

Invitation for Bids

**MRV BRAND NETWORK
COMPONENTS and SUPPORT**

PROJECT NO. 050R5800353



**DEPARTMENT OF
BUDGET & MANAGEMENT**

Issue Date in Contract Weekly: January 17, 2006

***Issue Date in e-Maryland Marketplace: January 24, 2006**

***With Amendment No. 1, Dated January 24, 2006 Incorporated Into Text**

NOTICE

Prospective bidders who have received this document from the Department of Budget & Management's web site or eMarylandMarketplace.com, or who have received this document from a source other than the Procurement Officer, and who wish to assure receipt of any changes or additional materials related to this IFB, should immediately contact the Procurement Officer and provide their name and mailing address so that amendments to the IFB or other communications can be sent to them.

Minority Business Enterprises are Encouraged to Respond to this Solicitation

**STATE OF MARYLAND
NOTICE TO BIDDERS**

In order to help us improve the quality of State solicitations, and to make our procurement process more responsive and business friendly, we ask that you take a few minutes and provide comments and suggestions regarding the enclosed solicitation. Please return your comments with your proposals. If you have chosen not to submit a bid on this contract, please email jboock@dbm.state.md.us, or fax (410-974-5045) this completed form to the attention of Ms. Jacque' Boock. Thank you for your assistance.

Title: MRV Brand Network Components and Support
Project No: 050R5800353

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

- Other commitments preclude our participation at this time.
- The subject of the solicitation is not something we ordinarily provide.
- We are inexperienced in the work/commodities required.
- Specifications are unclear, too restrictive, etc. (Explain in REMARKS section.)
- The scope of work is beyond our present capacity.
- Doing business with Maryland Government is simply too complicated.
(Explain in REMARKS section.)
- We cannot be competitive. (Explain in REMARKS section.)
- Time allotted for completion of the bid/proposals is insufficient.
- Start-up time is insufficient.
- Bonding/Insurance requirements are restrictive. (Explain in REMARKS section.)
- Bid/Proposals requirements (other than specifications) are unreasonable or too risky.
(Explain in REMARKS section.)
- MBE requirements. (Explain in REMARKS section.)
- Prior State of Maryland contract experience was unprofitable or otherwise unsatisfactory.
(Explain in REMARKS section.)
- Payment schedule too slow.
- Other: _____

2. If you have submitted a bid, but wish to offer suggestions or express concerns, please use the Remarks section below. (Use reverse or attach additional pages as needed.)

REMARKS: _____

Bidder Name: _____ Date _____

Contact Person: _____ Phone (_____) _____ - _____

Address: _____

KEY INFORMATION SUMMARY SHEET

STATE OF MARYLAND Invitation For Bids

MRV BRAND NETWORK COMPONENTS and SUPPORT

PROJECT NUMBER 050R5800353

IFB Issue Date: Contract Weekly: January 17, 2006
e-Maryland Marketplace: January 24, 2006

IFB Issuing Office: Department of Budget & Management

Procurement Officer: Jacque' Boock
Phone: (410) 260-7681
Fax: (410) 974-5045
e-mail: jboock@dbm.state.md.us

Bids are to be sent to: Department of Budget & Management
Division of Procurement Policy & Administration
Room 134
45 Calvert Street
Annapolis, MD 21401
Attention: Jacque' Boock

Pre-Bid Conference: ~~Thursday, January 26, 2006, 10:00 AM (Local Time)~~
Thursday, February 2, 2006, 10:00 AM (Local Time)
Department of Budget & Management
45 Calvert Street – Room 164 A
Annapolis, Maryland 21401
For directions see Attachment E

Closing Date and Time: ~~Thursday, February 6, 2006 at 2:00 PM (Local Time)~~
Thursday, February 16, 2006, 2:00 PM (Local Time)

NOTE

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SECTION 1 - GENERAL INFORMATION

1.1 Summary Statement

- 1.1.1 The Maryland Department of Budget & Management (DBM), Office of Information Technology (OIT) is responsible for providing technical leadership and guidance to all agencies in the Executive Branch of the State of Maryland (the State). The OIT assures that State agencies implement successful Information Technology (IT) development projects in accordance with the mission of the agency and establishes direction for the productive and efficient use of Information Technology at the statewide level.
- 1.1.2 The Department of Budget & Management (DBM) is issuing this Invitation for Bid (IFB) to procure a contractor to serve as a certified seller of MRV-Brand network components and support at a 'fixed percentage discount off' the applicable MRV List Price.
- 1.1.3 DBM intends to make a single contract award as a result of this IFB.

1.2 Abbreviations and Definitions

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

- a) **Bidder** – An entity that submits a bid in response to this IFB.
- b) **BPW** – The Maryland Board of Public Works
- c) **Contract Manager** - The State representative that will serve as the technical manager for the contract that results from this IFB. The Contract Manager monitors the daily activities of the contract and provides technical guidance to the contractor.
- d) **Contractor's Contract Administrator** – Person designated at the time of contract award as the single point of contact with the authority and knowledge to resolve contract issues.
- e) **COMAR** - Code of Maryland Regulations available on-line at www.dsd.state.md.us
- f) **Contract** – The State's Contract attached to this IFB as Attachment A.
- g) **Contractor** – The selected Bidder, the business entity awarded the contract for the procured services identified in this IFB.
- h) **DBM** – The Maryland Department of Budget & Management
- i) **Department** – Means the Maryland Department of Budget & Management
- j) **Discount Price** – The actual price to be paid by the Department. The Discount Price is calculated by multiplying the contractor's 'fixed percent discount off' by the MRV List Price for the specified product to be purchased, to determine the Discount Value, and then subtracting that Discount Value from the MRV List Price.

For example:

If the MRV List Price is \$100 and the fixed percent discount off (percentage discount) is 44%, then the Discount Value is (100 x 0.44) \$44, and the final fixed Discount Price is (\$100 - \$44) \$56.

- k) **Discount Value** – Results from multiplying the contractor’s fixed percent discount by the MRV List Price for the specified product to be purchased.
- l) **IFB** – The entire contents of this Invitation For Bids, “MRV Brand Network Components, Project #050R5800353” including any amendments/addenda thereto.
- m) **Local Time** – Time in the Eastern Time Zone as observed by the State.
- n) **MBE** - A Minority Business Enterprise certified by the Maryland Department of Transportation under COMAR 21.11.03.
- o) **MRV List Price** – The List Price is established by MRV and is the catalogue price for the respective MRV product types and services. MRV’s website at <http://www.mrv.com> lists the available products within each family of products and is subject to change by MRV. MRV may from time to time change adjust or increase list prices. In addition, MRV may add new products, change or discontinue existing products and /or control or limit the availability of any product they currently offer for sale.
- p) **MRV Network Components** – The same as ‘MRV-Brand Network Components’ are the components to be utilized by this contract to include but not be limited to the categories of:
 - A. MRV - Media Converters, Fiber Optimizers & Repeaters
 - B. MRV - Wave Division Multiplexing
 - C. MRV – Plug-ins
 - D. MRV - Ethernet Access
 - E. MRV – Support
- q) **Procurement Officer** – The State representative who is responsible for this IFB and for the determination of contract scope issues; also the only State representative who can authorize changes to the contract.

