors are advised that, should a solicitation or other competitive award be initiated as a result of activity or recommendations arising from this Task Order, the Offeror awarded this Task Order may not be eligible to compete if such activity constitutes assisting in the drafting of specifications, requirement, or design thereof.

A Task Order award does not assure a TO Contractor that it will receive all State business under the Task Order.

## Background and Purpose

\*\*Describe Agency background\*\*

\*\*Provide a description of the purpose of this solicitation, and any background information that may be helpful to vendors in preparing the responses. A brief summary of this section should be included in Section 2.1 of this solicitation.

1. Describe the system to be supported. Describe the background and system technology, components, interfaces, etc. that would be pertinent for the TO Contractor to provide adequate maintenance support. Delete the headings below that aren’t needed.

Clearly indicate what additional resources are supporting this system. Include what business processes it supports, identify users, system products, etc.

Recommendations for maintenance support:

1. Describe the system to be supported. Describe the background and system technology, components, interfaces, etc. that would be pertinent for the TO Contractor to provide adequate maintenance support.
2. Clearly indicate what additional resources are supporting this system. Include what business processes it supports, identify users, system products, etc.

HINT: if you are typing “the contractor will” then you are writing requirements. \*\*

### Project Goals

\*\*Do not keep these headings if they don’t apply\*\*

### Current Environment

### Existing Hardware

### Existing Software

### Existing Data/Content Management

### Existing Reporting

### State Staff and Roles

\*\*Include descriptions of any existing project management office or other management structure that the contractor will be working with. Include as part of the “State responsibilities” any information that is actually assigned to another contractor. Examples include how a change control board is set up, the relationship of different project teams to the contractor. \*\*

In addition to the TO Procurement Officer and TO Manager, the State …………

1. State Project Manager
	1. The State will provide a State Project Manager who will be responsible for……
	2. The State Project Manager will provide the following: …….
2. Other State Furnished Roles

\*\*System Admins, DBA, Network Administrator, Other roles? \*\*

### Other State Responsibilities

1. The State will provide normal office working facilities and equipment reasonably necessary for TO Contractor performance under this Task Order. Any special requirements (e.g., reprographic services, computer time, key data entry) shall be identified.
2. The State is responsible for providing required information, data, documentation, and test data to facilitate the TO Contractor’s performance of the work, and will provide such additional assistance and services as is specifically set forth.

## Responsibilities and Tasks

\*\*Insert the Task Order specifications into the solicitation here. This is the most important section of the solicitation and the “meat” of the procurement. Any product or service deliverables, milestones, or deadlines must be identified here, including reports specific to the Scope of Work requirements. The specifications must clearly articulate what the State’s requirements are, and readers should understand exactly what the State intends to procure. The specifications need to be clearly written so that payment can be made appropriately, work (un)performed can be identified, and the contractual rights of the State can be enforced. Use the term “TO Contractor,” not “Offeror,” throughout this Section as these are contractual requirements. State your requirements in an outline format that is organized logically with proper headings for each main section (e.g. Staffing; Reports), using Word’s styles to generate proper outline formatting to differentiate subsections. \*\*

\*\*Uniquely number and describe every requirement under the TORFP for ease of reference. Leverage the established Word Styles to help with numbering.

Do NOT cut and paste text directly from any vendor proposal or vendor submission – adjust any source materials to reflect this template and the agency’s point of view. \*\*

All content in this section is suggested content for IT solicitations- however, not every section will be applicable for IT.\*\*

\*\***You are not required** to use the subsections nor the tables as outlined in this Section 2 of the template. Use a requirements organization structure that matches the type of work requested in this TORFP.

\*\*Assess the following questions for requirements you may need in your TORFP: \*\*

1. Is there a provision for development and test environments? Some hosting vendors will provide these at no additional cost and some will have pricing models – specify and provide for the environments you need in the requirements and also the TO Financial Proposal Form
2. Have you included a requirement provide documentation for the use of the service – TO Contractor shall provide documentation for use of the service. TO Contractor shall provide documentation on any administration or configuration the State is allowed to perform.
3. Are technical support and maintenance covered as part of the service (help services, configuration services)? Are they add-on costs? Specify and provide for these items in both requirements and also the TO Financial Proposal Form.
4. Are customization and integrated services included in the costs?
5. Is training included? What kind of training are you expecting?
6. Is a Change control process defined? Ask for the change control process the TO Contractor intends to follow.
7. Be sure to include transfer of software licenses as part of acceptance criteria for system\*\*

\*\*Note for customization of a SaaS: Subscribers of SaaS services do not typically get an opportunity to delay implementation of these services. Also, any customizations (vs. configurations) of a hosted service, even if performed by the SaaS vendor, may result in system issues when a new version of the software or associated components is released. \*\*

### Heading for agency requirements

### Heading for agency requirements

### Heading for agency requirements

### Heading for agency requirements

### TO Contractor-Supplied Hardware, Software, and Materials

\*\*Tailor these as appropriate for your needs. You may find that some of these are duplicates to other sections. Edit and move them around Section 2 as appropriate. \*\*

1. By responding to this TORFP and accepting a Task Order award, an Offeror specifically agrees that for any software that it proposes for use by the State in response to this TORFP, the State will have the right to purchase from another source, instead of from the selected Offeror.
2. 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. The State shall be permitted limited user-specific application configuration settings.
4. The TO 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.
5. All Upgrades and regulatory updates shall be provided at no additional cost.
6. By responding to this TORFP and accepting a Task Order award, an Offeror specifically agrees that for any software, hardware or hosting service that it proposes for use by the State in response to this TORFP, the State will have the right to purchase from another source, instead of from the selected Offeror.
7. The State requires that the Offeror price individual software modules separately.
8. The State also requires that the Offeror provide fully functional, generally available software and multiple-user licenses for purchase as needed throughout the life of the Task Order.
9. The Offeror shall install and provide all documentation for the software furnished under this Task Order.

\*\*Instructions: If applicable, describe the agency’s strategy under the Task Order for acquiring necessary hardware, software, or materials. Modify the following optional text appropriate for this TORFP: \*\*

1. Hardware and software costs procured as part of the TORFP cannot exceed 49 percent of the total Task Order value.
2. Material costs shall be passed through with no mark-up by the TO Contractor.
3. The TO Contractor shall prepare software releases and stage at the <<typeofAgency>> for validation in the system test environment. The <<typeofAgency>> will provide authorization to proceed. The <<typeofAgency>> will have the ability to manage the distribution of these releases to the appropriate sites. To support this requirement, the TO Contractor shall propose, provide and fully describe their solution for updating all sites with any new software releases.
4. The Offeror shall provide <<manufacturer or provider’s standard warranty for the item. *Offeror shall identify the duration of the standard warranty*>>. \*\*Adjust this section to clearly state your expectations for any equipment furnished under the contract. For instance, you may specify that you want a warranty for a period coinciding with the duration of the task order. Note that equipment warranty is associated with a PURCHASE, not SaaS or IaaS. \*\* Any warranty period for goods and services will not commence until acceptance of the products or services by the <<typeofAgency>>. Notwithstanding anything to the contrary, all defective items must be replaced at no additional cost to the State. \*\*Note that with any hardware/software provided under this TORFP you may wish to require that the TO Contractor demonstrate that it is a licensed reseller or distributor of the item. \*\*
5. Acceptance criteria for hardware –\*\*insert if any specific requirements pertaining to acceptance of equipment. \*\*

### Required Project Policies, Guidelines and Methodologies

The TO 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. Offeror is required to review all applicable links provided below and state compliance in its response.

It is the responsibility of the TO Contractor to ensure adherence and to remain abreast of new or revised laws, regulations, policies, standards and guidelines affecting project execution. These include, but are not limited to:

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

\*\*for any TORFP that might have MITDP components include the MITDP oversight: \*\*

1. The State of Maryland Information Technology Project Oversight at: www.DoIT.maryland.gov - keyword: IT Project Oversight;
2. The TO Contractor shall follow project management methodologies consistent with the most recent edition of the Project Management Institute’s *Project Management Body of Knowledge Guide*; and
3. TO Contractor Personnel shall follow a consistent methodology for all Task Order activities.

\*\*Insert any additional policies and guidelines in this list\*\*

### Product Requirements

1. Offerors may propose open source software; however, the Offeror must provide operational support for the proposed software as part of its TO Proposal.
2. Offeror shall be authorized to furnish the proposed goods and services. Offerors proposing to resell services of another entity must be authorized by such other entity (See TORFP **Section 5.4.2.J.2**.
3. No international processing for State Data: As described in **Section 3.7 Security Requirements**, Offerors are advised that any processing or storage of data outside of the continental U.S. is prohibited. \*\*a lot of larger vendors will not agree to this because they want to outsource work. \*\*
4. Consistent expiration dates: A PO for a service already being delivered to the <<typeofAgency>> under this TO Agreement shall terminate on the same calendar day as the prior product/service. As appropriate, charges shall be pro-rated. \*\*This is intended to allow you to make additional incremental purchases for things such as licenses without having expiration dates that are tied to the date you asked for more licenses. delete if not applicable to your TORFP\*\*
5. Any TO Agreement award is contingent on the State’s agreement, during the TO Proposal evaluation process, to any applicable terms of use and any other agreement submitted under **Section 5.4.2.J.2.** Such agreed upon terms of use shall apply consistently across services ordered under the TO Agreement.
6. The TO Contractor shall not establish any auto-renewal of services beyond the period identified in Task Order documents.
7. In addition to any notices of renewal sent to the <<typeofAgency>>, TO Contractors shall email notices of renewal to the e-mail address designated by the TO Manager.

### Maintenance and Support

Maintenance and support, and TO Contractor’s ongoing maintenance and support obligations, are defined as follows:

\*\*Clearly indicate when maintenance starts, and then make sure that you have crisply defined what the criteria are to know that it has occurred. For instance, if you say “at system startup” then you must define what must occur for “system startup” to have occurred, including what has to be finished by the TO Contractor, and what the State will do. Also, for systems with multiple production releases, be clear whether maintenance starts at the 1st production release. \*\*

\*\*For all requirements, review for applicability.\*\*

1. Maintenance commences at the <<\_\_\_\_\_\_\_\_\_\_\_.>>\*\*for instance, this could be at State acceptance of initial startup activities\*\* Billing for such maintenance and support shall commence after \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. \*\*Clearly indicate when maintenance begins. For instance, maintenance could start at State acceptance of initial startup activities. If there is an activity that must be complete before maintenance (and associated billing) can begin, clearly indicate it’s when the State **ACCEPTS** the deliverable. \*\*
2. Software maintenance includes all future software updates and system enhancements applicable to system modules licensed without further charge to all licensed users maintaining a renewable software support contract. \*\*Delete if not applicable. If this is SaaS, then this can be tweaked – there are no software support contracts but you can expect updates and upgrades. \*\*
3. Support shall be provided for superseded releases and back releases still in use by the State.
4. For the first year and all subsequent Task Order years, the following services shall be provided for the current version and one previous version of any Software provided with the Deliverables, commencing upon <<\*\*insert commencement OR cross reference where commencement is already referenced in these requirements\*\*>>:
	1. Error Correction. Upon notice by State of a problem with the Software (which problem can be verified), reasonable efforts to correct or provide a working solution for the problem.
	2. Material Defects. TO Contractor shall notify the State of any material errors or defects in the Deliverables known, or made known to TO Contractor from any source during the life of the Task Order that could cause the production of inaccurate or otherwise materially incorrect results. The TO Contractor shall initiate actions as may be commercially necessary or proper to effect corrections of any such errors or defects.
	3. Updates. TO Contractor will provide to the State at no additional charge all new releases and bug fixes (collectively referred to as “Updates”) for any software Deliverable developed or published by the TO Contractor and made available to its other customers.

\*\*List TO Contractor duties and responsibilities. Adjust as appropriate. Review boilerplate text in other sections to ensure consistency and avoid duplication between sections. \*\*

1. Operations tasks
2. Virus scans
3. Activity reporting
4. User support (Help Desk)
	1. TO Contractor shall furnish Help Desk services for <<xxxxxxxxxxxxxxx>>
	2. Help Desk services are available during Normal State Business Hours. \*\*adjust if other hours are required. Remember, Normal State Business Hours is a defined term (see Appendix 1). \*\*
	3. TO Contractor shall utilize a help desk ticketing system to record and track all help desk calls. The ticketing system shall record with a date and timestamp when the ticket was opened and when the ticket was closed.
	4. <<Help Desk services shall be furnished using resources familiar with the State’s account (i.e., calls shall not be sent to a general tier 1 call queue)>>. \*\*if you wish to pay for the resources to not be part of a “pool” of resources for all customers. Otherwise delete this. \*\*

#### Technical Support\*\*note technical support and help desk are not the same. \*\*

1. “Technical Support” means TO Contractor-provided assistance for the services or Solution furnished under this Task Order, after initial end-user support confirms a technical issue that requires additional troubleshooting capabilities; sometimes referenced as Tier II – IV support.
2. Technical Support shall available during Normal State Business Hours. \*\*adjust if other hours are required. Remember, Normal State Business Hours is a defined term (see Appendix 1). \*\*
3. The State shall be able to contact a Technical Support team member 24 hours per day, 7 days per week, 365 days per year.
4. TO Contractor Personnel providing technical support shall be familiar with the State’s account (i.e., calls shall not be sent to a general queue). \*\*adjust as appropriate. You may pay more for support that isn’t sent to a general queue). \*\*
5. TO Contractor shall return calls for service of emergency system issues (see **Section 2.6 Service Level Agreement**) within one (1) hour.
6. Calls for non-emergency IT service requests will be returned within three (3) hours or immediately the following day if after Normal State Business Hours. \*\*adjust to match B.\*\*
7. The State shall be provided with information on software problems encountered at other locations, along with the solution to those problems, when relevant to State software.

#### Backup

\*\*Decide how backups will be performed, and if you’re interested in having pricing from the Offeror for performing backups, include it as an option in your TO Financial Proposal Form that you might exercise. Insert information here regarding what the TO Contractor is expected to perform with regard to Backup/Disaster Recovery (DR).

\*\* SaaS contracts may or may not offer backup and DR as part of its service, or the agency may elect to perform backups. \*\*

\*\***Note** that backup time periods need to be synchronized with data retention requirements associated with ending the Task Order; see **Section 3.2. \*\***

Example language (verify all the language in each sentence is applicable to your contract): \*\*

The TO Contractor shall:

1. Perform backups of the web, application, and database servers on a regular basis. This shall include daily incremental backups and full weekly backups of all volumes of servers;
2. Retain daily backups for one (1) month and retain weekly backups for two (2) years;
3. Store daily backups off-site.

\*\*OR\*\*

1. Provide backups of the configuration and data on a regular basis as a Task Order option. TO Contractor shall describe backup services offered, and shall offer pricing for this option in the TO Financial Proposal Form (**Attachment B**);
2. Meet the Recovery Time Objective (RTO) and Recovery Point Objective (RPO) metrics defined in **Section 2.6 Service Level Agreement**. \*\*note, if you use this as a requirement in the SLAs, be sure to define the terms RTP and RPO in the definitions and ALSO define how they are measured. \*\*

\*\*ALTERNATIVE REQUIREMENTS for backups: \*\*

1. Perform backups for all application and configuration data that necessary to restore the application to full operability on suitable hardware. The backup shall consist of at least:
	1. Incremental daily backups, retained for one (1) month,
	2. Full weekly backups, retained for three (3) months, and
	3. Last weekly backup for each month maintained for two (2) years;
2. Maintain one annual backup for at least <<10>> years;
3. Send the weekly backup electronically to a facility designated by the State;
4. Encrypt the backups using a shared key;
5. Perform a backup recovery at least semi-annually; and
6. Provide on demand support for the State’s recovery of a backup set.

## Deliverables

\*\*Adjust the standard language for your TORFP. Generally speaking, a deliverable is something that has acceptance criteria (e.g., Timesheets are not deliverables). For SaaS and IaaS, deliverables would include anything produced during the Startup period and monthly reports.

Agencies must remain cognizant that acceptance of a deliverable in order to facilitate payment to a TO Contractor leaves the Agency with limited recourse if the deliverable is sub-par.\*\*

### Deliverable Submission

\*\*Carefully read the boilerplate below for applicability to this TORFP. If you specify that certain paperwork must be completed, then it can be an audit finding if the TORFP is not run according to the defined expectations. \*\*

1. For every deliverable, the TO Contractor shall request the TO Manager confirm receipt of that deliverable by sending an e-mail identifying the deliverable name and date of receipt.
2. \*\*revise this paragraph if you do not wish to use a Deliverable Product Acceptance Form. Check other paragraphs for applicability. \*\*For every deliverable, the TO Contractor shall submit to the TO Manager, by e-mail, an Agency Deliverable Product Acceptance Form (DPAF), an example of which is provided on the DoIT web page here: http://doit.maryland.gov/contracts/Documents/CATSPlus/CATS+DPAFSample.pdf.
3. Unless specified otherwise, written deliverables shall be compatible with Microsoft Office, Microsoft Project and/or Microsoft Visio within two (2) versions of the current version. At the TO Manager’s discretion, the TO Manager may request one hard copy of a written deliverable.
4. A standard deliverable review cycle will be elaborated and agreed-upon between the State and the TO Contractor. This review process is entered into when the TO Contractor completes a deliverable.
5. For any written deliverable, the TO Manager may request a draft version of the deliverable, to comply with the minimum deliverable quality criteria listed in **Section 2.4.3 Minimum Deliverable Quality**. Drafts of each final deliverable, except status reports, are required at least two weeks in advance of when the final deliverables are due (with the exception of deliverables due at the beginning of the project where this lead time is not possible, or where draft delivery date is explicitly specified). Draft versions of a deliverable shall comply with the minimum deliverable quality criteria listed in **Section 2.4.3 Minimum Deliverable Quality**.

### Deliverable Acceptance

1. A final deliverable shall satisfy the scope and requirements of this TORFP for that deliverable, including the quality and acceptance criteria for a final deliverable as defined in **Section 2.4.4 Deliverable Descriptions/Acceptance Criteria**.
2. The TO Manager shall review a final deliverable to determine compliance with the acceptance criteria as defined for that deliverable. The TO Manager is responsible for coordinating comments and input from various team members and stakeholders. The TO Manager is responsible for providing clear guidance and direction to the TO Contractor in the event of divergent feedback from various team members.
3. The TO Manager will issue to the TO Contractor a notice of acceptance or rejection of the deliverable in the DPAF (see online sample). Following the return of the DPAF indicating “Accepted” and signed by the TO Manager, the TO Contractor shall submit a proper invoice in accordance with the procedures in **Section 3.3**. The invoice must be accompanied by a copy of the executed DPAF or payment may be withheld.
4. In the event of rejection, the TO Manager will formally communicate in writing any deliverable deficiencies or non-conformities to the TO Contractor, describing in those deficiencies what shall be corrected prior to acceptance of the deliverable in sufficient detail for the TO Contractor to address the deficiencies. The TO Contractor shall correct deficiencies and resubmit the corrected deliverable for acceptance within the agreed-upon time period for correction.
5. \*\*Optional Text. Delete if not applicable: \*\*At the TO Manager’s discretion, subsequent project tasks may not continue until deliverable deficiencies are rectified and accepted by the TO Manager or the TO Manager has specifically issued, in writing, a waiver for conditional continuance of project tasks.

### Minimum Deliverable Quality

The TO Contractor shall subject each deliverable to its internal quality-control process prior to submitting the deliverable to the State.

Each deliverable shall meet the following minimum acceptance criteria:

1. Be presented in a format appropriate for the subject matter and depth of discussion.
2. Be organized in a manner that presents a logical flow of the deliverable’s content.
3. Represent factual information reasonably expected to have been known at the time of submittal.
4. In each section of the deliverable, include only information relevant to that section of the deliverable.
5. Contain content and presentation consistent with industry best practices in terms of deliverable completeness, clarity, and quality.
6. Meets the acceptance criteria applicable to that deliverable, including any State policies, functional or non-functional requirements, or industry standards.
7. Contains no structural errors such as poor grammar, misspellings or incorrect punctuation.
8. Must contain the date, author, and page numbers. When applicable for a deliverable, a revision table must be included.
9. A draft written deliverable may contain limited structural errors such as incorrect punctuation, and shall represent a significant level of completeness toward the associated final written deliverable. The draft written deliverable shall otherwise comply with minimum deliverable quality criteria above.

### Deliverable Descriptions/Acceptance Criteria

In addition to the items identified in the table below, the TO Contractor may suggest other subtasks, artifacts, or deliverables to improve the quality and success of the assigned tasks.

\*\*Identify every deliverable expected from your TO Contractor.

Recommendations:

1. Number and describe the deliverables required under this TORFP.
2. Include acceptance criteria, and expected frequency of update (project schedules and risk lists especially).
3. Trace deliverables to the requirements.
4. Describe acceptance criteria, meaning the measurement or demonstration / test by which the deliverable will be accepted or rejected.
5. Tie deliverables to payments in the TO Financial Proposal Form (multiple deliverables can be grouped together).
6. Clearly link deliverables to requirements.
7. Consolidate all deliverables into the deliverable table from across the entire TORFP with concise, fact based acceptance criteria that make it easy to determine when the deliverable meets your quality standard.
8. Link deliverables to the pricing table, so the “price to be paid” when the deliverable is approved is clear. You can link some deliverables together for payment purposes, but they all need to be delivered at about the same time, so they can be invoiced together.
9. Use the deliverable acceptance form to formally approve each deliverable, so there is no ambiguity about when the deliverable is approved.
10. If there is a chance that the deliverable will need to be updated at a later time, be sure to put words in the requirements that state that the contractor is responsible for updating the document as needed.

Note – Timeframes for deliverables should be proposed by TO Contractors in their TO Technical Proposals (See **Section 5.3 TO Technical Proposal**). Agencies should set overall expected time frames for completing all deliverables, e.g., “within 18 months,” but should allow flexibility for individual deliverables.

For staff augmentation TORFPs, do not expect all deliverables to be listed in the deliverables table. There should be sufficient requirements to describe the job expectations, and include here typically status reports and maybe one or two other key deliverables.

Requirements of staff augmentation should clearly have “other duties as assigned” including “documentation as directed by the Agency.” \*\*

|  |  |  |  |
| --- | --- | --- | --- |
| ID # | Deliverable Description | Acceptance Criteria | Due Date / Frequency |
|  | Integrated Project Schedule | Microsoft Project schedule demonstrating tasks, task estimates, resource assignments, and dependencies for both Agency and TO Contractor personnel, with tasks no less than 8 hours and no greater than 80 hours. | Initial Delivery: NTP+ <<x>> Business DaysUpdates: Weekly\*\*be clear if a due date is Business Days or calendar days.\*\* |
|  |  |  | \*\*You can specify “as identified in the approved project schedule”\*\* |

## Optional Features, Future Work

\*\*Put in optional things that might occur in the future here, otherwise remove the section. Use this section to more clearly define scope but not have an “option” with associated pricing, or to actually describe an option that can be exercised by the State. \*\*

### <<Potential Future Work>> (Fixed Price / T&M) \*\*Place any unconfirmed work here. If the work is a priced option, label it as OPTION. Otherwise, it should be considered a further description of potential scope, or “potential future work” that qualifies the scope but isn’t something with enough information to ask for pricing. \*\*

### Change Orders

1. If the TO Contractor is required to perform work beyond the scope of this TORFP, or there is a work reduction due to unforeseen scope changes, a TO Change Order is required. The TO Contractor and TO Manager shall negotiate a mutually acceptable price modification based on the TO Contractor’s proposed rates in the Master Contract and scope of the work change.
2. No scope of work changes shall be performed until a change order is approved by DoIT and executed by the TO Procurement Officer.

## Service Level Agreement (SLA)

\*\*If this section is not applicable to this TORFP, insert the following sentence: \*\*

THIS SECTION IS NOT APPLICABLE TO THIS TORFP.

\*\*SLAs are the agency’s way to set expectations AND to obtain credits from a contractor that doesn’t deliver according to this agreement, in the form of service credits or liquidated damages. It’s a powerful tool.

NOTE: If you use an SLA to assess service credits or liquidated damages, and your agreement is audited, you WILL be subject to audit findings if you do not manage the contractor to the SLA described and make attempts to collect!

SLAs are only effective if they explicitly identify, measure and report the behavior for which service credits or liquidated damages will be applied. If it can’t be measured and reported, then it will not be an effective SLA.

DoIT recommends contacting ITPO early for help in authoring SLAs appropriate for your situation. \*\*

### Definitions

\*\*In order to use Problem and Problem resolution time, a help desk and help desk ticketing requirements must be defined in the TORFP. \*\*

1. A “Problem” is defined as any situation or issue reported via a help desk ticket that is related to the system operation that is not an enhancement request.
2. “Problem resolution time” is defined as the period of time from when the help desk ticket is opened to when it is resolved. \*\*If you use this definition, you must include requirements for help desk tickets and a time-stamp on those tickets in your requirements section. You also need to make sure that the TORFP includes definitions for those tickets. If you choose not to request a formal ticketing system with date and timestamps, you need to consider how you will accurately measure problem response and/or resolution time. \*\*
3. 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 B, TO Financial Proposal Form**.

### SLA Requirements

The TO Contractor shall:

\*\*Adjust this list as appropriate. Don’t duplicate requirements from other TORFP sections. \*\*

1. Be responsible for complying with all performance measurements, and shall also ensure compliance by all subcontractors.
2. Meet the Problem response time and resolution requirements as defined in **Section 2.6.8**.
3. Provide a monthly report to monitor and detail response times and resolution times.
4. Log Problems into the <<TO Contractor-supplied>> help desk software and assign an initial severity (Emergency, High, Medium or Low as defined in **Section 2.6.8**). \*\*If you use this definition, you must include requirements for help desk tickets and a time-stamp on those tickets in your requirements section. If you choose not to request a formal ticketing system with date and timestamps, you need to consider how you will accurately measure problem response and/or resolution time. \*\*
5. Respond to and update all Problems, including recording when a Problem is resolved and its resolution. Appropriate <<typeofAgency>> personnel shall be notified when a Problem is resolved.
6. The <<typeofAgency>> shall make the final determination regarding Problem severity.
7. TO Contractor shall review any Problem with <<typeofAgency>> to establish the remediation plan and relevant target dates.

### Service Level Agreement Service Credits

\*\*The TORFP requirements can also ask for the Offeror’s proposed service levels and credits. Contact DoIT for suggested language changes. \*\*

Time is an essential element of the TO Agreement and it is important that the work be vigorously prosecuted until completion. For work that is not completed within the time(s) specified in the performance measurements <<below>>\*\*If the Offeror furnishes the performance measurements, this and other language would change. \*\*, the TO Contractor shall be liable for service credits in the amount(s) provided for in this Task Order, provided, however, that due account shall be taken of any adjustment of specified completion time(s) for completion of work as granted by approved change orders and/or Work Orders.

The parties agree that any assessment of service credits shall be construed and treated by the parties not as imposing a penalty upon the TO Contractor, but as compensation to the State for the TO Contractor’s failure to timely complete work under this Task Order, including Work Orders.

### SLA Effective Date (SLA Activation Date)

SLAs set forth herein shall be in effect beginning with the commencement of monthly services as of the completion of the <<Pick one: Transition-In Period OR implementation OR some definition that you have defined.>>.

Beginning on the SLA Activation Date, for any performance measurement not met during the monthly reporting period, the SLA credit for that individual measurement shall be applied to the Monthly Charges.

### Service Level Reporting

The TO Contractor shall provide detailed monthly reports evidencing the attained level for each SLA set forth herein. Monthly reports shall be available <<\*\*when? At the same time every month but let TO Contractor set the date? \*\*>>

\*\*Measurements do not have to be by month, although the default language in this section is by month. Tailor the time period appropriate to your needs --- but do verify all instances of “monthly” in this Section are appropriate. \*\*

1. The TO Manager or designee will monitor and review TO Contractor performance standards on a <<monthly, daily, quarterly, bi-weekly>> basis, based on TO Contractor-provided reports for this Task Order.
2. The TO Contractor shall provide a monthly summary report for SLA performance via e-mail to the TO Manager.
3. If any of the performance measurements are not met during the monthly reporting period, the TO Manager or designee will notify the TO Contractor of the standard that is not in compliance.

### Credit for Failure to Meet SLA

TO Contractor’s failure to meet an SLA will result in a credit, as service credits and not as a penalty, to the Monthly Charges payable by the State during the month of the breach. The credits will be cumulative for each missed service requirement. The State, at its option for amount due the State as service credits, may deduct such from any money payable to the TO Contractor or may bill the TO Contractor as a separate item. In the event of a catastrophic failure affecting <<all services OR the entire Solution>>, all affected SLAs shall be credited to the State. In no event shall the aggregate of all SLA credits paid to the State in any calendar month exceed 25% of the Monthly Charges. \*\*Authors, pay attention to this maximum. The sum of all SLA credits may not exceed 25%. \*\*

Example: If the Monthly Charges were $100,000 and one SLA were missed, with an applicable 4% credit, the credit to the monthly invoice would be $4,000, and the State would pay a net Monthly Charge of $96,000.

### Root Cause Analysis

\*\*While this is part of the boilerplate, make sure that you really want this. \*\*

If the same SLA measurement yields an SLA credit more than once, the TO Contractor shall conduct a root cause analysis. Such root cause analysis shall be provided within 30 days of the second breach, and every breach thereafter.

In addition, for each ‘Emergency’ or ‘High’ priority Problem, the affected parties will perform a root cause analysis and institute a process of problem management to prevent recurrence of the issue.

### Service Level Measurements Table (System performance)

The TO Contractor shall comply with the service level measurements in the following table:

\*\*Select a SUBSET of the service measurement table below and tailor the ones you select to match your need. Add other metrics suitable for your TORFP.

Important! It’s better to have a few metrics with a higher percentage service credits than to have a large number of metrics with low service credits. Tailor ALL service level metrics to your needs. \*\*

| No. | Service Requirement | Measurement | Service Level Agreement | SLA Credit |
| --- | --- | --- | --- | --- |
| 1 | Problem Response Time – High  | Average Response Time for High Priority Problems.  | 98% <15 minutes | 1% |
| 2 | Problem Response Time - Normal | Average Response Time for Normal or Low Priority Problems | 98% <2 hours | 1% |
| 3 | Problem Resolution Time - High | Resolution Time for each High Priority Problem | 98% <4 hours | 1% |
| 4 | Problem Resolution Time - Normal | Resolution Time for Normal Priority Problems  | 98% <24 hours | 1% |
| 5 | Problem Resolution Time - Low | Resolution Time for Low Priority Problems | 98% <72 hours | 1% |
| 6 | Scheduled Downtime/Maintenance | Scheduled maintenance and downtime shall only occur during non-business hours\*. The TO Contractor shall provide 14 calendar days’ notice prior to any scheduled downtime.  |  <6 hours each month | <<X%>> |
| 7 | Service Availability | All application functionality and accessibility shall be maintained at 99.5% uptime performance levels. TO Contractor shall minimize or eliminate unscheduled network downtime to .5% or less.  | <99.5% | <<X%>> |
| 9 | Disaster Recovery | TO Contractor shall provide recovery and continuity of operations within <<X>> hours of a System/network failover.  | <<xx hours>> | <<X%>> |
| 10 | Notification of Security Incident | Notification of a Security Incident within <<X>> minutes of occurrence |  | <<X%>> |
| 11 | Security Incident Reporting | Security incident reporting requirement in <<X>> minutes or <<X>> hours | <<xx hours>> | <<X%>> |
| 12 | Escrow Update | Update escrow within <<X>> days of a change.Failure to update escrow | <<xx days>> | <<X%>> |

\*See definition of Normal State Business Hours.

The State shall have the unilateral right to reallocate percentages among the various SLAs annually on the anniversary of the Task Order, provided that such reallocation will not exceed the cap identified in **Section** **2.6.6**.

### Problem Response Definitions and Times

The TO Contractor shall meet the Problem response time and resolution requirements.

The TO Contractor shall provide a monthly report to monitor and detail response times and resolution times.

\*\*review the table and revise the metrics and text below. Make sure these times align with any help desk or technical support hour requirements elsewhere in the TORFP. \*\*

| Service Priority | Response Time | Resolution Time | Response Availability | Work Outage  | Users Affected |
| --- | --- | --- | --- | --- | --- |
| Emergency | Less than 15 minutes | Within 2 hours of first report | 24 hours per day, seven days per week | Major portions of the System are inaccessibleSystems or users are unable to work, or to perform some portion of their job. | Users or internal System functionalities are impaired. To include <<Claimants and Employers>> |
| High | Less than 30 minutes | Within 4 hours after first report | •24 hours per day, seven days per week  | Major portions of the System are inaccessibleSystems or users are unable to work, or to perform some portion of their job. | Affects the majority of users to include public facing users <<Claimants & Employers>>Affects high profile users (i.e. executive management)  |
| Normal | Within 2 hours | Within 1 day (24 hours) after first report. If the outage is not resolved a resolution plan must be in place.  | Mon-Fri, 7AM-7PM | Specific non-critical features are not operating as specifiedSystems or users are unable to perform a small portion of their job, but are able to complete most tasks.  | Affects a number of users |
| Low | Within 2 hours | Within 3 days (72 hours) after first report. If the outage is not resolved a resolution plan must be in place. | Mon-Fri, 7AM-7PM | Lower priority features that can be done manually are not operating as specifiedOften a request for service with ample lead time.  | Affects a number of users |

### Service Level Measurements Table (Help Desk Calls)

\*\*Contact your oversight analyst if you have needs for extensive help desk SLAs. Remove heading if not required. \*\*

# TO Contractor Requirements: General

\*\*Section Headings in this section must be preserved and not rearranged. Any additional sections pertinent to this section must be added immediately prior to Section 4. \*\*

## Task Order Initiation Requirements

1. TO Contractor shall schedule and hold a kickoff meeting within 10 Business Days of NTP Date. At the kickoff, the TO Contractor shall furnish <<an updated Project Schedule describing the activities for the TO Contractor, the State, and any third parties for fully transitioning to the Contractor’s Solution. >>\*\*Update as appropriate. Remove if no kickoff meeting planned. \*\*

\*\*This section may not be applicable if you are initiating a project with this TORFP. If this TORFP is for ongoing services, this may be necessary. If this section is not applicable to this TORFP, insert the following text. \*\*

There are no specific TO initiation requirements.

\*\*Insert information here regarding what the TO Contractor is expected to perform as part of the ONE TIME transition-in period of the contract. Defining transition-in requirements helps to clarify the requirements for the new TO Contractor.

**Notes/Guidance:**

This is often an overlooked way to incorporate start-up requirements that are hard to organize compared to steady-state requirements.

It is not uncommon for transition-in activities to be a fixed price that must be accomplished before a monthly service can begin. Fixed price activities should result in a deliverable that must be submitted prior to payment and prior to the commencement of monthly services.

Include migration of data as part of transition-in.

Indicate when billing for monthly services may begin; at time of contract execution, after certain performance is completed, etc.\*\*

## End of Task Order Transition

\*\*This section is designed for to help ensure a successful transition for contracts where services are anticipated to continue after this Task Order ends, if you do not anticipate the need for services to continue in the future, beyond the term of this Task Order, or if contract transition is adequately addressed elsewhere, then you may insert the language “Reserved” in the heading for this section (to preserve numbering).

Define the requirements for what this contractor is expected to do when the contract transitions to a different contractor.

Note that SaaS services very rarely support end of contract transition, as SaaS services simply “pull the plug” when the monthly services are finished.

For services other than SaaS, including a hybrid model of services are part of this contract, then you may need to specify transition out activities. \*\*

The TO Contractor shall provide transition assistance as requested by the State to facilitate the orderly transfer of services to the State or a follow-on contractor, for a period up to <<60>> days prior to Task Order end date, or the termination thereof. Such transition efforts shall consist, not by way of limitation, of:

1. Provide additional services and/or support as requested to successfully complete the transition;
2. Maintain the services called for by the Task Order at the required level of proficiency;
3. Provide updated System Documentation, as appropriate; and
4. Provide current operating procedures (as appropriate).

The TO Contractor shall work toward a prompt and timely transition, proceeding in accordance with the directions of the TO Manager. The TO Manager may provide the TO Contractor with additional instructions to meet specific transition requirements prior to the end of Task Order.

The TO Contractor shall ensure that all necessary knowledge and materials for the tasks completed are transferred to the custody of State personnel or a third party, as directed by the TO Manager.

The TO Contractor shall support end-of-Task Order transition efforts with technical and project support to include but not be limited to:

1. The TO Contractor shall provide a draft Transition-Out Plan <<120 Business Days>> in advance of Task Order end date.
2. The Transition-Out Plan shall address at a minimum the following areas:
	1. Any staffing concerns/issues related to the closeout of the Task Order;
	2. Communications and reporting process between the TO Contractor, the <<typeofAgency>> and the TO Manager;
	3. Security and system access review and closeout;
	4. Any hardware/software inventory or licensing including transfer of any point of contact for required software licenses to the <<typeofAgency>> or a designee;
	5. Any final training/orientation of <<typeofAgency>> staff;
	6. Connectivity services provided, activities and approximate timelines required for Transition-Out;
	7. Knowledge transfer, to include:
		1. A working knowledge of the current system environments as well as the general business practices of the <<typeofAgency>>;
		2. Review with the <<typeofAgency>> the procedures and practices that support the business process and current system environments;
		3. Working knowledge of all technical and functional matters associated with the Solution, its architecture, data file structure, interfaces, any batch programs, and any hardware or software tools utilized in the performance of this Task Order;
		4. Documentation that lists and describes all hardware and software tools utilized in the performance of this Task Order;
		5. A working knowledge of various utilities and corollary software products used in support and operation of the Solution;
	8. Plans to complete tasks and any unfinished work items (including open change requests, and known bug/issues); and
	9. Any risk factors with the timing and the Transition-Out schedule and transition process. The TO Contractor shall document any risk factors and suggested solutions.
3. The TO Contractor shall ensure all documentation and data including, but not limited to, System Documentation and current operating procedures, is current and complete with a hard and soft copy in a format prescribed by the TO Manager.
4. The TO Contractor shall provide copies of any current daily and weekly back-ups to the <<typeofAgency>> or a third party as directed by the TO Manager as of the final date of transition, but no later than the final date of the Task Order.
5. Access to any data or configurations of the furnished product and/or services shall be available after the expiration of the Task Order as described in **Section 3.2.5**.

