

**OFFICE OF STATE PROCUREMENT (OSP)**

**DEPARTMENT OF GENERAL SERVICES**

**COMMODITY**

**INVITATION FOR BIDS (IFB)**

**BID NUMBER: [Bid Number/Solicitation Number]**

**Issue Date: [date of issuance]**

**[Insert type of procurement: STATEWIDE or AGENCY]**

**[Insert Description of the Project]**

[If your procurement is designated as a Small Business Reserve, include the following notice in black font, if not delete this section:]

**NOTICE TO BIDDERS**

**SMALL BUSINESS RESERVE PROCUREMENT**

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

**NOTICE**

A Prospective Bidder that has received this document from the **<<enter the agency name if it’s an Agency contract, or Office of State Procurement if OSP conducts the solicitation>>**

website or [procurement.maryland.gov](https://procurement.maryland.gov), or that has received this document from a source other than the Procurement Officer, and that wishes to assure receipt of any changes or additional materials related to this IFB, should immediately contact the Procurement Officer and provide the Prospective Bidder’s name and mailing address so that addenda to the IFB or other communications can be sent to the Prospective Bidder.

**MINORITY BUSINESS ENTERPRISES ARE ENCOURAGED**

**TO RESPOND TO THIS SOLICITATION**

**STATE OF MARYLAND**

**<<Enter the agency name if it is an Agency contract or Office of State Procurement if OSP conducts the solicitation>>**

**IFB KEY INFORMATION SUMMARY SHEET**

**Invitation for Bids:** **(SOLICITATION TITLE)**

**Solicitation Number: (solicitation number)**

**Solicitation Type: [Indicate “Indefinite Delivery Indefinite Quantity”, or “One-Time Purchase”, etc.]**

**IFB Issue Date: (date of issuance)**

**IFB Issuing Office: (DEPARTMENT)**

**Procurement Officer: (name of Procurement Officer)**

**(Contact information of Procurement Officer)**

**(Address)**

**Phone:**

**e-mail: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Agency Contract Monitor: (name of Contract Monitor)**

**or /Administrator (administration or facility name)**

**(Street address and room number)(City, state, zip code)**

**Phone:**

**e-mail: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**In-Person Pre-Bid Conference:** (**date and time of Conference) Local Time**

**(street address, room number), (city, state, zip code)**

**Virtual Pre-Bid Conference:** (**date and time of Conference) Local Time**

**via Conference Call-in Number: (Google meet call-in #)** ‬‬‬‬‬

**PIN:**

[Join with Google Meet](https://meet.google.com/wsb-irgk-gfe?hs=122&authuser=0)

**(xxxxxxxxxxxx)**

**Pre-Bid Attendance RSVP due by: (Month/Date/Year) or [Indicate “Not Applicable”]**

**Cut-off Date for Q &A: All questions or issues pertaining to this solicitation must be submitted to the Procurement Officer via eMaryland Marketplace Advantage by (Month/Date/Year) Please check to make sure this feature is working on eMMA, otherwise have questions sent via email to you.**

**Closing Date and Time: (Bid due date and time) Local Time**

**Term of Contract: (Month/Date/Year) through (Month/Date/Year)**

**Options (Yes) [indicate number and term of options] or (No)**

**MBE Subcontracting Goal: (MBE goal percentage) % or [Indicate “Not Applicable”]**

**(Sub-goal percentage) % or [Indicate “Not Applicable”]**

**MBE Split Goals: (Insert MBE split goal percentages)**

**VSBE Subcontracting Goal: (VSBE goal percentage) % or [Indicate “Not Applicable”]**

**Small Business Preference: (Yes or No)**

**Bids are to be submitted online only at eMarylandMarketplace Advantage:** [**procurement**](http://procurement.maryland.gov)**.maryland.gov.**

**CONTENTS OF THIS SOLICITATION PACKAGE**

**Section A** General Information

**Section B** Terms and Conditions

**Section C** Specifications

**Attachment C** Bid/Proposal Affidavit

**Attachment D** Minority Business Enterprise Utilization Procedures

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

**Attachment K** Mercury Affidavit

**Attachment N** Contract Affidavit

**Attachment P** Small Business Reserve (if applicable)

**Attachment S** Company Profile

**Attachment V** Pre-Bid Conference Response Form

**Attachment Q** No Bid Notice

**SECTION A**

**GENERAL INFORMATION**

**[INSERT TITLE OF SOLICITATION]**

**[INSERT SOLICITATION NUMBER]**

**A. OBJECTIVE:**

The purpose of this (INSERT TYPE OF CONTRACT) contract is to obtain a source of supply for (INSERT COMMODITY for REQUESTING AGENCY) at a firm fixed price for the term as shown herein. The State may award one-time or multiple contracts to the lowest responsive and responsible Bidder(s).

Successful Vendor(s) shall be responsible for ensuring that the (INSERT COMMODITY) supplied is in accordance with the Section C-Detailed Specification. The State reserves the right to inspect each load prior to acceptance by the State, for compliance with the specifications herein. Inspection may be made by an authorized representative of the State at the source of supply, point of delivery, or both.

**B. BASIS OF AWARD:**

1. The award for this solicitation will be made (INSERT BY LINE OR BY LOT) to the responsive and responsible Vendor with the lowest price, as determined by the Procurement Officer to be in the best interests of the State of Maryland.
2. BY LOT is defined as all items or none. The bidder must bid ALL line items. (DELETE THIS LINE IF THE BID IS BY LINE)
3. BY LINE is defined as one or more items. The bidder must bid one or more-line items. (DELETE THIS LINE IF THE BID IS BY LOT)
4. Vendor shall submit a bid price based on product description (specification) and unit of measure specified on each line. **For example:**

Unit of Measure (U/M) – (Insert “By Lot” or “By Line”)

Specification – (Insert title of this solicitation)

1. The State reserves the right to make the award by item, or groups of items, or Total Bid Price if it is in the best interest of the State to do so unless the Bidder specifies in its bid that a partial or progressive award is not acceptable.

**C. METHOD OF BIDDING:**

In order to receive a contract award, a vendor must be registered on eMMA. Registration is free. Go to [emma.maryland.gov](https://emma.maryland.gov/page.aspx/en/usr/login?ReturnUrl=%2fpage.aspx%2fen%2fbuy%2fhomepage), click on “New Vendor? Register Now” to begin the process, and then follow the prompts.

All bids, affidavits, and/or responses to attachments shall be submitted electronically through eMaryland Marketplace Advantage (eMMA) with the bid response. Bids submitted through the mail, faxed, hand delivered, etc. will not be accepted or considered.

Bids for this solicitation are being accepted solely online through eMaryland Marketplace Advantage (eMMA). Bidders must bid all line items. Partial or incomplete bids will be rejected unless otherwise stated in the solicitation. Bidders shall elaborate on items in Specifications only when requested. Bidders should not provide any comments in the comments box for each line item. If comments are provided the bid may be determined to be non-responsive. Bidders should not provide unsolicited discounted pricing unless instructed to do so in the Specifications.

Multiple or alternate bids will not be acceptable unless otherwise stated in the State solicitation documents.