1.3 Contract Type

The contract that results from this IFB will be an Indefinite Quantity-Fixed Price Contract with Price Adjustment in accordance with COMAR 21.06.03.02.B.(3) and 21.06.03.06. This is represented with fixed percent discounts represented as a ‘percent discount off’ the MRV Price List.

1.4 Contract Duration

The Contract resulting from this IFB shall be for a period of two years commencing on date of execution of the contract by the Department of Budget & Management and by terminating two-years from that date.

1.5 Procurement Officer and Contract Manager

- A. The sole point-of-contact in the State for purposes of this IFB prior to the award of a contract is the Procurement Officer as listed below:

Jacque' Boock, Procurement Officer
Department of Budget & Management
Procurement Policy & Administration Division
45 Calvert Street/First Floor, Room 134
Annapolis, Maryland 21401
Telephone: 410-260-7281
Fax: 410-974-5045
Email: jboock@dbm.state.md.us

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

- B. The State's Contract Manager manages the daily activities of the contract and provides technical guidance to the Contractor. The State's Contract Manager for this project is:

Jason Ross,
Director Networks Division
Office of Information Technology
Department of Budget & Management
45 Calvert Street
Annapolis, Maryland 21401
Telephone: 410-260-7279
Fax: 410-974-5060
Email: jross@dbm.state.md.us

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

1.6 Pre-Bid Conference

A Pre-Bid Conference (Conference) will be held on **Thursday, January 26, 2006** ~~February 2, 2006~~, beginning at 10:00 AM (Local time), at the following location:

Department of Budget & Management
Office of Information Technology
45 Calvert Street, Room 164 A
Annapolis, MD 21401.

Attendance at the Pre-Bid Conference is not mandatory, but all interested bidders are encouraged to attend in order to facilitate better preparation of their bids. In addition, attendance may facilitate the bidder's understanding of the IFB requirements.

As promptly as is feasible subsequent to the Conference, a summary of the Pre-Bid Conference and all questions and answers known at that time will be distributed, free of charge, to all prospective bidders known to have received a copy of this IFB.

In order to assure adequate seating and other accommodations at the Pre-Bid Conference, it is requested that by Wednesday, February 15, 2006, all potential bidders planning to attend, e-mail or otherwise return the Pre-Bid Conference Response Form (Attachment D to this IFB). In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, it is requested that at least five days advance notice be provided. DBM will make reasonable efforts to provide such special accommodation. See Attachment E of this IFB for directions.

1.7 Questions

The Procurement Officer, prior to the Pre-Bid Conference, will accept written questions from prospective bidders. To the extent possible and as appropriate, such questions will be answered at the Pre-Bid Conference. (No substantive question(s) will be answered prior to the Pre-Bid Conference.) Questions may be submitted by mail, facsimile, or preferably by e-mail to the Procurement Officer. Questions, both oral and written, will also be accepted from prospective bidders attending the Pre-Bid Conference. To the extent possible and as appropriate, these questions will be answered at the Pre-Bid Conference.

Questions will also be accepted subsequent to the Pre-Bid Conference. All post-Conference questions shall be submitted in a timely manner to the Procurement Officer only. The Procurement Officer will, based on the availability of time to research and communicate an answer, decide whether an answer can be provided before the bid due date. Answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be distributed to all prospective bidders who are known to have received a copy of the IFB.

1.8 Bids Due/Closing Date

An unbound original, plus two (2) copies, and electronic versions of the paper submission copy on a diskette and CD (See Section 3.K.) of each bid must be received by the Procurement Officer, at the address listed in Section 1.5A, no later than ~~February 6, 2006~~ **Thursday, February 16, 2006** at 2:00 PM, Local Time, in order to be considered. Requests for extension of this date or time shall not be granted. Bidders mailing bids should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.02.10, bids received by the Procurement Officer after the closing time and date will not be considered. Bids delivered by email or facsimile shall not be considered.

Bids will be opened, ~~February 6, 2006~~ **Thursday, February 16, 2006** at 2:30 PM, Local Time, in Room 147, 45 Calvert Street, Annapolis Maryland in accordance with the provisions of COMAR 21.05.02.11B. Bids will be made available for public inspection at or within a reasonable time after bid opening. Any material deemed confidential or proprietary by the

bidder must be clearly marked and shall be readily separable from the bid in order to facilitate public inspection of the non-confidential portion of the bid.

1.9 Duration of Bid

Bids submitted in response to this IFB are irrevocable for 90 days following the closing date. This period may be extended at the Procurement Officer's request only with the bidder's written consent.

1.10 Revisions to the IFB

If it becomes necessary to revise this IFB, amendments will be provided to all prospective bidders that were sent this IFB or otherwise are known by the Procurement Officer to have obtained this IFB. Acknowledgement of the receipt of all amendments to the IFB must accompany the bidder's bid. Failure to acknowledge receipt does not relieve the bidder from complying with all terms of any such amendment.

1.11 Cancellations

The State reserves the right to cancel this IFB and to accept or reject any and all bids, in whole or in part, received in response to this IFB.

1.12 Incurred Expenses

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

1.13 Economy of Preparation

Bids should be prepared simply and economically, providing a straightforward, concise description of the bidder's compliance to the requirements of this IFB.

1.14 Protests/Disputes

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

1.15 Multiple or Alternate Bids

A bidder may not submit more than one bid. Multiple or alternate bids will not be accepted.

1.16 Access to Public Information Act Notice

A bidder should give specific attention to the clear identification of those portions of its bid that it considers confidential, proprietary commercial information or trade secrets, and provide

justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Title 10, Subtitle 6, Part III of the State Government Article of the Annotated Code of Maryland.

Bidders are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information may be disclosed.

1.17 Bidder Responsibilities

The State will enter into contractual agreement only with the selected bidder. The selected bidder/Contractor shall be responsible for all products and services required by this IFB. Subcontractors, if any, must be identified and a complete description of their role relative to the bid must be included in the bid. If a bidder that seeks to perform or provide the services required by this IFB is a subsidiary of another entity, all information submitted by the bidder, such as, but not limited to, references and financial reports, must pertain exclusively to the bidder, unless the parent organization will provide guarantees for the performance of the subsidiary.

1.18 Mandatory Contractual Terms

By submitting a bid in response to this IFB, a bidder, if selected for award, shall be deemed to have accepted the terms of this IFB and any amendments thereto, and the State's Contract, attached as Attachment A.

