

Introduced 04.04.2022
Public Hearing 04.18.2022
Council Action 05.04.2022
Executive Action 05.05.2022
Effective Date 05.05.2022

County Council of Howard County, Maryland

2022 Legislative Session

Legislative Day No. 6

Bill No. 28-2022

Introduced by: The Chairperson at the request of the County Executive

AN ACT pursuant to Section 612 of the Howard County Charter, approving a multi-year Agreement between Howard County, Maryland and ePlus Technology, Inc. for certain Voice Over IP (VOIP) and Webex services used by the County, authorizing the County Executive to make changes to the Agreement, under certain conditions; authorizing the County Executive to execute the Agreement; and generally relating to the Agreement.

Introduced and read first time Apr 4, 2022. Ordered posted and hearing scheduled.
By order Michelle Harrod
Michelle Harrod, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on April 18, 2022.

By order Michelle Harrod
Michelle Harrod, Administrator

This Bill was read the third time on May 4, 2022 and Passed ☒, Passed with Agreements ☐, Failed ☐.

By order Michelle Harrod
Michelle Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 5 day of May, 2022 at 12 a.m./p.m.

By order Michelle Harrod
Michelle Harrod, Administrator

Approved/Vetoed by the County Executive May 5, 2022

Calvin Ball
Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike out~~ indicates material deleted by Agreement; Underlining indicates material added by Agreement

1 **WHEREAS**, ePlus Technology, Inc. is a technology solutions provider of professional &
2 managed services for cloud, security, data center, and digital infrastructure; and

3
4 **WHEREAS**, the County has an existing Agreement with ePlus (the “PA-003-2022”,
5 attached as Exhibit A); and

6
7 **WHEREAS**, the County requires licensed access to, and support for certain Cisco
8 Universal Cloud services (also known as Webex) as well as an on premises and cloud-based
9 Collaboration Flex plan (VOIP); and

10
11 **WHEREAS**, the County currently purchases both Webex and VOIP licensing and
12 support services on a year-to-year basis; and

13
14 **WHEREAS**, to provide cost savings, the County wishes to enter into a new multiyear
15 agreement (the “Agreement”) with ePlus, substantially in the form attached as Exhibit B, for the
16 licensing and support of Webex and VOIP services; and

17
18 **WHEREAS**, the term of the Agreement is three years (36 months) and will cost
19 approximately\$1,279,788.00 over the entire term of the Agreement; and

20
21 **WHEREAS**, the Agreement requires the payment by the County of funds from an
22 appropriation in a later fiscal year and therefore requires County Council approval as a multi-
23 year agreement pursuant to Section 612 of the Howard County Charter and Section 4.118 of the
24 Howard County Code.

25
26 **NOW, THEREFORE**,
27 *Section 1. Be It Enacted by the County Council of Howard County, Maryland that in*
28 *accordance with Section 612 of the Howard County Charter, it approves the multi-year*
29 *Agreement between Howard County, Maryland and ePlus Technology Inc., which shall be in*
30 *substantially the same form as Exhibit B attached to this Act.*

1 **Section 2. And Be It Further Enacted** by the County Council of Howard County, Maryland that
2 *the County Executive is hereby authorized to execute the Agreement for such term in the name of*
3 *and on behalf of the County.*

4
5 **Section 3. And Be It Further Enacted** by the County Council of Howard County, Maryland that
6 *the County Executive, prior to execution and delivery of the Agreement, may make such changes*
7 *or modifications to the Agreement as he deems appropriate in order to accomplish the purpose*
8 *of the transactions authorized by this Act, provided that such changes or modifications shall be*
9 *within the scope of the transactions authorized by this Act; and the execution of the Agreement*
10 *by the County Executive shall be conclusive evidence of the approval by the County Executive of*
11 *all changes or modifications to the Agreement, and the Agreement shall thereupon become*
12 *binding upon the County in accordance with its terms.*

13
14 **Section 4. And Be It Further Enacted** by the County Council of Howard County, Maryland that
15 *this Act shall be effective immediately upon its enactment.*



AGREEMENT
BETWEEN
HOWARD COUNTY, MARYLAND
AND
ePLUS TECHNOLOGY, INC.
AGREEMENT NO. PA-003-2022



CUSTOMER MASTER AGREEMENT

This CUSTOMER MASTER AGREEMENT ("Agreement") is made as of the ____ day of August 2021 ("Effective Date"), by and between the following (each a "Party" and together the "Parties"):

ePlus Technology, inc., a Virginia corporation, with its principal place of business at 13595 Dulles Technology Drive, Herndon, Virginia 20171 ("ePlus");

and

Howard County, Maryland, a body corporate and politic, with its principal place of business at 3430 Court House Drive, Ellicott City, Maryland 21043 ("Customer"). Upon execution, this Agreement shall supersede and replace the Customer Master Agreement between the parties dated June 2019 (Agreement No. PA-105-2019).

RECITALS

- A. ePlus is a provider of a full range of IT sourcing solutions and professional services in such areas as data center/cloud computing, collaboration, IT infrastructure, engineering services, and security.
- B. Customer desires from time to time to purchase products and/or services from ePlus pursuant to the terms and conditions of this Agreement.

AGREEMENT

1. DEFINITIONS.

- A. "Product(s)" means third-party IT related hardware equipment, peripherals and/or software together with manufacturer maintenance, support and other third party services as resold by ePlus to Customer.
- B. "Purchase Order" means each purchase order issued pursuant to which Customer purchases Products or Services, as accepted by ePlus. Purchase Orders may be issued in hard copy or electronic format and include purchase authorizations submitted through ePlus' OneSource IT electronic procurement portal. Customer agrees that any such order satisfies any applicable statute of frauds.
- C. "Services" means professional services provided by ePlus, as defined in the applicable SOW.
- D. "SOW" means a work order or statement of work identifying Services to be provided by ePlus, including a detailed task list or specifications, the estimated period of performance, the fixed price or hourly rate to be paid by the Customer for the Services, together with any milestones and other information or criteria regarding the scope of work as mutually agreed by the Parties.

2. PURCHASE OF PRODUCTS.

- A. Products are purchased upon Customer's issuance of a Purchase Order, subject to acceptance by ePlus. The Purchase Order should include (a) location where the Products are to be delivered and any special delivery instructions; (b) description of the Products, including quantity and Product numbers; (c) manufacturer or third party maintenance and support for equipment and programs, if applicable; (d) any installation or other professional services to be provided by ePlus pursuant to a related SOW; (e) name and address of the Customer contact person for billing and name of the entity to be billed; (f) desired delivery date for the Products; and (g) any other special terms and conditions; provided, however, that such special terms and conditions do not conflict with this Agreement.

- B. Customer agrees to abide by all product licensing provisions or end user agreements imposed by the manufacturer or software publisher. Customer shall not reverse engineer, disassemble, decompile, or otherwise attempt to discover the source code for the computer software or remove or alter any trademark, logo, copyright or other proprietary notices, legends, symbols or labels in the software. Customer represents and warrants that any Products purchased according to the terms of this Agreement are for Customer's internal use only and are not for resale or further distribution. Customer agrees, to the extent permitted by law and subject to appropriations by the Howard County Council, to indemnify, defend and hold harmless ePlus from and against all third party claims, liabilities, costs and expenses relating to or arising from a breach of this Section 2.B.
- C. Cancellations or partial cancellations of orders for Products or Services require written confirmation from ePlus. All cancellations are subject to manufacturer policies and guidelines and ePlus' ability, pursuant to those policies and guidelines to cancel orders to its manufacturers. Customer is responsible for all expense and loss related to cancellations.
- D. ePlus shall use reasonable commercial efforts to notify Customer if shipping delays occur but shall not be responsible for delays in Product delivery caused by third parties. Delivery shall be FOB shipping point. Customer shall be responsible for and pay all shipping, freight, and insurance charges unless otherwise agreed by the Parties, as well as any non-exempt taxes, levies, duties or similar charges. Loss or damage during shipment by a carrier specifically selected by ePlus shall be ePlus' sole responsibility; otherwise such loss or damage shall be Customer's responsibility. Title to Products shall pass to Customer on payment in full.
- E. Except for damaged packaging upon visual inspection, Customer shall not refuse delivery of Product shipments and, in the case where a Product shipment has been refused, ePlus reserves the right to charge handling and restocking fees. If damaged Products are accepted from the carrier, such damage should be noted on the carrier delivery record. Customer should save the Product and original packaging and notify ePlus to arrange for carrier inspection and pickup of damaged products. Customer shall notify its designated account executive of any damaged shipping containers within two (2) days of receipt. Two (2) days is considered reasonable for visual inspection of the container, and failure to provide such notice shall constitute acceptance. Customer also shall notify ePlus of order shortages or concealed damages within seven (7) business days. These timeframes are necessary for ePlus to be able to provide timely assistance to Customer in obtaining the benefit of any manufacturer warranties as well as filing shipping claims.
- F. Customer shall be responsible, at its own expense, for preparing prior to delivery a suitable installation site. Unless otherwise specified, Customer shall be responsible for installing and connecting the Products within Customer's environment compatible to manufacturer's specifications provided by ePlus to Customer.
- G. Approvals for unused, unopened returns are subject to manufacturer return policies and guidelines and ePlus' ability to return Product to its vendors. Such Products must be complete and in manufacturer's original packaging with no visible damage. ePlus shall not be required to accept return of a Product without an approved return merchandise authorization ("RMA") number, which may be obtained by contacting the Customer's designated account executive. An RMA number is valid for (10) days from issuance, unless other arrangements are made between the Parties, and any items received at an ePlus return facility without an RMA number or after the RMA validity period will be sent back to Customer at Customer's expense. The RMA number is to be clearly noted on a shipping label affixed to the outer shipping box. Writing, markings or stickers, except shipping labels, on the manufacturer box will void an authorized return. Except in the event of an ePlus or vendor error, Customer will be responsible for shipping charges associated with Products being shipped for return, exchange or replacement. Returns must be made via an authorized shipping carrier that allows the package to be tracked and Customer must insure all returned Products. Products not eligible for return include, but are not limited to, items that were at end-of-life cycle at the time of order, used or opened software, used consumables, custom configured and built to order Products, and Products not purchased through ePlus. At ePlus' discretion, restocking fees may be charged for items which do not qualify for return under this policy. Some manufacturers require that defective or "dead on arrival" Products be returned directly to them, or they may limit the return timeframe. Products found not to be defective after testing by ePlus or manufacturer technicians may be subject to return at Customer's expense. If a Product is not returnable under manufacturer guidelines, ePlus will make commercially reasonable attempts to repair or replace the Product through the manufacturer warranty. Customer should contact its designated ePlus

account executive for further manufacturer warranty details. In any event, ePlus will work with its vendors to facilitate returns for the Customer.

- H. If Customer receives a Product solely for evaluation purposes in accordance with an ePlus quotation and applicable manufacturer authorizations, Customer may elect to purchase such Product at the end of the evaluation period identified on the quotation or otherwise in writing by ePlus (the "Evaluation Period"). If Customer elects not to purchase the Product, Customer shall, on or before the end of the Evaluation Period, (i) in the case of software, either delete the software and return all originally accompanying materials or, (ii) in the case of hardware, request and obtain from ePlus an RMA number for such Product; pack the Product and all originally accompanying materials in the original ePlus containers; and return the Product to ePlus or its designate, F.O.B. destination with RMA referenced, in the same condition as originally delivered to Customer. Customer shall be responsible for shipping and insurance charges. Products not returned as specified above by the end of the Evaluation Period shall be deemed to have been purchased by Customer at ePlus' then current list price and payment shall be due in accordance with this Agreement.

3. PURCHASE OF SERVICES.

- A. Customer may, from time to time, purchase ePlus' Services pursuant to a mutually acceptable SOW. The sole authority to commence effort by ePlus or to obligate payment by Customer shall be a written SOW executed by both Parties and/or ePlus' acceptance of Customer's Purchase Order. The Services shall be provided in accordance with the provisions of this Agreement and the applicable SOW.
- B. Customer acknowledges that in order for ePlus to perform Services, Customer may need to make certain personnel or other resources available to ePlus in a timely manner. Customer agrees that it will cooperate in providing information or personnel upon ePlus' request, and Customer acknowledges that its failure to do so may prevent ePlus from meeting milestones under a SOW. ePlus shall not be liable for any failure to perform the Services to the extent such failure is caused by Customer's lack of cooperation.
- C. Customer is responsible for all content, material, message or data made available or transmitted in accordance with the provision of Services and for its compliance with all applicable federal, state and local laws, regulations, ordinances and codes and acceptable use policies of any third-party vendors or websites. In the event that Customer provides ePlus with access to computer programs, specifications, content or other Customer-provided materials ("Customer Materials"), Customer represents to ePlus that to the best of its knowledge, information and belief, it owns or is duly authorized to grant such access to the Customer Materials.
- D. ePlus, in performing the Services, will be making recommendations and providing advice, but all decisions as to implementing such advice and recommendations shall be made by and shall be the sole responsibility of the Customer and ePlus shall be entitled to rely on all such decisions of Customer. ePlus is providing Services to assist Customer in support of the initiatives and activities described in the SOW and shall not assume any cost or schedule liability unless expressly agreed. Customer is the governing authority of all activities and project directives and retains full responsibility for the leadership, review, and approval of actions taken and deliverables completed by ePlus in support of Customer.
- E. ePlus' managed services solutions may be purchased pursuant to a separate master managed services agreement executed by the Parties. Manufacturer maintenance, support and similar third party services that are purchased from ePlus as a reseller (and not pursuant to an ePlus SOW) are subject to the terms of this Agreement applicable to Products.

4. PRICING AND PAYMENT.

- A. **Pricing and Payment Terms.** The pricing for each order shall be as set forth on the applicable Purchase Order. Unless otherwise agreed in writing for a particular order, ePlus will invoice (i) for Products upon shipment without regard to any related Services, and (ii) for Services upon completion of such Services or of an applicable milestone under a SOW, and Customer shall be obliged to pay such invoice(s). Payments shall be due net thirty (30) days from the date of ePlus' invoice and shall be made in U.S. Dollars by (1) check drawn on a U.S. bank; or (2) wire transfer or automated clearing house (ACH) transfer to an account specified by ePlus. Customer shall bear all related bank fees and charges. Customer acknowledges that ePlus may

participate in and retain the benefit of vendor incentive plans, rebate programs, or other programs with, among others, its travel providers wherein ePlus may receive benefits, such as frequent flier miles or other consideration. Customer grants ePlus a purchase money security interest in all Products provided to Customer, as permitted by law. Upon payment in full for any item of equipment and any interest applicable to it, ePlus' security interest in that Product shall be released automatically. Customer agrees that ePlus may file financing statements in such places as are necessary to perfect its security interest. If Customer does not indicate for which item of equipment to apply payment, ePlus reserves the right to apply payments to customer's balance at its discretion.

B. Expense Reimbursement. Whenever Services are provided by ePlus at a location requested by Customer other than at an ePlus location, ePlus shall be reimbursed for all actual and reasonable travel and living expenses ("Expenses") provided such Expenses are in accordance with the County's standard reimbursement policy, the terms of which are set forth as follows:

- (i) Fees for out-of-pocket expenses will be invoiced to Customer on a monthly basis.
- (ii) Itemization is required for all expenses.
- (iii) Time for travel under 50 miles will not be billable.
- (iv) The following guidelines shall apply for out-of-pocket expenses:
 - Lodging: For less than one month, a single hotel room at prevailing commercial rates within a reasonable distance from job location.
 - Meals: Actual cost not to exceed fifty-five dollars (\$55) per day.
 - Air Travel: Actual cost for commercial coach or economy class within continental United States.
 - Ground Transportation: Commercial shuttle services or hotel transportation to and from the airport should be used whenever practicable. Taxi service will only be used if such transportation is not available or in emergencies.
 - Auto Rental: Actual cost for commercial standard size automobile, including operating expenses.

C. Taxes. ePlus will furnish Customer with invoices showing separately itemized amounts due in respect of any and all sales, use, excise, value added, or similar taxes associated with the purchase of Products or Services, under federal, state, local or foreign law (however, specifically excluding taxes on ePlus' net income) ("Taxes"), if any, or, in lieu thereof, Customer shall provide ePlus with a tax exemption certificate acceptable to the applicable taxing authorities. Tax exemption certificates must be furnished to ePlus prior to Product shipment or commencement of Services. All persons furnished by ePlus shall be considered solely employees of ePlus, and ePlus is responsible for compliance with applicable laws, rules, and regulations relating to employment of labor, working hours and conditions, payment of wages and employment, Social Security, and other payroll taxes including contributions from such employees when required by law.

D. Late Payments. Customer agrees to pay a late payment charge computed at the rate of one and one-half percent (1.5%) per month, or the maximum permitted by applicable law if less, on any unpaid amount due under this Agreement or a SOW. A late payment charge shall apply to amounts not received by the due date and continue until all overdue payments, including late charges, are paid in full. In the event ePlus must resort to collection, Customer shall be responsible for all costs. ePlus reserves its right to review and revise either the credit or the payment terms based on Customer's financial condition or payment history at the time of such review, and Customer agrees to provide all relevant information. ePlus may suspend Services or stop filling Product orders in the event of nonpayment.

E. Third Party Financing Arrangements. If the "Bill To" party on a Purchase Order is different from the "Ship To" party, Customer shall be responsible for all payments and late fees if the "Bill To" Party fails to make payment. In any case, where Customer receives Products or Services but the purchase authorization is provided from a third party to be billed pursuant to a lease or financing arrangement, payment of the invoice is Customer's responsibility in the event such third party fails to make timely payment.

F. Communications. Any communications concerning disputed debts, including any instrument tendered as full satisfaction of the disputed debt, should be sent to the General Counsel, ePlus Technology, inc., 13595 Dulles Technology Drive, Herndon, VA 20171.

G. Installment Payments. If ePlus agrees to furnish Products or Services that require more than one payment from Customer (such as a multi-year maintenance contract with scheduled annual payments), then:

- (i) The obligation to make the payments is non-cancelable and may not be terminated early except due to non-appropriation of funds, provided that Customer shall have used its best efforts to obtain the appropriation.
- (ii) Customer shall be in default upon failure to pay any sum within five (5) days of the due date, or failure to perform or observe any other obligation. If Customer defaults, ePlus may do any or all of the following: (A) terminate this Agreement for material breach, (B) require Customer to stop using and return to ePlus the Products or Services, (C) require Customer to pay to ePlus on demand an amount equal to the sum of (1) all payments and other amounts then due and past due, (2) all remaining payments for the remaining term discounted at a rate of 2% per annum, (3) interest at the rate of 1.5% per month on the amounts specified in clauses (1) and (2) above until the date paid, and (4) (D) exercise any other remedy available to ePlus or its assignee under law.

5. CONFIDENTIALITY OBLIGATIONS.

- A. "Confidential Information" means the terms of this Agreement together with all data, reports, analyses, compilations, records, pricing and evaluation of all or any portion of the transactions contemplated by this Agreement. Confidential Information must be marked with an appropriate legend or, if not in written or tangible form, identified as confidential at the time of disclosure and summarized and delivered to the other Party within three (3) days following disclosure. Notwithstanding any expiration or termination of this Agreement each Party shall protect Confidential Information from unauthorized disclosure to any third party until three (3) years from the date of its receipt. Information about Customer's needs may be disclosed to applicable manufacturers or distributors as required for ePlus to receive discounts, commissions, rebates, or other consideration pursuant to agreements with its vendors.
- B. Confidential Information does not include information that:
 - (i) is or becomes publicly available other than through a breach of this Agreement; or
 - (ii) was in the possession of the receiving Party at the time of disclosure or later becomes available from a third party without breach of this Agreement; or
 - (iii) is independently developed by or for the receiving Party without access to confidential information, as evidenced by its records; or
 - (iv) the receiving Party has received written permission from the other Party to disclose; or
 - (v) the receiving Party is required to disclose pursuant to a valid order of court or other governmental body thereof; provided, however, that the receiving Party shall first give notice to the disclosing Party and make a reasonable effort to obtain a protective order requiring that the Confidential Information so disclosed will be used solely for the purposes for which the order was issued.
- C. Confidential Information shall remain the exclusive property of the disclosing Party and shall be returned to the disclosing Party promptly upon request except for electronic copies maintained in a secure location in accordance with the receiving Party's standard electronic backup procedures.
- D. Each Party acknowledges and agrees that it would be difficult to fully compensate the other Party for damages resulting from the breach or threatened breach of the foregoing provisions and, accordingly, the non-breaching Party may seek temporary and injunctive relief, including temporary restraining orders, preliminary injunctions and permanent injunctions to enforce such provisions. This provision with respect to injunctive relief shall not, however, diminish a Party's right to claim and recover damages.

6. OWNERSHIP OF WORK PRODUCT AS A RESULT OF SERVICES.

- A. Subject to full and final payment, and except for any confidential or proprietary materials in which ePlus or its suppliers have a pre-existing intellectual property interest ("Existing Materials"), any and all analyses, evaluations, reports, memoranda, letters, processes, methods, programs, and manuals and any improvements, enhancements, or modifications to any of the foregoing, which are developed, prepared or conceived by ePlus specifically for Customer in the performance of Services ("Work Product"), shall be deemed "work for hire" if consistent with the requirements of Section 101 of the Copyright Act and shall in any case be and remain the exclusive property of Customer. To that end, any rights, title and ownership interests, including copyright, which ePlus may have in the Work Product are assigned to Customer.

- B. To the extent that Existing Materials are incorporated in Work Product, ePlus grants to Customer a royalty-free, irrevocable, worldwide, nontransferable, non-exclusive, internal use, perpetual license to use, modify and prepare derivative works of such Existing Materials and to use and display such Existing Materials, but only to the extent required to utilize the Work Product in accordance with this Agreement. Nothing in this Section 6 shall be deemed to (i) permit Customer to disclose, provide access to, sublicense, disassemble, decompile, reverse engineer, modify, create derivative works of, or transfer any of ePlus' or its licensor's Existing Materials to an affiliate or third party without the prior written consent of ePlus, or (ii) limit ePlus' ownership of patent, copyright or other intellectual property or trade secret rights in any information developed independently of this Agreement even though such information may have been used in connection with ePlus' performance under this Agreement. ePlus or its employees or subcontractors may provide similar services to others and use or disclose to others the general knowledge, skill and experience that ePlus and they have developed over the years, including under this Agreement.

7. REPRESENTATIONS AND WARRANTIES; DISCLAIMERS.

- A. ePlus represents and warrants that Services it performs pursuant to a SOW will be done in a skillful and workmanlike manner according to industry standards generally prevailing among providers of similar services under similar circumstances. Customer shall notify ePlus of any noncompliance with the foregoing warranty prior to completion of the Services or within five (5) business days thereafter. Notwithstanding anything to the contrary in this Agreement, Customer understands that ePlus shall bear no responsibility for the performance, repair or warranty of any of Customer's software or equipment or any software, hardware product or service provided to Customer by a third party and/or vendor, and Customer shall look solely to the third party provider for all remedies and support with regard to such products or service. Notwithstanding anything to the contrary, ePlus shall remain responsible for the acts or omissions of its subcontractors under this Agreement.
- B. ePlus does not provide warranties on Products it does not manufacture, whether with respect to design, performance, specifications, functionality or compatibility with Customer's system or otherwise. Without limiting the foregoing disclaimer, ePlus does not warrant that such Products cannot cause or are free from susceptibility to security or data breaches. Any Product warranty and any rights to indemnification for claims or losses related to a Product must come directly from the manufacturer. To the extent authorized, however, ePlus will pass through to Customer any transferable Product warranties, indemnities, and remedies provided to ePlus by the manufacturer.
- C. WARRANTIES PROVIDED HEREIN ARE PERSONAL TO, AND INTENDED SOLELY FOR THE BENEFIT OF, CUSTOMER AND DO NOT EXTEND TO ANY THIRD PARTY. EPLUS HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH PRODUCTS SOLD OR SERVICES OR DELIVERABLES PROVIDED INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE OR OTHERWISE.