**D. TERM OF CONTRACT:**

1. **Refer to the IFB KEY INFORMATION SUMMARY SHEET (page 2) for the complete term of the contract.** Any renewals solicited with this contract or any part of the contract may be renewed by the mutual agreement between **<<enter the agency name if it is an Agency contract, or Office of State Procurement if OSP conducts the solicitation>>** and the Contractor.
2. Contracts will remain in effect for the time period and quantity specified unless the contract is terminated by the State. The State may terminate any contract without showing cause upon thirty (30) days written notice.
3. Any item listed herein not delivered in a timely manner or does not conform to the requirements of the contract, may be purchased on the open market by the using agency. The Contractor will be charged for any product cost incurred by the State that is in excess of the contracted price.

**E. PRICE ESCALATION:**

**(IF APPLICABLE INSERT TERMS FOR PRICE ESCALATION, IF NOT DELETE INFORMATION**

**BELOW INDICATE “Not Applicable”)**

One hundred twenty (120) days prior to the end of each year of the contract, the Contractor may request, in writing, a cost adjustment to be in effect for the subsequent years of the contract. Any proposed increase in price shall not exceed the rate of inflation as determined by the Consumer Price Index for all urban consumers (CPI-U) - U.S. City average all items published quarterly by the Bureau of Labor Statistics at the time of the request. The State reserves the right to adjust the scope of the contract in order to keep expenditures within authorized appropriations.

The price adjustments for the renewals shall be negotiated and mutually agreed upon by **<<enter the agency name if it’s an Agency contract, or Office of State Procurement if OSP conducts the solicitation>>** and the Contractors. Although each negotiation will be carried out independently, the percentage increase or the monetary increase shall be the same for all vendors. **<<Enter the agency name if it is an Agency contract, or Office of State Procurement if OSP conducts the solicitation>>** reserves the right to renew any and/or all Contractor’s contracts. Any contracts, which are not renewed, will be competitively re-bid. Upon renewal, the existing contract terms and conditions will apply.

**F. EXCEPTIONS / TERMS AND CONDITIONS:**

**The published specifications are meant to describe goods and services suitable for the intended application and are not meant to be restrictive in any way. All specifications determined by the bidder to be restrictive should be addressed in writing via email to the Procurement Officer by the Q&A cut-off date indicated on the IFB KEY INFORMATION SUMMARY SHEET (page 2).**

By submitting a Bid in response to this IFB, the Bidder, if selected for award, shall be deemed to have accepted the Terms and Conditions, attached herein as **Section B**, of this IFB. Any exceptions to the Terms and Conditions should be raised **prior to** Bid submission. If applicable, the Bidder must present its company’s Supplemental Terms and Conditions for the State’s review **prior** to the Q&A cut-off date.

**Changes to the solicitation or the Terms and Conditions made by the Bidder may result in Bid rejection.**

**After Bid Opening, any exceptions to the bid specifications may not be accepted or considered.**

**G. UNIT PRICES:**

Should the Contractor be required to perform work over and above that required by the Contract documents, or should the Contractor be ordered to omit work required by the Contract documents, an equitable adjustment will be made to the Contract price. In determining the amount of any such extra to the Contractor, which is governed by unit prices, the amount of the extra will be the unit price bid by the Contractor or a reasonable price, whichever is less. In determining the amount of any such credit due the State, which is governed by unit prices, the amount of the credit will be the unit price bid by the Contractor or a reasonable price, whichever is greater. Unit prices quoted will be the same for extra work and for credit work and shall be the sum total compensation payable or creditable for such items of work, including all labor, materials, bailing, shoring, removal, overhead, profit, insurance, etc. The Procurement Officer will issue one or more Contract modifications to authorize any such additions or deletions of work.

**H. REQUIRED DOCUMENTATION AND INFORMATION:**

All forms, instructions, terms and conditions are available online. It is recommended that Vendors download all online forms and attachments for future reference.

**The following documentation and requested information shall be provided in the format specified by bid due date and time unless stated otherwise below. Failure to provide the requested documentation or information may cause your bid to be deemed not responsive and rejected from consideration. Note: It is the Vendor’s responsibility to ensure all requested documentation is attached to its bid.**

**1. MANDATORY AFFIDAVITS** - All affidavits are to be completed and provided as an attachment to your bid on eMMA. The Bid/Proposal Affidavit and the MBE D-1A Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (if applicable) must be properly completed and submitted with the Bidder’s Bid or the Bid shall be deemed non-responsive and rejected. If you have difficulty attaching the affidavits to your bid response, for assistance with this process, please go to [emma.helpdesk@maryland.gov](mailto:emma.helpdesk@mayland.gov). Failure to provide all affidavits may cause your bid to be deemed not responsive and rejected from consideration.

**Note:** For the purpose of the bid/proposal and contract affidavits, domestic/foreign refers to whether your firm is an in-state or out-of-state corporation. If your firm is not located in the State of Maryland, please designate it as ‘foreign’ and provide the name of your resident agent (Maryland address), if applicable.

**2. REFERENCES** - Prior to submitting a bid for the commodity in the specifications, the firm must have a minimum of three (3) consecutive years of its entity being formed and in business and have no less than three (3) years’ experience in providing products that are equal to or comparable to the scope and magnitude required by the specifications.

In order to expedite the award process, it is very important for you to include the references as detailed. With each reference, list details of volume of sales for each location, a contact person, current working telephone number, e-mail address, time period of contract and dollar amount of contract. **References are to be submitted as an attachment with your bid on eMaryland Marketplace Advantage (eMMA).** The Vendor shall supply this information by filling out and returning **Attachment S** - **Vendor Company Profile** with their bid response.

Failure to promptly provide information that leads to a determination of responsibility is grounds for rejection of the bid.

**3. MBE INFORMATION** - The goal of the State of Maryland's Minority Business Enterprise (MBE) Program is to attempt to provide a fair share of procurement contracts to Certified Minority Business Enterprises.

The **<<enter the agency name if it’s an Agency contract, or Office of State Procurement if OSP**

**conducts the solicitation>>** adheres to the State of Maryland Minority Business Enterprise (MBE) policies. Minority Business Enterprise (MBE) vendors are encouraged to respond to this solicitation as the Prime Contractor and Minority Business Enterprise (MBE) vendors shall be represented in the subcontract with aparticipation goal in the total bid price of this solicitation. See MBE participation for this bid on the **IFB KEY INFORMATION SUMMARY SHEET (page 2).** Additional information regarding the State of Maryland MBE and Small Business Reserve (SBR) programs can be found on eMaryland Marketplace Advantage: <https://procurement.maryland.gov/>.

1. **SMALL BUSINESS PREFERENCE**

(If this solicitation **is not** designated as a Small Business Preference (SBP) Procurement, enter only the following sentence for this section and delete the rest)

This solicitation is not designated as a Small Business Preference (SBP) Procurement.

(If this solicitation is designated as a Small Business Preference (SBP) Procurement, enter the following language for this section)

This procurement has been designated as a Small Business Preference in accordance with Title 14, Subtitle 2, of the State Finance and Procurement Article of the Maryland Annotated Code. The preference percentages for this procurement are as follows:

State-certified small business (not a veteran-owned or disabled veteran-owned Small business) 5%

State-certified, veteran-owned small business 7%

State-certified, disabled veteran-owned small business 8%

To be eligible for the preference, your company must have a current small business certification from the Office of State Procurement. The small business size standards in Maryland are different than the Federal standards, so you cannot substitute an SBA 8(a) certification or VetBiz verification for State small business certification.