1.19 Bid/Proposal Affidavit

A completed Bid/Proposal Affidavit shall accompany the bid submitted by a bidder. A copy of this Affidavit is included as Attachment B of this IFB.

1.20 Contract Affidavit

All bidders are advised that if a contract is awarded as a result of this IFB, the successful bidder will be required to complete a Contract Affidavit. A copy of this Affidavit is included for informational purposes as Attachment C of this IFB. This Affidavit should not be submitted with a bidder's bid but shall be provided within five (5) business days of notification of proposed contract award.

1.21 Arrearages

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

1.22 Procurement Method

This contract will be awarded in accordance with the Competitive Sealed Bidding procurement method as described in Maryland Code of Regulations (COMAR) 21.05.02.

1.23 Reciprocal Preference

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

1.24 No Bid Statement

Vendors not responding to this solicitation are requested to submit the “Notice to Bidders” form, which includes company information **and the reason for not responding** (i.e. too busy, can not meet mandatory requirements, etc). This form is located in the IFB immediately following the Title Page.

1.25 Award Basis

The State reserves the right to award the contract to the responsive and responsible bidder submitting the most favorable evaluated bid price (as referenced in COMAR 21.05.02.13) for providing the goods and services as specified in this IFB. The most favorable evaluated bid price demonstrated as the highest ‘percent discount off’ of MRV-Brand price list will be determined by the highest ‘EVALUATED PERCENT DISCOUNT OFF TOTAL ‘ as bid in Attachment F – Bid Price Form.

In the event of a tie bid, the process documented in COMAR 21.05.02.14 shall apply.

1.26 Verification of Registration and Tax Payment

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

1.27 False Statements

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

- a) In connection with a procurement Contract, a person may not willfully:
- Falsify, conceal, or suppress a material fact by any scheme or device;
 - Make a false or fraudulent statement or representation of a material fact; or
 - Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.
- b) A person may not aid or conspire with another person to commit an act under subsection (a) of this section.
- c) A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding five (5) years or both.

1.28 Use of “e-Maryland Marketplace”

“e-Maryland Marketplace” is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the DBM web site (<http://www.dbm.maryland.gov>) and other means for transmitting this IFB and associated materials, the solicitation and minutes of the Pre-Bid Conference, bidder questions and DBM responses, addenda, and other solicitation related information will be provided via e-Maryland Marketplace.

COMAR 21.02.03.06 requires that the successful offeror under this solicitation pay a fee to support the operation of eMarylandMarketplace. A copy of COMAR 21.02.03.06 can be found on the eMM website at www.eMarylandMarketplace.com.

Whereas COMAR 21.02.03.06 includes a fee schedule which bidders would normally use to determine what level of fee to build into their bid prices, because of the indefinite, non-guaranteed level of usage under the contract that results from this solicitation, bidders are hereby advised to include a Level 3 fee as the eMarylandMarketplace fee.

In order to receive a contract award, a bidder must be registered on eMarylandMarketplace. Contractors shall pay the fee as provided by COMAR 21.02.03.06 and in accordance with guidelines issued by the Maryland Department of General Services. These guidelines can be found on the eMarylandMarketplace website at www.eMarylandMarketplace.com.

1.29 Non-Visual Access

By submitting a bid, the Bidder warrants that the information technology offered under the bid (1) provides equivalent access for effective use by both visual and non-visual means; (2) will present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use; (3) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and (4) is available, whenever possible, without modification for compatibility with software and hardware for non-visual access. The Bidder further warrants that the cost, if any, of modifying the information technology for compatibility with software and hardware used for non-visual access will not increase the cost of the information technology by more than five percent. For purposes of this Regulation, the phrase “equivalent access” means the ability to receive, use and manipulate information and operate controls necessary to access and use information technology by non-visual means. Examples of equivalent access include keyboard controls used for input and synthesized speech, Braille, or other audible or tactile means used for output.

The Non-visual Access Clause noted in COMAR 21.05.08.05 and referenced in this solicitation is the basis for the standards that have been incorporated into the Maryland regulations, which can be found at: www.dbm.maryland.gov - using keyword ‘nva.’

1.30 Electronic Funds Transfer

By submitting a response to this IFB, the bidder agrees to accept payments by electronic funds transfer unless the State Comptroller’s Office grants an exemption. The selected bidder/Contractor must register using the form COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State Comptroller’s Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption. See Attachment G. The COT/GAD X-10 form can be also downloaded at: <http://compnet.comp.state.md.us/gad/pdf/GADX-10.pdf> .

1.31 Minority Business Enterprises

An MBE subcontractor participation goal of zero percent (0%) has been established for this solicitation.

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SECTION 2 – SCOPE OF WORK

2.1 Background and Purpose

2.1.1 The purpose of this solicitation is to procure a Contractor to serve as a MRV-Brand Authorized seller to provide MRV-Brand products and support at a fixed percentage discount off of the applicable current (at the time of product order) MRV List Price that is in effect at the time of purchase. The Contractor shall provide an indeterminate quantity of MRV-Brand products within the following MRV-Brand Product Categories, as identified on the MRV web site under the menu of Products:

- F. MRV - Media Converters, Fiber Optimizers & Repeaters
- G. MRV - Wave Division Multiplexing
- H. MRV – Plug-ins
- I. MRV - Ethernet Access
- J. MRV – Support

2.1.2 Each procurement will be made using a Department Purchase Order containing the MRV product code, quantity required and Maryland delivery address. No substitutions will be allowed.

2.2 Fixed Percentage Discount-Off

2.2.1 The Contractor shall apply the contracted Fixed Percentage Discount-Off of the MRV-Brand Current List Price for the entire length of the contract.

2.2.2 The Contractor's Fixed Percentage Discount-Off shall be applied to the most current MRV List Price the price that is in effect at the time of each purchase of a product or service.

2.2.3 The MRV List Price minus the Percent Discount-Off by the Contractor for each product or support ordered shall be used to determine the product price for each line item of product or support ordered.

2.2.4 The Contractor may apply an additional discount over and above what has been agreed to (approved) by this contract.

2.2.5 A larger percent may actually be provided to the Department on any given product or support order at the time of the order at the Contractor's discretion; however, the Contractor shall honor any special pricing, additional special discount, or most favored customer pricing they may also have in effect at the time of each order's placement by the Department.

2.3 Order Requirements and Process

- 2.3.1 All MRV products or support purchased under the contract shall be administered by the Contractor and warranted for a period of one year from installation in accordance with the terms of the manufacturer, MRV.
- 2.3.2 Department will issue individual purchase orders over the term of the contract detailing the specific MRV products or support, quantity required, and the delivery instructions.

