



**STATE OF MARYLAND**

**MARYLAND TRANSPORTATION AUTHORITY (MDTA)**

**REQUEST FOR PROPOSALS (RFP)**

**INTERNAL AUDITING SERVICES**

**RFP NUMBER SV-3104-0000**

**EMARYLAND MARKETPLACE ADVANTAGE (EMMA)**

**SOLICITATION NO. BPM024361**

**ISSUE DATE: JUNE 29, 2021**

**NOTICE**

A Prospective Offeror that has received this document from a source other than eMaryland Marketplace Advantage (eMMA) <https://emma.maryland.gov> should register on eMMA. See **Section 4.2**.

**MINORITY BUSINESS ENTERPRISES ARE ENCOURAGED TO  
RESPOND TO THIS SOLICITATION.**

**VENDOR FEEDBACK FORM**

To help us improve the quality of State solicitations, and to make our procurement process more responsive and business friendly, please provide comments and suggestions regarding this solicitation. Please return your comments with your response. If you have chosen not to respond to this solicitation, please email or fax this completed form to the attention of the Procurement Officer (see Key Information Summary Sheet below for contact information).

**Title:** Internal Auditing Services

**Solicitation No:** SV-3104-0000

1. If you have chosen not to respond to this solicitation, please indicate the reason(s) below:

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

2. If you have submitted a response to this solicitation, but wish to offer suggestions or express concerns, please use the REMARKS section below. (Attach additional pages as needed.)

REMARKS: \_\_\_\_\_  
\_\_\_\_\_

Vendor Name: \_\_\_\_\_ Date: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

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**STATE OF MARYLAND  
MARYLAND TRANSPORTATION AUTHORITY (MDTA)  
KEY INFORMATION SUMMARY SHEET**

<b>Request for Proposals</b>	Services Contract Internal Auditing Services
<b>Solicitation Number:</b>	SV-3104-0000
<b>RFP Issue Date:</b>	June 29, 2021
<b>RFP Issuing Office:</b>	Maryland Transportation Authority
<b>Procurement Officer:</b>	Ruth Carnes, CPPB Maryland Transportation Authority Division of Procurement 2310 Broening Highway Baltimore, MD 21224
<b>e-mail address:</b>	<a href="mailto:rcarnes2@mdta.state.md.us">rcarnes2@mdta.state.md.us</a> with a copy to <a href="mailto:mdtaprocurement@mdta.state.md.us">mdtaprocurement@mdta.state.md.us</a>
<b>Telephone/Fax Nos.:</b>	(T) 410-537-7837 (F) 410-537-7801
<b>Pre-Proposal Conference:</b>	A virtual Pre-Proposal Conference will be held via Microsoft TEAMS beginning at <b>1:30 PM</b> Local (Eastern Prevailing Time) on <b>July 14, 2021</b> for interested Offerors. Please refer to <b>Section 4.1</b> and <b>Attachment A</b> for instructions. It is requested that all interested Offerors complete the Pre-Proposal Response Form prior to the meeting. See Attachment A for further information.
<b>Questions Due Date and Time</b>	<b>July 20, 2021, 4:00 p.m.</b> Please direct all questions to the Procurement Officer at the e-mail addresses listed above.
<b>Proposal Due (Closing) Date and Time:</b>	<b>Proposals must be submitted no later than August 16, 2021, 4:00 p.m.,</b> Local Time (Prevailing Time).  <i>Offerors are reminded that a completed Vendor Feedback Form is requested if a no-bid/proposal decision is made (see page ii).</i>
<b>Proposals are to be sent to:</b>	Maryland Transportation Authority Division of Procurement ATTN: Ruth Carnes 2310 Broening Highway Baltimore, MD 21224
<b>MBE Subcontracting Goal:</b>	30% with No Sub-Goals
<b>VSBE Subcontracting Goal:</b>	0.05%
<b>Contract Type:</b>	Indefinite Quantity with Firm Fixed Unit Prices.
<b>Contract Duration:</b>	Three (3) base period with one (1) two (2) year option period.
<b>Primary Place of Performance:</b>	Maryland Transportation Authority, Headquarters Office, 2310 Broening Highway, NE, Baltimore, MD 21224.
<b>SBR Designation:</b>	No
<b>Federal Funding:</b>	No

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## 1 Minimum Qualifications

### 1.1 Offeror Minimum Qualifications

As part of the determination to be considered reasonably susceptible of being selected for award, the Offeror must document in its Proposal that, the following Minimum Qualifications have been met:

- 1.1.1 The Offeror, as a firm or business, shall have a minimum of five (5) years of experience, demonstrating experience in performing a minimum of five (5) financial related audits within the past three (3) years of public or private entities of similar scope, size and type as specified in herein. The Offeror must have been responsible for the overall performance (i.e. managing, planning, designing, executing, and reporting) of these engagements.

Required Documentation: As proof of meeting this requirement, the Offeror shall provide with its Proposal, a minimum of three (3) references from customers within the most recent five (5) years that, when combined, are capable of attesting to the Offeror's years of experience.

- 1.1.2 The Offeror (prime contractor) shall be a licensed Maryland Certified Public Accounting Firm in accordance with the Annotated Code of Maryland, Business Occupations and Professions Article, Section 2-401. This requirement cannot be met by a Subcontractor.

Required Documentation: As proof of meeting this requirement, the Offeror shall provide with its Proposal, a copy of the firm's current certificate issued by the Maryland Department of Labor evidencing the Offeror's certification as a Certified Public Accounting Firm. This license shall be kept current throughout the term of the Contract and forwarded to the Contract Manager, or Designee, annually on the anniversary of the Notice to Proceed (NTP) date.

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## 2 Contractor Requirements: Scope of Work

### 2.1 Summary Statement

- 2.1.1 The Maryland Transportation Authority (MDTA) is issuing this Request for Proposals (RFP) for the provision of Internal Auditing Services, to include assurance services and consulting services. Requested services will include conducting audits and providing expertise in critical areas through guidance and augmenting existing MDTA staff.
- 2.1.2 It is the MDTA's intention to enter into a Contract with one (1) selected Offeror to obtain the services as specified in this RFP.
- 2.1.3 An Offeror, either directly or through its Subcontractor(s), must be able to provide all goods and services and meet all of the requirements requested in this RFP and the successful Offeror (the Contractor) shall remain responsible for Contract performance regardless of Subcontractor participation in the work.

### 2.2 Background and Purpose

- 2.2.1 The Maryland Transportation Authority (MDTA or State) is an independent State agency established in 1971 to finance, construct, manage, operate, and improve Maryland's toll facilities, as well as to finance new revenue-producing transportation projects for the Maryland Department of Transportation. The MDTA currently maintains and operates eight (8) toll facilities: two (2) turnpikes, two (2) tunnels, and four (4) bridges. All MDTA's projects and services are funded through tolls and revenues paid by customers who use the MDTA's toll facilities. The governing body of the MDTA (Board) is a group of citizens appointed by the Governor with advice and consent of the State of Maryland Senate. This group serves as the policy-setting, decision making and governing body. Maryland's Secretary of Transportation serves as the MDTA's Chairman.
- 2.2.2 The MDTA's Executive Director and the Office of Audits are responsible for the oversight of the system of internal control, the audit process, and the organization's process for monitoring compliance with laws and regulations. The purpose for obtaining the internal audit services of an independent accounting firm are to improve the competency and audit coverage of the MDTA's Office of Audits and to provide the Board and Executive Director with additional resources to ensure the financial integrity of the MDTA. As an independent agency of the State of Maryland that is a non-budgeted enterprise fund agency which executes the issuance of bonds under Trust Agreements, the need for the services mentioned in this RFP are unique to the MDTA and are beyond the scope of a typical State government agency's requirements.
- 2.2.3 The MDTA's operating revenue for the fiscal year ended June 30, 2020 was \$733,072,956.63 and its operating expenses were \$475,147,170.40. The MDTA has approximately 1,500 employees, including 560 sworn and civilian law enforcement professionals. Additional information about the agency's operations and its financial statements can be found on the MDTA's web site, [www.mdtastate.md.us](http://www.mdtastate.md.us). The MDTA's Office of Audits consists of three (3) full time positions.
- 2.2.4 The Contractor will provide internal audit services to assist the MDTA's Board Members, Executive Director, and the Office of Audits with accomplishing their objectives by bringing a systematic and disciplined approach to evaluate and improve the effectiveness of the organization's risk management, control, and governance process.

- 2.2.5 The purpose of this solicitation is to contract with a Certified Public Accounting firm to provide expertise in critical areas by giving guidance and by augmenting existing MDTA staff. The Contractor shall also be tasked to fully conduct (i.e. planning, testing, and reporting) audits.
- 2.2.6 A Contract award does not ensure a Contractor will receive all or any MDTA business under the Contract.

### **2.3 Independence of the Auditor**

The MDTA is currently soliciting, through the Competitive Sealed Proposals procurement method, otherwise known as Requests for Proposals (RFP), for firms to provide various Internal Audit related services. The MDTA is also contracted with other Certified Public Accountant firms to perform Financial Auditor Services (which includes but is not limited to the audit of MDTA's financial statements) and Financial Consultant Services. To ensure that the independence of the Internal Audit Services, Auditor is not impaired, in fact or in appearance, the MDTA must exclude any Offeror or Offering firm from being awarded the Internal Audit Services Contract if the firm has provided Internal Financial Auditing Services or Internal Financial Consultant Services within the past year (12 months) or is currently under Contract to provide these services.

### **2.4 MDTA Staff Roles**

The MDTA will provide a Contract Manager who will be primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance (if applicable), and achieving completion of the Contract on budget, on time, and within scope. The Contract Manager, or Designee, may authorize in writing, one or more MDTA representatives to act on behalf of the Contract Manager in the performance of the Contract Manager's responsibilities.

### **2.5 Other MDTA Responsibilities**

- 2.5.1 The MDTA will provide normal office working facilities and equipment reasonably necessary for Contractor performance under the Contract. Any special requirements (e.g., reprographic services, computer time, key data entry) shall be identified.
- 2.5.2 The MDTA is responsible for providing required information, data, documentation, and test data to facilitate the Contractor's performance of the work and will provide such additional assistance and services as is specifically set forth.
- 2.5.3 For the health and safety of MDTA employees and visitors, all persons entering MDTA facilities must adhere to the following COVID-19 Pandemic Safety procedures:
- A. Contractors shall follow Federal, State and Local guidelines as well as the Maryland Governor's Executive Orders, Department of Health, and Maryland Department of Transportation and MDTA policies and procedures related to the COVID-19 pandemic.
  - B. Any Contractor with a suspected or confirmed case of COVID-19 will be advised to isolate themselves, pursuant to CDC guidelines, and in compliance with local laws/regulations. Contractors personnel who have had a close contact (as defined by the CDC) with someone who has COVID-19 should follow CDC and local guidance for quarantine. As mentioned above, Contractors personnel who have physically returned to any MDTA location must report a subsequent positive test result to the MDTA. MDTA must approve of the return of the impacted Contractor personnel.

- C. Contractors are encouraged to use the various resources of information available to help protect MDTA, the public, and the Contractors personnel during this pandemic; including Federal health guidelines at CDC.gov and OSHA.gov, State health guidelines from the Maryland Department of Health at <https://coronavirus.maryland.gov>, and information concerning the Governor of the State of Maryland COVID-19 Response at <https://governor.maryland.gov/coronavirus>.
- D. All COVID-19 procedures identified above must be adhered to unless directed otherwise.

## **2.6 Responsibilities and Tasks**

### **2.6.1 Request of Services**

- A. The MDTA's Contract Manager or Designee, will request the Contractor's services on a Work Order basis when needed for specific project assignments.
- B. The Contractor will respond with a specific work plan that includes time, materials, and all costs to complete the specific assignment. The basis of payment to compensate the Contractor will be based on actual time and materials.
- C. Work Orders describe individual project tasks that will be assigned by the MDTA's Contract Manager, or Designee, to the Contractor for services to be performed on an as-needed basis. The Contractor will, after discussion with the Contract Manager or Designee, of issues applicable to be tasked under this Contract, will develop a specific task oriented scope of services, recommend qualified personnel, a management approach, detailed personnel hours and cost estimate to accomplish the work described in the Work Order and present it to the Contract Manager or Designee, for possible negotiation and approval.
- D. The Contractor will not proceed on any project without a formal notification of approval in writing issued by the Contract Manager or Designee, to proceed. A Notice to Proceed will be issued by the Contract Manager or Designee. In the event a Work Order(s) is issued and not completed prior to the expiration date of the Contract, the Contractor shall be allowed up to three (3) months to conclude the Work Order assignment.

### **2.6.2 Assurance and Consulting Services**

The Contractor is expected to provide assurance and consulting services with expertise in critical areas where it may be uneconomical to retain such skills in-house. This expertise may be provided through:

- A. Guidance and/or by augmenting existing MDTA staff in preparing and conducting audits;
- B. Assist in developing objectives, strategies, and measures for the internal audit function;
- C. Consulting services without assuming management responsibilities; and
- D. Assist in developing a program and to conduct an Enterprise-Wide Risk Assessment of the organization for preparing the MDTA's Office of Audits annual audit plan.

### **2.6.3 Auditing Services**

The MDTA may request the Contractor to assist with or be fully responsible (planning including risk assessments, testing, and reporting) in conducting audits of MDTA Contracts and agreements, operations, and finance. The Contractor may be requested to assist with or to conduct financial, compliance, economy and efficiency, and program audits of the MDTA and its Contractors. Examples of specific process areas or functions to be audited may include, but are not limited to:

- A. Consultants' invoices and costs for Architectural, Engineering, and Construction Services
- B. Electronic Toll Collection and Reciprocity
- C. Compliance with MDTA Trust Agreement covering the debt it has issued
- D. Compliance with laws, regulations, and policies relating Procurement of goods and services
- E. Payroll Processing and Timekeeping
- F. Revenue Collection and Cash Receipts
- G. Accounts Payable and Cash Disbursements
- H. Security of Confidential Information
- I. Information Technology - General Controls, Applications and Programs Controls, and Project
- J. Management and System Development Life Cycle
- K. Risk Management Procedures and Compliance and
- L. Debt Management and Investment Management.

#### **2.6.4 Audit Standards**

Audits will be conducted in accordance with the Institute of Internal Auditors International Standards for the Professional Practice of Internal Auditing. This includes:

- A. Contractor-Supplied Hardware, Software, and Materials;
- B. Required Project Policies, Guidelines and Methodologies;
- C. Product Requirements; and
- D. Maintenance and Support.

#### **2.6.5 Deliverables**

The Contractor shall provide deliverables, programs, goods, and services specific to the Contract awarded in accordance with issued Work Orders. If there is any conflict between the Contract and the Work Order, the terms of the Contract (Attachment M) shall govern.

- A. **Deliverable Submission** - Unless specified otherwise, written deliverables shall be compatible with the latest version of Microsoft Office. At the Contract Manager or Designee's discretion, a hard copy of a written deliverable may be requested.
- B. **Minimum Deliverable Quality** - The Contractor shall subject each deliverable to its internal quality-control process prior to submitting the deliverable to the MDTA.
- C. Each deliverable shall meet the following minimum acceptance criteria:
  - 1. Be presented in a format appropriate for the subject matter and depth of discussion;
  - 2. Be organized in a manner that presents a logical flow of the deliverable's content;
  - 3. Represent factual information reasonably expected to have been known at the time of submittal;
  - 4. In each section of the deliverable, include only information relevant to that section of the deliverable;
  - 5. Contain content and presentation consistent with industry best practices in terms of deliverable completeness, clarity, and quality;
  - 6. Meets the acceptance criteria applicable to that deliverable, including any State policies, functional or non-functional requirements, or industry standards; and
  - 7. Contains no structural errors such as poor grammar, misspellings or incorrect punctuation.

**END OF SECTION 2**

### 3 Contractor Requirements: General

#### 3.1 Contract Initiation Requirements

- A. The Contract Manager shall schedule and hold a kickoff meeting within ten (10) Business Days of the Notice to Proceed (NTP) Date, to discuss any transition information to be received, work order submissions and other activities after the NTP Date. The kickoff meeting may be held in person, or via teleconference or web-based platform. The Contractor shall furnish a Project Schedule describing the activities for the Contractor, the MDTA and any third parties for fully transitioning to the Contractor's Solution.

#### 3.2 End of Contract Transition

- 3.2.1 The Contractor shall provide transition assistance as requested by the MDTA to facilitate the orderly transfer of services to the MDTA or a follow-on Contractor, for a period up to sixty (60) days prior to Contract end date, or the termination thereof. Such transition efforts shall consist, not by way of limitation, of:

- a. Provide additional services and support as requested to successfully complete the transition;
- b. Maintain the services called for by the Contract at the required level of proficiency;
- c. Provide current operating procedures (as appropriate); and
- d. Provide any other assistance requested by MDTA to provide a successful transition.

- 3.2.2 The Contractor shall work toward a prompt and timely transition, proceeding in accordance with the directions of the Contract Manager or Designee. The Contract Manager, or Designee, may provide the Contractor with additional instructions to meet specific transition requirements prior to the end of the Contract.

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

#### 3.2.4 Return and Maintenance of State Data

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

- C. In addition to the foregoing, the MDTA shall be entitled to any post-termination/expiration assistance generally made available by Contractor with respect to the services.