8. LIMITATION OF LIABILITY.

- A. IN NO EVENT SHALL EPLUS BE LIABLE FOR INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY LOSSES OR DAMAGES, LOST DATA, COST OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES OR LOST PROFITS OF ANY KIND, EVEN IF FORESEEABLE, ARISING OUT OF OR CONNECTED WITH THIS AGREEMENT. EXCEPT FOR INJURIES OR DEATH TO THIRD PARTIES OR DAMAGES TO CUSTOMER'S PROPERTY, EPLUS' AGGREGATE LIABILITY HEREUNDER, IF ANY, SHALL BE LIMITED TO DIRECT DAMAGES, WHICH SHALL NOT EXCEED THE AMOUNT PAID FOR THE PRODUCT OR SERVICE DIRECTLY CAUSING SUCH DAMAGES, AS ESTABLISHED BY A FINAL JUDGMENT.
- B. Any action whatsoever arising out of transactions under this Agreement shall be brought in accordance with the Maryland statute of limitations pertaining to such transactions. Other than the exception set forth in A above, in no event shall ePlus be liable for claims by a third party. Each Party acknowledges that this Section 8 sets forth a reasonable allocation of liability between them, and that ePlus' pricing is offered in reliance on the warranty disclaimers and liability limitations and exclusions set forth in this Agreement.

9. **NON-HIRING OF EMPLOYEES.** Customer acknowledges that ePlus has invested significant resources in the training of its employees and that these employees are a valuable resource. Therefore, if ePlus provides Services under this Agreement, Customer agrees that during the term of this Agreement and for a period of eighteen (18) months thereafter, Customer shall not solicit for hire or hire employees of ePlus (or anyone who has been employed by ePlus within the month prior to the date of solicitation). Should such a hiring of an ePlus employee take place, ePlus shall be entitled to liquidated damages and/or compensation directly from the Customer in the amount of 20% of the employee's total annual compensation.
11. **NOTICES.** Notices required or permitted to be given under this Agreement shall be in writing and delivered in person or by a nationally recognized overnight carrier that obtains a receipt, or by certified mail, postage prepaid, return receipt requested, to the respective Party's address set forth in the introductory paragraph of this Agreement or to such other address as the Party from time to time may have designated by written notice. Notices shall be deemed given when delivery is confirmed or on the date of first refusal. Notices of default shall be given in writing. All notices to ePlus shall be directed to the attention of its General Counsel, with copy to Vice President, Contracts at the same address.
12. **PRESS RELEASES.** Any press release, announcement, publication or any other media release regarding this Agreement shall be mutually agreed upon in writing by the Parties prior to release. Neither Party shall make any representations or warranties about the other Party that the other Party has not first approved in writing.
13. **TERM AND TERMINATION.**
- A. **Term.** This Agreement shall commence on its Effective Date and shall, unless terminated pursuant to Section 13.B, continue until November 14, 2027. This Agreement shall automatically renew for one or more additional twelve (12) month periods unless a Party provides written notice to the other of its intention to terminate in accordance with the provisions below. This Agreement is a requirements contract (indefinite delivery indefinite quantity contract) and does not require the payment of funds from appropriations of a later fiscal year.
 - B. **Termination.** At any time that there is no uncompleted SOW or non-cancelable order outstanding, either Party may terminate this Agreement for any or no reason on fifteen (15) days written notice to the other Party. Either Party may terminate this Agreement and/or any SOW issued hereunder at any time in the event of a material breach of the terms hereof by giving the other Party thirty (30) days written notice stating the nature of the breach. This Agreement and/or any SOW shall then terminate if the breaching Party shall fail to cure such material breach within thirty (30) days of receipt of written notice thereof. If the breach by its nature cannot reasonably be cured within such thirty (30) day period, the breaching Party shall commence to cure the breach within such period, then diligently prosecute such cure to completion.
 - C. **Effect Of Termination.** Termination does not relieve Customer's obligations to pay all accrued fees. Termination of a SOW shall not modify the term of this Agreement or the term of any other SOW. Customer agrees that upon termination of a SOW it shall pay ePlus for all fees and costs incurred in the performance of its Services up to and including the effective date of termination.
14. **GENERAL PROVISIONS.**
- A. **Entire Agreement; Order of Precedence.** This Agreement constitutes the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous undertakings and commitments. Neither the terms of any Purchase Order, invoice, or other instrument documenting a payment or transaction issued by a Party in connection with this Agreement, nor any other act, document, usage, custom, or course of dealing shall modify the terms of this Agreement. Terms printed on or referenced by Customer's Purchase Orders, offers to buy, terms and conditions and the like shall have no effect. In the event of a conflict between this Agreement and a SOW, the SOW shall control, but only with respect to the Services set forth therein. A duly authorized representative or officer of each Party must sign any changes, modifications or amendments to this Agreement deemed to be binding.

- B. Relationship of the Parties.** The relationship created hereunder between the Parties shall be solely that of independent contractors. No representations or assertions shall be made or actions taken to imply or establish any agency, fiduciary, joint venture, partnership, employment or other relationship hereunder.
- C. Assignment.** Except any assignment by ePlus of its right to receive payments, neither Party shall sell, assign, or transfer its rights or obligations under this Agreement, in whole or in part, without the other Party's prior written consent. Any such attempted assignment shall be void. ePlus reserves the right to subcontract with other individuals and businesses for the performance of Services under this Agreement, but such subcontracts shall not constitute assignment of ePlus' obligations or rights hereunder.
- D. Severability.** If any provision of this Agreement or of a SOW is held to be prohibited by or illegal, unenforceable or invalid under applicable law or court of competent jurisdiction, such provision shall be ineffective only to the extent of such prohibition, illegality, unenforceability or invalidity, and the remaining provisions of the Agreement and/or the SOW shall not be affected thereby.
- E. Governing Law, Jurisdiction and Jury Trial Waiver.** The laws of the State of Maryland, USA, shall govern the rights, remedies and duties of the Parties arising from or in any way related to the subject matter of this Agreement. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. The Parties agree that jurisdiction and venue for any matter arising out of or pertaining to this Agreement shall be proper in the state courts located in Howard County, Maryland or the U.S. District Court for the District of Maryland, and the Parties hereby consent to such jurisdiction and venue. Each Party waives, to the extent permitted by law, all rights to a jury trial in any action or proceeding to enforce or defend any rights hereunder.
- F. Force Majeure.** If either Party is unable to perform any of its obligations under this Agreement because of an event or circumstance (a "Force Majeure Event") resulting from a judicial or government decree or regulation which is not such Party's fault, communication line failure, power failure, any natural disaster or act of God, war, terrorism, invasion, insurrection, riot, the order of any civil or military authority, fire, flood, earthquake, weather, lockouts, strikes, the unavailability of personnel due to injury, sickness, death or termination of employment, either voluntary or involuntary, or, without limitation, any other cause beyond such Party's reasonable control, the Party so affected shall promptly give notice to the other Party and shall do everything possible to resume performance. Upon delivery of such notice, all obligations under this Agreement shall be immediately suspended. If the period of nonperformance exceeds fifteen (15) days, the Party receiving notice of a Force Majeure Event may, by giving written notice, terminate this Agreement or any SOW. Delays in delivery due to Force Majeure Events shall automatically extend the delivery date for a period equal to the duration of such events. A Force Majeure Event, however, shall not apply or extend to Customer's obligation to pay for Products or Services delivered prior to a Force Majeure Event.
- G. Survival of Terms.** The provisions of Sections 4, 5, 6, 7, 8, 9, 13.C, and 14 shall survive the expiration or termination of this Agreement and/or a SOW for any reason.
- H. Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all such counterparts shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties agree to be bound by the terms hereof as of the Effective Date and have caused this Agreement to be executed by their duly authorized representatives.

ePlus Technology, Inc.

Howard County, Maryland

By: See Signature Page

By: See Signature Page

Print: _____

Print: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT I**HOWARD COUNTY CHARTER AND CODE REFERENCES TO ETHICS*****Charter Section 901. Conflict of Interest.***

(a) **Prohibitions.** No officer or employee of the County, whether elected or appointed, shall in any manner whatsoever be interested in or receive any benefit from the profits or emoluments of any contract, job, work, or service for the County. No such officer or employee shall accept any service or thing of value, directly or indirectly, from any person, firm or corporation having dealings with the County, upon more favorable terms than those granted to the public generally, nor shall he receive, directly or indirectly, any part of any fee, commission or other compensation paid or payable by the County, or by any person in connection with any dealings with the County, or by any person in connection with any dealings with or proceedings before any branch, office, department, board, commission or other agency of the County. No such officer or employee shall directly or indirectly be the broker or agent who procures or receives any compensation in connection with the procurement of any type of bonds for County officers, employees or persons or firms doing business with the County. No such officer or employee shall solicit or accept any compensation or gratuity in the form of money or otherwise for any act or omission in the course of his public work; provided, however, that the head of any department or board of the County may permit an employee to receive a reward publicly offered and paid for, for the accomplishment of a particular task.

(b) **Rules of construction; exceptions by Council.** The provisions of this Section shall be broadly construed and strictly enforced for the purpose of preventing officers and employees from securing any pecuniary advantages, however indirect, from their public associations, other than their compensation provided by law.

In order, however, to guard against injustice, the Council may, by resolution, specifically authorize any County officer or employee to own stock in any corporation or to maintain a business in connection with any person, firm or corporation dealing with the County, if, on full public disclosure of all pertinent facts to the County Council by such officer or employee, the Council shall determine that such stock ownership or connection does not violate the public interest.

The County Council may, by ordinance, delegate to the Howard County Ethics Commission the power to make such determinations and to authorize the ownership or connection. Any ordinance which delegates this power shall provide for procedures including a public hearing, and shall establish criteria for determining when the ownership or connection does not violate the public interest.

(c) **Penalties.** Any officer or employee of the County who willfully violates any of the provisions of this Section shall forfeit his office. If any person shall offer, pay, refund or rebate any part of any fee, commission, or other form of compensation to any officer or employee of the County in connection with any County business or proceeding, he shall, on conviction, be punishable by imprisonment for not less than one or more than six months or a fine of not less than \$100.00 or more than \$1,000.00, or both. Any contract made in violation of this Section may be declared void by the Executive or by resolution of the Council. The penalties in this Section shall be in addition to all other penalties provided by law.

Code Section 4.119. Ethics and Fair Employment Practices.

(a) **Conflict of Interest.** Bidders, vendors, purchasers and county employees involved in the purchasing process shall be governed by the provisions of the Howard County Charter and Howard County law regarding conflict of interest. No vendor shall offer a gratuity to an official or employee of the county. No official or employee shall accept or solicit a gratuity.

(b) **Discouragement of Uniform Bidding.**

(1) It is the policy of the county to discourage uniform bidding by every possible means and to endeavor to obtain full and open competition on all purchases and sales.

(2) No bidder may be a party with other bidders to an agreement to bid a fixed or uniform price.

(3) No person may disclose to another bidder, nor may a bidder acquire, prior to the opening of bids, the terms and conditions of a bid submitted by a competitor.

(c) **Fair Employment Practices**

(1) Bidders, vendors and purchases may not engage in unlawful employment practices as set forth in Subtitle 2 "Human Rights" of Title 12 of the Howard County Code, Subtitle 6 of Title 20 of the State Government Article, Annotated Code of Maryland or Sections 703 and 704 of Title VII of the Civil Rights Act of 1964 as amended. Should any bidders, vendors or purchasers engage in such unlawful employment practices, they shall be subject to being declared irresponsible or being debarred pursuant to the provisions of this subtitle.

(2) The Howard County Office of Human Rights shall notify the county purchasing agent when any bidder is found, by a court of competent jurisdiction, to have engaged in any high unlawful employment practices.

(3) If any bidder has been declared to be an irresponsible bidder for having engaged in an unlawful employment practice and has been debarred from bidding pursuant to this subtitle, the Howard County Office of Human Rights shall review the employment practices of such bidder after the period of debarment has expired to determine if violations have been corrected and shall, within 30 days, file a report with the county purchasing agent informing the agent of such corrections before such bidder can be declared to be a responsible bidder by the County Purchasing agent.

(4) Payment of subcontractors. All contractors shall certify in writing that timely payments have been made to all subcontractors supplying labor and materials in accordance with the contractual arrangements made between the contractor and the subcontractors. No contractor will be paid a second or subsequent progress payment or final payment until such written certification is presented to the county purchasing agent.

Code Section 22.204. - Prohibited Conduct and Interests.

(a) **Participation Prohibitions.**

- (1) Except as permitted by Commission regulation or opinion, an official or employee may not participate in:
- (i) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, the official or employee or a qualified relative of the official or employee has an interest.
 - (ii) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter in which any of the following is a party:
 - a. A business entity in which the official or employee has a direct financial interest of which the official or employee may reasonably be expected to know;
 - b. A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner, or employee;
 - c. A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative is negotiating or has any arrangement concerning prospective employment;
 - d. If the contract reasonably could be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee, a business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or employee, is a party to a contract with a qualified relative;
 - e. An entity, doing business with the County, in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interests; or
 - f. A business entity that:
 - 1. The official or employee knows is a creditor or obligee of the official or employee or a qualified relative of the official or employee with respect to a thing of economic value; and
 - 2. As a creditor or obligee, is in a position to directly and substantially affect the interest of the official or employee or a qualified relative of the official or employee.
- (2) A person who is disqualified from participating under paragraph 1. of this subsection shall disclose the nature and circumstances of the conflict and may participate or act if:
- (i) The disqualification leaves a body with less than a quorum capable of acting;
 - (ii) The disqualified official or employee is required by law to act; or
 - (iii) The disqualified official or employee is the only person authorized to act.
- (3) The prohibitions of paragraph 1 of this subsection do not apply if participation is allowed by regulation or opinion of the Commission.

(b) **Employment and Financial Interest Restrictions.**

- (1) Except as permitted by regulation of the commission when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:
- (i) Be employed by or have a financial interest in any entity:
 - a. Subject to the authority of the official or employee or the County agency, board, commission with which the official or employee is affiliated; or
 - b. That is negotiating or has entered a contract with the agency, board, or commission with which the official or employee is affiliated; or
 - (ii) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official or employee.
- (2) The prohibitions of paragraph (1) of this subsection do not apply to:
- (i) An official or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to the authority;
 - (ii) Subject to other provisions of law, a member of a board or commission in regard to a financial interest or employment held at the time of appointment, provided the financial interest or employment is publicly disclosed to the appointing authority and the Commission;
 - (iii) An official or employee whose duties are ministerial, if the private employment or financial interest does not create a conflict of interest or the appearance of a conflict of interest, as permitted and in accordance with regulations adopted by the Commission; or
 - (iv) Employment or financial interests allowed by regulation of the Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

(c) **Post-Employment Limitations and Restrictions.**

- (1) A former official or employee may not assist or represent any party other than the County for compensation in a case, contract, or other specific matter involving the County if that matter is one in which the former official or employee significantly participated as an official or employee.
- (2) For a year after the former member leaves office, a former member of the County Council may not assist or represent another party for compensation in a matter that is the subject of legislative action.

(d) **Contingent Compensation.** Except in a judicial or quasi-judicial proceeding, an official or employee may not assist or represent a party for contingent compensation in any matter before or involving the County.

(e) **Use of Prestige of Office.**

(1) An official or employee may not intentionally use the prestige of office or public position for the private gain of that official or employee or the private gain of another.

(2) This subsection does not prohibit the performance of usual and customary constituent services by an elected official without additional compensation.

(f) **Solicitation and Acceptance of Gifts.**

(1) An official or employee may not solicit any gift.

(2) An official or employee may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist.

(3) An official or employee may not knowingly accept a gift, directly or indirectly, from a person that the official or employee knows or has the reason to know:

(i) Is doing business with or seeking to do business with the County office, agency, board or commission with which the official or employee is affiliated;

(ii) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official or employee;

(iii) Is engaged in an activity regulated or controlled by the official's or employee's governmental unit; or

(iv) Is a lobbyist with respect to matters within the jurisdiction of the official or employee.

(4) (i) Subsection (4)(ii) does not apply to a gift:
a. That would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;

b. Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employee; or

c. Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.

(ii) Notwithstanding paragraph (3) of this subsection, an official or employee may accept the following:

a. Meals and beverages consumed in the presence of the donor or sponsoring entity;

b. Ceremonial gifts or awards that have insignificant monetary value;

c. Unsolicited gifts of nominal value that do not exceed \$20.00 in cost or trivial items of informational value;

d. Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting which is given in return for the participation of the official or employee in a panel or speaking engagement at the meeting;

e. Gifts of tickets or free admission extended to an elected official to attend a charitable, cultural, or political event, if the purpose of this gift or admission is a courtesy or ceremony extended to the elected official's office;

f. A specific gift or class of gifts that the Commission exempts from the operation of this subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the County and that the gift is purely personal and private in nature;

g. Gifts from a person related to the official or employee by blood or marriage, or any other individual who is a member of the household of the official or employee; or

h. Honoraria for speaking to or participating in a meeting, provided that the offering of the honorarium is not related, in any way, to the official's or employee's official position.

(g) **Disclosure of Confidential Information.** Other than in the discharge of official duties, an official or employee may not disclose or use confidential information, that the official or employee acquired by reason of the official's or employee's public position and that is not available to the public, for the economic benefit of the official or employee or that of another person.

(h) **Participation in Procurement.**

(1) An individual or a person that employs an individual who assists a County, agency or unit in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement, may not submit a bid or proposal for that procurement, or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.

(2) The Commission may establish exemptions from the requirements of this section for providing descriptive literature, sole source procurements, and written comments solicited by the procuring agency.

In Witness Whereof, the parties have executed this Agreement: **PA-003-2022**

Amendment: **Not Applicable**

Approved and Agreed to:

Company: ePlus Technologies, Inc.

DocuSigned by:

Steven Mencarini

73907743227F477...

(SEAL)

Name: Steven Mencarini

Title: SVP

Howard County, Maryland

DocuSigned by:

Lonnie Robbins

B24D4F30B92945B...

Chief Administrative Officer

Name: Lonnie Robbins

DocuSigned by:

Calvin Ball

0E95BAD4383948F...

County Executive

Name: Calvin Ball

Approved for form and legal sufficiency

DocuSigned by:

Gary Kuc

1B1BC481918B4C5...

County Solicitor

Name: Gary Kuc

DocuSigned by:

Constance Tucker

C5F4844A017B4A7...

Title: Principal Counsel

Name: Constance Tucker

Approved for Sufficiency of Funds

DocuSigned by:

Rafiu Ighile

4BE952E87C78414...

Director of Finance

Name: Rafiu Ighile

Department Head

DocuSigned by:

Brandee Ganz

93C8A39CE92C451...

Name: Brandee Ganz

**Department of Technology and
Communication Services**

Contract: PA-003-2022

Completed: 9/11/2021

ePLUS TECHNOLOGY, INC.

CONTRACT WITH:

**STATE OF MARYLAND
DEPARTMENT OF INFORMATION
TECHNOLOGY**

**HARDWARE AND ASSOCIATED EQUIPMENT
AND SERVICES 2012**

**REQUEST FOR PROPSAL PROJECT NO.
060B2490022**

SUPPLEMENT D
DEPARTMENT OF INFORMATION TECHNOLOGY
ACTION AGENDA

ITEM: 4-IT

Agency Contact:
 Elliot Schlanger (410) 260-2994
Elliot.Schlanger@maryland.gov
 Donna Ziegenhein (410) 260-7627
Donna.Ziegenhein@maryland.gov

DEPARTMENT/PROGRAM:

Department of Information Technology

CONTRACT ID:

Hardware/Associated Equipment & Services 2012
eMaryland Solicitation No. MDF5031003617
ADPICS No.: 060B2490022

CONTRACT DESCRIPTION: Multiple award, indefinite quantity, Purchase Order Request for Proposals-based Master Contract to provide hardware, installation, training services and manufacturer's extended warranty. Laptops and desktops are excluded.

AWARD:

See Pages 11D-13D

TERM:

11/15/2012 to 11/14/2027 (15 years)

NOTE: Every three years, DoIT will allow companies not under contract to submit proposals to be included in the Master Contract and will allow existing contractors to add Functional Areas.

AMOUNT:

\$57,000,000

PROCUREMENT METHOD:

Competitive Sealed Proposals

PROPOSALS:

See Pages 11D-13D

MBE PARTICIPATION:

1%

INCUMBENTS:

See 14D-16D

REMARKS: A notice of the availability of the Request for Proposals was advertised on *eMaryland Marketplace* and the DoIT website. In addition, an e-mail notice was sent to all MBEs certified to deliver these services and to 17 minority business advocacy groups.

Seventy-six proposals were received; 73 are recommended to receive a Master Contract. Of the 73 recommended Contractors, 50 are Maryland resident businesses, 16 are small businesses, and 19 are MBEs.

SUPPLEMENT D
DEPARTMENT OF INFORMATION TECHNOLOGY
ACTION AGENDA

ITEM 4-IT (cont'd)

Desktop and laptop computers will not be purchased through this contract; a separate RFP is scheduled for procuring these products. The current Hardware and Associated Equipment and Services Master Contract expired September 30, 2012 (See DBM Item 10-IT (9/12/2007)).

This Master Contract encompasses the following five functional areas:

Functional Area I	Servers and Associated Peripherals
Functional Area II	Printers and Associated Peripherals
Functional Area III	Network Communications Equipment
Functional Area IV	Installation and Training Services
Functional Area V	Manufacturer's Extended Warranty

There will be a second level of competition through a Purchase Order Request for Proposal (PORFP) process. A PORFP will be sent to all Master Contractors within the appropriate functional area who are authorized to provide the hardware and/or services for the requested manufacturer's product line.

For PORFPs designated as Small Business Reserve, only Master Contractors that are certified as small businesses will be able to compete.

Functional Area IV provides the only potential for subcontracting opportunities; therefore, an overall MBE subcontractor participation goal of 1% has been established for this Master Contract.

Master Contractors affirmed that their prices for the PORFPs will not exceed the manufacturer's suggested retail price. More importantly, the competitive PORFP process should lead to offers that are lower than the MSRP price.

This procurement vehicle was designed to provide State agencies with a wide selection of Master Contractors who offer an extensive variety of IT hardware. State agencies will obtain hardware, installation, training services and manufacturer's extended warranty efficiently by issuing PORFPs specific to each agency's needs. This contracting vehicle is also available to local and county Maryland government jurisdictions.

SUPPLEMENT D
DEPARTMENT OF INFORMATION TECHNOLOGY
ACTION AGENDA

ITEM 4-IT (cont'd)

FUND SOURCE:	Various
APPROP. CODE:	Various
RESIDENT BUSINESS:	See Pages 11D-13D
MD TAX CLEARANCE:	See Pages 11D-13D

Board of Public Works Action - The above referenced Item was:

APPROVED	DISAPPROVED	DEFERRED	WITHDRAWN
WITH DISCUSSION		WITHOUT DISCUSSION	

FORMS



HOWARD COUNTY, MARYLAND
Office of Purchasing

AFFIDAVIT

Must be completed, signed by an officer of the company (President, CEO, Vice President, etc.)

Contractor ePlus Technogy, inc.

Address 13595 Dulles Technology Drive, Herndon, VA 20171

I, Steve Mencarini, the undersigned, Senior Vice President of the above named
 (Print Signer's Name) (Title)

Contractor does declare and affirm this 9th day of August, 2021, that I hold the aforementioned office
 (Month) (Year)
 in the above named Contractor and I affirm the following:

AFFIDAVIT I

The Contractor, his Agent, servants and/or employees, have not in any way colluded with anyone for and on behalf of the Contractor or themselves, to obtain information that would give the Contractor an unfair advantage over others, nor have they colluded with anyone for and on behalf of the Contractor, or themselves, to gain any favoritism in the award of the contract herein.