2.4 Delivery and Returns

- 2.4.1 All shipments shall be accompanied by a packing list that includes, the identification of the items shipped, quantities, and the Purchase Order number. Drop shipments shall contain packing lists with the same information. All packages shall have the Purchase Order number clearly marked on the outside of the packing or container. Shipments received without a packing list and/or Purchase Order number shown on the outside of the package may be refused and returned at the Contractor's expense.
- 2.4.2 All items are to be delivered Free On Board (F.O.B.) Customer-designated destination. All orders will have Maryland delivery addresses. Shipping charges, handling charges, nor any type of additional fee are not permitted. Contractor shall be responsible for any loss and/or damages before acceptance of the shipment's product by Customer. All delivery instructions shall be designated on the applicable Purchase Order(s), which may call for delivery to either a loading dock or a designated-inside-location. If delivery instructions are not included on the Purchase Order prior to shipping, the Contractor shall contact the Purchase Order Point-of-Contact for delivery instructions. If the Contractor is unable to contact the Purchase Order Point-of Contact, then the Contractor is to contact the Contract Manager noted for this contract in Section 1.5B.
- 2.4.3. The Contractor shall accept all products along with any purchased support returned by the Department for full credit or refund, to include all handling for products. If the Contractor receives notification that product was defective and the product was returned to them, the Contractor shall give full credit in the form of some type of returned monies (in the manner pre-approved by the State, i.e. check, money order, electronic monies etc.) to the Department within 30 days of return to the Contractor.
- 2.4.4. The Contractor shall also provide return authorization/asset recovery/exchange procedures in the event that a product has been damaged, deemed defective, or incorrectly ordered within five (-5-) business days of the final execution of the Contract by the Department. Any change to those procedures must be communicated in writing to the Contract Manager. With each product delivery, the Contractor shall provide a concise script detailing return authorization/asset recovery/exchange procedures.
- 2.4.5. The Contractor shall not charge any type of fee, to include but not be limited to, restocking fees or handling fees to the Department for any returned product.

- 2.4.6 For any stand alone product support purchased without product, if not utilized by the Department and where the Department requests credit, the Contractor shall provide full credit for that product support.
- 2.4.7 The Contractor shall maintain all sales and delivery records including signature of delivery confirmation and Department receipt of product for the complete term of the contract and in accordance with the data retention Terms and Conditions of the contract.

2.5 Invoicing

- 2.5.1 The Contractor shall provide invoicing to the Department, as identified by the Purchase Order.
- 2.5.1.1. Invoices shall be in accordance with the attached contract. Each invoice must contain itemized separate line items including the MRV Price List's price, the applied 'Percent Discount Off,' and the final invoiced price for each of the MRV products or support being invoiced. Invoices submitted without clear, concise, readable, definitive information and price shall be returned for clarification, and may delay payment.
- 2.5.1.2. All invoices shall be submitted within 30 calendar days upon complete delivery of items described in the purchase order and include the following information: Department of Budget & Management, 45 Calvert Street, Annapolis, Maryland 21401, vendor name, remittance address, federal taxpayer identification or (if owned by an individual) his/her social security number, invoice date, invoice number, amount due, and the purchase order number being billed. Invoices submitted without the required information will not be processed for payment until the Contractor provides the required information. In no event shall payment by the State constitute acceptance of the equipment or services for which the payment is made. Acceptance shall only occur in accordance with Section 2.6 herein.
- 2.5.1.3. Partial payments are not permitted. Payment for invoices shall be rendered according to the individual purchase order and the list of delivered products. If after the Department team completes their inspections and acceptance of the items, and find that the items are incomplete and/or not acceptable, then the Contractor shall credit the State for those items already billed (invoiced) to the State within 30 calendar days of product being returned to the Contractor.
- 2.5.1.4. The Contractor shall attach to each of its invoices, a copy of the page or pages from the MRV Price List for each of the line items of product or support being invoiced that was in effect as of the date of the placement of the order by the Department. The MRV Price List price shown on the page submitted must correspond to the MRV Price List price as shown on the invoice and described in Subsection 2.5.1.1. above.

2.6 Acceptance of Product

- 2.6.1 After receipt of the product(s), the Department shall install and may test the product per their internal procedure(s) within sixty days of receipt of product. If the product is found to be defective after any testing, it will be returned to the Contractor as noted in Subsection 2.4.3. for full credit.

2.7 Warranty

- 2.7.1 All products purchased from this Contact shall carry the standard MRV's one-year warranty from date of delivery.

2.8 Additional Support

- 2.8.1 The Contractor in its capacity as a MRV seller, and upon receipt of a purchase order from the Department, shall provide MRV support for identified previously installed MRV products (if not covered under warranty), for the period specified in the order. MRV's available support level categories are identified below. See Attachment H for MRV's current (as of the date of this IFB) description of the three areas of Support.:

- A. Advanced Hardware Replacement
- B. Phone Support
- C. Priority PLUS Support

The URL link to where logon is required by MRV Partners to the MRV Website is currently at:

<http://www.mrv.com/partners/>

2.9 Conditions for Subcontracting and Approvals

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the Procurement Officer, which approval the State may withhold or condition in its sole and absolute subjective discretion. Contractor may not assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Procurement Officer, which approval the State may withhold or condition in its sole and absolute subjective discretion. Any such subcontract or assignment shall include all the terms of the Contract and any other terms and conditions that the State deems necessary to protect its interests. The State shall not be responsible for the fulfillment of the Contractor's obligations to the subcontractors.

2.10 Insurance

- 2.10.1 The Contractor shall maintain property and casualty insurance with minimum limits sufficient to cover losses resulting from or arising out of Contractor action or inaction in the performance of the contract by the Contractor, its agents, servants, employees or subcontractors.
- 2.10.2 The Contractor shall maintain a policy of general liability insurance that is of the proper type and limits specified below specified below.
- 2.10.3 The Contractor shall provide a copy of the Contractor's current certificate of insurance, which, at a minimum, should contain the following:
- A) Worker's Compensation - The Contractor shall maintain such insurance as necessary and/or as required under Worker's Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act.
 - B) General Liability - The Contractor shall purchase and maintain the following insurance protection for liability claims arising as a result of the Contractor's operations under this agreement. The following amounts shall be deemed the minimum acceptable coverages:
 - \$200,000 - General Aggregate Limit (other than products/completed operations)
 - \$100,000 - Products/completed operations aggregate limit
 - \$100,000 - Each Occurrence Limit
 - \$100,000 - Personal and Accidental Injury Limits
 - \$ 50,000 - Fire Damage Limit
 - \$ 5,000 - Medical Expense
- 2.10.4 Upon execution of a Contract with the State, Contractor shall provide the State with current certificates of insurance, and shall update such certificates from time to time, as directed by the State.
- 2.10.5 The State shall be named as an additional insured on the policies of all property, casualty, liability, and other types of insurance evidencing this coverage (Workers' Compensation excepted). Certificates of insurance evidencing this coverage shall be provided prior to the commencement of any activities in the Contract. All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Procurement Officer, by certified mail, not less than 60 days advance notice of any non-renewal, cancellation, or expiration. In the event the State receives a notice of non-renewal, the Contractor must provide the State with an insurance policy from another carrier at least 30 days prior to the expiration of the insurance policy then in effect. All insurance policies must be with a company licensed to do business in Maryland and having a "Best" FSR rating of no less than A- and a FSC rating of no less than 'X.'