### **3.3 Invoicing**

#### **3.3.1 General**

- A. The Contractor shall forward the invoice and signed authorization to invoice, to the Contract Manager, Paul Trentalance, via e-mail address: [ptrentalance@mdta.state.md.us](mailto:ptrentalance@mdta.state.md.us).
- B. All invoices for services shall be verified by the Contractor as accurate at the time of submission.
- C. An invoice not satisfying the requirements of a Proper Invoice (as defined at COMAR 21.06.09.01 and .02) cannot be processed for payment. To be considered a Proper Invoice, invoices must include the following information, without error:
  - 1) Contractor name and address;
  - 2) Remittance address;
  - 3) Federal taxpayer identification (FEIN) number, social security number, as appropriate;
  - 4) Invoice period (i.e. time period during which services covered by invoice were performed);
  - 5) Invoice date;
  - 6) Invoice number;
  - 7) MDTA assigned Contract number;
  - 8) Goods or services provided;
  - 9) Amount due;
  - 10) Any additional documentation required by regulation or the Contract; and
  - 11) All invoices and back up information must match exactly for each line item on the invoice.
- D. Invoices that contain both fixed price and time and material items shall clearly identify each item as either fixed price or time and material billing.
- E. The MDTA reserves the right to reduce or withhold Contract payment in the event the Contractor does not provide the MDTA with all required deliverables within the time frame specified in the Contract or otherwise breaches the terms and conditions of the Contract until such time as the Contractor brings itself into full compliance with the Contract.
- F. Any action on the part of the MDTA, or dispute of action by the Contractor, shall be in accordance with the provisions of Md. Code Ann., State Finance and Procurement Article §§ 15-215 through 15-223 and with COMAR 21.10.04.
- G. The State is generally exempt from federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. The Contractor, however, is not exempt from such sales and use taxes and may be liable for the same.
- H. Invoices for final payment shall be clearly marked as “FINAL” and submitted when all work requirements have been completed and no further charges are to be incurred under the Contract. In no event shall any invoice be submitted later than sixty (60) calendar days from the Contract termination date.

#### **3.3.2 Invoice Submission Schedule**



All services provided under this Contract shall be billed on a monthly basis in accordance with the prices on the Financial Proposal Form:

- a) See **Attachment B–2** Financial Proposal Form and utilize the fully loaded hourly rates on direct labor hours expended to calculate the monthly invoice amount.
- b) Payment will be made by Electronic Funds Transfers within thirty (30) days following proper receipt of an approved proper invoice from the Contractor.

### **3.3.3 Pay System Reporting**

- A. The monthly invoice must be supported with a Pay System Report that were signed by the Firm’s authorized representative.
- B. At a minimum, the monthly Pay System Report shall include:
  - a) Title: “Pay System Report for <Month and Year>;
  - b) The list of personnel that worked on the tasks, to include name of Company for each person;
  - c) Date of Work Order Entry (in ascending order) for each for each employee /resource;
  - d) Work Order Name and Number assigned to each employee; and
  - e) Total Number of Hours each employee worked on the task for that month.

### **3.3.4 For the purposes of the Contract an amount will not be deemed due and payable if:**

- 1) The amount invoiced is inconsistent with the Contract;
- 2) The proper invoice has not been received by the party or office specified in the Contract;
- 3) The invoice or performance is in dispute or the Contractor has failed to otherwise comply with the provisions of the Contract;
- 4) The item or services have not been accepted;
- 5) The items or services do not meet the quality requirements of the Contract;
- 6) If the Contract provides for payments for work done on a work order, the proper invoice for the payment has not been submitted; or
- 7) The Contractor has not submitted satisfactory documentation or other evidence reasonably required by the Procurement Officer or by the Contract concerning performance under the Contract and compliance with its provisions.

### **3.3.5 Travel Reimbursement**

No travel expenses will be reimbursed under this Contract.

## **3.4 Liquidated Damages**

### **3.3.4.1 Minority Business Enterprise (MBE) Liquidated Damages**

MBE liquidated damages are identified in Attachment M, Item 39.

### **3.3.4.2 Liquidated Damages other than MBE**

THIS SECTION IS INAPPLICABLE TO THIS RFP.

### 3.5 Disaster Recovery and Data

THIS SECTION IS INAPPLICABLE TO THIS RFP.

### 3.6 Insurance Requirements

The Contractor shall maintain, at its own cost and expense, the minimum insurance coverages outlined below, or any minimum requirements established by law if higher, for the duration of the Contract, including option periods, if exercised:

3.6.1 The following type(s) of insurance and minimum amount(s) of coverage are required:

- A. Commercial General Liability - of \$1,000,000 combined single limit per occurrence for bodily injury, property damage, and personal and advertising injury and \$3,000,000 annual aggregate. The minimum limits required herein may be satisfied through any combination of primary and umbrella/excess liability policies.
- B. Errors and Omissions/Professional Liability - \$1,000,000 per combined single limit per claim and \$3,000,000 annual aggregate.
- C. Crime Insurance/Employee Theft Insurance - to cover employee theft with a minimum single loss limit of \$50,000 per loss, and a minimum single loss retention not to exceed \$5,000. The State of Maryland and the MDTA should be added as a "loss payee."
- D. Worker's Compensation - The Contractor shall maintain such insurance as necessary or as required under Workers' Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act, to not be less than one million dollars (\$1,000,000) per occurrence (unless a state's law requires a greater amount of coverage).
- E. **Contractor may use commercial umbrella Liability insurance so that the Contractor has the flexibility to select the best combination of primary and excess limits to meet the total insurance limits required by the Contract.**

3.6.2 The State of Maryland, Maryland Department of Transportation and Maryland Transportation Authority shall be listed as an additional insured on any Commercial General Liability, Auto Liability, Professional Liability, and excess liability or umbrella policies with the exception of Workers' Compensation Insurance, which is currently handled by the Chesapeake Employer's Insurance Company (formerly Injured Workers' Insurance Fund). This means the faces of the certificates of insurance for these policies must state, "The State of Maryland, Maryland Department of Transportation and Maryland Transportation Authority are Additional Insured under Contract Number SV-3104-0000 for Internal Auditing Services."

3.6.3 All insurance policies shall be endorsed to include a clause requiring the insurance carrier provide the Contract Manager, or Designee, by e-mail or USPS mail, not less than thirty (30) days' advance notice of any non-renewal, cancellation, or expiration. The Contractor shall notify the Contract Manager, or Designee in writing, if policies are cancelled or not renewed within five (5) days of learning of such cancellation or nonrenewal. The Contractor shall provide evidence of replacement insurance coverage to the Contract Manager, or Designee at least fifteen (15) days prior to the expiration of the insurance policy then in effect.

3.6.4 Any insurance furnished as a condition of the Contract shall be issued by a company authorized to do business in the State of Maryland.



3.6.5 Certificates(s) of insurance shall state the issuance to:

Maryland Transportation Authority  
2310 Broening Highway  
Baltimore, Maryland 21224

3.6.6 The recommended awardee must provide current certificate(s) of insurance with the prescribed coverages, limits and requirements set forth in this section within ten (10) Business Days from notice of recommended award. During the period of performance for multi-year contracts, the Contractor shall provide certificates of insurance annually, or as otherwise directed by the Contract Manager, or Designee.

3.6.7 In no event will such insurance be cancelled by the Contractor without the prior written consent of the MDTA.

3.6.8 Waiver of Subrogation. Contractor waives all rights against the State of Maryland, MDOT, the MDTA and its agents, officers, directors, employees, volunteers, and representatives for recovery of damages to the extent these damages are covered by the Commercial General Liability, Commercial Umbrella Liability, business auto liability or commercial auto umbrella liability, and Workers Compensation and employers' liability or Commercial Workers Compensation Commercial Umbrella Liability insurance obtained by the Contractor pursuant to this Contract.

3.6.9 Insurance shall be written on an occurrence, not claims made basis.

3.6.10 The MDTA reserves the right to obtain relevant endorsements, declaration pages, and/or a complete copy of the insurance policy(s) from the Contractor evidencing the coverage required herein, upon written demand. Contractor shall provide certified copies of all insurance policies required above within ten (10) business days of the MDTA's written request for said copies.

3.6.11 The failure of the MDTA, at any time or from time to time, to enforce the insurance provisions, to demand such certificate or other evidence of full compliance with the insurance requirements, or to identify a deficiency from evidence that is provided shall not constitute a waiver of those provisions nor in any respect reduce the obligations of the Contractor to maintain such insurance or to defend and hold the MDTA harmless with respect to any items of injury or damage covered by the Contract.

3.6.12 Failure to maintain the insurance required by the Contract shall be the basis for immediate termination of this Contract at MDTA's sole discretion.

3.6.13 No Representation of Coverage Adequacy. By requiring insurance herein, the MDTA does not represent that coverage and limits will necessarily be adequate to protect the Contractor and such coverage and limits shall not be deemed as a limitation on the Contractor's liability under the indemnities granted to the MDTA in the Contract.

3.6.14 The MDTA reserves the right at any time throughout the term of the Contract to adjust the aforementioned insurance requirements, if, in MDTA's reasonable judgement, the insurance required by the Contract is deemed inadequate to properly protect the MDTA's interest.

3.6.15 Subcontractor Insurance

The Contractor shall require any Subcontractors to obtain and maintain comparable levels of coverage and shall provide the Contract Manager or Designee with the same documentation as is required of the Contractor.

### **3.7 Security Requirements**

The following requirements are applicable to the Contract:

#### **3.7.1 Employee Identification**

- A. Contractor Personnel shall display his or her company ID badge in a visible location at all times while on MDTA premises. Upon request of authorized MDTA personnel, each Contractor Personnel shall provide additional photo identification.
- B. Contractor Personnel shall cooperate with MDTA site requirements, including but not limited to, being prepared to be escorted at all times, and providing information for MDTA/State badge issuance.
- C. Contractor shall remove any Contractor Personnel from working on the Contract where the MDTA determines, in its sole discretion, that Contractor Personnel has not adhered to the Security requirements specified herein.
- D. The MDTA reserves the right to request that the Contractor submit proof of employment authorization of non-United States Citizens, prior to commencement of work under the Contract.

#### **3.7.2 Security Clearance/Background Check**

- A. The Contractor shall obtain at its own expense a Criminal Justice Information System (CJIS) state and federal criminal background check, including fingerprinting, for all Contractor Personnel it sends for services at the MDTA. At a minimum, these checks must contain convictions and probation before judgment (PBJ) pleadings within the State of Maryland.
- B. Contractor shall provide a statement on company letterhead, indicating that the background checks have been completed on the employees assigned to this Contract. The information, indicating the employees' names who have completed the background checks and the status of these checks, must be forwarded to the Contract Manager or Designee prior to assignment of employees.
- C. The Contractor may not assign an employee with a criminal record unless prior written approval is obtained from the Contract Manager or Designee.

#### **3.7.3 On-Site Security Requirement(s)**

THIS SECTION IS INAPPLICABLE TO THIS RFP.

### **3.8 Problem Escalation Procedure**

- 3.8.1 The Contractor must provide and maintain a Problem Escalation Procedure (PEP) for both routine and emergency situations. The PEP must state how the Contractor will address problem situations as they occur during the performance of the Contract, especially problems that are not resolved to the satisfaction of the MDTA within appropriate timeframes.
- 3.8.2 The Contractor shall provide contact information to the Contract Manager, as well as to other MDTA personnel as directed, should the Contract Manager not be available.
- 3.8.3 The Contractor must provide the PEP no later than ten (10) Business Days after notice of recommended award. The PEP, including any revisions thereto, must also be provided within ten (10) Business Days after the start of each Contract year and within ten (10) Business Days after

any change in circumstance which changes the PEP. The PEP shall detail how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. The PEP shall include:

- a. The process for establishing the existence of a problem;
- b. Names, titles, and contact information for progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;
- c. For each individual listed in the Contractor's PEP, the maximum amount of time a problem will remain unresolved with that individual before the problem escalates to the next contact person listed in the Contractor's PEP;
- d. Expedited escalation procedures and any circumstances that would trigger expediting them;
- e. The method of providing feedback on resolution progress, including the frequency of feedback to be provided to the State;
- f. Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays) and on an emergency basis; and
- g. A process for updating and notifying the Contract Manager, or Designee, of any changes to the PEP.

3.8.4 Nothing in this section shall be construed to limit any rights of the Contract Manager, or the MDTA which may be allowed by the Contract or applicable law.

### 3.9 SOC 2 Type 2 Audit Report

A SOC 2 Type 2 Report is not a Contractor requirement for this Contract.

### 3.10 Experience and Personnel

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

**The Offeror should present and briefly describe relevant project experience for the applicable description/categories of work as described below, with the performing personnel or organization clearly being noted for each project description.**

1. The Offeror must provide a description of its capabilities and approach to performing multiple MDTA tasks (audits or engagements) at the same time. This includes how multiple teams and/or personnel will be implemented.
2. The Offeror shall describe the firm's experience in performing financial related audits of public or private entities of similar scope, size and type as specified in herein. The Offeror shall provide with its Proposal five (5) references from the past three (3) years able to attest to the Offeror's experience in providing the five (5) financial related audits. The Offeror must have been responsible for the overall performance (i.e., managing, planning, designing, executing, and reporting) of these engagements.
3. The Offeror shall describe the firm's experience in performing reimbursement audits of payments made to contractors for Architectural and Engineering (A&E) services. The audits must have included verifying that the contractors' invoices represent actual expenses incurred and were in compliance with applicable contracts, laws, and regulations. This experience must include calculating, reviewing, verifying contractors' overhead rates and be specific to A&E firms. The Offeror shall provide with its Proposal at least one (1) reference from the past three (3) years able to attest to the Offeror's experience in providing a reimbursement audit relating to A&E services.

The Offeror must have been responsible for the overall performance (i.e., managing, planning, designing, executing, and reporting) of these engagements.

4. The Offeror shall describe the firm's experience performing reimbursement audits that verified invoices submitted for payment of Construction Services were in compliance with applicable contracts, laws, and regulations. The Offeror shall provide with its Proposal at least one (1) reference from the past three (3) years able to attest to the Offeror's experience in providing one (1) reimbursement audit for payment of Construction Services. The Offeror must have been responsible for the overall performance (i.e., managing, planning, designing, executing, and reporting) of these engagements.
5. The Offeror shall describe the firm's experience in providing internal audit services similar to the scope of services listed or required in this RFP, on a contractual basis for at least one (1) private or public entity of similar scope, size and type as specified in herein. The Offeror shall provide, with its Proposal at least one (1) reference from the past three (3) years able to attest to the Offeror's experience in providing internal audit services similar to those described in this RFP in Section 2, Scope of Work.
6. The Offeror shall describe the firm's experience in reviewing and evaluating information technology systems, controls, and project management, including System Development Life Cycle. The Firm must have performed at least one (1) audit over the past three (3) years, in each of these areas that documented and evaluated general controls, system and application controls, and the adequacy and effectiveness of project management life cycle program. The firm must have provided these services on a contractual basis for an organization whether private or public entity that incorporates the use of multiple servers and/or networks. The Offeror shall provide with its Proposal at least two (2) references from the past three (3) years able to attest to the Offeror's experience in providing information technology audits as described above in this section. The Offeror must have been responsible for the overall performance (i.e., managing, planning, designing, executing, and reporting) of these engagements.
7. The Offeror shall describe the firm's experience in performing at least one (1) statistical analysis and one (1) data analysis during the past three (3) years. The analysis must have included reviews and reports pertaining to operational and financial transaction activity. The reviews must have included predictions or verifications of transactions and values for a specific period and the detection of anomalies or losses. The reviews must have utilized processes or methods such as representative sampling, data mining, or other similar industry standard processes or methods. The firm must have provided these services on a contractual basis to at least one private or public entity that had at least \$100,000,000 in sales or revenues. The Offeror shall provide with its Proposal at least one (1) reference from the past three (3) years able to attest to the Offeror's experience in providing statistical and data analysis services. The Offeror must have been responsible for the overall performance (i.e., managing, planning, designing, executing, and reporting) of these engagements.

### **3.10.2 Preferred Offeror Experience**

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

- a. It is preferred, but not required, for the Offeror (as a firm or business) to have an excess of the five (5) complete years of experience performing, financial related audits for public or private entities of similar scope, size and type as specified in herein.

- b. Demonstrated knowledge of conducting information technology, financial, compliance, economy and efficiency, and program audits.
- c. Prior senior level experience providing assurance and consulting services. (Senior level experience may include, but not be limited to: providing the engagement partner and subject matter experts, planning the engagements, managing the work of audit Subcontractors and having responsibility for completion of the task).
- d. Breadth of knowledge in conducting audits of contracts and agreements, operations, and finance. The Contractor may be requested to assist with or to conduct financial, compliance, economy and efficiency, and program audits of the MDTA and its Contractors.

### **3.10.3 Personnel Experience**

Please refer to Appendix 3 for Personnel Experience, Qualifications and Labor Categories.

### **3.10.4 Number of Personnel to Propose**

As part of the Proposal evaluation, Offerors shall propose personnel who are expected to be available as of the start date specified in the Notice to Proceed (NTP Date). Offerors shall describe in a Staffing Plan how additional resources shall be acquired to meet the needs of the MDTA. Offerors may generally describe planned positions in a Staffing Plan.

### **3.10.5 Key Personnel Identified**

For the Contract, the following positions to be identified in the Technical Proposal will be considered Key Personnel, and shall be required to meet the qualifications stated in **Appendix 3**:

- A. Partner- at least one (1) individual
- B. Manager - at least one (1) individual
- C. Information Technology (IT) Audit Manager - at least one (1) individual

### **3.10.6 Labor Categories**

3.10.6.1 The Labor Categories are identified and described in **Appendix 3**. In order to be responsive to this RFP, Offerors must be capable of providing personnel meeting the minimum requirements for all the labor categories listed. Offerors shall (separately but simultaneously along with the Technical Proposal) submit a Financial Proposal Form (**Attachment B-2**) that provides labor rates for all labor categories, for all Contract years (initial term and any option periods). Resumes shall be provided only for Key Personnel as described in **Section 3.10.5** above and **Appendix 3**. Resumes for resources provided later shall be coordinated by the CM per the Technical Proposal and, if requested, in a Work Order, shall be governed by the Work Order process.