AFFIDAVIT II

No officer or employee of Howard County, whether elected or appointed, has in any manner whatsoever, any interest in or has received prior hereto or will receive subsequent hereto any benefit, monetary or material, or consideration from the profits or emoluments of this contract, job, work or service for the County, and that no officer or employee has accepted or received or will receive in the future a service or thing of value, directly or indirectly, upon more favorable terms than those granted to the public generally, nor has any such officer or employee of the County received or will receive, directly or indirectly, any part of any fee, commission or other compensation paid or payable to the County in connection with this contract, job, work, or service for the County, excepting, however, the receipt of dividends on corporation stock.

AFFIDAVIT III

Neither I, nor the Contractor, nor any officer, director, or partners, or any of its employees who are directly involved in obtaining contracts with Howard County have been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state, or of the federal government for acts of omissions committed after July 1, 1977.

AFFIDAVIT IV

Neither I, nor the Contractor, nor any of our agents, partners, or employees who are directly involved in obtaining contracts with Howard County have been convicted within the past 12 months of discrimination against any employee or applicant for employment, nor have we engaged in unlawful employment practices as set forth in Section 12.200 of the Howard County Code, or Subtitle 6 of Title 20 of the State Government Article, Annotated Code of Maryland or, of Sections 703 and 704 of Title VII of the Civil Rights Act of 1964 as amended.

AFFIDAVIT V

The Contractor:

- i. Is not currently identified on the list created by the Maryland State Board of Public Works as a person engaging in investment activities in Iran as described in Section 17-702 of the *Maryland State Finance and Procurement Article*; or
- ii. Is not currently engaging in investment activities in Iran as described in Section 17-702 of the *Maryland State Finance and Procurement Article*.

If the person is unable to make the certification, it will provide the County, a detailed description of the Contractor's investment activities in Iran.

AFFIDAVIT VI

If applicable, the Contractor has complied 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 24 month period, one or more contracts, leases, 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.

I do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavits are true and correct to the best of my knowledge, information and belief.

Steve Mencarini
 Signature
 Steve Mencarini

Printed Name
 SVP

Title



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
08/12/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER MARSH USA INC. 1050 CONNECTICUT AVENUE, SUITE 700 WASHINGTON, DC 20036-5386 CN102561610-PROP-7/31-21-22	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
INSURED ePlus, Inc ePlus Technology, Inc 13595 Dulles Technology Drive Herndon, VA 20171	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A : Valley Forge Insurance Co	
	INSURER B : National Fire Insurance Company of Hartford	
	INSURER C : Continental Insurance Co.	
	INSURER D :	
INSURER E :		
INSURER F :		

COVERAGES **CERTIFICATE NUMBER:** CLE-006774420-01 **REVISION NUMBER:** 3

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	X		7015180175	07/31/2021	07/31/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	X		7015180189	07/31/2021	07/31/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$			7015180211	07/31/2021	07/31/2022	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
C	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	7015433902 (AOS) 7015433933 (CA)	07/31/2021 07/31/2021	07/31/2022 07/31/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	<input checked="" type="checkbox"/> PROPERTY			7015180175	07/31/2021	07/31/2022	LIMIT 10,000,000 DED. 10,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Cooperative Purchase, Cisco Enhanced Maintenance Renewal, Agreement No. PA-003-2022.

Howard County, Maryland, its officials, employees, agents and volunteers is/are included as additional insured where required by written contract regarding General and Auto Liability.

CERTIFICATE HOLDER

Howard County, Maryland, its officials,
employees, agents and volunteers
Attn: Office of Purchasing
6751 Columbia Gateway Drive, Suite 501
Columbia, MD 21046

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Marsh USA Inc.

© 1988-2016 ACORD CORPORATION. All rights reserved.



Veteran-Owned Business Enterprise Program Form

In accordance with Section 4.130 of the Howard County Code, it is the policy of Howard County Government to encourage increased participation by Veteran-Owned Business Enterprises in the procurement of all goods and services through all solicitations by the County. The Veteran-Owned Business Enterprise (VOBE) program includes an overall aspirational goal of 1% of the County's total dollar value of procurement contracts to be made directly or indirectly with Veteran-Owned Business Enterprises. Participation may be either on a direct basis in response to this solicitation or on a subcontractor basis.

For the purposes of the Veteran-Owned Business Enterprise Program, a Veteran-Owned Business Enterprise (VOBE) is defined as a business enterprise that is verified by the Center for Verification and Evaluation of the United States Department of Veterans Affairs as a Veteran-Owned Small Business Enterprise. To search the database of business enterprises that are verified by the Center for Verification and Evaluation of the United States Department of Veterans Affairs visit <https://www.vip.vetbiz.va.gov>.

Complete this form and return it with your response to the solicitation.

Complete Part 1 below if: Supplier is verified by the Center for Verification and Evaluation of the United States Department of Veterans Affairs as a Veteran-Owned Small Business Enterprise.

Complete Part 2 below if: Supplier is proposing to subcontract with a business that is verified by the Center for Verification and Evaluation of the United States Department of Veterans Affairs as a Veteran-Owned Small Business Enterprise.

Complete Part 3 below if: Supplier proposes NO Veteran-Owned Business Enterprise participation.

Check as applicable

1. ☐ Veteran-Owned Business Enterprise Certification:

Supplier is verified by the Center for Verification and Evaluation of the United States Department of Veterans Affairs

2. ☐ Veteran-Owned Business Enterprise Subcontract Participation:

Supplier proposes to subcontract with a business that is verified by the Center for Verification and Evaluation of the United States Department of Veterans Affairs in the contract as described below:

Name(s) of VOB Subcontractor(s): _____

Description of Work: _____

Percentage of Participation: _____ %

3. ☒ NO Veteran-Owned Business Enterprise Subcontract Participation Proposed.

Name of company: ePlus Technology, inc.

Printed name: Steve Mencarini

Authorized signature: _____

Email: SMencarini@EPLUS.COM

DocuSigned by:

Steve Mencarini

73907743227F477...

Title: SVP

Date: 8/9/2021

Phone: _____



HOWARD COUNTY, MARYLAND EQUAL BUSINESS OPPORTUNITY (EBO) SUBCONTRACTOR PARTICIPATION FORM

COUNTY USE ONLY
mrs
EBO APPROVAL

CONTRACT TITLE: Hardware and Associated Equipment and Services		
SOLICITATION #	CAPITAL PROJECT #	CONTRACT / PO #
TERM:	RENEWAL #	AMOUNT \$ \$658,258.83

PRIME CONTRACTOR NAME: ePlus Technology, inc.			
ADDRESS: 13595 Dulles Technology Dr., Herndon, VA 20171			PHONE: 703-984-8400
EBO STATUS (Y/N):	*EBO TYPE:	CERTIFYING AGENCY:	CERTIFICATION #

PRIME CONTRACTOR SHOULD LIST ALL EBO SUBCONTRACTORS / SUBCONSULTANTS / SUPPLIERS	
INSTRUCTIONS FOR COMPLETING THIS FORM	
<ul style="list-style-type: none"> Complete the section below identifying each certified EBO firm (Minority (MBE), Woman (WBE), and Disabled (DBE) Business Enterprises) you intend to use on this project. Attach additional sheets if more than two (2) subcontractors. This form represents the contractor's commitment to utilize the named EBO firms at the percentages indicated should the contract be awarded to the contractor. This form should accompany your bid or proposal. *EBO Types: AA (African American), ASA (Asian American), HIS (Hispanic American), NA (Native American), FEM (Female), DIS (Disabled) 	

SUBCONTRACTOR NAME: i4DM		
ADDRESS: 8227 Cloverleaf Drive, Suite 312		PHONE: 410-729-7920
CONTACT REPRESENTATIVE:		EMAIL:
*EBO TYPE (Check One) <input checked="" type="checkbox"/> AA <input type="checkbox"/> ASA <input type="checkbox"/> HIS <input type="checkbox"/> NA <input type="checkbox"/> FEM <input type="checkbox"/> DIS		
CERTIFYING AGENCY: State of MD	CERTIFICATION # 05-085	EBO PARTICIPATION % 15% per Jared Howell
DESCRIPTION OF WORK: IT related services including security, cloud, assessments, and professional services.		EBO PARTICIPATION \$

SUBCONTRACTOR NAME:		
ADDRESS:		PHONE:
CONTACT REPRESENTATIVE:		EMAIL:
*EBO TYPE (Check One) <input type="checkbox"/> AA <input type="checkbox"/> ASA <input type="checkbox"/> HIS <input type="checkbox"/> NA <input type="checkbox"/> FEM <input type="checkbox"/> DIS		
CERTIFYING AGENCY:	CERTIFICATION #	EBO PARTICIPATION %
DESCRIPTION OF WORK:		EBO PARTICIPATION \$

Steve Mencarini

SMencarini@EPLUS.com

PRINTED NAME

EMAIL

Steve Mencarini

SVP

8/9/2021

SIGNATURE (VENDOR OFFICIAL)

TITLE

DATE

**STATE OF MARYLAND
DEPARTMENT OF INFORMATION
TECHNOLOGY**

**REQUEST FOR PROPSAL PROJECT NO.
060B2490022**

**HARDWARE AND ASSOCIATED EQUIPMENT
AND SERVICES 2012**

AS ISSUED



S T A T E O F M A R Y L A N D

DEPARTMENT OF INFORMATION TECHNOLOGY

MARTIN O'MALLEY
Governor

ANTHONY BROWN
Lieutenant Governor

ELLIOT SCHLANGER
Secretary

Q&A #2
Hardware 2012 RFP
PROJECT NO. 060B2490022
July 12, 2012

Ladies/Gentlemen:

This list of Questions and Answers #2, questions #14 through #44, is being issued to clarify certain information contained in the above named RFP. The statements and interpretations of contract requirements, which are stated in the following questions of potential Offerors, are not binding on the State, unless the State expressly amends the RFP. Nothing in the State's responses to these questions is to be construed as agreement to or acceptance by the State of any statement or interpretation on the part of the vendor asking the question as to what the contract does or does not require.

14. **Question:** MBE Goal: 100% of Functional Area IV. Is this a firm requirement that an organization providing services MUST be 100% MBE compliant? Or is a best effort attempt to subcontract to an MBE acceptable, regardless of outcome?

Answer: Please see Amendment #1.

15. **Question:** Once awarded, does a Master Contractor have the ability to exit the contract at any time after award? Can the organization get out?

Answer: Once awarded a master contractor will remain on the contract unless the contract is terminated by DoIT.

16. **Question:** Will the PORFP Terms and Conditions refer back to the master contract? Or is it possible that the PORFP could have additional / different terms? Would those terms be negotiable?

Answer: The master contract terms and conditions will apply to all PORFPs and the resulting POs. Additional terms and conditions may be specified at the PORFP level.

17. **Question:** With the PORFP process, if a Master Contractor does not want to submit a response, are they required to submit a form explaining their non-response, or can they simply ignore the PORFP?

Answer: A master contractor is required to submit a "no bid" response.



18. **Question:** Are manufacturers prohibited from replying to the Master Contract RFP directly?

Answer: Both manufacturers and resellers may be awarded a contract.

19. **Question:** What type of reporting or other administrative tasks are required of a Master Contractor, either through E Maryland Marketplace or manually?

Answer: MBE reporting is outlined in Attachment D of the Hardware RFP. Other reporting may be required and would be specified at the PORFP level.

20. **Question:** The Request for Proposal refers to the Master Contract as the ruling document that will be granted to a Manufacturer or Distributor. Could the State of Maryland please let us know if Offerors will be able to provide and/or suggest the use of their own contract template instead of the suggested Master Contract provided by the State of Maryland, or if Offerors will be able to request/negotiate changes to the terms of the Master Contract that was provided by the State of Maryland?

Answer: The State cannot negotiate separate terms with Offerors. Most of the terms and conditions contained in the RFP are dictated by State law and the State has little if any room for negotiations.

21. **Question:** Amendment 1, Pg. 1 - Is the 1% goal percentage for MBEs accurate?

Answer: Yes.

22. **Question:** Section 3.4.2.3, Pg. 5 – In some supply lists, the distributor provides a mix of 1) manufacturer and product lines and 2) manufacturer name with no list of product lines. Is it useful for the State to see a manufacturer name if the distributor does not provide a list of product lines?

Answer: Section 3.4.2.3 only requires listing the Manufacturer, not the products the Offeror is authorized to sell.

23. **Question:** Section 3.4.2.3, Pg. 5 – What constitutes an acceptable quantity of detail on a product line: e.g., do you want just the category of item such as printer or server, manufacturer model names, numbers, feature variables?

Answer: See Question 22.

24. **Question:** Section 3.4.2.6, Pg. 26 - Is subset "D" missing or was "E" just a typo?

Answer: See Amendment #1.

25. **Question:** Section 3.4.2.3, Manufacturer's or Distributor's Letter of Authorization, subsection B). Is this requirement applicable to an Offeror that is the manufacturer of all product lines proposed?



Answer: Please submit a letter on your company letterhead that explains that you are proposing your own product.

26. **Question:** Is Attachment D-1 required as part of this submittal? Section 3.4.2.6 D) refers only to D-1A as being required, yet the end of Attachment D-1 on page 62 instructs Offerors to submit it with master contract proposal.

Answer: Only Attachment D-1A is required as detailed in Section 3.4.2.6 of the Hardware RFP. See Amendment #2.

27. **Question:** Attachment E-IV (page 78) and Section 3.5.2 refer to a Section D-IV and a form D-IV. We cannot find a section D-IV or form D-IV. Please clarify where these are located.

Answer: This reference should be form E-IV. See Amendment #2.

28. **Question:** Section 2.2.4 states that only Master Contractors may provide hardware, services or maintenance. However, if there is a subcontract requirement in PORFP, a subcontractor (not the Master Contractor) would be providing the services. Should Section 2.2.4 instead state that only Master Contractors, or their subcontractors, may provide hardware, services or maintenance?

Answer: Correct. See Amendment #2.

29. **Question:** Section 1.24, Minority Business Enterprises. Please elaborate on the overall MBE subcontracting goal. Does the % goal mean that the specified % of the work (labor categories) must be subcontracted, or that the specified % of the contract dollars must be subcontracted? Also, will any MBE subcontractor participation goal for a PORFP apply to Functional Area IV only?

Answer: MBE goals will be set at the PORFP level and will apply to a specified % of the contract dollars.

30. **Question:** Section 2.6, Functional Area IV. Based on Amendment #1, should this be revised to remove the 100% MBE subcontracting goal?

Answer: Correct. See Amendment #2.

31. **Question:** For Section 2.18, will the State provide examples of possible specialty reports they might ask for in a PORFP?

Answer: There are no additional reports required at this time.

32. **Question:** Section 1.33 - This section states that "...all materials used in the performance of the Contract and subsequent Purchase Orders shall be mercury-free products." It goes on to further state that "...the Offeror shall submit a Mercury Affidavit with its PORFP Proposal found in



Attachment G". Our interpretation is that Attachment G is to be included in response to PORFP solicitations, and not this solicitation. Is that correct?

Answer: That is correct.

33. **Question:** Section 1.33 - In our position as a reseller, Mainline is not in the position to make the affirmation required in Attachment G. The OEMs for the products Mainline intends on marketing under this contract are RoHS-compliant. Will the State accept an affirmation of RoHS Compliance in lieu of the Mercury Affidavit included in Attachment G?

Answer: Attachment G is provided as a reference. It may be required in response to a PORFP. Attachment G is required by COMAR and would be the only acceptable affirmation.

34. **Question:** Section 2.3 - Functional Area I – Servers and Associated Peripherals. Servers range in size and complexity from small file servers through enterprise-wide servers and mainframe computers. Does this solicitation include enterprise-wide servers and mainframe computers?

Answer: Although possible, the Hardware 2012 Master Contract is not intended to be used for enterprise-wide servers and mainframe computers. These would require a more detailed scope of work and would typically be procured through a different vehicle.

35. **Question:** Section 2.3 - Other than operating systems and utility programs that are included as part of base server offering, is any other software included in this solicitation?

Answer: No.

36. **Question:** Attachment E-IV Functional Area IV – Installation and Training Services - If the offeror does not submit labor rates for all 15 years, will the bid for this functional area be disallowed?

Answer: Yes. Labor rates must be submitted for all labor categories for all 15 years.

37. **Question:** Regarding MBE requirement, can a registered MD MBE fulfill the 100% service requirement themselves or do they need another MBE to perform this function?

Answer: No. MBE master contractors must still subcontract to a Maryland registered MBE firm to meet any applicable MBE goal.

38. **Question:** Will this Hardware contract allow the issuance of PORFPs that include both servers/printers/networking equipment, and desktop/laptops? If not, how will PORFPs be issued for hardware solutions that include a variety of enterprise and client devices?

Answer: Yes, multiple items may be requested on a PORFP. However, laptops and desktops are excluded from the Hardware 2012 Master Contract.



39. **Question:** Will PORFPs under this contract include services required for desktops/laptops installation/configurations along with server/printers/networking equipment?

Answer: No. See Question 38 above.

40. **Question:** MBEs are approved to provide services under specific NAICS codes. Will the State determine the applicable NAICS code(s) for each requested service at the PORFP level?

Answer: No.

41. **Question:** With a 100% subcontracting goal in place, is the Offeror expected to provide labor rates for its subcontracting partners or its own labor rates?

Answer: See Amendment #1.

42. **Question:** Section 3.4.2, Format of Technical Proposal. Must Offeror's Technical Proposal include a point-by-point response to each of the sections in Section 1 (General Information) and Section 2 (Scope of Work), or only the items outlined in Section 3.4?

Answer: Please follow the instructions in Section 3 of the Hardware 2012 RFP.

43. **Question:** Should the 2 copies required for each volume be unbound, like the original?

Answer: Either bound or unbound is acceptable.

44. **Question:** Section 3.3 states that Offerors shall include a separate section for each Functional Area proposed describing what part of that Functional Area (as described in Section 2) the Offeror has the ability to provide and how the Offeror qualifies to provide what is proposed. Is this in addition to (and separate from) the Executive Summary section? If so, where should this section be included?

Answer: Yes, this should be separate from the Executive Summary and labeled as described in Section 3.3.



STATE OF MARYLAND
DEPARTMENT OF INFORMATION TECHNOLOGY

MARTIN O'MALLEY
Governor

ANTHONY BROWN
Lieutenant Governor

ELLIOT SCHLANGER
Secretary

**Amendment #2
Request for Proposals
Hardware and Associated Equipment and Services 2012
060B2490022
July 12, 2012**

Ladies/Gentlemen:

This Amendment #1 is being issued to amend and clarify certain information contained in the above referenced RFP. All information contained herein is binding on all Offerors who respond to this RFP. Specific parts of the RFP have been amended. The following changes/additions are listed below; new language has been double underlined and marked in bold (i.e., **word**) and language deleted has been marked with a strikeout (i.e., ~~word~~).

1. Revise RFP Attachment D-1 page 62 as follows:

SUBMIT THIS AFFIDAVIT WITH ~~MASTER CONTRACT~~ **POREP PROPOSAL RESPONSE**

2. Revise RFP Attachment E-IV page 78 as follows:

NOTE: COMPLETING ~~D-IV~~ **E-IV** REQUIRES OFFERORS TO ALSO COMPLETE E-1, E-II or E-III.

3. Revise RFP Section 2.2.4 page 12 as follows:

Only Master Contractors **or their subcontractors**, authorized by the manufacturer or distributor of the hardware, may provide hardware, services or maintenance.

4. Revise RFP Section 2.6 page 13 as follows:

~~The MBE subcontracting goal for Functional Area IV is 100%.~~

5. Revise RFP Section 2.17 page 23 as follows:

2.17.3 Contract Management Oversight Activities Reporting

DoIT will perform contract management oversight on the Hardware 2012 Master Contract. Master Contractors shall comply with any oversight reporting requirements implemented during the term of the contract.

Issued by
Alayna Mande
Procurement Officer



STATE OF MARYLAND
DEPARTMENT OF INFORMATION TECHNOLOGY

MARTIN O'MALLEY
Governor
ANTHONY BROWN
Lieutenant Governor
ELLIOT SCHLANGER
Secretary

Q&A #1
Hardware 2012 RFP
PROJECT NO. 060B2490022
July 11, 2012

Ladies/Gentlemen:

This list of Questions and Answers #1, questions #1 through #13, is being issued to clarify certain information contained in the above named RFP. The statements and interpretations of contract requirements, which are stated in the following questions of potential Offerors, are not binding on the State, unless the State expressly amends the RFP. Nothing in the State's responses to these questions is to be construed as agreement to or acceptance by the State of any statement or interpretation on the part of the vendor asking the question as to what the contract does or does not require.

1. **Question:** For Functional Area IV, there is a 100% MBE Goal. If we are priming this contract and we are MBE ourselves, do we still have to subcontract this FA IV to another MBE company or can we fulfill this directly?

Answer: Please see Amendment #1 issued July 10, 2012. Although the MBE goal has changed, an MBE Prime would still be required to subcontract to an MBE subcontractor to meet a designated goal.

2. **Question:** For the MBE Goal – It is stated that it is 100% of Functional Area IV – Installation & Training. Will the State “assess the potential for an MBE subcontractor participation goal, including sub goals, if applicable, for each PORFP issued under Functional Area IV of the RFP, and set a goal, if appropriate”; like in the 2007 contract PROJECT NO. 050B7800023 OR will there be a firm 100% MBE Goal for the entire contract in Functional Area IV including each TORFP?

Answer: Please see Amendment #1 issued July 10, 2012.

3. **Question:** Personnel Qualifications 2.14 – If the answer to question #1 is there will be a firm 100% MBE Goal for the entire contract in Functional Area IV including each TORFP is it then expected for the Master Contractor to go out and seek the specific labor category resource needed for an individual TORFP? And then that labor resource needs to be from an MBE Certified company?

Answer: Please see Amendment #1 issued July 10, 2012.



4. **Question:** If the answer to question #2 is yes, it is expected that the Master Contractor seek out the labor resource, what incentive does the Master Contractor have to bid on Functional Area IV?

Answer: Please see Amendment #1 issued July 10, 2012.

5. **Question:** For manufacturers that don't require an authorization to sell their products, may we list them as a manufacturer that we offer?

Answer: You must have an authorization from the manufacturer or distributor. If they do not require an authorization, you must submit a letter or email from the manufacturer or distributor stating that they do not require authorizations.

6. **Question:** Do you desire or intend that the Letters of Authorization come from the manufacturers directly or from supply houses?

Answer: Letters of Authorization may come from the manufacturer or their distributor; however, they must clearly state the manufacturer name and the authorizing entity.

7. **Question:** Page 12, please define storage.

Answer: The example on page 12 refers to server storage housing and/or racks.

8. **Question:** Page 25, in reference to the LOA's can we use existing LOA's that were used for other State RFP responses (ie: Judiciary, MEEC, COT's responses)?

Answer: Yes, in most cases we will accept existing LOAs. They do not need to be addressed to the Department of Information Technology.

9. **Question:** Does the RFP allow for a dealer or Agent model in which SYNEX would hold the contract and manage all aspects it but would use dealers/agents (i.e. resellers) on the street to interface with your customers and handle the invoicing of those customers?

Answer: Since our contract will be with the awarded Master Contractor, the State will only deal with that Master Contractor.

10. **Question:** How recent do the letters of authorization need to be?

Answer: LOAs should be less than one year old.

11. **Question:** Can we add MBE's after the contract is awarded?

Answer: Do not propose MBE subcontractors in response to this RFP. Please read the MBE instructions available in Sections 1.24 and Attachment D. MBE subcontractors should only be proposed in response to a PORFP. We will not consider your MBE subcontractor's experience and qualifications in making a Master Contract award determination.



12. **Question:** To assure OEM respondents - What procedures are in place to ensure that a Value Added Reseller (VAR) will not be awarded the right to distribute OEM equipment without a signed Letter of Authorization (LOA) from the OEM?