2.10.6 The Contractor shall require that any subcontractors obtain and maintain similar levels of insurance and shall provide the State with the same documentation as is required of the Contractor.

SECTION 3 – BID FORMAT

3.1 General

- 3.1.1 Bidders must use Attachment F. Do not change or alter this Attachment or alter any other State Attachments otherwise your bid will be rejected.
- 3.1.2 Bidders agree to comply with each and every section, subsection and addendum of this solicitation. Failure to comply will result in the rejection of the bid.

3.2 Preparation/Submission of Bids

- 3.2.1 Bids must be submitted to the Procurement Officer identified at the address identified in IFB Section 1.5A.
- 3.2.3 Bids must be delivered on time, on or before the due date and time specified in Section 1.8.
- 3.2.4 Bids must be submitted in a sealed envelope clearly labeled as follows:
- “Sealed Bid - Maryland Department of Budget & Management, MRV-Brand Network Components and Support, Project #050R5800353
 - The Bid Due Date and Time; and
 - The Name of the bidder.
- 3.2.5 Prepare and submit an unbound original and two (2) paper copies to include:
- Attachment F – Bid Form.** Completed and signed by an individual who is authorized to bind the bidder to the services and prices contained in the bid.
 - Acknowledgement of the receipt of all addenda to the IFB, if any.
 - A detailed return procedure for products that are damaged or defective.
 - Proof of Bidder’s MRV authorization to perform/fulfill the seller requirements of this IFB.**
 - Bid/Proposal Affidavit - Attachment B
 - Statement of Fiscal Integrity. Bidders shall provide documentation that addresses the bidder’s financial solvency that may include, but not be limited to, one or all of the following:
 - a current balance sheet
 - a certified financial statement
 - Dunn and Bradstreet rating;
 - Line of credit;
 - Successful financial track record;
 - Evidence of adequate working capital.

- h. Legal Action Summary. A statement as to whether there are any outstanding legal actions, or potential claims against the bidder and a brief description of any such action, including:
- A brief description of any settled or closed legal actions or claims against the bidder over the past five (5) years.
 - A description of any judgments against the bidder within the past five (5) years, including the case name, number, court, and what the final ruling or determination was from the court.
 - In instances where litigation is ongoing and the bidder has been directed by the court not to disclose information, the name of the judge and location of the court.

i. Certificate of Insurance

Bidder shall provide a copy of the Bidder's current certificate of insurance to meet the conditions of Section 2.10.

j. References

Bidders shall provide references from current and/or previous customers within the immediate past three years who are capable of documenting experience in providing the same or similar Product and Support. DBM reserves the right to request additional references. Each reference shall include:

- 1) Name of client organization.
- 2) Name, title, and telephone number of point of contact for client organization.
- 3) Contract Value, type of contract, and duration of contract(s) (Period of Performance), the products and/or services provided, scope of the contract, geographic area supported, etc.
- 4) An explanation of why the bidder is no longer providing the services to the client organization, if the bidder is no longer serving this client.

- k. An unbound original, plus two (2) copies, and electronic versions of the paper submission copy on a diskette and CD (See Section 1.8.) of each bid shall be submitted. The diskette or CD shall be clearly labeled with the Bid Date, Bid Title and bidder's name. This version may consist of a variety of software files (i.e., pdf, doc, xls, etc.) as determined by the bidder.

l. State explanation of standard warranty for each product line:

- D. A. MRV - Media Converters, Fiber Optimizers & Repeaters
- B. MRV - Wave Division Multiplexing
- C. MRV - Plug-ins
- D. MRV - Ethernet Access
- E. MRV - Support

ATTACHMENTS

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

ATTACHMENT B - Bid/Proposal Affidavit. This form must be completed and submitted with the Bid.

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

ATTACHMENT D - Pre-Bid Conference Response Form. It is requested that this form be completed and submitted as described in the IFB's Section 1.6 by those potential Bidders who plan on attending the conference.

ATTACHMENT E - Directions to the Pre-Bid Conference

ATTACHMENT F – Bid Price Instructions, and Form. As part of the Bidder's submission as detailed in Section 3.2.5, Bid Price forms must be completed and submitted as the Bidder's Bid.

ATTACHMENT G – Electronic Funds Transfer (EFT) Form

ATTACHMENT H – MRV Support (This is an external pdf attachment to the IFB, and is as described by the MRV Website at the time of this IFB).

ATTACHMENT A – CONTRACT

THIS CONTRACT (“Contract”) is made this _____ day of _____, 2006 by and between _____ (“**Contractor**”) and the **STATE OF MARYLAND (“State”)**, acting by and through the **DEPARTMENT OF BUDGET & MANAGEMENT (“Department”)**.

IN CONSIDERATION of the promises and the covenants herein contained, the parties agree as follows:

1. Definitions

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

- 1.1 “Contractor” means _____ whose principal business address is _____ and whose principal office in Maryland is _____.
- 1.2 “Department” means the Maryland Department of Budget & Management.
- 1.3 “Effective Date” means the date on which the State signs and executes this Contract.
- 1.4 “Procurement Officer” means Jacques’ Boock.
- 1.5 “IFB” means the Invitation for Bids for MRV Brand Network Components and Support, Project No.050R5800353.
- 1.6 “State” means the State of Maryland.
- 1.7 “Contract Manager” means Jason Ross.

2. Scope of Work

2.1 The Contractor shall provide MRV Network Components and other administrative services as described in the IFB. These services shall be provided in accordance with this Contract and the following exhibits, which are attached and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

- Exhibit A - Invitation for Bids -Project No. 050R5800353 dated January 17, 2006, and Amendment No. 1, dated January 24, 2006; and
- Exhibit B - Contractor’s Bid-Project No. 050R5800353, dated _____

2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor’s cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement

setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

3. Time for Performance. The term of this Contract commences on the Effective Date of the Contract which is the date of execution of the contract by the Department of Budget & Management, and expires no later than two calendar years from that date.

4. Consideration and Payment

4.1 The consideration for MRV-Brand products provided by the Contractor shall be in accordance with Section 2-of the IFB. Payments will be made as specified in Sections 2.5 of the IFB. Each invoice must include the Contractor's Federal Tax Identification Number which is _____. Charges for late payment of invoices other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, as from time to time amended, are prohibited. Invoices shall be submitted to the individual or office designated on the respective purchase order.