### Return and Maintenance of State Data

\*\*Include this section for all services where the contractor has access or control of any State data. \*\*

1. Upon termination or the expiration of the TO Agreement term, the TO Contractor shall: (a) return to the State all State data in either the form it was provided to the TO Contractor or in a mutually agreed format along with the schema necessary to read such data; (b) preserve, maintain, and protect all State data until the earlier of a direction by the State to delete such data or the expiration of 90 days (“the retention period”) from the date of termination or expiration of the TO Agreement term; (c) after the retention period, the TO Contractor shall securely dispose of and permanently delete all State data in all of its forms, such as disk, CD/DVD, backup tape and paper such that it is not recoverable, according to National Institute of Standards and Technology (NIST)-approved methods with certificates of destruction to be provided to the State; and (d) prepare an accurate accounting from which the State may reconcile all outstanding accounts. The final monthly invoice for the services provided hereunder shall include all charges for the 90-day data retention period.
2. During any period of service suspension, the TO Contractor shall maintain all State data in its then existing form, unless otherwise directed in writing by the TO Manager.
3. In addition to the foregoing, the State shall be entitled to any post-termination/expiration assistance generally made available by TO Contractor with respect to the services.

## Invoicing

### Definitions

1. “Proper Invoice” means a bill, written document, or electronic transmission, readable by the agency, provided by a vendor requesting an amount that is due and payable by law under a written procurement contract for property received or services rendered that meets the requirements of COMAR 21.06.09.02.
2. “Late Payment” means any amount that is due and payable by law under a written procurement contract, without deferral, delay, or set-off under COMAR 21.02.07.03, and remains unpaid more than 45 days after an agency receives a Proper Invoice.
3. “Payment” includes all required processing and authorization by the Comptroller of the Treasury, as provided under COMAR 21.02.07, and may be deferred, delayed, or set-off as applicable under COMAR 21.02.07.03.

### General

1. Invoice payments to the TO Contractor shall be governed by the terms and conditions defined in the CATS+ Master Contract.
2. The TO Contractor shall <<send OR e-mail>> the original of each invoice and signed authorization to invoice to the TO Manager and <<List individual>> at e-mail address: <<e-mail address>>.
3. All invoices for services shall be verified by the TO Contractor as accurate at the time of submission.
4. Invoices submitted without the required information cannot be processed for payment. A Proper Invoice, required as Payment documentation, must include the following information, without error:
	1. TO Contractor name and address;
	2. Remittance address;
	3. Federal taxpayer identification (FEIN) number, social security number, as appropriate;
	4. Invoice period (i.e. time period during which services covered by invoice were performed);
	5. Invoice date;
	6. Invoice number;
	7. State assigned TO Agreement number;
	8. State assigned (Blanket) Purchase Order number(s);
	9. Goods or services provided;
	10. Amount due; and
	11. Any additional documentation required by regulation or the Task Order.
5. Invoices that contain both fixed price and time and material items shall clearly identify the items as either fixed price or time and material billing.
6. The <<typeofAgency>> reserves the right to reduce or withhold Task Order payment in the event the TO Contractor does not provide the <<typeofAgency>> with all required deliverables within the time frame specified in the Task Order or otherwise breaches the terms and conditions of the Task Order until such time as the TO Contractor brings itself into full compliance with the Task Order.
7. Any action on the part of the <<typeofAgency>>, or dispute of action by the TO Contractor, shall be in accordance with the provisions of Md. Code Ann., State Finance and Procurement Article §§ 15-215 through 15-223 and with COMAR 21.10.04.
8. The State is generally exempt from federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. The TO Contractor; however, is not exempt from such sales and use taxes and may be liable for the same.
9. Invoices for final payment shall be clearly marked as “FINAL” and submitted when all work requirements have been completed and no further charges are to be incurred under the TO Agreement. In no event shall any invoice be submitted later than 60 calendar days from the TO Agreement termination date.

### Invoice Submission Schedule

The TO Contractor shall submit invoices in accordance with the following schedule:

\*\*Enter the TO Contractor’s invoice submission schedule here; this can be a table with dates for required deliverables, or a simpler statement such as “Invoices are due by the 15th of the month following the month in which services were performed.” The invoice submission schedule will depend on the service delivery and type of contract, e.g., fixed price, indefinite quantity. Invoices and resulting payment should generally be based on performance for services/goods provided. \*\*

1. For items of work for which there is one-time pricing (see **Attachment B** – TO Financial Proposal Form) those items shall be billed in the month following the acceptance of the work by the <<typeofAgency>>.
2. For items of work for which there is annual pricing, see **Attachment B**– TO Financial Proposal Form, those items shall be billed in equal monthly installments for the applicable Task Order year in the month following the performance of the services.
3. Invoices shall be submitted monthly and within 30 days of delivery of goods and services unless otherwise accepted in the TO Proposal or Work Order response.

### Deliverable Invoicing\*\*Remove if payment is not by deliverable. Adjust as appropriate. \*\*

1. Deliverable invoices shall be accompanied by notice(s) of acceptance issued by the State for all invoices submitted for payment. Payment of invoices will be withheld if a signed DPAF is not submitted (see online example at http://doit.maryland.gov/contracts/Documents/CATSPlus/CATS+DPAFSample.pdf).
2. Payment for deliverables will only be made upon completion and acceptance of the deliverables as defined in **Section 2.4**.

### Time and Materials Invoicing

\*\*Remove sub-section if not applicable for requirements **or** for Work Orders. \*\*

1. Time and Material invoices shall be accompanied by notice(s) of acceptance issued by the State for all invoices submitted for payment: <<\*\*insert correct notice of acceptance here\*\* DPAF for each deliverable being invoiced (see online example at [http://doit.maryland.gov/contracts/Documents/CATSPlus/CATS+DPAFSample.pdf](http://doit.maryland.gov/contracts/Documents/CATSPlus/CATS%2BDPAFSample.pdf)) and/OR signed timesheet as described below.>> Include for each person covered by the invoice the following, individually listed per person: name, hours worked, hourly labor rate, invoice amount and a copy of each person’s timesheet for the period signed by the TO Manager.
2. Time Sheet Reporting \*\*Adjust as appropriate\*\*

Within three (3) business days after the 15th and last day of the month, the TO Contractor shall submit a semi-monthly timesheet for the preceding half month providing data for all resources provided under the Task Order.

At a minimum, each semi-monthly timesheet shall show:

* 1. Title: “Time Sheet for <<xxxxx>>”
	2. Issuing company name, address, and telephone number
	3. For each employee /resource:
		1. Employee / resource name
		2. For each Period ending date, e.g., “Period Ending: mm/dd/yyyy” (Periods run 1st through 15th and 16th through last day of the month.
			1. Tasks completed that week and the associated deliverable names and ID#s
			2. Number of hours worked each day
			3. Total number of hours worked that Period
			4. Period variance above or below 40 hours
			5. Annual number of hours planned under the Task Order
			6. Annual number of hours worked to date
			7. Balance of hours remaining
			8. Annual variance to date (Sum of periodic variances)
	4. Signature and date lines for the TO Manager
	5. Time sheets shall be submitted to the TO Manager prior to invoicing. The TO Manager shall sign the timesheet to indicate authorization to invoice.

### For the purposes of this Task Order an amount will not be deemed due and payable if:

1. The amount invoiced is inconsistent with the Task Order.
2. The proper invoice has not been received by the party or office specified in the Task Order.
3. The invoice or performance is in dispute or the TO Contractor has failed to otherwise comply with the provisions of the Task Order.
4. The item or services have not been accepted.
5. The quantity of items delivered is less than the quantity ordered.
6. The items or services do not meet the quality requirements of the Task Order
7. If the Task Order provides for progress payments, the proper invoice for the progress payment has not been submitted pursuant to the schedule.
8. If the Task Order provides for withholding a retainage and the invoice is for the retainage, all stipulated conditions for release of the retainage have not been met.
9. The TO Contractor has not submitted satisfactory documentation or other evidence reasonably required by the TO Procurement Officer or by the contract concerning performance under the contract and compliance with its provisions.

### Travel Reimbursement

\*\*If no travel will be reimbursed, insert the following text: \*\*

Travel will not be reimbursed under this TORFP.

\*\*Otherwise, adjust as appropriate: \*\*

1. There shall be no reimbursement for Routine Travel. TO Contractor shall not be reimbursed for Non-Routine Travel without prior TO Manager approval.
2. Routine Travel is defined as travel within a 50-mile radius of the <<typeofAgency>>’s base location, as identified in the TORFP, or the TO Contractor’s facility, whichever is closer to the consulting site. There will be no payment for labor hours for travel time or reimbursement for any travel expenses for work performed within these radiuses or at the TO Contractor’s facility.
3. Non-routine Travel is defined as travel beyond the 50-mile radius of <<typeofAgency>>’s base location, as identified in the TORFP, or the TO Contractor’s facility, whichever is closer to the consulting site. Non-routine travel will be reimbursed according to the State’s travel regulations and reimbursement rates, which can be found at: www.DBM.maryland.gov - search: Fleet Management. If non-routine travel is conducted by automobile, the first 50 miles of such travel will be treated as routine travel and as described in **Section 3.3.7.A**, and will not be reimbursed. The TO Contractor may bill for labor hours expended in non-routine traveling beyond the identified 50-mile radius, only if so specified in the TORFP or Work Order.

### Retainage

\*\*Important! The purpose of retainage is to provide you with some funds in the event that the TO Contractor doesn’t deliver and you are required to hire another company to perform the work. In other words, once the contractor has completed the work for which the retainage was kept, it must be released. Do not confuse this with liquidated damages.

If this solicitation does not require retainage, you may delete the entire section INCLUDING the section heading. If this solicitation does require retainage, see DoIT for language and any attachments appropriate to this section. \*\*

This solicitation does not require retainage.

## Liquidated Damages

\*\*A Liquidated Damages section is optional and a determination to include Liquidated Damages, how they should be calculated and to what they should apply should be made in consultation with your agency’s AAG pursuant to COMAR 21.07.01.14. If your solicitation does not include Liquidated Damages for the Scope of Work, then insert the appropriate statement below. \*\*

MBE Liquidated damages are identified in **Attachment M**.\*\*delete this line if there is no MBE goal\*\*

This solicitation does not require additional liquidated damages. \*\*replace with liquidated damages information if applicable. \*\*

## Disaster Recovery and Data

The following requirements apply to the TO Agreement:

### Redundancy, Data Backup and Disaster Recovery

1. Unless specified otherwise in the TORFP, TO Contractor shall maintain or cause to be maintained disaster avoidance procedures designed to safeguard State data and other confidential information, TO Contractor’s processing capability and the availability of hosted services, in each case throughout the TO Agreement term. Any force majeure provisions of this Task Order do not limit the TO Contractor’s obligations under this provision.
2. The TO Contractor shall have robust contingency and DR plans in place to ensure that the services provided under this TO Agreement will be maintained in the event of disruption to the TO Contractor/subcontractor’s operations (including, but not limited to, disruption to information technology systems), however caused.
3. The contingency and DR plans must be designed to ensure that services under this TO Agreement are restored after a disruption within twenty-four (24) hours from notification and a recovery point objective of one (1) hour or less prior to the outage in order to avoid unacceptable consequences due to the unavailability of services.
4. The TO Contractor shall test the contingency/DR plans at least twice annually to identify any changes that need to be made to the plan(s) to ensure a minimum interruption of service. Coordination shall be made with the State to ensure limited system downtime when testing is conducted. At least one (1) annual test shall include backup media restoration and failover / fallback operations at the DR location. The TO Contractor shall send TO Manager a notice of completion following completion of DR testing.
5. Such contingency and DR plans shall be available for the <<typeofAgency>> to inspect and practically test at any reasonable time, and subject to regular updating, revising, and testing throughout the term of the TO Agreement.
6. \*\*Delete if not applicable\*\* The TO Contractor shall furnish a DR site. The DR site shall be at least 100 miles from the primary operations site, and have the capacity to take over complete production volume in case the primary site becomes unresponsive.
7. \*\*Delete if not applicable\*\* The Offeror shall include the proposed DR equipment and service levels. The service levels shall include both the proposed recovery time and the recovery point.

### Data Export/Import

1. The TO Contractor shall, at no additional cost or charge to the State, in an industry standard/non-proprietary format:
	1. perform a full or partial import/export of State data within 24 hours of a request; or
	2. provide to the State the ability to import/export data at will and provide the State with any access and instructions which are needed for the State to import or export data.
2. Any import or export shall be in a secure format per the Security Requirements.

### Data Ownership and Access

\*\*If data is part of the Task Order’s scope, no changes allowed to this language without AAG approval. \*\*

1. Data, databases and derived data products created, collected, manipulated, or directly purchased as part of a TORFP 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.
2. Public jurisdiction user accounts and public jurisdiction data shall not be accessed, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of the Task Order, including as necessary to perform the services hereunder or (4) at the State’s written request.
3. The TO Contractor shall limit access to and possession of State data to only TO Contractor Personnel whose responsibilities reasonably require such access or possession and shall train such TO Contractor Personnel on the confidentiality obligations set forth herein.
4. At no time shall any data or processes – that either belong to or are intended for the use of the State or its officers, agents or employees – be copied, disclosed or retained by the Contractor or any party related to the Contractor for subsequent use in any transaction that does not include the State.
5. The Contractor shall not use any information collected in connection with the services furnished under this Contract for any purpose other than fulfilling such services.

**Provisions in Sections 3.5.1 – 3.5.3 shall survive expiration or termination of the TO Agreement. Additionally, the TO Contractor and shall flow down the provisions of Sections 3.5.1-3.5.3 (or the substance thereof) in all subcontracts.**

## Insurance Requirements

\*\*The insurance requirements and minimums stated below are general examples, and may not reflect the necessary requirements and minimums for your Scope of Work. Some of the insurance requirements and minimums below may place an undue burden on the TO Contractor and its subcontractors, or may not be necessary for the types of services to be provided. Research sample insurance requirements for the relevant service industry in order to fine-tune these requirements and minimums for your particular Scope of Work requirements. \*\*

Offeror shall confirm that, as of the date of its proposal, the insurance policies incorporated into its Master Contract are still current and effective at the required levels (See Master Contract Section 2.7).

\*\*Include any additional insurance required for this TORFP – Delete the rest of this section if no additional insurance is required (see commentary on Cybersecurity insurance) \*\*

The Offeror shall also confirm that any insurance policies intended to satisfy the requirements of this TORFP are issued by a company that is licensed to do business in the State of Maryland.

The recommended awardee must provide a certificate(s) of insurance with the prescribed coverages, limits and requirements set forth in this **Section 3.6 “Insurance Requirements”** within five (5) Business Days from notice of recommended award. During the period of performance for multi-year contracts the TO Contractor shall update certificates of insurance annually, or as otherwise directed by the TO Manager.

### CYBER SECURITY / DATA BREACH INSURANCE

\*\*Keep this subsection only if needed. Cyber security insurance is strongly recommended by DoIT when you have any Sensitive Data (including PII or PHI). It is also strongly recommended when the contractor has control over the access and security elements of the services provided, which is almost always the case when it’s a service provided outside the State’s data center, and could be appropriate even within the State’s data center but not as often. \*\*

In addition to the insurance specified in the CATS+ RFP Section 2.7, TO Contractor shall maintain Cyber Security / Data Breach Insurance in the amount of ten million dollars ($10,000,000) per occurrence. The coverage must be valid at all locations where work is performed or data or other information concerning State residents and employees is processed or stored.

## Security Requirements

\*\*Review this section for applicability and tailor as appropriate: \*\*

### Employee Identification

1. TO Contractor Personnel shall display his or her company ID badge in a visible location at all times while on State premises. Upon request of authorized State personnel, each such TO Contractor Personnel shall provide additional photo identification.
2. TO Contractor Personnel shall cooperate with State site requirements, including but not limited to, being prepared to be escorted at all times, and providing information for State badge issuance.
3. TO Contractor shall remove any TO Contractor Personnel from working on the Task Order where the State determines, in its sole discretion, that said TO Contractor Personnel has not adhered to the Security requirements specified herein.
4. The State reserves the right to request that the TO Contractor submit proof of employment authorization of non-United States Citizens, prior to commencement of work under the Task Order.
5. Unless otherwise specified, the cost of complying with all security requirements specified herein are the sole responsibility and obligation of the TO Contractor and its subcontractors and no such costs shall be passed through to or reimbursed by the State or any of its agencies or units.

### Security Clearance / Criminal Background Checks

\*\*If this section isn’t appropriate, use the text below, removing the remainder of the section text, keeping the heading to avoid section renumbering:

THIS SECTION IS NOT APPLICABLE TO THIS TORFP.

\*\* Do you have an authorization from the DPSCS central repository that allows fingerprint background checks? If you do not know whether your agency or program qualifies for either federal or State fingerprint CJIS checks, then do not use any of the language that requires fingerprints as part of the criminal history checks. You can check with the DPSCS CJIS Central Repository Customer Response Services Department.

1. Federal CJIS – Always require fingerprints. Agency has to have a statute or regulation that allows the agency to request federal CJIS checks, where the authorization code comes from the DPSCS Central Repository. Agency has to furnish the authorization code to the contractor seeking a federal CJIS check so the contractor can request the check from the DPSCS Central Repository.
2. Maryland CJIS – which requires fingerprints. An authorization code must be furnished in order for a provider to perform the MD fingerprint check, but the requirements for the code are less stringent.
	1. Option: Agency has requested an authorization code from DPSCS, which does not at the MD CJIS level require statutory or regulatory authorization but does require some level of authorization (such as for positions involving the care of vulnerable populations or the opportunity for misuse of credit card or account information). Usually an agency having authorization is as a result of statute or regulation.
	2. Option: Contractor fills out a petition to get approval from DPSCS, identifying the job positions and descriptions that would obtain the check. For each position or job title the Contractor must justify the request by providing a description of responsibilities of that position (such as the care of vulnerable populations; the opportunity for embezzlement; or access to homes, offices, funds, or equipment). \*\*
3. The TO Contractor shall obtain from all Contractor Personnel assigned to work on the Task Order a signed statement permitting a criminal background check. <<Prior to commencement of work OR Within forty-five (45) days after NTP>>, the TO Contractor shall secure at its own expense the following type of national criminal history record check and provide the TO Contract Manager with completed checks on such Contractor Personnel prior to assignment:

\*\*agencies pick the one that applies and delete the other two. \*\*

1. a national criminal history record check. This check may be performed by a public or private entity. \*\*agencies, this option is always allowed. If you don’t know, remove the other two and either select just the national check OR add the following to a: “The State reserves the right to require, when allowed, a fingerprint-based Maryland and/or FBI Criminal Justice Information System criminal history record check.” \*\*
2. a Maryland and FBI Criminal Justice Information System criminal history record check. \*\*agencies, this option is only allowed if the agency or program has specific authorization to obtain a federal CJIS check based on the guidance above\*\*
3. a Maryland Criminal Justice Information System criminal history record check. \*\*agencies, this option is sometimes allowed; see guidance above\*\*
4. At a minimum, these background checks must include all convictions and probation before judgment (PBJ) dispositions. The TO Contractor may not assign an individual whose background check reflects any criminal activity to work under this Task Order unless prior written approval is obtained from the TO Contract Manager.
5. TO Contractor shall be responsible for ensuring that TO Contractor Personnel background check certifications are renewed annually, and at the sole expense to the TO Contractor.
6. Further, TO Contractor Personnel may be subject to random security checks during entry and exit of State secured areas. The State reserves the right to require TO Contractor Personnel to be accompanied while on secured premises.

\*\*Agencies may NOT require background checks be complete before or by NTP. A department or agency may only expect a background check to be started as of notification of apparent award. Background checks may take as many as 3-4 weeks.

Read the Criminal Background Check Affidavit- it assumes an affidavit for all personnel in the same form.

Adjust as appropriate: \*\*

1. TO Contractor shall complete a criminal background check prior to any individual TO Contractor Personnel being assigned work on the project. TO Contractor shall provide a Criminal Background Check Affidavit (**Appendix 3**) <<prior to any work commencing on the Task Order OR within 45 days of notice to proceed>>. \*\*If department or agency selects “prior to any work commencing on the Task Order,” you will also need to adjust Section 5.4 Commencement of Work under a TO Agreement. \*\*
2. Resources proposed to perform services for Maryland Aviation Administration (MAA) must be capable of qualifying for and obtaining a BWI Airport Security badge to include US Customs Seal and Transportation Identifications. Resources proposed to perform services for MDOT Port Administration (MPA) must comply with all MPA security requirements.

### On-Site Security Requirement(s)

\*\*If this section is not applicable to this TORFP, insert the following sentence: \*\*

THIS SECTION IS NOT APPLICABLE TO THIS TORFP.

\*\*If this section is applicable to this TORFP, adjust as appropriate for this TORFP:

IMPORTANT! Think about the type of solution that you may be getting and make sure that this boilerplate makes sense. For instance, if you are hiring a company for an on-premise solution you may want to remove the phrase “For a SaaS or non-State hosted solution”. \*\*

1. For the conditions noted below, TO Contractor Personnel may be barred from entrance or leaving any site until such time that the State’s conditions and queries are satisfied.
	1. TO Contractor Personnel may be subject to random security checks when entering and leaving State secured areas. The State reserves the right to require TO Contractor Personnel to be accompanied while in secured premises.
	2. Some State sites, especially those premises of the Department of Public Safety and Correctional Services, require each person entering the premises to document and inventory items (such as tools and equipment) being brought onto the site, and to submit to a physical search of his or her person. Therefore, TO Contractor Personnel shall always have available an inventory list of tools being brought onto a site and be prepared to present the inventory list to the State staff or an officer upon arrival for review, as well as present the tools or equipment for inspection. Before leaving the site, the TO Contractor Personnel will again present the inventory list and the tools or equipment for inspection. Upon both entering the site and leaving the site, State staff or a correctional or police officer may search TO Contractor Personnel. Depending upon facility rules, specific tools or personal items may be prohibited from being brought into the facility.
2. Any TO Contractor Personnel who enters the premises of a facility under the jurisdiction of the <<typeofAgency>> may be searched, fingerprinted (for the purpose of a criminal history background check), photographed and required to wear an identification card issued by the <<typeofAgency>>.
3. Further, TO Contractor Personnel shall not violate Md. Code Ann., Criminal Law Art. Section 9-410 through 9-417 and such other security policies of the agency that controls the facility to which the TO Contractor Personnel seeks access. The failure of any of the TO Contractor Personnel to comply with any provision of the TO Agreement is sufficient grounds for the State to immediately terminate the TO Agreement for default.

### Information Technology

\*\*The following Information Technology Security provisions are to be included in Task Orders where there is the collection, accessing, usage, storage, processing, disposition, and/or disclosure of State data, including “Sensitive Data” such as PII, PHI, or other private/confidential data. These provisions are designed to coincide with the SOC 2 Type 2 Audit Report provisions in the TORFP, and should always be included in the solicitation when the SOC 2 Type 2 Audit Report requirement is included. If your solicitation does not have any requirements that relate to these Information Technology provisions, delete this Information Technology section and revise subsection numbering accordingly\*\*

The TO Contractor shall:

1. Implement Administrative, physical, and technical safeguards to protect State data that are no less rigorous than accepted industry best practices for information security such as those listed below (see **Section** **3.7.5**);
2. Ensure that all such safeguards, including the manner in which State data is collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws as well as the terms and conditions of the TO Agreement; and
3. The TO Contractor, and TO Contractor Personnel, shall (i) abide by all applicable federal, State and local laws, rules and regulations concerning security of Information Systems and Information Technology 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.

### Data Protection and Controls\*\*Review for applicability\*\*

1. TO Contractor shall ensure a secure environment for all State data and any hardware and software (including but not limited to servers, network and data components) to be provided or used in connection with the performance of the TO Agreement and shall apply or cause application of appropriate controls so as to maintain such a secure environment (“Security Best Practices”). Such Security Best Practices shall comply with an accepted industry standard, such as the NIST cybersecurity framework.
2. To ensure appropriate data protection safeguards are in place, the TO Contractor shall implement and maintain the following controls at all times throughout the term of the TO Agreement (the TO Contractor may augment this list with additional controls):
	1. Establish separate production, test, and training environments for systems supporting the services provided under this TO Agreement 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. The TO Contractor shall ensure the appropriate separation of production and non-production environments by applying the data protection and control requirements listed in **Section** **3.7.5**.
	2. Apply hardware and software hardening procedures as recommended by Center for Internet Security (CIS) guides https://www.cisecurity.org/, Security Technical Implementation Guides (STIG) http://iase.disa.mil/Pages/index.aspx, or similar industry best practices to reduce the TO Contractor/subcontractor’s systems’ surface of vulnerability, eliminating as many security risks as possible and documenting 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 milestones including any 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 TO Contractor/subcontractor’s system configuration files.
	3. Ensure that State data is not comingled with non-State data through the proper application of compartmentalization security measures.
	4. Apply data encryption to protect Sensitive Data at all times, including in transit, at rest, and also when archived for backup purposes. Unless otherwise directed, the TO Contractor is responsible for the encryption of all Sensitive Data.
	5. For all State data the TO Contractor manages or controls, data encryption shall be applied to such data in transit over untrusted networks. Encryption algorithms which are utilized for encrypting data shall 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>

* 1. Enable appropriate logging parameters 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 Maryland Department of Information Technology’s Information Security Policy.
	2. 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 <<typeofAgency>> shall have the right to inspect these policies and procedures and the TO Contractor or subcontractor’s performance to confirm the effectiveness of these measures for the services being provided under this TO Agreement.
	3. Ensure system and network environments are separated by properly configured and updated firewalls.
	4. Restrict network connections between trusted and untrusted networks by physically and/or logically isolating systems from unsolicited and unauthenticated network traffic.
	5. By default, “deny all” and only allow access by exception.
	6. Review at least annually 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.
	7. Perform regular vulnerability testing of operating system, application, and network devices. Such testing is expected to identify outdated software versions; missing software patches; device or software misconfigurations; and to validate compliance with or deviations from the security policies applicable to this TO Agreement. TO Contractor shall evaluate all identified vulnerabilities for potential adverse effect on security and integrity and remediate the vulnerability no later than 30 days following the earlier of vulnerability’s identification or public disclosure, or document why remediation action is unnecessary or unsuitable. The <<typeofAgency>> shall have the right to inspect the TO Contractor’s policies and procedures and the results of vulnerability testing to confirm the effectiveness of these measures for the services being provided under this TO Agreement.
	8. 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 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.
	9. Ensure State Data is not processed, transferred, or stored outside of the United States (“U.S.”). The TO Contractor shall provide its services to the State and the State’s end users solely from data centers in the U.S. Unless granted an exception in writing by the State, the TO Contractor shall not allow TO Contractor Personnel to store State data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. The TO Contractor shall permit it’s TO Contractor Personnel to access State data remotely only as required to provide technical support.
	10. Ensure TO 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 TO Contractor/subcontractor shall complete any necessary paperwork as directed and coordinated with the TO Agreement Monitor to obtain approval by the State to connect TO Contractor/subcontractor-owned equipment to a State LAN/WAN.
	11. Ensure that anti-virus and anti-malware software is installed and maintained on all systems supporting the services provided under this TO Agreement; 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. The TO Contractor shall perform routine vulnerability scans and take corrective actions for any findings.
	12. Conduct regular external vulnerability testing designed to examine the service provider’s security profile from the Internet without benefit of access to internal systems and networks behind the external security perimeter. evaluate all identified vulnerabilities on Internet-facing devices for potential adverse effect on the service’s security and integrity and remediate the vulnerability promptly or document why remediation action is unnecessary or unsuitable. The <<typeofAgency>> 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 TO Agreement.

### Access to Security Logs and Reports\*\*Review for applicability. Delete if not applicable. \*\*

1. For a SaaS or non-State hosted solution, the TO Contractor shall provide reports to the State in a mutually agreeable format.
2. Reports shall include latency statistics, user access, user access IP address, user access history and security logs for all State files related to this Task Order.

### Security Plan\*\* Review for applicability. Delete if not applicable\*\*

1. The TO Contractor shall protect State data according to a written security policy (“Security Plan”) no less rigorous than that of the State, and shall supply a copy of such policy to the State for validation, with any appropriate updates, on an annual basis.
2. The Security Plan shall detail the steps and processes employed by the TO Contractor as well as the features and characteristics which will ensure compliance with the security requirements of the TO Agreement.
3. The Security Plan shall address compliance with the PCI DSS for payment card processing). \*\*delete if no PCI\*\*
4. \*\*delete the following if Task Orders not applicable\*\*<<If any Security Plan information, including procedures, are different based on a Task Order, TO Contractor shall furnish such differences to the respective TO Manager.>>

### PCI Compliance\*\* Review for applicability. Delete if no payment processing under this TORFP\*\*

1. TO Contractor shall at all times comply, and ensure compliance with, all applicable Payment Card Industry ("PCI") Data Security Standards (“DSS”), including any and all changes thereto. TO Contractor shall provide the <<typeofAgency>>with documented evidence of current compliance to PCI DSS within 30 days of an <<typeofAgency>>request.
2. The TO Contractor shall annually furnish to the State evidence of the PCI Security Standards Council’s (SSC) acceptance or attestation of the TO Contractor’s conformance to the relevant PCI DSS requirements by a third party certified to perform compliance assessments.
3. The TO Contractor shall ensure that the scope of the annual SOC 2 Type II Report specified under **Section 3.9** includes testing to confirm the PCI assessment results.

### Security Incident Response

1. The TO Contractor shall notify the <<typeofAgency>> in accordance with **Section 3.7.9A-D** when any TO Contractor system that may access, process, or store State data or State systems experiences a Security Incident or a Data Breach as follows:
	1. notify the <<typeofAgency>> within twenty-four (24) hours of the discovery of a Security Incident by providing notice via written or electronic correspondence to the TO Manager, <<typeofAgency>> chief information officer and <<typeofAgency>> chief information security officer;
	2. notify the <<typeofAgency>> within two (2) hours if there is a threat to TO Contractor’s Solution as it pertains to the use, disclosure, and security of State data; and
	3. provide written notice to the <<typeofAgency>> within one (1) Business Day after TO Contractor’s discovery of unauthorized use or disclosure of State data and thereafter all information the State (or <<typeofAgency>>) requests concerning such unauthorized use or disclosure.
2. TO Contractor’s notice shall identify:
	1. the nature of the unauthorized use or disclosure;
	2. the State data used or disclosed,
	3. who made the unauthorized use or received the unauthorized disclosure;
	4. what the TO Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and
	5. what corrective action the TO Contractor has taken or shall take to prevent future similar unauthorized use or disclosure.
	6. The TO Contractor shall provide such other information, including a written report, as reasonably requested by the State.
3. The TO Contractor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the TO Agreement. Discussing Security Incidents with the State should be handled on an urgent as-needed basis, as part of TO Contractor communication and mitigation processes as mutually agreed upon, defined by law or contained in the TO Agreement.
4. The Contractor shall comply with all applicable laws that require the notification of individuals in the event of unauthorized release of State data or other event requiring notification, and, where notification is required, assume responsibility for informing all such individuals in accordance with applicable law and to indemnify and hold harmless the State (or <<typeofAgency>>) and its officials and employees from and against any claims, damages, and actions related to the event requiring notification.

Data Breach Responsibilities

\*\*This section only applies when a data breach occurs with respect to State data within the possession or control of the TO Contractor. \*\*

1. If the TO Contractor reasonably believes or has actual knowledge of a Data Breach, the TO Contractor shall, unless otherwise directed:
	1. Notify the appropriate State-identified contact within 24 hours by telephone in accordance with the agreed upon security plan or security procedures unless a shorter time is required by applicable law;
	2. Cooperate with the State to investigate and resolve the data breach;
	3. Promptly implement commercially reasonable remedial measures to remedy the Data Breach; and
	4. Document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services.
2. If a Data Breach is a direct result of the TO Contractor’s breach of its TO Agreement obligation to encrypt State data or otherwise prevent its release, the TO Contractor shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifications to individuals, regulators or others required by State law; (3) a credit monitoring service required by State or federal law; (4) a website or a toll-free number and call center for affected individuals required by State law; and (5) complete all corrective actions as reasonably determined by TO Contractor based on root cause; all [(1) through (5)] subject to the TO Agreement’s limitation of liability.

Additional security requirements may be established in a Task Order and/or a Work Order. \*\*Delete if Task Orders or Work Orders are not allowed in this solicitation. \*\*

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 TO Agreement.

**Provisions in Sections 3.7.1 – 3.7.10 shall survive expiration or termination of the TO Agreement. Additionally, the TO Contractor and shall flow down the provisions of Sections 3.7.4-3.7.12 (or the substance thereof) in all subcontracts.**

## RESERVED

## SOC 2 Type 2 Audit Report

\*\*If there is the potential for FUTURE Sensitive Data handling but not as part of the initial award. Contact DoIT for language. \*\*

\*\*If you determine that a TO Contractor SOC 2 Type 2 Report **is not** required for this Task Order, enter only the following sentence for this section and delete the rest\*\*

A SOC 2 Type 2 Report is not a TO Contractor requirement for this Task Order.

\*\*Include the following SOC 2 Type 2 Report clause when the TO Contractor will collect, process, transmit, store, organize, maintain, or dispose of critical or sensitive information on behalf of the <<typeofAgency>> as part of its Task Order responsibilities. Examples of critical or sensitive information processes may include but are not limited to the following)

1. Account Receivable or Fee Payment Processing Services;
2. Call Center or Help Desk Services;
3. Collection Agency Services;
4. Information System Hosting or System Services;
5. Management or Cloud Computing Services;
6. Medical or Insurance Claims Processing Services;
7. Payroll Processing Services;
8. Printing and Mailing Processing Services; and
9. Records Retention Services. \*\*

This section applies to the TO Contractor who provides services for identified critical functions, handles Sensitive Data, and/or hosts any related implemented system for the State under the TO Agreement.

The TO Contractor shall have an annual audit performed by an independent audit firm of the TO Contractor’s handling Sensitive Data and/or the <<typeofAgency>>’s critical functions. Critical functions are identified as all aspects and functionality of the System including any add-on modules and shall address all areas relating to Information Technology security and operational processes. These services provided by the TO Contractor that shall be covered by the audit will collectively be referred to as the “Information Functions and/or Processes.” Such audits shall be performed in accordance with audit guidance: Reporting on Controls at a Service Organization Relevant to Security, Availability, Confidentiality, or Privacy (SOC 2) as published by the American Institute of Certified Public Accountants (AICPA) and as updated from time to time, or according to the most current audit guidance promulgated by the AICPA or similarly-recognized professional organization, as agreed to by the <<typeofAgency>>, to assess the security of outsourced client functions or data (collectively, the “Guidance”) as follows:

1. The type of audit to be performed in accordance with the Guidance is a SOC 2 Type 2 Audit (referred to as the “SOC 2 Audit” or “SOC 2 Report”). The initial SOC 2 audit shall be scheduled and completed within a timeframe to be specified by the State and submitted to the TO Manager. All subsequent SOC 2 audits that are arranged after this initial audit shall be performed on an annual basis and submitted to the TO Manager by the reoccurring annual date” for the preceding calendar year.
2. The SOC 2 Audit shall report on TO Contractor’s system(s) and suitability of the design and operating effectiveness of controls over the Information Functions and/or Processes to meet the requirements of the TO Agreement, including the Security Requirements identified in **Section 3.7**, relevant to the following trust principles: << Processing Integrity, Security, Availability, Confidentiality, and/or Privacy – \*\*The <<typeofAgency>> to choose which of the five trust principles apply\*\*>>as defined in the aforementioned Guidance.

\*\*Consult with your AAG, Chief Information Officer, or a director of internal audits to determine which trust principles are applicable for your Task Order. Rarely will a SOC 2 Audit require that all five trust principles be included in the Audit scope. However, if the solicitation requires that a Non-Disclosure Agreement (Attachment I) be submitted by the Contractor, then the trust service principle “Confidentiality” should be strongly considered as one of the trust principles selected for the SOC 2 Audit, as the Contractor’s controls over State data determined to be confidential must be assessed as part of the Audit. \*\*

1. The audit scope of each year’s SOC 2 Report may need to be adjusted (including the inclusion or omission of the relevant trust services principles of Security, Availability, Confidentiality, Processing Integrity, and Privacy) to accommodate any changes to the TO Contractor’s environment since the last SOC 2 Report. Such changes may include but are not limited to the addition of Information Functions and/or Processes through modifications to the TO Agreement or due to changes in Information Technology or operational infrastructure implemented by the TO Contractor. The TO Contractor shall ensure that the audit scope of each year’s SOC 2 Report engagement shall accommodate these changes by including in the SOC 2 Report all appropriate controls related to the current environment supporting the Information Functions and/or Processes, including those controls required by the TO Agreement.
2. The scope of the SOC 2 Report shall include work performed by any Relevant Subcontractorsubcontractors that provide essential support to the TO Contractor and/or essential support to the Information Functions and/or Processes provided to the <<typeofAgency>> under the TO Agreement. The TO Contractor shall ensure the audit includes all such subcontractor(s) operating in the performance of the TO Agreement.
3. All SOC 2 Audits, including those of the TO Contractor, shall be performed at no additional expense to the <<typeofAgency>>.
4. The TO Contractor shall promptly provide a complete copy of the final SOC 2 Report(s) to the TO Manager upon completion of each annual SOC 2 Audit engagement.
5. The TO Contractor shall provide to the TO Manager, within 30 calendar days of the issuance of each SOC 2 Report, a documented corrective action plan which addresses each audit finding or exception contained in a SOC 2 Report. The corrective action plan shall identify in detail the remedial action to be taken by the TO Contractor along with the date(s) when each remedial action is to be implemented.
6. If the TO Contractor currently has an annual information security assessment performed that includes the operations, systems, and repositories of the Information Functions and/or Processes being provided to the <<typeofAgency>> under the TO Agreement, and if that assessment generally conforms to the content and objective of the Guidance, the <<typeofAgency>> will determine in consultation with appropriate State government technology and audit authorities whether the TO Contractor’s current information security assessments are acceptable in lieu of the SOC 2 Report(s).
7. If the TO Contractor fails during the TO Agreement term to obtain an annual SOC 2 Report by the date specified in **Section 3.9.2.A**, the <<typeofAgency>> shall have the right to retain an independent audit firm to perform an audit engagement of a SOC 2 Report of the Information Functions and/or Processes utilized or provided by the TO Contractor and under the Contract. The TO Contractor agrees to allow the independent audit firm to access its facility/ies for purposes of conducting this audit engagement(s), and will provide the necessary support and cooperation to the independent audit firm that is required to perform the audit engagement of the SOC 2 Report. The <<typeofAgency>> will invoice the TO Contractor for the expense of the SOC 2 Report(s), or deduct the cost from future payments to the TO Contractor.