Answer: DoIT will maintain the list of Master Contractors and their approved LOAs. This same list will be used by agencies to solicit hardware and services using the PORFP process. Resellers will not receive a PORFP unless their LOA has been received and approved by DoIT.

13. **Question:** Section 1.1.3 reads as if we could quote any or all (ie, 1, 2, 3, 5) however the web ex was conflicting in how it explained that section. Please confirm.

Answer: You may propose to any combination of functional areas with the exception of Functional Area IV, which will not be awarded on a stand-alone basis.



STATE OF MARYLAND
DEPARTMENT OF INFORMATION TECHNOLOGY

MARTIN O'MALLEY
Governor

ANTHONY BROWN
Lieutenant Governor

ELLIOT SCHLANGER
Secretary

**Amendment #1
Request for Proposals
Hardware and Associated Equipment and Services 2012
060B2490022
July 10, 2012**

Ladies/Gentlemen:

This Amendment #1 is being issued to amend and clarify certain information contained in the above referenced RFP. All information contained herein is binding on all Offerors who respond to this RFP. Specific parts of the RFP have been amended. The following changes/additions are listed below; new language has been double underlined and marked in bold (i.e., **word**) and language deleted has been marked with a strikeout (i.e., ~~word~~).

1. Revise RFP KEY INFORMATION SUMMARY SHEET page iii as follows:

MBE Goal:	100% <u>1%</u> of Functional Area IV—Installation & Training
-----------	---

2. Revise Section 1.24 Minority Business Enterprises page 7 as follows:

A ~~minimum~~ **An** overall MBE subcontractor participation goal of ~~100%~~ **1%** has been established for ~~Functional Area IV work~~ **the aggregate of all PORFPs** awarded pursuant to this RFP. **The State shall assess the potential for an MBE subcontractor participation goal for each PORFP issued which includes work in Functional Area IV (including any PORFP designated as a Small Business Reserve) and shall set a goal, if appropriate.**

3. Revise Section 3.4.2.6 Other Required Submissions page 27 as follows:

E) ~~D)~~ Offeror MBE Form – Attachment D-1A- Hardware 2012 Master Contractor Acknowledgement of Task Order MBE Requirements.

E) Completed Offeror Information Sheet (Attachment H)

Issued by
Alayna Mande
Procurement Officer

ATTACHMENT H – OFFEROR INFORMATION SHEET

Company Name: _____
Tax ID: _____
eMaryland Marketplace #: _____
Website: _____

If applicable
Maryland MBE#: _____
Maryland SBR#: _____
Federal VOSB#: _____

Corporate Contact Name: _____
Corporate Contact Title: _____
Corporate Address 1: _____
Corporate Address 2: _____
City State Zip: _____
Corporate Contact Telephone#: _____
Corporate Contact Fax#: _____
Corporate Contact email Address: _____

Note: You may only designate **ONE** solicitation contact person

Solicitation Contact Name: _____
Solicitation Contact Title: _____
Solicitation Address 1: _____
Solicitation Address 2: _____
City State Zip: _____
Solicitation Contact Telephone#: _____
Solicitation Contact Fax#: _____
Solicitation Contact email Address: _____

Request for Proposals

Hardware and Associated Equipment and Services 2012

PROJECT NO. 060B2490022



DEPARTMENT OF INFORMATION TECHNOLOGY

Issue Date: June 26, 2012

Minority Business Enterprises are Encouraged to Respond to this Solicitation

STATE OF MARYLAND NOTICE TO OFFERORS/CONTRACTORS

In order to help us improve the quality of State proposals 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 proposal on this Contract, please email this completed form to hardwareproposals.doit@maryland.gov.

Title: **Hardware and Associated Equipment and Services 2012**
Project No: **060B2490022**

1. If you have responded with a "no proposal", 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.
 - ☐ We cannot be competitive. (Explain in REMARKS section.)
 - ☐ Time allotted for completion of the proposals is insufficient.
 - ☐ Proposals requirements (other than specifications) are unreasonable or too risky. (Explain in REMARKS section.)
 - ☐ Prior State of Maryland Contract experience was unprofitable or otherwise unsatisfactory. (Explain in REMARKS section.)
 - ☐ Other: _____
2. If you have submitted a proposal, but wish to offer suggestions or express concerns, please use the Remarks section below.

REMARKS:

Offeror Name: _____ Date: _____

Contact Person: _____ Phone (____) ____ - _____

Address: _____

KEY INFORMATION SUMMARY SHEET

RFP Title:	Hardware and Associated Equipment and Services and Associated Equipment 2012
RFP Number:	060B2490022
RFP Issue Date:	June 26, 2012
Closing Date and Time:	July 26, 2012 2:00 P.M., Local Time
RFP Issuing Agency:	Department of Information Technology (DoIT) IT Procurement Office
Send Questions to:	hardwareproposals.doit@maryland.gov no later than Wednesday, July 11, 2012, 4:00 P.M. Local Time
Procurement Officer:	Alayna Mande Office Phone Number: 410-260-6044 Office FAX Number: 410-974- 5615
Proposals are to be sent to:	Maryland Department of Information Technology 45 Calvert Street, Room 446 Annapolis, MD 21401 Attention: Alayna Mande
Contract Manager:	Mike Balderson Mike.Balderson@maryland.gov Office Phone Number: 410-260-7549 Office FAX Number: 410-974-5615
Contract Duration:	15 Years
MBE Goal:	100% of Functional Area IV - Installation & Training
Pre-Proposal Conference:	WebEx video available for viewing on DoIT website at http://doit.maryland.gov/contracts/Pages/bids.aspx Tuesday, July 3rd, 2012 by 5:00 PM EST

Table of Contents

SECTION 1 - GENERAL INFORMATION.....	1
1.1 SUMMARY STATEMENT	1
1.2 BACKGROUND	1
1.3 ABBREVIATIONS AND DEFINITIONS.....	2
1.4 MASTER CONTRACT TYPE	3
1.5 MASTER CONTRACT DURATION	3
1.6 PROCUREMENT OFFICER	4
1.7 CONTRACT MANAGER	4
1.8 PRE-PROPOSAL CONFERENCE	4
1.9 EMARYLAND MARKETPLACE (EMM)	4
1.10 QUESTIONS	5
1.11 PROPOSALS DUE (CLOSING) DATE.....	5
1.12 DURATION OF OFFER	5
1.13 REVISIONS TO THE RFP	5
1.14 CANCELLATIONS; DISCUSSIONS.....	5
1.15 INCURRED EXPENSES	6
1.16 ECONOMY OF PREPARATION	6
1.17 PROTESTS/DISPUTES	6
1.18 MULTIPLE OR ALTERNATIVE PROPOSALS	6
1.19 PUBLIC INFORMATION ACT NOTICE.....	6
1.20 OFFEROR RESPONSIBILITIES	6
1.21 MANDATORY CONTRACTUAL TERMS	7
1.22 PROPOSAL AFFIDAVIT.....	7
1.23 CONTRACT AFFIDAVIT.....	7
1.24 MINORITY BUSINESS ENTERPRISES.....	7
1.25 SMALL BUSINESS RESERVE	8
1.26 ARREARAGES.....	8
1.27 PROCUREMENT METHOD	8
1.28 VERIFICATION OF REGISTRATION AND TAX PAYMENT	8
1.29 FALSE STATEMENTS	8
1.30 NON-VISUAL ACCESS	9
1.31 PAYMENTS BY ELECTRONIC FUNDS TRANSFER.....	9
1.32 CONTRACT EXTENDED TO INCLUDE OTHER NON-STATE GOVERNMENTS OR AGENCIES .	9
1.33 MERCURY AND PRODUCTS THAT CONTAIN MERCURY	10
1.34 CONFLICT OF INTEREST	10
1.35 PROMPT PAY.....	10
SECTION 2 – SCOPE OF WORK	11
2.1 SCOPE	11
2.2 GENERAL REQUIREMENTS	11
2.3 FUNCTIONAL AREA I- SERVERS AND ASSOCIATED PERIPHERALS	12
2.4 FUNCTIONAL AREA II- PRINTERS AND ASSOCIATED PERIPHERALS.....	12
2.5 FUNCTIONAL AREA III- NETWORK COMMUNICATIONS EQUIPMENT	12
2.6 FUNCTIONAL AREA IV –INSTALLATION AND TRAINING SERVICES	13
2.7 FUNCTIONAL AREA V – MANUFACTURER’S EXTENDED WARRANTY	14

2.8	WARRANTY	14
2.9	PROCEDURE FOR ADDING A MANUFACTURER’S PRODUCT LINE.....	14
2.10	PORFP PROCEDURES	15
2.11	ORDER PROCESSING PROCEDURE	16
2.12	INSURANCE REQUIREMENTS	16
2.13	INVOICING	17
2.14	PERSONNEL QUALIFICATIONS (FUNCTIONAL AREA IV).....	17
2.15	LABOR CATEGORIES AND QUALIFICATIONS.....	18
2.16	TRAVEL REIMBURSEMENT	22
2.17	REPORTING	23
SECTION 3 – PROPOSAL FORMAT.....		24
3.1	TWO PART SUBMISSION	24
3.2	PROPOSALS	24
3.3	SUBMISSION.....	24
3.4	VOLUME I – TECHNICAL PROPOSAL.....	24
3.5	VOLUME II - FINANCIAL PROPOSAL	27
SECTION 4 – EVALUATION CRITERIA AND SELECTION PROCEDURE.....		28
4.1	EVALUATION CRITERIA	28
4.2	TECHNICAL CRITERIA	28
4.3	FINANCIAL CRITERIA	28
4.4	RECIPROCAL PREFERENCE	28
4.5	SELECTION PROCEDURES	28
ATTACHMENT A – HARDWARE AND ASSOCIATED EQUIPMENT AND SERVICES 2012		
CONTRACT.....		30
ATTACHMENT B - BID/PROPOSAL AFFIDAVIT.....		46
ATTACHMENT C - CONTRACT AFFIDAVIT.....		52
ATTACHMENT D – MINORITY BUSINESS ENTERPRISE REQUIREMENTS.....		56
ATTACHMENT E- PRICE PROPOSAL FORM AND INSTRUCTIONS		73
ATTACHMENT E-I - FUNCTIONAL AREA I - SERVERS AND ASSOCIATED PERIPHERALS		75
MSRP COMMITMENT		75
ATTACHMENT E-II - FUNCTIONAL AREA II - PRINTERS AND ASSOCIATED PERIPHERALS		76
MSRP COMMITMENT		76
ATTACHMENT E-III - FUNCTIONAL AREA III - NETWORK COMMUNICATIONS EQUIPMENT ..		77
MSRP COMMITMENT		77
ATTACHMENT E-IV FUNCTIONAL AREA IV - INSTALLATION AND TRAINING SERVICES		
LABOR RATE SCHEDULE.....		78
ATTACHMENT E-V -FUNCTIONAL AREA V - MANUFACTURER’S WARRANTY SERVICES		
MSRP PRICE COMMITMENT		79
ATTACHMENT F - CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE		80
ATTACHMENT G – MERCURY AFFIDAVIT		81

SECTION 1 - GENERAL INFORMATION

1.1 Summary Statement

1.1.1 The Department of Information Technology (DoIT) is issuing this Request for Proposals to procure hardware and associated equipment and services (excluding laptops and desktops), installation and training services for the hardware, and manufacturer's extended warranty, for the State of Maryland. Through the Master Contracts awarded as a result of this solicitation, the State will have a flexible means of obtaining these products and services, quickly, efficiently and cost effectively by issuing Purchase Order Requests for Proposals (PORFP's) specific to its needs.

1.1.2 The scope of this solicitation encompasses five (5) functional areas as follows:

Functional Area I –Servers and Associated Peripherals

Functional Area II- Printers and Associated Peripherals

Functional Area III- Network Communications Equipment

Functional Area IV- Installation and Training Services

Functional Area V- Manufacturer's Extended Warranty

1.1.3 DoIT intends to award a Master Contract to an unlimited number of Offerors that are authorized by the Manufacturer or Distributor to sell the proposed products and services, and determined by the State to be qualified. Offerors may propose to Functional Areas I, II, III, or V, Functional Areas I and II, Functional Areas I and III, Functional Area I and IV, Functional Area I and V, Functional Areas II and III, Functional Area II and IV, Functional Area II and V, Functional Area III and IV, Functional Area III and V, or all five functional areas as specified in Section two. Functional Area IV will not be awarded on a stand-alone basis.

Each request for hardware, installation and/or training services, and/or manufacturer's extended warranty, throughout the term of the Master Contract, will be issued and summarized by the Requesting Agency in a PORFP. A Master Contractor/Manufacturer Product Matrix for will be established and maintained by DoIT. All Offerors awarded a Master Contract for the specific manufacturer's products and/or services for which a PORFP has been issued will be invited to compete for the award. Based upon PORFPs issued by the State of Maryland, a Master Contractor will be selected to provide the requested hardware, installation and/or training services and/or manufacturer's extended warranty. A Purchase Order (PO) will then be issued by the Requesting Agency to the selected Master Contractor, which will bind the Master Contractor to the terms of the PORFP response, including the price. Master Contractors may add manufacturers' products and/or services from time to time throughout the life of the Master Contract by submitting Letters of Authorization from the manufacturer or distributor of the hardware in accordance with the procedure set forth in Section 2.9. Neither a PORFP, nor a PO, may, in any way, conflict with or supersede the Master Contract.

1.2 Background

1.2.1 The Hardware and Associated Equipment and Services Master Contract, Project Number 050B7800023, providing for the purchase of both hardware and related services, is scheduled to expire September 30, 2012. As of June 2012, hardware equipment and services purchased were

executed under this Master Contract totaling approximately \$160,300,000.00. Approximately \$66,000,000.00 of that spending was related to laptops and desktops.

1.2.2 This solicitation does not include stand-alone software, laptops or desktops.

1.3 Abbreviations and Definitions

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

- a. Agency Point of Contact (Agency POC) – Requesting Agency contact listed in a PORFP.
- b. COMAR – Code of Maryland Regulations, available on-line at www.dsd.state.md.us.
- c. Contract Manager (CM) – The State representative who serves as the manager for the resulting Master Contract.
- d. Distributor –First tier agent authorized by the requisite parties that own rights to the Hardware product, to sell and/or service the Hardware product.
- e. DoIT – Maryland Department of Information Technology.
- f. Firm fixed –price PORFP which places responsibility on the Master Contractor for the delivery of the Hardware and the complete performance of the services in accordance with the PORFP at a price that is not subject to adjustment.
- g. Fixed Hourly Labor Category Rates – Fully loaded hourly rates established in the Master Contract that include all direct and indirect costs and profit for the Master Contractor to perform Installation or Training services required in a PORFP.
- h. Fully Loaded – The inclusion in labor category billing rates of all profit, direct and indirect costs associated with performing Installation or Training services required in a PORFP. The indirect costs shall include all costs that would normally be considered general and administrative costs and/or routine travel costs, or which in any way are allocated by the Master Contractor against direct labor hours as a means of calculating profit or recouping costs which cannot be directly attributable to services required in a PORFP. Non-routine travel costs will be identified in a PORFP, when appropriate.
- i. Installation – Transferring Manufacturer’s electronic media to computer systems so that the Hardware will provide the features and functions generally described in the User Documentation.
- j. IT – Information Technology.
- k. Letter of Authorization – A document issued by the Manufacturer or Distributor authorizing the Offeror/Master Contractor to sell and/or provide services for the Manufacturer’s Product line.
- l. Local Time - Time in the Eastern Time zone as observed by the State of Maryland.
- m. Master Contract – The Contract between the State and each of the Offerors determined technically capable of performing the requirements of this RFP.

- n. Master Contractor – An Offeror who is awarded a Master Contract under this RFP.
- o. MSRP- Manufacturer’s Suggested Retail Price.
- p. MBE – A Minority Business Enterprise certified by the Maryland Department of Transportation under COMAR 21.11.03.
- q. Offeror – An entity that submits a proposal in response to this RF.P
- r. Purchase Order (PO) – Authorizes the selected Master Contractor to proceed with delivery of products and/or any services requested via a PORFP.
- s. POC – Point of Contact.
- t. Procurement Officer – The State representative, as identified in Section 1.6, responsible for this RFP, for the determination of the Master Contract scope issues, and the only State representative who can authorize changes to the Contract.
- u. Proposal-Master Contractor’s response to a PORFP issued by the State.
- v. Request for Proposals (RFP) – This RFP for the Maryland Department of Information Technology, Project Number 060B2490022, dated June 26, 2012, including any amendments.
- w. Purchase Order Request for Proposal (PORFP) - A request by the Requesting Agency for the proposal of the required Hardware, Installation and Training services and/or Manufacturer’s Extended Warranty.
- x. Requesting Agency – The unit of the Executive Branch of Maryland State government issuing the PORFP.
- y. SBR – Small Business Reserve – A procurement in accordance with Title 14, Subtitle 5 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended. See Section 1.25 for details.
- z. State – State of Maryland.

1.4 Master Contract Type

The Master Contract shall be an Indefinite Quantity Contract as defined in COMAR 21.06.03.06. Fixed Price (FP) and Labor Hour PORFPs will be issued under the Master Contract as described in each respective PORFP, as appropriate to the type of products and/or services being requested.

1.5 Master Contract Duration

The term of this Contract shall be for a period of 15 years, beginning on or about August 1, 2012 and will terminate on July 31, 2027. At three (3) year intervals following the award of the Hardware 2012 Master Contract, DoIT will announce an Expansion Window during which new Offerors may propose to become Master Contractors. Further, during an announced Expansion Window, DoIT will allow existing Master Contractors to propose to add functional areas to their Master Contract. Expansion Windows will continue through Year 12 of the Master Contract.

1.6 Procurement Officer

The sole POC in the State for purposes of this RFP prior to the award of any Contract is the Procurement Officer at the address listed below:

Alayna Mande
Maryland Department of Information Technology
IT Procurement Office
45 Calvert Street, Room 446
Annapolis, Maryland 21401
Phone Number: 410-260-6044
Fax Number: 410-974-5615
E-mail: hardwareproposals.doit@maryland.gov

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

1.7 Contract Manager

The State CM monitors the daily activities of the Contract and provides technical guidance to the Contractor. The State CM will be:

Michael Balderson
Maryland Department of Information Technology
45 Calvert Street, Room 444A
Annapolis, Maryland 21401
Phone Number: 410-260-7549
Fax Number: 410-974-5615
Email: Mike.Balderson@maryland.gov

DoIT may change the State CM at any time by written notice to the Contractor.

1.8 Pre-Proposal Conference

A pre-proposal conference will be viewable by WebEx on Tuesday, July 3, 2012 by 5:00 PM Local Time. Questions will be accepted in response to the WebEx and should be sent to hardwareproposals.doit@maryland.gov.

Questions must be received no later than Wednesday, July 11, 2012, 4:00 P.M. Local Time.

1.9 eMaryland Marketplace (eMM)

eMM is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the DoIT web site (www.DoIT.maryland.gov) and other means for transmitting the RFP and associated materials, the solicitation and summary of the pre-proposal conference, Offeror questions and the Procurement Officer's responses, addenda, and other solicitation related information will be provided via e-Maryland Marketplace.

In order to receive a Contract award, an Offeror must be registered on Maryland Marketplace (eMM). Registration is free. Vendors may register at: <https://emaryland.buyspeed.com>. Click on "Registration" to begin the process and follow the prompts.

1.10 Questions

Written questions, from prospective Offerors, will be accepted by the Procurement Officer. Questions may be submitted by mail, facsimile, or, preferably, by e-mail to the Procurement Officer. Questions must be received no later than Wednesday, July 11, 2012, 4:00 P.M. Local Time.

1.11 Proposals Due (Closing) Date

An unbound original and two (2) bound copies of each proposal (technical and financial) must be received by the Procurement Officer, at the address listed in Section 1.6, no later than 2:00 PM (local time) on July 26, 2012 in order to be considered. An electronic version (CD or flash drive) of the Technical Proposal in MS Word format must be enclosed with the original technical proposal. An electronic version (CD or flash drive) of the Financial Proposal in MS Word format and signed PDF must be enclosed with the original financial proposal. Make sure that the electronic media are labeled with the RFP title, RFP number, and Offeror name and packaged with the original copy of the appropriate proposal (technical or financial).

Requests for extension of this date or time will not be granted. Offerors mailing proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02, proposals received by the Procurement Officer after the due date, July 26, 2012 at 2:00 PM (local time) will not be considered.

Proposals may not be submitted by e-mail or facsimile.

1.12 Duration of Offer

Proposals submitted in response to this RFP are irrevocable for 120 days following the closing date of proposals or of Best and Final Offers (BAFOs), if requested. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

1.13 Revisions to the RFP

If it becomes necessary to revise this RFP before the due date for proposals, amendments will be posted on the DoIT Procurement web page and through eMaryland Marketplace. Amendments made after the due date for proposals will be sent only to those Offerors who submitted a timely proposal.

Acknowledgment of the receipt of all amendments to this RFP issued before the proposal due date must accompany the Offeror's proposal in the Transmittal Letter accompanying the Technical Proposal submittal. Acknowledgement of the receipt of amendments to the RFP issued after the proposal due date shall be in the manner specified in the amendment notice. Failure to acknowledge receipt of amendments does not relieve the Offeror from complying with all terms of any such amendment.

1.14 Cancellations; Discussions

The State reserves the right to cancel this RFP, accept or reject any and all proposals, in whole or in part, received in response to this RFP, to waive or permit cure of minor irregularities, and to conduct discussions

with all qualified or potentially qualified Offerors in any manner necessary to serve the best interests of the State. The State also reserves the right, in its sole discretion, to award a Contract based upon the written proposals received without prior discussions or negotiations.

1.15 Incurred Expenses

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

1.16 Economy of Preparation

Proposals should be prepared simply and economically, providing a straightforward, concise description of the Offeror's proposal to meet the requirements of this RFP.

1.17 Protests/Disputes

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

1.18 Multiple or Alternative Proposals

Neither multiple nor alternate proposals will be accepted. Submitting proposals for more than one functional area is not considered a multiple or alternate proposal.

1.19 Public Information Act Notice

An Offeror shall give specific attention to the clear identification of those portions of its proposal that it considers confidential, proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Title 10, Subtitle 6, Part III of the State Government Article of the Annotated Code of Maryland.

Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information can be disclosed (see COMAR 21.05.08.01).

1.20 Offeror Responsibilities

Any selected Offeror shall be responsible for all products and services required by this RFP within the functional area proposed. Additional information regarding MBE subcontractors is provided under paragraph 1.24 below. If an Offeror that seeks to perform or provide the services required by this RFP is a subsidiary of another entity, all information submitted by the Offeror, such as, but not limited to, references, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's proposal must contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.

1.21 Mandatory Contractual Terms

By submitting an offer in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms of this RFP and the Contract, attached as Attachment A. Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary of the technical proposal. A proposal that takes exception to these terms may be rejected.

1.22 Proposal Affidavit

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

1.23 Contract Affidavit

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

1.24 Minority Business Enterprises

A minimum overall MBE subcontractor participation goal of **100%** has been established for Functional Area IV work awarded pursuant to this RFP.

Each Offeror shall complete, sign and submit, without edits, Attachment D-1A- Hardware 2012 Master Contractor Acknowledgement of Task Order MBE Requirements at the time it submits its technical response to the RFP. Failure to do so will result in the State's rejection of the Offeror's Proposal to the RFP.

Master Contractors responding to a PORFP containing Functional Area IV shall complete, sign, without edits, and submit all required MBE documentation - PORFP Attachments D-1 (Certified MBE Utilization and Fair Solicitation Affidavit) and D-2 (MBE Participation Schedule) at the time of PO Proposal submission. Failure to do so will result in the State's rejection of the Master Contractor's proposal to the PORFP.