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

5. Rights to Records

The Contractor agrees that all documents and materials including but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations and data prepared by the Contractor, solely for purposes of this Contract with the State of Maryland shall be the sole property of the Department and shall be available to the Department at any time. The Department shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract. Notwithstanding the foregoing, the parties acknowledge and agree that Contractor shall pass through or otherwise transfer and/or assign licenses to any and all MRV software products provided by Contractor to the State and any and all warranties applicable to MRV products and support hereunder.

6. Patents, Copyrights, Intellectual Property

6.1 If the Contractor furnishes any product, design, service, device, material, process, or other item (hereinafter collectively referred to for purposes of Section 6 and Section 29 as "Items"), which is covered by a patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such Items.

6.2 The Contractor will defend or settle, at its own expense, any claim or suit against the State alleging that any such Items furnished by the Contractor infringes any patent, trademark, copyright, or trade secret. If a third party claims that an Item infringes that party's patent, copyright, trademark, or trade secret, the Contractor will defend the State against that claim at Contractor's expense and will pay all damages, costs and attorneys' fees that a Court finally awards, provided the State (i) promptly notifies the Contractor in writing of the claim; and (ii) allows Contractor to control and cooperates with Contractor in, the defense and any related settlement negotiations.

6.3 If any Items furnished by the Contractor become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement, the Contractor will, at its option and expense: a) procure for the State the right to continue using the applicable Item, b) replace the Item with a non-infringing Item substantially complying with the Item's specifications, or c) modify the Item so that it becomes non-infringing and performs in a substantially similar manner to the original Item. Contractor shall immediately notify the State's Procurement Officer and the State's Contract Manager, in writing, of the possibility of any claim of infringement arising hereunder.

7. Confidentiality

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

8. Loss of or damage to Data

In the event of loss of or damage to any State data or records where such loss or damage is due to the intentional act or omission or negligence of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for recreating such lost or damaged data in the manner and on the schedule set by the Contract Manager. To the extent the Contractor is or becomes actively involved with the installation of any software, the Contractor shall ensure that all data is backed up and is recoverable by the Contractor.

9. Non-Hiring of Employees

No official or employee of the State of Maryland, as defined under State Government Article, 15-102, Annotated Code of Maryland, whose duties as such official or employee includes matters relating to or affecting the subject matter of this Contract, shall, during the pendency and

term of this Contract and while serving as an official or employee of the State become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

10. Disputes

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

11. Maryland Law

- 11.1** This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.
- 11.2** The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland) does not apply to this Contract or to any software licenses acquired hereunder.

12. Nondiscrimination in Employment

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

13. Contingent Fee Prohibition

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

14. Non-availability of Funding

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which

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

15. Termination for Cause

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

16. Termination for Convenience

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

17. Delays and Extensions of Time

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

negligence of either the Contractor or the subcontractors or suppliers.

18. Suspension of Work

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

19. Pre-Existing Regulations

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

20. Financial Disclosure

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

21. Political Contribution Disclosure

The Contractor shall comply with Election Law Article, Sections 14-101 - 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$100,000 or more, shall, file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

22. Retention of Records

Notwithstanding anything to the contrary, the Contractor shall retain and maintain all records and documents in any way relating to this Contract for three (3) years after Contract closeout and final payment by the State of Maryland under this Contract or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or the Procurement

Officer's designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section. The Contractor agrees to cooperate fully in any audit conducted by or on behalf of the State, including, by way of example only, making records and employees available as, where, and to the extent requested by the State and by assisting the auditors in reconciling any audit variances. Contractor shall not be compensated for providing any such cooperation and assistance.

23. Warranties

Upon the date of this Contract and thereafter during the term of this Contract, Contractor represents and warrants that:

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

24. Cost and Price Certification

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

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

25. Subcontracting; Assignment

The Contractor may not subcontract any portion of its obligations under this Contract without obtaining the prior written approval of the Procurement Officer, which approval the State may withhold or condition in its sole and absolute subjective discretion. Contractor may not assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Procurement Officer, which approval the State may withhold or condition in its sole and absolute subjective discretion. Any such subcontract or assignment shall include the terms of Sections 9 through 24 of this Contract and any other terms and conditions that the State deems necessary to protect its interests. The State shall not be responsible for the fulfillment of the Contractor's obligations to the subcontractors.

26. Administrative

26.1 Procurement Officer. The work to be accomplished under this Contract shall be performed under the direction of the State’s Contract Manager. All matters relating to the interpretation of this Contract shall be referred to the Procurement Officer for determination.

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

If to the State: Department of Budget & Management
Office of Information Technology
Networks Division
45 Calvert Street, 4th Floor
Annapolis, Maryland 21401
Attention: Jason Ross

If to the Contractor: _____

27. Indemnification

27.1 The Contractor shall indemnify the State from and against liability for any costs, expenses, losses, suits, actions, or claims of any character arising from or relating to the performance of the Contractor or its subcontractors under this Contract.

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

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

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

28. Limitation of Liability

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

- A. For infringement of patents, trademarks, trade secrets and copyrights as provided in Section 6 ("Patents, Copyrights, Intellectual Property") of this Contract;
- B. Without limitation for damages for bodily injury (including death), damage to real property and tangible personal property, and for damages and/or charges claimed by MRV against the State which are attributable, in whole or in part, to Contractor's failure to undertake and complete its duties, obligations and responsibilities hereunder;
- C. For all other claims, damages, losses, costs, expenses, suits or actions in any way related to this Contract, regardless of the form, Contractor's liability per claim shall be limited to the greater of three (3) times the aggregate dollar amount invoiced under this Contract up to the date of settlement or final award of any such claim, or US \$200,000. Third party claims arising under Section 27 ("Indemnification"), of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor's liability for third party claims arising under Section 27 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 27.

29. Orderly Termination

Contractor agrees that, except as expressly provided otherwise in the IFB, at the commencement of this Contract it shall have ready and available such Items, inventory, systems, processes, and sufficient levels of qualified personnel to be able to promptly, diligently, efficiently and completely prosecute the requirements of this Contract.

Upon the expiration or earlier termination of this Contract, Contractor shall:

- (i) promptly, diligently, efficiently and in good faith work with any successor contractor and the State to transition services over to the successor contractor;
- (ii) during the transition period, continue to be subject to all of the terms and conditions of the Contract, including, by way of example only, those that govern the discounts, rates, fees and other charges that Contractor may be permitted to charge the State under the Contract, and under no circumstances shall the Contractor be entitled to lower or eliminate any discounts or to raise any such rates, fees and/or other charges during the transition period; and,
- (iii) at the end of the transition period, provide the State with a summary report of the transition that, among other things, contains a certification signed by an officer of the Contractor who is authorized to legally bind Contractor, that states that all actions necessary to successfully transition the services to the successor contractor have been completed, or if they have not been completed, why they have not been completed. The State shall be entitled to withhold any final payment(s) otherwise due Contractor until it receives the summary report and certification specified in this subsection.