If your small business is eligible but not certified by the State, apply for certification on the Office of State Procurement website at <https://procurement.maryland.gov/> and obtain a small business certification number.

The bidder must provide the following to the procurement officer to prove eligibility for the Percentage Price Preference.

* A certified small business that is not veteran-owned or disabled-veteran­ owned must provide the OSP small business certification number.
* A veteran-owned certified small business must provide the OSP small business certification number AND a copy of the business owner's DD Form 214 attesting to a discharge or release under conditions other than dishonorable.
* A service-disabled veteran-owned small business that is currently verified and registered on www.VetBiz.gov must provide the OSP small business certification number AND a copy of the letter from the U.S. Department of Veterans Affairs Verification Program showing your verification is current
* A service-disabled veteran-owned small business that is NOT currently verified and registered on [www.VetBiz.gov](http://www.vetbiz.gov/) must provide the OSP small business certification number AND a copy of your DD Form 214 showing discharge or release under conditions other than dishonorable AND a copy of your Adjudication Letter from the U.S. Veterans Administration.

State Law requires that the veteran business owner be domiciled in Maryland. There is no Maryland residency requirement for owners of small businesses participating in the Preference as a small business without the veteran-owned or service-disabled veteran­ owned designation.

The bidder will be required to complete a Small Business Reserve Affidavit. A copy of this Affidavit is included as **Attachment S**. This Affidavit must be provided with the bid.

**5. QUESTIONS AND INQUIRES:**

All questions or issues pertaining to this solicitation must be submitted via email to the Procurement Officer. **Questions will not be accepted by telephone or fax.** **See** the **IFB KEY INFORMATION SUMMARY SHEET (page 2) for the Cut-Off Date for submitting questions.** Only information communicated by the Procurement Officer or their authorized representative will be the official position of the State on an issue.

All questions should be submitted in a timely manner. When questions are not received in a timely manner, the Procurement Officer will, based on the availability of time to research and communicate an answer, decide whether they can answer an untimely question before the bid due date.

Prices quoted shall be valid for ninety (90) days after bid opening.

This solicitation is in accordance with Code of Maryland Regulations (COMAR) 21.11.05.03B. One or more Preference Providers may respond to this solicitation. Any subsequent contract may be awarded to a preference provider if: (1) its bid price is deemed a fair market price by the **<<enter the agency name if it is an Agency contract, or Office of State Procurement if OSP conducts the solicitation>>**, and (2) it accepts the terms and conditions contained in this solicitation. A fair market price is defined, for this solicitation, as the average total price of all responsive bids from responsible Vendors, excluding those bids received from certified sheltered workshops.

**6. RECIPROCAL PREFERENCE:**

A Preference will be given to the responsive and responsible bid from a Maryland firm over that of a nonresident firm if the State in which the nonresident firm is located gives a resident business preference. Where such a business preference is provided, the preference shall be the same as that provided by the State in which the nonresident firm is located. A **non-resident Vendor** submitting a bid/proposal for a State project shall be provided an attachment to the bid/proposal a copy of the current statute, resolution, policy procedure or executive order of the resident State of the nonresident Vendor that pertains to that State's treatment of nonresident Vendors.

**7. BILLING:**

Contractor shall include the following information on all invoices:

1. Name of company,
2. Address to include the 9 digit zip code,
3. FEIN number,
4. The name of the contact person,
   * Include the phone number (including toll free) for placing orders

Failure to do so may result in delay of payment.

**8. PRE-BID CONFERENCE:**

**(DELETE THIS SECTION IF NOT APPLICABLE and type “A pre bid conference is not required for this solicitation”)**

Each Bidder or their representative is encouraged to attend the scheduled Pre-Bid Conference/Site Visit. Normally, attendance at the Pre-Bid is not required.  However, if there is a Minority Business Enterprise (MBE) Goal on this solicitation, Bidders or Offerors or their representative, including those Bidders or Offerors that are certified MBE's, are required to attend Pre-Bid or other meetings the procurement agency schedules to publicize contracting opportunities to certified MBE's. ***(See State Finance and Procurement Article, §14-302(a)(7)(v) and COMAR 21.11.03.09C(2)(e))***.

**FAILURE TO ATTEND THE PRE-BID CONFERENCE WILL BE TAKEN INTO CONSIDERATION AS PART OF THE EVALUATION OF A BIDDER’S GOOD FAITH EFFORTS IF THERE IS A WAIVER REQUEST.**

In addition, it is highly recommended that ALL Prime Contractors bring their intended subcontractors to the Pre-Bid Conference/Site Visit to ensure that all parties understand the requirements of the contract and the MBE Goal.  Finally, MBE Subcontractors are encouraged to attend the Pre-Bid Conference/Site Visit to 'market' their participation to potential Prime Contractors.

**The Pre-Bid Conference/Site Visit will be held at the date, time, and location indicated on the IFB KEY INFORMATION SUMMARY SHEET (page 2).**

At the scheduled Pre-Bid Conference/Site Visit, each Bidder will be permitted to examine the building, familiarize himself/herself with the full nature and extent of the work and obtain answers to questions about or clarifications of the contract.  It is the sole responsibility of the Bidder to familiarize himself/herself fully with the contents of the specifications of this solicitation.  Failure to do so does not relieve the successful Bidder from their obligation to comply with all aspects of this Bid package for the amount he/she specifies as his/her bid.

The Conference will be summarized. As promptly, as is feasible subsequent to the Conference, a summary of the Conference and all questions and answers known at that time will be distributed to all prospective Bidders known to have received a copy of this IFB. This summary, as well as the questions and answers, will also be posted on eMaryland Marketplace Advantage.

In order to assure adequate seating and other accommodations at the Conference, please e-mail, mail, or fax the Pre-Bid Conference Response Form to the attention of the Procurement Officer no later than the time indicated on the **IFB Key Information Summary Sheet (page iii)**. The Pre-Bid Conference Response Form is included as **Attachment V** to this IFB. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please indicate the request on **Attachment V** and notify the Procurement Officer. The Department will make a reasonable effort to provide such special accommodation.

**9. KICK OFF MEETING:**

**[IF A KICKOFF MEETING WILL NOT BE HELD, DELETE INFORMATION BELOW AND INSERT “Not Applicable”.]**

Prior to the commencement of this contract, or no later than two (2) weeks following official notice of award, the Awardee of the Contract MUST attend the MBE Start-Up Meeting to review with the Agency Representative, the Procurement Officer, and the MBE Compliance Officer the contract terms and conditions, and all of the requirements in performance of this contract. But special attention will be provided to the compliance requirements of the MBE Goal. The Awardee **must** bring their approved Subcontractor(s) and any personnel, including those authorized to act on behalf of the Contractor directly involved in the performance of this contract. The Contractor shall bring to the Contract Start-Up Meeting a copy of the written contract agreement with the named subcontractor(s). This request is in accordance with COMAR 21.11.03.10B.

The Contractor shall also bring, within the prescribed limits, the requirements as specified in Section(s) #, list the sections that indicate information the contractor is required to bring to the Contract Start-Up Meeting.