Each Master Contractor, once awarded a PO, will be responsible for submitting the following forms to provide the State with ongoing monitoring of MBE Participation:

- D-3 (Outreach Efforts Compliance Statement)
- D-4 (Subcontractor Project Participation Statement)
- D-5 (MBE Participation Prime Contract Paid/Unpaid MBE Invoice Report)
- D-6 (MBE Subcontractor/Master Contractor Unpaid MBE Invoice Report)

The most current directory of certified MBEs is available on <http://www.mdot.state.md.us> through MDOT, Office of Minority Business Enterprise, 7201 Corporate Center Drive, Hanover, MD 21076, phone number 410-865-1269.

1.25 Small Business Reserve

The State reserves the right to designate any PORFP issued pursuant to this RFP as a Small Business Reserve PORFP. The Requesting Agency for an SBR PORFP must be a “designated procurement unit” pursuant to §14-501(b) of the State Finance and Procurement Article of the Maryland Annotated Code as amended from time to time. In the event a PORFP is designated a Small Business Reserve PORFP, the PO awarded hereunder may only be awarded to a Contractor that is a certified small business, that meets the statutory qualifications of a Small Business as defined in §14-501(c), Annotated Code of Maryland, and is registered with the Department of General Services Small Business Reserve Program.

Throughout the term of the Master Contract, Contractors qualified under the Small Business Reserve, shall notify the State CM of any change in status. Should a Contractor become certified through the Small Business Reserve after award of a Master Contract, that Contractor shall notify the State CM and provide the State CM with its DGS-assigned Small Business Qualification number.

1.26 Arrearages

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

1.27 Procurement Method

This Contract will be awarded in accordance with the competitive sealed proposals process under COMAR 21.05.03.

1.28 Verification of Registration and Tax Payment

Before a corporation can do business in the State, it must be registered with the Department of Assessments and Taxation, State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. Any potential Offeror should complete registration prior to the due date for receipt of proposals. Failure to complete registration with the Department of Assessments and Taxation may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

1.29 False Statements

Offerors 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.

1.30 Non-Visual Access

By submitting a proposal in response to a PORFP, the Master Contractor warrants that the Hardware offered under the PORFP (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 Master Contractor further warrants that the cost, if any, of modifying the Information Technology (IT) for compatibility with software and hardware used for non-visual access will not increase the cost of the IT by more than five percent. For purposes of this Master Contract, the phrase "equivalent access" means the ability to receive, use and manipulate information and operate controls necessary to access and use information technology by non-visual means. Examples of equivalent access include keyboard controls used for input and synthesized speech, Braille, or other audible or tactile means used for output.

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 - keyword: non-visual access

1.31 Payments by Electronic Funds Transfer

By submitting a response to this solicitation, the Offeror agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. Any selected Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption shall be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and shall include the business identification information as stated on the form and include the reason for the exemption. The COT/GAC X-10 form can be downloaded at:

<http://compnet.comp.state.md.us/> general account division

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

For the purposes of IT or telecommunications procurements, county, municipal, and other non-state governments or agencies may purchase from the Master Contractor goods or services covered by this Contract at the same prices chargeable to the State. All such purchases by non-State governments or agencies:

- Shall constitute contracts between the Master Contractor and that government or agency;
- Shall not constitute purchases by the State or State agencies under this RFP;
- Shall not be binding or enforceable against the State, and
- May be subject to other terms and conditions agreed to by the Master Contractor and the purchaser. Master Contractor bears the risk of determining whether or not a government or agency with which the Contractor is dealing is a State agency.

1.33 Mercury and Products That Contain Mercury

This solicitation and resulting purchase orders require that all materials used in the performance of the Contract and subsequent Purchase Orders and shall be mercury-free products. The Offeror shall submit a Mercury Affidavit with its PORFP proposal found in Attachment G.

1.34 Conflict of Interest

The successful Offeror(s) will provide hardware and associated equipment services for State agencies, or component programs with those agencies and must do so impartially and without any conflicts of interest. Contractors may be required to complete a Conflict of Interest Affidavit with a Proposal submitted in response to a PORFP. A copy of this Affidavit is included as Attachment F of this RFP. If the Procurement Officer makes a determination before award of a PO pursuant to a respective PORFP that facts or circumstances exist that give rise to or could in the future give rise to a conflict of interest within the meaning of COMAR 21.05.08.08A, the Procurement Officer may reject a Proposal under COMAR 21.06.02.03B.”

1.35 Prompt Pay

This procurement and the contract to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor’s Office of Minority Affairs dated August 1, 2008. The Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The successful Offerors who are awarded Master Contracts under this RFP must comply with the prompt payment requirements outlined in the Contract, §33 (see Attachment A). Additional information is available on the GOMA website at <http://www.oma.state.md.us/>.”

The remainder of this page is intentionally left blank.

SECTION 2 – SCOPE OF WORK

2.1 Scope

2.1.1 The scope of this solicitation encompasses the following five (5) functional areas. Manufacturer's Warranty is included with Functional Areas I, II, and III.

- Functional Area I - Servers and Associated Peripherals
- Functional Area II - Printers and Associated Peripherals
- Functional Area III - Network Communications Equipment
- Functional Area IV - Installation and Training Services
- Functional Area V- Manufacturer's Extended Warranty

2.1.2 This solicitation does not include stand-alone software, laptops or desktops.

2.2 General Requirements

Depending upon the requirements of PORFP, the following shall apply:

2.2.1 Required Project Policies, Guidelines and Methodologies

The Master Contractor shall keep itself informed of and comply with all Federal, State and local laws, regulations, ordinances, policies, standards and guidelines affecting IT projects applicable to its activities and obligations under this Contract, as those laws, policies, standards and guidelines may be amended from time to time, and 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. These may include, but are not limited to:

- A) The State's System Development Life Cycle methodology at: www.DoIT.maryland.gov - keyword: SDLC;
- B) The State Information Technology Security Policy and Standards at: www.DoIT.maryland.gov - keyword: Security Policy;
- C) The State Information Technology Project Oversight at: www.DoIT.maryland.gov - keyword: IT Project Oversight;
- D) The State of Maryland Enterprise Architecture at www.DoIT.maryland.gov - keyword: MTAF
- E) The Master Contractor shall follow the project management methodologies that are consistent with the Project Management Institutes Project Management Body of Knowledge Guide. Contractor's staff and subcontractors are to follow a consistent methodology for all PORFP activities.

2.2.2 Master Contractors shall refund to the State within 30 calendar days of receipt of the returned hardware, the purchase price of the returned hardware, including shipping costs. The State shall not be charged restocking fees.

2.2.3 Master Contractors shall provide prepaid delivery, FOB (the delivery destination specified in the PORFP) to any State eligible customer located within the State's geographic boundaries. Unless specified otherwise in a PORFP, all hardware is to be delivered, prepaid, to the location specified in

a PORFP within ten (10) business days from the date of the receipt of the PO. The MSRP will be construed to include delivery within ten (10) business days from the date of the receipt of the PO. Similarly, provided a PORFP allows at least ten (10) business days delivery time, any price proposed in response to a PORFP that is lower than MSRP will be construed to include delivery within ten (10) business days from the date of the receipt of PO. If a PORFP specified delivery in less than ten (10) business days (which will be termed an expedited delivery) and an Offeror proposes the MSRP as its proposal price, the Offeror may include as a separate distinct charge, the cost of the expedited delivery. However, if an Offeror proposes a price lower than the MSRP for a PORFP that requires expedited delivery, the PORFP proposal price shall include the cost of the expedited delivery and no separate, additional charge will be permitted.

- 2.2.4 Only Master Contractors, authorized by the manufacturer or distributor of the hardware, may provide hardware, services or maintenance.

2.3 Functional Area I- Servers and Associated Peripherals

Includes, but is not limited to, the following brand or generic name equipment:

- Servers,
- Components,
- Assorted related accessories,
- Storage units,
- Peripherals.

This equipment also includes associated hardware and operating system software that may allow the operation of the product as a stand-alone unit, a networked unit in a local area network (LAN), a networked unit in a wide area network (WAN), wireless applications or any combination of the four.

2.4 Functional Area II- Printers and Associated Peripherals

Includes, but is not limited to, the following brand or generic name equipment:

- A single or multi-functional printer,
- Print drivers that may allow the operation as a stand-alone unit to a microcomputer,
- A networked unit in a local area network (LAN),
- A networked unit in a wide area network (WAN),
- Wireless applications or any combination of the above.

This equipment also includes associated hardware and operating system software that is manufacturer installed or manufacturer required.

2.5 Functional Area III- Network Communications Equipment

Data-centric communications equipment that includes, but is not limited to:

- Routers
- Gateways
- Switches
- Bridges

- Repeaters
- Multiplexors
- Remote access devices
- Firewalls
- Appliances
- DSU/CSUs
- Intrusion detection systems
- Content switching
- Load balancing, intelligent traffic management DNS devices
- Network performance devices
- Console management and switching devices

This equipment also includes associated hardware and operating system software that is manufacturer installed or manufacturer required.

2.6 Functional Area IV –Installation and Training Services

NOTE: If proposing Functional Area IV, Offerors must also propose the corresponding equipment in Functional Area I, II, and or III.

The MBE subcontracting goal for Functional Area IV is 100% .

Installation and/or training services may only be purchased when purchasing hardware under Functional Areas I, II, or III. Functional Area IV services may not be purchased alone. In addition, Functional Area IV services may not exceed 49% of the total value of the PORFP. Hardware purchases acquired through other State contracts requiring installation and training services must be provided via a separate vehicle such as DoIT's Consulting and Technical Services (CATS II or CATS+) contract or a stand-alone procurement.

2.6.1 Installation services will be defined at the PORFP level. Installation services may include, but are not limited to:

- The installation of the hardware with the configuration necessary to ensure that the hardware operates properly in the Requesting Agency's environment.
- The installation of equipment that requires product specific technical expertise, especially for integration involving complex network systems or new technologies. These services typically include: network and traffic engineering, capacity planning, configuration and customization of the equipment.
- The preloading of agency software.

2.6.2 Training Services

Training may only be purchased contemporaneously with the original purchase of the hardware or with the purchase of manufacturer's extended warranty and shall include, but is not limited to:

- Formal on-site or off-site training that is planned in advance and that has a defined curriculum;
- Computer-based training that includes software that provides interactive, self-paced training at your desktop, workstation, or laptop computer; and
- Web-based training that provides courses or classes that are accessible via an internal Intranet or the Internet.

2.7 Functional Area V – Manufacturer’s Extended Warranty

2.7.1 Manufacturer’s extended warranty service may be purchased in conjunction with or separately from Functional Areas I, II and III, at any time. Only Master Contractors authorized by the manufacturer or distributor of the hardware may provide manufacturer’s warranty services. Manufacturer’s warranty service shall include, but is not limited to:

- Electronic media and consulting services, upgrades and enhancements for technology advancements, improved functionality, and compatibility with new industry standards;
- Direct access to experienced consultants of the Hardware;
- Flexible service options including telephone or e-mail support;
- Timely problem resolution of reported discrepancies;
- Remote technical support;
- Online self-help functions;
- On-site warranty.

Any warranty period for equipment and services will not commence until acceptance of the equipment or services by the Requesting Agency. All defective items must be replaced at no additional cost to the State. If the products were provided under the Installation terms, the contractor is responsible for the installation of the replacement equipment as defined in the PORFP. If the products were provided without installation, the contractor, at its option and at no additional cost to the State, may provide on-site service or next-day drop ship replacements for the Agency to install.

2.8 Warranty

Master Contractors shall provide the Manufacturer’s Warranty with their response to a PORFP for Functional Areas I, II, and III. Master Contractors shall be responsible for coordinating warranty issues. On-site warranty will begin upon acceptance of the hardware by the Requesting Agency. Acceptance will be defined in the PORFP as either receipt or installation. On-site warranty means the Master Contractor will either remotely access or travel, if necessary, to the facility where the warranty service is required at no additional cost to the Requesting Agency during the manufacturer’s warranty period. The Requesting Agency has the discretion of dealing directly with the manufacturer on any warranty issue. Upgraded warranty requirements shall be defined in the PORFP by the Requesting Agency.

To ensure compliance with the requirements and specifications herein, the State may perform acceptance tests within 30 days of receipt of:

- 1) The notice of completion of installation from the Master Contractor, or
- 2) The delivery of equipment supplied without installation and prior to acceptance and payment for each item installed or delivered. The State does not assume ownership for equipment, nor do warranty periods begin, until the Requesting Agency POC accepts the Master Contractor’s product and work as fully operational as provided herein.

2.9 Procedure for Adding a Manufacturer’s Product Line

Each Master Contractor, in a Functional Area, may add additional manufacturer product lines, in that Functional Area, throughout the life of the Hardware 2012 Master Contract. To add a manufacturer product line, a Master Contractor must submit a Letter of Authorization from the manufacturer or distributor for

each new product line proposed. Once the Letter of Authorization has been confirmed by DoIT, the manufacturer product line will be added to that Master Contractor's list of product lines available.

Requests to add new product lines, with the required Letters of Authorization, shall be submitted to the CM for consideration by the 10th business day of each month. Approved requests will be added to the Manufacturer/Master Contractor matrix by the 1st business day of the following month.

2.10 PORFP Procedures

2.10.1 PORFP Content

The Agency POC will submit a PORFP to all Master Contractors authorized to sell the manufacturer product line requested. When generic specifications are used, a PORFP will be sent to all master contractors for all manufacturers in a Functional Area. As an example, each PORFP may contain the following information:

- A) Requesting Agency;
- B) Agency POC;
- C) Description of the required Hardware;
- D) Delivery requirements;
- E) Invoicing instructions;
- F) Required date for submission of proposal;
- G) Installation requirements, if applicable;
- H) Training requirements, if applicable;
- I) Type of PORFP (Fixed Price or Time and Materials);
- J) Manufacturer's Warranty Service requirements, if applicable;
- K) Performance period;
- L) Warranty;
- M) Security requirements, if applicable;
- N) MBE requirements, if applicable; and
- O) Conflict of Interest Affidavit.

2.10.2 PORFP Submission Requirements

Upon receipt of a PORFP, each Master Contractor shall, no later than the PORFP due date and time, either prepare and submit a detailed proposal, or provide a PORFP Feedback Form explaining why it does not intend to submit a Proposal. As an example, the Proposal may provide the following:

- A) Explanation of how the Master Contractor intends to meet the requirements of the PORFP;
- B) Description of the proposed hardware;
- C) Transportation and delivery schedule;
- D) Installation services provided and schedule, if applicable;
- E) Manufacturer's warranty services provided, if applicable;
- F) Training services provided and schedule, if applicable;
- G) Guarantee that any operating software included will be virus free;
- H) A statement that the Master Contractor is authorized by the manufacturer or distributor to provide the hardware and/or services as of the date of the response;
- I) Subcontractors, if any, including required letters of authorization;
- J) Proposed price;

- K) Captured hardware manufacturer or hardware distributor screen shot of current MSRP as of the date of the PORFP proposal submission. Subject to the approval of the State, a comparable substitute directly from the hardware manufacturer or other hardware distributor may be acceptable; and
- L) Mercury Affidavit (Attachment G);
- M) MBE documentation - PORFP Attachments D-1 (Certified MBE Utilization and Fair Solicitation Affidavit) and D-2 (MBE Participation Schedule), if applicable.

2.10.3 Procedure for Awarding a PORFP

Evaluation criteria for award will be established at the PORFP level. The PO will be awarded to the Master Contractor whose proposal is determined to be the most advantageous to the State, considering price and the evaluation factors set forth in the PORFP. The Agency POC will initiate and deliver a PO to the selected Master Contractor.

2.10.4 Delivery of Hardware and Services

Delivery of hardware, installation and/or training services and manufacturer's warranty services, shall be initiated only upon issuance of a PO authorized by the Requesting Agency.

2.11 Order Processing Procedure

- 2.11.1 The Master Contractor shall provide the order processing procedure (see section 3.4.2.4) necessary to demonstrate how it will perform the requirements in a PORFP. The Master Contractor is expected to establish a POC to provide overall management of the Contract work. The Master Contractor shall manage dedicated personnel and all subcontractors.
- 2.11.2 The Master Contractor shall designate a primary POC, who will be responsible for the response to any PORFPs and overall price, schedule, and technical performance. This individual will be the principal POC throughout the duration of the Master Contract.

2.12 Insurance Requirements

- 2.12.1 The Master Contractor shall maintain property and casualty insurance with minimum limits sufficient to cover losses resulting from or arising out of Master Contractor action or inaction in the performance of the contract by the Master Contractor, its agents, servants, employees or subcontractors.
- 2.12.2 The Master Contractor shall maintain a policy of general liability insurance that is of the proper type and of sufficient limits that the State and its officials, employees, agents, servants, guests and subcontractors are reasonably covered in the event of injury or death.
- 2.12.3 The State of Maryland will be named as an additional named insured on the policies of all property, casualty, liability, and other types of insurance evidencing this coverage. Certificates of insurance evidencing this coverage will be provided prior to the commencement of any activities in the Master Contract. All insurance policies must be with a company licensed to do business in Maryland.

2.13 Invoicing

2.13.1 All invoices shall be submitted by the Master Contractor within the time period required in the PORFP and shall include, at the minimum, the following information:

- A) Name and address of the Requesting Agency being billed;
- B) Master Contractor name;
- C) Products(s) and/or service(s) purchased listed separately including the amount for each individual charge (i.e., 5 – ABC Hardware @ \$2,000 Total \$10,000.00, 2 - CD Training @ \$100.00 Total \$200.00, Installation one-time cost \$300.00);
- D) Supporting Documentation (i.e. timesheets for Time and Materials PORFPs);
- E) E-mail address/phone number of Master Contractor's POC;
- F) Remittance address;
- G) Federal taxpayer identification or (if owned by an individual) Master Contractor's social security number;
- H) Invoice period, invoice date, invoice number and amount due, and
- I) PO number(s) being billed.

Invoices submitted without the required information will not be processed for payment until the Master Contractor provides the required information.

2.13.2 The Master Contractor shall submit the invoices for any PO to the Requesting Agency identified in the PO. The State is generally exempt from Federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. The Master Contractor; however, is not exempt from such sales and use taxes and may be liable for the same.

2.14 Personnel Qualifications (Functional Area IV)

2.14.1 Master Contractors shall only propose staff available at the time of the PORFP. In response to each PORFP, Master Contractors shall provide personnel that satisfy the personnel qualifications specified within Section 2.15 for each of the labor categories required under the specific PORFP.

- A) Specific areas of required expertise may be further be defined in the PORFP. Master Contractors shall certify that all proposed personnel meet the required qualifications.
- B) The PORFP shall define specific requirements for the services required. The PORFP shall clearly identify all applicable experiences related to the hardware.
- C) Substitution of Education for Experience may be permitted at the discretion of the State. The Requesting Agency shall approve or disapprove substitutions.
- D) Substitution of Professional Certificates for Experience may be permitted at the discretion of the State. Professional certification may be substituted for up to two (2) years of general and specialized experience. The Requesting Agency shall approve or disapprove substitutions.
- E) Substitution of Experience for Education may be permitted at the discretion of the State. The Requesting Agency shall approve or disapprove substitutions.

2.14.2 Substitution of Personnel

- A) Individuals proposed and accepted as personnel for PORFPs are expected to remain dedicated throughout the term of the PORFP award. Substitutions will be allowed only when the Requesting Agency specifically agrees to the substitution in writing or due to an emergency circumstance as described below. All proposed substitutes of personnel must have qualifications at least equal to that of the person initially proposed and evaluated and accepted in the PORFP. The burden of illustrating this comparison shall be on the Master Contractor. The resumes of the initially proposed personnel shall become the minimum requirement for qualifications for successor personnel for the duration of the total PORFP term. If one or more of the personnel are unavailable for work under a PORFP for a continuous period exceeding 15 calendar days, the Master Contractor shall immediately notify the Requesting Agency and propose to replace personnel with personnel of equal or better qualifications within 15 calendar days of notification to the Requesting Agency. All substitutions shall be made in accordance with this provision.
- B) During the performance period for a PORFP, no substitutions of personnel will be permitted unless such substitutions are necessitated by an individual's sudden illness, death, or as otherwise approved by the Requesting Agency. In any of these events, the Master Contractor shall promptly notify the Requesting Agency and provide the information required above. All proposed substitutions of personnel for other than emergency situations must be submitted in writing, at least 15 business days in advance of the proposed substitution, to the Requesting Agency, with the information required above. The Requesting Agency must agree to the substitution in writing before such substitution shall become effective.
- C) All requests for substitutions must provide a detailed explanation of the circumstances necessitating the proposed substitutions, a resume of the proposed substitute, and any other information requested by the Requesting Agency to make a determination as to the appropriateness of the proposed substitution. All proposed substitutes must have educational qualifications and work experience equal to or better than the resume initially proposed for personnel; the burden of illustrating this comparison shall be on the Master Contractor.
- D) Resumes shall be signed by all substituting individuals and their formal supervisor, and the official resume of the previous employee shall be provided for comparison purposes.

2.15 Labor Categories and Qualifications

2.15.1 Training Specialist/Instructor

Duties: Conducts the research necessary to develop and revise training courses and prepares appropriate training catalogs. Prepares all instructor materials (course outline, background material, and training aids). Prepares all student materials (course manuals, workbooks, handouts, completion certificates, and course critique forms). Trains personnel by conducting formal classroom courses, workshops, and seminars.

Education: A Bachelor's Degree from an accredited college or university with a major in Education/Training in the areas of Computer Science, Information Systems, Engineering, Business, or other related scientific or technical discipline. A Master's Degree is preferred. A Master's Degree in one of the above disciplines equals one year specialized and two years general experience.

General Experience: Must have four (4) years of experience in information systems development, training, or related fields.

Specialized Experience: At least two (2) years of experience in developing and providing IT and end user training on computer hardware and application software.

2.15.2 Project Manager

Duties: The Project Manager is assigned the management of a specific project and the work performed under assigned POs. Performs day-to-day management of the project, identifies issues and risks and recommends possible issue and risk mitigation strategies associated with the project. Acts as a facilitator between a State agency and IT contractor. Is responsible for ensuring that work performed under PO is within scope, consistent with requirements and delivered on time and on budget. Identifies critical paths, tasks, dates, testing, and acceptance criteria. Provides solutions to improve efficiency (e.g., reduce costs while maintaining or improving performance levels). Monitors issues and provides resolutions for up-to-date status reports. Demonstrates excellent writing and oral communications skills.

Education: Bachelor's Degree from an accredited college or university in Engineering, Computer Science, Information Systems, Business or other related discipline. Master's degree or project management certification is preferred.

General Experience: At least five (5) years of experience in project management.

Specialized Experience: At least five (5) years of experience in managing IT related projects and must demonstrate a leadership role in at least three successful projects that were delivered on time and on budget.

2.15.3 Subject Matter Expert

Duties: Defines the problems and analyzes and develops plans and requirements in the subject matter area for moderately complex-to-complex systems. Coordinates and manages the preparation of analysis, evaluations, and recommendations for proper implementation of programs and systems specifications including, but not limited to: information technology, health care, education, public safety, social services, human resources, transportation, and environment.

Education: A Bachelor's Degree from an accredited college or university with a major in Computer Science, Information Systems, Engineering, Business, or other related scientific or technical discipline. A Master's Degree is preferred. A Master's Degree in one of the above disciplines equals one year specialized and two years general experience.

General Experience: Must have five (5) years of experience in the IT field.

Specialized Experience: At least five (5) years of combined new and related older technical experience in the IT field directly related to the required area of expertise.