30. Guarantee of Performance by _____ . (If determined to be applicable by the State)

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

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

CONTRACTOR	STATE OF MARYLAND By: DEPARTMENT OF BUDGET & MANAGEMENT
_____	_____
By: _____ Date: _____	By: _____ Date: _____
Title: _____	Ellis Kitchen Title: State Chief Information Officer
_____	_____
Witness: _____	Witness: _____

Approved for form and legal sufficiency this _____ day of _____, 2006.

Alan W. Kempske
Assistant Attorney General

Approved by the
Board of Public Works If Applicable:

Date BPW Item #

ATTACHMENT B—BID/PROPOSAL AFFIDAVIT

(Authorized Representative and Affiant)

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

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

B. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

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

_____.

C. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

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

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

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

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

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

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

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

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

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

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

(8) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in Section B and subsections (1) through (7) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

_____.

D. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

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

_____.

E. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

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

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

_____.

F. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

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

G. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

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

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

H. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

I. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

J. DRUG AND ALCOHOL FREE WORKPLACE

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

I CERTIFY THAT:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) I acknowledge and agree that:

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

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

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

K. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

(1) The business named above is a (domestic ___) (foreign ___) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is (IF NOT APPLICABLE, SO STATE):

Name: _____

Address: _____

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

L. CONTINGENT FEES

I FURTHER AFFIRM THAT:

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

M. Repealed.

N. ACKNOWLEDGEMENT

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

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

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

ATTACHMENT C – CONTRACT AFFIDAVIT

COMAR 21.07.01.25

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the

(title)

and the duly authorized representative of

(business)

and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

B. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

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

Name: _____

Address: _____

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

C. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

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

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

DATE: _____

BY: _____
(Signature)

(Authorized Representative and Affidavit)

ATTACHMENT D – PRE-BID CONFERENCE RESPONSE FORM

Project No. 050R5800353
Project Title: MRV Brand Network Components

A Pre-bid Conference will be held at **10:00 AM (Local Time), on Thursday, ~~January 26, 2006~~ February 2, 2006** at:

Department of Budget & Management
45 Calvert Street, Room 164 A
Annapolis, MD 21401

For directions to the meeting site, See Attachment E-Directions to the Pre-Bid Conference or you may contact Ms. Jacqu' Boock via e-mail at jboock@dbm.state.md.us or phone 410-260-7681.

Please e-mail, Fax or return this form by 1:00 PM on Wednesday, February 15, 2006 advising whether or not you plan to attend this Conference.

E-mail or return this form to the Procurement Officer:

Jacqu' Boock
Department of Budget & Management
Office of Procurement Analysis & Administration
45 Calvert Street, Room 134
Annapolis, MD 21401
Phone: (410) 260-7681
Fax # (410) 974-5045
e-mail: jboock@dbm.state.md.us

Please indicate:

_____ **Yes, the following representatives will be in attendance:**

- 1.
- 2.
- 3.

_____ **No, we will not be in attendance.**

Company/Firm/Vendor Name

Telephone

Contact Name

ATTACHMENT E - DIRECTIONS TO PRE-BID CONFERENCE

Department of Budget & Management
Room 164 A
45 Calvert Street
Annapolis, MD 21401

10:00 AM, Thursday, ~~January 26, 2006~~ **February 2, 2006**

From points North of Annapolis: Take I-97 South towards Annapolis/Bay Bridge. Take the US-50 East/US-301 North exit towards Annapolis/Bay Bridge. Take Exit #24 (MD-70 Rowe Blvd/Bestgate South) towards Annapolis/State Offices. Bear Right on the exit ramp toward “South/Annapolis”. Continue on Rowe Blvd through two (2) lights. After crossing the College Creek Bridge, turn Right at the third (3rd) light onto Calvert Street. The first building on the right is 45 Calvert Street.

From points South and West of Annapolis: Take US-50 East/US-301 North towards Annapolis/Bay Bridge. Take Exit #24 (MD-70 Rowe Blvd/Bestgate South) towards Annapolis/State Offices. Bear Right on the exit ramp toward “South/Annapolis”. Continue on Rowe Blvd through two (2) lights. After crossing the College Creek Bridge, turn Right at the third (3rd) light onto Calvert Street. The first building on the right is 45 Calvert Street.

From points East of Annapolis: Take US-50 West towards Annapolis. Take Exit #24A (Rowe Blvd/MD-70 South) towards Annapolis/State Offices. Continue on Rowe Blvd through three (3) lights. After crossing the College Creek Bridge, turn Right at the fourth (4th) light onto Calvert Street. The first building on the right is 45 Calvert Street.

PARKING: There is on-street metered parking along Calvert Street. There is a parking garage on Clay Street, which is the first street on the right immediately past the 45 Calvert Street State Office Building. There is also a parking garage on the left side of Calvert Street just past the 45 Calvert Street State Office Building. **Parking is limited so allow adequate time to find parking.**

ATTACHMENT F - BID PRICE INSTRUCTIONS & FORM

1. In order to assist bidders in the preparation of their bids and to comply with the requirements of this solicitation, Attachment F - Bid Price Instructions & Form, has been prepared. Bidders shall submit their bids using Attachment F- Bid Form and in accordance with the instructions on the form and as specified herein.
2. The Bid Form is to be completed, signed and dated by an individual who is authorized to bind the bidder to the percentages noted as 'PERCENT DISCOUNT OFF OF MRV PRICE LIST.' This will be the percent contracted with the Department that will be applied to each product or support line item at the time that each order is placed by the Department. ***Enter all information in the spaces provided.***
3. Bidders shall record the fixed 'PERCENT DISCOUNT OFF OF MRV PRICE LIST' to be applied to the MRV List Price for Products and Support (current at the time of order placement) for each of the MRV Categories of Products as referenced within Section 2.1 and the MRV web site, and catalog.
4. For purposes of determining the most favorable evaluated bid price (as referenced in COMAR 21.05.02.13), Bids will be evaluated based on the highest "EVALUATED 'PERCENT DISCOUNT OFF TOTAL.'" However, the 'PERCENT DISCOUNT OFF OF MRV PRICE LIST' (in Column D) recorded for each line item is the actual percent for each of the product categories shown that will be contracted with the State of Maryland for the term of the contract.
5. For each category of product and support, lines '1' through '4' and lines '5A,' '5B,' and '5C,' display the weighting factor that will be used for that line as already shown on the Bid Form. For each line item the 'PERCENT DISCOUNT OFF OF CURRENT MRV PRICE LIST' (that will be applied to the product's MRV Price at the time of product/support purchase) will be multiplied by the weight factor and the answer recorded in Column E. All seven line items percent from Column E will then be added and then divided by 5 to arrive at the most favorable evaluated bid price. The responsible and responsive Bidder whose bid meets the requirements and evaluation criteria set forth in the invitation for bids, and provides the HIGHEST overall 'EVALUATED PERCENT DISCOUNT OFF TOTAL' will be the most favorable evaluated bid price, and will be recommended for award.