The Awardee shall also bring a copy of the written contract between the Prime Contractor and the Subcontractor(s).

The meeting will be arranged by the Procurement Officer in the prescribed limits (no less than two (2) weeks following official notice of award) and shall include notification to the Office of Business Programs via e-mail at [**dgs.osp-compliance@maryland.gov**](mailto:dgs.osp-compliance@maryland.gov)**.**

(page 2).

It is incumbent of the Prime Contractor to ensure the Subcontractor(s) attendance for the required meeting.

**10. NO BID NOTICE:**

The **<<enter the agency name if it is an Agency contract, or Office of State Procurement if OSP conducts the solicitation>>** is committed to providing solicitations that are readily and easily responded to. If you choose not to respond to this solicitation, please fill out this form, **Attachment Q**, and email it to the Procurement Officer **indicated on the IFB Key Information Summary Sheet (page 2).** We will review your responses and suggestions and try to incorporate them in our procedures.

**11.** **Maryland’s Green Purchasing Reporting Requirements**

[[Keep this section if this Contract might include environmentally preferred products and services. Delete this clause if inapplicable.]]

The State of Maryland reserves the right to request from the Contractor quarterly sales data over the life of this contract. This information must include details about the recycled content, third-party sustainability certifications, and other environmental attributes of products and services sold on this price agreement per the contract specifications.

This information will enable Maryland State agencies to comply with Article §14–405 of the Annotated Code of Maryland and COMAR 21.13.01.14, effective October 1, 2014, which requires Maryland state agencies to report to the Department of General Services on their procurement of environmentally preferable products and services.

To facilitate consistent reporting on targeted contracts, the Contractor will be provided with a VENDOR GREEN SALES REPORT template by the Maryland Department of General Services.

**SECTION B**

**TERMS AND CONDITIONS**

**[INSERT STATEWIDE or AGENCY]**

**[INSERT TITLE OF SOLICITATION]**

**[INSERT SOLICITATION NUMBER]**

1. **INCORPORATION BY REFERENCE:**

All terms and conditions of the solicitation and amendments thereto are made a part of this Contract.

1. **TAX EXEMPTION:**

The State is generally exempt from federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. Exemption certificates shall be completed upon request. Where a Contractor is required to furnish and install material in the construction or improvement of real property in performance of a contract, the Contractor shall pay the Maryland Sales Tax and the exemption does not apply.

1. **SPECIFICATIONS:**

All materials, equipment, supplies or services shall conform to federal and State laws and regulations and to the specifications contained in this solicitation.

1. **DELIVERY AND ACCEPTANCE:**

Delivery shall be made in accordance with the solicitation specifications. The State, in its sole discretion, may extend the time of performance for excusable delays due to unforeseeable causes beyond the Contractor’s control. The State unilaterally may order in writing the suspension, delay or interruption of performance hereunder. The State reserves the right to test any materials, equipment, supplies, or services delivered to determine if the specifications have been met. The materials listed in the bid or proposal shall be delivered FOB the point or points specified prior to or on the date specified in the bid or proposal. Any material that is defective or fails to meet the terms of the solicitation specifications shall be rejected. Rejected materials shall be promptly replaced. The State reserves the right to purchase replacement materials in the open market. Contractors failing to promptly replace materials lawfully rejected shall be liable for any excess price paid for the replacement, plus applicable expenses, if any.

1. **NON-HIRING OF EMPLOYEES:**

No official or employee of the State, as defined under State Government Article, §15-102, Annotated Code of Maryland, whose duties as such official or employee include matters relating to or affecting the subject matter of this contract shall, during the pendancy or 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.

1. **NON-DISCRIMINATION IN EMPLOYMENT:**

The Contractor agrees 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 physical or mental handicap unrelated in nature and extent so as reasonably to preclude the performance of such employment and to post and to cause subcontractors to post conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

1. **FINANCIAL DISCLOSURE:**

The Contractor shall comply with State Finance and Procurement Article §13-221, Annotated Code of Maryland, which requires that every business that enters into contracts, leases or other agreements with the State and receives in the aggregate $200,000 or more, during a calendar year shall, within 30 days of the time when the $200,000 reached, file with the Secretary of State certain specified information to include disclosure of beneficial ownership of the business.

1. **POLITICAL CONTRIBUTION DISCLOSURE:**

The Contractor shall comply with Sections 14-101 through 14-108 of the Election Law Article of the Annotated Code of Maryland, which requires that every person that enters into, during any 12 month period, one or more contracts, or other agreements with the State, a county, or an incorporated municipality, or their agencies, involving a cumulative consideration of at least $200,000 or more, shall file with the State Administrative Board of Election Laws a statement disclosing contributions to a candidate, or a series of such contributions, in a cumulative amount 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 Administrative Board of Election Laws: (1) before a sale, purchase or execution of a contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding 24 months; and (2) if the contribution is made after sale, purchase or the execution of a contract, then twice a year, throughout the contract term: (a) within 5 days after the end of the 6-month period ending January 31; and (b) within 5 days after the end of the 6-month period ending July 31.

1. **ANTIBRIBERY:**

The Contractor warrants that neither it nor any of its officers, directors, or partners nor any of its employees who are directly involved in obtaining or performing contracts with any public body has been convicted of bribery, attempted bribery, or conspiracy to bribe, under the laws of any state or of the federal government or has engaged in conduct since July 1, 1977, which would constitute bribery, attempted bribery, or conspiracy to bribe under the laws of any state or the federal government.

1. **REGISTRATION:**

Pursuant to §7-201 et seq. of the Corporations and Associations Article of the Annotated Code of Maryland, corporations not incorporated in the State shall be registered with the State Department of Assessments and Taxation (SDAT). SDAT is located at the State Office Building, Room 803, 301 West Preston St., Baltimore, Maryland 21201. Before doing any interstate or foreign business in this State. Before doing any intrastate business in this State, a foreign corporation shall qualify with the Department of Assessments and Taxation. The website for the SDAT is https://www.egov.maryland.gov/businessexpress, e-mail address is [**charterhelp@dat.state.md.us**](mailto:charterhelp@dat.state.md.us), and phone numbers for the State Department of Assessments and Taxation are: (**410) 767-1340 or (888) 246-5941**.

1. **CONTINGENT FEES:**

The Contractor warrants that it has not employed or retained any person, partnership, or other entity, other than a bona fide employee or agent working for the Contractor, to solicit or secure this agreement, 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 agreement.

1. **EPA COMPLIANCE:**

Materials, supplies, equipment, or other services shall comply in all respects with the Federal Noise Control Act of 1972, where applicable.

1. **OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA):**

All materials, supplies, equipment or services supplied as a result of this contract shall comply with the applicable U.S. and Maryland Occupational Safety and Health Act Standards.

1. **TERMINATION FOR CONVENIENCE:**

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

1. **TERMINATION FOR CAUSE (DEFAULT):**

When the Contractor has not performed or has unsatisfactorily performed the contract, payment shall be withheld at the discretion of the State. Failure on the part of a Contractor to fulfill contractual obligations shall be considered just cause for termination of the contract and the Contractor is not entitled to recover any costs incurred by the Contractor 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 21.07.01.11B.