**Provisions in Sections 3.9.1 – 3.9.2 shall survive expiration or termination of the TO Agreement. Additionally, the TO Contractor and shall flow down the provisions of Sections 3.9.1-3.9.2 (or the substance thereof) in all subcontracts.**

## Performance and Personnel

### ROLES AND RESPONSIBILITIES

Personnel roles and responsibilities under the Task Order: \*\*Do not change the definitions\*\*

1. **TO Procurement Officer** – The TO Procurement Officer has the primary responsibility for the management of the TORFP process, for the resolution of TO Agreement scope issues, and for authorizing any changes to the TO Agreement.
2. **TO Manager** - The TO Manager has the primary responsibility for the management of the work performed under the TO Agreement, administrative functions, including issuing written directions, and for ensuring compliance with the terms and conditions of the CATS+ Master Contract.

The TO Manager will assign tasks to the personnel provided under this TORFP and will track and monitor the work being performed through the monthly accounting of hours’ deliverable for work types; actual work produced will be reconciled with the hours reported.

1. **TO Contractor** – The TO Contractor is the CATS+ Master Contractor awarded this Task Order. The TO Contractor shall provide human resources as necessary to perform the services described in this TORFP Scope of Work.
2. **TO Contractor Manager** – The TO Contractor Manager will serve as primary point of contact with the TO Manager to regularly discuss progress of tasks, upcoming tasking, historical performance, and resolution of any issues that may arise pertaining to the TO Contractor Personnel. The TO Contractor Manager will serve as liaison between the TO Manager and the senior TO Contractor management.
3. **TO Contractor Personnel** – Any official, employee, agent, Subcontractor, or Subcontractor agents of the TO Contractor who is involved with the Task Order over the course of the Task Order period of performance.
4. **Key Personnel** – A subset of TO Contractor Personnel whose departure during the performance period, will, in the State’s opinion, have a substantial negative impact on Task Order performance. Key Personnel proposed as part of the TO Proposal shall start as of TO Agreement issuance unless specified otherwise in this TORFP or the Offeror’s TO Technical Proposal. Key Personnel may be identified after Task Order award.
5. **MDOT Contract Management Office (CMO)** - The CMO is responsible for management of the Task Order Agreement after award. – \*\*MDOT only; delete entire role if not MDOT\*\*

### Offeror Experience

\*\*This section is where the agency will put desired characteristics for the company that will be evaluated. If <<typeofAgency>> has no specific offeror experience qualifications for evaluating the proposal, then insert: \*\*

THIS SECTION IS NOT APPLICABLE TO THIS TORFP.

\*\*Note that with any hardware/software provided under this TORFP you may wish to require that the TO Contractor demonstrate that it is a licensed reseller or distributor of the item. \*\*

\*\*Insert additional experience requirements here. \*\*

The following experience is expected and will be evaluated as part of the TO Technical Proposal (see the Offeror experience, capability and references evaluation factor from **Section 6.2**):

1. Demonstrated knowledge of ….
2. Prior senior level experience (doing ….)
3. Breadth of knowledge in….

### Personnel Experience

\*\*This section is where the agency will put desired characteristics for the Key Personne that will be evaluated. If <<typeofAgency>> has no specific proposed **Key personnel** experience / qualifications for evaluating the proposal, then insert: \*\*

THIS SECTION IS NOT APPLICABLE TO THIS TORFP.

\*\*Insert additional experience requirements here. This is the section to include mandatory requirements for any staff not included as Key Personnel. \*\*

The following experience is expected and will be evaluated as part of the TO Technical Proposal (see the capability of proposed resources evaluation factor from**Section 6.2**):

1. Demonstrated knowledge of ….
2. Prior senior level experience (doing ….)
3. Breadth of knowledge in….

### Number of Personnel to Propose \*\*Adjust quantity as necessary, not to exceed four key personnel. \*\*

As part of the TO Proposal evaluation, Offerors shall propose exactly <<numberOfProposedPersonnelAllowed>> personnel who are expected to be available as of the start date specified in the Notice to Proceed (NTP Date). Offerors shall describe in a Staffing Plan how additional resources shall be acquired to meet the needs of the <<typeofAgency>>. Offerors may generally describe planned positions in a Staffing Plan. Such planned positions may not be used as evidence of fulfilling personnel minimum qualifications.

### Key Personnel Identified

\*\*Instructions Regarding Key Personnel:

1. Except for those contracts with few personnel numbers, the number of Key Personnel should comprise no more than 15% of the total number of personnel anticipated on the project.

2. Make sure you only ask the Offeror to propose those Key Personnel who are absolutely critical to selecting the correct Offeror. Important! DoIT enforces no more than 4 personnel allowed to be proposed for the purposes of making an award determination.

3. Key Personnel do not have to be submitted with the proposal. The default language is to define the Key Personnel but in the submission instructions (and minimum qualifications) you can restrict the number of proposed personnel to streamline your evaluation. You can also add language that allows you to specify the Key Personnel after the Task Order starts. \*\*

1. For the Task Order, the following positions to be identified in the TO Technical Proposal will be considered Key Personnel, and shall be required to meet the qualifications stated in **Section 3.10** and **Appendix <<laborCategoriesAppendixNumber>>.** \*\*Currently, Appendix <<laborCategoriesAppendixNumber>> has a large number of labor category descriptions. Please update Appendix <<laborCategoriesAppendixNumber>>so that only labor categories appropriate for this solicitation are included. \*\*
	1. <<Role or Labor Category 1>>
	2. <<Role or Labor Category 2>>
	3. <<Role or Labor Category 3>>

\*\*DoIT guidance is that only a maximum of FOUR key personnel may be proposed for purposes of making an award determination. Contact DoIT for more details on this guidance. \*\*

### Labor Categories

\*\*Selection of labor categories: In many cases, the labor categories in the full list in Appendix <<laborCategoriesAppendixNumber>> are not applicable for a SaaS or other “aaS” contract. Only include those labor categories that are appropriate and are not part of the “service” for which you will be paying a monthly fee. See additional tailoring instructions in Appendix <<laborCategoriesAppendixNumber>>.

Instructions: Remove any labor categories not applicable to this RFP from the labor category list in the appendix and the price sheet.

Be generous in selecting the labor categories for your RFP to provide flexibility for unplanned needs in the future. \*\*

1. The Labor Categories are identified and described <<below>>\*\*Or in Appendix <<laborCategoriesAppendixNumber>>\*\*. To be responsive to this TORFP, Offerors must be capable of providing and meeting the minimum qualifications for all the labor categories listed. Offerors shall submit a TO Financial Proposal Form (Attachment P) that provides labor rates for all labor categories for all Task Order years (initial term and any option periods). Actual resumes shall be provided only for Key Personnel as described in **Section 3.10.4**. Resumes for resources provided later shall be coordinated by the TO Manager per the TO Technical Proposal and, if requested in a Work Order, shall be governed by the Work Order process.
2. Each Labor Category includes Titles, Position Description, Education and Experience (General and Specialized).
3. Education and experience described below constitute the minimum qualifications for candidates proposed in response to a TORFP. All experience required must have occurred within the most recent ten (10) years.
4. TO Contractor Personnel Experience (including Key Personnel submitted in response to this TORFP).

### Substitution of Education for Experience

A Bachelor’s Degree or higher may be substituted for the general and specialized experience for those labor categories requiring a High School Diploma. A Master’s Degree may be substituted for two years of the general and specialized experience for those labor categories requiring a Bachelor’s Degree. Substitution shall be reviewed and approved by the State at its discretion.

### Substitution of Experience for Education

1. Substitution of experience for education may be permitted at the discretion of the State.
2. Substitution of Professional Certificates for Experience:
3. Professional certification (e.g., Microsoft Certified Solutions Expert, SQL Certified Database Administrator) may be substituted for up to two (2) years for general and specialized experience at the discretion of the State.

### TO Contractor Personnel Maintain Certifications

Any TO Contractor Personnel provided under this TORFP shall maintain in good standing any required professional certifications for the duration of the TO Agreement.

### Work Hours

\*\*Adjust this section as applicable. Adjust language and hours of coverage according to the needs of the place of work performance.

For a SaaS Task Order, you frequently are asking for the hours of support of the SERVICE and not specifically the hours of support for individual personnel. Tailor this section appropriately. \*\*

1. Business Hours Support: TO Contractor shall assign TO Contractor Personnel to support <<Pick one; Normal State Business Hours (see definition in **Appendix 1**) OR <<typeofAgency>> business hours (<<hh:mm AM>> to <<hh:mm>> PM), Monday through Friday except for State holidays>>.
2. <<If Task Orders are used>> Needs beyond the hours described in paragraph A may be defined in a Task Order.
3. TO Contractor Personnel may also be required to provide occasional support outside of normal State Business Hours, including evenings, overnight, and weekends, to support specific efforts and emergencies, such as to resolve system repair or restoration. Hours performing activities would be billed on an actual time worked basis at the rates proposed.
4. Alternate Language. \*\*Delete or adjust as necessary\*\* Scheduled non-Business Hours Support: Once personnel have demonstrated an understanding of the <<typeofAgency>> infrastructure, they will also be required to participate in a rotating emergency on-call schedule, providing non-Business Hours support. Typically, personnel assigned to <<typeofAgency>> non-Business Hours support are required to be on-call 24 hours a day for a seven-day period, one week out of every four to five weeks.
5. State-Mandated Closings: TO Contractor Personnel shall be required to participate in any State-mandated closings. In this event, the TO Contractor will be notified in writing by the TO Manager of these details.
6. Minimum and Maximum Hours: Full-time TO Contractor Personnel shall work 40 hours per week with starting and ending times as approved by the TO Manager. A flexible work schedule may be used with TO Manager approval, including time to support any efforts outside core business hours. TO Contractor Personnel may also be requested to restrict the number of hours TO Contractor personnel can work within a given period of time that may result in less than an eight-hour day or less than a 40-hour work week.
7. Vacation Hours: Requests for leave shall be submitted to the TO Manager at least two weeks in advance. The TO Manager reserves the right to request a temporary replacement if leave extends longer than one consecutive week. In cases where there is insufficient coverage, a leave request may be denied.

## Substitution of Personnel

\*\*Authors, even if you do not have Key Personnel, you may still need the substitution clauses in Section 3.11.4-D! \*\*

### Directed Personnel Replacement

1. The TO Manager may direct the TO Contractor to replace any TO Contractor Personnel who, in the sole discretion of the TO Manager, are perceived as being unqualified, non-productive, unable to fully perform the job duties, disruptive, or known, or reasonably believed, to have committed a major infraction(s) of law or <<typeofAgency>>, Contract, or Task Order requirement.
2. If deemed appropriate in the discretion of the TO Manager, the TO Manager shall give written notice of any TO Contractor Personnel performance issues to the TO Contractor, describing the problem and delineating the remediation requirement(s). The TO Contractor shall provide a written Remediation Plan within three (3) days of the date of the notice. If the TO Manager rejects the Remediation Plan, the TO Contractor shall revise and resubmit the plan to the TO Manager within five (5) days of the rejection, or in the timeframe set forth by the TO Manager in writing. Once a Remediation Plan has been accepted in writing by the TO Manager, the TO Contractor shall immediately implement the Remediation Plan.
3. Should performance issues persist despite the approved Remediation Plan, the TO Manager will give written notice of the continuing performance issues and either request a new Remediation Plan within a specified time limit or direct the removal and replacement of the TO Contractor Personnel whose performance is at issue. A request for a new Remediation Plan will follow the procedure described in **Section 3.11.1.B**.
4. In circumstances of directed removal, the TO Contractor shall provide a suitable replacement for TO Manager approval within fifteen (15) days of the date of the notification of directed removal, or the actual removal, whichever occurs first, or such earlier time as directed by the TO Manager in the event of a removal on less than fifteen days’ notice
5. Normally, a directed personnel replacement will occur only after prior notification of problems with requested remediation, as described above. However, the TO Manager reserves the right to direct immediate personnel replacement without utilizing the remediation procedure described above.
6. Replacement or substitution of TO Contractor Personnel under this section shall be in addition to, and not in lieu of, the State’s remedies under the Task Order or which otherwise may be available at law or in equity.

### Substitution Prior to and 30 Days After Task Order Execution

1. Prior to Task Order Execution or within thirty (30) days after Task Order Execution, the Offeror may substitute proposed Key Personnel only under the following circumstances: vacancy occurs due to the sudden termination, resignation, or approved leave of absence due to an *Extraordinary Personnel Event*, or death of such personnel. To qualify for such substitution, the Offeror must describe to the State's satisfaction the event necessitating substitution and must demonstrate that the originally proposed personnel are actual full-time direct employees with the Offeror (subcontractors, temporary staff or 1099 contractors do not qualify). Proposed substitutions shall be of equal caliber or higher, in the State's sole discretion. Proposed substitutes deemed by the State to be less qualified than the originally proposed individual may be grounds for pre-award disqualification or post-award termination.
2. An *Extraordinary Personnel Event* – means Leave under the Family Medical Leave Act; an incapacitating injury or incapacitating illness; or other circumstances that in the sole discretion of the State warrant an extended leave of absence, such as extended jury duty or extended military service.

### Substitution More Than 30 Days After Task Order Execution

The procedure for substituting personnel after Task Order execution is as follows:

1. The TO Contractor may not substitute personnel without the prior approval of the TO Manager.
2. To replace any personnel, the TO Contractor shall submit resumes of the proposed individual specifying the intended approved labor category. Any proposed substitute personnel shall have qualifications equal to or better than those of the replaced personnel.
3. Proposed substitute individual shall be approved by the TO Manager. The TO Manager shall have the option to interview the proposed substitute personnel and may require that such interviews be in person. After the interview, the TO Manager shall notify the TO Contractor of acceptance or denial of the requested substitution. If no acceptable substitute personnel is proposed within the time frame established by the TO Manager, the TO Agreement may be cancelled.

## Minority Business Enterprise (MBE) Reports

\*\*Remove MBE sub-section below if MBE goal is 0%. \*\*

There is no MBE Participation Goal for this Task Order.

\*\*Otherwise, leave the language below. Do NOT update the MBE language in this TORFP without prior authorization from DoIT. Also, check for an updated template\*\*

### MBE PARTICIPATION REPORTS

<<typeofAgency>> will monitor both the TO Contractor’s efforts to achieve the MBE participation goal and compliance with reporting requirements.

Monthly reporting of MBE participation is required in accordance with the terms and conditions of the CATS+ Master Contract.

1. The TO Contractor shall submit the following reports by the 15th of each month to the <<typeofAgency>> at the same time the invoice copy is sent:
	1. A Prime Contractor Paid/Unpaid MBE Invoice Report (**Attachment D-4A**) listing any unpaid invoices, over 45 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made; and
	2. (If Applicable) An MBE Prime Contractor Report (**Attachment D-4B**) identifying an MBE prime’s self-performing work to be counted towards the MBE participation goals.

The TO Contractor shall ensure that each MBE subcontractor provides a completed Subcontractor Paid/Unpaid MBE Invoice Report (**Attachment D-5**) by the 15th of each month.

Subcontractor reporting shall be sent directly from the subcontractor to the <<typeofAgency>>. The TO Contractor shall e-mail all completed forms, copies of invoices and checks paid to the MBE directly to the TO Manager.

## Veteran Small Business Enterprise (VSBE) Reports

\*\*Remove VSBE sub-section below if MBE goal is 0%. \*\*

There is no VSBE Goal for this Task Order.

\*\*Otherwise, leave the language below. Do NOT update the VSBE language in this TORFP without prior authorization from DoIT. Also, check for an updated template\*\*

### VSBE PARTICIPATION REPORTS

<<typeofAgency>> shall monitor both the TO Contractor’s efforts to achieve the VSBE participation goal and compliance with reporting requirements. Monthly reporting of VSBE participation is required by the 15th of each month. The TO Contractor shall submit required reports as described in **Attachment E**.

Subcontractor reporting shall be sent directly from the subcontractor to the <<typeofAgency>>. The TO Contractor shall e-mail all completed forms, copies of invoices and checks paid to the VSBE directly to the TO Manager.

## Work Orders

\*\*If this section is not applicable to this TORFP, insert the following sentence. Some agencies use the term “Task Order” for this section instead. Make sure the term you use, whether Work Order or Task Order, is defined in Appendix 1. \*\*

THIS SECTION IS NOT APPLICABLE TO THIS TORFP.

\*\*A work order process may be used to expand the activities performed under the TORFP **as long as it is within the overall scope of work described within the TORFP**. A work order may be T&M or fixed price, as appropriate for your TORFP. A work order may also be for a specific set of work or for a resource (when the TORFP is used more in line as a staffing model). However, if you anticipate using the TORFP for T&M work orders, the TO Financial Proposal Form MUST have the relevant labor categories and rates. Rates must be determined at TORFP issuance. Strike references to a time and material Work Order if the TO Financial Proposal Form will not include pricing options for T&M.\*\*

1. Additional <<PICK both or just one: services and resources>> will be provided via a Work Order process. Work shall not begin in advance of a fully executed Work Order. A Work Order may be issued for <<pick one or both: either fixed price or time and materials (T&M) pricing>>. T&M Work Orders will be issued in accordance with pre-approved Labor Categories with the fully loaded rates proposed in **Attachment B**. \*\*remove last sentence if no T&M\*\*
2. The TO Manager shall e-mail a Work Order Request (See sample at [http://doit.maryland.gov/contracts/Documents/CATSPlus/CATS+WorkOrderSample.pdf](http://doit.maryland.gov/contracts/Documents/CATSPlus/CATS%2BWorkOrderSample.pdf)) to the TO Contractor to provide services or resources that are within the scope of this TORFP. The Work Order Request will include:
	1. Technical requirements and description of the service or resources needed
	2. Performance objectives and/or deliverables, as applicable
	3. Due date and time for submitting a response to the request, and
	4. Required place(s) where work must be performed
3. The TO Contractor shall e-mail a response to the TO Manager within the specified time and include at a minimum:
	1. A response that details the TO Contractor’s understanding of the work;
	2. A price to complete the Work Order Request using the format provided using the format provided (see online sample).
	3. A description of proposed resources required to perform the requested tasks, with labor categories listed in accordance with Attachment B.
	4. An explanation of how tasks shall be completed. This description shall include proposed subcontractors and related tasks.
	5. State-furnished information, work site, and/or access to equipment, facilities, or personnel
	6. The proposed personnel resources, including any subcontractor personnel, to complete the task.
4. For a T&M Work Order, the TO Manager will review the response and will confirm the proposed labor rates are consistent with this TORFP. For a fixed price Work Order, the TO Manager will review the response and will confirm the proposed prices are acceptable.
5. The TO Manager may contact the TO Contractor to obtain additional information, clarification or revision to the Work Order, and will provide the Work Order to the TO Procurement Officer for a determination of compliance with the TO Agreement and a determination whether a change order is appropriate. Written TO Procurement Officer approval is required before Work Order execution by the State.
6. Proposed personnel on any type of Work Order shall be subject to <<typeofAgency>> approval. The TO Contractor shall furnish resumes of proposed personnel specifying the labor category(ies) proposed. The TO Manager shall have the option to interview the proposed personnel and, in the event of an interview or not, shall notify the TO Contractor of acceptance or denial of the personnel.
7. Performance of services under a Work Order shall commence consistent with an NTP issued by the TO Manager for such Work Order.

## Additional Clauses

The TO Contractor shall be subject to the requirements in this section and shall flow down the provisions of **Sections 3.15.1 – 3.15.5** (or the substance thereof) in all subcontracts.

### TORFP Subject to CATS+ Master Contract

In addition to the requirements of this TORFP, the Master Contractors are subject to all terms and conditions contained in the CATS+ RFP issued by the Maryland Department of Information Technology (DoIT) and subsequent Master Contract Project Number 060B2490023, including any amendments, including but not limited to:

1. Custom Software, Custom Source Code, Data;
2. Hardware and software costs procured as part of the TORFP cannot exceed 49 percent of the total Task Order value;
3. Material costs shall be passed through with no mark-up by the TO Contractor;
4. No-Visual Access
5. By responding to this TORFP and accepting a Task Order award, an Offeror specifically agrees that for any software, hardware or hosting service that it proposes for use by the State in response to this TORFP, the State will have the right to purchase from another source, instead of from the selected Offeror.

All times specified in this document are local time, defined as Eastern Standard Time or Eastern Daylight Time, whichever is in effect.

### Contract Management Oversight Activities

1. DoIT is responsible for contract management oversight on the CATS+ Master Contract. As part of that oversight, DoIT has implemented a process for self-reporting contract management activities of Task Orders under CATS+. This process typically applies to active TOs for operations and maintenance services valued at $1 million or greater, but all CATS+ Task Orders are subject to review.
2. A sample of the TO Contractor Self-Reporting Checklist is available on the CATS+ website at http://doit.maryland.gov/contracts/Documents/CATSPlus/CATS+Self-ReportingChecklistSample.pdf. DoIT may send initial checklists out to applicable/selected TO Contractors approximately three months after the award date for a Task Orders. The TO Contractor shall complete and return the checklist as instructed on the form. Subsequently, at six month intervals from the due date on the initial checklist, the TO Contractor shall update and resend the checklist to DoIT.

### Source Code Escrow

\*\*If source code escrow is not part of this Task Order’s scope, include the following language: \*\*

Source code Escrow does not apply to this Task Order.

\*\*If Source Code Escrow is needed, no changes allowed to this language without AAG approval. Keep this section if this Task Order might include source code escrow. Delete this clause if not applicable, and revise the numbering of the clauses in this Task Order accordingly. \*\*

Source Code Escrow applies to this TO Agreement. The TO Contractor shall perform source code escrow as described herein.

1. The State will be named as a beneficiary under an escrow agreement (“Escrow Agreement”) that shall be entered into between the TO Contractor and an escrow agent (“Escrow Agent”) within <<xxx>> days of the date hereof pursuant to which TO Contractor shall deliver a Source Code Escrow Package to Escrow Agent. The term “Source Code Escrow Package” means: a) a complete copy in machine-readable form of the source code and executable code of the software licensed to the State under the TO Agreement; b) a complete copy of any existing design documentation and user documentation; and/or c) complete instructions for compiling and linking every part of the source code into executable code for purposes of enabling verification of the completeness of the source code as provided below. The Escrow Agreement shall govern the maintenance and release of the Source Code Escrow Package, and TO Contractor agrees to update, enhance, or otherwise modify such Source Code Escrow Package promptly upon each release of a new version of any component thereof. TO Contractor shall pay all fees and expenses charged by Escrow Agent, including, but not limited to, fees and expenses related to the State being a named beneficiary under the Escrow Agreement. The State shall treat the Source Code Escrow Package as TO Contractor’s confidential information. Under all circumstances, the Source Code Escrow Package shall remain the property of TO Contractor. The State shall only use the Source Code Escrow Package as contemplated in the Task Order (including, but not limited to confidentiality provisions and usage restrictions). The Escrow Agent shall maintain the Source Code Escrow Package in a repository located in the United States.
2. In the event that the Escrow Agent either ceases providing escrow services to TO Contractor or TO Contractor determines in its reasonable business judgment that the Escrow Agent is no longer providing acceptable services, TO Contractor shall replace the Escrow Agent with another escrow agent, using an agreement which provides the State with rights no less advantageous than those in the Escrow Agreement. In such case, the new escrow agent shall be substituted in all ways for the incumbent Escrow Agent with respect to **Section 3.15.4.A** above and all references herein to Escrow Agent shall be deemed to include such substitute escrow agent.
3. TO Contractor shall inform the State of the availability of an escrow for any third party software solutions it provides to the State.
4. In addition to the rights and obligations contained in the Escrow Agreement referenced in **Section 3.15.4.A**, the State shall have the Software Escrow Package released by the Escrow Agent to the State’s possession immediately upon any voluntary or involuntary filing of bankruptcy or any other insolvency proceeding, including but not limited to a general assignment for the benefit of including but not limited to a general assignment for the benefit of creditors, the appointment of a receiver for business or assets; creditors, the appointment of a receiver for business or assets; TO Contractor’s dissolution or liquidation, voluntary or otherwise; the State has compelling reasons to believe that such events will cause TO Contractor to fail to meet its obligations in the foreseeable future; or TO Contractor’s discontinuance of support or failure to support in accordance with this TO Contract any software system or if the TO Contractor is otherwise unable or unwilling to provide the Source Code Escrow Package. This condition will also be considered met if after repeated e-mail and phone requests by the State for service, the State makes a request for service in writing to the Contractor's last known address served by certified signed receipt required mail delivery by U.S. Post Office or by a nationally recognized (in the United States) overnight carrier, and the TO Contractor remains unresponsive, meaning that the TO Contractor is unable to acknowledge message receipt, unwilling or otherwise unable to satisfy the request for a period longer than 45 days from attempt to deliver the written request.

### Purchasing and Recycling Electronic Products

\*\*If this solicitation does not include purchases or removal of electronic products, enter only the following sentence for this section and delete the rest. \*\*

This section does not apply to this solicitation.

\*\*If this solicitation does include purchases or removal of electronic products, enter the following language for this section: \*\*

1. State Finance and Procurement Article, Md. Code Ann. § 14-414, requires State agencies purchasing computers and other electronic products in categories covered by EPEAT to purchase models rated EPEAT Silver or Gold unless the requirement is waived by the DoIT. This information is located on the DGS web site: http://www.dgs.maryland.gov/GreenOperations/GreenPurchasing/Guidelines/specs/ElectronicandITProductsSpecification.pdf.
2. Guidelines provided by DGS require planning and coordination of the proper disposition of Information Technology equipment. State Finance and Procurement Article, Md. Code Ann. § 14-415, requires State agencies awarding contracts for services to recycle electronic products to award the contract to a recycler that is R2 or e-Stewards certified. This information is located on the DGS web site: http://www.dgs.maryland.gov/GreenOperations/GreenPurchasing/Guidelines/specs/ElectronicProductDisposalSpecification.pdf.
3. Guidelines provided by DoIT discuss information and guidance on the proper disposition of IT equipment, media sanitization, and protecting confidential information stored on media. This information is located in the State's Information Technology (IT) Security Policy http://doit.maryland.gov/support/pages/securitypolicies.aspx. Section 6.5 Media Protection provides guidance on proper precautions to protect confidential information stored on media.

### Change Control and Advance Notice

1. Unless otherwise specified in an applicable Service Level Agreement, the Contractor shall give seven (7) days advance notice to the State of any upgrades or modifications that may impact service availability and performance.
2. Contractor may not modify the functionality or features of any SaaS provided hereunder if such modification materially degrades the functionality of the SaaS.

### No-Cost Extensions

In the event there are unspent funds remaining on the TO Agreement, prior to the TO’s expiration date the TO Procurement Officer may modify the TO Agreement to extend the TO Agreement beyond its expiration date for the performance of work within the TO’s scope of work. Notwithstanding anything to the contrary, no funds may be added to the TO Agreement in connection with any such extension.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

# TORFP Instructions

## TO Pre-Proposal Conference

\*\*If no TO pre-proposal conference will be held insert the following statement and delete the remaining statements in this section. Note, however, a TO pre-proposal conference is **STRONGLY recommended**. \*\*

A TO pre-proposal conference will not be held for this TORFP.

\*\*Otherwise delete the above statement and retain the subparagraphs below. \*

ATO pre-proposal conference (Conference) will be held at the date, time, and location indicated on the Key Information Summary Sheet.

Attendance at the Conference is not mandatory, but all interested parties are encouraged to attend in order to facilitate better preparation of their proposals.

Following the Conference, the attendance record and summary of the Conference will be distributed via e-mail to all Master Contractors known to have received a copy of this TORFP.

\*\*For an in-person Conference, include the following (as applicable). \*

Attendees should bring a copy of the solicitation and a business card to help facilitate the sign-in process.

In order to assure adequate seating and other accommodations at the Conference, please e-mail the Pre-Proposal Conference Response Form (**Attachment** **A**) 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 notify the TO Procurement Officer at least five (5) business days prior to the Conference date. The <<typeofAgency>> will make a reasonable effort to provide such special accommodation.

Seating at the Conference will be limited to two (2) attendees per company. \*\*if an agency needs to limit seating then include a paragraph like this. \*\*

\*\*If an online Conference will be held use the following language\*\*

Those wishing to attend the web Conference may request a meeting invitation by emailing <<contact name>> at <<contact email>>no later than 2:00 PM on <<deadline for contacting>>. <<An invitation e-mail is required for registration, and therefore attendance. Upon receipt of the email, the TO Procurement Officer will reply with a registration email with a link that may be used to register for the conference. \*\* if attendance to the web conference is open then you’ll need to amend this language: \*\* >Registration must be completed by 2:00 PM <<registration deadline>>.

\*\*The following is optional. Delete this paragraph if it does not apply to this TORFP. If a site visit is required, complete the highlighted information. **Agencies cannot require mandatory attendance for a site visit**.

**NOTE:** Depending on your Task Order’s requirements, a site visit may be beneficial to prospective Offerors. If so, the language below may be inserted when appropriate, and this section title changed to “TO Pre-Proposal Conference and Site Visit(s).” If there are limitations as to how many vendor representatives may attend, the <<typeofAgency>> should state so below. If visits to multiple sites are recommended, it is suggested that separate, advance registrations be made available for each, and the schedule for the site visits be distributed prior to the TO Pre-Proposal Conference if possible. The <<typeofAgency>>should also address whether prospective Offerors can request a follow-up site visit, or if no additional, follow-up visits will be allowed. Finally, if any site visit is offered, the Pre-Proposal Conference Response Form should include a section where vendors can indicate whether they intend to attend the site visit, and should include spaces for the vendor to name its representative(s) that will attend the site visit.

Delete the following if not applicable. \*\*

A site visit has been pre-scheduled for <<date of site visit>>, beginning at <<start time of site visit>> Local Time, at <<full address of site with building name and room number>>. All prospective Offerors are encouraged to attend in order to facilitate better preparation of their proposals.

## Questions

All questions shall identify in the subject line the Solicitation Number and Title (<<solicitationNumber>> - <<solicitationTitle>>), and shall be submitted in writing via e-mail to the TO Procurement Officer no later than the date and time specified the Key Information Summary Sheet.

Answers to all questions that are not clearly specific only to the requestor will be provided to all Master Contractors who are known to have received a copy of the TORFP.

The statements and interpretations contained in responses to any questions, whether responded to verbally or in writing, are not binding on the <<typeofAgency>> unless it issues an amendment in writing.

## TO Proposal Due (Closing) Date and Time

TO Proposals, in the number and form set forth in **Section 5** **TO** **Proposal Format**, must be received by the TO Procurement Officer no later than the TO Proposal due date and time indicated on the Key Information Summary Sheet in order to be considered.

Requests for extension of this date or time shall not be granted.

Offerors submitting TO Proposals should allow sufficient delivery time to ensure timely receipt by the TO Procurement Officer. Except as provided in COMAR 21.05.03.02.F and 21.05.02.10, TO Proposals received after the due date and time listed in the Key Information Summary Sheet will not be considered.

The date and time of an e-mail submission is determined by the date and time of arrival in the e-mail address indicated on the Key Information Summary Sheet.

TO Proposals may be modified or withdrawn by written notice received by the TO Procurement Officer before the time and date set forth in the Key Information Summary Sheet for receipt of TO Proposals.

## Award Basis

Based upon an evaluation of TO Proposal responses as provided in **Section 6.4**, below, a Master Contractor will be selected to conduct the work defined in **Sections 2** and **3**. A specific TO Agreement, **Attachment M**, will then be entered into between the State and the selected Master Contractor, which will bind the selected Master Contractor (TO Contractor) to the contents of its TO Proposal, including the TO Financial Proposal.

## Oral Presentation

\*\*Oral Presentations are strongly recommended. If you intend to have a live software demonstration as part of the oral presentation, you must include this information in this section. \*\*

\*\*If neither oral presentations nor interviews will be held for this TORFP, use the text below, removing the remainder of the section text, keeping the heading to avoid section renumbering:

Neither oral presentations nor interviews will be held for this solicitation.

Note: DoIT recommends holding oral presentations and/or interviews for all solicitations, as it provides the agency a chance to confirm the Master Contractor truly understands and is qualified to perform the scope of work. \*\*

Offerors and proposed TO Contractor Personnel will be required to make an oral presentation 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 Master Contractor’s TO Proposal. The TO Procurement Officer will notify Offerors of the time and place of oral presentations and interviews, should interviews be scheduled separately.

\*\*Delete paragraph below if interviews are not performed or if additional qualification of interview process is not needed. Adjust the language if an online tool or phone interviews are not an anticipated option. According to this language, internet interviews are EQUIVALENT to in-person interviews but phone interviews are NOT equivalent.

Each round of interviews must be equivalent for all interviewed candidates, all responsive and responsible candidates must undergo at LEAST one interview (even if by phone) and each round of interviews must be equivalent for all interviewed candidates\*\*.

All Offerors meeting minimum qualifications shall participate in interviews, which are a type of oral presentation. All candidates shall be interviewed in substantially the same manner. The TO Procurement Officer shall, for each round of interviews, determine whether phone or in-person interviews will be utilized. At the TO Procurement Officer’s discretion, interviews may be conducted via the internet (e.g., Skype, GotoMeeting, WebEx) in lieu of in-person interviews.

\*\*For staffing TORFPs ONLY, a downselect process may be followed as described below. \*\*

\*\*Agencies are cautioned that DoIT may require cancellation of any procurement that results in fewer than THREE viable candidates at the end of the evaluation process. \*\*

### Down-Select Procedure

In the event that more than ten (10) qualified TO Proposals are received, the TO Procurement Officer may elect to follow a down-select process as follows: \*\*FOR STAFFING TORFPs ONLY. Delete this section if not a staffing TORFP, or if you don’t wish to follow a down-select procedure. \*\*

1. A technical ranking will be performed for all TO Proposals based on the resumes submitted. TO Proposals will be ranked from highest to lowest for technical merit based on the quality of the resumes submitted and the extent to which the proposed individuals’ qualifications align with the position needs as described in this TORFP.
2. The top ten (10) TO Proposals identified by the technical ranking will be invited to interviews. All other Offerors will be notified of non-selection for this TORFP. \*\*procurement officers, if you elect to downselect you MUST keep 10 TO Proposals via the downselect process and perform interviews. If the candidates at that point are not qualified, you may follow standard elimination procedures prior to opening financials\*\*.

## Limitation of Liability

\*\*Required. Adjust the liability multiplier based on the level of risk for this particular TORFP. For staffing, this is often 1x. The value may be between 1 – 4. \*\*

The TO Contractor’s liability is limited in accordance with the Limitations of Liability section of the CATS+ Master Contract. TO Contractor’s liability for this TORFP is limited to <<two (2)>> times the total TO Agreement amount.

## MBE Participation Goal

\*\*If there is no MBE goal for this solicitation, enter only the following sentence for this section and delete the remainder of this section. Note: Furnish PRG documentation with any solicitation anticipated at greater than $50,000. \*\*

There is no MBE subcontractor participation goal for this procurement.

\*\*If there is a MBE goal for this solicitation, enter and complete the following language for this section. \*\*

A Master Contractor that responds to this TORFP shall complete, sign, and submit all required MBE documentation at the time of TO Proposal submission (See **Attachment D** Minority Business Enterprise Forms). **Failure of the Master Contractor to complete, sign, and submit all required MBE documentation at the time of TO Proposal submission will result in the State’s rejection of the Master Contractor’s TO Proposal.**

In 2014, Maryland adopted new regulations as part of its Minority Business Enterprise (MBE) program concerning MBE primes. Those new regulations, which became effective June 9, 2014 and are being applied to this task order, provide that when a certified MBE firm participates as a prime contractor on a contract, an agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own forces toward fulfilling up to fifty-percent (50%) of the MBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the contract. Please see the attached MBE forms and instructions.

## VSBE Goal

\*\*If there is no VSBE goal for this solicitation, enter only the following sentence for this section, and delete the rest. \*\*

There is no VSBE participation goal for this procurement.

\*\*If there is a VSBE goal for this solicitation, enter and complete the following language for this section. \*\*

This TORFP has a VSBE goal as stated in the Key Information Summary Sheet above, representing the percentage of total fees paid for services under this Task Order.

By submitting a response to this solicitation, the Offeror agrees that this percentage of the total dollar amount of the TO Agreement will be performed by verified VSBEs.