3.10.6.2 Education and experience described in **Appendix 3**, in the Labor Category(ies) constitutes the minimum requirements for candidates performing work under this RFP. All experience required must have occurred within the last ten (10) years.

- 3.10.7 **Education or experience cannot be substituted for required licenses and/or certifications.** However, substitution of advanced degrees for experience may be permitted in the sole discretion of the MDTA. Refer to Appendix 3 for the specific labor classifications that allow for substitutions.

### 3.10.8 Contractor Personnel Maintain Certifications

Any Contractor Personnel provided under this RFP shall maintain in good standing, any required professional certifications or licenses for the duration of the Contract.

### 3.10.9 Work Hours

Unless otherwise specified, the following work hour requirements are applicable:

- A. Business Hours Support: Contractor shall assign Contractor Personnel to support MDTA business hours, 7:30 AM to 4:00 PM, Monday through Friday except for State holidays.
- B. Contractor Personnel may also be required to provide occasional support outside of normal MDTA Business Hours, including evenings, overnight, and weekends, to support specific efforts and emergencies, such as to resolve system repair or restoration. Hours performing activities must be billed on an actual time worked basis at the rates proposed on the Financial Proposal Form for each year of this Contract.
- C. State-Mandated Closings: Contractor Personnel shall be required to participate in any State-mandated closings. In this event, the Contractor will be notified in writing by the Contract Manager, or Designee of these details.

## 3.11 Substitution of Personnel

### 3.11.1 Continuous Performance of Key Personnel

When Key Personnel are identified for the Contract, the following apply:

- A. Key Personnel shall be available to perform Contract requirements as of the NTP Date. Unless explicitly authorized by the Contract Manager, or Designee, or specified in the Contract, Key Personnel shall be assigned to the MDTA as a dedicated resource.
- B. Key Personnel shall perform continuously for the duration of the Contract, or such lesser duration as specified in the Technical Proposal. Key Personnel may not be removed by the Contractor from working under the Contract without the prior written approval of the Contract Manager, or Designee.
- C. The provisions of this section apply to Key Personnel identified in any Work Order proposal and Agreement, if issued, and any Work Order Request and Work Order, if issued.

### 3.11.2 Definitions

For the purposes of this section, the following definitions apply:

- A. **Extraordinary Personal Event** – means any of: leave under the Family Medical Leave Act; an Incapacitating injury or Incapacitating illness; or other circumstances that in the sole discretion of the State warrant an extended leave of absence, such as extended jury duty or extended military service that precludes the individual from performing his/her job duties under the Contract.
- B. **Incapacitating** – means any health circumstance that substantially impairs the ability of an individual to perform the job duties described for that individual's position in the RFP or the Contractor's Technical Proposal.



### 3.11.3 Contractor Personnel General Substitution Provisions

The following provisions apply to all of the circumstances of Contractor Personnel substitution described in Section 3.11:

- A. The Contractor shall demonstrate to the Contract Manager or Designee's satisfaction that the proposed substitute has qualifications at least equal to those of the Contractor Personnel proposed to be replaced.
- B. The Contractor shall provide the Contract Manager, or Designee with a substitution request that shall include:
  - 1) A detailed explanation of the reason(s) for the substitution request;
  - 2) The resume of the proposed substitute, signed by the substituting individual and his/her formal supervisor;
  - 3) The official resume of the current personnel for comparison purposes; and
  - 4) Evidence of any required credentials.
- C. The Contract Manager, or Designee, may request additional information concerning the proposed substitution and may interview the proposed substitute personnel prior to deciding whether to approve the substitution request.
- D. The Contract Manager, or Designee, will notify the Contractor in writing of: (i) the acceptance or denial, or (ii) contingent or temporary approval for a specified time limit, of the requested substitution. The Contract Manager, or Designee, will not unreasonably withhold approval of a proposed Contractor Personnel replacement.

### 3.11.4 Replacement Circumstances

- A. Directed Personnel Replacement
  - 1) The Contract Manager, or Designee, may direct the Contractor to replace any Contractor Personnel who, in the sole discretion of the Contract Manager, or Designee, are perceived as being unqualified, non-productive, unable to fully perform the job duties, disruptive, or known, or reasonably believed, to have committed a major infraction(s) of law, MDTA policies, or Contract requirements. Normally, a directed personnel replacement will occur only after prior notification of problems with requested remediation, as described in paragraph 3.11.4.a.2 below.
  - 2) If deemed appropriate in the discretion of the Contract Manager, or Designee, the Contract Manager, or Designee, may give written notice of any Contractor Personnel performance issues to the Contractor, describing the problem and delineating the remediation requirement(s). The Contractor shall provide a written response to the remediation requirements in a Remediation Plan within ten (10) days of the date of the notice and shall immediately implement the Remediation Plan upon written acceptance by the Contract Manager, or Designee. If the Contract Manager, or Designee, rejects the Remediation Plan, the Contractor shall revise and resubmit the plan to the Contract Manager, or Designee, five (5) days, or in the timeframe set forth by the Contract Manager, or Designee, in writing.
  - 3) Should performance issues persist despite an approved Remediation Plan, the Contract Manager, or Designee, may give written notice of the continuing performance issues and either request a new Remediation Plan within a specified time limit or direct the substitution

of Contractor Personnel whose performance is at issue with a qualified substitute, including requiring the immediate removal of the Contractor Personnel at issue.

- 4) Replacement or substitution of Contractor Personnel under this section shall be in addition to, and not in lieu of, the State's remedies under the Contract or which otherwise may be available at law or in equity.
- 5) If the Contract Manager, or Designee, determines to direct substitution under **3.11.4.a.1**, if at all possible, at least fifteen (15) days advance notice shall be given to the Contractor. However, if the Contract Manager, or Designee, deems it necessary and in the State's best interests to remove the Contractor Personnel with less than fifteen (15) days' notice, the Contract Manager, or Designee may direct the removal in a timeframe of less than fifteen (15) days, including immediate removal.
- 6) In circumstances of directed removal, the Contractor shall, in accordance with paragraph **3.11.4.a.1** of this section, provide a suitable replacement for approval within fifteen (15) days of the notification of the need for removal, or the actual removal, whichever occurs first.

B. Key Personnel Replacement

- 1) To replace any Key Personnel in a circumstance other than as described in **3.11.4.b**, including transfers and promotions, the Contractor shall submit a substitution request as described in **Section 3.11.3** to the Contract Manager, or Designee at least fifteen (15) days prior to the intended date of change. A substitution may not occur unless and until the Contract Manager, or Designee approves the substitution in writing.
- 2) Key Personnel Replacement Due to Sudden Vacancy
  - a) The Contractor shall replace Key Personnel whenever a sudden vacancy occurs (e.g., Extraordinary Personal Event, death, resignation, termination). A termination or resignation with thirty (30) days or more advance notice shall be treated as a replacement under **Section 3.11.4.b.1**.
  - b) Under any of the circumstances set forth in this paragraph B, the Contractor shall identify a suitable replacement and provide the same information and items required under **Section 3.11.3** within fifteen (15) days of the actual vacancy occurrence or from when the Contractor first knew or should have known that the vacancy would be occurring, whichever is earlier.
- 3) Key Personnel Replacement Due to an Indeterminate Absence
  - a) If any Key Personnel has been absent from his/her job for a period of ten (10) days and it is not known or reasonably anticipated that the individual will be returning to work within the next twenty (20) days to fully resume all job duties, before the 25th day of continuous absence, the Contractor shall identify a suitable replacement and provide the same information and items to the Contract Manager, or Designee, as required under **Section 3.11.3**.
  - b) However, if this person is available to return to work and fully perform all job duties before a replacement has been authorized by the Contract Manager, or Designee, the Contract Manager, or Designee, may, at his/her sole discretion, authorize the original personnel to continue to work under the Contract, or authorize the replacement



personnel to replace the original personnel, notwithstanding the original personnel's ability to return.

### 3.11.5 Substitution Prior to and Within thirty (30) Days After Contract Execution

Prior to Contract execution or within thirty (30) days after Contract execution, the Offeror may not substitute proposed Key Personnel except under the following circumstances (a) for actual full-time personnel employed directly by the Offeror: the vacancy occurs due to the sudden termination, resignation, or approved leave of absence due to an Extraordinary Personal Event, or the death of such personnel; and (b) for any temporary staff, Subcontractors or 1099 Contractors: the vacancy occurs due to an Incapacitating event or the death of such personnel. To qualify for such substitution, the Offeror must demonstrate to the MDTA's satisfaction the event necessitating substitution. Proposed substitutions shall be of equal caliber or higher, in the MDTA's sole discretion. Proposed substitutes deemed by the MDTA to be less qualified than the originally proposed individual may be grounds for pre-award disqualification or post-award termination.

### 3.12 Minority Business Enterprise (MBE) Reports

If this solicitation includes an MBE Goal (see Section 4.26), the Contractor shall:

- A. Submit the following reports by the 10th of each month to the Contract Manager, or Designee and the MDTA's MBE Liaison Officer:
  - 1) A Prime Contractor Paid/Unpaid MBE Invoice Report (see **Attachment D-1**) listing any unpaid invoices, over forty-five (45) days old, received from any certified MBE Subcontractor, the amount of each invoice and the reason payment has not been made; and
  - 2) (If Applicable) An MBE Prime Contractor Report (see **Attachment D-2**) identifying an MBE Prime's self-performing work to be counted towards the MBE participation goals.
- B. Include in its agreements with its certified MBE Subcontractors a requirement that those Subcontractors submit an MBE Subcontractor Paid/Unpaid Invoice Report (**Attachment D-5**) by the 10th of each month to the Contract Manager, or Designee, and the MDTA's MBE Liaison Officer that identifies the Contract and lists all payments to the MBE Subcontractor received from the Contractor in the preceding reporting period month, as well as any outstanding invoices, and the amounts of those invoices.
- C. 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, type of work performed by each, and actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
- D. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the MDTA's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for MDTA inspection for three (3) years after final completion of the Contract.
- E. Upon completion of the Contract and before final payment and 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.

### 3.13 Veteran Small Business Enterprise (VSBE) Reports

3.13.1 If this solicitation includes a VSBE Goal (see Section 4.27), the Contractor shall provide the following MBE Monthly Reports based upon the commitment to the goal:

- A. Submit the following reports by the 10th of the month following the reporting period to the Contract Monitor and the MDTA VSBE representative:
  - 1) VSBE Participation Prime Contractor Paid/Unpaid VSBE Invoice Report Listing any unpaid invoices, over 45 days old, received from any VSBE Subcontractor, the amount of each invoice and the reason payment has not been made; and
  - 2) VSBE Participation Subcontractor Paid/Unpaid VSBE Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the VSBE Liaison Officer.
- B. Include in its agreements with its VSBE Subcontractors a requirement that those Subcontractors submit monthly by the 10th of the month following the reporting period to the Contract Monitor and MDTA VSBE representative a report that identifies the prime contract and lists all payments received from Contractor in the preceding reporting period month, as well as any outstanding invoices, and the amount of those invoices.
- C. Maintain such records as are necessary to confirm compliance with its VSBE participation obligations. These records must indicate the identity of VSBE and non-VSBE Subcontractors employed on the Contract, the type of work performed by each, and the actual dollar value of work performed. The subcontract agreement documenting the work performed by all VSBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
- D. 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 VSBE participation obligations. The Contractor must retain all records concerning VSBE participation and make them available for State inspection for three years after final completion of the Contract.

3.13.2 At the option of the MDTA, upon completion of the Contract and before final payment and release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from VSBE Subcontractors.

### 3.14 Work Orders

- A. Services and resources will be provided via a Work Order process. Work shall not begin in advance of the Contract Manager or Designee's approval. A Work Order may be issued for fixed price and time and materials (T&M) pricing.
- B. T&M Work Orders will be issued to include the Labor Categories with the fully loaded rates found on the Awardees **Attachment B-2, Price Proposal Form**. Work Order Requests (See sample at [http://doit.maryland.gov/contracts/Documents/\\_procurementForms/WorkOrderSample.pdf](http://doit.maryland.gov/contracts/Documents/_procurementForms/WorkOrderSample.pdf)) for the provision of services or resources that are within the scope of this RFP will be issued to the Contractor. The Work Order Request will include:
  - 1) Technical requirements and description of the service or resources needed;
  - 2) Performance objectives and/or deliverables, as applicable;

- 3) Due date and time for submitting a response to the request; and
  - 4) Required place(s) where work must be performed.
- C. The Contractor shall e-mail a response to the Contract Manager, or Designee within the specified time and include at a minimum:
- 1) A response that details the Contractor's understanding of the work;
  - 2) A price to complete the Work Order Request using the format provided using the format provided (see online sample);
  - 3) A description of proposed resources required to perform the requested tasks, with labor categories listed in accordance with **Attachment B-2 Financial Proposal Form**;
  - 4) An explanation of how tasks shall be completed. This description shall include proposed Subcontractors and related tasks;
  - 5) Contractor's expectations for MDTA-furnished information, work site, and/or access to equipment, facilities, or personnel; and
  - 6) The proposed personnel resources, including any Subcontractor personnel, to complete the task.
- C. For a T&M Work Order, the Contract Manager, or Designee will review the response and will confirm the proposed labor rates are consistent with this RFP. For a fixed price Work Order, the Contract Manager, or Designee, will review the response and will confirm the proposed prices are acceptable.
- D. The Contract Manager, or Designee, may contact the Contractor to obtain additional information, clarification or revision to the Work Order.
- E. Proposed personnel on any type of Work Order shall be subject to MDTA approval. The Contractor may be asked to furnish resumes of proposed personnel specifying the labor category(ies) proposed. The Contract Manager, or Designee, shall have the option to interview the proposed personnel and, in the event of an interview or not, shall notify the Contractor of acceptance or denial of the personnel.
- F. Performance of services under a Work Order shall commence consistent with an NTP issued by the Contract Manager, or Designee, for such Work Order.

### **3.15 Additional Clauses**

#### **3.15.1 No-Cost Extensions**

In accordance with BPW Advisory 1995-1 item 7.b, in the event there are unspent funds remaining on the Contract, prior to the Contract's expiration date the Procurement Officer may modify the Contract to extend the Contract beyond its expiration date for a period up to, but not exceeding, one-third of the base term of the Contract (e.g., eight-month extension on a two-year contract) for the performance of work within the Contract's scope of work. Notwithstanding anything to the contrary, no funds may be added to the Contract in connection with any such extension.

#### **3.15.2 Toll Free Passage**

The Contractor shall not be permitted toll free passage in the performance of this work.

**END OF SECTION 3**

## 4 Procurement Instructions

### 4.1 Pre-Proposal Conference

- 4.1.1 A pre-Proposal conference (Conference) via Microsoft TEAMS will be held at the date and time indicated on the Key Information Summary Sheet.
- 4.1.2 Attendance at the Conference is not mandatory, but all interested parties are encouraged to attend to facilitate better preparation of their Proposals. If the solicitation includes an MBE goal, failure to attend the Conference will be taken into consideration as part of the evaluation of an Offeror's good faith efforts if there is a waiver request.
- 4.1.3 It is highly recommended that ALL Prime Contractors invite their intended Subcontractors to the Conference to ensure that all parties understand the requirements of the Contract and the MBE Goal.
- 4.1.4 MBE Subcontractors are encouraged to attend the Conference to market their participation to potential Prime Contractors.
- 4.1.5 Following the Conference, the attendance record and summary of the Conference will be distributed via the same mechanism described for amendments and questions (see Section 4.2, eMMA).
- 4.1.6 **Attendees should obtain a copy of the solicitation in order to adequately follow along during the conference.**
- 4.1.7 Please e-mail the Pre-Proposal Conference Response Form (Attachment A) no later than the time and date indicated on the form. In addition, if there is a need for sign language interpretation or other special accommodations due to a disability, please notify the Procurement Officer at least five (5) Business Days prior to the Conference date. The MDTA will make a reasonable effort to provide such special accommodation.

### 4.2 eMaryland Marketplace Advantage (eMMA)

- 4.2.1 eMMA is the electronic commerce system for the State of Maryland. The RFP, Conference summary and attendance sheet, Offerors' questions and the Procurement Officer's responses, addenda, and other solicitation-related information will be made available via eMMA.
- 4.2.2 In order to receive a contract award, a vendor must be registered on eMMA. Registration is free. Go to <https://emma.maryland.gov>, click on "New Vendor? Register Now" to begin the process and follow the prompts.

### 4.3 Questions

- 4.3.1 All questions, including concerns regarding any applicable MBE or VSBE participation goals, shall identify in the subject line, the Solicitation Number and Title (SV-3104-0000 – Internal Auditing Services), and shall be submitted in writing via e-mail to the Procurement Officer no later than the date and time specified the Key Information Summary Sheet. Questions received after the question due date but at least five (5) days before Proposals are due, may be entertained at the MDTA's discretion. The Procurement Officer, based on the availability of time to research and communicate an answer, shall decide whether an answer can be given before the Proposal due date.

- 4.3.2 Answers to all questions that are not clearly specific only to the requestor will be distributed via the same mechanism as for RFP amendments, and posted on eMMA.
- 4.3.3 The statements and interpretations contained in responses to any questions, whether responded to verbally or in writing, are not binding on the MDTA unless it issues an amendment in writing.

#### **4.4 Procurement Method**

A Contract will be awarded in accordance with the Competitive Sealed Proposals method under COMAR 21.05.03.