2.15.4 Network Administrator

Duties: Performs a variety of network management functions related to the operation, performance or availability of data communications networks. Experience with cable/LAN meters, protocol analyzers, SNMP and RMON based software products. Knowledge of Ethernet, FDDI and high speed WANs and routers. Analyze client LANs/WANs, isolate source of problems, and recommend reconfiguration and implementation of new network hardware to increase performance. Requires an advanced knowledge of

network operating systems. Modifies command language programs, network start up files, assigns/reassigns network device logicals, and participates in load balancing efforts throughout the network to achieve optimum device utilization and performance. Establishes new user accounts on the network granting access to required network files and programs. Manages network Email functions. Establishes mailboxes and monitors mail performance on the network. Troubleshoots network/user problems, presents resolutions for implementation. Prepares a variety of network resource reports.

Education and other Requirements: An Associate's degree from an accredited college or university in Computer Science, Information Systems, Engineering or a related field, or two years of college or university study in Computer Science, Information Systems, Engineering or a related field. If applicable, should be certified as a network administrator for a specific network operating system as defined in the State solicitation. Certification criteria is determined by the network operating system manager. An additional year of specialized experience may be substituted for the required education.

General Experience: Two (2) years of experience in a computer-related field.

Specialized Experience: One (1) year of experience in one or more of the following areas: data communications engineering, data communications hardware or software analysis, network administration or management, data communications equipment installation and maintenance, or computer systems administration and management.

2.15.5 Senior Network Engineer

Duties: Responsible for the design and implementation of large data communications or telecommunications networks. Plans and monitors the installation of communications circuits. Manage and monitor local area networks and associated equipment (e.g., bridges, routers, modem pools, and gateways) Conducts short and long-term plan to meet c communications requirements. Responsible for the design and implementation of LANs/WANs using hub switching and router technology. Performs hardware/software analyses to provide comparative data of performance characteristics and suitability within the existing systems environment. Prepares tradeoff studies and evaluations for vendor equipment. Generates network monitoring/performance report, for LAN/WAN utilization studies. Recommends network design changes/enhancements for improved system availability and performance.

Education: A Bachelor's degree from an accredited college or university with a major in Computer Science, Information Systems, Engineering or other related scientific or technical discipline. If applicable, shall be certified as network engineer for the specific network operating system as defined in the State task request. The certification criteria are determined by the network operating system vendor. An additional year of specialized experience may be substituted for the required education.

General Experience: Five (5) years of experience in a computer-related field.

Specialized Experience: Seven (7) years of progressive experience in planning, designing, implementation, and analyzing data or telecommunications networks. Must have experience with network analysis/management tools and techniques and be familiar with Personal Computers (PCs) in a client/server environment. Must be familiar with IT technology and long distance and local carrier management.

2.15.6 Junior Network Engineer

Duties: Perform similar duties as directed or instructed by the senior network engineer. Conduct studies pertaining to network configuration and monitor traffic patterns such as protocols and peak usage. Stays current with technological changes.

Education: A Bachelor's degree from an accredited college or university with a major in Computer Science, Information Systems, Engineering or other related scientific or technical discipline. An additional year of specialized experience may be substituted for the required education.

General Experience: Three (3) years of experience in a computer-related field

Specialized Experience: Three (3) years of progressive experience in planning, designing, implementation, and analyzing data or telecommunications networks.

2.15.7 Senior Network Technician

Duties: Adds or exchanges externally connected PC accessories and data communications equipment. Troubleshoots LANs/WANs and provides problem resolution for PC and data communications hardware. Adds or replaces boards, batteries, disks drives, and other PC components. Installs cabling for networks such as LANs and WANs. Attaches, detaches, or exchanges LAN cabling to workstations, servers, network devices, telecommunications and data communications equipment. Works independently, may provide supervision and guidance to 2 or more network technicians.

Education: An Associate's degree from an accredited college or university in Computer Science, Information Systems, Engineering or a related field; or Technical school certificate of completion in the data communications field including cable installation; or the equivalent military training. An additional year of specialized experience may be substituted for the required education.

General Experience: Five (5) years of experience in a computer-related field.

Specialized Experience: Five (5) years of experience in the following areas: installation, operation, and maintenance of data communication networks and devices.

2.15.8 Junior Network Technician

Duties: Perform similar duties as directed or instructed by the senior network engineer. Adds or exchanges externally connected PC accessories and data communications equipment including cables, boards, batteries, disks drives, and other PC components. Attaches, detaches, or exchanges LAN cabling to workstations, servers, network devices, telecommunications and data communications equipment.

Education: An Associate's degree from an accredited college or university in Computer Science, Information Systems, Engineering or a related field; or Technical school certificate of completion in the data communications field including cable installation, or the equivalent military training. An additional year of specialized experience may be substituted for the required education.

General Experience: Two (2) years of experience in a computer-related field.

Specialized Experience: A minimum of two (2) years of experiences installing and maintaining shared resources for communication networks and devices.

2.15.9 Senior Computer Software/Integration Analyst

Duties: Must be knowledgeable in implementing computer systems in a phased approach of requirements analysis and conceptual design, site survey, system design review, critical design review, installation, integration, and testing. Must be knowledgeable in performing requirements analysis for a wide range of users in areas such as office automation, and finance and accounting. Must be able to present system

designs for user approval at formal reviews. Must be capable of performing configuration management, software integration, interpreting software test results, and recommending solutions for unsatisfactory test results. Must be knowledgeable in life-cycle support, including maintenance, administration, and management. Must be able to provide solutions to identified software problem reports.

Education: A Bachelor's Degree from an accredited college or university with a major in Computer Science, Information Systems, Engineering, Business, or other related scientific or technical discipline. A Master's Degree is preferred. A Master's Degree in one of the above disciplines equals one year specialized and two years general experience.

General Experience: Must have five (5) years of progressive working experience as a computer specialist or a computer systems analyst.

2.15.10 Junior Computer Systems Analyst

Duties: Develops requirements for information systems from a project's inception to conclusion. Develops required specifications for simple to moderately complex systems. Assists senior computer systems analyst in preparing input and test data for the proposed system.

Education: A Bachelor's Degree from an accredited college or university with a major in Computer Science, Information Systems, Engineering, Business, or other related scientific or technical discipline or three (3) years of equivalent experience in a related field. A Master's Degree in one of the above disciplines equals one year specialized and two years general experience.

General Experience: Must have three (3) years of computer experience in assignments of a technical nature working under close supervision and direction.

Specialized Experience: At least one (1) year of experience in analyzing and programming applications on large-scale or mid-tier computers (or LAN-based) with a minimum of one (1) year of design and programming of moderately complex IT systems.

2.16 Travel Reimbursement

Routine travel is travel within a 50-mile radius of Requesting Agency's base location, as identified in the PORFP, or the Master Contractor's facility, whichever is closer to the training or installation site. There will be no payment for labor hours for travel time or reimbursement for any travel expenses for work performed within these radiuses or at the Master Contractor's facility.

Non-routine travel is travel beyond the 50-mile radius of agency's base location, as identified in the PORFP, or the Master Contractor's facility, whichever is closer to the training or installation site. Non-routine travel will be identified within a PORFP, if appropriate, and will be reimbursed according to the State's travel regulations and reimbursement rates, which can be found at: www.dbm.maryland.gov - keyword: Fleet Management. If non-routine travel is conducted by automobile, the first 50 miles of such travel will be treated as routine travel and will not be reimbursed. The Master Contractor may bill for labor hours expended in traveling by automobile beyond the identified 50-mile radius.

2.17 Reporting

2.17.1 MBE Reporting

The Master Contractor shall provide the PO Manager MBE reports as required in Attachment D.

2.17.2 Specialized Reports

Additional reports may be requested in the PORFP.

The remainder of this page is intentionally left blank.

SECTION 3 – PROPOSAL FORMAT

3.1 Two Part Submission

Offerors shall submit proposals in two separate volumes:

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

Offerors will be required to submit only one (1) Proposal, even if proposing multiple functional areas. Each Functional Area will be evaluated as a separate and independent proposal. As described below, the Technical Proposal shall contain a section on Offeror experience and capabilities and separate sections for each Functional Area proposed. Offerors must follow the instructions within this section.

3.2 Proposals

Volume I- Technical Proposal shall be sealed separately from Volume II- Financial Proposal, but submitted simultaneously to the Procurement Officer. An unbound original, so identified and two (2) copies of each volume are to be submitted. An electronic version (CD or flash drive) of both the Volume I- Technical Proposal in MS Word format and the Volume II- Financial Proposal in MS Word and signed PDF format shall also be submitted with the unbound originals technical or financial volumes, as appropriate. Electronic media shall bear a label on the outside containing the RFP number and name, the name of the Offeror, and the volume number.

3.3 Submission

Each Offeror is required to submit a separate sealed package for each Volume, which is to be labeled Volume I- Technical Proposal and Volume II- Financial Proposal respectively. Each sealed package shall bear the RFP title and number, name and address of the Offeror, the Volume number (I or II), functional areas proposed and closing date and time for receipt of the proposals on the outside of the package. Offerors shall submit only one Technical Proposal and one Financial Proposal, even if proposing to all five (5) Functional Areas.

Offerors shall include a separate section for each Functional Area proposed describing what part of that Functional Area (as described in Section 2) the Offeror has the ability to provide and how the Offeror qualifies to provide what is proposed. All pages of both proposal Volumes shall be consecutively numbered from beginning (Page 1) to end (Page “x”).

3.4 Volume I – Technical Proposal

3.4.1 Transmittal Letter

A transmittal letter shall accompany the technical proposal. The purpose of this letter is to transmit the proposal and acknowledge the receipt of any addenda. The transmittal letter should be brief and signed by an individual who is authorized to commit the Offeror to the services and requirements as stated in this RFP. See Offeror’s Responsibilities in Section 1.20.

3.4.2 Format of Technical Proposal

Inside a sealed package described in Section 3.3, above, an unbound original, to be so labeled, two (2) copies and the electronic version shall be provided. Section 2 of this RFP provides requirements and Section 3 provides reply instructions. The paragraphs in these RFP sections are numbered for ease of reference. In addition to the instructions below, the Offeror's Technical Proposal shall be organized and numbered in the same order as this RFP. This proposal organization will allow State officials and the Evaluation Committee to "map" Offeror responses directly to RFP requirements by paragraph number.

The Technical Proposal shall include the following sections in this order:

3.4.2.1 Title and Table of Contents

The Technical Proposal shall begin with a title page bearing the name, address, eMM# and Federal Tax ID# of the Offeror and the name and number of this RFP. A table of contents shall follow the title page for the Technical Proposal.

3.4.2.2 Executive Summary

The Offeror shall condense and highlight the contents of the Technical Proposal in a separate section titled "Executive Summary". The Summary shall provide a broad overview of the contents of the entire proposal. The summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (Attachment A), or any other attachments. If there are no exceptions taken, the Offeror is to state that they have no exceptions to the requirements of this RFP, the Contract (Attachment A), or any other attachments. Exceptions to terms and conditions may result in having the proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award. In addition, the Offeror shall clearly identify each functional area for which they are proposing. Offerors certified under the Small Business Reserve and certified as a Maryland Minority Business Enterprise (MBE) are asked to provide those certification numbers.

3.4.2.3 Manufacturer's or Distributor's Letter of Authorization

- A) Offerors must state each manufacturer product line that they propose selling through the Hardware 2012 Master Contract.
- B) Manufacturer or distributor's Letters of Authorization are required for each manufacturer product line proposed by the Offeror. An Offeror may not propose a manufacturer product line without providing the required Letter of Authorization at the time it submits its proposal. The Letter of Authorization shall certify that the Offeror is an authorized reseller or distributor of the manufacturer's hardware, or is authorized to provide installation, training and/or maintenance services. The Letter of Authorization shall be on the manufacturer or distributor's letterhead or in a manufacturer or distributor's e-mail. Each Letter of Authorization or e-mail should provide the following information:
 - Manufacturer or distributor POC name and the name of an alternate for verification;
 - Manufacturer or distributor POC mailing address;
 - Manufacturer or distributor POC telephone number;
 - Manufacturer or distributor POC email address;
 - If available, a Re-seller Identifier.

3.4.2.4 Explanation of Offeror's Order Fulfillment Capabilities, including

- Order receipt;
- Order processing and routing;
- Order tracking;
- Customer service and inquiry support;
- Shipping, including express shipping;
- Invoicing;
- Returns;
- Quality control;
- Order turnaround time;
- Organization Chart.

3.4.2.5 Offeror Experience and Capabilities

This section shall include the following:

- A) Offeror's organization experience, type of hardware and/or services provided and the length of time the organization has been providing the hardware and/or services.
- B) State of Maryland Experience

If applicable, the Offeror shall submit a list of all contracts it currently holds or has held within the past five years with any government entity of the State of Maryland. For each identified contract, the Offeror shall provide:

- The State contracting entity;
- A brief description of the services/goods provided;
- The dollar value of the contract;
- The term of the contract;
- Whether the contract was terminated prior to the specified original contract termination date;
- Whether any available renewal option was not exercised; and
- The State employee contact person (name, title, telephone number and e-mail address).

This information will be considered as part of the experience and past performance evaluation criteria in the RFP.

3.4.2.6 Other Required Submissions

- A) Completed Bid/Proposal Affidavit (Attachment B)
- B) A copy of the Offeror's current certificate of insurance described in Section 2.12 (property, casualty and liability), which, at a minimum, shall contain the following:
 - Carrier (name and address);
 - Type of insurance;
 - Amount of coverage;
 - Period covered by insurance;
 - Exclusions.

- C) Completed Conflict of Interest Affidavit and Disclosure (Attachment F)
- E) Offeror MBE Form – **Attachment D-1A-** Hardware 2012 Master Contractor Acknowledgement of Task Order MBE Requirements.

3.5 Volume II - Financial Proposal

Under separate sealed cover from the Technical Proposal and clearly identified in the format requirements identified in Section 3.4, the Offeror shall submit an original unbound copy, two (2) copies, and an electronic versions of the Financial Proposal as follows:

3.5.1 For Functional Area I, II, and III - Hardware and Functional Area V-Manufacturer's Extended Warranty:

Offeror's shall certify by signing Attachments E-I, E-II, E-III, and E-V (as applicable), that the Offeror shall provide pricing no higher than the MSRP published as of the date of the response to the PORFP. The MSRP is being used as a ceiling for price only.

For items not having an MSRP, as in the case when a manufacturer is the only distributor of their own product, then the manufacturer's proposed price on its letterhead will be sufficient. The State will consider the procurement to be competitive if two or more qualified proposals are received in response to a PORFP. If only one response is received for a PORFP, the procurement officer is required to provide a written determination that the price is fair and reasonable.

3.5.2 For Functional Area IV – Installation and Training Services:

A) Installations Services:

If proposing to provide installation services, the Offeror must complete Attachment E-IV- Installation and Training Services Labor Rate Schedule. The prices entered on form D-IV are the maximum prices that may be proposed by a Master Contractor for these services for the duration of the Master Contract term. Prices at the PORFP level may be proposed at or below the prices on form D-IV, and will be fixed for the duration of the associated PORFP. When combined with a hardware purchase in the PORFP, the price(s) for installation must be priced separately from the price(s) of the hardware in the PORFP Proposal.

B) Training Services:

If proposing to provide training services, the Offeror must complete Attachment E-IV- Installation and Training Services Labor Rate Schedule. The prices entered on form D-IV are the maximum prices that may be proposed by a Master Contractor for these services for the duration of the Master Contract term. Prices at the PORFP level may be proposed at or below the prices on form D-IV, and will be fixed for the duration of the associated PORFP. When combined with a hardware purchase in the PORFP, the price(s) for training must be priced separately from the prices(s) of the hardware in the PORFP Proposal.

Complete the price sheets as provided in Attachment E-IV- Price Proposal Form Instructions.

SECTION 4 – EVALUATION CRITERIA AND SELECTION PROCEDURE

4.1 Evaluation Criteria

Master Contracts will be awarded to all qualified Offerors in accordance with the Competitive Sealed Proposals procurement process under Code of Maryland Regulations 21.05.03.

4.2 Technical Criteria

The criteria to be applied to each Technical Proposal are listed in descending order of importance:

- Letter of Authorization (Sec.3.4.2.3)
- Offeror's order fulfillment capabilities (Sec. 3.4.2.4)
- Offeror's experience (Sec. 3.4.2.5)

4.3 Financial Criteria

Financial Proposals will be evaluated separately. Prices set by Master Contracts are the maximum prices the State will pay for any hardware, installation and training, and/or manufacturer's extended warranty.

4.4 Reciprocal Preference

Although Maryland law does not authorize procuring agencies to favor resident Offerors in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. Therefore, as described in COMAR 21.05.01.04, a resident business preference will be given if: a responsible Offeror whose headquarters, principal base of operations, or principal site that will primarily provide the services required under this RFP that is in another state submits the most advantageous offer; 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.

4.5 Selection Procedures

4.5.1 General Selection Process

Master Contracts will be awarded in accordance with the Competitive Sealed Proposals process under Code of Maryland Regulations 21.05.03. The Competitive Sealed Proposals method is based on discussions and revision of proposals during these discussions.

Accordingly, the State may hold discussions with all Offerors judged reasonably susceptible of being selected for award, or potentially so. However, the State also reserves the right to make an award without holding discussions. In either case of holding discussions or not doing so, the State may determine an Offeror to be not responsible and/or an Offeror's proposal to be not reasonably susceptible of being selected for award, at any time after the initial closing date for receipt of proposals and the review of those proposals. If the State finds an Offeror to be not responsible and/or an Offeror's Technical Proposal to be not reasonably susceptible of being selected for award, an Offeror's financial proposal will be returned unopened.

4.5.2 Selection Process Sequence

- 4.5.2.1* The first step in the process will be an evaluation for technical merit. The purpose of this evaluation will be to assure a full understanding of the State's requirements and the Offeror's ability to perform.
- 4.5.2.2* Offerors must confirm in writing any substantive clarification of, or change in, their proposals made in the course of clarification requests. Any such written clarification or change then becomes part of the Offeror's proposal.
- 4.5.2.3* For Functional Area IV, the financial proposal of each qualified Offeror will be evaluated separately from the technical evaluation. After a review of the financial proposals of qualified Offerors, the Procurement Officer may again conduct discussions to further evaluate the Offeror's entire proposal.
- 4.5.2.4* When in the best interest of the State, the Procurement Officer may permit Offerors who have submitted acceptable proposals to revise their initial proposals and submit, in writing, best and final offers.

4.5.3 Award Determination

Upon completion of all discussions and negotiations, the Procurement Officer will recommend award of a Master Contract to all technically qualified Offeror(s).

The remainder of this page is intentionally left blank.

ATTACHMENT A – Hardware and Associated Equipment and Services 2012 Contract

THIS CONTRACT is made as of this _____ day of _____, 20__ by and between _____ and the MARYLAND DEPARTMENT OF INFORMATION TECHNOLOGY.

IN CONSIDERATION of the premises and the covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Definitions

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

- 1.2 “Contract” means this Contract for Hardware and Associated Equipment and Services 2012.
- 1.3 “Contractor” means _____ whose principal business address is _____ and whose principal office in Maryland is _____.
- 1.4 “Contract Manager” means the individual identified in section 1.7 of the RFP or a successor designated by the Department.
- 1.5 “Department” means the Maryland Department of Information Technology.
- 1.6 “Financial Proposal” means the Contractor’s Financial Proposal dated _____.
- 1.7 Installation means transferring manufacturer’s electronic media to computer systems so that the Hardware and Associated Equipment and Services will provide the features and functions generally described in the User Documentation.
- 1.8 “Purchase Order (PO)” authorizes Contractor to proceed with delivery of products and/or any services requested via a PORFP.
- 1.9 “PORFP” means Purchase Order Request for Proposals.
- 1.10 “Procurement Officer” means the individual identified in section 1.6 of the RFP or a successor designated by the Department.
- 1.11 “RFP” means the Request for Proposals for Hardware and Associated Equipment and Services, No. 060B2490022 dated June 26, 2012 and any amendments thereto issued in writing by the State.
- 1.12 “Hardware and Associated Equipment and Services 2012” means those services described in Section 2 of the RFP.

1.13 “State” means the State of Maryland.

1.14 “Technical Proposal” means the Contractor’s Technical Proposal, dated _____.

2. Scope of Work

2.1 The Contractor shall provide Hardware and Associated Equipment and Services, Training and Installation and/or Manufacturer’s Extended Warranty, for the State as described in the PO and the PORFP, in one or more of the five (5) functional areas as follows:

These services shall be provided in accordance with the terms and conditions of this Contract and the following Exhibits, which are attached and incorporated herein by reference. If there are any inconsistencies between this Contract and Exhibits A, through G, the terms of this Contract shall control. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision.

Exhibit A - The RFP.

Exhibit B – Purchase Order (when executed).

Exhibit C – PORFP (when released).

Exhibit D – Master Contractor’s response to the PORFP (when submitted).

Exhibit E- The Technical Proposal.

Exhibit F - The Financial Proposal.

Exhibit G - State Contract Affidavit, executed by the Contractor and 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, the PORFP or the PO. 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 Article 10, Disputes. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

2.3 The Contract may be modified only after such approvals as are required under Maryland law, and only by a writing executed by the authorized representatives of the parties.

3. Time of Performance

The Contractor shall provide services in accordance with this Master Contract and any PORFP. The term of this Contract is for a period of 15 years, beginning on _____, 2012 and ending _____, 2027 unless terminated earlier as provided in this Master Contract.

4. Consideration and Payment

- 4.1 In consideration of the satisfactory performance of the work set forth in this Contract and any PORFP, the Department shall pay the Contractor in accordance with the not-to-exceed rates and terms of Exhibit C, Contractor's Financial Proposal. POs that are on a time and materials basis shall include a not-to-exceed ceiling for payments. Any work performed by the Contractor in excess of the ceiling amount of any PO without the prior written approval of the Contract Manager is at the Contractor's risk of non-payment. Payments under POs issued on a fixed price basis shall be limited to the price specified in the PORFP, regardless of the actual cost to the Contractor.
- 4.2 Invoices must be provided in the format and on the schedule identified in the PORFP. Each invoice must reflect the Contractor's federal tax identification number, which is _____. The Contractor's eMM identification number is _____. 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, as from time to time amended, are prohibited. PORFPs may specify periodic payments based on deliverables or stages of completion. A PORFP may specify that a portion of the payments due will be withheld until completion of the PO. The amount withheld from each payment shall be paid to the Contractor within thirty (30) days of the State's acceptance of all deliverables required under the PO and receipt from the Contractor of a release in a form prescribed by the State for any claims arising out of or related to the PORFP. The final payment under this Contract will not be made until after certification is received from the Comptroller of the State that all taxes have been paid.
- 4.3 In addition to any other available remedies if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer pursuant to this Contract.
- 4.4 The State will use electronic funds transfer to pay the Contractor for this Contract and any POs there under and any other State payments due Contractor unless the State's Comptroller Office grants the Contractor an exemption.

5. PORFPs

A PORFP may specify terms in addition to the terms specified herein. Such additional terms may include warranties, deliverables, and acceptance test requirements. PORFPs and POs may not limit the State's rights as provided by law, in this Contract, or in the RFP and may not change the terms of this Contract or the RFP.

6. Rights to Records

- 6.1 The Contractor agrees that all documents and materials, including but not limited to, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations and data prepared by the Contractor for purposes of this Contract shall be the sole property of the 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.
- 6.2 The Contractor agrees that at all times during the term of this Contract and thereafter, the works created and services performed under this Contract shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created under this Contract are not works for hire for the Department, the Contractor hereby relinquishes, transfers, and assigns to the State all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.
- 6.3 The Contractor shall report to the Department, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all data delivered under this Contract.
- 6.4 The Contractor shall not affix any restrictive markings upon any data and if such markings are affixed, the Department shall have the right at any time to modify, remove, obliterate, or ignore such warnings.
- 6.5 Upon termination of this Contract, the Contractor, at its own expense, shall deliver any equipment, Hardware and Associated Equipment and Services or other property provided by the State to the place designated by the Procurement Officer.