In 2015, Maryland amended COMAR 21.11.13.05 as part of its Veteran-Owned Small Business Enterprise (VSBE) program concerning VSBE primes. This amendment, which became effective March 6, 2015 and is applicable to this task order, allows an agency to count the distinct, clearly defined portion of work that a certified VSBE performs with its own work force toward meeting up to one-hundred (100%) of the VSBE goal established for a procurement. Please see the attached VSBE forms and instructions.

Effective January 2, 2017, if a solicitation contains an MBE and a VSBE goal, participation by a subcontractor dually-certified as an MBE and a VSBE may be counted toward meeting both the MBE and VSBE contract goals to the extent its participation meets the cumulative MBE and VSBE contract goals, or portions thereof that it is committed to perform. Participation by a dually-certified subcontractor may be counted toward the agency’s overall MBE and VSBE goals.

Questions or concerns regarding the VSBE subcontractor participation goal of this solicitation must be raised before the due date for submission of TO Proposals.

A Master Contractor that responds to this TORFP shall complete, sign, and submit all required VSBE documentation at the time of TO Proposal submission (See **Attachment E**). **Failure of the Master Contractor to complete, sign, and submit all required VSBE documentation at the time of TO Proposal submission will result in the State’s rejection of the Master Contractor’s TO Proposal.**

## Living Wage Requirements

The Master Contractor shall abide by the Living Wage requirements under Title 18, State Finance and Procurement Article, Annotated Code of Maryland and the regulations proposed by the Commissioner of Labor and Industry.

All TO Proposals shall be accompanied by a completed Living Wage Affidavit of Agreement, **Attachment F** of this TORFP.

## Federal Funding Acknowledgement

\*\*If the Task Order to be awarded under this procurement does not contain federal funds, enter only the following sentence for this section and delete the rest). \*\*

This Task Order does not contain federal funds.

\*\*If the Task Order to be awarded under this procurement does contain federal funds, enter and complete the following language for this section. \*\*

There are programmatic conditions that apply to this TO Agreement due to federal funding (see **Attachment G**).

\*\*Check with AAG for applicability of 4.29.2 and 4.29.3 to this solicitation. \*\*

The total amount of federal funds allocated for the <<name of administration or facility>> is $<<federal funds amount)>> in Maryland State fiscal year <<current fiscal year>>. This represents <<divide federal funds amount by the total of the unit’s budget%>>% of all funds budgeted for the unit in that fiscal year. This does not necessarily represent the amount of funding available for any particular grant, contract, or solicitation.

The TO Agreement contains federal funds. The source of these federal funds is: <<name of federal program for funds source e.g., Medicaid, Ryan White, Title X>>. The CFDA number is: <<insert Catalog of Federal Domestic Assistance number>>. The conditions that apply to all federal funds awarded by the <<typeofAgency>> are contained in Federal Funds **Attachment G**. Any additional conditions that apply to this particular federally-funded contract are contained as supplements to Federal Funds **Attachment G** and Offerors are to complete and submit these Attachments with their TO Proposals as instructed in the Attachments. Acceptance of this agreement indicates the Offeror’s intent to comply with all conditions, which are part of the TO Agreement.

## Conflict of Interest Affidavit and Disclosure

\*\*DoIT recommends a conflict of interest affidavit always be included with solicitations\*\*

Offerors shall complete and sign the Conflict of Interest Affidavit and Disclosure (**Attachment** **H**) and submit it with their Proposals. All Offerors are advised that if a TO Agreement is awarded as a result of this solicitation, the TO Contractor’s Personnel who perform or control work under this TO Agreement and each of the participating subcontractor personnel who perform or control work under this TO Agreement shall be required to complete agreements substantially similar to **Attachment** **H**, conflict of interest Affidavit and Disclosure.

If the TO Procurement Officer makes a determination that facts or circumstances exist that give rise to or could in the future give rise to a conflict of interest within the meaning of COMAR 21.05.08.08A, the TO Procurement Officer may reject an Offeror’s TO Proposal under COMAR 21.06.02.03B.

Master Contractors should be aware that the State Ethics Law, Md. Code Ann., General Provisions Article, Title 5, might limit the selected Master Contractor's ability to participate in future related procurements, depending upon specific circumstances.

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

## Non-Disclosure Agreement

### Non-Disclosure Agreement (Offeror)

\*\*If a Non-Disclosure Agreement is not required for reviewing information prior to TO Proposal submission, enter only the following sentence for this section and delete the rest under this 4.31.1 heading: \*\*

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

\*\*If a Non-Disclosure Agreement is required for this solicitation, enter the following language for this section: \*\*

Certain documentation may be available for potential Offerors to review at a reading room at <<address>>. Offerors who review such documentation will be required to sign a Non-Disclosure Agreement (Offeror) in the form of **Appendix <<Offeror NDA Attachment Number>>.** Please contact the TO Procurement Officer to schedule an appointment.

### Non-Disclosure Agreement (TO Contractor)

\*\*If a Non-Disclosure Agreement is not required for this solicitation, enter only the following sentence for this section and delete the rest. DoIT strongly recommends an NDA for any services contract. \*\*

A Non-Disclosure Agreement (TO Contractor) is not required for this solicitation.

\*\*If a Non-Disclosure Agreement is required for this solicitation, enter the following language for this section: \*\*

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

## HIPAA - Business Associate Agreement

\*\*If a HIPAA Business Associate Agreement is not required for this solicitation, enter only the following sentence for this section and delete the rest. \*\*

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

\*\*OR. \*\*

Based on the determination by the <<typeofAgency>> that the functions to be performed in accordance with this solicitation constitute Business Associate functions as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the recommended awardee shall execute a Business Associate Agreement as required by HIPAA regulations at 45 C.F.R. §164.500 et seq. and set forth in **Attachment J**. This Agreement must be provided as identified in **Table 1 of Section 7 – Exhibits and Attachments**. However, to expedite processing, it is suggested that this document be completed and submitted with the TO TECHNICAL PROPOSAL. Should the Business Associate Agreement not be submitted upon expiration of the five (5) Business Day period as required by this solicitation, the TO Procurement Officer, upon review of the Office of the Attorney General and approval of the Secretary, may withdraw the recommendation for award and make the award to the responsible Offeror with the next highest overall-ranked TO Proposal.

\*\*HIPAA Clauses. One of the following three clauses should be used whenever the contract deals with medical information/records, third party clients or medical billing/payments. Delete any/all clauses if not applicable.

(Option 1 of 3 – Use this clause when the <<typeofAgency>> unit is not a covered entity. The blank at the beginning would reference any statutory requirement unique to the <<typeofAgency>> unit/program, or, if there is none, the first two sentences are combined to reference “any applicable law or regulation “as follows: “The TO Contractoragrees to keep information obtained in the course of this contract confidential in compliance with any applicable State and federal regulation.”) \*\*

Confidentiality of Health and Financial Information - The TO Contractor agrees to keep information obtained in the course of this TO Agreement confidential in compliance with \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. The TO Contractor agrees further to comply with any applicable State and federal confidentiality and privacy requirements regarding collection, maintenance, and use of health and financial information. This includes, where appropriate, the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. §§ 1320d et seq., and implementing regulations at 45 C.F.R. Parts 160 and 164, and the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§ 4-301 et seq. This obligation includes providing training and information to Contractor Personnel regarding confidentiality obligations as to health and financial information and securing acknowledgement of these obligations from Contractor Personnel to be involved in the TO Agreement. This obligation further includes restricting use and disclosure of the records, generally providing safeguards against misuse of information, keeping a record of any disclosures of information, providing all necessary procedural and legal protection for any disclosures of information, promptly responding to any requests by the <<typeofAgency>> for information about its privacy practices in general or with respect to a particular individual, modifying such information as may be required by good professional practice as authorized by law, and otherwise providing good information management practices regarding all health and financial information.

\*\*OR – OPTION 2 OF 3 – USE THIS CONFIDENTIALITY CLAUSE WHEN THE <<TYPEOFAGENCY>> UNIT IS A COVERED ENTITY AND THE VENDOR IS NOT A BUSINESS ASSOCIATE. \*\*

COMPLIANCE WITH HIPAA AND STATE CONFIDENTIALITY LAW

1. The TO Contractor acknowledges its duty to become familiar and comply, to the extent applicable, with all requirements of the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. §§ 1320d et seq., and implementing regulations including 45 C.F.R. Parts 160 and 164. The TO Contractor also agrees to comply with the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§ 4-301 et seq. This obligation includes:
	1. As necessary, adhering to the privacy and security requirements for protected health information and medical records under HIPAA and MCMRA and making the transmission of all electronic information compatible with the HIPAA requirements;
	2. Providing training and information to Contractor Personnel regarding confidentiality obligations as to health and financial information and securing acknowledgement of these obligations from Contractor Personnel to be involved in the TO Agreement; and
	3. Otherwise providing good information management practices regarding all health information and medical records.
2. If in connection with the procurement or at any time during the term of the TO Agreement, the <<typeofAgency>> determines that functions to be performed in accordance with the scope of work set forth in the solicitation constitute business associate functions as defined in HIPAA, the TO Contractor acknowledges its obligation to execute a business associate agreement as required by HIPAA regulations at 45 C.F.R. 164.501 and in the form required by the <<typeofAgency>>.
3. “Protected Health Information” as defined in the HIPAA regulations at 45 C.F.R. 160.103 and 164.501, means information transmitted as defined in the regulations, that is: individually identifiable; created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and related to the past, present, or future physical or mental health or condition of an individual, provision of healthcare to an individual, or past, present, or future payment for the provision of healthcare to an individual. The definition excludes certain education records as well as employment records held by a covered entity in its role as employer.

\*\*OR – OPTION 3 OF 3 – USE THIS CONFIDENTIALITY CLAUSE WHEN THE <<TYPEOFAGENCY>> UNIT IS A COVERED ENTITY AND THE VENDOR IS A BUSINESS ASSOCIATE. \*\*

Compliance with Federal HIPAA and State Confidentiality Law

1. The TO Contractor acknowledges its duty to become familiar with and comply, to the extent applicable, with all requirements of the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. § 1320d et seq., and implementing regulations including 45 C.F.R. Parts 160 and 164. The TO Contractor also agrees to comply with the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§ 4-301 et seq. This obligation includes:
	1. As necessary, adhering to the privacy and security requirements for protected health information and medical records under HIPAA and MCMRA and making the transmission of all electronic information compatible with the HIPAA requirements;
	2. Providing training and information to Contractor Personnel regarding confidentiality obligations as to health and financial information and securing acknowledgement of these obligations from Contractor Personnel to be involved in the TO Agreement; and
	3. Otherwise providing good information management practices regarding all health information and medical records.
2. Based on the determination by the <<typeofAgency>> that the functions to be performed in accordance with the scope of work set forth in the solicitation constitute business associate functions as defined in HIPAA, the TO Contractor shall execute a business associate agreement as required by HIPAA regulations at 45 C.F.R. 164.501 and in the form as required by the <<typeofAgency>>.
3. “Protected Health Information” as defined in the HIPAA regulations at 45 C.F.R. 160.103 and 164.501, means information transmitted as defined in the regulations, that is individually identifiable; that is created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and that is related to the past, present, or future physical or mental health or condition of an individual, to the provision of healthcare to an individual, or to the past, present, or future payment for the provision of healthcare to an individual. The definition excludes certain education records as well as employment records held by a covered entity in its role as employer.

## Iranian Non-Investment

All TO Proposals shall be accompanied by a completed Certification Regarding Investments in Iran, **Attachment P** of this TORFP.

## Mercury and Products That Contain Mercury

\*\*If This solicitation does not include the procurement of products known to likely include mercury as a component (ex. thermometers, thermostats, fluorescents, LCD screens, laptops and computers, some batteries), enter only the following sentence for this section and delete the rest. \*\*

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

\*\*Option 2. This clause requires that all products be mercury-free. \*\*

All products or equipment provided pursuant to this solicitation shall be mercury-free products. The Offeror must submit a Mercury Affidavit in the form of **Attachment** **K** with its TO Proposal.

## Location of the Performance of Services Disclosure

\*\*If this procurement is **not** anticipated to have an estimated value of $2,000,000.00 or more, enter only the following sentence for this section and delete the rest. \*\*

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

\*\*If this procurement is anticipated to have an estimated value of $2,000,000.00 or more and includes services, enter the following language for this section: \*\*

The Offeror is required to complete the Location of the Performance of Services Disclosure. A copy of this Disclosure is included as **Attachment** **L**. The Disclosure must be provided with the TO Proposal.

## Department of Human Services (DHS) Hiring Agreement

\*\*If this solicitation does not require a DHS Hiring Agreement, enter only the following sentence for this section and delete the rest.

This solicitation does not require a DHS Hiring Agreement.

\*\*If this solicitation does require a DHS Hiring Agreement, enter the following language for this section: \*\*

All Offerors are advised that if a TO Agreement is awarded as a result of this solicitation, the successful Offeror will be required to complete a DHS Hiring Agreement. A copy of this Affidavit is included as **Attachment** **O**. This Affidavit must be provided within five (5) Business Days of notification of recommended award.

## Small Business Reserve (SBR) Set-Aside

\*\*If this solicitation **is** not designated as a Small Business Reserve (SBR) Set-aside, enter only the following sentence for this section and delete the rest. \*\*

This solicitation is not designated as a Small Business Reserve (SBR) set-aside solicitation.

\*\*If this solicitation is designated as a Small Business Reserve (SBR) Set-aside, enter the following language for this section. \*\*

This is a Small Business Reserve solicitation for which award will be limited to certified small business vendors. Only businesses that meet the statutory requirements set forth in State Finance and Procurement Article, §§14-501—14-505, Annotated Code of Maryland, and that are certified by the Department of General Services Small Business Reserve Program are eligible for award of a contract.

For the purposes of a Small Business Reserve solicitation, a small business is a for-profit business, other than a broker, that meets the following criteria:

1. It is independently owned and operated;
2. It is not a subsidiary of another business;
3. It is not dominant in its field of operation; and
	1. With respect to employees:
		1. Its wholesale operations did not employ more than 50 persons in its most recently completed three (3) fiscal years;
		2. Its retail operations did not employ more than 25 persons in its most recently three (3) fiscal years;
		3. Its manufacturing operations did not employ more than 100 persons in its most recently three (3) fiscal years;
		4. Its service operations did not employ more than 100 persons in its most recently three (3) fiscal years;
		5. Its construction operations did not employ more than 50 persons in its most recently three (3) fiscal years; and
		6. The architectural and engineering services of the business did not employ more than 100 persons in its most recently three (3) fiscal years; and
	2. With respect to gross sales:
		1. The gross sales of its wholesale operations did not exceed an average of $4,000,000 in its most recently three (3) fiscal years;
		2. The gross sales of its retail operations did not exceed an average of $3,000,000 in its most recently three (3) fiscal years;
		3. The gross sales of its manufacturing operations did not exceed an average of $2,000,000 in its most recently three (3) fiscal years;
		4. The gross sales of its service operations did not exceed an average of $10,000,000 in its most recently three (3) fiscal years;
		5. The gross sales of its construction operations did not exceed an average of $7,000,000 in its most recently three (3) fiscal years; and
		6. The gross sales of its architectural and engineering operations did not exceed an average of $4,500,000 in its most recently three (3) fiscal years.

Note: If a business has not existed for three (3) years, the employment and gross sales average or averages shall be the average for each year or part of a year during which the business has been in existence.

## Bonds

\*\*If this solicitation does not require any type of surety bond, delete the text below and insert: \*\*

This solicitation does not require bonds.

\*\*Otherwise, tailor as appropriate. \*\*

### TO Proposal Bond

1. Each Offeror must submit with its TO Proposal a TO Proposal Bond or other suitable security, as summarized in **<<4.19.4>>**, in the amount of five percent (5%) of the Total Evaluated Price, guaranteeing the availability of the goods and services at the offered price for 180 days after the due date for receipt of TO Proposals.
2. The bond shall be in the form provided in **Appendix <<proposalBidBondAppendixNumber>>.**
3. An Offeror may request a release of the bond after the date of the award in return for a release signed by the TO Contractor and accepted by the <<typeofAgency>>.
4. The cost of this bond, or other suitable security, is to be included in the total prices proposed and is not to be proposed and will not be recoverable as a separate cost item.

\*\*The bond format in the attachment is as specified in COMAR. IT Is DoIT’s guidance for agencies to NOT UTILIZE A BOND FORM OTHER THAN THE ONE IN THIS TORFP. TO Contractors often send a bond form - DoIT strongly recommends not accepting these forms because often these contractor-supplied forms contain additional terms. \*\*

### Performance Bond

\*\*Performance bonds should be used sparingly for high risk procurements. If this solicitation does not require a Payment Bond, you may delete the entire section INCLUDING the section heading. If this solicitation does require software escrow, see DoIT for attachments appropriate to this section. Note: a Performance Bond must be submitted not later than the date of contract execution\*\*

1. The successful Offeror shall deliver a Performance Bond, or other suitable security, to the State after notification of recommended award.
2. The successful Offeror must submit a Performance Bond, or other suitable security in the amount of <<$1,000,000.00>>, guaranteeing that the TO Contractor shall well and truly perform the TO Agreement.
3. The Performance Bond shall be in the form provided in **Appendix <<performanceBondAppendixNumber>>** and underwritten by a surety company authorized to do business in the State and shall be subject to approval by the State, or other acceptable security for bond as described in COMAR 21.06.07, as summarized in **<<4.19.4>>**.
4. The Performance Bond shall be maintained throughout the term of this TO Agreement, and renewal option period, if exercised. Evidence of renewal of the Performance Bond and payment of the required premium shall be provided to the State. This Performance Bond shall also secure liquidated damages.
5. The Performance Bond may be renewable annually. The TO Contractor shall provide to the State, 30 days before the annual expiration of the bond, confirmation from the surety that the bond will be renewed for the following year. Failure to timely provide this notice shall constitute an event of default under the TO Agreement. Such a default may be remedied if the TO Contractor obtains a replacement bond that conforms to the requirements of the TO Agreement and provides that replacement bond to the State prior to the expiration of the existing Performance Bond.
6. The cost of this bond, or other suitable security, is to be included in the total prices proposed and is not to be proposed and will not be recoverable as a separate cost item.
7. After the first year of the TO Agreement, the TO Contractor may request a reduction in the amount of the Performance Bond. The amount and the duration of the reduction, if any, will be at the <<typeofAgency>>’s sole discretion. If any reduction is granted, the <<typeofAgency>>’s shall have the right to increase the amount of the Performance Bond to any amount, up to the original amount, at any time and at the <<typeofAgency>>’s sole discretion.

### Payment Bond

\*\*If this solicitation does not require a Payment Bond, you may delete the entire section INCLUDING the section heading. If this solicitation does require a Payment Bond, contact DoIT for language and any attachments appropriate to this section. Note: A Payment Bond must be submitted not later than the date of contract execution. The successful Offeror shall deliver the Payment Bond, or other suitable security, to the State after notification of recommended award. \*\*

### Acceptable security

Acceptable security shall be as described below, identified within and excerpted from COMAR 21.06.07:

Acceptable security for proposal/bid, performance, and payment bonds is limited to:

1. A bond in a form satisfactory to the State underwritten by a surety company authorized to do business in this State;
2. A bank certified check, bank cashier's check, bank treasurer's check, cash, or trust account;
3. Pledge of securities backed by the full faith and credit of the United States government or bonds issued by the State;
4. An irrevocable letter of credit in a form satisfactory to the Attorney General and issued by a financial institution approved by the State Treasurer.

### Surety Bond Assistance Program

Assistance in obtaining bid, performance and payment bonds may be available to qualifying small businesses through the Maryland Small Business Development Financing Authority (MSBDFA). MSBDFA can directly issue bid, performance or payment bonds up to $750,000. MSBDFA may also guarantee up to 90% of a surety's losses as a result of a TO Contractor’s breach of TO Agreement; MSBDFA exposure on any bond guaranteed may not, however, exceed $900,000. Bonds issued directly by the program will remain in effect for the duration of the TO Agreement, and those surety bonds that are guaranteed by the program will remain in effect for the duration of the surety’s exposure under the TO Agreement. To be eligible for bonding assistance, a business must first be denied bonding by at least one surety on both the standard and specialty markets within 90 days of submitting a bonding application to MSBDFA. The applicant must employ fewer than 500 full-time employees or have gross sales of less than $50 million annually, have its principal place of business in Maryland or be a Maryland resident, must not subcontract more than 75 percent of the work, and the business or its principals must have a reputation of good moral character and financial responsibility. Finally, it must be demonstrated that the bonding or guarantee will have a measurable economic impact, through job creation and expansion of the state’s tax base. Applicants are required to work through their respective bonding agents in applying for assistance under the program. Questions regarding the bonding assistance program should be referred to:

Maryland Department of Business and Economic Development

Maryland Small Business Development Financing Authority

MMG Ventures

826 E. Baltimore Street

Baltimore, Maryland 21202

Phone: (410) 333-4270

Fax: (410) 333-2552

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

# TO Proposal Format

## Required Response

Each Master Contractor receiving this CATS+ TORFP shall respond no later than the submission due date and time designated in the Key Information Summary Sheet. Each Master Contractor is required to submit one of two possible responses: 1) a TO Proposal; or 2) a completed Master Contractor Feedback Form (available online within the Master Contractor Admin System). The feedback form helps the State understand for future contract development why Master Contractors did not submit proposals. The form is accessible via the CATS+ Master Contractor login screen and clicking on TORFP Feedback Response Form from the menu.

A TO Proposal shall conform to the requirements of this CATS+ TORFP.

## Two Part Submission

Offerors shall submit TO Proposals in separate volumes:

* + Volume I – TO TECHNICAL PROPOSAL
	+ Volume II – TO FINANCIAL PROPOSAL

## TO Proposal Packaging and Delivery

TO Proposals delivered by facsimile shall not be considered.

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

\*\*Pick one:

Option 1. For **e-mail** electronic submission use the following instruction, but remember you cannot refuse paper submissions so the paper instructions are still appropriate even for a planned e-mail submission. \*\*

Offerors may submit TO Proposals by electronic means as described.

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

E-mail submissions

1. All TO Proposal e-mails shall be sent with password protection.
2. The TO 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 TO Procurement Officer’s e-mail box. Time stamps on outgoing email from Master TO Contractors shall not be accepted. Requests for extension of this date or time will not be granted. Except as provided in COMAR 21.05.03.02F, TO Proposals received by the TO Procurement Officer after the due date will not be considered.
3. The State has established the following procedure to restrict access to TO Proposals received electronically: all Technical and TO Financial Proposals must be password protected, and the password for the TO TECHNICAL PROPOSAL must be different from the password for the TO Financial Proposal. Offerors will provide these two passwords to <<ISSUINGAGENCYACRONYM>> upon request or their TO Proposal will be deemed not susceptible for award. Subsequent submissions of TO Proposal content will not be allowed.
4. The TO Procurement Officer will only contact those Offerors with TO Proposals that are reasonably susceptible for award.
5. TO Proposals submitted via e-mail must not exceed <<\_\_\_\_\_>> Mb. If a submission exceeds this size, split the submission into two or more parts and include the appropriate part number in the subject (e.g., part 1 of 2) after the subject line information below.
6. The e-mail submission subject line shall state the TORFP <<solicitationNumber>> and either “Technical” or “Financial.”

Two Part Submission:

1. TO Technical Proposal consisting of:
	1. TO Technical Proposal and all supporting material in Microsoft Word format, version 2007 or greater,
	2. the TO Technical Proposal in searchable Adobe PDF format,
	3. a second searchable Adobe copy of the TO Technical Proposal, redacted in accordance with confidential and/or proprietary information removed (see **Section 5.4.2.B**, and
2. TO Financial Proposal consisting of:
	1. TO Financial Proposal and all supporting material in <<xxxx>> format,
	2. the TO Financial Proposal in searchable Adobe PDF format,
	3. a second searchable Adobe copy of the TO Financial Proposal, redacted in accordance with confidential and/or proprietary information removed (see **Section 5.4.2.B**).

\*\*Option 2. For Paper Submission use the following instructions and delete Option 1. \*\*

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

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

The TO Procurement Officer must receive all Technical and TO Financial Proposal material by the TORFP due date and time specified in the Key Information Summary Sheet. Requests for extension of this date or time will not be granted. Except as provided in COMAR 21.05.03.02F, TO Proposals received by the TO Procurement Officer after the due date will not be considered.

Two Part Submission: Offerors shall provide their TO Proposals in two separately sealed and labeled packages as follows:

1. TO Technical Proposal consisting of:
	1. One (1) original executed TO Technical Proposal and all supporting material marked and sealed,
	2. <<Four (4)>> duplicate copies of the above separately marked and sealed,
	3. an electronic version of the TO Technical Proposal in Microsoft Word format, version 2007 or greater,
	4. the TO Technical Proposal in searchable Adobe PDF format, and
	5. a second searchable Adobe PDF copy of the TO Technical Proposal, redacted in accordance with confidential and/or proprietary information removed (see **Section** **5.4.2.B**).
2. TO Financial Proposal consisting of:
	1. One (1) original executed TO Financial Proposal and all supporting material marked and sealed,
	2. <<four (4)>> duplicate copies of the above separately marked and sealed,
	3. an electronic version of the TO Financial Proposal in searchable Adobe PDF format, and\*\*add a line if you want TO Financial Proposal in another format such as Excel in addition to the Adobe format. \*\*
	4. a second searchable Adobe pdf copy of the TO Financial Proposal, redacted in accordance with confidential and/or proprietary information removed (see **Section** **5.4.2.B**).

Affix the following to the outside of each sealed TO Proposal. It is preferred, but not required, that the name, email address, and telephone number of a contact person for the Offeror be included on the outside of the packaging for each volume. Unless the resulting package will be too unwieldy, the State’s preference is for the separately sealed Technical and TO Financial Proposals to be submitted together in a single package to the TO Procurement Officer and including a label bearing:

* + TORFP title and number,
	+ Name and address of the Offeror, and
	+ Closing date and time for receipt of TO Proposals

Label each electronic media (CD, DVD, or flash drive) on the outside with the TORFP title and number, name of the Offeror, and volume number. Electronic media must be packaged with the original copy of the appropriate TO Proposal (Technical or Financial).

## Volume I - TO Technical Proposal

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

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

The TO Technical Proposal shall include the following documents and information in the order specified as follows:

1. Proposed Services:

\*\*Read all of these and make sure they make sense for your proposal. In a lot of cases, a “work plan” doesn’t make sense. \*\*

* 1. Executive Summary: A one-page summary describing the Offeror’s understanding of the TORFP scope of work (**Sections 2-3**) and proposed solution.
	2. Proposed Solution: A more detailed description of the Offeror’s understanding of the TORFP scope of work, proposed methodology and solution. The proposed solution shall be organized to exactly match the requirements outlined in Sections 2-3.
	3. Draft Work Breakdown Structure (WBS): A matrix or table that shows a breakdown of the tasks required to complete the requirements and deliverables in Sections 2-3. The WBS should reflect the chronology of tasks without assigning specific time frames or start / completion dates. The WBS may include tasks to be performed by the State or third parties, for example, independent quality assurance tasks. If the WBS appears as a deliverable in Sections 2-3, the deliverable version will be a final version. Any subsequent versions shall be approved through a formal configuration or change management process. \*\*Delete if this is not relevant to your TORFP (such as a project or a defined scope) \*\*
	4. Draft Project or Work Schedule: A Gantt or similar chart containing tasks and estimated time frames for completing the requirements and deliverables in Sections 2-3. The final schedule should come later as a deliverable under the TO after the TO Contractor has had an opportunity to develop realistic estimates. The Project or Work Schedule may include tasks to be performed by the State or third parties. \*\*Delete if this is not relevant to your TORFP (such as a project or a defined scope) \*\*
	5. Draft Risk Assessment: Identification and prioritization of risks inherent in meeting the requirements in Section 3 - Scope of Work. Includes a description of strategies to mitigate risks. If the Risk Assessment appears as a deliverable in Sections 2-3, that version will be a final version. Any subsequent versions should be approved through a formal configuration or change management process. \*\*Delete if this is not relevant to your TORFP (such as a project or a defined scope) \*\*
	6. Assumptions: A description of any assumptions formed by the Offeror in developing the TO Technical Proposal.
	7. Tools the Master Contractor owns and proposes for use to meet any requirements in Sections 2-3.
	8. Implementation Schedule - Offeror shall provide the proposed implementation schedule with its TO Proposal\*\*Optional language; delete if not applicable. \*\*
	9. The Offeror shall identify the location(s) from which it proposes to provide services, including, if applicable, any current facilities that it operates, and any required construction to satisfy the State’s requirements as outlined in this TORFP. \*\*Optional language; delete if not applicable. \*\*
	10. The Offeror shall provide a Backup solution/ strategy recommendation as part of its TO Proposal. \*\*Optional language; amend or delete if not applicable. \*\*
	11. Disaster Recovery and Security Model description - For hosted services, the Offeror shall include its DR strategy, and for on premise, a description of a recommended DR strategy. \*\*Optional language; amend or delete if not applicable. \*\*
	12. The Offeror shall include a deliverable description and schedule describing the proposed Deliverables as mapped to the State SDLC and the Deliverables table in Section 2.4.4. The schedule shall also detail proposed submission due date/frequency of each recommended Deliverable. \*\*Optional language; delete if not applicable. \*\*
	13. The Offeror shall include an SLA in its TO Proposal as identified in Section 2.6. \*\*Optional language; delete if not applicable. \*\*
	14. Description of technical risk of migrating from the existing system\*\*Optional language; delete if not applicable. \*\*
	15. \*\*Optional language; delete if not applicable. \*\* Non-Compete Clause Prohibition:

The <<typeofAgency>> seeks to maximize the retention of personnel working under this Task Order whenever there is a transition of the Task Order from one contractor to another so as to minimize disruption due to a change in contractor and maximize the maintenance of institutional knowledge accumulated by such personnel. To help achieve this objective of staff retention, each Offeror shall agree that if awarded the Task Order, the Offeror’s employees and agents filling the positions set forth in the staffing requirements of Section <<enter applicable subsection number(s)>> working on the State contract shall be free to work for the contractor awarded the State contract notwithstanding any non-compete clauses to which the employee(s) may be subject. The Offeror agrees not to enforce any non-compete restrictions against the State with regard to these employees and agents if a different vendor succeeds it in the performance of the Task Order. To evidence compliance with this noncompete clause prohibition, each Offeror must include an affirmative statement in its TO Technical Proposal that the Offeror, if awarded a Task Order, agrees that its employees and agents shall not be restricted from working with or for any successor contractor that is awarded the State business.

* 1. Details for each offering:

Offerors may propose open source software; however, the Offeror must provide operational support for the proposed software.

The Offeror shall provide the following information for each offering: \*\*Applicable to both SaaS and direct purchase. Remove if software or hardware isn’t part of the solution\*\*

* + 1. Offering Name
		2. Offeror relationship with manufacturer (e.g., manufacturer, reseller, partner)
		3. Manufacturer
		4. Short description of capability
		5. Version (and whether version is limited in any way)
		6. License type (e.g., user, CPU, node, transaction volume)
		7. Subscription term (e.g., annual)
		8. License restrictions, if any
		9. Operational support offered (e.g., customer support, help desk, user manuals online or hardcopy), including description of multiple support levels (if offered), service level measures and reporting
		10. Continuity of operations and disaster recovery plans for providing service at 24/7/365 level
		11. Ability of the offering to read and export data in existing State enterprise data stores. Offerors in their TO Technical Proposals shall describe the interoperability of data that can be imported or exported from the Solution, including generating industry standard formats.
		12. Any processing or storage of data outside of the continental U.S. (see Security Requirements for limitations)
		13. Any limitations or constraints in the offering, including any terms or conditions (e.g., terms of service, ELA, AUP, professional services agreement, master agreement) – see also Section 5.4.2.I Additional Required Submissions.
		14. Compatibility with Single Sign-On systems (e.g., SecureAuth);
		15. APIs offered, and what type of content can be accessed and consumed.
		16. Update / upgrade roadmap and procedures, to include: planned changes in the next 12 months, frequency of system update (updates to software applied) and process for updates/upgrades.
		17. Frequency of updates to data services, including but not limited to, datasets provided as real-time feeds, and datasets updated on a regular basis (e.g., monthly, quarterly, annually, one-time).
		18. What type of third party assessment (such as a SOC 2 Type II audit) is performed, the nature of the assessment (e.g., the trust principles and scope of assessment), and whether the results of the assessment pertinent to the State will be shared with the State. See also Section 3.9.
		19. Offeror shall describe its security model and procedures supporting handling of State data. If more than one level of service is offered, the Offeror shall describe such services. Include, at a minimum:
			1. procedures for and requirements for hiring staff (such as background checks),
			2. any non-disclosure agreement TO Contractor Personnel sign,
			3. whether the service is furnished out of the continental U.S. (see Security Requirements 3.7),
			4. Certifications such as FedRAMP,
			5. Third party security auditing, including FISMA,
			6. Published Security Incident reporting policy, and
			7. Cybersecurity insurance, if any, maintained.
		20. Offerors shall clearly indicate which features are part of the base offering and which include additional charges.
		21. Offerors shall include a schedule of service level metrics, credits to the State if the metrics are not met, and what reporting supports the service levels described. \*\*keep if you are asking for an SLA from the offeror. Otherwise delete. \*\*
1. Proposer Information Sheet and Transmittal Letter

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

1. Minimum Qualifications Documentation (If applicable)

The Offeror shall submit any Minimum Qualifications documentation that may be required, as set forth in TORFP **Section 1**.

1. Proposed Personnel and TORFP Staffing

\*\*Remove the next paragraph if key resources are not sought as part of the proposal. DoIT enforces a maximum of four proposed personnel during the evaluation process, who are presumed to be key personnel. \*\*

Offeror shall propose exactly <<numberOfProposedPersonnelAllowed>> Key Personnel in response to this TORFP. Offeror shall:

* 1. Identify the qualifications and types of staff proposed to be utilized under the Task Order. The Offeror shall describe in detail how the proposed staff’s experience and qualifications relate to their specific responsibilities, including any staff of proposed subcontractor(s), as detailed in the Work Plan.
	2. Complete and provide for each proposed resource **Appendix <<laborResumeAppendixNumber>>A** Minimum Qualifications Summary and **Appendix <<laborResumeAppendixNumber>>B** Personnel Resume Form.
	3. Provide evidence proposed personnel possess the required certifications in accordance with **Section 1.1** Offeror Personnel Minimum Qualifications. Also provide <<describe any specific proof requirements such as an image of the proposed personnel’s unexpired CISSP certificate>>
	4. Provide three (3) references per proposed Key Personnel containing the information listed in **Appendix <<laborResumeAppendixNumber>>B**.

\*\*Offerors may only propose up to four key personnel in response to this TORFP. All other planned positions shall be described generally in the Staffing Plan, and may not be used as evidence of fulfilling company or personnel minimum qualifications. \*\*

* 1. Provide a Staffing Management Plan that demonstrates how the Offeror will provide resources in addition to the personnel requested in this TORFP, and how the TO Contractor Personnel shall be managed. Include:
		1. Planned team composition by role (**Important! Identify specific names and provide history only for the proposed resources required for evaluation of this TORFP**).
		2. Process and proposed lead time for locating and bringing on board resources that meet the Task Order needs.
		3. Supporting descriptions for all labor categories proposed in response to this TORFP.
		4. Description of approach for quickly substituting qualified personnel after start of the Task Order.
	2. Provide the names and titles of the Offeror’s management staff who will supervise the personnel and quality of services rendered under this TO Agreement.
1. Subcontractors

Identify all proposed Subcontractors, including MBEs, and their roles in the performance of the scope of work hereunder.

1. Overall Offeror team organizational chart \*\*authors only keep this if it makes sense. \*\*

Provide an overall team organizational chart with all team resources available to fulfill the Task Order scope of work.

1. Master Contractor and Subcontractor Experience and Capabilities
	1. Provide up to three examples of engagements or contracts the Master Contractor or Subcontractor, if applicable, has completed that were similar to the requested scope of work. Include contact information for each client organization complete with the following:
		1. Name of organization.
		2. Point of contact name, title, e-mail and telephone number (point of contact shall be accessible and knowledgeable regarding experience)
		3. Services provided as they relate to the scope of work.
		4. Start and end dates for each example engagement or contract.
		5. Current Master Contractor team personnel who participated on the engagement.
		6. If the Master Contractor is no longer providing the services, explain why not.
	2. State of Maryland Experience: If applicable, the Master Contractor shall submit a list of all contracts it currently holds or has held within the past five years with any entity of the State of Maryland.

For each identified contract, the Master Contractor shall provide the following (if not already provided in sub paragraph A above):

* + 1. Contract or task order name
		2. Name of organization.
		3. Point of contact name, title, e-mail, and telephone number (point of contact shall be accessible and knowledgeable regarding experience)
		4. Start and end dates for each engagement or contract. If the Master Contractor is no longer providing the services, explain why not.
		5. Dollar value of the contract.
		6. Indicate if the contract was terminated before the original expiration date.
		7. Indicate if any renewal options were not exercised.

**Note** - State of Maryland experience can be included as part of **G.1** above as engagement or contract experience. State of Maryland experience is neither required nor given more weight in proposal evaluations.

1. State Assistance

Provide an estimate of expectation concerning participation by State personnel.

1. Confidentiality

A Master Contractor should give specific attention to the identification of those portions of its proposal that it considers confidential, proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Title 4, of the General Provisions Article of the Annotated Code of Maryland. Master Contractors are advised that, upon request for this information from a third party, the TO Procurement Officer will be required to make an independent determination regarding whether the information may be disclosed.

Offeror shall furnish a list that identifies each section of the TO Technical Proposal where, in the Offeror’s opinion, the Offeror’s response should not be disclosed by the State under the Public Information Act.