#### **4.5 Proposal Due (Closing) Date and Time**

- 4.5.1 Proposals, in the number and form set forth in **Section 5, Proposal Format**, must be received by the Procurement Officer no later than the Proposal due date and time indicated on the Key Information Summary Sheet in order to be considered.
- 4.5.2 **Requests for extension of this date or time shall not be granted.**
- 4.5.3 Offerors submitting Proposals should allow sufficient delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02.F and COMAR 21.05.02.10, Proposals received after the due date and time listed in the Key Information Summary Sheet will not be considered.
- 4.5.4 The date and time of an e-mail submission is determined by the date and time of arrival in the e-mail addresses indicated on the Key Information Summary Sheet.
- 4.5.4 Proposals may be modified or withdrawn by written notice received by the Procurement Officer before the time and date set forth in the Key Information Summary Sheet for receipt of Proposals.
- 4.5.5 Proposals may not be submitted by e-mail or facsimile. Proposals will not be opened publicly.
- 4.5.6 Potential Offerors not responding to this solicitation are requested to submit the “Notice to Vendors” form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements).

#### **4.6 Multiple or Alternate Proposals**

Multiple or alternate Proposals will not be accepted.

#### **4.7 Economy of Preparation**

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

#### **4.8 Public Information Act Notice**

- 4.8.1 The Offeror should give specific attention to the clear identification of those portions of its Proposal that it considers confidential and/or proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the MDTA under the Public Information Act, Md. Code Ann., General Provisions Article, Title 4 (See also RFP **Section 5.3.2.B** “Claim of Confidentiality”). This information should be identified by page and section number and

placed after the Title Page and before the Table of Contents in the Technical Proposal and if applicable, separately in the Financial Proposal.

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

#### **4.9 Award Basis**

A Contract shall be awarded to the responsible Offeror(s) submitting the Proposal that has been determined to be the most advantageous to the MDTA, considering price and evaluation factors set forth in this RFP (see COMAR 21.05.03.03F), for providing the goods and services as specified in this RFP. See RFP **Section 6** for further award information.

#### **4.10 Oral Presentation**

Offerors may be required to make oral presentations to MDTA representatives. Oral presentations are considered part of the Technical Proposal. Offerors must confirm in writing any substantive oral clarification of, or change in, their Proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror's Proposal. The Procurement Officer will notify Offerors of the date, time and place of oral presentations via written invitation.

#### **4.11 Duration of Proposal**

Proposals submitted in response to this RFP are irrevocable for the latest of the following: one-hundred eighty (180) days following the Proposal due date and time, best and final offers if requested (see **Section 6.5.2**), or the date any protest concerning this RFP is finally resolved. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

#### **4.12 Revisions to the RFP**

- 4.12.1 If the RFP is revised before the due date for Proposals, the MDTA shall post any addenda to the RFP on eMMA and shall endeavor to provide such addenda to all prospective Offerors that were sent this RFP or are otherwise known by the Procurement Officer to have obtained this RFP. It remains the responsibility of all prospective Offerors to check eMMA for any addenda issued prior to the submission of Proposals.
- 4.12.2 Acknowledgment of the receipt of all addenda to this RFP issued before the Proposal due date shall be included in the Transmittal Letter accompanying the Offeror's Technical Proposal.
- 4.12.3 Addenda made after the due date for Proposals will be sent only to those Offerors that remain under award consideration as of the issuance date of the addenda.
- 4.12.4 Acknowledgement of the receipt of addenda to the RFP issued after the Proposal due date shall be in the manner specified in the addendum notice.
- 4.12.5 Failure to acknowledge receipt of an addendum does not relieve the Offeror from complying with the terms, additions, deletions, or corrections set forth in the addendum, and may cause the Proposal to be deemed not reasonably susceptible of being selected for award.

#### **4.13 Cancellations**



- 4.13.1 The MDTA 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, waive or permit the cure of minor irregularities, and conduct discussions with all qualified or potentially qualified Offerors in any manner necessary to serve the best interests of the MDTA.
- 4.13.2 The MDTA reserves the right, in its sole discretion, to award a Contract based upon the written Proposals received without discussions or negotiations.
- 4.13.3 In the event a government entity proposes and receives the recommendation for award, the procurement may be cancelled and the award processed in accordance with COMAR 21.01.03.01. A(4).
- 4.13.4 If the services that are the subject of the RFP are currently being provided under an interagency agreement with a public institution of higher education and the MDTA determines that the services can be provided more cost effectively by the public institution of higher education, then the RFP may be cancelled in accordance with Md. Code Ann., State Finance and Procurement Article, §3-207(b)(2).

#### **4.14 Incurred Expenses**

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

#### **4.15 Protest/Disputes**

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

#### **4.16 Offeror Responsibilities**

- 4.16.1 Offerors must be able to provide all goods and services and meet all of the requirements requested in this solicitation and the successful Offeror shall be responsible for Contract performance including any Subcontractor participation.
- 4.16.2 All Subcontractors shall be identified and a complete description of their role relative to the Proposal shall be included in the Offeror's Proposal. If applicable, Subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate Attachment(s) to this RFP (see Section 4.26 "Minority Participation Goal" and Section 4.27 "VSBE Goal").
- 4.16.3 If the Offeror is the subsidiary of another entity, all information submitted by the Offeror, including but not limited to references, financial reports, or experience and documentation (e.g. insurance policies, bonds, letters of credit) used to meet minimum qualifications, if any, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's Proposal shall contain an explicit statement, signed by an authorized representative of the parent organization, stating that the parent organization will guarantee the performance of the subsidiary.
- 4.16.4 A parental guarantee of the performance of the Offeror under this Section will not automatically result in crediting the Offeror with the experience or qualifications of the parent under any evaluation criteria pertaining to the actual Offeror's experience and qualifications. Instead, the

Offeror will be evaluated on the extent to which the MDTA determines that the experience and qualifications of the parent are applicable to and shared with the Offeror, any stated intent by the parent to be directly involved in the performance of the Contract, and the value of the parent's participation as determined by the MDTA.

#### 4.17 Acceptance of Terms and Conditions

By submitting a Proposal in response to this RFP, the Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached hereto as **Attachment M**. Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary of the Technical Proposal. **All exceptions will be taken into consideration when evaluating the Offeror's Proposal. The MDTA reserves the right to accept or reject any exceptions.**

#### 4.18 Bid/Proposal Affidavit

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

#### 4.19 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 N** of this RFP. This Affidavit must be provided within ten (10) Business Days of notification of recommended award. For purposes of completing Section "B" of this Affidavit (Certification of Registration or Qualification with the State Department of Assessments and Taxation), a business entity that is organized outside of the State of Maryland is considered a "foreign" business.

#### 4.20 Compliance with Laws/Arrearages

- 4.20.1 By submitting a Proposal in response to this RFP, the Offeror, if selected for award, agrees that it will comply with all federal, State, and local laws applicable to its activities and obligations under the Contract.
- 4.20.2 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 shall not become so in arrears during the term of the Contract if selected for Contract award.

#### 4.21 Verification of Registration and Tax Payment

- 4.21.1 Before a business entity can do business in the State, it must be registered with the State Department of Assessments and Taxation (SDAT). SDAT is located at State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. For registration information, visit <https://www.egov.maryland.gov/businessexpress>.
- 4.21.2 It is strongly recommended that any potential Offeror complete registration prior to the Proposal due date and time. The Offeror's failure to complete registration with SDAT may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

#### 4.22 False Statements



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

**4.22.1 In connection with a procurement contract a person may not willfully:**

- A. Falsify, conceal, or suppress a material fact by any scheme or device.
- B. Make a false or fraudulent statement or representation of a material fact.
- C. Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.

4.22.2 A person may not aid or conspire with another person to commit an act under **Section 4.22.1**.

4.22.3 A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding five (5) years or both.

**4.23 Payments by Electronic Funds Transfer**

4.23.1 By submitting a Proposal in response to this solicitation, the Offeror, if selected for award, shall register using the Maryland Transportation Authority (MDTA) Vendor Electronic Funds Transfer (EFT) Registration Request Form, (see Exhibit 1). Any request for exemption must be submitted to the MDTA's Office of Finance for approval at the address specified on the EFT Registration Request Form and must include the business identification information as stated on the form and the reason for the exemption.

**4.24 Prompt Payment Policy**

This procurement and the Contract(s) to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Small, Minority & Women Business Affairs (GOSBA) and dated August 1, 2008. Promulgated pursuant to Md. Code Ann., State Finance and Procurement Article, §§ 11-201, 13-205(a), and Title 14, Subtitle 3, and COMAR 21.01.01.03 and 21.11.03.01, the Directive seeks to ensure the prompt payment of all Subcontractors on non-construction procurement Contracts. The Contractor shall comply with the prompt payment requirements outlined in the Contract, Section 31 "Prompt Pay Requirements" (see Attachment M). Additional information is available on GOSBA's website at:

<http://www.gomdsmallbiz.maryland.gov/documents/legislation/promptpaymentfaqs.pdf>.

**4.25 Electronic Procurements Authorized**

4.25.1 Under COMAR 21.03.05, unless otherwise prohibited by law, the MDTA may conduct procurement transactions by electronic means, including the solicitation, proposing, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.

4.25.2 Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or Contract. In the case of electronic transactions authorized by this RFP, electronic records and signatures by an authorized representative satisfy a requirement for written submission and signatures.

- 4.25.3 “Electronic means” refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://emma.maryland.gov>), and electronic data interchange.
- 4.25.4 In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., RFP § 4.23 describing payments by Electronic Funds Transfer), the following transactions are authorized to be conducted by electronic means on the terms as authorized in COMAR 21.03.05:
- A. The Procurement Officer may conduct the procurement using eMMA or e-mail to issue:
    - 1) The RFP;
    - 2) Any amendments and requests for best and final offers;
    - 3) Pre-Proposal conference documents;
    - 4) Questions and responses;
    - 5) Communications regarding the solicitation or Proposal to any Offeror or potential Offeror;
    - 6) Notices of award selection or non-selection; and
    - 7) The Procurement Officer’s decision on any Proposal protest or Contract claim.
  - b. The Offeror or potential Offeror may use eMMA or e-mail to:
    - 1) Ask questions regarding the solicitation;
    - 2) Reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer’s request or direction to reply by e-mail, but only on the terms specifically approved and directed by the Procurement Officer; and
    - 3) Submit a "No Proposal Response" to the RFP.
  - a. The Procurement Officer, the Contract Manager, or Designee, and the Contractor may conduct day-to-day Contract administration, except as outlined in **Section 4.25.5** of this subsection, utilizing e-mail or other electronic means if authorized by the Procurement Officer or Contract Manager, or Designee.
- 4.25.5 The following transactions related to this procurement and any Contract awarded pursuant to it are **not authorized** to be conducted by electronic means:
- A. Submission of initial Proposals;
  - B. Filing of protests;
  - C. Filing of Contract claims;
  - D. Submission of documents determined by the MDTA to require original signatures (e.g., Contract execution, Contract modifications); or
  - E. Any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Offeror be provided in writing or hard copy.
- 4.25.6 Any e-mail transmission is only authorized to the e-mail addresses for the identified person as provided in the solicitation, the Contract, or in the direction from the Procurement Officer or Contract Manager, or Designee.

## **4.26 MBE Participation Goal**

- 4.26.1 Establishment of Goal and Subgoals.

- 4.26.1.1 An overall MBE Subcontractor participation goal of thirty-percent (30%) as identified in the Key Information Summary Sheet, has been established for this procurement, representing a percentage of the total Contract dollar value, including all renewal option terms, if any, has been established for this procurement.
- 4.26.1.2 Notwithstanding any subgoals established for this RFP, the Contractor is encouraged to use a diverse group of Subcontractors and Suppliers from any/all of the various MBE classifications to meet the remainder of the overall MBE participation goal.
- 4.26.1.3 By submitting a response to this solicitation, the Offeror acknowledges the overall MBE Subcontractor participation goal and subgoals and commits to achieving the overall goal and subgoals by utilizing certified minority business enterprises or requests a full or partial waiver of the overall goal and subgoals.

**An Offeror that does not commit to meeting the entire MBE participation goal outlined in this Section 4.26 implies that it is requesting a full or partial waiver for the remainder of the MBE goal or subgoals as applicable and, if recommended for award, shall submit documentation supporting its good faith efforts to meet the MBE goal made prior to submission of its proposal as outlined in Attachment D-Form E Part 1, Waiver Guidance. Failure of an Offeror to properly complete, sign, and submit Attachment D-Form A at the time it submits its Technical Response(s) to the RFP may result in the MDTA's rejection of the Offeror's Proposal.**

**4.26.2 There are no MBE Subcontractor participation sub-goals for this procurement.**

**4.26.3 MBE Attachments:**

4.26.3.1 The Offeror shall include with its Technical Proposal, a completed MBE Utilization and Fair Solicitation Affidavit, MBE Form A, and a completed MBE Participation Schedule, MBE Form B (See **Attachment D - MBE Forms A and B**), whereby:

1. The Offeror acknowledges the certified MBE participation goal and commits to make a good faith effort to achieve the goal and any applicable subgoals, or requests a waiver, and affirms that MBE Subcontractors were treated fairly in the solicitation process; and
2. The Offeror responds to the expected degree of MBE participation, as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of Proposal submission. The Offeror shall specify the percentage of total contract value associated with each MBE Subcontractor identified on the MBE participation schedule, including any work performed by the MBE Prime (including a Prime participating as a joint venture) to be counted towards meeting the MBE participation goals.
3. The Offeror requesting a waiver should review **Attachment D-MBE Form E, Part 1** (Waiver Guidance) and **D-Form E, Part 2** (Good Faith Efforts Documentation to Support Waiver Request) prior to submitting its request.
4. Use the attached forms only.

***If the Offeror fails to submit completed MBE Forms A and B with the Technical Proposal as required, the Procurement Officer shall determine that the Technical Proposal is not reasonably susceptible of being selected for award, unless the inaccuracy is determined to be the result of a minor irregularity that is waived or cured in accordance with COMAR 21.06.02.04.***

- 4.26.3.2 Within ten (10) business days from notification that it is the apparent awardee, the apparent awardee shall provide the following documentation to the Procurement Officer:
- (1) A completed MDOT MBE Form C, Outreach Efforts Compliance Statement.
  - (2) A completed MDOT MBE Form D, Subcontractor Project Participation Affidavit.
  - (3) Any other documentation required by the Procurement Officer to ascertain Offeror responsibility in connection with the certified MBE Subcontractor participation goal or any applicable subgoals.
  - (4) If the apparent awardee has requested a waiver (in whole or part) of the overall MBE goal or any subgoal as part of the previously submitted MBE Form A, it shall submit: a completed MBE Form E, Good Faith Efforts Guidance and Documentation Form; and documentation supporting the waiver request that complies with COMAR 21.11.03.11, within the ten (10) business days, along with **MBE Forms C and D**.

*If the recommended awardee fails to return each completed document identified above, within the required time, the Procurement Officer may determine that the recommended awardee is not responsible and, therefore, not eligible for Contract award. If the Contract has already been awarded, the award is voidable.*

- 4.26.3.3 Offerors are responsible for verifying that each MBE (including any MBE Prime and MBE Prime participating in a joint venture) selected to meet the goal and any subgoals and subsequently identified in any of the above forms is appropriately certified and has the correct NAICS codes allowing it to perform the committed work.
- 4.26.3.4 A current directory of certified MBEs is available through the Maryland State Department of Transportation (MDOT), Office of Minority Business Enterprise, 7201 Corporate Center Drive, Hanover, Maryland 21076. The phone numbers are (410) 865-1269, 1-800-544-6056, or TTY (410) 865-1342. The directory is also available on the MDOT website at <http://mbe.mdot.maryland.gov/directory/>. The most current and up-to-date information on MBEs is available via this website. **Only MDOT-certified MBEs may be used to meet the MBE subcontracting goals.**
- 4.26.3.5 The Offeror that requested or implied to request a waiver of the goal or any of the applicable subgoals will be responsible for submitting the Good Faith Efforts Documentation to Support Waiver Request (**Attachment D- MBE Form E**) as indicated in 4.26.3.2 (4) above.
- 4.26.3.6 All documents, including the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (**Attachment D - Forms A and B**), completed and submitted by the Offeror in connection with its certified MBE participation commitment shall be considered a part of the Contract and are hereby expressly incorporated into the Contract by reference thereto. All of the referenced documents will be considered a part of the Proposal for order of precedence purposes (see Contract – **Attachment M, Section 2.1**).
- 4.26.3.7 The Offeror is advised that liquidated damages will apply in the event the Contractor fails to comply in good faith with the requirements of the MBE program and pertinent Contract provisions. (See Contract – **Attachment M, Liquidated Damages for MBE, Section 39**).
- 4.26.3.8 As set forth in COMAR 21.11.03.12-1(D), when a certified MBE firm participates on a contract as a Prime Contractor (including a joint-venture where the MBE firm is a partner), a

procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own work force towards fulfilling up to fifty-percent (50%) of the MBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the contract.

- 4.26.3.9 In order to receive credit for self-performance, an MBE Prime must list its firm in Column 1 of the MBE Participation Schedule (**Attachment D – Form B**) and include information regarding the work it will self-perform. For the remaining portion of the overall goal and the subgoals, the MBE Prime must also identify other certified MBE Subcontractors [see Column 2 of the MBE Participation Schedule (**Attachment D - Form B**)] used to meet those goals. If dually-certified, the MBE Prime can be designated as only one of the MBE subgoal classifications but can self-perform up to 100% of the stated subgoal.
- 4.26.3.10 As set forth in COMAR 21.11.03.12-1, once the Contract work begins, the work performed by a certified MBE firm, including an MBE Prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract. Refer to the MBE forms (**Attachment D**) for additional information.
- 4.26.3.11 **Notice to Offerors.** Questions or concerns regarding the Minority Business Enterprise (MBE) participation goal of this solicitation must be raised before the due date for submission of Proposals.