ATTACHMENT F - BID PRICE INSTRUCTIONS & FORM (Continued)

So, as noted, step-by-step, the Bidder shall:

- a. In Column D on the Bid Form, record 'PERCENT DISCOUNT OFF OF MRV PRICE LIST' for each line item (Lines 1 through 4, and 5A, 5B, and 5C).
 - b. In Line 6 Column E on the Bid Form, Record the sum Total of Lines 1 through 4, 5A, 5B, and 5C.
 - c. In Line 7 Column E on the Bid Form, Divide the Sum Total from Line 6 by the number '5' and record the number as the EVALUATED PERCENT DISCOUNT OFF TOTAL (See Instructions in No. 8 below).
6. For probability of items being procured under that category, the weighted factors are defined as: 3 being the highest probability, 2 being an average probability, and 1 being the lowest probability. Weighted factors **are for evaluation purposes only**. It is anticipated, but not guaranteed for example, that more items from MRV-Media Converters, Fiber Optimizers & Repeaters category will be purchased than items from the MRV-Wave Division Multiplexing category (see bid form).
 7. The State reserves the right, at its sole discretion, not to purchase any product or service provided under this IFB or resulting contract.
 8. Bidders are required to record the PERCENT DISCOUNT OFF OF MRV PRICE LIST as their bid.
 - a. The PERCENT DISCOUNT OFF OF MRV PRICE LIST must be clearly typed or written in ink as a percent and extended to two (2) decimal places, e.g., 45.23%.
 - b. The PERCENT DISCOUNT OFF OF MRV PRICE LIST percent recorded must be the actual *minimum* percentage off reduction that will be applied to any item ordered for that product line from the selected bidder and applied to the published MRV List Price that is current at the time of product or support order and may not be contingent on any other factor or condition in any manner. (A larger percent may actually be provided to the Department on any given product or support order at the time of the order at the Contractor's discretion; however, the Contractor shall honor any special pricing, additional special discount, or most favored customer pricing they may also have in effect at the time of order placement by the Department.)

ATTACHMENT F - BID PRICE INSTRUCTIONS & FORM (Continued)

- c. Except as instructed on the form, nothing shall be entered on the form that alters or proposes conditions or contingencies on the 'PERCENT DISCOUNT OFF OF MRV PRICE LIST' percent recorded.
- 9. No taxes, surcharges, or fees of any type, kind, or amount whatsoever may be added to the percent contracted or any part of an order.**

ATTACHMENT F –Bid Form

The Authorized Signature block must be signed by an individual who is authorized to bind the Bidder to all statements, including products, support, and discount contained in the bid.

(Column A)	(Column B)	(Column C)	(Column D)	(Evaluation Column E)
No.	Category Description	*Weight Factor	***Percent Discount Off Of **MRV Price List	Column C * Column D = Column E
1	MRV – Media Converters, Fiber Optimizers & Repeaters	3	%	%
2	MRV – Wave Division Multiplexing	1	%	%
3	MRV – Plug-ins	2	%	%
4	MRV- Ethernet Access	3	%	%
5	Support			
	A – Advanced Hardware Replacement	1	%	%
	B – Phone Support	1	%	%
	C – Priority Plus Support	1	%	%
Line 6. The Sum TOTAL of Lines 1 through 4, plus 5A through 5C:				%
Line 7.	<u>EVALUATED ‘PERCENT DISCOUNT OFF’ TOTAL</u> (The Sum Total of Line 6 divided by the number ‘5’) (See Price Instruction # 4 and # 5)			%

* Note: Weighted factors are for evaluation purposes only. **As an example,** it is anticipated, but not guaranteed that more items from MRV-Media Converters, Fiber Optimizers & Repeaters category will be purchased than items from the MRV-Wave Division Multiplexing category.

** For the purposes of bidding, the MRV Price List will be the MRV Price List in effect as of the date of each product or support order placed by the Department with the Contractor.

*** **The ‘PERCENT DISCOUNT OFF OF MRV PRICE LIST’ (in Column D) recorded for each line item is the actual percent for each of the product categories shown that will be contracted with the State of Maryland for the term of the contract.**

AUTHORIZED SIGNATURE

TITLE

DATE

TYPED NAME

FEDERAL EMPLOYER IDENTIFICATION #

NAME OF BIDDER (COMPANY)

ADDRESS

PHONE NO.

FAX NO.

ATTACHMENT G - ELECTRONIC FUNDS TRANSFER (EFT) FORM

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**State of Maryland
Comptroller of Maryland**

Vendor Electronic Funds Transfer (EFT) Registration Request Form

Date of request _____

Business identification information (Address to be used in case of default to check):

Business name _____

Address line 1 _____

Address line 2 _____

City _____ State _____

Zip code

Business taxpayer identification number:

Federal Employer Identification Number:

(or) Social Security Number:

Business contact name, title, and phone number including area code. (And address if different from above).

Financial institution information:

Name and address _____

Contact name and phone number (include area code)

ABA number

Account number

Account type Checking Money Market

A voided check from the bank account must be attached.

Transaction requested:

1. Initiate all disbursements via EFT to the above account.
2. Discontinue disbursements via EFT, effective _____
3. Change the bank account to above information – a copy of the approved Registration Form for the previous bank account must be attached.

(OVER)

I am authorized by * _____ (hereinafter Company) to make the representations contained in this paragraph. Company authorizes the Comptroller and the Treasurer of Maryland to register it for electronic funds transfer (EFT) using the information contained in this registration form. Company agrees to receive all funds from the State of Maryland by electronic funds transfer according to the terms of the EFT program. Company agrees to return to the State of Maryland any EFT payment incorrectly disbursed by the State of Maryland to the Company's account. Company agrees to hold harmless the State of Maryland and its agencies and departments for any delays or errors caused by inaccurate or outdated registration information or by the financial institution listed above.

*Name of registering business entity

Signature of company treasurer, controller, or chief financial officer and date

Completed by GAD/STO

Date Received _____

GAD registration information verified _____ Date to STO _____

STO registration information verified _____ Date to GAD _____

R*STARS Vendor No. and Mail Code Assigned:

_____/_____/_____

State Treasurer's Office approval date

General Accounting Division approval date

To Requestor:

Please retain a copy of this form for your records. Please allow approximately 30 days from the date of your request for the Comptroller's and Treasurer's Offices to process your request. Failure to maintain current information with this office could result in errors in payment processing. If you have any questions, please call the EFT registration desk at 410-260-7375.

Please submit form to: EFT Registration, General Accounting Division
Room 205, P.O. Box 746
Annapolis, Maryland 21404-0746

COT/GAD X-10