1. Additional Submissions:
	1. Attachments and Exhibits;
		1. All forms required for the TO Technical Proposal are identified in **Table 1 of Section 7** – Exhibits and Attachments. Unless directed otherwise by instructions within an individual form, complete, sign, and include all required forms in the TO Technical Proposal.
		2. No attachment forms shall be altered. Signatures shall be clearly visible.
	2. Offerors shall furnish with their Technical TO Proposal any and all agreements the Offeror expects the State to sign or to be subject to in connection with or in order to use the Offeror’s services under this Task Order Agreement, including but not limited to software license agreement(s), end user license agreement(s), AUP. This includes the complete text of all agreements referenced or incorporated in primary documents (i.e., links to the relevant agreements are not allowed).
	3. Any services furnished from third party entities, e.g., resold services, shall include current Letters of Authorization or such other documentation demonstrating the authorization for such services.
	4. A Letter of Authorization shall be on the authorizing entity’s letterhead or through the authorizing entity’s e-mail. Further, each Letter of Authorization shall be less than twelve (12) months old. Each Letter of Authorization or e-mail must provide the following information:
		1. Authorizing entity POC name and alternate for verification
		2. Authorizing entity POC mailing address
		3. Authorizing entity POC telephone number
		4. Authorizing entity POC email address
		5. If available, a Reseller Identifier

## Volume II – TO Financial Proposal

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

The TO Financial Proposal shall contain a description of any assumptions on which the Master Contractor’s TO Financial Proposal is based (Assumptions shall not constitute conditions, contingencies, or exceptions to the Financial Proposal Form);

\*\*Tailor the below language based on whether you will have any labor categories for T&M work\*\*

**Attachment B**– Financial Proposal Form <<include the following if applicable, with all proposed labor categories including all rates fully loaded. Master Contractors shall list all key resources by approved CATS+ labor categories in the TO Financial Proposal>>.

To be responsive to this TORFP, the Financial Proposal Form shall provide labor rates for all labor categories anticipated for this TORFP. Proposed rates shall not exceed the rates defined in the Master Contract for the Master Contract year(s) in effect at the time of the TO Proposal due date. \*\*DELETE IF NOT APPLICABLE. \*\*

**Note: Failure to specify a CATS+ labor category in the completed Financial Proposal Form for each proposed resource will make the TO Proposal non-responsive to this TORFP.** \*\* This statement is applicable when the <<typeofAgency>> wishes the Master Contractor to propose a labor category that corresponds to the person(s) the Master Contractor will best fit this TORFP. DELETE IF NOT APPLICABLE. \*\*

Prices shall be valid for 120 days.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

# Evaluation and Selection Process

The TO Contractor will be selected from among all eligible Master Contractors within the appropriate Functional Area responding to the CATS+ TORFP. In making the TO Agreement award determination, the <<typeofAgency>> will consider all information submitted in accordance with Section 5.

## Evaluation Committee

Evaluation of TO 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 TO Proposals, participate in Offeror oral presentations and discussions, and provide input to the TO Procurement Officer. The <<typeofAgency>> reserves the right to utilize the services of individuals outside of the established Evaluation Committee for advice and assistance, as deemed appropriate.

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

## TO Technical Proposal Evaluation Criteria

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

\*\*The Technical Criteria listed below are generic samples. You are free to revise these and include additional, more specific Evaluation Criteria, but if you choose to do so, make sure you reference particular TORFP sections, as in the samples below. \*\*

Offeror’s Technical Response to TORFP Requirements (See TORFP **§ 5.4.2**)

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

Experience and Qualifications of Proposed Staff (See TORFP **§ 5.4.2.D**)

The capability of the proposed resources to perform the required tasks and produce the required deliverables in the TORFP **Sections 2-3**. Capability will be determined from each proposed individual’s resume, reference checks, and oral presentation (See **Section 4.5** Oral Presentation).

Offeror Qualifications and Capabilities, including proposed subcontractors (See TORFP **§ 5.4.2.G**)

Demonstration of how the Master Contractor plans to staff the task order at the levels set forth in the TORFP and also for potential future resource requests.

## TO Financial Proposal Evaluation Criteria

All Qualified Offerors (see **Section 6.4**) will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on the Total Proposal Price within the stated guidelines set forth in this TORFP and as submitted on **Attachment** **B** - TO Financial Proposal Form.

## Selection Procedures

TO Technical Proposals shall be evaluated based on the criteria set forth above in **Section 6.2**. TO Technical Proposals and TO Financial Proposals will be evaluated independently of each other.

1. TO Proposals will be assessed throughout the evaluation process for compliance with the minimum qualifications listed in Section 1 of this TORFP, and quality of responses to **Section 5.3** TO Technical Proposal. Failure to meet the minimum qualifications shall render a TO Proposal not reasonably susceptible for award. The TO Procurement Officer will notify those Offerors who have not been selected to perform the work.
2. TO Technical Proposals will be evaluated for technical merit and ranked. Oral presentations and discussions may be held to assure full understanding of the State’s requirements and of the qualified Offeror’s proposals and abilities to perform, and to facilitate arrival at a TO Agreement that is most advantageous to the State.
3. The Procurement Officer will only open the TO Financial Proposals where the associated TO Technical Proposals have been classified as reasonably susceptible for award.
4. After review of TO Financial Proposals, TO Financial Proposals for qualified Offerors will be reviewed and ranked from lowest to highest price proposed.
5. When in the best interest of the State, the TO Procurement Officer may permit Qualified Offerors to revise their initial Proposals and submit, in writing, Best and Final Offers (BAFOs). The State may make an award without issuing a request for a BAFO.
6. The Procurement Officer shall make a determination recommending award of the TO to the responsible Offeror who has the TO Proposal determined to be the most advantageous to the State, considering price and the evaluation criteria set forth above. In making this selection, the TO Technical Proposal will be given <<pick equal OR>> greater weight than the TO Financial Proposal.

All Master Contractors submitting a TO Proposal shall receive written notice from the TO Procurement Officer identifying the awardee.

## Documents Required upon Notice of Recommendation for Task Order Award

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

Commencement of work in response to a TO Agreement shall be initiated only upon the completed documents and attestations, plus:

1. Issuance of a fully executed TO Agreement,
2. Purchase Order, and
3. by a Notice to Proceed authorized by the TO Procurement Officer. See (see online example at http://doit.maryland.gov/contracts/Documents/CATSPlus/CATS+NoticeToProceedSample.pdf).

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# TORFP ATTACHMENTS AND APPENDICES

**Instructions Page**

A TO Proposal submitted by an Offeror must be accompanied by the completed forms and/or affidavits identified as “with proposal” in the “When to Submit” column in Table 1 below. All forms and affidavits applicable to this TORFP, including any applicable instructions and/or terms, are identified in the “Applies” and “Label” columns in Table 1.

For documents required as part of the proposal:

1. For e-mail submissions, submit one (1) copy of each with signatures.
2. For paper submissions, submit two (2) copies of each with original signatures. All signatures must be clearly visible.

All Offerors are advised that if a Task Order is awarded as a result of this solicitation, the successful Offeror will be required to complete certain forms and affidavits after notification of recommended award. The list of forms and affidavits that must be provided is described in Table 1 below in the “When to Submit” column.

For documents required after award, submit three (3) copies of each document within the appropriate number of days after notification of recommended award, as listed in Table 1 below in the “When to Submit” column.

\*\*Search for << to see the attachments and appendices that may be changed. Attachments with no <<>> are mandatory. Adjust the “Applies?” column as appropriate. Appendices may be removed, so all appendices remaining in the table should be Y. See the instructions in the appendices portion of the table below for appendix labeling instructions. \*

Table : TORFP ATTACHMENTS AND APPENDICES

| Applies? | When to Submit | Label | Attachment Name |
| --- | --- | --- | --- |
| <<Y>> | Before TO Proposal | A | Pre-Proposal Conference Response Form |
| Y | Before TO Proposal | B | TO Financial Proposal Instructions and Form |
| N | n/a | C | RESERVED |
| <<N>> | 10 Business Days after recommended award | D | MBE Forms D-2, D-3A, D-3B**Important:** Attachment D-1C, if a waiver has been requested, is also required within 10 days of recommended award. |
| <<N>> | As directed in forms | D | MBE Forms D-4A, D-4B, D-5 |
| <<N>> | With TO Proposal  | E | Veteran-Owned Small Business Enterprise (VSBE) Form E-1 |
| <<N>> | 5 Business Days after recommended award | E | VSBE Forms E-2, E-3 |
| <<Y>> | With TO Proposal | F | Maryland Living Wage Requirements for Service Task Orders and Affidavit of Agreement |
| <<N>> | With TO Proposal | G | Federal Funds Attachments |
| Y | With TO Proposal | H | Conflict of Interest Affidavit and Disclosure |
| Y | 5 Business Days after recommended award | I | Non-Disclosure Agreement (TO Contractor) |
| <<N>> | 5 Business Days after recommended award | J | HIPAA Business Associate Agreement |
| <<N>> | With TO Proposal | K | Mercury Affidavit |
| <<N>> | With TO Proposal | L | Location of the Performance of Services Disclosure |
| Y | 5 Business Days after recommended award | M | Task Order Agreement |
| N | n/a | N | RESERVED |
| N | n/a | O | RESERVED |
| Y | With Proposal | P | Certification Regarding Investment in Iran |
| Appendices\*\*Remove appendices not used in this TORFP, add any additional appendices specific to this TORFP, and renumber all. \*\*\*\*Perform a find and replace using the entire <<>> code in the Label column to automatically renumber the Appendices in the rest of the document\*\* |
| Applies? | When to Submit | Label | Attachment Name |
| Y | n/a | 1 | Abbreviations and Definitions |
| Y | With TO Proposal | 2 | Offeror Information Sheet |
| Y | Prior to commencement of work \*\*or 45 days after NTP\*\* | 3 | Criminal Background Check Affidavit \*\*delete entire line if it’s not applicable and renumber appendices\*\* |
| Y | With TO Proposal | <<laborResumeAppendixNumber>> | Labor Classification Personnel Resume Summary (Appendix 2A and 2B)\*\*delete if not applicable\*\* |
| Y | Before TO Proposal, as directed in the TORFP. | <<Offeror NDA Attachment Number>> | Non-Disclosure Agreement (Offeror)\*\*delete if not applicable\*\* |
| Y | 5 Business Days after recommended award | <<performanceBondAppendixNumber>> | Performance Bond\*\*delete if not applicable\*\* |
| Y | 5 Business Days after recommended award | <<paymentBondAppendixNumber>> | Payment Bond\*\*delete if not applicable\*\* |
| Y | With TO Proposal | <<proposalBidBondAppendixNumber>> | Proposal/Bid Bond\*\*delete if not applicable\*\* |
|  |  |  | \*\*include any others unique to this solicitation\*\* |
| **Additional Submissions** |
| Applies? | When to Submit | Label | Attachment Name |
| Y | 5 Business Days after recommended award | -- | Evidence of meeting insurance requirements (see **Section 3.6**); 1 copy |
| Y | 5 days after recommended award | -- | Fully executed Escrow Agreement; 1 copy\*\*remove if no escrow\*\* |
| <<Y>> | With deliverables | -- | Deliverable Product Acceptance Form (DPAF) (see online at [http://doit.maryland.gov/contracts/Documents/CATSPlus/CATS+DPAFSample.pdf](http://doit.maryland.gov/contracts/Documents/CATSPlus/CATS%2BDPAFSample.pdf)) \*\*delete entire line if it’s not applicable and renumber appendices\*\* |
|  |  |  | \*\*include any others unique to this solicitation\*\* |

1. TO Pre-Proposal Conference Response Form

\*\*If a Pre-Proposal Conference will not be held, **delete the content under this heading** leaving only the following sentence for this section and delete the rest: \*\*

A TO Pre-Proposal Conference will not be held.

\*\*If a Pre-Proposal Conference will be held, tailor the following language: \*\*

**Solicitation Number <<solicitationNumber>>**

<<solicitationTitle>>

A TO Pre-proposal conference will be held on <<preProposalDate>>, at <<preProposalLocation>>.

Please return this form by <<preProposalFormDue>>, advising whether or not you plan to attend. The completed form should be returned via e-mail or fax to the TO Procurement Officer at the contact information below:

<<procurementOfficerName>>

<<ISSUINGAGENCYACRONYM>>

E-mail: <<procurementOfficerEmail>>

Fax #: <<procurementOfficerFax>>

Please indicate:

|  |  |
| --- | --- |
|  | Yes, the following representatives will be in attendance.  |
|  | Attendees (Check the TORFP for limits to the number of attendees allowed):1.2.3. |
|  | No, we will not be in attendance. |

|  |
| --- |
| Please specify whether any reasonable accommodations are requested (see TORFP § 4.1“TO Pre-proposal conference”): |
| Offeror:  |  |
| *Offeror Name (please print or type)* |  |
| By: |  |
| *Signature/Seal* |  |
| Printed Name:  |  |
| *Printed Name* |  |
| Title:  |  |
| *Title* |  |
| Date: |  |
| *Date* |  |

**Directions to the TO Pre-Proposal Conference**

<<preProposalDirections>>

1. TO Financial Proposal Instructions & Form

See separate Excel TO Financial Proposal Form labeled xxxxx.xls.

\*\*OR\*\*

The total class hours (Column B) are not to be construed as “guaranteed” hours; the total number of hours is an estimate only for purposes of price sheet evaluation.

A year for this Task Order shall be calculated as one calendar year from the Effective Date. **Labor Rate Maximums:** The maximum labor rate that may be proposed for any CATS+ Labor Category shall not exceed the maximum for the CATS+ Master Contract year in effect on the TO Proposal due date.

\*\*Instructions: if this is a staffing TORFP, indicate which of the staff below are guaranteed work and indicate the rest are appropriate for non-guaranteed work via Work Orders. The MBE percentage value should be based on guaranteed work. \*\*

| Job Title from TORFP | CATS+ Labor Category <<Proposed by Master Contractor>> | Hourly Labor Rate (A) | Total Class Hours (B) | Proposal Price (C) |
| --- | --- | --- | --- | --- |
| **Year 1**  |  |  |  |  |
| <Job Title 1> | Insert CATS+ Labor Category | $ | 2000 | **$** |
| <Job Title 2> | Insert CATS+ Labor Category | $ | 2000 | **$** |
|  |  | **Evaluated Price Year 1** | **$** |
| **Year 2**  |  |  |  |  |
| <Job Title 1> | Insert CATS+ Labor Category | $ | 2000 | **$** |
|  <Job Title 2> | Insert CATS+ Labor Category | $ | 2000 | **$** |
|  |  | **Evaluated Price Year 2** | **$** |
| **Year 3**  |  |  |  |  |
| <Job Title 1> | Insert CATS+ Labor Category | $ | 2000 | **$** |
| <Job Title 2> | Insert CATS+ Labor Category | $ | 2000 | **$** |
|  |  | **Evaluated Price Year 3** | **$** |
| **Year 4**  |  |  |  |  |
| <Job Title 1> | Insert CATS+ Labor Category | $ | 2000 | **$** |
| <Job Title 2> | Insert CATS+ Labor Category | $ | 2000 | **$** |
|  |  | **Evaluated Price Year 4** | **$** |
| **Year 5** |  |  |  |  |
| <Job Title 1> | Insert CATS+ Labor Category | $ | 2000 | **$** |
| <Job Title 2> | Insert CATS+ Labor Category | $ | 2000 | **$** |
|  |  | **Evaluated Price Year 5** | **$** |
| **Total Proposal Price (Years <<1 – 5>>)** |  | **$** |

|  |  |  |  |
| --- | --- | --- | --- |
|  |   |  |  |
| Authorized Individual Name |   | Company Name |
|  |   |  |  |
| Title |   | Company Tax ID # |
|  |  |  |
|  |   |  |  |
| Signature |   | Date |
|  |  |  |
| The Hourly Labor Rate is the actual rate the State will pay for services and shall be recorded in dollars and cents. The Hourly Labor Rate cannot exceed the Master Contract Rate but may be lower. Rates shall be fully loaded, all-inclusive, i.e., include all direct and indirect costs and profits for the Master Contractor to perform under the TO Agreement. |

Price Sheet – Fixed Price

\*\*Instruction: If this solicitation does not include fixed price deliverables, remove this entire page (and the heading). This is a sample fixed price sheet. Agencies frequently use a more complex version to support their TORFP. Note that this particular price sheet format is very RARELY used- agencies typically must perform tailoring of this sheet to match the solicitation. \*\*

Price SHEET (Fixed Price) for CATS+ TORFP # <<solicitationNumber>>

|  |  |  |
| --- | --- | --- |
| Identification | Deliverable | Proposed Price |
| # of Deliverable | Title of Deliverable |  |
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|  |  |  |
| Total Proposal Fixed Price | $ |
|  |  |  |  |
|   |   |   |   |
| Authorized Individual Name |   | Company Name |
|  |  |  |  |
|  |  |  |  |
|   |   |   |   |
| Title |   | Company Tax ID # |
|   |   |   |   |
| Signature |   | Date |

1. RESERVED
2. Minority Business Enterprise (MBE) Forms

\*\*If this solicitation does not include an MBE goal, enter only the following sentence for this Attachment and delete the rest of these “D” Attachments. \*\*

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

\*\*If this solicitation does include an MBE goal, include the following “D” Attachments: \*\*

TO CONTRACTOR MINORITY BUSINESS ENTERPRISE REPORTING REQUIREMENTS

CATS+ TORFP # <<solicitationNumber>>

If after reading these instructions you have additional questions or need further clarification, please contact the TO Manager immediately.

1) As the TO Contractor, you have entered into a TO Agreement with the State of Maryland. As such, your company/firm is responsible for successful completion of all deliverables under the contract, including your commitment to making a good faith effort to meet the MBE participation goal(s) established for TORFP. Part of that effort, as outlined in the TORFP, includes submission of monthly reports to the State regarding the previous month’s MBE payment activity. Reporting forms D-4A (MBE Prime Contractor Paid/Unpaid Invoice Report), D-4B (MBE Prime Contractor Report) and D-5 (MBE Subcontractor Paid/Unpaid Invoice Report) are attached for your use and convenience.

2) The TO Contractor must complete a separate Form D-4A for each MBE subcontractor for each month of the contract and submit one copy to each of the locations indicated at the bottom of the form. The report is due no later than the 15th of the month following the month that is being reported. For example, the report for January’s activity is due no later than the 15th of February. With the approval of the TO Manager, the report may be submitted electronically. Note: Reports are required to be submitted each month, regardless whether there was any MBE payment activity for the reporting month.

3) The TO Contractor is responsible for ensuring that each subcontractor receives a copy of Form 2-5 (e-copy of and/or hard copy). The TO Contractor should make sure that the subcontractor receives all the information necessary to complete the form properly, including all of the information located in the upper right corner of the form. It may be wise to customize Form 2-5 (upper right corner of the form) for the subcontractor. This will help to minimize any confusion for those who receive and review the reports.

4) It is the responsibility of the TO Contractor to make sure that all subcontractors submit reports no later than the 15th of each month, **including reports showing zero MBE payment activity.** Actual payment data is verified and entered into the State’s financial management tracking system from the **Subcontractor’s D-5 report only**. Therefore, if the subcontractor(s) do not submit D-5 payment reports, the TO Contractor cannot and will not be given credit for subcontractor payments, regardless of the TO Contractor’s proper submission of Form D-4A. The TO Manager will contact the TO Contractor if reports are not received each month from either the prime contractor or any of the identified subcontractors.

5) The TO Contractor must promptly notify the TO Manager if, during the course of the contract, a new MBE subcontractor is utilized. Failure to comply with the MBE contract provisions and reporting requirements may result in sanctions, as provided by COMAR 21.11.03.13.

D-1A
MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT
& MBE PARTICIPATION SCHEDULE

**INSTRUCTIONS**

**PLEASE READ BEFORE COMPLETING THIS DOCUMENT**

**This form includes Instructions and the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule which must be submitted with the proposal. If the Offeror fails to accurately complete and submit this Affidavit and Schedule with the proposal as required, the Procurement Officer shall deem the shall determine that the proposal is not reasonably susceptible of being selected for award.**

1. Contractor shall structure its procedures for the performance of the work required in this Contract to attempt to achieve the minority business enterprise (MBE) subcontractor participation goal stated in the Request for Proposals. Contractor agrees to exercise good faith efforts to carry out the requirements set forth in these Instructions, as authorized by the Code of Maryland Regulations (COMAR) 21.11.03.

2. MBE Goals and Subgoals: Please review the solicitation for information regarding the Contract's MBE overall participation goals and subgoals. After satisfying the requirements for any established subgoals, the Contractor is encouraged to use a diverse group of subcontractors and suppliers from any/all of the various MBE classifications to meet the remainder of the overall MBE participation goal.

3. MBE means a minority business enterprise that is certified by the Maryland Department of Transportation (“MDOT”). Only MBEs certified by MDOT may be counted for purposes of achieving the MBE participation goals. In order to be counted for purposes of achieving the MBE participation goals, the MBE firm, including an MBE prime, must be MDOT-certified for the services, materials or supplies that it is committed to perform on the MBE Participation Schedule.

4. Please refer to the MDOT MBE Directory at www.mdot.state.md.us to determine if a firm is certified with the appropriate North American Industry Classification System (“NAICS”) Code **and** the product/services description (specific product that a firm is certified to provide or specific areas of work that a firm is certified to perform). For more general information about NAICS, please visit www.naics.com. Only those specific products and/or services for which a firm is certified in the MDOT Directory can be used for purposes of achieving the MBE participation goals. **WARNING:** If the firm's NAICS Code is in **graduated status**, such services/products **may not be counted** for purposes of achieving the MBE participation goals. A NAICS Code is in the graduated status if the term “Graduated” follows the Code in the MDOT MBE Directory.

5. **Guidelines Regarding MBE Prime Self-Performance.** Please note that when a certified MBE firm participates as a prime contractor on a contract, a procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own workforce toward fulfilling up to, but no more than, fifty-percent (50%) of the MBE participation goal (overall), including up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the contract.

* In order to receive credit for self-performance, an MBE prime must list its firm in Section 4A of the MBE Participation Schedule, including the certification category under which the MBE prime is self-performing and include information regarding the work it will self-perform.
* For the remaining portion of the overall goal and the subgoals, the MBE prime must also identify other certified MBE subcontractors (see Section 4B of the MBE Participation Schedule) used to meet those goals or request a waiver.
* These guidelines apply to the work performed by the MBE Prime that can be counted for purposes of meeting the MBE participation goals. These requirements do not affect the MBE Prime’s ability to self-perform a greater portion of the work in excess of what is counted for purposes of meeting the MBE participation goals.
* Please note that the requirements to meet the MBE participation overall goal and subgoals are distinct and separate. If the Contract has subgoals, regardless of MBE Prime’s ability to self-perform up to 50% of the overall goal (including up to 100% of any subgoal), the MBE Prime must either commit to other MBEs for each of any remaining subgoals or request a waiver. As set forth in **Attachment D1-B** Waiver Guidance, the MBE Prime’s ability to self-perform certain portions of the work of the Contract will not be deemed a substitute for the good faith efforts to meet any remaining subgoal or the balance of the overall goal.
* In certain instances, where the percentages allocated to MBE participation subgoals add up to more than 50% of the overall goal, the portion of self-performed work that an MBE Prime may count toward the overall goal may be limited to less than 50%. Please refer to GOSBA’s website (http://www.gomdsmallbiz.maryland.gov/Pages/default.aspx) for the MBE Prime Regulations Q&A for illustrative examples.

6. Subject to items 1 through 5 above, when a certified MBE performs as a participant in a joint venture, a procurement agency may count a portion of the total dollar value of the contract equal to the distinct, clearly-defined portion of the work of the contract that the certified MBE performs with its workforce towards fulfilling the contract goal, and not more than one of the contract subgoals, if any.

7. As set forth in COMAR 21.11.03.12-1, once the Contract work begins, the work performed by a certified MBE firm, including an MBE prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract. Please refer to COMAR 21.11.03.12-1 for more information regarding these requirements.

8. If you have any questions as to whether a firm is certified to perform the specific services or provide specific products, please contact MDOT's Office of Minority Business Enterprise at 1-800-544-6056 or via e-mail to mbe@mdot.state.md.us sufficiently prior to the submission due date.

9. Worksheet: The percentage of MBE participation, calculated using the percentage amounts for all of the MBE firms listed on the Participation Schedule MUST at least equal the MBE participation goal **and** subgoals (if applicable) set forth in the solicitation. If an Offeror is unable to achieve the MBE participation goal and/or any subgoals (if applicable), the Offeror must request a waiver in Item 1 of the MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) or the Proposal determined to be not susceptible of being selected for award. You may wish to use the Subgoal summary below to assist in calculating the percentages and confirm that you have met the applicable MBE participation goal and subgoals, if any.

**Subgoals (if applicable)**

**Total African American MBE Participation: <<mbeAfricanAmericanownedSubgoal>>%**

**Total Asian American MBE Participation: <<mbeAsianAmericanSubgoal>>%**

**Total Hispanic American MBE Participation: <<mbeHispanicAmericanownedSubgoal>>%**

**Total Women-Owned MBE Participation: <<mbeWomenownedSubgoal>>%**

**Overall Goal**

**Total MBE Participation (include all categories): <<mbeGoal>>%**

D-1A
MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT & MBE PARTICIPATION SCHEDULE

**This MBE Utilization and Fair Solicitation Affidavit and MBE Participation Schedule must be completed in its entirety and included with the Proposal. If the Offeror fails to accurately complete and submit this Affidavit and Schedule with the Proposal as required, the Procurement Officer shall determine that the Proposal is not reasonably susceptible of being selected for award.**

In connection with the Proposal submitted in response to Solicitation No. <<solicitationNumber>>, I affirm the following:

**1. MBE Participation (PLEASE CHECK ONLY ONE)** \*\*Agency should insert the participation goal and subgoal amounts from the PRG and Subgoal Worksheet in the blanks below, delete any of the subgoals that do not apply to this solicitation, and then delete this sentence of instruction\*\*

**(PLEASE CHECK ONLY ONE)**

[ ]  I acknowledge and intend to meet the overall certified Minority Business Enterprise (MBE) participation goal of <<mbeGoal>> percent and, if specified in the solicitation, the following subgoals (complete for only those subgoals that apply):

<<mbeAfricanAmericanownedSubgoal>> %for African American-owned MBE firms

<<mbeHispanicAmericanownedSubgoal>> % for Hispanic American-owned MBE firms

<<mbeAsianAmericanSubgoal>> % for Asian American-owned MBE firms

<<mbeWomenownedSubgoal>> % for Women-owned MBE firms

Therefore, I am not seeking a waiver pursuant to COMAR 21.11.03.11. I acknowledge that by checking the above box and agreeing to meet the stated goal and subgoal(s), if any, I must complete the MBE Participation Schedule (Item 4 below) in order to be considered for award.

**OR**

[ ]  I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. I acknowledge that by checking this box and requesting a partial waiver of the stated goal and/or one or more of the stated subgoal(s) if any, I must complete the MBE Participation Schedule (Item 4 below) for the portion of the goal and/or subgoal(s) if any, for which I am not seeking a waiver, in order to be considered for award.

**2. Additional MBE Documentation**

I understand that if I am notified that I am the apparent awardee or as requested by the Procurement Officer, I must submit the following documentation within 10 business days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier:

1. Good Faith Efforts Documentation to Support Waiver Request (**Attachment (D-1C**)
2. Outreach Efforts Compliance Statement (**Attachment D-2**);
3. MBE Subcontractor/MBE Prime Project Participation Statement (**Attachments D-3A/B**);
4. Any other documentation, including additional waiver documentation if applicable, required by the Procurement Officer in connection with the certified MBE participation goal and subgoals, if any.

I understand that if I fail to return each completed document within the required time, the Procurement Officer may determine that my Proposal is not susceptible of being selected for contract award. If the contract has already been awarded, the award is voidable.

**3. Information Provided to MBE firms**

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

**4. MBE Participation Schedule**

Set forth below are the (i) certified MBEs I intend to use, (ii) percentage of the total Contract amount allocated to each MBE for this project and (iii) items of work each MBE will provide under the Contract. I have confirmed with the MDOT database that the MBE firms identified below (including any self-performing prime firms) are performing work activities for which they are MDOT certified.

|  |  |  |
| --- | --- | --- |
| **Prime Contractor:**  | **Project Description:**  | **PROJECT/CONTRACT**  |
| Offeror Company Name, Street Address, Phone | <<projectDescription>> | **NUMBER:** <<Solicitation Number>> |

LIST INFORMATION FOR EACH CERTIFIED MBE FIRM YOU AGREE TO USE TO ACHIEVE THE MBE PARTICIPATION GOAL AND SUBGOALS, IF ANY. MBE PRIMES: PLEASE COMPLETE BOTH SECTIONS A AND B BELOW.

SECTION A: For MBE Prime Contractors ONLY (including MBE Primes in a Joint Venture)

|  |  |
| --- | --- |
| MBE Prime Firm Name: MBE Certification Number: (If dually certified, check only one box.)[ ]  African American-Owned[ ]  Hispanic American- Owned[ ]  Asian American-Owned[ ]  Women-Owned[ ]  Other MBE Classification | Percentage of total Contract Value to be performed with own forces and counted towards the MBE overall participation goal (up to 50% of the overall goal): \_\_\_\_\_\_\_%Percentage of total Contract Value to be performed with own forces and counted towards the subgoal, if any, for my MBE classification (up to 100% of not more than one subgoal): \_\_\_\_\_\_\_%Description of the Work to be performed with MBE prime’s workforce: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**SECTION B: For all Contractors (including MBE Primes and MBE Primes in a Joint Venture)**

|  |  |
| --- | --- |
| MBE Firm Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_MBE Certification Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(If dually certified, check only one box.)[ ]  African American-Owned[ ]  Hispanic American- Owned[ ]  Asian American-Owned[ ]  Women-Owned[ ]  Other MBE Classification | Percentage of Total Contract to be provided by this MBE: \_\_\_\_\_\_\_\_%Description of the Work to be Performed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| MBE Firm Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_MBE Certification Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(If dually certified, check only one box.)[ ]  African American-Owned[ ]  Hispanic American- Owned[ ]  Asian American-Owned[ ]  Women-Owned[ ]  Other MBE Classification | Percentage of Total Contract to be provided by this MBE: \_\_\_\_\_\_\_\_%Description of the Work to be Performed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| MBE Firm Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_MBE Certification Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(If dually certified, check only one box.)[ ]  African American-Owned[ ]  Hispanic American- Owned[ ]  Asian American-Owned[ ]  Women-Owned[ ]  Other MBE Classification | Percentage of Total Contract to be provided by this MBE: \_\_\_\_\_\_\_\_%Description of the Work to be Performed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| MBE Firm Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_MBE Certification Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(If dually certified, check only one box.)[ ]  African American-Owned[ ]  Hispanic American- Owned[ ]  Asian American-Owned[ ]  Women-Owned[ ]  Other MBE Classification | Percentage of Total Contract to be provided by this MBE: \_\_\_\_\_\_\_\_%Description of the Work to be Performed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| MBE Firm Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_MBE Certification Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(If dually certified, check only one box.)[ ]  African American-Owned[ ]  Hispanic American- Owned[ ]  Asian American-Owned[ ]  Women-Owned[ ]  Other MBE Classification | Percentage of Total Contract to be provided by this MBE: \_\_\_\_\_\_\_\_%Description of the Work to be Performed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**(Continue on separate page if needed)**

I solemnly affirm under the penalties of perjury that: (i) I have reviewed the instructions for the MBE Utilization & Fair Solicitation Affidavit and MBE Schedule, and (ii) the information contained in the MBE Utilization & Fair Solicitation Affidavit and MBE Schedule is true to the best of my knowledge, information and belief.

|  |  |
| --- | --- |
| Offeror:  |  |
| Offeror Name (please print or type) |  |
| By: |  |
| Signature of Authorized Representative |  |
| Printed Name:  |  |
| Printed Name |  |
| Title:  |  |
| Title |  |
| Date: |  |
| Date |  |
| Address: |  |
| Company Address |  |

**SUBMIT THIS AFFIDAVIT WITH PROPOSAL**

D-1B WAIVER GUIDANCE

**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET MBE PARTICIPATION GOALS**

In order to show that it has made good faith efforts to meet the Minority Business Enterprise (MBE) participation goal (including any MBE subgoals) on a contract, the Offeror must either (1) meet the MBE Goal(s) and document its commitments for participation of MBE Firms, or (2) when it does not meet the MBE Goal(s), document its Good Faith Efforts to meet the goal(s).

**I. Definitions**

**MBE Goal(s)** – “MBE Goal(s)” refers to the MBE participation goal and MBE participation subgoal(s).

**Good Faith Efforts** - The “Good Faith Efforts” requirement means that when requesting a waiver, the Offeror must demonstrate that it took all necessary and reasonable steps to achieve the MBE Goal(s), which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient MBE participation, even if those steps were not fully successful. Whether an Offeror that requests a waiver made adequate good faith efforts will be determined by considering the quality, quantity, and intensity of the different kinds of efforts that the Offeror has made. The efforts employed by the Offeror should be those that one could reasonably expect an Offeror to take if the Offeror were actively and aggressively trying to obtain MBE participation sufficient to meet the MBE contract goal and subgoals. Mere *pro forma* efforts are not good faith efforts to meet the MBE contract requirements. The determination concerning the sufficiency of the Offeror's good faith efforts is a judgment call; meeting quantitative formulas is not required.

**Identified Firms** – “Identified Firms” means a list of the MBEs identified by the procuring agency during the goal setting process and listed in the procurement as available to perform the Identified Items of Work. It also may include additional MBEs identified by the Offeror as available to perform the Identified Items of Work, such as MBEs certified or granted an expansion of services after the procurement was issued. If the procurement does not include a list of Identified Firms, this term refers to all of the MBE Firms (if State-funded) the Offeror identified as available to perform the Identified Items of Work and should include all appropriately certified firms that are reasonably identifiable.

**Identified Items of Work** – “Identified Items of Work” means the Proposal items identified by the procuring agency during the goal setting process and listed in the procurement as possible items of work for performance by MBE Firms. It also may include additional portions of items of work the Offeror identified for performance by MBE Firms to increase the likelihood that the MBE Goal(s) will be achieved. If the procurement does not include a list of Identified Items of Work, this term refers to all of the items of work the Offeror identified as possible items of work for performance by MBE Firms and should include all reasonably identifiable work opportunities.

**MBE Firms** – “MBE Firms” refers to firms certified by the Maryland Department of Transportation (“MDOT”) under COMAR 21.11.03. Only MDOT-certified MBE Firms can participate in the State's MBE Program.

II. Types of Actions Agency will Consider

The Offeror is responsible for making relevant portions of the work available to MBE subcontractors and suppliers and select those portions of the work or material needs consistent with the available MBE subcontractors and suppliers, so as to facilitate MBE participation. The following is a list of types of actions the procuring agency will consider as part of the Offeror's Good Faith Efforts when the Offeror fails to meet the MBE Goal(s). This list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

**A. Identify Proposal Items as Work for MBE Firms**

1. Identified Items of Work in Procurements

(a) Certain procurements will include a list of Proposal items identified during the goal setting process as possible work for performance by MBE Firms. If the procurement provides a list of Identified Items of Work, the Offeror shall make all reasonable efforts to solicit quotes from MBE Firms to perform that work.

(b) Offerors may, and are encouraged to, select additional items of work to be performed by MBE Firms to increase the likelihood that the MBE Goal(s) will be achieved.

2. Identified Items of Work by Offerors

(a) When the procurement does not include a list of Identified Items of Work or for additional Identified Items of Work, Offerors should reasonably identify sufficient items of work to be performed by MBE Firms.

(b) Where appropriate, Offerors should break out contract work items into economically feasible units to facilitate MBE participation, rather than perform these work items with their own forces. The ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the Offeror of the responsibility to make Good Faith Efforts.

**B. Identify MBE Firms to Solicit**

1. MBE Firms Identified in Procurements

(a) Certain procurements will include a list of the MBE Firms identified during the goal setting process as available to perform the items of work. If the procurement provides a list of Identified MBE Firms, the Offeror shall make all reasonable efforts to solicit those MBE firms.

(b) Offerors may, and are encouraged to, search the MBE Directory to identify additional MBEs who may be available to perform the items of work, such as MBEs certified or granted an expansion of services after the solicitation was issued.

2. MBE Firms Identified by Offerors

(a) When the procurement does not include a list of Identified MBE Firms, Offerors should reasonably identify the MBE Firms that are available to perform the Identified Items of Work.

(b) Any MBE Firms identified as available by the Offeror should be certified to perform the Identified Items of Work.

**C. Solicit MBEs**

1. Solicit all Identified Firms for all Identified Items of Work by providing written notice. The Offeror should:

(a) provide the written solicitation at least 10 days prior to Proposal opening to allow sufficient time for the MBE Firms to respond;

(b) send the written solicitation by first-class mail, facsimile, or e-mail using contact information in the MBE Directory, unless the Offeror has a valid basis for using different contact information; and

(c) provide adequate information about the plans, specifications, anticipated time schedule for portions of the work to be performed by the MBE, and other requirements of the contract to assist MBE Firms in responding. (This information may be provided by including hard copies in the written solicitation or by electronic means as described in C.3 below.)

2. “All” Identified Firms includes the MBEs listed in the procurement and any MBE Firms you identify as potentially available to perform the Identified Items of Work, but it does not include MBE Firms who are no longer certified to perform the work as of the date the Offeror provides written solicitations.

3. “Electronic Means” includes, for example, information provided *via* a website or file transfer protocol (FTP) site containing the plans, specifications, and other requirements of the contract. If an interested MBE cannot access the information provided by electronic means, the Offeror must make the information available in a manner that is accessible to the interested MBE.

4. Follow up on initial written solicitations by contacting MBEs to determine if they are interested. The follow up contact may be made:

(a) by telephone using the contact information in the MBE Directory, unless the Offeror has a valid basis for using different contact information; or

(b) in writing *via* a method that differs from the method used for the initial written solicitation.