## 4.27 VSBE Participation Goal

### 4.27.1 Purpose

- A. The Contractor shall structure its procedures for the performance of the work required in the Contract to attempt to achieve the VSBE participation goal stated in this solicitation. VSBE performance must be in accordance with this section and **Attachment E**, as authorized by COMAR 21.11.13. The Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this section and **Attachment E**.
- B. A certified Veteran-Owned Small Business Enterprises (VSBE) must be verified by the State Department of Veterans Affairs or US Department of Veteran's Affairs (VetBiz) <https://www.va.gov/osdbu/verification/> and registered as a VSBE on the State's eProcurement platform, eMaryland Marketplace Advantage (eMMA). The listing of VSBEs is available through the "Vendor Search" on eMMA.

### 4.27.2 VSBE Goal

- A. A VSBE participation goal of 0.05% of the total Contract dollar amount has been established for this procurement as identified in the Key Information Summary Sheet.
- B. By submitting a response to this solicitation, the Offeror agrees that this percentage of the total dollar amount of the Contract will be performed by verified veteran-owned small business enterprises.

### 4.27.3 Solicitation and Contract Formation

- A. In accordance with COMAR 21.11.13.05 (A)(2), this solicitation requires Offerors to:

- 1) Identify specific work categories within the scope of the procurement appropriate for subcontracting;
  - 2) Solicit VSBEs before Proposals are due, describing the identified work categories and providing instructions on how to bid on the subcontracts;
  - 3) Attempt to make personal contact with the VSBEs solicited and to document these attempts;
  - 4) Assist VSBEs to fulfill, or to seek waiver of, bonding requirements; and
  - 5) Attempt to attend preproposal or other meetings the procurement agency schedules to publicize contracting opportunities to VSBEs.
- B. The Offeror must include with its Proposal a completed VSBE Utilization Affidavit and Prime/Subcontractor Participation Schedule (**Attachment E-1**) whereby the Offeror:
- 1) Acknowledges it: a) intends to meet the VSBE participation goal; or b) requests a full or partial waiver of the VSBE participation goal. If the Offeror commits to the full VSBE goal or requests a partial waiver, it shall commit to making a good faith effort to achieve the stated goal; and
  - 2) Responds to the expected degree of VSBE participation as stated in the solicitation, by identifying the specific commitment of VSBEs at the time of Proposal submission. The Offeror shall specify the percentage of contract value associated with each VSBE Prime/Subcontractor identified on the VSBE Participation Schedule.
- C. As set forth in COMAR 21.11.14.05.B(2), when a verified VSBE firm participates on a Contract as a Prime Contractor, a procurement agency may count the distinct, clearly defined portion of the work of the contract that the VSBE Prime Contractor performs with its own work force towards meeting up to one hundred percent (100%) of the VSBE goal.
- D. To receive credit for self-performance, a VSBE Prime must list its firm in the VSBE Prime/Subcontractor Participation Schedule (Attachment E-1) and include information regarding the work it will self-perform. For any remaining portion of the VSBE goal that is not to be performed by the VSBE Prime, the VSBE Prime must also identify verified VSBE Subcontractors used to meet the remainder of the goal.
- E. Within ten (10) Business Days from notification that it is the apparent awardee, the awardee must provide the following documentation to the Procurement Officer:
- 1) VSBE Project Participation Statement (**Attachment E-2**);
  - 2) If the apparent awardee believes a full or partial waiver of the overall VSBE goal is necessary, it must submit a fully documented waiver request that complies with COMAR 21.11.14.07; and
  - 3) Any other documentation required by the Procurement Officer to ascertain Offeror responsibility in connection with the VSBE participation goal.

***If the apparent awardee fails to return each completed document within the required time, the Procurement Officer may determine that the apparent awardee is not reasonably susceptible of being selected for award.***

#### **4.28 Living Wage Requirements**

- A. Maryland law requires that contractors meeting certain conditions pay a living wage to covered employees on State service contracts over \$100,000. Maryland Code Ann., State Finance and Procurement Article, § 18-101 et al. The Commissioner of Labor and Industry at the Maryland Department of Labor requires that a contractor subject to the Living Wage law submit payroll



records for covered employees and a signed statement indicating that it paid a living wage to covered employees; or receive a waiver from Living Wage reporting requirements. See COMAR 21.11.10.05.

- B. If subject to the Living Wage law, Contractor agrees that it will abide by all Living Wage law requirements, including but not limited to reporting requirements in COMAR 21.11.10.05. Contractor understands that failure of Contractor to provide such documents is a material breach of the terms and conditions and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions. Information pertaining to reporting obligations may be found by going to the Maryland Department of Labor website <http://www.dllr.state.md.us/labor/prev/livingwage.shtml>.
- C. Additional information regarding the State's living wage requirement is contained in Attachment F. Offerors must complete and submit the Maryland Living Wage Requirements Affidavit of Agreement (Attachment F-1) with their Proposals. If the Offeror fails to complete and submit the required documentation, the State may determine the Offeror to not be responsible under State law.
- D. Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier area. The specific living wage rate is determined by whether a majority of services take place in a Tier 1 Area or a Tier 2 Area of the State. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State.
  - 1) The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State Contract pursuant to §18-102(d) of the State Finance and Procurement Article shall assign the tier based upon where the recipients of the services are located. If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located. In this circumstance, the Contract will be determined to be a Tier 1 Contract.
  - 2) The Contract will be determined to be a Tier 1 Contract or a Tier 2 Contract depending on the location(s) from which the Contractor provides 50% or more of the services. The Offeror must identify in its Proposal the location(s) from which services will be provided, including the location(s) from which 50% or more of the Contract services will be provided.
  - 3) If the Contractor provides 50% or more of the services from a location(s) in a Tier 1 jurisdiction(s) the Contract will be a Tier 1 Contract.
  - 4) If the Contractor provides 50% or more of the services from a location(s) in a Tier 2 jurisdiction(s), the Contract will be a Tier 2 Contract.
- E. If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located. See COMAR 21.11.10.07.
- F. The Offeror shall identify in the Proposal the location from which services will be provided.

- G. **NOTE:** Whereas the Living Wage may change annually, the Contract price will not change because of a Living Wage change or a change in the State minimum wage.

**If applicable, the Contract resulting from this solicitation has been deemed to be a Tier 1 Contract.**

#### **4.29 Federal Funding Acknowledgement**

This Contract does not contain federal funds.

#### **4.30 Conflict of Interest Affidavit and Disclosure**

- 4.30.1 The Offeror shall complete and sign the Conflict of Interest Affidavit and Disclosure (Attachment H) and submit it with its Proposal.
- 4.30.2 By submitting a Conflict of Interest Affidavit and Disclosure, the Contractor shall be construed as certifying all Contractor Personnel and Subcontractors are also without a conflict of interest as defined in COMAR 21.05.08.08A.
- 4.30.3 Additionally, a Contractor has an ongoing obligation to ensure that all Contractor Personnel are without conflicts of interest prior to providing services under the Contract. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08.
- 4.30.4 Participation in Drafting of Specifications: Disqualifying Event: Offerors are advised that Md. Code Ann. State Finance and Procurement Article §13-212.1(a) provides generally that “an individual who assists an executive unit in the drafting of specifications, an invitation for bids, a request for proposals for a procurement, or the selection or award made in response to an invitation for bids or a request for proposals, or a person that employs the individual, may not: (1) submit a bid or proposal for that procurement; or (2) assist or represent another person, directly or indirectly, who is submitting a bid or proposal for that procurement.” Any Offeror submitting a Proposal in violation of this provision shall be classified as “not responsible.” See COMAR 21.05.03.03.

#### **4.31 Non-Disclosure Agreement**

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

#### **4.32 HIPAA Business Associate Agreement**

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

#### **4.33 Non-Visual Access**

This solicitation does not contain Information Technology (IT) provisions requiring Nonvisual Access.

#### **4.34 Mercury and Products That Contain Mercury**

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

#### **4.35 Location of the Performance of Services Disclosure**

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



**4.36 Department of Human Services (DHS) Hiring Agreement**

This solicitation does not require a DHS Hiring Agreement.

**4.37 Small Business Reserve (SBR) Procurement**

This solicitation is not designated as a Small Business Reserve (SBR) Procurement.

**4.38 Maryland Healthy Working Families Act Requirements**

On February 11, 2018, the Maryland Healthy Working Families Act went into effect. All offerors should be aware of how this Act could affect your potential contract award with the State of Maryland. See the Department of Labor web site for Maryland Healthy Working Families Act Information: <http://dllr.maryland.gov/paidleave/>.

**END OF SECTION 4**

## 5 Proposal Format

### 5.1 Two Part Submission

Offerors shall submit Proposals in separate volumes:

- Volume I – Technical Proposal
- Volume II – Financial Proposal

### 5.2 Proposal Delivery and Packaging

5.2.1 Proposals delivered by facsimile and e-mail shall not be considered.

5.2.2 Provide no pricing information in the Technical Proposal or on the materials submitted with the Technical Proposal.

5.2.3 Offerors may submit Proposals by hand-delivery or by mail as described below to the address provided in the Key Information Summary Sheet:

- A. Any Proposal received at the appropriate mailroom, or typical place of mail receipt, for the respective procuring unit by the time and date listed on the Key Information Summary Sheet will be deemed to be timely. The MDTA recommends a delivery method for which both the date and time of receipt can be verified.
- B. For hand-delivery, Offerors are advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery. Hand-delivery includes delivery by commercial carrier acting as agent for the Offeror.

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

5.2.5 Offerors shall provide their Proposals in two separately sealed and labeled packages as follows:

- A. Volume I - Technical Proposal consisting of:
  - 1) One (1) original executed Technical Proposal and all supporting material marked and sealed,
  - 2) Four (4) duplicate copies of the above separately marked and sealed,
  - 3) an electronic version of the Technical Proposal in Microsoft Word format, version 2007 or greater,
  - 4) the Technical Proposal in searchable Adobe PDF format, and a second searchable Adobe PDF copy of the Technical Proposal with confidential and proprietary information redacted (see **Section 4.8**).
- B. Volume II - Financial Proposal consisting of:
  - 1) One (1) original executed Financial Proposal and all supporting material marked and sealed,
  - 2) Four (4) duplicate copies of the above separately marked and sealed,

- 3) An electronic version of the Financial Proposal in searchable Adobe PDF format, and
- 4) A second searchable Adobe pdf copy of the Financial Proposal, with confidential and proprietary information redacted (see **Section 4.8**).

5.2.6 Affix the following to the outside of each sealed Proposal. Include the name, email address, and telephone number of a contact person for the Offeror be included on the outside of the packaging for each volume. Unless the resulting package will be too unwieldy, the MDTA's preference is for the separately sealed Technical and Financial Proposals to be submitted together in a single package to the Procurement Officer and including a label bearing:

- RFP title and number,
- Name and address of the Offeror, and
- Closing date and time for receipt of Proposals

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

### **5.3 Volume I - Technical Proposal**

**NOTE: Omit all pricing information from the Technical Proposal (Volume I). Include pricing information only in the Financial Proposal (Volume II).**

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

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

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

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

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

Any information which is claimed to be confidential and/or proprietary information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical Proposal, and if applicable, separately in the Financial Proposal. An explanation for each claim of confidentiality shall be included (see **Section 4.8 "Public Information Act Notice"**). The entire Proposal cannot be given a blanket confidentiality designation - any confidentiality designation must apply to specific sections, pages, or portions of pages of the Proposal and an explanation for each claim shall be included.

C. Offeror Information Sheet and Transmittal Letter (Submit under TAB B)

The Offeror Information Sheet (see **Appendix 2**) and a Transmittal Letter shall accompany the Technical Proposal. The purpose of the Transmittal Letter is to transmit the Proposal and

acknowledge the receipt of any addenda to this RFP issued before the Proposal due date and time. Transmittal Letter should be brief, be signed by an individual who is authorized to commit the Offeror to its Proposal and the requirements as stated in this RFP.

D. Executive Summary (Submit under TAB C)

1. The Offeror shall condense and highlight the contents of the Technical Proposal in a separate section titled “Executive Summary.” In addition, the Summary shall indicate whether the Offeror is the subsidiary of another entity, and if so, whether all information submitted by the Offeror pertains exclusively to the Offeror. If not, the subsidiary Offeror shall include a guarantee of performance from its parent organization as part of its Executive Summary (see **Section 4.16 “Offeror Responsibilities”**).
2. The Executive Summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (**Attachment M**), or any other exhibits or attachments. Acceptance or rejection of exceptions is within the sole discretion of the MDTA. **Exceptions to terms and conditions, including requirements, may result in having the Proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award.**

E. Minimum Qualifications Documentation (Submit under TAB D)

The Offeror shall submit any Minimum Qualifications documentation that may be required, as set forth in RFP **Section 1**. If references are required in **RFP Section 1**, those references shall be submitted in this section and shall contain the information described in **Section 1** and **Section 5.3.2.1**.

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

1. The Offeror shall address each RFP requirement (**RFP Section 2** and **Section 3**) in its Technical Proposal with a cross reference to the requirement and describe how its proposed goods and services, including the goods and services of any proposed Subcontractor(s), will meet or exceed the requirement(s). If the MDTA is seeking Offeror agreement to any requirement(s), the Offeror shall state its agreement or disagreement. Any paragraph in the Technical Proposal that responds to an RFP requirement shall include an explanation of how the work will be performed. The response shall address each requirement in **Section 2** and **Section 3** in order and shall contain a cross reference to the requirement.
2. **Any exception to a requirement, term, or condition may result in having the Proposal classified as not reasonably susceptible of being selected for award or the Offeror deemed not responsible.**
3. The Offeror shall give a definitive section-by-section description of the proposed plan to meet the requirements of the RFP, i.e., a Work Plan. The Work Plan shall include the specific methodology, techniques, and number of staff, if applicable, to be used by the Offeror in providing the required goods and services as outlined in RFP **Section 2**, Contractor Requirements: Scope of Work. The description shall include an outline of the overall management concepts employed by the Offeror and a project management plan, including project control mechanisms and overall timelines. Project deadlines considered contract deliverables must be recognized in the Work Plan.

4. The Offeror shall identify the location(s) from which it proposes to provide services, including, if applicable, any current facilities that it operates, and any required construction to satisfy the MDTA's requirements as outlined in this RFP.
5. The Offeror shall provide a draft Problem Escalation Procedure (PEP) that includes, at a minimum, titles of individuals to be contacted by the Contract Manager, or Designee, should problems arise under the Contract and explains how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. Final procedures shall be submitted as indicated in **Section 3.8**.

**G. Experience and Qualifications of Proposed Staff (Submit under TAB F)**

As part of the evaluation of the Proposal for this RFP, Offerors shall propose exactly three (3) key resources and shall describe in a Staffing Plan how additional resources shall be acquired to meet the needs of the MDTA. All other planned positions shall be described generally in the Staffing Plan and may not be used as evidence of fulfilling company or personnel minimum qualifications. The Offeror shall identify the qualifications and types of staff proposed to be utilized under the Contract including information in support of the Personnel Experience criteria in **Appendix 3**. Specifically, the Offeror shall:

1. Describe in detail how the proposed staff's experience and qualifications relate to their specific responsibilities, including any staff of proposed Subcontractor(s), as detailed in the Work Plan.
2. Include individual resumes for Key Personnel, including Key Personnel for any proposed Subcontractor(s), who are to be assigned to the project if the Offeror is awarded the Contract. Each resume should include the amount of experience the individual has had relative to the Scope of Work set forth in this solicitation.
3. Include letters of intended commitment to work on the project, including letters from any proposed Subcontractor(s). Offerors should be aware of restrictions on substitution of Key Personnel prior to RFP award (see Substitution Prior to and Within thirty (30) Days After Contract Execution in Section 3.12.5).
4. Provide an Organizational Chart outlining Personnel and their related duties. The Offeror shall include job titles and the percentage of time each individual will spend on his/her assigned tasks. Offerors using job titles other than those commonly used by industry standards must provide a crosswalk reference document.
5. If proposing differing personnel work hours than identified in the RFP, describe how and why it proposes differing personnel work hours.

**H. Offeror Qualifications and Capabilities (Submit under TAB G)**

The Offeror shall include information on past experience with similar projects and services including information in support of the Offeror Experience criteria in **Section 3.10.1**. The Offeror shall describe how its organization can meet the requirements of this RFP and shall also include the following information:

- 1) The number of years the Offeror has provided the similar goods and services;
- 2) The number of clients/customers and geographic locations that the Offeror currently serves;
- 3) The names and titles of headquarters or regional management personnel who may be involved with supervising the services to be performed under the Contract;

- 4) The Offeror's process for resolving billing errors; and
- 5) An organizational chart that identifies the complete structure of the Offeror including any parent company, headquarters, regional offices, and subsidiaries of the Offeror.

**I. References (Submit under TAB H)**

At least three (3) references are requested from customers who are capable of documenting the Offeror's ability to provide the goods and services specified in this RFP. References used to meet any Minimum Qualifications (see RFP **Section 1**) may be used to meet this request. Each reference shall be from a client for whom the Offeror has provided goods and services within the past five (5) years and shall include the following information:

- 1) Name of client organization;
- 2) Name, title, telephone number, and e-mail address, if available, of point of contact for client organization; and
- 3) Value, type, duration, and description of goods and services provided.

The MDTA reserves the right to request additional references or utilize references not provided by the Offeror. Points of contact must be accessible and knowledgeable regarding Offeror performance.

**J. List of Current or Prior State Contracts (Submit under TAB I)**

Provide a list of all Contracts with any entity of the State of Maryland for which the Offeror is currently performing goods and services or for which services have been completed within the last five (5) years. For each identified contract, the Offeror is to provide:

- 1) The State contracting entity;
- 2) A brief description of the goods and services provided;
- 3) The dollar value of the contract;
- 4) The term of the contract;
- 5) The State employee contact person (name, title, telephone number, and, if possible, e-mail address); and
- 6) Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised.