1. **DISPUTES; NO ELECTRONIC PROTESTS, NOTICES OF CLAIM, OR CLAIMS:**

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.

In accordance with COMAR 21.10.02.02 the Department will **not** accept protests, notices of claim, or claims by any electronic means (including by facsimile or email).

1. **MULTI-YEAR CONTRACTS:**

If funds are not appropriated or otherwise made available to support continuation in any fiscal year succeeding the first fiscal year, this contract shall terminate automatically as of the beginning or the fiscal year for which funds are not available. The Contractor may not recover anticipatory profits or costs incurred after termination.

1. **INTELLECTUAL PROPERTY:**

Contractor agrees to indemnify and save harmless the State, its officers, agents and employees with respect to any claim, action, cost or judgment for patent infringement, or trademark or copyright violation arising out of purchase or use of materials, supplies, equipment or services covered by this Contract.

1. **MARYLAND LAW PREVAILS:**

This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.

1. **CONTRACTOR’S INVOICES:**

Contractor agrees to include on the face of all invoices billed to the State, its Taxpayer Identification Number, which is the Social Security Number for individuals and sole proprietors and Federal Employer Identification Number for all other types of organizations.

1. **PAYMENT OF STATE OBLIGATIONS:**

Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the State's receipt of a proper invoice from the Contractor. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable, are prohibited.

Electronic Funds Transfer: This provision on Electronic Funds Transfer applies to contracts of over $200,000 for which payments are made through the State Comptroller. Electronic funds transfer will be used by the State to pay Contractor for this Contract and any other State payments due Contractor unless the State Comptroller’s Office grants Contractor an exemption. By submitting a response to this solicitation, the Bidder or Offeror agrees to accept payments by electronic funds transfer unless the State Comptroller’s Office grants an exemption. After award of a contract, the selected Bidder or offeror shall register with the Comptroller of Maryland using the forms required by the Comptroller. For further information go to:

<http://comptroller.marylandtaxes.com/Vendor_Services/Accounting_Information/Static_Files/GADX10Form20150615.pdf>.

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.

1. **PRE-EXISTING REGULATIONS:**

The regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR Title 21) in effect on the date of execution of this Contract are applicable to this Contract.

1. **INDEMNIFICATION:**

23.1 The Contractor shall hold harmless and indemnify the State from and against any and all losses, damages, claims, suits, actions, liabilities, and/or expenses, including, without limitation, attorneys’ fees and disbursements of any character that arise from, are in connection with or are attributable to the performance or nonperformance of the Contractor or its subcontractors under this Contract.

23.2 This indemnification clause shall not be construed to mean that the Contractor shall indemnify the State against liability for any losses, damages, claims, suits, actions, liabilities, and/or expenses that are attributable to the sole negligence of the State or the State’s employees.

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

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

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

23.6 This Section 23 shall survive termination of this Contract.

1. **CONFLICTING TERMS:**

Any proposal for terms in addition to or different from those set forth in this purchase order or any attempt by the Contractor to vary any of the terms of this offer by Contractor’s acceptance shall not operate as a rejection of this offer, unless such variance is in the terms of the description, quantity, price or delivery schedule, but shall be deemed a material altercation thereof, and this offer shall be deemed acceptable by the Contractor without the additional or different terms. If this purchase order is an acceptance of a prior offer by the Contractor, the acceptance is expressly conditioned upon Contractor’s assent to any additional terms contained herein. The Contractor understands and agrees that the terms and conditions of this purchase order may not be waived.

1. **DRUG AND ALCOHOL-FREE WORKPLACE:**

The Contractor warrants that the Contractor shall comply with COMAR 21.11.08 Drug and Alcohol Free Workplace, and that the Contractor shall remain in compliance throughout the term of this purchase order.

1. **CHANGES - WORK ORDERS:**

**Changes:** The Procurement Officer unilaterally may, at any time, without notice to the sureties, if any, by written order designated or indicated to be an order, make any change in the work within the general scope of the contract, including but not limited to changes:

In the specifications (including drawings and designs);

In the method or manner of performance of the work;

In the State-furnished facilities, equipment, materials, services, or site; or

Directing acceleration in performance or delivery.

Any other written order or an oral order, including a direction, instruction, interpretation, or determination from the Procurement Officer that causes or constitutes any such change shall be treated as a change order under this clause provided that the Contractor gives the Procurement Officer written notice stating the date, circumstances, and source of the order and that the Contractor regards the order as a change order.

Except as herein provided, no order, statement, or conduct of the Procurement Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment hereunder.

Subject to paragraph (6) of this subsection, if any change under this clause causes an increase or decrease in the Contractor’s cost of, or the time required for, the performance of any part of the work under the contract, whether or not changed by an order, an equitable adjustment shall be made and the contract modified in writing accordingly; provided, however, that except for claims based on defective specifications, no claim for any order under (2) above shall be allowed for any costs incurred more than twenty (20) days before the Contractor gives written notice as therein required; and provided further, that in the case of defective specifications for which the State is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with such defective specifications.

If the Contractor intends to assert a claim for an equitable adjustment under this section, he shall do so in accordance with and subject to the disputes procedures of the contract.

Each contract modification or change order that affects contract price shall be subject to the prior written approval of the Procurement Officer and other appropriate authorities and to prior certification of the appropriate fiscal authority of fund availability and the effect of the modification or change order on the contract budget or total cost. If, according to the certification of the fiscal authority, the contract modification or change order will cause an increase in cost that will exceed budgeted and available funds, the modification or change order may not be made unless sufficient additional funds are made available or the scope of the contract is adjusted to permit its completion within the project budget.

No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment is made under this contract.

As used in this section, “work” means any and all commodities, goods, materials, labor, services, manner or time of delivery or performance, or other elements of performance required to be furnished or supplied by the Contractor under this contract.

**Miscellaneous:** In the event of a dispute between the Department and the Contractor as to whether any work is included in the scope of the contract such that the Contractor would be obligated to provide that work at no additional cost to the State, the Procurement Officer may order the Contractor under this section to perform the work (a “Work Order”). If the Contractor considers such an order to be a change in the scope of the contract entitling the Contractor to additional compensation, a time extension, or other relief, the Contractor must provide the notice required by this section and initiate a claim therefore in accordance with contract requirements. An order of the Procurement Officer, by virtue of being called or referred to as a “change order,” does not necessarily constitute a change in the scope of the contract or in the work required under the contract. The Contractor shall not be entitled to additional compensation, a time extension, or other relief for complying with an order of the Procurement Officer if the contract otherwise requires the Contractor to perform as stated in the order.

Upon receipt of a signed written order of the Procurement Officer under this section, the Contractor shall comply with the order promptly, within the requirements of the required completion or delivery time, whether or not the Contractor signs or accepts the change order. Failure to comply with the order in a timely manner shall constitute a breach of the contract and grounds for termination for default or any other remedy available to the State.

The State may issue a unilateral order on the State’s terms (including a promise to pay the Contractor a “not to exceed” (“NTE”) amount) which the Contractor may then dispute in accordance with the disputes procedures of the contract. Pending resolution of such a dispute, Contractor must proceed diligently with performance of the contract as ordered by the Procurement Officer.

The terms “not to exceed” and “NTE” when used in a change order mean that the amount of the change order (whether an increase or a decrease in the contract amount) will be a reasonable amount not to exceed the amount stated.