5. In addition to the written solicitation set forth in C.1 and the follow up required in C.4, use all other reasonable and available means to solicit the interest of MBE Firms certified to perform the work of the contract. Examples of other means include:

(a) attending any pre-proposal meetings at which MBE Firms could be informed of contracting and subcontracting opportunities; and

(b) if recommended by the procurement, advertising with or effectively using the services of at least two minority focused entities or media, including trade associations, minority/women community organizations, minority/women contractors' groups, and local, state, and federal minority/women business assistance offices listed on the MDOT Office of Minority Business Enterprise website.

**D. Negotiate with Interested MBE Firms**

Offerors must negotiate in good faith with interested MBE Firms.

1. Evidence of negotiation includes, without limitation, the following:

(a) the names, addresses, and telephone numbers of MBE Firms that were considered;

(b) a description of the information provided regarding the plans and specifications for the work selected for subcontracting and the means used to provide that information; and

(c) evidence as to why additional agreements could not be reached for MBE Firms to perform the work.

2. An Offeror using good business judgment would consider a number of factors in negotiating with subcontractors, including MBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration.

3. The fact that there may be some additional costs involved in finding and using MBE Firms is not in itself sufficient reason for an Offeror's failure to meet the contract MBE goal(s), as long as such costs are reasonable. Factors to take into consideration when determining whether an MBE Firm’s quote is excessive or unreasonable include, without limitation, the following:

(a) dollar difference between the MBE subcontractor’s quote and the average of the other subcontractors' quotes received by the Offeror;

(b) percentage difference between the MBE subcontractor’s quote and the average of the other subcontractors' quotes received by the Offeror;

(c) percentage that the MBE subcontractor’s quote represents of the overall contract amount;

(d) number of MBE firms that the Offeror solicited for that portion of the work;

(e) whether the work described in the MBE and Non-MBE subcontractor quotes (or portions thereof) submitted for review is the same or comparable; and

(f) number of quotes received by the Offeror for that portion of the work.

4. The above factors are not intended to be mandatory, exclusive, or exhaustive, and other evidence of an excessive or unreasonable price may be relevant.

5. The Offeror may not use its price for self-performing work as a basis for rejecting an MBE Firm's quote as excessive or unreasonable.

6. The “average of the other subcontractors’ quotes received” by the Offeror refers to the average of the quotes received from all subcontractors. Offeror should attempt to receive quotes from at least three subcontractors, including one quote from an MBE and one quote from a Non-MBE.

7. An Offeror shall not reject an MBE Firm as unqualified without sound reasons based on a thorough investigation of the firm’s capabilities. For each certified MBE that is rejected as unqualified or that placed a subcontract quotation or offer that the Offeror concludes is not acceptable, the Offeror must provide a written detailed statement listing the reasons for this conclusion. The Offeror also must document the steps taken to verify the capabilities of the MBE and Non-MBE Firms quoting similar work.

(a) The factors to take into consideration when assessing the capabilities of an MBE Firm, include, but are not limited to the following: financial capability, physical capacity to perform, available personnel and equipment, existing workload, experience performing the type of work, conduct and performance in previous contracts, and ability to meet reasonable contract requirements.

(b) The MBE Firm’s standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of proposals in the efforts to meet the project goal.

**E. Assisting Interested MBE Firms**

When appropriate under the circumstances, the decision-maker will consider whether the Offeror Offeror made reasonable efforts to assist interested MBR Firms in obtaining:

1. The bonding, lines of credit, or insurance required by the procuring agency or the Offeror; and

2. Necessary equipment, supplies, materials, or related assistance or services.

**III. Other Considerations**

In making a determination of Good Faith Efforts the decision-maker may consider engineering estimates, catalogue prices, general market availability and availability of certified MBE Firms in the area in which the work is to be performed, other proposals or offers and subcontract proposals or offers substantiating significant variances between certified MBE and Non-MBE costs of participation, and their impact on the overall cost of the contract to the State and any other relevant factors.

The decision-maker may take into account whether an Offeror decided to self-perform subcontract work with its own forces, especially where the self-performed work is Identified Items of Work in the procurement. The decision-maker also may take into account the performance of other Offerors in meeting the contract. For example, when the apparent successful Offeror fails to meet the contract goal, but others meet it, this reasonably raises the question of whether, with additional reasonable efforts, the apparent successful Offeror could have met the goal. If the apparent successful Offeror fails to meet the goal, but meets or exceeds the average MBE participation obtained by other Offerors, this, when viewed in conjunction with other factors, could be evidence of the apparent successful Offeror having made Good Faith Efforts.

**IV. Documenting Good Faith Efforts**

At a minimum, an Offeror seeking a waiver of the MBE Goal(s) or a portion thereof must provide written documentation of its Good Faith Efforts, in accordance with COMAR 21.11.03.11, within 10 business days after receiving notice that it is the apparent awardee. The written documentation shall include the following:

**A. Items of Work (Complete Good Faith Efforts Documentation Attachment D-1C, Part 1)**

A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBE Firms in order to increase the likelihood of achieving the stated MBE Goal(s).

**B. Outreach/Solicitation/Negotiation**

1. The record of the Offeror's compliance with the outreach efforts prescribed by COMAR 21.11.03.09C(2)(a). **(Complete Outreach Efforts Compliance Statement - D-2)**.

2. A detailed statement of the efforts made to contact and negotiate with MBE Firms including:

(a) the names, addresses, and telephone numbers of the MBE Firms who were contacted, with the dates and manner of contacts (letter, fax, e-mail, telephone, etc.) (**Complete Good Faith Efforts Attachment D-1C- Part 2, and submit letters, fax cover sheets, e-mails, etc. documenting solicitations**); and

(b) a description of the information provided to MBE Firms regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed and the means used to provide that information.

**C. Rejected MBE Firms (Complete Good Faith Efforts Attachment D-1C, Part 3)**

1. For each MBE Firm that the Offeror concludes is not acceptable or qualified, a detailed statement of the reasons for the Offeror’s conclusion, including the steps taken to verify the capabilities of the MBE and Non-MBE Firms quoting similar work.

2. For each certified MBE Firm that the Offeror concludes has provided an excessive or unreasonable price, a detailed statement of the reasons for the Offeror’s conclusion, including the quotes received from all MBE and Non-MBE firms proposing on the same or comparable work. **(Include copies of all quotes received.)**

3. A list of MBE Firms contacted but found to be unavailable. This list should be accompanied by an MBE Unavailability Certificate (see **D-1B** - **Exhibit A** to this Part 1) signed by the MBE contractor or a statement from the Offeror that the MBE contractor refused to sign the MBE Unavailability Certificate.

**D. Other Documentation**

1. Submit any other documentation requested by the Procurement Officer to ascertain the Offeror's Good Faith Efforts.

2. Submit any other documentation the Offeror believes will help the Procurement Officer ascertain its Good Faith Efforts.

D-1B - Exhibit A
MBE Subcontractor Unavailability Certificate

1. It is hereby certified that the firm of

 (Name of Minority firm)

located at

 (Number) (Street)

 (City) (State) (Zip)

was offered an opportunity to bid on Solicitation No. <<solicitationNumber>>

in County by

 (Name of Prime Contractor’s Firm)

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

2. (Minority Firm), is either unavailable for the work/service or unable to prepare a proposal for this project for the following reason(s):

|  |
| --- |
|  |
|  |
|  |

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

|  |  |  |
| --- | --- | --- |
|   |  |  |
| (Signature of Minority Firm’s MBE Representative) | (Title) | (Date) |
|  |  |
| (MDOT Certification #) | (Telephone #) |

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

3. To be completed by the prime contractor if Section 2 of this form is not completed by the minority firm.

To the best of my knowledge and belief, said Certified Minority Business Enterprise is either unavailable for the work/service for this project, is unable to prepare a proposal, or did not respond to a request for a price proposal and has not completed the above portion of this submittal.

|  |  |  |
| --- | --- | --- |
|  |  |  |
| (Signature of Prime Contractor) | (Title) | (Date) |

D-1C
GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST

**Page \_\_ of \_\_\_**

|  |  |  |
| --- | --- | --- |
| **Prime Contractor:**  | **Project Description:**  | **PROJECT/CONTRACT**  |
| Offeror Company Name, Street Address, Phone | <<projectDescription>> | **NUMBER:** <<Solicitation Number>> |

Parts 1, 2, and 3 must be included with this certificate along with all documents supporting your waiver request.

I affirm that I have reviewed **Attachment D-1B**, Waiver Guidance. I further affirm under penalties of perjury that the contents of Parts 1, 2, and 3 of this **Attachment D-1C** Good Faith Efforts Documentation Form are true to the best of my knowledge, information, and belief.

|  |  |
| --- | --- |
| Company:  |  |
| Company Name (please print or type) |  |
| By: |  |
| Signature of Authorized Representative |  |
| Printed Name:  |  |
| Printed Name |  |
| Title:  |  |
| Title |  |
| Date: |  |
| Date |  |
| Address: |  |
| Company Address |  |

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

Company Name Signature of Representative

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

Address Printed Name and Title

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

City, State and Zip Code Date

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST**

**Part 1 – Identified items of work Offeror made available to MBE firms**

**Page \_\_ of \_\_\_**

|  |  |  |
| --- | --- | --- |
| **Prime Contractor:**  | **Project Description:**  | **PROJECT/CONTRACT**  |
| Offeror Company Name, Street Address, Phone | <<projectDescription>> | **NUMBER:** <<Solicitation Number>> |

Identify those items of work that the Offeror made available to MBE Firms. This includes, where appropriate, those items the Offeror identified and determined to subdivide into economically feasible units to facilitate the MBE participation. For each item listed, show the anticipated percentage of the total contract amount. It is the Offeror’s responsibility to demonstrate that sufficient work to meet the goal was made available to MBE Firms, and the total percentage of the items of work identified for MBE participation equals or exceeds the percentage MBE goal set for the procurement. Note: If the procurement includes a list of Proposal items identified during the goal setting process as possible items of work for performance by MBE Firms, the Offeror should make all of those items of work available to MBE Firms or explain why that item was not made available. If the Offeror selects additional items of work to make available to MBE Firms, those additional items should also be included below.

| Identified Items of Work  | Was this work listed in the procurement? | Does Offeror normally self-perform this work? | Was this work made available to MBE Firms?If no, explain why?  |
| --- | --- | --- | --- |
|  | □ Yes □ No | □ Yes □ No | □ Yes □ No |
|  | □ Yes □ No | □ Yes □ No | □ Yes □ No |
|  | □ Yes □ No | □ Yes □ No | □ Yes □ No |
|  | □ Yes □ No | □ Yes □ No | □ Yes □ No |
|  | □ Yes □ No | □ Yes □ No | □ Yes □ No |
|  | □ Yes □ No | □ Yes □ No | □ Yes □ No |
|  | □ Yes □ No | □ Yes □ No | □ Yes □ No |
|  | □ Yes □ No | □ Yes □ No | □ Yes □ No |

[ ]  Please check if Additional Sheets are attached.

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST**

**Part 2 – identified MBE firms and record of solicitations**

**Page \_\_ of \_\_\_**

|  |  |  |
| --- | --- | --- |
| **Prime Contractor:**  | **Project Description:**  | **PROJECT/CONTRACT**  |
| Offeror Company Name, Street Address, Phone | <<projectDescription>> | **NUMBER:** <<Solicitation Number>> |

Identify the MBE Firms solicited to provide quotes for the Identified Items of Work made available for MBE participation. Include the name of the MBE Firm solicited, items of work for which quotes were solicited, date and manner of initial and follow-up solicitations, whether the MBE provided a quote, and whether the MBE is being used to meet the MBE participation goal. MBE Firms used to meet the participation goal must be included on the MBE Participation Schedule. Note: If the procurement includes a list of the MBE Firms identified during the goal setting process as potentially available to perform the items of work, the Offeror should solicit all of those MBE Firms or explain why a specific MBE was not solicited. If the Offeror identifies additional MBE Firms who may be available to perform Identified Items of Work, those additional MBE Firms should also be included below. Copies of all written solicitations and documentation of follow-up calls to MBE Firms must be attached to this form. This list should be accompanied by a Minority Contractor Unavailability Certificate signed by the MBE contractor or a statement from the Offeror that the MBE contractor refused to sign the Minority Contractor Unavailability Certificate (**Attachment D-1B - Exhibit A**). If the Offeror used a Non-MBE or is self-performing the identified items of work, Part 4 must be completed.

| **Name of Identified MBE Firm & MBE Classification** | **Describe Item of Work Solicited** | **Initial Solicitation Date & Method** | **Follow-up Solicitation Date & Method** | **Details for Follow-up Calls**  | **Quote** **Rec’d** | **Quote** **Used** | **Reason Quote Rejected**  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Firm Name:MBE Classification(Check only if requesting waiver of MBE subgoal.)[ ]  African American-Owned[ ]  Hispanic American- Owned[ ]  Asian American-Owned[ ]  Women-Owned[ ]  Other MBE Classification\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  | Date:□ Mail□ Facsimile□ E-mail | Date:□ Phone□ Mail□ Facsimile□ E-mail | Time of Call:Spoke with:\_\_\_\_\_\_\_\_\_□ Left Message  | □ Yes□ No | □ Yes□ No | □ Used Other MBE□ Used Non-MBE□ Self-performing |
| Firm Name:MBE Classification(Check only if requesting waiver of MBE subgoal.)[ ]  African American-Owned[ ]  Hispanic American- Owned[ ]  Asian American-Owned[ ]  Women-Owned[ ]  Other MBE Classification\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  | Date:□ Mail□ Facsimile□ E-mail | Date:□ Phone□ Mail□ Facsimile□ E-mail | Time of Call:Spoke with:\_\_\_\_\_\_\_\_\_□ Left Message  | □ Yes□ No | □ Yes□ No | □ Used Other MBE□ Used Non-MBE□ Self-performing |

[ ]  Please check if Additional Sheets are attached.

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST**

**Part 3 – additional information regarding rejected MBE quotes**

**Page \_\_ of \_\_\_**

|  |  |  |
| --- | --- | --- |
| **Prime Contractor:**  | **Project Description:**  | **PROJECT/CONTRACT**  |
| Offeror Company Name, Street Address, Phone | <<projectDescription>> | **NUMBER:** <<Solicitation Number>> |

This form must be completed if Part 1 indicates that an MBE quote was rejected because the Offeror is using a Non-MBE or is self-performing the Identified Items of Work. Provide the Identified Items Work, indicate whether the work will be self-performed or performed by a Non-MBE, and if applicable, state the name of the Non-MBE. Also include the names of all MBE and Non-MBE Firms that provided a quote and the amount of each quote.

| **Describe Identified Items of Work Not Being Performed by MBE****(Include spec/ section number from Proposal)** | **Self-performing or Using Non-MBE (Provide name)** | **Amount of Non-MBE Quote** | **Name of Other Firms who Provided Quotes & Whether MBE or Non-MBE**  | **Amount Quoted** | **Indicate Reason Why MBE Quote Rejected & Briefly Explain**  |
| --- | --- | --- | --- | --- | --- |
|  | □ Self-performing□ Using Non-MBE\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | $\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_□ MBE□ Non-MBE  | $\_\_\_\_\_\_\_ | □ Price□ Capabilities□ Other |
|  | □ Self-performing□ Using Non-MBE\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | $\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_□ MBE□ Non-MBE  | $\_\_\_\_\_\_\_ | □ Price□ Capabilities□ Other |
|  | □ Self-performing□ Using Non-MBE\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | $\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_□ MBE□ Non-MBE  | $\_\_\_\_\_\_\_ | □ Price□ Capabilities□ Other |
|  | □ Self-performing□ Using Non-MBE\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | $\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_□ MBE□ Non-MBE  | $\_\_\_\_\_\_\_ | □ Price□ Capabilities□ Other |
|  | □ Self-performing□ Using Non-MBE\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | $\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_□ MBE□ Non-MBE  | $\_\_\_\_\_\_\_ | □ Price□ Capabilities□ Other |
|  | □ Self-performing□ Using Non-MBE\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | $\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_□ MBE□ Non-MBE  | $\_\_\_\_\_\_\_ | □ Price□ Capabilities□ Other |

[ ]  Please check if Additional Sheets are attached.

D- 2
OUTREACH EFFORTS COMPLIANCE STATEMENT

Complete and submit this form within 10 Business Days of notification of apparent award or actual award, whichever is earlier.

In conjunction with the Proposal submitted in response to Solicitation No. <<solicitationNumber>>, I state the following:

1. Offeror identified subcontracting opportunities in these specific work categories:

|  |
| --- |
|  |
|  |
|  |

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

3. Offeror made the following attempts to personally contact the solicited MDOT-certified MBE firms:

|  |
| --- |
|  |
|  |
|  |

4. **Please Check One:**

□ This project does not involve bonding requirements.

□ Offeror assisted MDOT-certified MBE firms to fulfill or seek waiver of bonding requirements. (DESCRIBE EFFORTS):

|  |
| --- |
|  |
|  |
|  |

5. **Please Check One:**

|  |  |
| --- | --- |
|  | Offeror did attend the pre-proposal conference. |
|  | No pre -proposal meeting/conference was held. |
|  | Offeror did not attend the pre-proposal conference. |

PLEASE PRINT OR TYPE

|  |  |
| --- | --- |
| Company:  |  |
| Company Name (please print or type) |  |
| By: |  |
| Signature of Authorized Representative |  |
| Printed Name:  |  |
| Printed Name |  |
| Title:  |  |
| Title |  |
| Date: |  |
| Date |  |
| Address: |  |
| Company Address |  |

D-3A
MBE SUBCONTRACTOR PROJECT PARTICIPATION CERTIFICATION

**Please complete and submit one form for each certified MBE firm listed on the MBE Participation schedule (Attachment D-1A) within 10 Business Days of notification of apparent award. If the Offeror fails to return this affidavit within the required time, the Procurement Officer may determine that Proposal is not susceptible of being selected for Contract award.**

Provided that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Prime Contractor’s Name) is awarded the State contract in conjunction with Solicitation No. <<solicitationNumber>>, such Prime Contractor intends to enter into a subcontract with \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Subcontractor’s Name) committing to participation by the MBE firm \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (MBE Name) with MDOT Certification Number \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ which will receive at least $\_\_\_\_\_\_\_\_\_\_\_ which equals to\_\_\_% of the Total Contract Amount for performing the following goods and services for the Contract:

|  |  |  |
| --- | --- | --- |
| **NAICS CODE** | **WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE)** | **DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

Each of the Contractor and subcontractor acknowledges that, for purposes of determining the accuracy of the information provided herein, the Procurement Officer may request additional information, including, without limitation, copies of the subcontract agreements and quotes. Each of the Contractor and subcontractor solemnly affirms under the penalties of perjury that: (i) the information provided in this MBE Subcontractor Project Participation Affidavit is true to the best of its knowledge, information and belief, and (ii) has fully complied with the State Minority Business Enterprise law, State Finance and Procurement Article §14-308(a)(2), Annotated Code of Maryland which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a Proposal and:

(1) fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified Minority Business Enterprise in its Proposal;

(2) fail to notify the certified Minority Business Enterprise before execution of the Contract of its inclusion of the Proposal;

(3) fail to use the certified Minority Business Enterprise in the performance of the Contract; or

(4) pay the certified Minority Business Enterprise solely for the use of its name in the Proposal.

|  |  |  |
| --- | --- | --- |
| Prime Contractor |  | Subcontractor |
| Company:  |  | Company:  |
| Company Name (please print or type) |  | Company Name (please print or type) |
| FEIN:  |  | FEIN: |
| Federal Identification Number |  | Federal Identification Number |
| Phone Number:  |  | Phone Number: |
| Phone Number |  | Phone Number |
| By: |  | By: |
| Signature of Authorized Representative |  | Signature of Authorized Representative |
| Date: |  | Date: |
| Date |  | Date |
| Printed Name:  |  | Printed Name:  |
| Printed Name |  | Printed Name |
| Title:  |  | Title:  |
| Printed Title |  | Title |
| Address: |  | Address: |
| Company Address |  | Address |

|  |  |
| --- | --- |
| PRIME CONTRACTORSignature of Representative:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Printed Name and Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Firm’s Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Federal Identification Number: \_\_\_\_\_\_\_\_\_\_Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Telephone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | SUBCONTRACTORSignature of Representative:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Printed Name and Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Firm’s Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Federal Identification Number: \_\_\_\_\_\_\_\_\_\_Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Telephone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

D-3B
MBE PRIME PROJECT PARTICIPATION CERTIFICATION

**Please complete and submit this form to attest each specific item of work that your MBE firm has listed on the MBE Participation Schedule (Attachment D-1A) for purposes of meeting the MBE participation goals. This form must be submitted within 10 Business Days of notification of apparent award. If the Offeror fails to return this affidavit within the required time, the Procurement Officer may determine that Proposal is not susceptible of being selected for Contract award.**

Provided that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Prime Contractor’s Name) with Certification Number \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is awarded the State contract in conjunction with Solicitation No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, such MBE Prime Contractor intends to perform with its own forces at least $\_\_\_\_\_\_\_\_\_\_\_ which equals to\_\_\_% of the Total Contract Amount for performing the following goods and services for the Contract:

|  |  |  |  |
| --- | --- | --- | --- |
| **NAICS CODE** | **WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE)****For Construction Projects, General Conditions must be listed separately** | **DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES** | **VALUE OF THE WORK** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

**MBE Prime Contractor**

|  |  |
| --- | --- |
| Company:  |  |
| Company Name (please print or type) |  |
| FEIN:  |  |
| Federal Identification Number |  |
| Address: |  |
| Company Address |  |
| Phone:  |  |
| Phone |  |
| Printed Name:  |  |
| Printed Name |  |
| Title:  |  |
| Title |  |
| By: |  |
| Signature of Authorized Representative |  |
| Date: |  |
| Date |  |

D-4A
Minority Business Enterprise Participation
MBE Prime Contractor Paid/Unpaid Invoice Report

|  |  |
| --- | --- |
| Report #:  | Contract #: <<solicitationNumber>> |
| Reporting Period (Month/Year): | Contracting Unit: <<issuingAgencyName>> |
| **Prime Contractor: Report is due to the MBE Liaison by the 15th of the month following the month the services were provided.****Note: Please number reports in sequence** | Contract Amount: |
| MBE Subcontract Amt: |
| Project Begin Date: |
| Project End Date: |
| Services Provided: |

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

* If more than one MBE subcontractor is used for this contract, you must use separate **Attachment D-4A** forms. Information regarding payments that the MBE prime will use for purposes of meeting the MBE participation goals must be reported separately in **Attachment D-4B**.
* **Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):**

|  |  |  |
| --- | --- | --- |
| <<contractManagerName>> |  | <<issuingAgencyName>> |
| TO Manager |  | Contracting Unit  |
| <<contractManagerAddress>> |  |  |
| Address |  | City, State Zip |
| <<contractManageremail>> |  | <<contractManagerPhoneNumber>> |
| Email |  | Phone Number |
|  |  |  |
| Signature (Required) |  | Date |

D-4B
Minority Business Enterprise Participation
MBE Prime Contractor Report

|  |  |
| --- | --- |
| MBE Prime Contractor:  | Contract #:  |
| Certification Number:  | Contracting Unit: <<issuingAgencyName>> |
| Report #:  | Contract Amount: |
| Reporting Period (Month/Year): | Total Value of the Work to the Self-Performed for purposes of Meeting the MBE participation goal/subgoals:  |
| **MBE Prime Contractor: Report is due to the MBE Liaison by the 15th of the month following the month the services were provided.****Note: Please number reports in sequence** |
| Project Begin Date: |
| Project End Date: |

|  |
| --- |
| Contact Person:  |
| Address:  |
| City:  | State:  | ZIP:  |
| Phone:  | FAX:  | E-mail:  |

|  |  |  |  |
| --- | --- | --- | --- |
| **Invoice Number** | **Value of the Work** | **NAICS Code** | **Description of Specific Products and/or Services** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

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

|  |  |  |
| --- | --- | --- |
| <<contractManagerName>> |  | <<issuingAgencyName>> |
| TO Manager |  | Contracting Unit  |
| <<contractManagerAddress>> |  |  |
| Address |  | City, State Zip |
| <<contractManageremail>> |  | <<contractManagerPhoneNumber>> |
| Email |  | Phone Number |
|  |  |  |
| Signature (Required) |  | Date |

D-5
Minority Business Enterprise Participation
MBE Subcontractor Paid/Unpaid Invoice Report

|  |  |
| --- | --- |
| Report #:  | Contract #: <<solicitationNumber>> |
| Reporting Period (Month/Year): | Contracting Unit: <<issuingAgencyName>> |
| **Report is due by the 15th of the month following the month the services were performed.** | MBE Subcontract Amt: |
| Project Begin Date: |
| Project End Date: |
| Services Provided: |

|  |
| --- |
| MBE Subcontractor Name: |
| MDOT Certification #:  |
| Contact Person:  |
| Address:  |
| City:  | State:  | ZIP:  |
| Phone:  | FAX:  | E-mail:  |
| **Subcontractor Services Provided:**  |
| **List all payments received from Prime Contractor during reporting period indicated above.** | **List dates and amounts of any unpaid invoices over 30 days old.** |
|  | **Invoice Amount** | **Date** |  | **Invoice Amount** | **Date** |
| 1. |  |  | 1. |  |  |
| 2. |  |  | 2. |  |  |
| 3. |  |  | 3. |  |  |
| 4. |  |  | 4. |  |  |
| **Total Dollars Paid: $**  | **Total Dollars Unpaid: $**  |
| Prime Contractor:  | Contract Person:  |

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

|  |  |  |
| --- | --- | --- |
| <<contractManagerName>> |  | <<issuingAgencyName>> |
| TO Manager |  | Contracting Unit  |
| <<contractManagerAddress>> |  |  |
| Address |  | City, State Zip |
| <<contractManageremail>> |  | <<contractManagerPhoneNumber>> |
| Email |  | Phone Number |
|  |  |  |
| Signature (Required) |  | Date |

1. Veteran-Owned Small Business Enterprise (VSBE) Forms

\*\* If this solicitation **does not** include a VSBE goal (see TORFP Section 4.8), enter only the following sentence for this Attachment and delete the rest of these “E” Attachments. \*\*

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

\*\* If this solicitation does include a VSBE goal (see TORFP Section 4.8), enter the following language for these Attachments\*\*

E-1
VSBE Utilization Affidavit and Prime/Subcontractor Participation Schedule

**(submit with Proposal)**

This document **MUST BE** included with the Proposal. If the Offeror fails to complete and submit this form with the Proposal, the Procurement Officer may determine that the Proposal is not reasonably susceptible of being selected for award.

In conjunction with the Proposal submitted in response to Solicitation No. <<solicitationNumber>>, I affirm the following:

1. [ ]  I acknowledge and intend to meet the overall verified VSBE participation goal of <<vsbeGoal>>%. Therefore, I will not be seeking a waiver.

**OR**

[ ]  I conclude that I am unable to achieve the VSBE participation goal. I hereby request a waiver, in whole or in part, of the overall goal. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.13.07. If this request is for a partial waiver, I have identified the portion of the VSBE goal that I intend to meet.

2. I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 days of receiving notice of the apparent award or from the date of conditional award (per COMAR 21.11.13.06), whichever is earlier.

(a) Subcontractor Project Participation Statement (**Attachment E-2**); and

(b) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain Offeror responsibility in connection with the VSBE participation goal.

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

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

4. Set forth below are the (i) verified VSBEs I intend to use and (ii) the percentage of the total contract amount allocated to each VSBE for this project. I hereby affirm that the VSBE firms are only providing those goods and services for which they are verified.

E-1VSBE Subcontractor Participation Schedule

|  |  |  |
| --- | --- | --- |
| **Prime Contractor:**Offeror Company Name, Street Address, Phone | **Project Description:** <<projectDescription>> | **PROJECT/CONTRACT NUMBER:** <<Solicitation Number>> |
|  |

List Information for Each Verified VSBE Prime Contractor or Subcontractor On This Project

|  |  |
| --- | --- |
| Name of Veteran-Owned Firm:Percentage of Total Contract: | DUNS Number: |
| Description of work to be performed: |
| Name of Veteran-Owned Firm:Percentage of Total Contract: | DUNS Number: |
| Description of work to be performed: |
| Name of Veteran-Owned Firm:Percentage of Total Contract: | DUNS Number: |
| Description of work to be performed: |
| Name of Veteran-Owned Firm:Percentage of Total Contract: | DUNS Number: |
| Description of work to be performed: |

Continue on a separate page, if needed.

**SUMMARY**

**TOTAL VSBE Participation: <<vsbeGoal>>%**

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

PLEASE PRINT OR TYPE

|  |  |
| --- | --- |
| Company:  |  |
| *Company Name (please print or type)* |  |
| Printed Name:  |  |
| *Printed Name* |  |
| Title:  |  |
| *Title* |  |
| Address: |  |
| *Company Address* |  |
| By: |  |
| *Signature of Authorized Representative* |  |
| Date: |  |
| *Date* |  |

E-1A
VSBE Subcontractor Unavailability Certificate

1. It is hereby certified that the firm of

 (Name of Veteran-owned firm)

located at

 (Number) (Street)

 (City) (State) (Zip)

was offered an opportunity to bid on Solicitation No. <<solicitationNumber>>

in County by

 (Name of Prime Contractor’s Firm)

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Veteran-owned Firm), is either unavailable for the work/service or unable to prepare a proposal for this project for the following reason(s):

|  |
| --- |
|  |
|  |
|  |

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

|  |  |  |
| --- | --- | --- |
|  |  |  |
| **(Signature of Veteran-owned firm’s VSBE Representative)** | **(Title)** | **(Date)** |
|  |  |
| (USDVA #) | (Telephone #) |

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

3. To be completed by the prime contractor if Section 2 of this form is not completed by the veteran-owned firm.

To the best of my knowledge and belief, said Veteran-Owned Small Business Enterprise is either unavailable for the work/service for this project, is unable to prepare a proposal, or did not respond to a request for a price proposal and has not completed the above portion of this submittal.

|  |  |  |
| --- | --- | --- |
|  |  |  |
| (Signature of Prime Contractor) | (Title) | (Date) |

E-2
VSBE Subcontractor Participation Statement

*Please complete and submit one form for each verified VSBE listed on E-1 within 10 Business Days of notification of apparent award.*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (prime contractor) has entered into a contract with \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (subcontractor) to provide services in connection with the Solicitation described below.

|  |  |
| --- | --- |
| Prime Contractor (Firm Name, Address, Phone):  | Project Description: <<projectDescription>> |
| Project Number: <<Solicitation Number>> | Total Contract Amount: $ |
| Name of Veteran-Owned Firm:Address: | DUNS Number: |
| FEIN: |
| Work to Be Performed: |
| Percentage of Total Contract Amount: | Total Subcontract Amount: $ |

The undersigned Prime Contractor and Subcontractor hereby certify and agree that they have fully complied with the State Veteran-Owned Small Business Enterprise law, State Finance and Procurement Article, Title 14, Subtitle 6, Annotated Code of Maryland.

|  |  |  |
| --- | --- | --- |
| **Prime Contractor** |  | **Subcontractor** |
| Printed Name:  |  | Printed Name:  |
| *Printed Name* |  | *Printed Name* |
| Title:  |  | Title:  |
| *Printed Title* |  | *Title* |
| By: |  | By: |
| *Signature of Authorized Representative* |  | *Signature of Authorized Representative* |
| Date: |  | Date: |
| *Date* |  | *Date* |

E-3
Veterans Small Business Enterprise (VSBE) Participation
VSBE Prime Contractor Paid/Unpaid Invoice Report

|  |  |
| --- | --- |
| Report #:  | Contract #: <<solicitationNumber>> |
| Reporting Period (Month/Year): | Contracting Unit: <<issuingAgencyName>> |
| **Prime Contractor: Report is due to the TO Manager by the 15th of the month following the month the services were provided.****Note: Please number reports in sequence** | Contract Amount: |
| VSBE Subcontract Amt: |
| Project Begin Date: |
| Project End Date: |
| Services Provided: |

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

* If more than one VSBE subcontractor is used for this contract, you must use separate **Attachment E-3** forms.
* **Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):**

|  |  |  |
| --- | --- | --- |
| <<contractManagerName>> |  | <<issuingAgencyName>> |
| TO Manager |  | Contracting Unit  |
| <<contractManagerAddress>> |  |  |
| Address |  | City, State Zip |
| <<contractManageremail>> |  | <<contractManagerPhoneNumber>> |
| Email |  | Phone Number |
|  |  |  |
| Contractor Signature (Required) |  | Date |

E-4
Veterans Small Business Enterprise (VSBE) Participation
VSBE Subcontractor Paid/Unpaid Invoice Report

|  |  |
| --- | --- |
| Report #:  | Contract #: <<solicitationNumber>> |
| Reporting Period (Month/Year): | Contracting Unit: <<issuingAgencyName>> |
| **Report is due by the 15th of the month following the month the services were performed.** | VSBE Subcontract Amt: |
| Project Begin Date: |
| Project End Date: |
| Services Provided: |

|  |
| --- |
| VSBE Subcontractor Name: |
| Department of Veterans Affairs Certification #:  |
| Contact Person:  |
| Address:  |
| City:  | State:  | ZIP:  |
| Phone:  | FAX:  | E-mail:  |
| **Subcontractor Services Provided:**  |
| **List all payments received from Prime Contractor during reporting period indicated above.** | **List dates and amounts of any unpaid invoices over 30 days old.** |
|  | **Invoice Amount** | **Date** |  | **Invoice Amount** | **Date** |
| 1. |  |  | 1. |  |  |
| 2. |  |  | 2. |  |  |
| 3. |  |  | 3. |  |  |
| 4. |  |  | 4. |  |  |
| **Total Dollars Paid: $**  | **Total Dollars Unpaid: $**  |
| Prime Contractor:  | Contract Person:  |

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

|  |  |  |
| --- | --- | --- |
| <<contractManagerName>> |  | <<issuingAgencyName>> |
| TO Manager |  | Contracting Unit  |
| <<contractManagerAddress>> |  |  |
| Address |  | City, State Zip |
| <<contractManageremail>> |  | <<contractManagerPhoneNumber>> |
| Email |  | Phone Number |
|  |  |  |
| Subcontractor Signature (Required) |  | Date |

1. Maryland Living Wage Affidavit of Agreement for Service Contracts

\*\*If this solicitation does not meet the living wage requirements (see item A below) **delete the content under this heading and the Living Wage Affidavit form,** leavingonly the following sentence for this Attachment: \*\*

This solicitation does not require a Living Wage Affidavit of Agreement.

\*\*If this solicitation requires living wage affidavit of agreement, enter the following language for these Attachments: \*\*

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

B. The Living Wage Law does not apply to:

(1) A Contractor who:

(a) Has a State contract for services valued at less than $100,000, or

(b) Employs 10 or fewer employees and has a State contract for services valued at less than $500,000.

(2) A subcontractor who:

(a) Performs work on a State contract for services valued at less than $100,000,

(b) Employs 10 or fewer employees and performs work on a State contract for services valued at less than $500,000, or

(c) Performs work for a Contractor not covered by the Living Wage Law as defined in B(1)(b) above, or B (3) or C below.

(3) Service contracts for the following:

(a) Services with a Public Service Company;

(b) Services with a nonprofit organization;

(c) Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement (“Unit”); or

(d) Services between a Unit and a County or Baltimore City.

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

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

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

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

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

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

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

J. Information pertaining to reporting obligations may be found by going to the Division of Labor and Industry website <http://www.dllr.state.md.us/labor/prev/livingwage.shmtl> and clicking on Living Wage for State Service Contracts.

F-1 Maryland Living Wage Requirements Affidavit of Agreement

Contract No. <<solicitationNumber>>

Name of Contractor:

Address:

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

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

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

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

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

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

[ ] \_\_ The employee(s) proposed to work on the contract will spend less than one-half of the employee’s time during any work week on the contract

[ ] \_ The employee(s) proposed to work on the contract is 17 years of age or younger during the duration of the contract; or

[ ] \_ The employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

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

Name of Authorized Representative:

Signature of Authorized Representative : \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title:

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

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

**SUBMIT THIS AFFIDAVIT WITH PROPOSAL**

1. Federal Funds Attachments

\*\* If this solicitation does not include federal funding (see TORFP Section 4.10), enter only the following sentence for this Attachment and delete the rest of these “G” Attachments. \*\*

This solicitation does not include a Federal Funds Attachment.

\*\* If this solicitation does include federal funding (see TORFP Section 4.10), enter the language below for these Attachments. Note that the TO Procurement Officer should check to see if there are any additional requirements or restrictions relative to the applicable federal funding source, and should incorporate such additions into the solicitation as necessary. \*\*

A Summary of Certain Federal Fund Requirements and Restrictions

1. Form and rule enclosed: 18 U.S.C. 1913 and Section 1352 of P.L. 101-121 require that all prospective and present sub-grantees (this includes all levels of funding) who receive more than $100,000 in federal funds must submit the form “Certification Against Lobbying.” It assures, generally, that recipients will not lobby federal entities with federal funds, and that, as is required, they will disclose other lobbying on form SF- LLL.

2. Form and instructions enclosed: “Form LLL, Disclosure of Lobbying Activities” must be submitted by those receiving more than $100,000 in federal funds, to disclose any lobbying of federal entities (a) with profits from federal contracts or (b) funded with nonfederal funds.

3. Form and summary of Act enclosed: Sub-recipients of federal funds on any level must complete a “Certification Regarding Environmental Tobacco Smoke,” required by Public Law 103-227, the Pro-Children Act of 1994. Such law prohibits smoking in any portion of any indoor facility owned or leased or contracted for regular provision of health, day care, early childhood development, education, or library services for children under the age of 18. Such language must be included in the conditions of award (they are included in the certification, which may be part of such conditions.) This does not apply to those solely receiving Medicaid or Medicare, or facilities where WIC coupons are redeemed.