Information obtained regarding the Offeror's level of performance on State of Maryland Contracts will be used by the Procurement Officer to determine the responsibility of the Offeror and considered as part of the experience and past performance evaluation criteria of the RFP.

**K. Financial Capability (Submit under TAB J)**

1. The Offeror must include in its Proposal a commonly-accepted method to prove its fiscal integrity. If available, the Offeror shall include Financial Statements, preferably a Profit and Loss (P&L) statement and a Balance Sheet, for the last two (2) years (independently audited preferred).
2. In addition, the Offeror may supplement its response to this Section by including one or more of the following with its response:
  - a) Dun & Bradstreet Rating;
  - b) Standard and Poor's Rating;

- c) Lines of credit;
- d) Evidence of a successful financial track record; and
- e) Evidence of adequate working capital.

L. Certificate of Insurance (Submit under TAB K)

The Offeror shall provide a copy of its current certificate of insurance showing the types and limits of insurance in effect as of the Proposal submission date. The current insurance types and limits do not have to be the same as described in **Section 3.6**. See **Section 3.6** for the required insurance certificate submission for the apparent awardee.

M. Subcontractors (Submit under TAB L)

The Offeror shall provide a complete list of all Subcontractors that will work on the Contract if the Offeror receives an award, including those utilized in meeting the MBE and VSBE Subcontracting goal(s), if applicable. This list shall include a full description of the duties each Subcontractor will perform and why/how each Subcontractor was deemed the most qualified for this project. If applicable, Subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate attachment(s) of this RFP.

N. Legal Action Summary (Submit under TAB M)

This summary shall include:

- 1) A statement as to whether there are any outstanding legal actions or potential claims against the Offeror and a brief description of any action;
- 2) A brief description of any settled or closed legal actions or claims against the Offeror over the past five (5) years;
- 3) A description of any judgments against the Offeror within the past five (5) years, including the court, case name, complaint number, and a brief description of the final ruling or determination; and
- 4) In instances where litigation is ongoing and the Offeror has been directed not to disclose information by the court, provide the name of the judge and location of the court.

O. Economic Benefit Factors (Submit under TAB N)

- 1) The Offeror shall submit with its Proposal a narrative describing benefits that will accrue to the Maryland economy as a direct or indirect result of its performance of the Contract. Proposals will be evaluated to assess the benefit to Maryland's economy specifically offered. The economic benefit offered should be consistent with the Offeror's Total Proposal Price from **Attachment B-2**, the Financial Proposal Form. See COMAR 21.05.03.03A (3).
- 2) Proposals that identify specific benefits as being contractually enforceable commitments will be rated more favorably than Proposals that do not identify specific benefits as contractual commitments, all other factors being equal.
- 3) Offerors shall identify any performance guarantees that will be enforceable by the State if the full level of promised benefit is not achieved during the Contract term.



- 4) As applicable, for the full duration of the Contract, including any renewal period, or until the commitment is satisfied, the Contractor shall provide to the Procurement Officer or other designated agency personnel reports of the actual attainment of each benefit listed in response to this section. These benefit attainment reports shall be provided quarterly, unless elsewhere in these specifications a different reporting frequency is stated.
- 5) In responding to this section, the following do not generally constitute economic benefits to be derived from the Contract:
  - a) generic statements that the State will benefit from the Offeror's superior performance under the Contract;
  - b) descriptions of the number of Offeror employees located in Maryland other than those that will be performing work under the Contract; or
  - c) tax revenues from Maryland-based employees or locations, other than those that will be performing, or used to perform, work under the Contract.
- 6) Discussion of Maryland-based employees or locations may be appropriate if the Offeror makes some projection or guarantee of increased or retained presence based upon being awarded the Contract.
- 7) Examples of economic benefits to be derived from a contract may include any of the following. For each factor identified below, identify the specific benefit and contractual commitments and provide a breakdown of expenditures in that category:
  - a) The Contract dollars to be recycled into Maryland's economy in support of the Contract, through the use of Maryland Subcontractors, suppliers and joint venture partners. **Do not include actual fees or rates paid to Subcontractors or information from your Financial Proposal;**
  - b) The number and types of jobs for Maryland residents resulting from the Contract. Indicate job classifications, number of employees in each classification and the aggregate payroll to which the Offeror has committed, including contractual commitments at both Prime and, if applicable, Subcontract levels; and whether Maryland employees working at least thirty (30) hours per week and are employed at least one-hundred twenty (120) days during a twelve (12) month period will receive paid leave. If no new positions or subcontracts are anticipated as a result of the Contract, so state explicitly;
  - c) Tax revenues to be generated for Maryland and its political subdivisions as a result of the Contract. Indicate tax category (sales taxes, payroll taxes, inventory taxes and estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from the Contract;
  - d) Subcontract dollars committed to Maryland small businesses and MBEs; and
  - e) Other benefits to the Maryland economy which the Offeror promises will result from awarding the Contract to the Offeror, including contractual commitments. Describe the benefit, its value to the Maryland economy, and how it will result from, or because of the Contract award. Offerors may commit to benefits that are not directly attributable to the Contract, but for which the Contract award may serve as a catalyst or impetus.

P. Technical Proposal - Required Forms and Certifications (Submit under TAB O)

- 1) All forms required for the Technical Proposal are identified in Table 1 of **Section 7** – RFP Attachments and Appendices. Unless directed otherwise by instructions within an individual form, complete, sign, and include all required forms in the Technical Proposal, under TAB N.

**5.4 Volume II – Financial Proposal**

The Financial Proposal shall contain all price information in the format specified in **Attachment B-2**. The Offeror shall complete the Financial Proposal Form only as provided in the Financial Proposal Instructions and the Financial Proposal Form itself. Do not amend, alter, or leave blank any items on the Financial Proposal Form or include additional clarifying or contingent language on or attached to the Financial Proposal Form. Failure to adhere to any of these instructions may result in the Proposal being determined to be not reasonably susceptible of being selected for award and rejected by the MDTA.

**END OF SECTION 5**

## 6 Evaluation and Selection Process

### 6.1 Evaluation Committee

- 6.1.1 Evaluation of Proposals will be performed in accordance with COMAR 21.05.03 by a committee established for that purpose and based on the evaluation criteria set forth below. The Evaluation Committee will review Proposals, participate in Offeror oral presentations and discussions, and provide input to the Procurement Officer. The MDTA reserves the right to utilize the services of individuals outside of the established Evaluation Committee for advice and assistance, as deemed appropriate.
- 6.1.2 During the evaluation process, the Procurement Officer may determine at any time that a particular Offeror is not susceptible for award.

### 6.2 Technical Proposal Evaluation Criteria

The criteria to be used to evaluate each Technical Proposal are listed below in descending order of importance. Unless stated otherwise, any sub-criteria within each criterion have equal weight. Experience that is more relevant to the evaluation criteria may be given greater consideration for the Experience section only.

- 6.2.1 **Offeror's Technical Response to Requirements and Work Plan (See RFP Section §5.3.2.F).** The MDTA refers the Offeror's Technical Proposal to illustrate a comprehensive understanding of work requirements and mastery of the subject matter, including an explanation of how the work will be performed. Proposals which include limited responses to work requirements such as "concur" or "will comply" will receive a lower ranking than those Proposals that demonstrate an understanding of the work requirements and include plans to meet or exceed them.
- 6.2.2 **Experience and Qualifications of Proposed Staff (See RFP Section 5.3.2.G)**
- 6.2.3 **Offeror Qualifications and Capabilities, including proposed Subcontractors (See RFP Section 5.3.2.H).**
- 6.2.4 **Economic Benefit to State of Maryland (See RFP Section 5.3.2.O).**

### 6.3 Financial Proposal Evaluation Criteria

All Qualified Offerors (see **Section 6.5.2.4**) will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on the Total Proposal Price within the stated guidelines set forth in this RFP and as submitted on **Attachment B-2 - Financial Proposal Form**.

### 6.4 Reciprocal Preference

- 6.4.1 Although Maryland law does not authorize procuring agencies to favor resident Offerors in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. COMAR 21.05.01.04 permits procuring agencies to apply a reciprocal preference under the following conditions:
- A. The Maryland resident business is a responsible Offeror;
  - B. The most advantageous Proposal is from a responsible Offeror whose principal office, or principal base of operations is in another state;
  - C. The other state gives a preference to its resident businesses through law, policy, or practice; and

D. The preference does not conflict with a federal law or grant affecting the procurement Contract.

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

## **6.5 Selection Procedures**

### **6.5.1 General**

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

B. With or without discussions, the MDTA may determine the Offeror to be not responsible or the Offeror's Proposal to be not reasonably susceptible of being selected for award at any time after the initial closing date for receipt of Proposals and prior to Contract award.

### **6.5.2 Selection Process Sequence**

A. A determination is made that the MDOT Certified MBE Utilization and Fair Solicitation Affidavit (Attachment D- MBE Form A) is included and is properly completed, if there is an MBE goal. In addition, a determination is made that the VSBE Utilization Affidavit and Subcontractor Participation Schedule (Attachment E-Part 2) is included and is properly completed, if there is a VSBE goal. Finally, a determination is made that all Minimum Qualifications, if any (See RFP Section 1), have been satisfied.

B. Technical Proposals are evaluated for technical merit and ranked. During this review, oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the MDTA's requirements and the Offeror's ability to perform the services, as well as to facilitate arrival at a Contract that is most advantageous to the MDTA. Offerors will be contacted by the MDTA as soon as any discussions are scheduled.

C. Offerors must confirm in writing any substantive oral clarifications of, or changes in, their Technical Proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror's Technical Proposal. Technical Proposals are given a final review and ranked.

D. The Financial Proposal of each Qualified Offeror (a responsible Offeror determined to have submitted an acceptable Proposal) will be evaluated and ranked separately from the Technical evaluation. After a review of the Financial Proposals of Qualified Offerors, the Evaluation Committee or Procurement Officer may again conduct discussions to further evaluate the Offeror's entire Proposal.

E. When in the best interest of the MDTA, the Procurement Officer may permit Qualified Offerors to revise their initial Proposals and submit, in writing, Best and Final Offers (BAFOs). The MDTA may make an award without issuing a request for a BAFO.

## **6.6 Award Determination**

Upon completion of the Technical Proposal and Financial Proposal evaluations and rankings, each Offeror will receive an overall ranking. The Procurement Officer will recommend award of the Contract to the responsible Offeror that submitted the Proposal determined to be the most advantageous to the MDTA. In making this most advantageous Proposal determination, technical factors will receive equal weight with financial factors.

## **6.7 Documents Required upon Notice of Recommendation for Contract Award**

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

**END OF SECTION 6**

## 7 RFP ATTACHMENTS AND APPENDICES

### Instructions Page

- 7.1 A Proposal submitted by the Offeror must be accompanied by the completed forms and/or affidavits identified as “with Proposal” in the “When to Submit” column in Table 1 below. All forms and affidavits applicable to this RFP, including any applicable instructions and/or terms, are identified in the “Applies” and “Label” columns in Table 1.
- 7.2 For documents required as part of the Proposal:
1. Submit one (1) copy of each with original signature. All signatures must be clearly visible.
- 7.3 All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete certain forms and affidavits after notification of recommended award. The list of forms and affidavits that must be provided is described in Table 1 below in the “When to Submit” column.
- 7.4 For documents required after award, submit one (1) copy of each document within the appropriate number of days after notification of recommended award, as listed in Table 1 below in the “When to Submit” column.

**Table 1: RFP ATTACHMENTS AND APPENDICES**

Applies?	When to Submit	Label/ Attachment	Attachment Name
Y	Before Proposals Due Date	A	Pre-Proposal Conference Response Form (Attachment A)
Y	With Financial Proposal	B	Financial Proposal Form (Attachment B-2; separate attachment)
Y	With Technical Proposal	C	Bid/Proposal Affidavit (Attachment C) (see link at <a href="https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf">https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf</a> )
Y	With Technical Proposal	D	MBE Forms A & B (Attachment D)
Y	Ten (10) Business Days after recommended award	D	MBE Forms C&D (Attachment D) <b>Important:</b> Include MBE Form E (Attachment D), if a waiver has been requested.
Y	With Technical Proposal	E	VSBE Form E-1 (Attachment E)
Y	Ten (10) Business Days after recommended award	E	VSBE Form E-2 (Attachment E)
Y	With Technical Proposal	F	Maryland Living Wage Requirements for Service Contracts and Affidavit of Agreement (Attachment F) (see link at <a href="https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf">https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf</a> )

Applies?	When to Submit	Label/ Attachment	Attachment Name
Y	With Technical Proposal	H	Conflict of Interest Affidavit and Disclosure (Attachment H) (see link at <a href="https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf">https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf</a> )
Y	Ten (10) Business Days after recommended award	M	Contract (Attachment M) (Sample Contract included in this RFP for reference)
Y	Ten (10) Business Days after recommended award	N	Contract Affidavit (Attachment N) (see link at <a href="https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-N-ContractAffidavit.pdf">https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-N-ContractAffidavit.pdf</a> ); 1 original

#### Appendices

Applies ?	When to Submit	Label	Attachment Name
Y	n/a	1	Abbreviations and Definitions (Appendix 1) (included in this RFP for reference)
Y	With Technical Proposal	2	Offeror Information Sheet (Appendix 2) (see link at <a href="https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf">https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf</a> )
Y	n/a	3	Personnel Experience Qualifications and Labor Categories (Appendix 3) (included in this RFP for reference)

#### Additional Submissions

Applies ?	When to Submit	Label	Attachment Name
Y	With Technical Proposal	4	Current certificate of insurance showing the types and limits of insurance in effect as of the Proposal submission date. The current insurance types and limits do not have to be the same as described in <b>Section 3.6</b> .
Y	Ten (10) Business Days after recommended award		Evidence of meeting insurance requirements for this Contract (see <b>Section 3.6</b> )
Y	Ten (10) Business Days after recommended award		Problem Escalation Procedure (see <b>Section 3.8</b> )

END OF SECTION 7



**Attachment A. Pre-Proposal Conference Response Form**

**Request for Proposals (RFP) Number: SV-3104-0000  
Internal Auditing Services**

A Pre-Proposal conference will be held via Microsoft TEAMS on **July 14, 2021, 1:30 pm.**

Please return this form by **July 14, 2021, 10:00 a.m.**, advising whether or not your firm plans to attend. The completed form should be returned via e-mail to the Procurement Officer at the contact information below:

Ruth Carnes, MDTA Procurement Officer [rcarnes2@mdta.state.md.us](mailto:rcarnes2@mdta.state.md.us) with a copy to [mdtaprocurement@mdta.state.md.us](mailto:mdtaprocurement@mdta.state.md.us).

Please indicate:

\_\_\_\_\_ Yes, the following representative(s) will be in attendance:

	<u>Name of Attendee(s)</u>	<u>E-Mail Address of Attendee(s)</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____

\_\_\_\_\_ No, we will not be in attendance.

\_\_\_\_\_  
Offeror *(Name of Firm or Company Seal)*

\_\_\_\_\_  
By: *(Signature of Representative)*

\_\_\_\_\_  
Printed Name & Title *(Printed Name of Representative & Title)*

\_\_\_\_\_  
Date

Instructions for accessing the Web Meeting can be found on the next page.

**INSTRUCTIONS FOR ACCESSING MICROSOFT TEAMS WEB CONFERENCE:**

On the date and time of the Pre-Proposal Conference, please pull up the registration e-mail and follow the instructions below:

- 1) *Click the link to join the Microsoft TEAMS Environment Web Meeting.  
The meeting will be open 30 minutes early to allow you to connect and install any plugins, if necessary. -*
- 2) *Options will show to either download the application or join on the Web instead – choose one of these options*
- 3) *Follow the Prompts*
- 4) *Choose to login or enter as a “Guest”*
- 5) *Enter name in Window if/when prompted*
- 6) *Allow use of your microphone*
- 7) *Allow use of your camera*
- 8) *Use buttons across the screen to navigate the Microsoft TEAMS Environment.*

***If you are unable to use the Microsoft TEAMS (video) Web Meeting, a Conference Line will be available for audio during the meeting (it is requested that you mute your line to minimize background noise interruptions).*** *You will be prompted enter a Conference ID #, which will be provided in the registration e-mail invite. To avoid any background noise interference, do not access the video and audio features at the same time. You may access to one or the other, but not both.*

**Please note that only registered attendees may participate in the online Pre-Proposal Conference.**

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**Attachment B. Financial Proposal Instructions & Form**

**B-1 Financial Proposal Instructions**

In order to assist Offerors in the preparation of their Financial Proposal and to comply with the requirements of this solicitation, Financial Proposal Instructions and a Financial Proposal Form have been prepared. Offerors shall submit their Financial Proposal on the Financial Proposal Form in accordance with the instructions on the Financial Proposal Form and as specified herein. **Do not alter the Financial Proposal Form or the Proposal may be determined to be not reasonably susceptible of being selected for award.**

The Financial Proposal Form is to be signed and dated, where requested, by an individual who is authorized to bind the Offeror to the prices entered on the Financial Proposal Form.

The Financial Proposal Form is used to calculate the Offeror's TOTAL Proposal PRICE. Follow these instructions carefully when completing your Financial Proposal Form:

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

J) Unless indicated elsewhere in the RFP, sample amounts used for calculations on the Financial Proposal Form are typically estimates for evaluation purposes only. Unless stated otherwise in the RFP, the MDTA does not guarantee a minimum or maximum number of units or usage in the performance of the Contract.