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 under this

Contract, provided the data may be collected, used, disclosed, stored and disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

8. Loss of Data

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

9. Non-Hiring of Employees

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

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

11. Maryland Law

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

Maryland contained in this Contract shall be construed to refer to such Code sections as from time to time amended.

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 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, bona fide agent, bona fide salesperson, or commercial selling agency 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, bona fide agent, bona fide salesperson or commercial selling agency, any fee or 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 a PO under this Contract succeeding the first fiscal period, the PO 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 PO hereunder will be to discharge both the Contractor and the State from future performance of the PO, 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 PO. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of the PO 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 agrees to perform the work under this Contract continuously and diligently. No charges or claims for damages shall be made by the Contractor for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract. Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

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 or Contract Manager 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, as from time to time amended, which requires that every business that enters into contracts, leases, or other agreement with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more, shall within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of 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 the Election Law Article, Sections 14-101 through 14-108, of the 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 under 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

The Contractor shall retain and maintain all records and documents in any way relating to this Contract for three years after 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 by way of example only, the Procurement Officer or the Procurement Officer's designee, and the Contract Manager or the Contract Manager'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 shall, upon request by the Department, surrender all and every copy of documents needed by the State, including, but not limited to itemized billing documentation containing the dates, hours spent and work performed by the Contractor and its subcontractors under the Contract. The Contractor agrees to cooperate fully in any audit conducted by or on behalf of the State, including, by way of example only, making records and employees available as, where, and to the extent requested by the State and by assisting the auditors in reconciling any audit variances. Contractor shall not be compensated for providing any such cooperation and assistance. This section shall survive the expiration of this Contract.

23. 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.

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

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 by the parties, was inaccurate, incomplete, or not current.

25. Subcontracting; Assignment

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the Procurement Officer, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Procurement Officer, any such approvals to be in the State's sole and absolute subjective discretion; provided however, a Contractor may assign monies receivable under a PO after due notice to the State. Any such subcontract or assignment shall include the terms of sections 8, and 10 through 23 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. Indemnification

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

26.2 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.

26.3 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.

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

27. Administrative

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

27.2 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: State of Maryland
 Department of Information Technology
 45 Calvert Street
 Annapolis, MD 21401-1907
 Attn: _____

If to the Contractor: _____

 Attn: _____

28. Risk of Loss; Transfer of Title

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

29. Nonvisual Accessibility Warranty

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

30. Commercial Nondiscrimination

- A. As a condition of entering into this Agreement, Contractor represents and warrants that it will comply with the State’s Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.
- B. The contractor shall include the above Commercial Nondiscrimination clause, or similar clause approved by DoIT, in all subcontracts.
- C. As a condition of entering into this Agreement, upon the Maryland Human Relations Commission’s request, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past 4 years on any of its contracts that were undertaken within the state of Maryland, including the

total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that is requested by the State. Contractor understands that violation of this clause is a material breach of this Agreement and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

31. Patents, Copyrights, Intellectual Property

- 31.1 If the Contractor furnishes any design, device, material, process, or other item, which is covered by a patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items.
- 31.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a deliverable under this Contract and services performed under this Contract shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created as a deliverable under this Contract are not works for hire for the State, the Contractor shall state why it believes that it should not thereby relinquish, transfer, and assign to the State all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract.
- 31.3 The Contractor shall hold and save harmless the State of Maryland, including but not limited to the Department and its agents, officers, and employees, from liability of any nature or kind arising out of a claim or suit for or on account of the use of any copyrighted or uncopyrighted composition, trademark, service mark, secure process, patented or unpatented invention, article or appliance furnished or used in the performance of any Contract resulting from this RFP. The Contractor agrees to assume the defense of any and all such suits and pay the costs and expenses incidental hereto, subject to the right of the State to provide additional legal counsel at the State's own expense. If a third party claims that a product infringes that party's patent or copyright, the Contractor will defend the State against that claim at Contractor's expense and will pay all damages, costs and attorney fees that a Court finally awards, provided the State (i) notifies the Contractor in writing of the claim within a reasonable time after the State's receipt of such claim, with the understanding that the State's failure to give reasonably timely notice shall not relieve Contractor of any obligation hereunder except and to the extent that such failure prejudices Contractors' ability to defend against such claim; and (ii) allows Contractor to control, and cooperates with Contractor in, the defense and any related settlement negotiations.
- 31.4 If any products furnished by the Contractor become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement, the Contractor shall, after consultation with the State and at the Contractor's own expense: (a) procure for the State the right to continue using the applicable item, (b) replace the produce with a non-fringing product that, in the State's view, substantially complies with the item's specifications, or (c) modify the item so that it

becomes non-infringing and, in the State's view, performs in a substantially similar manner to the original item.

- 31.5 In connection with services provided under a PORFP, the Contractor may create, acquire or otherwise have rights in, and may, employ, provide, create, acquire or otherwise obtain rights in various concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques, models, templates and general purpose consulting and software tools, utilities and routines (collectively, the "Contractor Technology"). To the extent that any Contractor Technology is contained in any of the Contract deliverables including any derivative works, the Contractor grants the State a royalty-free, fully paid, worldwide, perpetual, non-exclusive license to use such Contractor Technology in connection with the Contract deliverables for the State's purposes.
- 31.6 The Contractor shall not acquire any right, title and interest in and to the copyrights for goods, any and all software, technical information, specifications, drawings, records, documentation, data or derivative works thereof, or other work products provided by the State to the Contractor. In a PORFP, the State may, in its sole discretion, elect to grant the Contractor a worldwide, perpetual, non-exclusive license, for which the State may require compensation, perhaps in the form of a royalty, for the Contractor's internal use non-confidential Contract deliverables first originated and prepared by the Contractor for delivery to the State.

32. Limitation of Liability

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 31 ("Patents, Copyrights, Intellectual Property") of this Contract;
- B. Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property;
- C. For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract, regardless of the form, Contractor's liability per claim shall not exceed five (5) times the total amount of the PORFP out of which the claim arises; provided however, the State may, in its sole discretion, decrease the ceiling established hereunder in any PORFP issued pursuant to this RFP. Third party claims arising under Section 26 ("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 26 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 26.

33. Prompt Pay Requirements

- 33.1 If a contractor withholds payment of an undisputed amount to its subcontractor, the Agency, at its option and in its sole discretion, may take one or more of the following actions:

- 33.1.1 Not process further payments to the contractor until payment to the subcontractor is verified;
- 33.1.2 Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
- 33.1.3 Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;
- 33.1.4 Place a payment for an undisputed amount in an interest-bearing escrow account; or
- 33.1.5 Take other or further actions as appropriate to resolve the withheld payment.
- 33.2 An “undisputed amount” means an amount owed by a contractor to a subcontractor for which there is no good faith dispute. Such “undisputed amounts” include (a) retainage which had been withheld and is, by the terms of the agreement between the contractor and subcontractor, due to be distributed to the subcontractor and (b) an amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
- 33.3 An act, failure to act, or decision of a procurement officer or a representative of the Agency, concerning a withheld payment between a contractor and subcontractor under this policy directive, may not:
 - 33.3.1 Affect the rights of the contracting parties under any other provision of law;
 - 33.3.2 Be used as evidence on the merits of a dispute between the Agency and the contractor in any other proceeding; or
 - 33.3.3 Result in liability against or prejudice the rights of the Agency.
- 33.4 The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise program.
- 33.5 To ensure compliance with certified MBE subcontract participation goals, the Agency may, consistent with COMAR 21.11.03.13, take the following measures:
 - 33.5.1 Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule.
 - 33.5.2 This verification may include, as appropriate:
 - 33.5.2.1 Inspecting any relevant records of the contractor;

33.5.2.2 Inspecting the jobsite; and

33.5.2.3 Interviewing subcontractors and workers.

33.5.2.4 Verification shall include a review of:

33.5.2.4.1 The contractor's monthly report listing unpaid invoices over 30 days old from certified MBE subcontractors and the reason for nonpayment; and

33.5.2.4.2 The monthly report of each certified MBE subcontractor, which lists payments received from the contractor in the preceding 30 days and invoices for which the subcontractor has not been paid.

33.5.3 If the Agency determines that a contractor is in noncompliance with certified MBE participation goals, then the Agency will notify the contractor in writing of its findings, and will require the contractor to take appropriate corrective action. Corrective action may include, but is not limited to, requiring the contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.

33.5.4 If the Agency determines that a contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that the Agency requires, then the Agency may:

33.5.4.1 Terminate the contract;

33.5.4.2 Refer the matter to the Office of the Attorney General for appropriate action; or

33.5.4.3 Initiate any other specific remedy identified by the contract, including the contractual remedies required by this Directive regarding the payment of undisputed amounts.

33.5.5 Upon completion of the contract, but before final payment or release of retainage or both, the contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

34. Parent Company Guarantee (If Applicable)

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

"[Contractor]", "[Corporate name of Parent Company]" may be named as a party, in its capacity as Absolute Guarantor.

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

CONTRACTOR

DEPARTMENT OF INFORMATION
TECHNOLOGY

By: _____

By: _____

Date

Date

Witness

Witness

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

Assistant Attorney General

APPROVED BY BPW: _____

(Date)

(BPW Item #)

ATTACHMENT B - Bid/Proposal Affidavit
(Authorized Representative and Affiant)

A. AUTHORITY

I HEREBY AFFIRM THAT:

I, _____ (print name), possess the legal authority to make this Affidavit.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in §19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland.

"Discrimination" means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendor's, supplier's, or commercial customer's employees or owners. "Discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination". Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the bidder discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder agrees to comply in all respects with the State's Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.

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

(1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority proposal;

(2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the bid or proposal;

(3) Fail to use the certified minority business enterprise in the performance of the contract; or

(4) Pay the certified minority business enterprise solely for the use of its name in the bid or proposal.

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

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

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

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

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

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

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

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

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

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

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

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

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

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

(8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract; or

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

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

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

bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

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

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

G. 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.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

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

(1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid 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.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

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

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

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

K. 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: _____ (print name of Authorized Representative and
Affiant)

_____ (signature of Authorized Representative and
Affiant)



ATTACHMENT C - Contract Affidavit
--

A. AUTHORITY

I HEREBY AFFIRM THAT:

I, _____ (print name), possess the legal authority to make this Affidavit.

B. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION

I FURTHER AFFIRM THAT:

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

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

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

Name and Department ID

Number: _____ Address: _____

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

Name and Department ID Number: _____

Address: _____

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, §§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.

E. DRUG AND ALCOHOL FREE WORKPLACE

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

I CERTIFY THAT:

- (1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.
- (2) By submission of its bid 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 who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

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

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

- (i) The dangers of drug and alcohol abuse in the workplace;
- (ii) The business's policy of maintaining a drug and alcohol free workplace;
- (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
- (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

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

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

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

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

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

- (i) Take appropriate personnel action against an employee, up to and including termination; or
- (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

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

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

(4) I acknowledge and agree that:

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

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

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

F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

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

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

Date: _____

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

_____ (signature of Authorized Representative and Affiant)

ATTACHMENT D – Minority Business Enterprise Requirements

EXHIBIT TO SOLICITATION
STATE OF MARYLAND
DEPARTMENT OF INFORMATION TECHNOLOGY
MINORITY BUSINESS ENTERPRISE PARTICIPATION

PURPOSE

Contractor shall structure its procedures for the performance of the work required in this contract to strive to achieve the Minority Business Enterprise (MBE) goal stated in the Request for Proposals for Hardware and Associated Equipment and Services 2012, No. 060B2490022 (Hardware 2012 or RFP). MBE performance must be in accordance with this Attachment, as authorized by Code of Maryland Regulations (COMAR) 21.11.03. Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this Attachment.

DEFINITIONS

As used in this Attachment, the following words have the meanings indicated.

- ◆ “Certification” means a determination made by the Maryland Department of Transportation that a legal entity is a minority business enterprise.
- ◆ “MBE Liaison” is the employee designated to administer this Department’s MBE program.
- ◆ “Minority Business Enterprise” or “MBE” means any legal entity, other than a joint venture, organized to engage in commercial transactions, that is:
 - (1) at least 51 percent owned and controlled by one or more individuals who are socially and economically disadvantaged; and
 - (2) managed by, and the daily business operations of which are controlled by, one or more of the socially and economically disadvantaged individuals who own it.

Note: A minority business enterprise also includes a not-for-profit entity organized to promote the interests of physically or mentally disabled individuals.

An MBE **must** be certified by the Maryland Department of Transportation (MDOT) in order to have its contract participation counted under the Department’s MBE program.

MBE GOALS AND SUB-GOALS

The Contractor shall achieve the MBE subcontracting goal and any sub-goals established for each individual Purchase Order (PO), by subcontracting to one or more MDOT-certified MBEs a sufficient portion of the Purchase Order Request for Proposal (PORFP) scope of work that results in total MBE payments that meet or exceed the PORFP MBE goal percentage.

If awarded a Master Contract:

- ◆ A prime contractor — including an MBE or a certified Small Business Reserve (SBR) prime contractor — must accomplish an amount of work not less than the MBE subcontract goal with certified MBE subcontractors, unless it has requested and been granted a waiver.

- ◆ A prime contractor comprising a joint venture that includes MBE partner(s) must accomplish the MBE subcontract goal with certified MBE subcontractors, unless it has requested and been granted a waiver.

SOLICITATION AND CONTRACT FORMATION

MASTER CONTRACT AWARDS

- ◆ An Offeror must sign and submit Attachment D-1A (Hardware 2012 Master Contractor Acknowledgement of Task Order MBE Requirements) with its Hardware 2012 Technical Proposal submission. By signing Attachment D-1A, the Offeror affirms that if it is awarded a master contract under one or more Functional Areas of the RFP, it will comply with all MBE requirements associated with any PORFP, including submission of waiver documentation where applicable. **Offeror's failure to submit Attachment D-1A with its technical proposal will result in the Offeror's proposal being deemed not reasonably susceptible for award, and the Offeror being eliminated from consideration for a master contract award.**
- ◆ Offerors receiving notification from the State that they are an apparent master contract awardee will not be required to submit additional MBE documentation prior to final master contract execution. However, all PORFPs issued with an MBE participation goal will contain certain documents that the Contractor must submit at the time of its PORFP Proposal submission as well as documents that an apparent PORFP awardee must submit within 10 working days of notification of PORFP award. MBE affidavits, schedules, statements, and reports that will be used at the PORFP level are included herein as Attachment D-1 (Certified MBE Utilization and Fair Solicitation Affidavit), D-2 (MBE Participation Schedule), D-3 (Outreach Efforts Compliance Statement) and D-4 (Subcontractor Project Participation Statement). Attachments D-5 and D-6 are sample MBE reporting forms (See "Contract Administration Requirements" below).

PORFP AWARDS

- ◆ Attachments D-1 and D-2 must be completed, signed and submitted by the Master Contractor together with the PO Proposal. If a Master Contractor believes that a waiver of some or all of the MBE goal and/or sub-goals is necessary, the waiver request must be clearly indicated on Attachment D-1. **If the Master Contractor does not submit Attachments D-1 and D-2 with its PO Proposal, the Master Contractor's PO Proposal will be eliminated from consideration for award.**
- ◆ Attachments D-3, D-4 and D-7 waiver documentation, if applicable, shall be submitted by the apparent PORFP awardee within 10 working days of notification of award. If the apparent PORFP awardee fails to return the requested documentation within the required time, the contract offer may be withdrawn.

CONTRACT ADMINISTRATION REQUIREMENTS

For each PO, the Master Contractor shall:

1. Submit monthly to the Department/Agency a report listing all unpaid invoices over 30 days old received from a certified MBE subcontractor working under the TO Agreement, the amount of each invoice and the reason payment has not been made. For informational purposes only, a sample prime contractor unpaid invoice report is attached (see Attachment D-5).
2. Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit monthly to the Department a report that identifies the prime contract and lists all payments received from Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices. For informational purposes only, a sample MBE Subcontractor Paid/Unpaid Invoice report is attached (see Attachment D-6).

NOTE: Each Department/Agency will designate, via PORFP, the specific format in which the prime contractor and subcontractor must submit monthly MBE reports, and to whom such reports shall be forwarded. **Under the Hardware 2012 Master Contract, all PORFPR MBE payment reports shall be sent to the agency for the which the PORFP scope of work is being completed. Payment reports should not be sent to DoIT unless the PORFP was issued by DoIT.**

3. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed.
4. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. The Master Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the contract.
5. At the option of the procurement agency, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

MINORITY BUSINESS ENTERPRISE PARTICIPATION FORMS

Must be submitted with Master Contract Proposal in response to this RFP:

- ◆ ATTACHMENT D-1A – Hardware 2012 Master Contractor Acknowledgement of Purchase Order MBE Requirements

Must be submitted with PORFP Proposal:

- ◆ ATTACHMENT D-1 - Certified MBE Utilization and Fair Solicitation Affidavit
- ◆ ATTACHMENT D-2 - MBE Participation Schedule

Must be submitted within 10 working days of notification of PORFP apparent award:

- ◆ ATTACHMENT D-3 - Outreach Efforts Compliance Statement
- ◆ ATTACHMENT D-4 - Subcontractor Project Participation Statement

Must be submitted on a monthly basis after award of a PORFP:

- ◆ ATTACHMENT D-5 - Prime Contractor Unpaid MBE Invoice Report (Sample)
- ◆ ATTACHMENT D-6 - Subcontractor Paid/Unpaid MBE Invoice Report (Sample)

ATTACHMENT D-1A

Hardware 2012 Master Contractor Acknowledgement of Purchase Order MBE Requirements

This document shall be included with the submittal of the Offeror's response to the RFP. If the bidder or Offeror fails to complete and submit this form with its response to the RFP, the procurement officer shall determine that the Offeror's response to the RFP is not reasonably susceptible of being selected for award.

In conjunction with the offer submitted in response to Solicitation No. 060B2490022, I affirm the following:

1. I understand that if I am awarded a master contract under the solicitation noted above, I will have the opportunity to compete for and win PORFP contracts that may contain MBE participation requirements.
2. If I am awarded a master contract under the solicitation noted above, and I respond to a PORFP that contains MBE requirements by submitting a PO Proposal, I understand that if I fail to comply with any of the MBE requirements outlined in the PORFP, my PO Proposal will be eliminated from further consideration.
3. If I am awarded a PO, I commit to making a good faith effort to achieve the MBE goal established for the PORFP.

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

Bidder/Offeror Name

Signature of Affiant

Printed Name, Title

Address

Date

The following Attachments D-1 through D-6 are sample forms and do not need to be completed or submitted with Offeror's response to this RFP.

The forms are required to be completed and submitted after Master Contract award with Master Contractor's PORFP proposal pursuant to any applicable issued under this RFP.

D-1 MDOT Certified MBE Utilization and Fair Solicitation Affidavit
(submit with bid or offer)

This document **MUST BE** included with the bid or offer. If the Bidder or Offeror fails to complete and submit this form with the bid or offer as required, the procurement officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

In conjunction with the bid or offer submitted in response to Solicitation No. _____, I affirm the following:

1. ☐ I acknowledge and intend to meet the overall certified Minority Business Enterprise (MBE) participation goal of ____ percent and, if specified in the solicitation, the following subgoals (complete for only those subgoals that apply):
- | | |
|--------------------------------|-----------------------------|
| ____ percent African American | ____ percent Asian American |
| ____ percent Hispanic American | ____ percent Woman-Owned |
- Therefore, I will not be seeking a waiver pursuant to COMAR 21.11.03.11.

OR

- ☐ I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.03.11.
2. I understand that if I am notified that I am the apparent awardee of a PORFP, I must submit the following additional documentation as directed in the PORFP.
- (a) MBE Participation Schedule (D-2)
 - (b) Outreach Efforts Compliance Statement (D-3)
 - (c) Subcontractor Project Participation Certification (D-4)

- (d) Any other documentation, including D-7 waiver documentation, if applicable, required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

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

3. In the solicitation of subcontract quotations or offers, MBE subcontractors were provided not less than the same information and amount of time to respond as were non-MBE subcontractors.
4. Set forth below are the (i) certified MBEs I intend to use and (ii) the percentage of the total contract amount allocated to each MBE for this project and the items of work each MBE will provide under the contract. I hereby affirm that the MBE firms are only providing those items of work for which they are MDOT certified.

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

Bidder/Offeror Name

(PLEASE PRINT OR TYPE)

Signature of Affiant

Name: _____

Title: _____

Date: _____

SUBMIT THIS AFFIDAVIT WITH MASTER CONTRACT PROPOSAL

ATTACHMENT D-2 MBE Participation Schedule

Prime Contractor: (Firm Name, Address, Phone)	Project Description:
Project Number:	

List Information For Each Certified MBE Subcontractor On This Project

Minority Firm Name	MBE Certification Number
FEIN Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	
Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	
Minority Firm Name	MBE Certification Number
FEIN Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	
Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	
Minority Firm Name	MBE Certification Number
FEIN Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	
Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	
Minority Firm Name	MBE Certification Number
FEIN Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	
Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	

Continue on a separate page, if needed.

SUMMARY

Total <i>African-American</i> MBE Participation:	_____ %
Total <i>Asian American</i> MBE Participation:	_____ %
Total <i>Hispanic American</i> MBE Participation:	_____ %
Total Woman-Owned MBE Participation:	_____ %
Total <i>Other</i> Participation:	_____ %
Total <i>All MBE</i> Participation:	_____ %

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

Bidder/Offeror Name

(PLEASE PRINT OR TYPE)

Signature of Affiant

Name: _____
Title: _____
Date: _____

**SUBMIT THIS AFFIDAVIT WITH PORFP
BID/PROPOSAL**

ATTACHMENT D-3
Outreach Efforts Compliance Statement

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

In conjunction with the bid or offer submitted in response to Solicitation No. _____, Bidder/Offeror states the following:

1. Bidder/Offeror identified opportunities to subcontract in these specific work categories.
2. Attached to this form are copies of written solicitations (with bidding instructions) used to solicit MDOT certified MBEs for these subcontract opportunities.
3. Bidder/Offeror made the following attempts to contact personally the solicited MDOT certified MBEs.
4. Select ONE of the following:
 - a. ☐ This project does not involve bonding requirements.

OR

 - b. ☐ Bidder/Offeror assisted MDOT certified MBEs to fulfill or seek waiver of bonding requirements (*describe efforts*).
5. Select ONE of the following:
 - a. ☐ Bidder/Offeror did/did not attend the pre-bid/proposal conference.

OR

 - b. ☐ No pre-bid/proposal conference was held.

Bidder/Offeror Printed Name

By: _____
Signature

Address: _____

ATTACHMENT D-4**Subcontractor Project Participation Certification**

Please complete and submit one form for each MDOT certified MBE listed on Attachment D-1 within 10 working days of notification of apparent award.