4. In addition, federal law requires that:

A) Title 2 of the Code of Federal Regulations (CFR) 200, specifically Subpart D, requires that grantees (both recipients and sub-recipients) which expend a total of $750,000 in federal assistance shall have a single or program-specific audit conducted for that year in accordance with the provisions of the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156 and Title 2 CFR 200, Subpart D. All sub-grantee audit reports, performed in compliance with Title 2 CFR 200 shall be forwarded within 30 days of report issuance to the TO Manager.

B) All sub-recipients of federal funds comply with Sections 503 and 504 of the Rehabilitation Act of 1973, the conditions of which are summarized in item (C).

C) Recipients of $10,000 or more (on any level) must include in their contract language the requirements of Sections 503 (language specified) and 504 referenced in item (B).

Section 503 of the Rehabilitation Act of 1973, as amended, requires recipients to take affirmative action to employ and advance in employment qualified disabled people. An affirmative action program must be prepared and maintained by all contractors with 50 or more employees and one or more federal contracts of $50,000 or more.

This clause must appear in subcontracts of $10,000 or more:

1) The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

2) The contractor agrees to comply with the rules, regulations, and relevant orders of the secretary of labor issued pursuant to the act.

3) In the event of the contractor’s non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the secretary of labor issued pursuant to the act.

4) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the director, provided by or through the contracting office. Such notices shall state the contractor’s obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

5) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

6) The contractor will include the provisions of this clause in every subcontract or purchase order of $10,000 or more unless exempted by rules, regulations, or orders of the [federal] secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 791 et seq.) prohibits discrimination on the basis of handicap in all federally assisted programs and activities. It requires the analysis and making of any changes needed in three general areas of operation- programs, activities, and facilities and employment. It states, among other things, that:

*Grantees that provide health ... services should undertake tasks such as ensuring emergency treatment for the hearing impaired and making certain that persons with impaired sensory or speaking skills are not denied effective notice with regard to benefits, services, and waivers of rights or consents to treatments.*

D) All sub-recipients comply with Title VI of the Civil Rights Act of 1964 that they must not discriminate in participation by race, color, or national origin.

E) All sub-recipients of federal funds from SAMHSA (Substance Abuse and Mental Health Services Administration) or NIH (National Institute of Health) are prohibited from paying any direct salary at a rate more than Executive Level II of the Federal Executive pay scale, per year. (This includes, but is not limited to, sub-recipients of the Substance Abuse Prevention and Treatment and the Community Mental Health Block Grants and NIH research grants.)

F) There may be no discrimination on the basis of age, according to the requirements of the Age Discrimination Act of 1975.

G) For any education program, as required by Title IX of the Education Amendments of 1972, there may be no discrimination on the basis of sex.

H) For research projects, a form for Protection of Human Subjects (Assurance/ Certification/ Declaration) should be completed by each level funded, assuring that either: (1) there are no human subjects involved, or (2) an Institutional Review Board (IRB) has given its formal approval before human subjects are involved in research. [This is normally performed during the application process rather than after the award is made, as with other assurances and certifications.]

I) In addition, there are conditions, requirements, and restrictions which apply only to specific sources of federal funding. These should be included in your grant/contract documents when applicable.

G-1
CERTIFICATION REGARDING LOBBYING

**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

|  |  |
| --- | --- |
| Award No.<<solicitationNumber>> | Organizational Entry |
| Name and Title of Official Signing for Organizational Entry | Telephone No. Of Signing Official |
| Signature of Above Official | Date Signed |

G-2
DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

|  |  |  |
| --- | --- | --- |
| **1. Type of Federal Action:**a. Contractb. Grantc. Cooperative Agreementd. Loane. Loan guaranteef. Loan insurance | **2. Status of Federal Action:**a. Bid/offer/applicationb. Initial awardc. Post-award | **3. Report Type:**a. Initial filingb. Material changeFor Material Change Only:Year \_\_\_\_\_\_ quarter \_\_\_\_\_\_\_Date of last report \_\_\_\_\_\_\_\_\_ |
| **4. Name and Address of Reporting Entity:**□ Prime □ Subawardee Tier \_\_\_\_\_\_, if known:Congressional District*, if known*: | **5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:**Congressional District*, if known*: |
| **6. Federal Department/Agency:** | **7. Federal Program Name/Description:**CFDA Number*, if applicable*: \_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **8. Federal Action Number, if known:** | **9. Award Amount,** *if known:*$ |
| **10. a. Name and Address of Lobbying Registrant***(if individual, last name, first name, MI):* | **b. Individuals Performing Services** *(including address if different from No. 10a) (last name, first name, MI):* |
| **11. Amount of Payment** *(check all that apply)*$\_\_\_\_\_\_\_\_\_\_\_\_ □ actual □ planned | **13. Type of Payment** *(check all that apply)* □ a. retainer □ b. one-time □ c. commission □ d. contingent fee □ e. deferred □ f. other; specify: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **12. Form of Payment** *(check all that apply)* □ a. cash □ b. in-kind, specify:  nature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ value: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:**(attach Continuation Sheet(s) SF-LLLA, if necessary) |
| **15. Continuation Sheet(s) SF-LLLA attached:**  □ Yes □ No |
| 16. Information requested through this form is authorized by title 31 U.S.C. Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than$10,000 and not more than $100,000 for each such failure. | Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Telephone No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Federal Use Only** | Authorized for Local ReproductionStandard Form LLL (Rev. 7-97) |

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether sub-awardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or sub-award recipient. Identify the tier of the sub-awardee, e.g., the first sub-awardee of the prime is the 1st tier. Sub-awards include but are not limited to subcontracts, sub-grants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Sub-awardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

11. (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

12. The certifying official shall sign and date the form and print his/her name, title, and telephone number.

|  |
| --- |
| According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503. |

G-3
CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103-227, also known as the Pro Children Act of 1994, Part C Environmental Tobacco Smoke, requires that smoking not be permitted in any portion of any indoor facility owned, or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children’s services that are provided in indoor facilities that are constructed, operated or maintained with such federal funds. The law does not apply to children’s services provided in private residences, portions of facilities used for inpatient drug or alcohol treatment, service providers whose sole sources of applicable federal funds is Medicare or Medicaid, or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing this certification, the Offeror/contractor (for acquisitions) or applicant/grantee (for grants) certifies that the submitting organization will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

The submitting organization further agrees that it will require the language of this certification be included in any sub-awards which contain provisions for children’s services and that all sub-recipients shall certify accordingly.

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

Signature of Authorized Certifying Individual

1. Conflict of Interest Affidavit and Disclosure

\*\* If this solicitation **does not** require a Conflict of Interest Affidavit and Disclosure (see TORFP Section 4.11), enter only the following sentence for this Attachment and delete the rest. \*\*

This solicitation does not require a Conflict of Interest Affidavit and Disclosure.

\*\* If this solicitation does require a Conflict of Interest Affidavit and Disclosure (see TORFP Section 4.11), enter the following language for this Attachment\*\*

**\*\*DoIT recommends that a Conflict of Interest Affidavit always be included with IT procurements. \*\***

**Reference COMAR 21.05.08.08**

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

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

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

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

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

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

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

(Authorized Representative and Affiant)

**SUBMIT THIS AFFIDAVIT WITH Bid/PROPOSAL**

1. Non-Disclosure Agreement (TO Contractor)

\*\* If this solicitation **does not** require a Non-Disclosure Agreement (see TORFP Section 4.12.2), enter only the following sentence for this Attachment and delete the rest. As mentioned in 4.12, NDAs are strongly recommended. \*\*

This solicitation does not require a Non-Disclosure Agreement.

\*\* If this solicitation does require a Non-Disclosure Agreement (see TORFP Section 4.12.2), enter the following language for this Attachment.

Authors, please note there are TWO Non-Disclosure Agreement samples in this Template – you will need to remove one of them. The first assumes contractors have significant access to and control over State data and processes, and is typically suited to on-premise applications. The second (labeled I-3) is more appropriate for a SaaS or help-desk application where contractors have access to less information. \*\*

THIS NON-DISCLOSURE AGREEMENT (“Agreement”) is made by and between the State of Maryland (the “State”), acting by and through (<<ISSUINGAGENCYNAME>>) (the “<<typeofAgency>>”), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “TO Contractor”).

**RECITALS**

**WHEREAS**, the TO Contractor has been awarded a contract (the “TO Agreement”) following the solicitation for <<solicitationTitle>> Solicitation # <<solicitationNumber>>; and

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

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

1. Regardless of the form, format, or media on or in which the Confidential Information is provided and regardless of whether any such Confidential Information is marked as such, “Confidential Information” means (1) any and all information provided by or made available by the State to the TO Contractor in connection with the TO Agreement and (2) any and all personally identifiable information (PII) (including but not limited to personal information as defined in Md. Ann. Code, General Provisions §4-101(h)) and protected health information (PHI) that is provided by a person or entity to the TO Contractor in connection with this TO Agreement. Confidential Information includes, by way of example only, information that the TO Contractor views, takes notes from, copies (if the State agrees in writing to permit copying), possesses or is otherwise provided access to and use of by the State in relation to the TO Agreement.

2. The TO Contractor shall not, without the State’s prior written consent, copy, disclose, publish, release, transfer, disseminate, use, or allow access for any purpose or in any form, any Confidential Information except for the sole and exclusive purpose of performing under the TO Agreement. The TO Contractor shall limit access to the Confidential Information to the TO Contractor’s Personnel who have a demonstrable need to know such Confidential Information in order to perform under TO Agreement and who have agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information. The names of the TO Contractor’s Personnel are attached hereto and made a part hereof as **Attachment I-2**. TO Contractor shall update **Attachment I-2** by adding additional names (whether TO Contractor’s Personnel or a subcontractor’s personnel) as needed, from time to time.

3. If the TO Contractor intends to disseminate any portion of the Confidential Information to non-employee agents who are assisting in the TO Contractor’s performance of the TO Agreement or will otherwise have a role in performing any aspect of the TO Agreement, the TO Contractor shall first obtain the written consent of the State to any such dissemination. The State may grant, deny, or condition any such consent, as it may deem appropriate in its sole and absolute subjective discretion.

4. The TO Contractor hereby agrees to hold the Confidential Information in trust and in strictest confidence, adopt or establish operating procedures and physical security measures, and take all other measures necessary to protect the Confidential Information from inadvertent release or disclosure to unauthorized third parties and to prevent all or any portion of the Confidential Information from falling into the public domain or into the possession of persons not bound to maintain the confidentiality of the Confidential Information.

5. The TO Contractor shall promptly advise the State in writing if it learns of any unauthorized use, misappropriation, or disclosure of the Confidential Information by any of the TO Contractor’s Personnel or the TO Contractor’s former Personnel. TO Contractor shall, at its own expense, cooperate with the State in seeking injunctive or other equitable relief against any such person(s).

6. The TO Contractor shall, at its own expense, return to the <<typeofAgency>> all Confidential Information in its care, custody, control or possession upon request of the <<typeofAgency>> or on termination of the TO Agreement.

7. A breach of this Agreement by the TO Contractor or the TO Contractor’s Personnel shall constitute a breach of the TO Agreement between the TO Contractor and the State.

8. TO Contractor acknowledges that any failure by the TO Contractor or the TO Contractor’s Personnel to abide by the terms and conditions of use of the Confidential Information may cause irreparable harm to the State and that monetary damages may be inadequate to compensate the State for such breach. Accordingly, the TO Contractor agrees that the State may obtain an injunction to prevent the disclosure, copying or improper use of the Confidential Information. The TO Contractor consents to personal jurisdiction in the Maryland State Courts. The State’s rights and remedies hereunder are cumulative and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and seek damages from the TO Contractor and the TO Contractor’s Personnel for a failure to comply with the requirements of this Agreement. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys’ fees and disbursements) that are attributable, in whole or in part to any failure by the TO Contractor or any of the TO Contractor’s Personnel to comply with the requirements of this Agreement, the TO Contractor shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and costs.

9. TO Contractor and each of the TO Contractor’s Personnel who receive or have access to any Confidential Information shall execute a copy of an agreement substantially similar to this Agreement, in no event less restrictive than as set forth in this Agreement, and the TO Contractor shall provide originals of such executed Agreements to the State.

10. The parties further agree that:

a. This Agreement shall be governed by the laws of the State of Maryland;

b. The rights and obligations of the TO Contractor under this Agreement may not be assigned or delegated, by operation of law or otherwise, without the prior written consent of the State;

c. The State makes no representations or warranties as to the accuracy or completeness of any Confidential Information;

d. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement;

e. Signatures exchanged by facsimile are effective for all purposes hereunder to the same extent as original signatures;

f. The Recitals are not merely prefatory but are an integral part hereof; and

g. The effective date of this Agreement shall be the same as the effective date of the TO Agreement entered into by the parties.

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

|  |  |  |
| --- | --- | --- |
| TO Contractor:  |  | <<ISSUINGAGENCYACRONYM>> |
| By:(seal) |  | By:  |
| Printed Name:  |  | Printed Name: |
| Title:  |  | Title: |
| Date: |  | Date: |

I-2 NON-DISCLOSURE AGREEMENT

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

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

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I-3 NON-DISCLOSURE AGREEMENT

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

I AFFIRM THAT:

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

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

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

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

BY: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Signature)

TITLE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Authorized Representative and Affiant)

I-3 ALTERNATE NON-DISCLOSURE AGREEMENT (FOR SAAS)

\*\*ALTERNATE NDA format. This NDA format is more appropriate for SaaS solicitations where TO Contractor Personnel are providing a limited set of services. \*\*

THIS NON-DISCLOSURE AGREEMENT (“Agreement”) is made by and between the State of Maryland (the “State”), acting by and through (<<ISSUINGAGENCYNAME>>) (the “<<typeofAgency>>”), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “TO Contractor”).

**RECITALS**

**WHEREAS**, the TO Contractor has been awarded a contract (the “TO Agreement”) following the solicitation for <<solicitationTitle>> Solicitation # <<solicitationNumber>>; and

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

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

1. Regardless of the form, format, or media on or in which the Confidential Information is provided and regardless of whether any such Confidential Information is marked as such, Confidential Information means (1) any and all information provided by or made available by the State to the TO Contractor in connection with the TO Agreement and (2) any and all personally identifiable information (PII) (including but not limited to personal information as defined in Md. Ann. Code, State Govt. § 10-1301(c)) and protected health information (PHI) as defined in 45 CFR 160.103 that is provided by a person or entity to the TO Contractor in connection with this TO Agreement. Confidential Information includes, by way of example only, information that the TO Contractor views, takes notes from, copies (if the State agrees in writing to permit copying), possesses or is otherwise provided access to and use of by the State in relation to the TO Agreement.

2. TO Contractor shall not, without the State’s prior written consent, copy, disclose, publish, release, transfer, disseminate, use, or allow access for any purpose or in any form, any Confidential Information except for the sole and exclusive purpose of performing under the TO Agreement. TO Contractor shall limit access to the Confidential Information to the TO Contractor’s Personnel who: (a) have a demonstrable need to know such Confidential Information in order to perform under the TO Agreement, (b) to whom it has advised of the terms of this Agreement, and (c) who have agreed in writing to be bound by the terms of this Agreement. TO Contractor shall cause the TO Contractor’s Personnel to whom Confidential Information is disclosed to comply with the terms of this Agreement, and it shall be responsible for such compliance and fully liable for any failure to comply.

3. If the TO Contractor intends to disseminate any portion of the Confidential Information to non-employee agents who are assisting in the TO Contractor’s performance of the TO Agreement or who will otherwise have a role in performing any aspect of the TO Agreement, the TO Contractor shall first obtain the written consent of the State to any such dissemination. The State may grant, deny, or condition any such consent, as it may deem appropriate in its sole and absolute subjective discretion.

4. TO Contractor hereby agrees to hold the Confidential Information in trust and in strictest confidence, to adopt or establish operating procedures and physical security measures, and to take all other measures necessary to protect the Confidential Information from inadvertent release or disclosure to unauthorized third parties and to prevent all or any portion of the Confidential Information from falling into the public domain or into the possession of persons not bound to maintain the confidentiality of the Confidential Information.

5. TO Contractor shall promptly advise the State in writing if it learns of any unauthorized use, misappropriation, or disclosure of the Confidential Information by any of the TO Contractor’s Personnel or the TO Contractor’s former Personnel. TO Contractor shall, at its own expense, cooperate with the State in seeking injunctive or other equitable relief against any such person(s).

6. TO Contractor shall, at its own expense, return to the <<typeofAgency>> all Confidential Information in its care, custody, control or possession upon request of the <<typeofAgency>> or on termination of the TO Agreement.

7. A breach of this Agreement by the TO Contractor or by the TO Contractor’s Personnel shall constitute a breach of the TO Agreement between the TO Contractor and the State.

8. TO Contractor acknowledges that any failure by the TO Contractor or the TO Contractor’s Personnel to abide by the terms and conditions of use of the Confidential Information may cause irreparable harm to the State and that monetary damages may be inadequate to compensate the State for such breach. Accordingly, the TO Contractor agrees that the State may obtain an injunction to prevent the disclosure, copying or improper use of the Confidential Information. The TO Contractor consents to personal jurisdiction in the Maryland State Courts. The State’s rights and remedies hereunder are cumulative and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and to seek damages from the TO Contractor and the TO Contractor’s Personnel for a failure to comply with the requirements of this Agreement. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys’ fees and disbursements) that are attributable, in whole or in part to any failure by the TO Contractor or any of the TO Contractor’s Personnel to comply with the requirements of this Agreement, the TO Contractor shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and costs.

9. TO Contractor and each of the TO Contractor’s Personnel who receive or have access to any Confidential Information shall execute a copy of an agreement substantially similar to this Agreement, in no event less restrictive than as set forth in this Agreement, and the TO Contractor shall provide originals of such executed Agreements to the State.

10. The parties further agree that:

a. This Agreement shall be governed by the laws of the State of Maryland;

b. The rights and obligations of the TO Contractor under this Agreement may not be assigned or delegated, by operation of law or otherwise, without the prior written consent of the State;

c. The State makes no representations or warranties as to the accuracy or completeness of any Confidential Information;

d. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement;

e. Signatures exchanged by facsimile are effective for all purposes hereunder to the same extent as original signatures;

f. The Recitals are not merely prefatory but are an integral part hereof; and

g. The effective date of this Agreement shall be the same as the effective date of the TO Agreement entered into by the parties.

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

TO Contractor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ DoIT

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(SEAL) By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

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

1. HIPAA Business Associate Agreement

\*\* If this solicitation does not require a HIPAA Business Associate Agreement (TORFP see Section 4.13), enter only the following sentence for this Attachment and delete the rest\*\*

This solicitation does not require a HIPAA Business Associate Agreement.

\*\* If this solicitation does require a HIPAA Business Associate Agreement (see TORFP Section 4.13, enter the following language for this Attachment. \*\*

J-1 BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the “Agreement”) is made by and between the <<issuingAgencyName>> (the “<<typeofAgency>>”) and (offerorCompanyName) (hereinafter known as “Business Associate”). Covered Entity and Business Associate shall collectively be known herein as the “Parties.”

WHEREAS, Covered Entity has a business relationship with Business Associate that is memorialized in a separate agreement (the “Underlying Agreement”) pursuant to which Business Associate may be considered a “business associate” of Covered Entity as defined in the Health Insurance Portability and Accountability Act of 1996 including all pertinent privacy regulations (45 C.F.R. Parts 160 and 164) and security regulations (45 C.F.R. Parts 160, 162, and 164), as amended from time to time, issued by the U.S. Department of Health and Human Services as either have been amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), as Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (collectively, “HIPAA”); and

WHEREAS, the nature of the contractual relationship between Covered Entity and Business Associate may involve the exchange of Protected Health Information (“PHI”) as that term is defined under HIPAA; and

WHEREAS, for good and lawful consideration as set forth in the Underlying Agreement, Covered Entity and Business Associate enter into this Agreement for the purpose of ensuring compliance with the requirements of HIPAA and the Maryland Confidentiality of Medical Records Act (Md. Ann. Code, Health-General §§ 4-301 et seq.) (“MCMRA”); and

WHEREAS, this Agreement supersedes and replaces any and all Business Associate Agreements the Covered Entity and Business Associate may have entered into prior to the date hereof;

NOW THEREFORE, the premises having been considered and with acknowledgment of the mutual promises and of other good and valuable consideration herein contained, the Parties, intending to be legally bound, hereby agree as follows:

**I. DEFINITIONS.**

A. Catch-all definition. The following terms used in this Agreement, whether capitalized or not, shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, subcontractor, Unsecured Protected Health Information, and Use.

B. Specific definitions:

1. **Business Associate.** “Business Associate” shall generally have the same meaning as the term “business associate” at 45 C.F.R. 160.103, and in reference to the party to this agreement, shall mean (offerorCompanyName).

2. **Covered Entity.** “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 C.F.R. § 160.103, and in reference to the party to this agreement, shall mean <<issuingAgencyName>>.

3. **HIPAA Rules.** “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Parts 160 and Part 164.

4. **Protected Health Information (“PHI”).** Protected Health Information or “PHI” shall generally have the same meaning as the term “protected health information” at 45 C.F.R. § 160.103.

**II. PERMITTED USES AND DISCLOSURES OF PHI BY BUSINESS ASSOCIATE.**

A. Business Associate may only use or disclose PHI as necessary to perform the services set forth in the Underlying Agreement or as required by law.

B. Business Associate agrees to make uses, disclosures, and requests for PHI consistent with Covered Entity’s policies and procedures regarding minimum necessary use of PHI.

C. Business Associate may not use or disclose PHI in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered Entity.

D. Business Associate may, if directed to do so in writing by Covered Entity, create a limited data set, as defined at 45 CFR 164.514(e)(2), for use in public health, research, or health care operations. Any such limited data sets shall omit any of the identifying information listed in 45 CFR § 164.514(e)(2). Business Associate will enter into a valid, HIPAA-compliant Data Use Agreement, as described in 45 CFR § 164.514(e)(4), with the limited data set recipient. Business Associate will report any material breach or violation of the data use agreement to Covered Entity immediately after it becomes aware of any such material breach or violation.

E. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration, or legal responsibilities of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

F. The Business Associate shall not directly or indirectly receive remuneration in exchange for any PHI of an Individual pursuant to §§13405(d)(1) and (2) of the HITECH Act. This prohibition does not apply to the State’s payment of Business Associate for its performance pursuant to the Underlying Agreement.

G. The Business Associate shall comply with the limitations on marketing and fundraising communications provided in §13406 of the HITECH Act in connection with any PHI of Individuals.

**III. DUTIES OF BUSINESS ASSOCIATE RELATIVE TO PHI.**

A. Business Associate agrees that it will not use or disclose PHI other than as permitted or required by the Agreement or as Required by Law.

B. Business Associate agrees to use appropriate administrative, technical and physical safeguards to protect the privacy of PHI.

C. Business Associate agrees to use appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI, to prevent use or disclosure of PHI other than as provided for by the Agreement.

D1. Business Associate agrees to Report to Covered Entity any use or disclosure of PHI not provided for by the Agreement of which it becomes aware, including breaches of unsecured PHI as required by 45 C.F.R. § 164.410, and any Security Incident of which it becomes aware without reasonable delay, and in no case later than fifteen calendar days after the use or disclosure;

2. If the use or disclosure amounts to a breach of unsecured PHI, the Business Associate shall ensure its report:

a. Is made to Covered Entity without unreasonable delay and in no case later than fifteen (15) calendar days after the incident constituting the Breach is first known, except where a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security. For purposes of clarity for this Section III.D.1, Business Associate must notify Covered Entity of an incident involving the acquisition, access, use or disclosure of PHI in a manner not permitted under 45 C.F.R. Part E within fifteen (15) calendar days after an incident even if Business Associate has not conclusively determined within that time that the incident constitutes a Breach as defined by HIPAA;

b. Includes the names of the Individuals whose Unsecured PHI has been, or is reasonably believed to have been, the subject of a Breach;

c. Is in substantially the same form as **ATTACHMENT J-1** attached hereto; and

d. Includes a draft letter for the Covered Entity to utilize to notify the affected Individuals that their Unsecured PHI has been, or is reasonably believed to have been, the subject of a Breach that includes, to the extent possible:

i. A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;

ii. A description of the types of Unsecured PHI that were involved in the Breach (such as full name, Social Security number, date of birth, home address, account number, disability code, or other types of information that were involved);

iii. Any steps the affected Individuals should take to protect themselves from potential harm resulting from the Breach;

iv. A brief description of what the Covered Entity and Business Associate are doing to investigate the Breach, mitigate losses, and protect against any further Breaches; and

v. Contact procedures for the affected Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, website, or postal address.

e. To the extent permitted by the Underlying Agreement, Business Associate may use agents and subcontractors. In accordance with 45 C.F.R. §§ 164.502(e)(1)(ii) and 164.308(b)(2) shall ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information, Business Associate must enter into Business Associate Agreements with subcontractors as required by HIPAA;

f. Business Associate agrees it will make available PHI in a designated record set to the Covered Entity, or, as directed by the Covered Entity, to an individual, as necessary to satisfy Covered Entity’s obligations under 45 C.F.R. § 164.524, including, if requested, a copy in electronic format;

g. Business Associate agrees it will make any amendment(s) to PHI in a designated record set as directed or agreed to by the Covered Entity pursuant to 45 C.F.R. § 164.526, or take other measures as necessary to satisfy Covered Entity’s obligations under 45 C.F.R. § 164.526;

h. Business Associate agrees to maintain and make available the information required to provide an accounting of disclosures to the Covered Entity or, as directed by the Covered Entity, to an individual, as necessary to satisfy Covered Entity’s obligations under 45 C.F.R. § 164.528;

i. To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s);

j. Business Associate agrees to make its internal practices, books, and records, including PHI, available to the Covered Entity and/or the Secretary for purposes of determining compliance with the HIPAA Rules.

k. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

**IV. TERM AND TERMINATION**

A. Term. The Term of this Agreement shall be effective as of the effective date of the TO AGreement entered into following the solicitation for <<solicitationTitle>>, Solicitation # <<solicitationNumber>>, and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or the PHI created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, in accordance with the termination provisions in this Section IV, or on the date the Covered Entity terminates for cause as authorized in paragraph B of this Section, whichever is sooner. If it is impossible to return or destroy all of the PHI provided by Covered Entity to Business Associate, or the PHI created or received by Business Associate on behalf of Covered Entity, Business Associate’s obligations under this contract shall be ongoing with respect to that information, unless and until a separate written agreement regarding that information is entered into with Covered Entity.

B. Termination for Cause. Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall:

1. Provide an opportunity for Business Associate to cure the breach or end the violation and, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, terminate this Agreement; or

2. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and Covered entity determines or reasonably believes that cure is not possible.

C. Effect of Termination.

1. Upon termination of this Agreement, for any reason, Business Associate shall return or, if agreed to by Covered Entity, destroy all PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that the Business Associate still maintains in any form. Business Associate shall retain no copies of the PHI. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.

2. Should Business Associate make an intentional or grossly negligent Breach of PHI in violation of this Agreement or HIPAA or an intentional or grossly negligent disclosure of information protected by the Maryland Confidentiality of Medical Records Act (MCMRA), Covered Entity shall have the right to immediately terminate any contract, other than this Agreement, then in force between the Parties, including the Underlying Agreement.

D. Survival. The obligations of Business Associate under this Section shall survive the termination of this agreement.

**V. CONSIDERATION**

Business Associate recognizes that the promises it has made in this Agreement shall, henceforth, be detrimentally relied upon by Covered Entity in choosing to continue or commence a business relationship with Business Associate.

**VI. REMEDIES IN EVENT OF BREACH**

Business Associate hereby recognizes that irreparable harm will result to Covered Entity, and the business of Covered Entity, in the event of breach by Business Associate of any of the covenants and assurances contained in this Agreement. As such, in the event of breach of any of the covenants and assurances contained in Sections II or III above, Covered Entity shall be entitled to enjoin and restrain Business Associate from any continued violation of Sections II or III. Furthermore, in the event of breach of Sections II or III by Business Associate, Covered Entity is entitled to reimbursement and indemnification from Business Associate for Covered Entity’s reasonable attorneys’ fees and expenses and costs that were reasonably incurred as a proximate result of Business Associate’s breach. The remedies contained in this Section VI shall be in addition to, not in lieu of, any action for damages and/or any other remedy Covered Entity may have for breach of any part of this Agreement or the Underlying Agreement or which may be available to Covered Entity at law or in equity.

**VII. MODIFICATION; AMENDMENT**

This Agreement may only be modified or amended through a writing signed by the Parties and, thus, no oral modification or amendment hereof shall be permitted. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the HIPAA rules and any other applicable law.

**VIII. INTERPRETATION OF THIS AGREEMENT IN RELATION TO OTHER AGREEMENTS BETWEEN THE PARTIES**

Should there be any conflict between the language of this Agreement and any other contract entered into between the Parties (either previous or subsequent to the date of this Agreement), the language and provisions of this Agreement shall control and prevail unless the parties specifically refer in a subsequent written agreement to this Agreement by its title and date and specifically state that the provisions of the later written agreement shall control over this Agreement.

**IX. COMPLIANCE WITH STATE LAW**

The Business Associate acknowledges that by accepting the PHI from Covered Entity, it becomes a holder of medical information under the MCMRA and is subject to the provisions of that law. If the HIPAA Privacy or Security Rules and the MCMRA conflict regarding the degree of protection provided for PHI, Business Associate shall comply with the more restrictive protection requirement.

**X. MISCELLANEOUS**

A. Ambiguity. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy and Security Rules.

B. Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

C. Notice to Covered Entity. Any notice required under this Agreement to be given Covered Entity shall be made in writing to:

\*\*Insert the name and contact information of the HIPAA contact person within the Agency or appropriate covered health care entity\*\*

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

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

Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

D. Notice to Business Associate. Any notice required under this Agreement to be given Business Associate shall be made in writing to:

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

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

Attention: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

E. Survival. Any provision of this Agreement which contemplates performance or observance subsequent to any termination or expiration of this contract shall survive termination or expiration of this Agreement and continue in full force and effect.

F. Severability. If any term contained in this Agreement is held or finally determined to be invalid, illegal, or unenforceable in any respect, in whole or in part, such term shall be severed from this Agreement, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.

G. Terms. All of the terms of this Agreement are contractual and not merely recitals and none may be amended or modified except by a writing executed by all parties hereto.

H. Priority. This Agreement supersedes and renders null and void any and all prior written or oral undertakings or agreements between the parties regarding the subject matter hereof.

IN WITNESS WHEREOF and acknowledging acceptance and agreement of the foregoing, the Parties affix their signatures hereto.

**COVERED ENTITY: BUSINESS ASSOCIATE:**

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

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

J-1
FORM OF NOTIFICATION TO COVERED ENTITY OF
BREACH OF UNSECURED PHI

This notification is made pursuant to Section III.D(3) of the Business Associate Agreement between <<issuingAgencyName>> and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Business Associate).

Business Associate hereby notifies <<issuingAgencyName>> that there has been a breach of unsecured (unencrypted) protected health information (PHI) that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the breach:

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

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

Date of the breach: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date of discovery of the breach: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Does the breach involve 500 or more individuals? Yes/No If yes, do the people live in multiple states? Yes/No

Number of individuals affected by the breach: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Names of individuals affected by the breach: (attach list)

The types of unsecured PHI that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Description of what Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches:

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

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

Contact information to ask questions or learn additional information:

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

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

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

Phone Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Mercury Affidavit

**\*\*** If this solicitation **does not** include the procurement of products known to likely include mercury as a component (see TORFP Section 4.16), enter only the following sentence for this Attachment and delete the rest. \*\*

**For IT purchases, a Mercury Affidavit is required when any equipment is purchased by the State.**

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

\*\* If this solicitation **does** include the procurement of products known to likely include mercury as a component (see TORFP Section 4.16), enter the following language for this Attachment\*\*

K-1 Mercury Affidavit

**AUTHORIZED REPRESENTATIVE THEREBY AFFIRM THAT:**

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

**MERCURY CONTENT INFORMATION:**

The product(s) offered do not contain mercury.

OR

* The product(s) offered do contain mercury.
* In an attachment to this Mercury Affidavit:

(1) Describe the product or product component that contains mercury.

(2) Provide the amount of mercury that is contained in the product or product component. Indicate the unit of measure being used.

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

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

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

 Date Signature

Print Name:

Authorized Representative and Affiant

**SUBMIT THIS AFFIDAVIT WITH PROPOSAL**

1. Location of the Performance of Services Disclosure

\*\* If this procurement is **not** anticipated to have an estimated value of $2,000,000.00 or more (see TORFP Section 4.17), enter only the following sentence for this Attachment and delete the rest. \*\*

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

\*\* If this procurement is anticipated to have an estimated value of $2,000,000.00 or more (see TORFP Section 4.17), enter the following language for this Attachment. \*\*

**(submit with Proposal)**

Pursuant to Md. Ann. Code, State Finance and Procurement Article, § 12-111, and in conjunction with the Proposal submitted in response to Solicitation No. <<solicitationNumber>>, the following disclosures are hereby made:

1. At the time of Proposal submission, the Offeror and/or its proposed subcontractors:

\_\_\_have plans

\_\_\_have no plans

to perform any services required under the TO Agreement outside of the United States.

2. If services required under the contract are anticipated to be performed outside the United States by either the Offeror or its proposed subcontractors, the Offeror shall answer the following (attach additional pages if necessary):

a. Location(s) services will be performed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

b. Reasons why it is necessary or advantageous to perform services outside the United States:

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

The undersigned, being an authorized representative of the Offeror, hereby affirms that the contents of this disclosure are true to the best of my knowledge, information, and belief.

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

Offeror Name:

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

Name:

Title:

Please be advised that the <<typeofAgency>> may contract for services provided outside of the United States if: the services are not available in the United States; the price of services in the United States exceeds by an unreasonable amount the price of services provided outside the United States; or the quality of services in the United States is substantially less than the quality of comparably priced services provided outside the United States.

1. Task Order

CATS+ TORFP# <<solicitationNumber>> OF
MASTER CONTRACT #060B2490023

This Task Order Agreement (“TO Agreement”) is made this day of Month, 20XX by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(TO Contractor) and the STATE OF MARYLAND, <<issuingAgencyName>> (<<ISSUINGAGENCYACRONYM>> or the “<<typeofAgency>>”).

IN CONSIDERATION of the mutual promises and the covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Definitions. In this TO Agreement, the following words have the meanings indicated:

1. “Agency” means <<issuingAgencyName>>, as identified in the CATS+ TORFP # <<solicitationNumber>>.
2. “CATS+ TORFP” means the Task Order Request for Proposals # <<solicitationNumber>>, dated MONTH DAY, YEAR, including any addenda and amendments.
3. “Master Contract” means the CATS+ Master Contract between the Maryland Department of Information Technology and TO Contractor.
4. “TO Procurement Officer” means <<TO Procurement Officer>>. The <<typeofAgency>> may change the TO Procurement Officer at any time by written notice.
5. “TO Agreement” means this signed TO Agreement between <<ISSUINGAGENCYACRONYM>> and TO Contractor.
6. “TO Contractor” means the CATS+ Master Contractor awarded this TO Agreement, whose principal business address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
7. “TO Manager” means <<contractManagerName>>. The <<typeofAgency>> may change the TO Manager at any time by written notice to the TO Contractor.
8. “TO Technical Proposal” means the TO Contractor’s technical response to the CATS+ TORFP dated date of TO Technical Proposal.
9. “TO Financial Proposal” means the TO Contractor’s financial response to the CATS+ TORFP dated date of TO Financial Proposal.
10. “TO Proposal” collectively refers to the TO Technical Proposal and TO Financial Proposal.

2. Scope of Work

2.1 This TO Agreement incorporates all of the terms and conditions of the Master Contract and shall not in any way amend, conflict with or supersede the Master Contract.

2.2 The TO Contractor shall, in full satisfaction of the specific requirements of this TO Agreement, provide the services set forth in Section 3 of the CATS+ TORFP. These services shall be provided in accordance with the Master Contract, this TO Agreement, and the following Exhibits, which are attached and incorporated herein by reference. If there is any conflict among the Master Contract, this TO Agreement, and these Exhibits, the terms of the Master Contract shall govern. If there is any conflict between this TO Agreement and any of these Exhibits, the following order of precedence shall determine the prevailing provision:

The TO Agreement,

Exhibit A – CATS+ TORFP

Exhibit B – TO Technical Proposal

Exhibit C – TO Financial Proposal

2.3 The TO Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the TO Agreement. No other order, statement or conduct of the TO Procurement Officer or any other person shall be treated as a change or entitle the TO Contractor to an equitable adjustment under this Section. Except as otherwise provided in this TO Agreement, if any change under this Section causes an increase or decrease in the TO Contractor’s cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the TO Agreement price shall be made and the TO Agreement modified in writing accordingly. The TO Contractor must assert in writing its right to an adjustment under this Section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the TO Contractor shall be allowed if asserted after final payment under this TO Agreement. Failure to agree to an adjustment under this Section shall be a dispute under the Disputes clause of the Master Contract. Nothing in this Section shall excuse the TO Contractor from proceeding with the TO Agreement as changed.

3. Time for Performance

Unless terminated earlier as provided in the Master Contract, the term of this TO Agreement shall commence as of the “Effective Date” and expire on the <<xxth (xxth) >>anniversary thereof. \*\*if option periods exist add: \*\* At the sole option of the State, this TO Agreement may be extended for <<optionPeriods>> periods for a total TO Agreement period ending on Month, Day, Year.

4. Consideration and Payment

4.1 The consideration to be paid the TO Contractor shall be done so in accordance with the CATS+ TORFP and shall not exceed $\_\_\_\_\_\_\_\_\_\_\_. Any work performed by the TO Contractor in excess of the not-to-exceed ceiling amount of the TO Agreement without the prior written approval of the TO Manager is at the TO Contractor’s risk of non-payment.