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

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**B-2 Financial Proposal Form**

- A. The Financial Proposal Form shall contain all price information in the format specified on these pages. Complete the Financial Proposal Form only as provided in the Financial Proposal Instructions above. Do not amend, alter or leave blank any items on the Financial Proposal Form. If option years are included, Offerors must submit pricing for each option year. Failure to adhere to any of these instructions may result in the Proposal being determined not reasonably susceptible of being selected for award.
- B. Under a separate cover or file, the Financial Proposal shall be clearly identified with the same information noted on the Technical Proposal and submitted in the same format identified in Section 5 of this RFP. The Offeror must provide a Fully Loaded Hourly Rate for each Labor Classification (for Items 001-012), identified in Years 1 through 3 and Renewal Option Years 4 through 5. The rates proposed must remain the same for the base and each of the renewal periods, for the duration of the Contract.
- A. The estimated/projected number of hours indicated on the Financial Proposal Price Form (attached in Excel) are for evaluation purposes only and are not a guarantee of a minimum or maximum amount of work.
- C. **See separate Excel Financial Proposal Form labeled Attachment B-2, SV-3104-0000 Financial Proposal Form.xlsx.**

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**Attachment C. Bid/Proposal Affidavit**

See link at [https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid\\_Proposal-Affidavit.pdf](https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf).

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**Attachment D. Minority Business Enterprise (MBE) Forms**

**MDOT MBE FORM A  
STATE-FUNDED CONTRACTS  
CERTIFIED MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT  
PAGE 1 OF 2**

**THIS AFFIDAVIT MUST BE INCLUDED WITH THE BID/PROPOSAL. IF THE BIDDER/OFFEROR FAILS TO ACCURATELY COMPLETE AND SUBMIT THIS AFFIDAVIT AS REQUIRED, THE BID SHALL BE DEEMED NOT RESPONSIVE OR THE PROPOSAL NOT SUSCEPTIBLE OF BEING SELECTED FOR AWARD.**

In connection with the bid/proposal submitted in response to Solicitation No. **SV-3104-0000**, I affirm the following:

▪ **MBE Participation (PLEASE CHECK ONLY ONE)**

I have met the overall certified Minority Business Enterprise (MBE) participation goal of \_\_\_\_\_ percent ( \_\_\_\_\_ %) and the following subgoals, if applicable:

- \_\_\_\_\_ percent ( \_\_\_\_\_ %) for African American-owned MBE firms
- \_\_\_\_\_ percent ( \_\_\_\_\_ %) for Hispanic American-owned MBE firms
- \_\_\_\_\_ percent ( \_\_\_\_\_ %) for Asian American-owned MBE firms
- \_\_\_\_\_ percent ( \_\_\_\_\_ %) for Women-owned MBE firms

I agree that these percentages of the total dollar amount of the Contract, for the MBE goal and subgoals (if any), will be performed by certified MBE firms as set forth in the MBE Participation Schedule - Part 2 of the MDOT MBE Form B (State-Funded Contracts).

**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 or as requested by the Procurement Officer, I will submit a written waiver request and all required documentation in accordance with COMAR 21.11.03.11. For a partial waiver request, I agree that certified MBE firms will be used to accomplish the percentages of the total dollar amount of the Contract, for the MBE goal and subgoals (if any), as set forth in the MBE Participation Schedule - Part 2 of the MDOT MBE Form B (State-Funded Contracts).

▪ **Additional MBE Documentation**

I understand that if I am notified that I am the apparent awardee or as requested by the Procurement Officer, I must submit the following documentation within 10 business days of receiving such notice:

- (a) Outreach Efforts Compliance Statement (MDOT MBE Form C - State-Funded Contracts);
- (b) Subcontractor Project Participation Statement (MDOT MBE Form D - State-Funded Contracts);
- (c) If waiver requested, MBE Waiver Request Documentation and Forms (MDOT MBE/DBE Form E – Good Faith Efforts Guidance and Documentation) per COMAR 21.11.03.11; and
- (d) Any other documentation required by the Procurement Officer to ascertain bidder's responsibility/ offeror's susceptibility of being selected for award in connection with the certified MBE participation goal and subgoals, if any.

I acknowledge that if I fail to return each completed document (in 2 (a) through (d)) within the required time, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award or that the proposal is not susceptible of being selected for award.

MDOT-OP 012-2 (9/11) (Revised 7/14)



**MDOT MBE FORM A  
STATE-FUNDED CONTRACTS  
CERTIFIED MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT  
PAGE 2 OF 2**

- **Information Provided to MBE firms**

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

- **Products and Services Provided by MBE firms**

I hereby affirm that the MBEs are only providing those products and services for which they are MDOT certified.

I solemnly affirm under the penalties of perjury that the information in this affidavit is true to the best of my knowledge, information and belief.

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Signature of Representative

\_\_\_\_\_  
Address

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Date

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**MDOT MBE FORM B**  
**STATE-FUNDED CONTRACTS**  
**PART 1 – INSTRUCTIONS FOR MBE PARTICIPATION SCHEDULE**  
**PAGE 1 OF 3**

**PARTS 2 AND 3 MUST BE INCLUDED WITH THE BID/PROPOSAL. IF THE BIDDER/OFFEROR FAILS TO ACCURATELY COMPLETE AND SUBMIT PART 2 WITH THE BID/PROPOSAL AS REQUIRED, THE BID SHALL BE DEEMED NOT RESPONSIVE OR THE PROPOSAL SHALL BE DEEMED NOT SUSCEPTIBLE OF BEING SELECTED FOR AWARD.**

**PLEASE READ BEFORE COMPLETING THIS FORM**

- A. Please refer to the Maryland Department of Transportation (MDOT) MBE Directory at [www.mbe.mdot.maryland.gov](http://www.mbe.mdot.maryland.gov) to determine if a firm is certified for the appropriate North American Industry Classification System (“NAICS”) Code **and** the product/services description (specific product that a firm is certified to provide or specific areas of work that a firm is certified to perform). For more general information about NAICS, please visit [www.naics.com](http://www.naics.com). Only those specific products and/or services for which a prime or subcontractor is a certified MBE in the MDOT Directory can be used for purposes of achieving the MBE participation goals.
- B. In order to be counted for purposes of achieving the MBE participation goals, the MBE firm (whether a prime or subcontractor) must be certified for that specific NAICS Code (“MBE” for State-funded projects designation after NAICS Code). **WARNING:** If the firm’s NAICS Code is in **graduated status**, such services/products **will not be counted** for purposes of achieving the MBE participation goals. Graduated status is clearly identified in the MDOT Directory (such graduated codes are designated with the word graduated after the appropriate NAICS Code).
- C. Examining the NAICS Code is the **first step** in determining whether an MBE firm is certified and eligible to receive MBE participation credit for the specific products/services to be supplied or performed under the contract. The **second step** is to determine whether a firm’s Products/Services Description in the MBE Directory includes the products to be supplied and/or services to be performed that are being used to achieve the MBE participation goals. If you have any questions as to whether a firm is certified to perform the specific services or provide specific products, please contact MDOT’s Office of Minority Business Enterprise at 1-800-544-6056 or via email at [mbe@mdot.state.md.us](mailto:mbe@mdot.state.md.us).
- D. Complete the Part 2 – MBE Participation Schedule for all certified MBE firms (including primes and subcontractors) being used to achieve the MBE participation goal and subgoals, if any.
- E. **MBE Prime Self-Performance.** When a certified MBE firm participates as a prime (independently or as part of a joint venture) on a contract, a procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own forces toward fulfilling up to fifty-percent (50%) of the MBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the contract. In order to receive credit for self-performance, an MBE prime must be (a) a certified MBE (see 1-3 above) and (b) listed in the Part 2 – MBE Participation Schedule with its certification number, the certification classification under which it will self-perform, and the percentage of the contract that can be counted as MBE self-performance. For the remaining portion of the overall goal and any subgoals, the MBE prime must also list, in the Part 2 – MBE Participation Schedule, other certified MBE firms used to meet those goals or, after making good faith efforts to obtain the participation of additional MBE firms, request a waiver. Note: A dually-certified MBE firm can use its own forces toward fulfilling ONLY ONE of the MBE subgoals for which it can be counted.
- F. The Contractor’s Subcontractors are considered second-tier Subcontractors. Third-tier contracting used to meet an MBE goal is to be considered the exception and not the rule. The following two conditions must be met before MDOT, its Modal Administrations and the Maryland Transportation Authority may approve a third-tier contracting agreement: (a) the bidder/offeror must request in writing approval of each third-tier contract arrangement, and (b) the request must contain specifics as to why a third-tier contracting arrangement should be approved. These documents must be submitted with the bid/proposal in Part 2 of this MBE Participation Schedule.

MDOT-OP013-2(7/14)

**MDOT MBE FORM B**  
**STATE-FUNDED CONTRACTS**  
**PART 1 – INSTRUCTIONS FOR MBE PARTICIPATION SCHEDULE**  
**PAGE 2 OF 3**

G. For each MBE firm that is being used as a Supplier/Wholesaler/regular Dealer/Broker/Manufacturer, please follow these instructions for calculating the **amount of the Subcontract for purposes of achieving the MBE participation goals**:

- (1) Is the firm certified as a Broker of the products/supplies? If the answer is YES, please continue to Item C. If the answer is NO, please continue to Item B.
  - a) Is the firm certified as a Supplier, Wholesaler, regular Dealer, or Manufacturer of such products/supplies? If the answer is YES, continue to Item D. If the answer is NO, continue to Item C only if the MBE firm is certified to perform trucking/hauling services under NAICS Codes 484110, 484121, 484122, 484210, 484220 and 484230. If the answer is NO and the firm is not certified under these NAICS Codes, then no MBE participation credit will be given for the supply of these products.
  - b) For purposes of achieving the MBE participation goal, you may count only the amount of any reasonable fee that the MBE firm will receive for the provision of such products/supplies - not the total subcontract amount or the value (or a percentage thereof) of such products and/or supplies. For Column 3 of the MBE Participation Schedule, please divide the amount of any reasonable fee that the MBE firm will receive for the provision of such products/services by the total Contract value and insert the percentage in Line 3.1.
  - c) Is the firm certified as a manufacturer (refer to the firm's NAICS Code and specific description of products/services) of the products/supplies to be provided? If the answer is NO, please continue to Item E. If the answer is YES, for purposes of achieving the MBE participation goal, you may count the total amount of the Subcontract. For Column 3 of the MBE Participation Schedule, please divide the total amount of the Subcontract by the total Contract value and insert the percentage in Line 3.1.
  - d) Is the firm certified as a Supplier, Wholesaler and/or regular Dealer? If the answer is YES and the MBE firm is furnishing and installing the materials and is certified to perform these services, please divide the total subcontract amount (including full value of supplies) by the total Contract value and insert the percentage in Line 3.1. If the answer is YES and the MBE firm is only being used as a supplier, wholesaler and/or regular dealer or is not certified to install the supplies/materials, for purposes of achieving the MBE participation goal, you may only count sixty percent (60%) of the value of the subcontract for these supplies/products (60% Rule). To apply the 60% Rule, first divide the amount of the subcontract for these supplies/products only (not installation) by the total Contract value. Then, multiply the result by sixty percent (60%) and insert the percentage in Line 3.2.

H. For each MBE firm that **is not** being used as a Supplier/Wholesaler/regular Dealer/Broker/Manufacturer, to calculate the **amount of the subcontract for purposes of achieving the MBE participation goals**, divide the total amount of the subcontract by the total Contract value and insert the percentage in Line 3.1.

**Example:** \$ 2,500 (Total Subcontract Amount) ÷ \$10,000 (Total Contract Value) x 100 = 25%

I. **WARNING:** The percentage of MBE participation, computed using the percentage amounts determined per Column 3 for all of the MBE firms listed in Part 2, **MUST** at least equal the MBE participation goal **and** subgoals (if applicable) as set forth in MDOT MBE Form A – State-Funded Contracts for this solicitation. If a Bidder/Offeror is unable to achieve the MBE participation goal and/or any subgoals (if applicable), then the Bidder/Offeror must request a waiver in Form A or the Bid will be deemed not responsive, or the Proposal not susceptible of being selected for award. You may wish to use the attached Goal/Subgoal Worksheet to assist you in calculating the percentages and confirming that you have met the applicable MBE participation goal and subgoals (if any).

MDOT-OP 013-2 (7/14)

**MDOT MBE FORM B  
STATE-FUNDED CONTRACTS  
PART 1 – INSTRUCTIONS FOR MBE PARTICIPATION SCHEDULE  
PAGE 3 OF 3  
GOAL/SUBGOAL PARTICIPATION WORKSHEET**

- (1) Complete the Part 2 – MBE Participation Schedule for each MBE being used to meet the MBE goal and any subgoals.
- (2) After completion of the Part 2 – MBE Participation Schedule, you may use the Goal/Subgoal Worksheet to calculate the total MBE participation commitment for the overall goal and any subgoals.
- (3) MBE Overall Goal Participation Boxes: Calculate the total percentage of MBE participation for each MBE classification by adding the percentages determined per Column 3 of the Part 2 – MBE Participation Schedule. Add the percentages determined in Lines 3.1 and 3.2 for the MBE Subcontractor (subs) total. Add the overall participation percentages determined in Line 3.3 for the MBE prime total.
- (4) MBE Subgoal Participation Boxes: Calculate the total percentage of MBE participation for each MBE classification by adding the percentages determined per Column 3 of the Part 2 – MBE Participation Schedule. Add the percentages determined in Lines 3.1 and 3.2 for the MBE Subcontractor (subs) total. Add the subgoal participation percentages determined in Line 3.3 for the MBE prime total.
- (5) The percentage amount for the MBE overall participation in the Total MBE Firm Participation Box F1 should be equal to the sum of the percentage amounts in Boxes A through E of the MBE Overall Goal Participation Column of the Worksheet.
- (6) The percentage amount for the MBE subgoal participation in the Total MBE Firm Participation Box L should be equal to the sum of the percentage amounts in Boxes A through E of the MBE Subgoal Participation Column of the Worksheet.

GOAL/SUBGOAL WORKSHEET		
MBE Classification	MBE Overall Goal Participation	MBE Subgoal Participation
<b>(A)</b> Total African American Firm Participation (Add percentages determined for African American-Owned Firms per Column 3 of MBE Participation Schedule)	_____ %subs _____ %prime	_____ %subs _____ %prime
<b>(B)</b> Total Hispanic American Firm Participation (Add percentages determined for Hispanic American-Owned Firms per Column 3 of MBE Participation Schedule)	_____ %subs _____ %prime	_____ %subs _____ %prime
<b>(C)</b> Total Asian American Firm Participation (Add percentages listed for Asian American-Owned Firms per Column 3 of MBE Participation Schedule)	_____ %subs _____ %prime	_____ %subs _____ %prime
<b>(D)</b> Total Women-Owned Firm Participation (Add percentages determined for Women-Owned Firms per Column 3 of MBE Participation Schedule)	_____ %subs _____ %prime	_____ %subs _____ %prime
<b>(E)</b> Total for all other MBE Firms (Add percentages for firms listed as Other MBE Classification per Column 3 of the MBE Participation Schedule)	_____ %subs _____ %prime	_____ %subs _____ %prime
<b>Total MBE Firm Participation</b> (Add total percentages determined for all MBE Firms in each column of the Worksheet)	<b>(F1)</b> _____ %	<b>(F2)</b> _____ %

MDOT-OP 013-2 (7/14)

**MDOT MBE FORM B  
STATE-FUNDED CONTRACTS  
PART 2 – MBE PARTICIPATION SCHEDULE  
PAGE \_\_\_ OF \_\_\_**

**PARTS 2 AND 3 MUST BE INCLUDED WITH THE BID/PROPOSAL. IF THE BIDDER/ OFFEROR FAILS TO ACCURATELY COMPLETE AND SUBMIT PART 2 WITH THE BID/PROPOSAL AS REQUIRED, THE BID SHALL BE DEEMED NOT RESPONSIVE OR THE PROPOSAL SHALL BE DEEMED NOT SUSCEPTIBLE OF BEING SELECTED FOR AWARD.**

Prime Contractor	Project Description	Solicitation Number
	Internal Auditing Services	SV-3104-0000

LIST INFORMATION FOR EACH CERTIFIED MBE PRIME OR MBE SUBCONTRACTOR YOU AGREE TO USE TO ACHIEVE THE MBE PARTICIPATION GOAL AND SUBGOALS, IF ANY. NOTE INSTRUCTIONS IN EACH COLUMN.