1. **RETENTION OF RECORDS:**

The Contractor shall retain and maintain all records and documents relating to this contract for three years after final payment by the State hereunder 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 designee, at all reasonable times.

1. **COMPLIANCE WITH LAWS:**

The Contractor hereby represents and warrants that:

A. 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;

C. It shall comply with all federal, State, and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and

D. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

1. **COST AND PRICE CERTIFICATION:**

The Contractor by submitting cost or price information certifies that, to the best of its knowledge, the information submitted is accurate, complete, and current as of a mutually determined specified date prior to the conclusion of any price discussions or negotiations for:

A. A negotiated contract, if the total contract price is expected to exceed $100,000, or smaller amount set by the procurement officer; or

B. A change order or contract modification, expected to exceed $100,000, or smaller amount set by the procurement officer.

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

1. **BID / PROPOSAL AFFIDAVIT:**

Each Bidder or offeror shall execute and attach to the bid or proposal the affidavit included with this solicitation.

1. **CONTRACT AFFIDAVIT:**

The successful Bidder or Offeror shall execute and deliver to the Procurement Officer prior to the award of the contract the Contract Affidavit included with this solicitation. (The Affidavit also can be found at COMAR 21.07.01.25).

1. **PUBLIC INFORMATION ACT NOTICE:**

Offerors should give specific attention to the identification of those portions of their proposals that they deem to be confidential, proprietary information or trade secrets and provide any justification why such materials, upon request, should not be disclosed by the State under the Access to Public Records Act, Title 4 of the General Provisions Article, Annotated Code of Maryland.

1. **MINORITY BUSINESS ENTERPRISE NOTICE:**

Minority Business Enterprises are encouraged to respond to this solicitation.

1. **ARREARAGES:**

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

1. **MULTIPLE OR ALTERNATE BIDS:**

Unless multiple or alternate bids are requested in the solicitation, multiple or alternate bids may not be accepted. If the solicitation does not request multiple or alternate bids, if received they will be treated in accordance with COMAR 21.05.02.21.

1. **BPO/PO AS CONTRACT:**

This provision applies to all procurement contracts procured by the **<<enter the agency name if it’s an Agency contract, or Office of State Procurement if OSP conducts the solicitation>>**

except contracts for the procurement of architectural and engineering services for a price of greater than $200,000.

As used in this provision, a bid refers to a bid submitted under competitive sealed bidding and to an offer submitted under competitive sealed proposals.

As used in this provision, a Bidder refers to a Bidder under competitive sealed bidding and to an offeror under competitive sealed proposals.

As used in this provision, a solicitation means an Invitation for Bids, a request for proposals, or any other document requesting bids or proposals for procurement by the Department.

The Bidder’s execution and submission of a responsive bid constitutes a promise by the Bidder to perform the contract solicited by the Department in accordance with the terms and conditions stated in the solicitation. The bid shall be irrevocable for the period stated in the solicitation or for such longer period as the Bidder and the Department may agree.

Upon acceptance of a bid, the Procurement Officer may issue a Blanket Purchase Order (BPO), in a form to be determined by the Department, to the Bidder accepting the bid and binding the Bidder to a contract. The execution and issuance of a BPO by the Procurement Officer, subject to all necessary approvals, shall constitute acceptance of the bid and final award of the contract. The contract of the parties will be embodied in the contract documents, which shall consist of the executed BPO of the Procurement Officer, including all documents, terms, and conditions incorporated into those documents by the terms of the solicitation, the BPO, the bid, or by operation of law, and the executed bid of the Bidder. If the Procurement Officer issues a BPO, at the option of the Procurement Officer it will not be necessary for the Bidder to execute the BPO or any other form of contract or agreement. The Procurement Officer may require that the parties both execute a single document as the embodiment of the contract between the parties.

In the event of a conflict between provisions of the contract documents, the controlling provisions shall be, in the following order, those of:

The BPO; then

The Solicitation; and then

The Bid.

1. **RETURNED GOODS**:

Contractor(s) shall be entitled to recover reasonable compensation for any and all goods shipped in accordance with authorized agency orders, meeting all contract requirements, and returned by the agency for reasons other than the Contractor’s failure to meet contract requirements. Compensation shall be limited to actual unreimbursed costs incurred by the Contractor including, but not limited to, restocking charges, shipping charges, plus reasonable profit. Contractor must provide written proof of claimed compensation. A return of goods covered by this section shall be deemed a partial termination for convenience as to the returned goods, and other contract provisions and principles applicable to a partial termination for convenience shall apply.

1. **PURCHASES BY OTHER ENTITIES – INDEFINITE QUANTITY CONTRACTS: <<DELETE this section if it’s an agency contract>>**

This provision applies to indefinite quantity contracts.

Pursuant to the State Finance and Procurement Article, Section 13-110 of the Annotated Code of Maryland, except as provided in (B) the following entities may purchase materials, supplies, and equipment under this Contract:

(1) A county or Baltimore City;

(2) A municipal corporation;

(3) A governmental agency in the State;

(4) A public or quasi-public agency that:

(I) Receives State money; and

(II) Is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code;

(5) A private elementary or secondary school that:

(I) Either has been issued a certificate of approval from the State Board of Education or is accredited by the Association of Independent Schools; and

(II) Is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; or

(6) A non-public institution of higher education under Section 17-106 of the Education Article.

(A) A private elementary or secondary school or a nonpublic institution of higher education may not purchase religious materials under this contract.

(B) The right to purchase under this section shall be in addition to, but not in substitution for, the applicable purchasing power granted to any of the listed entities pursuant to any statutory or charter provision.

(7) Another State or an agency or other instrumentality of another state.

All purchases under this contract by any such entity as described above which is not a unit or agency of the State of Maryland for which the State of Maryland may be held liable in contract: (1) shall constitute a purchase or contract between the Contractor and that entity only; (2) shall not constitute a purchase or contract of the State of Maryland; (3) shall not be binding or enforceable against the State of Maryland or any of its units or agencies; and (4) may be subject to other terms and conditions agreed to by the Contractor and the purchaser.

Contractor bears the risk of determining whether or not any entity from which the Contractor receives an order under the contract is a unit or agency of the State of Maryland such that the contract may be enforced against the State of Maryland.

1. **TIE BIDS**

Tie Bids will be decided pursuant to COMAR 21.05.02.14.

1. **DELAYS AND EXTENSIONS OF TIME**

​The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

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.

1. **PATENTS, COPYRIGHTS, AND INTELLECTUAL PROPERTY**

All copyrights, patents, trademarks, trade secrets, and any other intellectual property rights existing prior to the Effective Date of this Contract shall belong to the party that owned such rights immediately prior to the Effective Date (“Pre-Existing Intellectual Property”). If any design, device, material, process, or other item provided by Contractor is covered by a patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items pursuant to its rights granted under the Contract.

1. **NON-AVAILABILITY OF FUNDING**

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

1. **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.