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

Prime Contractor Address and Phone	Project Description
Project Number	Total Contract Amount \$
Minority Firm Name	MBE Certification Number
Work To Be Performed	
Percentage of Total Contract	

The undersigned Prime Contractor and Subcontractor hereby certify and agree that they have fully complied with the State Minority Business Enterprise law, State Finance and Procurement Article §14-308(a)(2), Annotated Code of Maryland which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a bid or proposal and:

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

PRIME CONTRACTOR SIGNATURE**SUBCONTRACTOR SIGNATURE**

By: _____
Name, Title
Date

By: _____
Name, Title
Date

This form is to be completed
monthly by the prime

Attachment D-5
Maryland Department of Information Technology
Minority Business Enterprise Participation
Prime Contractor Paid/Unpaid MBE Invoice Report

Report #: _____ Reporting Period (Month/Year): _____ Report is due to the MBE Officer by the 10th of the month following the month the services were provided. Note: Please number reports in sequence	Contract #: _____ Contracting Unit: _____ Contract Amount: _____ MBE Subcontract Amt: _____ Project Begin Date: _____ Project End Date: _____ Services Provided: _____
--	--

Prime Contractor:		Contact Person:																																					
Address:																																							
City:		State:	ZIP:																																				
Phone:	FAX:	Email:																																					
Subcontractor Name:		Contact Person:																																					
Phone:	FAX:																																						
Subcontractor Services Provided:																																							
List all payments made to MBE subcontractor named above during this reporting period: <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 40%; text-align: center;"><u>Invoice#</u></th> <th style="width: 50%; text-align: center;"><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> <tr> <td colspan="2">Total Dollars Paid: \$</td> <td>_____</td> </tr> </tbody> </table>			<u>Invoice#</u>	<u>Amount</u>	1.			2.			3.			4.			Total Dollars Paid: \$		_____	List dates and amounts of any outstanding invoices: <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 40%; text-align: center;"><u>Invoice #</u></th> <th style="width: 50%; text-align: center;"><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> <tr> <td colspan="2">Total Dollars Unpaid: \$</td> <td>_____</td> </tr> </tbody> </table>			<u>Invoice #</u>	<u>Amount</u>	1.			2.			3.			4.			Total Dollars Unpaid: \$		_____
	<u>Invoice#</u>	<u>Amount</u>																																					
1.																																							
2.																																							
3.																																							
4.																																							
Total Dollars Paid: \$		_____																																					
	<u>Invoice #</u>	<u>Amount</u>																																					
1.																																							
2.																																							
3.																																							
4.																																							
Total Dollars Unpaid: \$		_____																																					

**If more than one MBE subcontractor is used for this contract, you must use separate D-5 forms.

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

(TO MANAGER OF APPLICABLE POC NAME, TITLE) (AGENCY NAME) (ADDRESS, ROOM NUMBER) (CITY, STATE ZIP) (EMAIL ADDRESS)	(TO PROCUREMENT OFFICER OR APPLICABLE POC NAME, TITLE) (AGENCY NAME) (ADDRESS, ROOM NUMBER) (CITY, STATE ZIP) (EMAIL ADDRESS)
---	---

This form must be completed by
MBE subcontractor

ATTACHMENT D-6
Minority Business Enterprise Participation
Subcontractor Paid/Unpaid MBE Invoice Report

Report#: _____ Reporting Period (Month/Year): _____ Report is due by the 10th of the month following the month the services were performed.	Contract # _____ Contracting Unit: _____ MBE Subcontract Amount: _____ Project Begin Date: _____ Project End Date: _____ Services Provided: _____
---	--

MBE Subcontractor Name: _____																					
MDOT Certification #: _____																					
Contact Person: _____		Email: _____																			
Address: _____																					
City: Baltimore	State: _____	ZIP: _____																			
Phone: _____	FAX: _____																				
Subcontractor Services Provided:																					
List all payments received from Prime Contractor during reporting period indicated above. <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 60%;"><u>Invoice Amt</u></th> <th style="text-align: left;"><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1. _____</td><td>_____</td></tr> <tr><td>2. _____</td><td>_____</td></tr> <tr><td>3. _____</td><td>_____</td></tr> <tr> <td>Total Dollars Paid: \$ _____</td> <td></td> </tr> </tbody> </table>	<u>Invoice Amt</u>	<u>Date</u>	1. _____	_____	2. _____	_____	3. _____	_____	Total Dollars Paid: \$ _____		List dates and amounts of any unpaid invoices over 30 days old. <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 60%;"><u>Invoice Amt</u></th> <th style="text-align: left;"><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1. _____</td><td>_____</td></tr> <tr><td>2. _____</td><td>_____</td></tr> <tr><td>3. _____</td><td>_____</td></tr> <tr> <td>Total Dollars Unpaid: \$ _____</td> <td></td> </tr> </tbody> </table>	<u>Invoice Amt</u>	<u>Date</u>	1. _____	_____	2. _____	_____	3. _____	_____	Total Dollars Unpaid: \$ _____	
<u>Invoice Amt</u>	<u>Date</u>																				
1. _____	_____																				
2. _____	_____																				
3. _____	_____																				
Total Dollars Paid: \$ _____																					
<u>Invoice Amt</u>	<u>Date</u>																				
1. _____	_____																				
2. _____	_____																				
3. _____	_____																				
Total Dollars Unpaid: \$ _____																					
Prime Contractor: _____		Contact Person: _____																			

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

(TO MANAGER OF APPLICABLE POC NAME, TITLE) (AGENCY NAME) (ADDRESS, ROOM NUMBER) (CITY, STATE ZIP) (EMAIL ADDRESS)	(TO PROCUREMENT OFFICER OR APPLICABLE POC NAME, TITLE) (AGENCY NAME) (ADDRESS, ROOM NUMBER) (CITY, STATE ZIP) (EMAIL ADDRESS)
--	--

Signature: _____ Date: _____
(Required)

Code of Maryland Regulations (COMAR)
Title 21, State Procurement Regulations
(regarding a waiver to a Minority Business Enterprise subcontracting goal)

COMAR 21.11.03.11 - Waiver.

A. If, for any reason, the apparent successful bidder or offeror is unable to achieve the contract goal for certified MBE participation, the bidder or offeror may request, in writing, a waiver to include the following:

- (1) A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBEs in order to increase the likelihood of achieving the stated goal;
- (2) A detailed statement of the efforts made to contact and negotiate with certified MBEs including:
 - (a) The names, addresses, dates, and telephone numbers of certified MBEs contacted, and
 - (b) A description of the information provided to certified MBEs regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed;
- (3) As to each certified MBE that placed a subcontract quotation or offer that the apparent successful bidder or offeror considers not to be acceptable, a detailed statement of the reasons for this conclusion;
- (4) A list of minority subcontractors found to be unavailable. This list should be accompanied by an MBE unavailability certification (MBE Attachment D6) signed by the minority business enterprise, or a statement from the apparent successful bidder or offeror that the minority business refused to give the written certification: and
- (5) The record of the apparent successful bidder or offeror's compliance with the outreach efforts required under Regulation .09B(2)(b).

A waiver may only be granted upon a reasonable demonstration by that MBE participation could not be obtained or could not be obtained at a reasonable price.

If the waiver request is determined not to meet this standard, the bidder or offeror will be found non-responsive (bid) or not reasonably susceptible for award (proposal) and removed from further consideration.

B. A waiver of a certified MBE contract goal may be granted only upon reasonable demonstration by the bidder or offeror that certified MBE participation was unable to be obtained or was unable to be obtained at a reasonable price and if the agency head or

designee determines that the public interest is served by a waiver. In making a determination under this section, the agency head or designee may consider engineering estimates, catalogue prices, general market availability, and availability of certified MBEs in the area in which the work is to be performed, other bids or offers and subcontract bids or offers substantiating significant variances between certified MBE and non-MBE cost of participation, and their impact on the overall cost of the contract to the State and any other relevant factor.

- C. An agency head may waive any of the provisions of Regulations .09-.10 for a sole source, expedited, or emergency procurement in which the public interest cannot reasonably accommodate use of those procedures.
- D. When a waiver is granted, except waivers under Section C, one copy of the waiver determination and the reasons for the determination shall be kept by the MBE Liaison Officer with another copy forwarded to the Office of Minority Affairs.

MBE ATTACHMENT D-7
MINORITY CONTRACTOR UNAVAILABILITY CERTIFICATE

Section I (to be completed by PRIME CONTRACTOR)

I hereby certify that the firm of _____
 (Name of Prime Contractor)

located at _____,
 (Number) (Street) (City) (State) (Zip)

on _____ contacted certified minority business enterprise, _____
 (Date) (Name of Minority Business)

_____ located at _____,
 (Number) (Street) (City) (State) (Zip)

seeking to obtain a bid for work/service for project number _____, project name _____

List below the type of work/ service requested:

Indicate the type of bid sought, _____. The minority business enterprise identified above is either unavailable for the work /service in relation to project number _____, or is unable to prepare a bid for the following reasons(s):

The statements contained above are, to the best of my knowledge and belief, true and accurate.

 (Name) (Title)

 (Number) (Street) (City) (State) (Zip)

 (Signature) (Date)

Note: Certified minority business enterprise must complete Section II

Section II (to be completed by CERTIFIED MINORITY BUSINESS ENTERPRISE)

I hereby certify that the firm of _____ MBE Cert.# _____

(Name of MBE Firm)

located at _____

(Number) (Street) (City) (State) (Zip)

was offered the opportunity to bid on project number _____, ON _____, (Date)

by _____

(Prime Contractor's Name) (Prime Contractor Official's Name) (Title)

The statements contained in Section I and Section II of this document are, to the best of my knowledge and belief, true and accurate.

(Name)

(Title)

(Phone)

(Signature)

(Fax Number)

ATTACHMENT E- Price Proposal Form and Instructions**Instructions**

In order to assist Offerors in the preparation of their price proposal and to comply with the requirements of this solicitation, Price Instructions and Price Forms have been prepared. Offerors shall submit their price proposal on the forms in accordance with the instructions on the forms and as specified herein. Do not alter the forms or the price proposal may be rejected. The Price Form is to be signed and dated, where requested, by an individual who is authorized to bind the Offeror to all proposed prices. Any incorrect entries or inaccurate calculations by the vendor will be treated as provided in COMAR 21.05.03E and 21.05.02.12. First year prices commence upon contract award.

OFFERORS SHALL DETERMINE WHICH FUNCTIONAL AREAS TO PROPOSE EXCEPT, IF PROPOSING FUNCTIONAL AREA IV AN OFFEROR MUST ALSO PROPOSE FUNCTIONAL AREA I, II or III AND/OR FUNCTIONAL AREA V. FUNCTIONAL AREA IV CANNOT BE PROPOSED ALONE.

FORM E-I FUNCTIONAL AREA I HARDWARE MSRP PRICE COMMITMENT

The Offeror must acknowledge the use of the MSRP as a baseline for the master contract and commit to charging no higher than the MSRP published as of the date of the PORFP proposal submission. The MSRP is being used as a ceiling for price only.

FORM E-II FUNCTIONAL AREA II HARDWARE MSRP PRICE COMMITMENT

The Offeror must acknowledge the use of the MSRP as a baseline for the master contract and commit to charging no higher than the MSRP published as of the date of the PORFP proposal submission. The MSRP is being used as a ceiling for price only.

FORM E-III FUNCTIONAL AREA III HARDWARE MSRP PRICE COMMITMENT

The Offeror must acknowledge the use of the MSRP as a baseline for the master contract and commit to charging no higher than the MSRP published as of the date of the PORFP proposal submission. The MSRP is being used as a ceiling for price only.

FORM E-IV FUNCTIONAL AREA IV INSTALLATION AND TRAINING SERVICES

Offerors are required to record the fully-loaded, all-inclusive hourly prices they are proposing for each listed item. Record the hourly labor rate for all 15 years of the Master Contract for all labor categories.

FORM E-V FUNCTIONAL AREA V MANUFACTURER'S EXTENDED WARRANTY MSRP PRICE COMMITMENT

The Offeror must acknowledge the use of the MSRP as a baseline for the master contract and commit to charging no higher than the MSRP published as of the date of the PORFP proposal submission. The MSRP is being used as a ceiling for price only.

**ATTACHMENT E-I - Functional Area I - Servers and Associated Peripherals
MSRP COMMITMENT**

I ACKNOWLEDGE BY SIGNING THIS ATTACHMENT, THE REQUIREMENT OF PROVIDING PRICING NO HIGHER THAN THE MSRP PUBLISHED AS OF THE DATE OF PORFP PROPOSALSUBMISSION.

OFFERORS SHALL STATE BELOW THE MANUFACTURER HARDWARE PROPOSED (ATTACH ADDITIONAL SHEETS, IF NECESSARY):

Manufacturer(s):

SUBMITTED BY:

AUTHORIZED SIGNATURE

DATE

PRINTED NAME AND TITLE

COMPANY NAME

COMPANY ADDRESS

FEIN NUMBER

TELEPHONE NUMBER

**ATTACHMENT E-II - Functional Area II - Printers and Associated Peripherals
MSRP COMMITMENT**

I ACKNOWLEDGE BY SIGNING THIS ATTACHMENT, THE REQUIREMENT OF PROVIDING PRICING NO HIGHER THAN THE MSRP PUBLISHED AS OF THE DATE OF PORFP PROPOSAL SUBMISSION.

OFFERORS SHALL STATE BELOW THE MANUFACTURER HARDWARE PROPOSED (ATTACH ADDITIONAL SHEETS, IF NECESSARY):

Manufacturer(s):

SUBMITTED BY:

AUTHORIZED SIGNATURE

DATE

PRINTED NAME AND TITLE

COMPANY NAME

COMPANY ADDRESS

FEIN NUMBER

TELEPHONE NUMBER

**ATTACHMENT E-III - Functional Area III - Network Communications Equipment
MSRP COMMITMENT**

I ACKNOWLEDGE BY SIGNING THIS ATTACHMENT, THE REQUIREMENT OF PROVIDING PRICING NO HIGHER THAN THE MSRP PUBLISHED AS OF THE DATE OF PORFP PROPOSAL SUBMISSION.

OFFERORS SHALL STATE BELOW THE MANUFACTURER HARDWARE PROPOSED (ATTACH ADDITIONAL SHEETS, IF NECESSARY):

Manufacturer(s):

SUBMITTED BY:

AUTHORIZED SIGNATURE

DATE

PRINTED NAME AND TITLE

COMPANY NAME

COMPANY ADDRESS

FEIN NUMBER

TELEPHONE NUMBER

**ATTACHMENT E-IV FUNCTIONAL AREA IV - Installation and Training Services Labor
Rate Schedule**

NOTE: COMPLETING D-IV REQUIRES OFFERORS TO ALSO COMPLETE E-1, E-II or E-III.

Offerors are required to record the fully-loaded, all-inclusive hourly prices they are proposing for each listed item. Record the hourly labor rate for all 15 years of the Master Contract for all labor categories.

Labor Category	Training Specialist/ Instructor	Project Mgr.	Subject Matter Expert	Network Admin.	Sr. Network Engineer	Jr. Network Engineer	Sr. Network Tech.	Jr. Network Tech.	Sr. Computer Software/ Integration Analyst	Jr. Computer Systems Analyst
Year 1	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Year 2	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Year 3	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Year 4	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Year 5	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Year 6	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Year 7	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Year 8	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Year 9	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Year 10	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Year 11	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Year 12	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Year 13	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Year 14	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
Year 15	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$

SUBMITTED BY

AUTHORIZED SIGNATURE

DATE

PRINTED NAME AND TITLE

COMPANY NAME

COMPANY ADDRESS

FEIN NUMBER

TELEPHONE NUMBER

**ATTACHMENT E-V -FUNCTIONAL AREA V - Manufacturer's Warranty Services MSRP
Price Commitment**

I ACKNOWLEDGE BY SIGNING THIS ATTACHMENT, THE REQUIREMENT OF PROVIDING PRICING NO HIGHER THAN THE MSRP AS OF THE DATE OF PORFP PROPOSAL SUBMISSION.

OFFERORS SHALL STATE BELOW THE MANUFACTURER OF THE LINE THAT WARRANTY IS PROPOSED (ATTACH ADDITIONAL SHEETS, IF NECESSARY):

SUBMITTED BY:

AUTHORIZED SIGNATURE DATE

PRINTED NAME AND TITLE

COMPANY NAME

COMPANY ADDRESS

FEIN NUMBER

TELEPHONE NUMBER

ATTACHMENT F - Conflict Of Interest Affidavit And Disclosure

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

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

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

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

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

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

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

ATTACHMENT G – Mercury Affidavit

MERCURY AFFIDAVIT

AUTHORIZED REPRESENTATIVE THEREBY AFFIRM THAT:

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

MERCURY CONTENT INFORMATION:

☐ The product(s) offered do not contain mercury.

OR

☐ The product(s) offered do contain mercury.

(1) Describe the product or product component that contains mercury.

(2) Provide the amount of mercury that is contained in the product or product component. Indicate the unit of measure being used.

I ACKNOWLEDGE THAT this affidavit is to be furnished to the 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.

_____ By: _____
Date Signature

Print Name: _____
Authorized Representative and Affiant

I DO HEREBY CERTIFY AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE ATTACHED ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Signature

Print Name



Customer Name: HOWARD COUNTY
MARYLAND

Quote No: 22770424

Quote Name: HoCo-Flex-3yr

Quotation Date: 02/21/2022

Sales Support Contact: APRIL MALBON

Sales Support Phone: +1 757-278-7919

Sales Support Email: APRIL.MALBON@EPLUS.COM

Account Executive: Jennifer Eslin

Account Executive Phone: 240-512-2005

Account Executive Email: jeslin@eplus.com

Customer PO No:

Order No:

Expiration Date: 03/25/2022

External Notes:

The following terms from Cisco apply to Customer's use of the products and services on this quote (the "Licensed Services"): (i) the Cisco Universal Cloud Agreement; (ii) the applicable Cisco Service Description Documents at <http://www.cisco.com/c/en/us/about/legal/cloudand-software/cloud-terms.html>; and (iii) the Cisco End User Program Terms for Cisco Enterprise Agreement ("EA Terms") that are attached to or referenced in the Cisco End User Information Form ("EUIF"). By purchasing the Licensed Services through ePlus, Customer consents to ePlus and Cisco sharing Customer data with each other to the extent required to provide the Licensed Services.

In addition to the fees set forth on this quote, Customer shall be responsible for any overage or usage fees incurred in its use of the Licensed Services, including any fees imposed as part of the True Forward process or other subscription quantity adjustment process ("True Forward Fees") as described in the EA Terms. Overage and usage fees will be billed monthly in arrears at the rate set forth in this quote, or if no rate is set forth, at ePlus' then-current list price. At each True Forward event, ePlus shall issue a quote for any True Forward Fees due. During the Initial Term, ePlus' True Forward quotes for the Enterprise Agreement SKUs in this quote shall not exceed a price (a) per Covered Users, Covered Devices or other meter identified in the EUIF (as applicable, the "Pricing Meter") for perpetual software licenses and (b) per Pricing Meter per month for support services and subscription licenses ("NTE Unit Price") as set forth in the NTE Form provided by ePlus.

All of language listed below will need to be added to the Howard County PO, including the payment schedule.

Pricing is per Contract No. 060B2490022. Terms and conditions are per Agreement No. PA-003-2022.

Installment Payments are as follows:

Payments:

Payment 1 - \$426,596 due net thirty (30) of Purchaser Order date

Payment 2 - \$426,596 due one (1) year from Payment 1

Payment 3 - \$426,596 due one (1) year from Payment 2

Line No.	Part Number	MFG	Description/Line Notes	QTY	Unit Price	Ext. Price
A-FLEX-3						
001	A-FLEX-3	CISCO	COLLABORATION FLEX PLAN 3.0 Line Note: Requested For : 36.00 Months No Auto Renewal Billing Frequency : Prepaid Term	1	0.00	0.00
002	SVS-FLEX-SUPT-BAS	CISCO	BASIC SUPPORT FOR FLEX PLAN CONTACT CENTER	1	0.00	0.00
003	A-FLEX-EAPL	CISCO	ENTW ON-PREMISES CALLING	3000	258.57	775,710.00

004	A-FLEX-AUM	CISCO	AU MEETINGS (1)	400	731.13	292,452.00
005	A-AUD-VOIP	CISCO	INCLUDED VOIP (1)	1	0.00	0.00
006	A-AUD-EDGEAUD-USER	CISCO	WEBEX EDGE AUDIO (1)	400	0.00	0.00
007	A-AUD-TOLLDIALIN	CISCO	MEETINGS TOLL DIAL-IN AUDIO (1)	400	0.00	0.00
008	A-FLEX-SME-S	CISCO	SESSION MANAGER (1)	1	0.00	0.00
009	A-FLEX-SRST-E	CISCO	SRST ENDPOINTS (1)	6000	0.00	0.00
010	A-FLEX-P-EA	CISCO	ON-PREMISES SMART LICENSE - EA (1)	3600	0.00	0.00
011	A-FLEX-P-ACC	CISCO	ACCESS SMART LICENSE (1)	600	0.00	0.00
012	A-FLEX-P-CA	CISCO	COMMON AREA SMART LICENSE (1)	1500	0.00	0.00
013	A-FLEX-P-UCXN	CISCO	UNITY CONNECTION SMART LICENSE (1)	3600	0.00	0.00
014	A-FLEX-P-ER	CISCO	EMERGENCY RESPONDER SMART LICENSE (1)	9000	0.00	0.00
015	A-FLEX-EXP-PAK	CISCO	EXPRESSWAY PRODUCT AUTHORIZATION KEY (1)	1	0.00	0.00
016	A-FLEX-SW-12.5-K9	CISCO	ON-PREMISES & PARTNER HOSTED CALLING SW	1	0.00	0.00
017	A-FLEX-C-DEV-ENT	CISCO	CLOUD DEVICE REGISTRATION ENTITLEMENT	3600	0.00	0.00
018	A-FLEX-MSUITE-ENT	CISCO	CLOUD MEETINGS ENTITLEMENT	3000	0.00	0.00
019	A-FLEX-NBR-STG	CISCO	WEBEX CLOUD RECORDING STORAGE ENTITLEMEN	2000	0.00	0.00
020	A-FLEX-MSG-ENT	CISCO	MESSAGING ENTITLEMENT	3600	0.00	0.00
021	A-FLEX-FILESTG-ENT	CISCO	FILE STORAGE ENTITLEMENT	72000	0.00	0.00
022	A-FLEX-PROPACK-ENT	CISCO	PRO PACK FOR CISCO CONTROL HUB ENTITLEME	3600	0.00	0.00
023	A-FLEX-EXP-RMS	CISCO	EXPRESSWAY RICH MEDIA SESSION (1)	600	0.00	0.00
					Sub-Total (USD)	1,068,162.00
A-FLEX-CC						
024	A-FLEX-CC	CISCO	FLEX CONTACT CENTER Line Note: Requested For : 36.00 Months No Auto Renewal Billing Frequency : Prepaid Term	1	0.00	0.00
025	SVS-FLEX-SUPT-BAS	CISCO	BASIC SUPPORT FOR FLEX PLAN CONTACT CENTER	1	0.00	0.00
026	A-FLEX-PJXPC	CISCO	FLEX CC ON-PREMISES UCCX PREMIUM CONCURRENT AGENT	100	2,116.26	211,626.00

027	A-FLEX-J-AGT-RTU	CISCO	ON-PREMISES PCCE & UCCE, HOSTED CCE & CCX AGENT RTU	1	0.00	0.00
028	A-FLEX-05-12.5-K9	CISCO	ON-PREMISES UCCX STANDARD & PREMIUM MEDIA KIT V12.5	1	0.00	0.00
029	A-FLEX-PJX-SVR12.5	CISCO	ON-PREMISES UCCX STANDARD & PREMIUM SERVER V12.5	1	0.00	0.00
030	A-FLEX-PJXPAGT12.5	CISCO	ON-PREMISES UCCX PREMIUM AGENT LICENSE V12.5	100	0.00	0.00

Sub-Total (USD) 211,626.00

Totals

1,279,788.00

	Sub Total (USD):	1,279,788.00
	Est. Tax (USD):	TBD if Applicable
	Shp&Hnd (USD):	0.00
	Total (USD):	1,279,788.00

ePlus offers flexible and easy leasing options for your IT equipment. Use leasing to increase your IT acquisition capability, overcome limited budgets, and manage the lifecycle of your assets. Contact an ePlus Leasing Coordinator at 1-703-984-8021 or leasing@eplus.com to receive a lease quote today.

Customer Acceptance Signature: _____ Name: _____ Title: _____ Date: _____ Customer PO #: _____	Bill To HOWARD COUNTY MARYLAND 8930 STANFORD BLVD COLUMBIA MD 21045 UNITED STATES	Ship To HOWARD COUNTY MARYLAND 8930 STANFORD BLVD 2ND FLOOR COLUMBIA MD 21045 UNITED STATES John Eckard
--	--	--

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on May 5, 2022.

Michelle Harrod
Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2022.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2022.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2022.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2022.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2022.

Michelle Harrod, Administrator to the County Council