4.2 Payments to the TO Contractor shall be made as outlined Section 3 of the CATS+ TORFP, but no later than thirty (30) days after the <<typeofAgency>>’s receipt of a proper invoice for services provided by the TO Contractor, acceptance by the <<typeofAgency>>of services provided by the TO Contractor, and pursuant to the conditions outlined in Section 4 of this Agreement.

4.3 Each invoice for services rendered must include the TO Contractor’s Federal Tax Identification Number which is \_\_\_\_\_\_\_\_\_\_\_\_\_. Charges for late payment of invoices other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, as from time-to-time amended, are prohibited. Invoices must be submitted to the <<typeofAgency>> TO Manager unless otherwise specified herein.

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

SIGNATURES ON NEXT PAGE

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

TO Contractor Name

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

By: Type or Print TO Contractor POC Date

Witness: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

STATE OF MARYLAND, <<ISSUINGAGENCYACRONYM>>

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

By: <<procurementOfficerName>>, TO Procurement Officer Date

Witness: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

Assistant Attorney General

1. RESERVED
2. RESERVED
3. Certification Regarding Investments in Iran

**Authority:** State Finance & Procurement, §§17-701 – 17-707, Annotated Code of Maryland [Chapter 447, Laws of 2012.]

**List:** The Investment Activities in Iran list identifies companies that the Board of Public Works has found to engage in investment activities in Iran; those companies may not participate in procurements with a public body in the State. “Engaging in investment activities in Iran” means:

A. Providing goods or services of at least $20 million in the energy sector of Iran; or

B. For financial institutions, extending credit of at least $20 million to another person for at least 45 days if the person is on the Investment Activities In Iran list and will use the credit to provide goods or services in the energy of Iran.

The Investment Activities in Iran list is located at: www.bpw.state.md.us

**Rule:** A company listed on the Investment Activities In Iran list is ineligible to bid on, submit a proposal for, or renew a contract for goods and services with a State Agency or any public body of the State. Also ineligible are any parent, successor, subunit, direct or indirect subsidiary of, or any entity under common ownership or control of, any listed company.

NOTE: This law applies only to new contracts and to contract renewals. The law does not require an Agency to terminate an existing contract with a listed company.

CERTIFICATION REGARDING INVESTMENTS IN IRAN

The undersigned certifies that, in accordance with State Finance & Procurement Article, §17-705:

(i) 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 §17-702 of State Finance & Procurement; and

(ii) it is not engaging in investment activities in Iran as described in State Finance & Procurement Article, §17-702.

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

Name of Authorized Representative: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

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

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

Appendix 1. – Abbreviations and Definitions

For purposes of this TORFP, the following abbreviations or terms have the meanings indicated below: \*\*Add to this Abbreviations and Definitions section any acronym or term unique to this solicitation and not in common use or for which there is not a single, consistent interpretation. \*\*

1. Application Program Interface (API) - Code that allows two software programs to communicate with each other
2. Acceptable Use Policy (AUP) - A written policy documenting constraints and practices that a user must agree to in order to access a private network or the Internet

\*\*Note TO Procurement Officers (TORFP authors, keep for TO Procurement Officer review but remove before release): You must require as part of the TO Technical Proposal ALL terms that a hosting provider wishes to apply to the State. An AUP is one of the names, but often there are multiple documents and also different names for these documents. Make sure you receive a copy of ALL terms regardless of what the hosting service provider names them, and include as part of the negotiation of terms for this Task Order. You will likely have to ask for these terms repeatedly, and by names other than an AUP. You may also have to ask for copies of documents or terms that are included by reference in the documents you DO receive from the hosting provider. \*\*

1. Access - The ability or the means necessary to read, write, modify, or communicate data/information or otherwise use any information system resource
2. Business Day(s) – The official working days of the week to include Monday through Friday. Official working days excluding State Holidays (see definition of “Normal State Business Hours” below).
3. COMAR – Code of Maryland Regulations available on-line at <http://www.dsd.state.md.us/COMAR/ComarHome.html>.
4. Data Breach – The unauthorized acquisition, use, modification or disclosure of State data, or other Sensitive Data
5. <<issuingAgencyName>> or (<<ISSUINGAGENCYACRONYM>> or the “<<typeofAgency>>”) \*\*Move this definition to the correct location.\*\*
6. Effective Date - The date of mutual TO Agreement execution by the parties
7. Enterprise License Agreement (ELA) – An agreement to license the entire population of an entity (employees, on-site contractors, off-site contractors) accessing a software or service for a specified period of time for a specified value.
8. Information System – A discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.
9. Information Technology (IT) – All electronic information-processing hardware and software, including: (a) maintenance; (b) telecommunications; and (c) associated consulting services
10. Key Personnel – All TO Contractor Personnel identified in the solicitation as such that are essential to the work being performed under the Task Order. See TORFP **Section 3.10**.
11. 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.
12. Minority Business Enterprise (MBE) – Any legal entity certified as defined at COMAR 21.01.02.01B (54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
13. 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 Holidays.
14. Notice to Proceed (NTP) – A written notice from the TO Procurement Officer that work under the Task Order, project or Work Order (as applicable) is to begin as of a specified date. The NTP Date is the start date of work under the Task Order, project or Work Order. Additional NTPs may be issued by either the TO Procurement Officer or the TO Manager regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date.
15. NTP Date – The date specified in a NTP for work on Task Order, project or Work Order to begin.
16. Offeror – A Master Contractor that submits a Proposal in response to this TORFP.
17. Personally Identifiable Information (PII) – Any information about an individual maintained by the State, including (1) any information that can be used to distinguish or trace an individual identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.
18. Protected Health Information (PHI) – Information that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) that identifies the individual; or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
19. Security Incident – A violation or imminent threat of violation of computer security policies, Security Measures, acceptable use policies, or standard security practices. “Imminent threat of violation” is a situation in which the organization has a factual basis for believing that a specific incident is about to occur.
20. Security or Security Measures – The technology, policy and procedures that a) protects and b) controls access to networks, systems, and data
21. Sensitive Data - Means PII;PHI; 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., St. Govt. § 10-1301(c) and information not subject to disclosure under the Public Information Act, Title 4 of the General Provisions Article; and .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
22. Service Level Agreement (SLA) - Commitment by the TO Contractor to the <<typeOfAgency>> that defines the performance standards the TO Contractor is obligated to meet. \*\*Make sure this is applicable to your TORFP\*\*
23. SLA Activation Date\*\*Make sure this is applicable to this TORFP; delete if not applicable\*\* - 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
24. Software - The object code version of computer programs licensed pursuant to this TO Agreement. Embedded code, firmware, internal code, microcode, and any other term referring to software that is necessary for proper operation is included in this definition of Software. Software includes all prior, current, and future versions of the Software and all maintenance updates and error corrections. Software also includes any upgrades, updates, bug fixes or modified versions or backup copies of the Software licensed to the State by TO Contractor or an authorized distributor.
25. Software as a Service (SaaS) - A software licensing and delivery model in which software is licensed on a subscription basis and is centrally hosted. For the purposes of this TORFP, the terms SaaS and PaaS are considered synonymous and the term SaaS will be used throughout this document
26. Solution - All Software, deliverables, services and activities necessary to fully provide and support the TORFP scope of work. This definition of Solution includes all System Documentation developed as a result of this TO Agreement. Also included are all Upgrades, patches, break/fix activities, enhancements and general maintenance and support of the Solution and its infrastructure. \*\*Remove if there is no IT component\*\*
27. State – The State of Maryland.
28. Source Code – Executable instructions for Software in its high level, human readable form which are in turn interpreted, parsed and/or compiled to be executed as part of a computing system.
29. System Availability – The period of time the Solution works as required excluding non-operational periods associated with planned maintenance. \*\*Remove if not applicable\*\*
30. System Documentation – Those materials necessary to wholly reproduce and fully operate the most current deployed version of the Solution in a manner equivalent to the original Solution including, but not limited to:
	1. Source Code: this includes source code created by the TO Contractor or subcontractor(s) and source code that is leveraged or extended by the TO Contractor for use in the Task Order.
	2. All associated rules, reports, forms, templates, scripts, data dictionaries and database functionality.
	3. All associated configuration file details needed to duplicate the run time environment as deployed in the current deployed version of the system.
	4. All associated design details, flow charts, algorithms, processes, formulas, pseudo-code, procedures, instructions, help files, programmer’s notes and other documentation.
	5. A complete list of Third Party, open source, or commercial software components and detailed configuration notes for each component necessary to reproduce the system (e.g., operating system, relational database, and rules engine software).
	6. All associated user instructions and/or training materials for business users and technical staff, including maintenance manuals, administrative guides and user how-to guides.
	7. Operating procedures
31. Task Order (TO) – The scope of work described in this TORFP.
32. TO Agreement - The contract awarded to the successful Offeror pursuant to this Task Order Request for Proposals, the form of which is attached to this TORFP as **Attachment M.**
33. TO Contractor Personnel - Employees and agents and subcontractor employees and agents performing work at the direction of the TO Contractor under the terms of the Task Order awarded from this TORFP.
34. TO Proposal – As appropriate, either or both of an Offeror’s TO Technical or TO Financial Proposal.
35. Technical Safeguards – The technology and the policy and procedures for its use that protect State Data and control access to it.
36. Third Party Software – Software and supporting documentation that:
	1. are owned by a third party, not by the State, the TO Contractor, or a subcontractor,
	2. are included in, or necessary or helpful to the operation, maintenance, support or modification of the Solution; and
	3. were specifically identified and listed as Third Party Software in the Proposal.
37. Total Proposal Price - The Offeror’s total proposed price for services in response to this solicitation, included in the TO Financial Proposal with **Attachment B** – TO Financial Proposal Form, and used in the financial evaluation of Proposals (see TORFP **Section 5.5**).
38. Upgrade - A new release of any component of the Solution containing major new features, functionality and/or performance improvements. \*\*This definition is appropriate only for SaaS. For non-SaaS, authors must specify COTS-only portions for this definition. \*\*
39. Veteran-owned Small Business Enterprise (VSBE) – A business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.
40. Work Order\*\*Remove if Work Orders not used\*\*– A subset of work authorized by the TO Manager performed under the general scope of this TORFP, which is defined in advance of TO Contractor fulfillment, and which may not require a TO Agreement modification. Except as otherwise provided, any reference to the Task Order shall be deemed to include reference to a Work Order.

Appendix 2. – Offeror Information Sheet

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

Appendix 3. Criminal Background Check Affidavit

\*\*If a Criminal Background Check Affidavit is not required, delete the text below and the heading. Renumber all subsequent Appendices. Delete associated reference to this Appendix in Table 1 of Section 7.

If a Criminal Background Check Affidavit is required, delete these instructions.\*\*

AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the \_\_\_\_\_\_\_\_\_(Title)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and the duly authorized representative of \_\_\_(Master Contractor)\_\_\_\_\_\_\_ and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

I hereby affirm that \_\_\_\_(Master Contractor)\_\_\_\_\_\_\_\_ has complied with Section 2.4, Security Requirements of the Department of Information Technology’s Consulting Technical Services Master Contract Number 060B2490023 (CATS+) hereto as Exhibit A.

I hereby affirm that the \_\_\_\_(Master Contractor)\_\_\_\_\_\_\_\_ has provided Maryland Transportation Authority with a summary of the security clearance results for all of the candidates that will be working on Task Order MICROSOFT DYNAMICS SL SOFTWARE TECHNICAL AND USER SUPPORT <<solicitationNumber>> and all of these candidates have successfully passed all of the background checks required under Section 2.4.3.2 of the CATS + Master Contract. Master Contractors hereby agrees to provide security clearance results for any additional candidates at least seven (7) days prior to the date the candidate commences work on this Task Order.

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.

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

Master Contractor

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

Typed Name

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

Signature

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

Date

Appendix <<laborResumeAppendixNumber>>. Labor Classification Personnel Resume Summary

\*\*If a Resume Form is not required, delete the text below and the heading. Renumber all subsequent Appendices. Delete associated reference to this Appendix in Table 1 of Section 7.

If required, insert the appendix number on this attachment and in Table 1 of Section 7, then delete these instructions.\*\*

**INSTRUCTIONS:**

1. For each person proposed, complete one Labor Category Personnel Resume Summary to document how the proposed person meets each of the minimum requirements.

For example: If you propose John Smith, who is your subcontractor, and you believe he meets the requirements of the Group Facilitator, you will complete the top section of the form by entering John Smith’s name and the subcontractor’s company name. You will then complete the right side of the Group Facilitator form documenting how the individual meets each of the requirements. Where there is a time requirement such as three months experience, you must provide the dates from and to showing an amount of time that equals or exceeds mandatory time requirement; in this case, three months.

1. Additional information may be attached to each Labor Category Personnel Resume Summary that may assist a full and complete understanding of the individual being proposed.
2. For this TORFP,
3. Master Contractors shall comply with all personnel requirements defined under the Master Contract RFP 060B2490023.
4. Master Contractors shall propose <<agency, please pick one: the CATS+ Labor Category that best fits each proposed resource **OR** the resource that best fits the specified CATS+ Labor Category>>. A Master Contractor may only propose against labor categories in the Master Contractor’s CATS+ Master Contract Financial Proposal.
5. A Master Contractor’s entire TO Technical Proposal will be deemed not susceptible for award if any of the following occurs:
	1. Failure to follow these instructions.
	2. Failure to propose a resource for each job title or labor category identified in the TORFP as a required submission.
	3. Failure of any proposed resource to meet minimum requirements as listed in this TORFP and in the CATS+ Master Contract.
	4. Placing content on the **Minimum Qualifications Summary** that is not also on the **Personnel Resume Summary**. *The function of the* ***Minimum Qualifications Summary*** *is to aid the agency to make a minimum qualification determination. Information on the* ***Minimum Qualification Summary*** *must correspond with information on the* ***Personnel Resume Summary*** *and shall not contain additional content not found on the other form.*
6. Complete and sign the **Minimum Qualifications Summary (Appendix <<laborResumeAppendixNumber>>A)** and the **Personnel Resume Form (Appendix <<laborResumeAppendixNumber>>B)** for each resource proposed. Alternate resume formats are not allowed.
	1. The **Minimum Qualifications Summary** demonstrates the proposed resource meets minimum qualifications for the labor category, as defined in the CATS+ RFP Section 2.10, and any additional minimum requirements stated in this TORFP. For each minimum qualification, indicate the location on the **Personnel Resume Form (Appendix <<laborResumeAppendixNumber>>B)** demonstrating meeting this requirement.

Only include the experience relevant to meeting a particular minimum qualification. Every skill must be linked to specific work experience and/or education. The **Minimum Qualification Summary** shall not contain content that cannot be correlated to the **Personnel Resume Summary**.

Every experience listed on the **Minimum Qualifications Resume Summary** must be explicitly listed with start and stop dates. Where there is a time requirement such as three months’ experience, you must provide the dates from and to showing an amount of time that equals or exceeds the mandatory time requirement; in this case, three months. Note: Overlapping time periods shall only count once against a specific minimum qualification (i.e., a minimum qualification may not be met by listing two examples occurring during the same time period.).

* 1. The **Personnel Resume Form** provides resumes in a standard format. Additional information may be attached to each **Personnel Resume Summary** if it aids a full and complete understanding of the individual proposed.

<<laborResumeAppendixNumber>>A MINIMUM QUALIFICATIONS SUMMARY

CATS+ TORFP # <<solicitationNumber>>

*All content on this form must also be on the Personnel Resume Form.
ONLY include information on this summary that supports meeting a minimum qualification.*

|  |  |
| --- | --- |
| Proposed Individual’s Name and Company/SubContractor: | List how the proposed individual meets each requirement by including a reference to relevant entries in Form Appendix 2B  |
| LABOR CATEGORY TITLE – (INSERT CATS+ LABOR CATEGORY NAME) |
| Education: Insert the education description from the CATS+ RFP from Section 2.10 for the applicable labor category | (Identify school or institution Name; Address; Degree obtained and dates attended.) |
| Generalized Experience:Insert the generalized experience description from the CATS+ RFP from Section 2.10 for the applicable labor categoryProvide dates in the format of MM/YY to MM/YY | (Identify specific work experiences from the resume that illustrate compliance with the Master Contract RFP Labor Category requirements for Generalized Experience.)

|  |  |  |
| --- | --- | --- |
| FROM | TO | Job Title and Company |
|  |  |  |
| Match to Form Appendix 2B: | <insert cross-reference(s) to the full description on Form 5B> |

 |
| Specialized Experience: Insert the specialized experience description from the CATS+ RFP from Section 2.10 for the applicable labor categoryProvide dates in the format of MM/YY to MM/YY | (Identify specific work experiences from the resume that illustrate compliance with the Master Contract RFP Labor Category requirements for Specialized Experience.)

|  |  |  |
| --- | --- | --- |
| FROM | TO | Job Title and Company |
|  |  |  |
| Match to Form Appendix 2B | <insert cross-reference to the full description on Form 5B> |

 |
| TORFP Additional RequirementsMinimum qualifications and required certifications as defined in Section 2.1 of this TORFP.Provide dates in the format of MM/YY to MM/YY |  |

The information provided on this form for this labor class is true and correct to the best of my knowledge (Signatures must be included):

|  |  |  |
| --- | --- | --- |
| **Master Contractor Representative:** |  | **Proposed Individual:**  |
|  |  |  |
| Signature |  | Signature |
| <<signatoryFirstName>> <<signatoryLastName>> |  |  |
| Printed Name:  |  | Printed Name |
|  |  |  |
| Date |  | Date |

<<laborResumeAppendixNumber>>B. Labor Classification Personnel Resume Summary

TORFP # <<solicitationNumber>>

|  |
| --- |
| Instructions: Enter resume information in the fields below; do not submit other resume formats. Submit one resume for each proposed resource  |
| Candidate Name: |  |
| TO Contractor:  | (offerorCompanyName) |

**Education / Training**

|  |  |  |  |
| --- | --- | --- | --- |
| Institution Name / City / State | Degree / Certification | Year Completed | Field Of Study |
|  |  |  |  |
| <add lines as needed> |  |  |  |

**Relevant Work Experience**

Describe work experience relevant to the Duties / Responsibilities and Minimum Qualifications described in the TORFP. Starts with the most recent experience first; do not include non-relevant experience.

|  |  |
| --- | --- |
| [Organization][Title / Role][Period of Employment / Work][Location][Contact Person (Optional if current employer)] | Description of Work… |
| [Organization][Title / Role][Period of Employment / Work][Location][Contact Person] | Description of Work… |
| <add lines as needed> |  |

**Employment History**

List employment history, starting with the most recent employment first

|  |  |  |  |
| --- | --- | --- | --- |
| Start and End Dates | Job Title or Position | Organization Name | Reason for Leaving |
|  |  |  |  |
| <add lines as needed> |  |  |  |

Personnel Resume Summary (Continued)

\*“Candidate Relevant Experience” section must be filled out. Do not enter “see resume” as a response.

**References**

List persons the State may contact as employment references

|  |  |  |  |
| --- | --- | --- | --- |
| Reference Name | Job Title or Position | Organization Name | Telephone / E-mail |
|  |  |  |  |
| <add lines as needed> |  |  |  |

\*\*Authors: Update the Section Numbers on the left side of table\*\*

|  |  |
| --- | --- |
| Proposed Individual’s Name/Company Name: | How does the proposed individual meet each requirement? |
| LABOR CATEGORY TITLE: | *Offeror to Enter the Labor Category Name* |
| Requirement (See Section <<3.10)>> | Candidate Relevant Experience \* |
| Education:[Insert the education description from Section <<x.x>>for the applicable labor category] | Education: |
| Experience:[Insert the experience description from Section <<x.x>>for the applicable labor category] | Experience: |
| Duties:[Insert the duties description from Section <<x.x>>for the applicable labor category] | Duties: |

The information provided on this form for this labor category is true and correct to the best of my knowledge:

|  |  |  |
| --- | --- | --- |
| TO Contractor Representative: |  | Proposed Individual:  |
|  |  |  |
| Signature |  | Signature |
|  |  |  |
| Printed Name:  |  | Printed Name |
|  |  |  |
| Date |  | Date |

**Sign each Form**

Appendix <<Offeror NDA Attachment Number>>. Non-Disclosure Agreement (Offeror)

\*\*If a Non-Disclosure Agreement is not required, delete the text below and the heading. Renumber all subsequent Appendices. Delete associated reference to this Appendix in Table 1 of Section 7.

If an NDA (Offeror) is required, assign the appendix number on this attachment and in Table 1 of Section 7, then delete these instructions.\*\*

This Non-Disclosure Agreement (the “Agreement”) is made this \_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_ 20\_\_, by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as "the OFFEROR ") and the State of Maryland (hereinafter referred to as "the State").

OFFEROR warrants and represents that it intends to submit a TO Technical Proposal in response to TORFP # <<solicitationNumber>> for <<solicitationTitle>>. In order for the OFFEROR to submit a TO Technical Proposal, it will be necessary for the State to provide the OFFEROR with access to certain confidential information including, but not limited, to <<typeofNonDisclosureInfoOfferor>>. All such information provided by the State shall be considered Confidential Information regardless of the form, format, or media upon which or in which such information is contained or provided, regardless of whether it is oral, written, electronic, or any other form, and regardless of whether the information is marked as “Confidential Information”. As a condition for its receipt and access to the Confidential Information described above, the OFFEROR agrees as follows:

1. OFFEROR will not copy, disclose, publish, release, transfer, disseminate or use for any purpose in any form any Confidential Information received, except in connection with the preparation of its TO Technical Proposal.

2. Each employee or agent of the OFFEROR who receives or has access to the Confidential Information shall execute a copy of this Agreement and the OFFEROR shall provide originals of such executed Agreements to the State. Each employee or agent of the OFFEROR who signs this Agreement shall be subject to the same terms, conditions, requirements and liabilities set forth herein that are applicable to the OFFEROR.

3. OFFEROR shall return the Confidential Information to the State within five business days of the State’s Notice of recommended award. If the OFFEROR does not submit a Proposal, the OFFEROR shall return the Confidential Information to <<procurementOfficerName>>, <<ISSUINGAGENCYACRONYM>> on or before the due date for Proposals.

4. OFFEROR acknowledges that the disclosure of the Confidential Information may cause irreparable harm to the State and agrees that the State may obtain an injunction to prevent the disclosure, copying, or other impermissible use of the Confidential Information. The State’s rights and remedies hereunder are cumulative and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and/or to seek damages for the OFFEROR’S failure to comply with the requirements of this Agreement. The OFFEROR consents to personal jurisdiction in the Maryland State Courts.

5. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys’ fees and disbursements) that are attributable, in whole or in part to any failure by the OFFEROR or any employee or agent of the OFFEROR to comply with the requirements of this Agreement, OFFEROR and such employees and agents of OFFEROR shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and/or costs.

6. This Agreement shall be governed by the laws of the State of Maryland.

7. OFFEROR acknowledges that pursuant to Section 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland, a person may not willfully make a false or fraudulent statement or representation of a material fact in connection with a procurement contract. Persons making such statements are guilty of a felony and on conviction subject to a fine of not more than $20,000 and/or imprisonment not exceeding five (5) years or both. OFFEROR further acknowledges that this Agreement is a statement made in connection with a procurement contract.

8. The individual signing below warrants and represents that they are fully authorized to bind the OFFEROR to the terms and conditions specified in this Agreement. If signed below by an individual employee or agent of the OFFEROR under Section 2 of this Agreement, such individual acknowledges that a failure to comply with the requirements specified in this Agreement may result in personal liability.

|  |  |  |
| --- | --- | --- |
| Offeror:  |  |  |
| By: |  |  |
| *Signature/Seal* |  |  |
| Printed Name:  |  |  |
| Title: <<signatoryTitle>> |  |  |
| Date: |  |  |
| Address: |  |  |

Appendix <<performanceBondAppendixNumber>>. Performance Bond

\*\*Performance bonds should be used sparingly for high risk procurements.

\*\*If this solicitation does not require a Performance Bond, delete the text below and the heading. Renumber all subsequent Appendices. Delete associated reference to this Appendix in Table 1 of Section 7.

If a performance bond is required, assign the appendix number on this attachment and in Table 1 of Section 7, then delete these instructions.\*\*

Note: a Performance Bond must be submitted not later than the date of contract execution.\*\*

<<performanceBondAppendixNumber>>-1 Performance Bond

PERFORMANCE BOND

|  |  |
| --- | --- |
| Principal | Business Address of Principal |
| SuretyA corporation of the State of and authorized to do business in the State of Maryland | ObligeeSTATE OF MARYLANDBy and though the followingAdministration |
| Penal Sum of Bond (express in words and figures)Description of Task Order: <<solicitationTitle>>Task Order Number: <<solicitationNumber>> | (Date of TO Agreement), 20\_\_Date Bond Executed , 20\_\_ |

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal named above and Surety named above, are held and firmly bound unto the Obligee named above in the Penal Sum of this Performance Bond stated above, for the payment of which Penal Sum we bind ourselves, our heirs, executors, administrators, personal representatives, successors, and assigns, jointly and severally, firmly by these presents. However, where Surety is composed of corporations acting as co-sureties, we the co-sureties, bind ourselves, our successors and assigns, in such Penal Sum jointly and severally as well as severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each co-surety binds itself, jointly and severally with the Principal, for the payment of such sum as appears above its name below, but if no limit of liability is indicated, the limit of such liability shall be the full amount of the Penal Sum.

WHEREAS, Principal has entered into or will enter into a contract with the State of Maryland, by and through the Administration named above acting for the State of Maryland, which contract is described and dated as shown above, and incorporated herein by reference. The contract and all items incorporated into the contract, together with any and all changes, extensions of time, alterations, modifications, or additions to the contract or to the work to be performed thereunder or to the Plans, Specifications, and Special Provisions, or any of them, or to any other items incorporated into the contract shall hereinafter be referred as "the TO Agreement."

WHEREAS, it is one of the conditions precedent to the final award of the TO Agreement that these presents be executed.

NOW, THEREFORE, during the original term of said TO Agreement, during any extensions thereto that may be granted by the Administration, and during the guarantee and warranty period, if any, required under the TO Agreement, unless otherwise stated therein, this Performance Bond shall remain in full force and effect unless and until the following terms and conditions are met:

1. Principal shall well and truly perform the TO Agreement; and

2. Principal and Surety shall comply with the terms and conditions in this Performance Bond.

Whenever Principal shall be declared by the Administration to be in default under the TO Agreement, the Surety may, within 15 days after notice of default from the Administration, notify the Administration of its election to either promptly proceed to remedy the default or promptly proceed to complete the contract in accordance with and subject to its terms and conditions. In the event the Surety does not elect to exercise either of the above stated options, then the Administration thereupon shall have the remaining contract work completed, Surety to remain liable hereunder for all expenses of completion up to but not exceeding the penal sum stated above.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the TO Agreement or to the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligation on this Performance Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the TO Agreement or to the work or to the Specifications.

This Performance Bond shall be governed by and construed in accordance with the laws of the State of Maryland and any reference herein to Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.

IN WITNESS WHEREOF, Principal and Surety have set their hands and seals to this Performance Bond. If any individual is a signatory under the Principal heading below, then each such individual has signed below on his or her own behalf, has set forth below the name of the firm, if any, in whose name he or she is doing business, and has set forth below his or her title as a sole proprietor. If any partnership or joint venture is a signatory under the Principal heading below, then all members of each such partnership or joint venture have signed below, each member has set forth below the name of the partnership or joint venture, and each member has set forth below his or her title as a general partner, limited partner, or member of joint venture, whichever is applicable. If any corporation is a signatory under the Principal or Surety heading below, then each such corporation has caused the following: the corporation's name to be set forth below, a duly authorized representative of the corporation to affix below the corporation's seal and to attach hereto a notarized corporate resolution of power of attorney authorizing such action, and each such duly authorized representative to sign below and set forth below his or her title as a representative of the corporation. If any individual acts as a witness to any signature below, then each such individual has signed below and has set forth below his or her title as a witness. All of the above has been done as of the Date of Bond shown above.

|  |  |  |  |
| --- | --- | --- | --- |
|  |  |  | Individual Principal |
| In Presence of:Witness |  |  | (Name) |
|  | as to |  | (SEAL) |
|  |  |  |  |
|  |  |  | Co-Partnership Principal |
| In Presence of:Witness |  |  | (Name of Co-Partnership) |
|  | as to |  | (SEAL) |
|  |  |  | Partner |
|  | as to |  | (SEAL) |
|  |  |  | Partner |
|  | as to |  | (SEAL) |
|  |  |  | Partner |
|  |  |  | Corporate Principal |
| Attest: |  |  | (Name of Corporation) AFFIX CORPORATESEAL |
|  |  |  | By: |
| Corporate Secretary |  |  | President |
|  |  |  |  |
| Attest: |  |  |  |
|  |  |  |  |
| Signature |  |  | (Individual or Corporate Surety) |
| Bonding Agent’s Name: |  |  | By: |
|  |  |  | SEAL |
| Agent’s Address: |  |  | Title: |
|  |  |  |  |
|  |  |  | (Business Address of Surety) |
|  |  |  |  |
| Approved as to form and legal sufficiency this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_ |  |  |  |
| Assistant Attorney General |  |  |  |

Appendix <<paymentBondAppendixNumber>>. Payment Bond

\*\*If this solicitation does not require a Payment Bond, delete the text below and the heading. Renumber all subsequent Appendices. Delete associated reference to this Appendix in Table 1 of Section 7.

If a Payment Bondis required, assign the appendix number on this attachment and in Table 1 of Section 7, then delete these instructions.\*\*

<<paymentBondAppendixNumber>>-1 PAYMENT BOND

|  |  |
| --- | --- |
| Principal | Business Address of Principal |
| SuretyA corporation of the State of and authorized to do business in the State of Maryland | ObligeeSTATE OF MARYLANDBy and though the followingAdministration |
| Penal Sum of Bond (express in words and figures)Description of Task Order: <<solicitationTitle>>Task Order Number: <<solicitationNumber>> | (Date of TO Agreement), 20\_\_Date Bond Executed , 20\_\_ |

KNOW ALL MEN BY THESE PRESENTS, That we, the Principal named above and Surety named above, being authorized to do business in Maryland, and having business address as shown above, are held and firmly bound unto the Obligee named above, for the use and benefit of claimants as hereinafter defined, in the Penal Sum of this Payment Bond stated above, for the payment of which Penal Sum we bind ourselves, our heirs, executors, administrators, personal representatives, successors, and assigns, jointly and severally, firmly by these co-sureties, bind ourselves, our successors and assigns, in such Penal Sum jointly and severally as well as severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each co-surety binds itself, jointly and severally with the Principal, for the payment of such sum as appears above its name below, but if no limit of liability is indicated, the limit of such liability shall be the full amount of the Penal Sum.

WHEREAS, Principal has entered into or will enter into a contract with the State, by and through the Administration named above acting for the State of Maryland, which contract is described and dated as shown above, and incorporated herein by reference. The contract and all items incorporated into the contract, together with any and all changes, extensions of time, alterations, modifications, or additions to the contract or to the work to be performed thereunder or to the Plans, Specifications, and Special Provisions, or any of them, or to any other items incorporated into the contract shall hereinafter be referred to as the "TO Agreement".

WHEREAS, it is one of the conditions precedent to the final award of the TO Agreement that these presents be executed.

NOW THEREFORE, the condition of this obligation is such that if the Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and materials furnished, supplied and reasonably required for use in the performance of the TO Agreement, then this obligation shall be null and void; otherwise it shall remain in full force and effect, subject to the following conditions:

1. A claimant is defined to be any and all of those persons supplying labor and materials (including lessors of the equipment to the extent of the fair market value thereof) to the Principal or its subcontractors and subcontractors in the prosecution of the work provided for in the TO Agreement, entitled to the protection provided by Section 9-113 of the Real Property Article of the Annotated Code of Maryland, as from time to time amended.

2. The above named Principal and Surety hereby jointly and severally agree with the Obligee that every claimant as herein defined, who has not been in full may, pursuant to and when in compliance with the provisions of the aforesaid Section 9-113, sue on this Bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant and have execution thereon. The Obligee shall not be liable for the payment of any costs or expenses of any such suit.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the TO Agreement or to the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligation on this Payment Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the TO Agreement or to the work or to the Specifications.

This Payment Bond shall be governed by and construed in accordance with the laws of the State of Maryland and any reference herein to Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.

IN WITNESS WHEREOF, Principal and Surety have set their hands and seals to this Payment Bond. If any individual is a signatory under the Principal heading below, then each such individual has signed below on his or her own behalf, has set forth below the name of the firm, if any, in whose name he or she is doing business, and has set forth below his or her title as a sole proprietor. If any partnership or joint venture is a signatory under the Principal heading below, then all members of each such partnership or joint venture have signed below, each member has set forth below the name of the partnership or joint venture, and each member has set forth below his or her title as a general partner, limited partner, or member of joint venture, whichever is applicable. If any corporation is a signatory under the Principal or Surety heading below, then each such corporation has caused the following: the corporation's name to be set forth below, a duly authorized representative of the corporation to affix below the corporation's seal and to attach hereto a notarized corporate resolution of power of attorney authorizing such action, and each such duly authorized representative to sign below and set forth below his or her title as a representative of the corporation. If any individual acts as a witness to any signature below, then each such individual has signed below and has set forth below his or her title as a witness. All of the above has been done as of the Date of Bond shown above.

|  |  |  |  |
| --- | --- | --- | --- |
|  |  |  | Individual Principal |
| In Presence of:Witness |  |  | (Name) |
|  | as to |  | (SEAL) |
|  |  |  |  |
|  |  |  | Co-Partnership Principal |
| In Presence of:Witness |  |  | (Name of Co-Partnership) |
|  | as to |  | (SEAL) |
|  |  |  | Partner |
|  | as to |  | (SEAL) |
|  |  |  | Partner |
|  | as to |  | (SEAL) |
|  |  |  | Partner |
|  |  |  | Corporate Principal |
| Attest: |  |  | (Name of Corporation) AFFIX CORPORATESEAL |
|  |  |  | By: |
| Corporate Secretary |  |  | President |
|  |  |  |  |
| Attest: |  |  |  |
|  |  |  |  |
| Signature |  |  | (Individual or Corporate Surety) |
| Bonding Agent’s Name: |  |  | By: |
|  |  |  | SEAL |
| Agent’s Address: |  |  | Title: |
|  |  |  |  |
|  |  |  | (Business Address of Surety) |
|  |  |  |  |
| Approved as to form and legal sufficiency this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_ |  |  |  |
| Assistant Attorney General |  |  |  |

Appendix <<proposalBidBondAppendixNumber>>. Proposal/Bid Bond

\*\*If this solicitation does not require a Proposal/Bid Bond, delete the text below and the heading. Renumber all subsequent Appendices. Delete associated reference to this Appendix in Table 1 of Section 7.

If a Proposal/Bid Bond is required, assign the appendix number on this attachment and in Table 1 of Section 7, then delete these instructions.\*\*

\*\***Important Note to Authors:** The bond format in the attachment is as specified in COMAR. IT Is DoIT’s guidance for agencies to **NOT UTILIZE A BOND FORM OTHER THAN THE ONE IN THIS Exhibit**. TO Contractors often send their own a bond form - DoIT strongly recommends not accepting these forms because often these contractor-supplied forms contain additional terms.\*\*

Bond No. \_\_\_\_\_\_\_\_\_\_\_

We, \_\_\_\_\_\_\_\_\_\_\_ as Principal, hereinafter called the Principal, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a corporation duly organized under the laws of the State of \_\_\_\_\_\_\_\_\_\_\_\_\_, as Surety, hereinafter called the Surety, are held and firmly bound unto the State of Maryland, hereinafter called "State", for the sum of \_\_\_\_\_\_\_\_ for the payment of which sum, the Principal and the Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for (Identify project by number and brief description):

NOW, THEREFORE, if the Principal, upon acceptance by the State of its bid identified above, within the period specified therein for acceptance (ninety (90) days, if no period is specified), shall execute such further contractual documents, if any, and give such bond(s) as may be required by the terms of the bid as accepted within the time specified (ten (10) days if no period is specified) after receipt of the forms, or in the event of failure so to execute such further contractual documents and give such bonds, if the Principal shall pay the State the difference not to exceed the penalty hereof between the amount specified in Principal's bid and such larger amount for which the State may in good faith contract with another party to perform the work covered by said bid, then the above obligation shall be void and of no effect.

The Surety executing this instrument hereby agrees that its obligation shall not be impaired by any extension(s) of the time for acceptance of the bid that the Principal may grant to the State, notice of which extension(s) to the Surety being hereby waived; provided that such waiver of notice shall apply only with respect to extensions aggregating not more than ninety (90) calendar days in addition to the period originally allowed for acceptance of the bid.

|  |  |  |  |
| --- | --- | --- | --- |
|  |  |  | Individual Principal |
| In Presence of:Witness |  |  | (Name) |
|  | as to |  | (SEAL) |
|  |  |  |  |
|  |  |  | Partnership Principal |
| In Presence of:Witness |  |  | (Name) |
|  | as to |  | (SEAL) |
|  |  |  | Partner |
|  | as to |  | (SEAL) |
|  |  |  | Partner |
|  | as to |  | (SEAL) |
|  |  |  | Partner |
|  |  |  | Corporate Principal |
| Attest: |  |  | (Name of Corporation) AFFIX SEAL |
|  |  |  | By: |
| Secretary |  |  | President |
|  |  |  |  |
| Attest: |  |  | (Surety) |
|  |  |  | By: |
|  |  |  | Attorney-in-fact AFFIXSEAL |
| Bonding Agent’s Name |  |  |  |
| Agent’s Address: |  |  |  |
|  |  |  |  |
| Approved as to form and legal sufficiency this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_ |  |  |  |
| Assistant Attorney General |  |  |  |