1. **USE OF ESTIMATED QUANTITIES (IF APPLICABLE)**

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

1. **RISK OF LOSS - TRANSFER OF TITLE**

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

**FOR STATEWIDE CONTRACT ONLY**

**If this is not a Statewide Contract, delete #46 and #47 below.**

1. **USAGE REPORT:**

A Report shall be furnished by the successful Contractor every hundred –twenty (120) days detailing the purchase of all items on the contract.  The report shall be submitted electronically in Excel format.  As a minimum, the report shall reflect the contract number, contract item number and description, the dollar volume purchased of each item, agency identification, and the contract total.  The report shall be filed within thirty (30) days after the end of each reporting period.  Any exception to this mandatory requirement may result in cancellation of the award.  Failure to provide the report with the minimum required information may also negate any contract extension clauses.  The usage report shall be emailed to the [**dgs.statewidecontractsusagereport@maryland.gov**](mailto:dgs.statewidecontractsusagereport@maryland.gov).

1. **ELECTRONIC TRANSACTION FEE:** 
   1. Contractor shall pay an electronic transaction fee to the State in the amount of one percent (1%) of the total contract sales. The electronic transaction fee is calculated based on all sales transacted under the contract, minus any returns or credits. The electronic transaction fee shall not be charged directly to the customer, e.g., as a separate line item, fee or surcharge, but shall be included in the contract’s unit prices.
   2. The electronic transaction fee shall be submitted to the Office of State Procurement, Fiscal Services Division, 301 W. Preston Street, Room 1309, Baltimore, MD, 21201, thirty (30) days after the end of each reporting period along with a Monthly Usage Report documenting all contract sales. An excel version of the Monthly Usage Report shall be emailed to [**dgs.statewidecontractsusagereport@maryland.gov**](mailto:dgs.statewidecontractsusagereport@maryland.gov).
   3. Failure to remit transaction fees in a timely manner or remittance of fees inconsistent with the contract’s requirements may result in the State exercising all recourse available under the contract including, but not limited to, a third party audit of all contract activity. Should an audit be required by the State, the contractor shall reimburse the State for all costs associated with the audit up to $10,000.00 or one (1%) percent of the contract’s estimated annual value, whichever is higher.
   4. Prior to Award, Contractors will be asked to confirm in writing that their unit prices include the one percent (1%) electronic transaction fee.

|  |  |
| --- | --- |
| **CONTRACTOR**  **<<enter the contractor’s company name >>** | **STATE OF MARYLAND**  **<<enter the agency name if it’s an Agency contract, or Office of State Procurement if OSP conducts the solicitation>>** |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Seal) | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **By** | **By** |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (Printed Name and Title) | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (Printed Name and Title) |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Signature and Date** | **Signature and Date** |

**SECTION C**

**SPECIFICATIONS**

**[INSERT STATEWIDE or AGENCY]**

**[INSERT SOLICITATION TITLE]**

**[INSERT NAME OF REQUESTING DEPARTMENT /AGENCY]**

**[INSERT SOLICITATION NUMBER]**

[Insert Contract Specifications into the document here to detail the minimum requirements. This is the most important section of the sole source request, and the “meat” of the procurement. Any product or service deliverables, milestones, or deadlines must be identified here, including reports specific to the Scope of Work requirements. The specifications must clearly articulate what the State’s requirements are and readers should understand exactly what the State intends to procure.

The specifications need to be clearly written so that payment can be made appropriately, work (un)performed can be identified, and the contractual rights of the State can be enforced. Use the term “Contractor,” not “Bidder/Offeror,” throughout this Section as these are Contractual requirements.

State your requirements in an outline format that is organized logically with proper headings for each main section (ex. Quantity; Delivery; etc.), using proper outline formatting with tabs to differentiate subsections. See formatting example below:]

1. **General Requirements**
2. **Product Specification**
3. License Requirements
4. Quality Clause
5. Open Market Clause
6. Minimum / maximum Order
7. Order Procedure
8. Delivery
   1. Locations

**MANDATORY AFFIDAVITS**

**AND**

**ATTACHMENTS**

**Submit These Affidavits with Bid/Proposal**

**Section B** – Terms and Conditions

**Attachment C** - Bid/Proposal Affidavit

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

**Attachment K** - Mercury Affidavit

**Attachment N** - Contract Affidavit

**Attachment S** – Company Profile

AND

**As Applicable, Attach the following:**

**ATTACHMENT D - Minority Business Enterprise (MBE)**

**ATTACHMENT P - SMALL BUSINESS CONTRACT AFFIDAVIT**

**ATTACHMENT Q - NO BID NOTICE (or email to the Procurement Officer)**

**ATTACHMENT C**

**COMAR 21.05.08.07**

**Bid/Proposal Affidavit**

Click link to download a fillable copy of the ***Bid/Proposal Affidavit:*** <https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf>

**Failure to submit this Affidavit with the bid shall deem the bid non-responsive.**

**ATTACHMENT D**

**Minority Business Enterprise (MBE)**

**Submit This Affidavit with Bid/Proposal**

[[If this solicitation does not include a MBE goal, enter only the following sentence for this Attachment and delete the remainder.]]

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

[[If this solicitation does include an MBE goal, enter the following sentence to direct bidders to retrieve the MBE forms from the link below.]]

This solicitation includes a Minority Business Enterprise (MBE) subcontractor participation goal. Prospective Bidders/Offerors must visit the web link below to retrieve, print, read, and complete the MBE D-1A Utilization and Fair Solicitation Affidavit & MBE Participation Schedule. The D-1A MBE form must be submitted with the bid. **Failure to submit this Affidavit with the bid shall deem the bid non-responsive.**

See link at: <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf>.

[[Agency should insert the participation goal and subgoal amounts from the PRG and Subgoal Worksheet in the blanks below and delete any of the subgoals that do not apply to this solicitation and then delete these instructions.**]]**

This solicitation includes a Minority Business Enterprise (MBE) participation goal of \_\_\_\_\_ percent and (all of the following subgoals):

      percent for African American-owned MBE firms;

      percent for Hispanic American-owned MBE firms;

      percent for Asian American-owned MBE firms;

      percent for Women-owned MBE firms.

[[If this solicitation does not include MBE subgoals, remove the subgoal list and change the end of the sentence above to say “and no subgoals.”]]

**ATTACHMENT H**

**COMAR 21.05.08.08**

**CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE**

Click link to download a fillable copy of the ***Conflict of Interest Affidavit And Disclosure:*** <https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf>.

**Submit this Affidavit with the Bid/Proposal.**

**ATTACHMENT K**

**COMAR 21.05.08.09**

**MERCURY AFFIDAVIT**

Click link to download a fillable copy of the ***Mercury Affidavit:*** <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-K-MercuryAffidavit.pdf>.

**Submit this Affidavit with the Bid/Proposal.**

**ATTACHMENT N**

**COMAR 21.07.01.25**

**Contract Affidavit**

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

Click link to download a fillable copy of the ***Contract Affidavit*:** <https://procurement.maryland.gov/wp-content/uploads/sites/12/2020/03/Attachment-N-Affidavit.pdf>

**Submit this Affidavit with the Bid/Proposal.**

## ATTACHMENT P

## SMALL BUSINESS CONTRACT AFFIDAVIT

[[If this solicitation has not been designated an SBP, enter only the following sentence for this Attachment and delete the remainder.]]

This solicitation has not been designated a Small Business Reserve or Small Business Preference (SBR/SBP) contract.

\*\*\*\*\*\*\*\*\*\* PROVIDING FALSE INFORMATION \*\*\*\*\*\*\*\*\*\*

Anyone providing false information to the State of Maryland in connection with obtaining or attempting to obtain a contract under Small Business Reserve or Preference procurement may be subject to the following:

1. A determination by a Procurement Officer that a bidder/offeror is not responsible;
2. A determination that a contract entered into is void or voidable under § 11-204 of the State Finance and Procurement Article of the Annotated Code of Maryland;
3. Suspension and debarment under Title 16 of the State Finance and Procurement Article;
4. Criminal prosecution for procurement fraud (§ 11-205.1 of the State Finance and Procurement Article), perjury, or other crimes; and
5. Other actions permitted by law.

\*\*\*\*\*\*\*\*\*\* FAILURE TO MEET MINIMUM QUALIFICATIONS \*\*\*\*\*\*\*\*\*\*

Any Bidder or potential bidder failing to meet the qualifications of a "small business" specified in § 14-501(c) of the State Finance and Procurement Article will be ineligible to participate in a procurement designated for a Small Business Reserve under § 14-504 or Small Business Preference under § 14-206 - 207. Any person or company bidding on Small Business Reserve or Preference procurement and not qualifying as a small business under § 14-501(c) will have its bid or offer rejected on the ground that the bidder is not responsible.

I AFFIRM THAT:

To the best of my knowledge, information, and belief, as of the date of submission of this Bid/Proposal,

\_\_\_\_\_\_\_\_\_ (name of firm) meets the qualifications for certification as a Small Business in Maryland. I further affirm that, if for any reason during the term of the contract \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name of firm) no longer meets the qualifications for certification as a Small Business in Maryland, I will notify the Procurement Officer within 30 days. I agree that a failure to so notify the Procurement Officer of this change in circumstances may result in this contract being terminated for default.

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.

SMALL BUSINESS QUALIFICATION NUMBER: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date of Most Recent Qualification: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

BY: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature (Authorized Representative and Affidavit)

**ATTACHMENT S**

**VENDOR COMPANY PROFILE**

**IFB #:** **Title:**

**NOTICE TO BIDDERS:**

1. FAILURE TO FULLY ADDRESS ALL QUESTIONS MAY RENDER YOUR BID NON-RESPONSIVE.

2. BIDDERS SHALL HAVE AT LEAST THREE (3) YEARS EXPERIENCE IN PROVIDING SIMILAR TYPE WORK AS SPECIFIED IN THIS IFB.

Information furnished in response to this questionnaire and any verification made by the **<<enter the agency name if it is an Agency contract, or Office of State Procurement if OSP conducts the solicitation>>** shall provide a basis for determining the responsibility of Bidders. In the event that references are deemed insufficient by the **<<enter the agency name if it is an Agency contract, or Office of State Procurement if OSP conducts the solicitation>>**, the State reserves the right to determine the Bidder as non-responsible, which will cause the rejection of their bid. This form will be used in assessing a Vendor’s qualifications and capability to perform the scope of work for a contract with the State of Maryland.

**PLEASE PRINT OR TYPE LEGIBLY**

**References**

**Please complete Reference information for Sections 1, 2, and 3. Note:** *For each Reference listed, all fields should be complete. If no references, indicate ‘None’ in the appropriate Section.*

**Customer Service Contact Information**

The name of Vendor’s representative to be contacted for information, service, or problem-solving that may be required by the end user of the contract.

**Name of Bidding Entity: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Name of Representative: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Company Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**City:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **State: Zip Code:** \_\_\_\_\_\_\_\_\_\_\_\_\_

**E-Mail: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Phone Number:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Fax Number (if applicable):** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Years in Business: \_\_\_\_\_\_ Federal ID: \_\_\_\_\_\_\_\_\_\_\_**

**Type of Organization *(i.e., Corporation, Partnership, Individual, Joint Venture)*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Former names under which your organization has operated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Section 1:** List contract awards to your Company by the State of Maryland within the last three (3) years and provide the information requested for each column.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Contract/Project**  **Name** | **Contract**  **Number** | **Agency**  **Name** | **Agency**  **Representative** | **Contact**  **Information**  **(Phone & E-Mail)** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

**Section 2:** List other contracts of similar size and scope performed within the last three (3) years and provide the information requested for each column.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Contract/Project**  **Name** | **Contract**  **Duration** | **Client**  **Name** | **Client**  **Representative** | **Contact**  **Information**  **(Phone & E-Mail)** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

**Section 3:** Provide a list of contracts terminated for cause prior to their natural expiration date during the last three (3) years and provide the information requested in each column.

|  |  |  |  |
| --- | --- | --- | --- |
| **Client**  **Name** | **Contact**  **Name** | **Contact**  **Information**  **(Phone & E-Mail)** | **Reason for**  **Termination** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

**ATTACHMENT V**

**PRE-BID CONFERENCE RESPONSE FORM**

**Solicitation number)**

**(SOLICITATION TITLE)**

<<<Select one then delete the other>>>:

(Virtual or Phone Conference Pre-Bid Meeting)

A (virtual) Pre-Bid Conference will be held at (time of Conference), on (date of Conference). To join the meeting see the Information Summary Sheet (page 2) for the dial-in and pin number. Please return this form by (final date for submission of Attachment V), advising whether you plan to attend.

OR

(In-person Pre-Bid Meeting)

A Pre-Bid Conference will be held at (time of Conference), on (date of Conference), at (full address of Conference). Please return this form by (final date for submission of Attachment V), advising whether you plan to attend.

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

(name of Procurement Officer)

(Department)

(address of Procurement Officer)

Email: (email address of Procurement Officer)

Fax #: (fax number of Procurement Officer)

Please indicate:

Yes, the following representatives will be in attendance:

1.

2.

3.

No, we will not be in attendance.

Please specify whether any reasonable accommodations are requested (see IFB § 1.7 “Pre-Bid Conference”):

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

Signature Title

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

Name of Firm (please print)

**ATTACHMENT Q**

**NO BID NOTICE**

**Vendor/Contractor:**

**The <<enter the agency name if it is an Agency contract or Office of State Procurement if OSP conducts the solicitation>> has solicited your participation in the following Invitation for Bids:**

**IFB #:** **Title:**

**If you do not intend to bid, please complete the following and return this notice:**

**I \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ did not bid on this**

**IFB/RFP because: (check one or more)**

**( ) Do not have the necessary equipment, labor and capital required.**

**( ) Do not have the experience necessary to perform the work.**

**( ) Unable to get bonding and/or special insurance. Please be specific:**

**( ) Time for completion is too short.**

**( ) General Conditions contain requirements which I do not understand.**

**( ) General Conditions contain requirements with which I disagree. Please explain:**

Date:

By:

**(Authorized Representative)**

**(Company Name)**

**NOTE:** Complete form only if you do not intend to bid. **<<Enter the agency name if it is an Agency contract, or Office of State Procurement if OSP conducts the solicitation>>** is interested in improving its competitive bid process and your comments are important to this endeavor. Thank you for your assistance. **Please email this form to the Procurement Officer indicated on the KEY INFORMATION SUMMARY SHEET (page 2).** Vendors are asked not to submit this form on eMMA.

**THIS IS THE END OF THE SOLICITATION**