COLUMN 1	COLUMN 2	(1) COLUMN 3 Unless the bidder/offeror requested a waiver in MDOT MBE Form A – State Funded Contracts for this solicitation, the cumulative MBE participation for all MBE firms listed herein must equal at least the MBE participation goal <u>and</u> subgoals (if applicable) set forth in Form A.
<b>NAME OF MBE PRIME OR MBE SUBCONTRACTOR AND TIER</b>	<b>CERTIFICATION NO. AND MBE CLASSIFICATION</b>	<b>(2) FOR PURPOSES OF ACHIEVING THE MBE PARTICIPATION GOAL AND SUBGOALS, refer to Sections 5 through 8 in Part 1 - Instructions. State the percentage amount of the products/services in Line 3.1, except for those products or services where the MBE firm is being used as a wholesaler, supplier, or regular dealer. For items of work where the MBE firm is being used as a supplier, wholesaler and/or regular dealer, complete Line 3.2 using the 60% Rule. For items of work where the MBE firm is the prime, complete Line 3.3.</b>
<b>MBE Name:</b>  <input type="checkbox"/> Check here if MBE firm is a Subcontractor and complete in accordance with Sections 6, 7, & 8 of Part 1 - Instructions. If this box is checked, complete 3.1 or 3.2 in Column C, whichever is appropriate.  <input type="checkbox"/> Check here if MBE firm is the prime Contractor, including a participant in a joint venture, and self-performance is being counted pursuant to Section 5 of Part 1 - Instructions. If this box is checked, complete 3.3 in Column C.  <input type="checkbox"/> Check here if MBE firm is a third-tier Contractor (if applicable). Please submit written documents in accordance with Section 6 of Part 1 - Instructions	<b>Certification Number:</b>  <b>(If dually certified, check only one box.)</b> <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American-Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification	<b>3.1. TOTAL PERCENTAGE TO BE PAID TO THE SUBCONTRACTOR (STATE THIS PERCENTAGE AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE- EXCLUDING PRODUCTS/SERVICES FROM SUPPLIERS, WHOLESALERS OR REGULAR DEALERS).</b> _____% (Percentage for purposes of calculating achievement of MBE Participation goal and subgoals, if any)  <b>3.2 TOTAL PERCENTAGE TO BE PAID TO THE SUBCONTRACTOR FOR ITEMS OF WORK WHERE THE MBE FIRM IS BEING USED AS A SUPPLIER, WHOLESALER AND/OR REGULAR DEALER) (STATE THE PERCENTAGE AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE AND THEN APPLY THE 60% RULE PER SECTION 7(E) IN PART 1 - INSTRUCTIONS).</b> _____% Total percentage of Supplies/Products x _____ 60% (60% Rule) _____% (Percentage for purposes of calculating achievement of MBE Participation goal and subgoals,if any)  <b>3.3. TOTAL PERCENTAGE TO BE PAID TO MBE PRIME FOR WORK THAT CAN BE COUNTED AS MBE SELF-PERFORMANCE (STATE THIS PERCENTAGE AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE).</b> (a) _____% Total percentage for self-performed items of work in which MBE is certified) (b) _____% (Insert 50% of MBE overall goal) (c) _____% (Insert subgoal for classification checked in Column 2, if applicable) Percentages for purposes of calculating achievement of MBE Participation goals: ➔ For MBE Overall goal – Use lesser of (a) or (b) ➔ For MBE Subgoal use lesser of (a) or (c) ➔ If MBE Prime is supplier, wholesaler and/or regular dealer, apply the 60% rule.

Check here if Continuation Sheets are attached. Number each sheet accordingly.

**MDOT MBE FORM B**  
**STATE-FUNDED CONTRACTS**  
**PART 2 – MBE PARTICIPATION SCHEDULE**  
**CONTINUATION SHEET**  
**PAGE \_\_\_ OF \_\_\_**

<b>Prime Contractor</b>	<b>Project Description</b>	<b>Solicitation Number</b>
	Internal Auditing Services	SV-3104-0000

LIST INFORMATION FOR EACH CERTIFIED MBE PRIME OR MBE SUBCONTRACTOR YOU AGREE TO USE TO ACHIEVE THE MBE PARTICIPATION GOAL AND SUBGOALS, IF ANY. NOTE INSTRUCTIONS IN EACH COLUMN.

COLUMN 1	COLUMN 2	(3) COLUMN 3 Unless the bidder/offeror requested a waiver in MDOT MBE Form A – State Funded Contracts for this solicitation, the cumulative MBE participation for all MBE firms listed herein must equal at least the MBE participation goal <u>and</u> subgoals (if applicable) set forth in Form A.
<p><b>NAME OF MBE PRIME OR MBE SUBCONTRACTOR AND TIER</b></p>	<p><b>CERTIFICATION NO. AND MBE CLASSIFICATION</b></p>	<p>(4) <b>FOR PURPOSES OF ACHIEVING THE MBE PARTICIPATION GOAL AND SUBGOALS, refer to Sections 5 through 8 in Part 1 - Instructions. State the percentage amount of the products/services in Line 3.1, except for those products or services where the MBE firm is being used as a wholesaler, supplier, or regular dealer. For items of work where the MBE firm is being used as a supplier, wholesaler and/or regular dealer, complete Line 3.2 using the 60% Rule. For items of work where the MBE firm is the prime, complete Line 3.3.</b></p>
<p><b>MBE Name:</b></p> <hr/> <p><input type="checkbox"/> Check here if MBE firm is a Subcontractor and complete in accordance with Sections 6, 7, &amp; 8 of Part 1 - Instructions. If this box is checked, complete 3.1 or 3.2 in Column C, whichever is appropriate.</p> <p><input type="checkbox"/> Check here if MBE firm is the prime Contractor, including a participant in a joint venture, and self-performance is being counted pursuant to Section 5 of Part 1 - Instructions. If this box is checked, complete 3.3 in Column C.</p> <p><input type="checkbox"/> Check here if MBE firm is a third-tier Contractor (if applicable). Please submit written documents in accordance with Section 6 of Part 1 - Instructions</p>	<p><b>Certification Number:</b></p> <hr/> <p><b>(If dually certified, check only one box.)</b></p> <p><input type="checkbox"/> African American-Owned</p> <p><input type="checkbox"/> Hispanic American-Owned</p> <p><input type="checkbox"/> Asian American-Owned</p> <p><input type="checkbox"/> Women-Owned</p> <p><input type="checkbox"/> Other MBE Classification</p> <hr/>	<p><b>3.1. TOTAL PERCENTAGE TO BE PAID TO THE SUBCONTRACTOR (STATE THIS PERCENTAGE AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE- EXCLUDING PRODUCTS/SERVICES FROM SUPPLIERS, WHOLESALERS OR REGULAR DEALERS).</b></p> <p>_____ % (Percentage for purposes of calculating achievement of MBE Participation goal and subgoals, if any)</p> <p><b>3.2 TOTAL PERCENTAGE TO BE PAID TO THE SUBCONTRACTOR FOR ITEMS OF WORK WHERE THE MBE FIRM IS BEING USED AS A SUPPLIER, WHOLESALER AND/OR REGULAR DEALER) (STATE THE PERCENTAGE AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE AND THEN APPLY THE 60% RULE PER SECTION 7(E) IN PART 1 - INSTRUCTIONS).</b></p> <p>_____ % Total percentage of Supplies/Products</p> <p>x _____ 60% (60% Rule)</p> <p>_____ % (Percentage for purposes of calculating achievement of MBE Participation goal and subgoals,if any)</p> <p><b>3.3. TOTAL PERCENTAGE TO BE PAID TO MBE PRIME FOR WORK THAT CAN BE COUNTED AS MBE SELF-PERFORMANCE (STATE THIS PERCENTAGE AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE).</b></p> <p>(a) _____ % Total percentage for self-performed items of work in which MBE is certified)</p> <p>(b) _____ % (Insert 50% of MBE overall goal)</p> <p>(c) _____ % (Insert subgoal for classification checked in Column 2, if applicable)</p> <p>Percentages for purposes of calculating achievement of MBE Participation goals:</p> <ul style="list-style-type: none"> <li>➤ For MBE Overall goal – Use lesser of (a) or (b)</li> <li>➤ For MBE Subgoal use lesser of (a) or (c)</li> <li>➤ If MBE Prime is supplier, wholesaler and/or regular dealer, apply the 60% rule.</li> </ul>

Check here if Continuation Sheets are attached. Number each sheet accordingly.

**MDOT MBE FORM B**  
**STATE-FUNDED CONTRACTS**  
**PART 3 – CERTIFICATION FOR MBE PARTICIPATION SCHEDULE**

**PARTS 2 AND 3 MUST BE INCLUDED WITH THE BID/PROPOSAL**  
**AS DIRECTED IN THE INVITATION TO BID/ REQUEST FOR PROPOSALS.**

I hereby affirm that I have reviewed the Products and Services Description (specific product that a firm is certified to provide or areas of work that a firm is certified to perform) set forth in the MDOT MBE Directory for each of the MBE firms listed in Part 2 of this MBE Form B for purposes of achieving the MBE participation goals and subgoals that were identified in the MBE Form A that I submitted with this solicitation, and that the MBE firms listed are only performing those products/services/areas of work for which they are certified. I also hereby affirm that I have read and understand the form instructions set forth in Part 1 of this MBE Form B.

The undersigned Prime Contractor hereby certifies and agrees 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.

I solemnly affirm under the penalties of perjury that the contents of Parts 2 and 3 of MDOT MBE Form B are true to the best of my knowledge, information and belief.

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Signature of Representative

\_\_\_\_\_  
Address

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Date

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**



**MDOT MBE FORM C**  
**STATE-FUNDED CONTRACTS**  
**OUTREACH EFFORTS COMPLIANCE STATEMENT**

In conjunction with the offer/proposal submitted in response to Solicitation No. SV-3104-0000, I state the following:

1. Bidder/Offeror took the following efforts to identify subcontracting opportunities in these specific work categories:
2. Attached to this form are copies of written solicitations (with bidding/proposal instructions) used to solicit certified MBE firms for these subcontract opportunities.

3. Bidder/Offeror made the following attempts to personally contact the solicited MBE firms:

**4. Please Check One:**

- This project does not involve bonding requirements.
- Bidder/Offeror assisted MBE firms to fulfill or seek waiver of bonding requirements. (DESCRIBE EFFORTS)

**5. Please Check One:**

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

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Signature of Representative

\_\_\_\_\_  
Address

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Date

**MDOT MBE FORM D  
STATE-FUNDED CONTRACTS  
MBE SUBCONTRACTOR PROJECT PARTICIPATION AFFIDAVIT**

**IF THE BIDDER/OFFEROR FAILS TO RETURN THIS AFFIDAVIT WITHIN THE REQUIRED TIME, THE PROCUREMENT OFFICER MAY DETERMINE THAT THE BIDDER/OFFEROR IS NOT RESPONSIBLE AND THEREFORE NOT ELIGIBLE FOR CONTRACT AWARD OR THAT THE PROPOSAL IS NOT SUSCEPTIBLE OF BEING SELECTED FOR AWARD. SUBMIT ONE FORM FOR EACH CERTIFIED MBE FIRM LISTED IN THE MBE PARTICIPATION SCHEDULE. BIDDERS/OFFERORS ARE HIGHLY ENCOURAGED TO SUBMIT FORM D PRIOR TO THE TEN (10) DAY DEADLINE.**

Provided that \_\_\_\_\_ (Prime Contractor's Name) is awarded the State Contract in conjunction with Solicitation No. SV-3104-0000, such Prime Contractor will enter into a Subcontract with \_\_\_\_\_ (Subcontractor's Name) committing to participation by the MBE firm \_\_\_\_\_ (MBE Name) with MDOT Certification Number \_\_\_\_\_ (if Subcontractor previously listed is also the MBE firm, please restate name and provide MBE Certification Number) which will receive at least \$ \_\_\_\_\_ or \_\_\_\_\_% (Total Subcontract Amount/ Percentage) for performing the following products/services for the Contract:

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

I solemnly affirm under the penalties of perjury that the information provided in this MBE Subcontractor Project Participation Affidavit is true to the best of my knowledge, information and belief. I acknowledge that, for purposes of determining the accuracy of the information provided herein, the Procurement Officer may request additional information, including, without limitation, copies of the Subcontract agreements and quotes.

<p><b>PRIME CONTRACTOR</b> Signature of Representative: _____</p> <p>Printed Name and Title: _____</p> <p>Firm's Name: _____ Federal Identification Number: _____</p> <p>Address: _____</p> <p>Telephone: _____ Date: _____</p>	<p><b>SUBCONTRACTOR (SECOND-TIER)</b> Signature of Representative: _____</p> <p>Printed Name and Title: _____</p> <p>Firm's Name: _____ Federal Identification Number: _____</p> <p>Address: _____</p> <p>Telephone: _____ Date: _____</p>	<p><b>SUBCONTRACTOR (THIRD-TIER)</b> Signature of Representative: _____</p> <p>Printed Name and Title: _____</p> <p>Firm's Name: _____ Federal Identification Number: _____</p> <p>Address: _____</p> <p>Telephone: _____ Date: _____</p>
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**IF MBE FIRM IS A THIRD-TIER SUBCONTRACTOR, THIS FORM MUST ALSO BE EXECUTED BY THE SECOND-TIER SUBCONTRACTOR THAT HAS THE SUBCONTRACT AGREEMENT WITH THE MBE FIRM.**

MDOT-OP 015-2 (9/11)





**MBE ATTACHMENT D-5**  
**MINORITY BUSINESS ENTERPRISE PARTICIPATION**  
**MBE SUBCONTRACTOR PAID/UNPAID INVOICE REPORT**

Report #		Contract #	
Reporting Period (Month/Year):		Contracting Unit:	
<b>Report is due by the 10<sup>th</sup> of the month following the month the services were performed.</b>		MBE Subcontract Amt:	
		Project Begin Date:	
		Project End Date:	
		Services Provided:	
MBE Subcontractor Name:			
MDOT Certification #:			
Contact Person:			
Address:			
City:		State:	Zip:
Phone:	FAX:	E-mail:	
<b>Subcontractor Services Provided:</b>			
<b>List all payments received from Prime Contractor during reporting period indicated above.</b>		<b>List dates and amounts of any unpaid invoices over 30 days old.</b>	
	<b>Invoice Amount</b>	<b>Date</b>	
	<b>Invoice Amount</b>	<b>Date</b>	
1.			1.
2.			2.
3.			3.
4.			4.
<b>Total Dollars Paid: \$</b>		<b>Total Dollars Paid: \$</b>	
Prime Contractor:		Contract Person:	

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

\_\_\_\_\_

Contract Monitor Name

\_\_\_\_\_

Contracting Unit

\_\_\_\_\_

Address

\_\_\_\_\_

City, State, Zip

\_\_\_\_\_

E-Mail

\_\_\_\_\_

Phone Number

\_\_\_\_\_

Signature (Required)

\_\_\_\_\_

Date

## **MDOT MBE /DBE FORM E**

### ***GOOD FAITH EFFORTS GUIDANCE AND DOCUMENTATION***

#### **PART 1 – GUIDANCE FOR DEMONSTRATING GOOD FAITH EFFORTS TO MEET MBE/DBE PARTICIPATION GOALS**

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

#### **I. Definitions**

**MBE/DBE Goal(s)** – “MBE/DBE Goal(s)” refers to the MBE participation goal and MBE participation subgoal(s) on a State-funded procurement and the DBE participation goal on a federally-funded procurement.

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

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

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

**MBE/DBE Firms** – For State-funded Contracts, “MBE/DBE Firms” refers to certified **MBE** Firms. Certified MBE Firms can participate in the State's MBE Program. For federally-funded Contracts, “MBE/DBE Firms” refers to certified **DBE** Firms. Certified DBE Firms can participate in the federal DBE Program.

#### **II. Types of Actions MDOT will consider:**

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

**A. Identify Bid Items as Work for MBE/DBE Firms**

1. Identified Items of Work in Procurements

- (a) Certain procurements will include a list of bid items identified during the goal setting process as possible work for performance by MBE/DBE Firms. If the procurement provides a list of Identified Items of Work, the bidder/offeror shall make all reasonable efforts to solicit quotes from MBE Firms or DBE Firms, whichever is appropriate, to perform that work.
- (b) Bidders/Offerors may, and are encouraged to, select additional items of work to be performed by MBE/DBE Firms to increase the likelihood that the MBE/DBE Goal(s) will be achieved.

2. Identified Items of Work by Bidders/Offerors

- (a) When the procurement does not include a list of Identified Items of Work, bidders/offerors should reasonably identify sufficient items of work to be performed by MBE/DBE Firms.
- (b) Where appropriate, bidders/offerors should break out contract work items into economically feasible units to facilitate MBE/DBE participation, rather than perform these work items with their own forces. The ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder/offeror of the responsibility to make Good Faith Efforts.

**B. Identify MBE Firms to Solicit**

1. DBE Firms Identified in Procurements

- (a) Certain procurements will include a list of the MBE Firms identified during the goal setting process as available to perform the items of work. If the procurement provides a list of Identified MBE Firms, the bidder/offeror shall make all reasonable efforts to solicit those MBE firms.
- (b) Bidders/offerors may and are encouraged to search the MBE Directory to identify additional MBEs who may be available to perform the items of work, such as MBEs certified or granted an expansion of services after the solicitation was issued.

2. MBE/DBE Firms Identified by Bidders/Offerors

- (a) When the procurement does not include a list of Identified MBE/DBE Firms, bidders/offerors should reasonably identify the MBE Firms or DBE Firms, whichever is appropriate, that are available to perform the Identified Items of Work.
- (b) Any MBE/DBE Firms identified as available by the bidder/offeror should be certified in the appropriate program (MBE for State-funded procurements)
- (c) Any MBE Firms identified as available by the bidder/offeror should be certified to perform the Identified Items of Work.

**C. Solicit MBEs**

- 1. Solicit all Identified Firms for all Identified Items of Work by providing written notice. The bidder/offeror should:



- (a) provide the written solicitation at least 10 days prior to bid opening to allow sufficient time for the MBE Firms to respond;
  - (b) send the written solicitation by first-class mail, facsimile, or email using contact information in the MBE Directory, unless the bidder/offeror has a valid basis for using different contact information; and
  - (c) provide adequate information about the plans, specifications, anticipated time schedule for portions of the work to be performed by the MBE, and other requirements of the contract to MBE Firms in responding. (This information may be provided by including hard copies in the written solicitation or by electronic means as described in C.3 below.)
2. “All” Identified Firms includes the MBEs listed in the procurement and any MBE Firms you identify as potentially available to perform the Identified Items of Work, but it does not include MBE Firms who are no longer certified to perform the work as of the date the bidder/offeror provides written solicitations.
3. “Electronic Means” includes, for example, information provided *via* a website or file transfer protocol (FTP) site containing the plans, specifications, and other requirements of the contract. If an interested MBE cannot access the information provided by electronic means, the bidder/offeror must make the information available in a manner that is accessible by the interested MBE.
4. Follow up on initial written solicitations by contacting MBEs to determine if they are interested. The follow up contact may be made:
- (a) by telephone using the contact information in the MBE Directory, unless the bidder/offeror has a valid basis for using different contact information; or
  - (b) in writing *via* a method that differs from the method used for the initial written solicitation.
5. In addition to the written solicitation set forth in C.1 and the follow up required in C.4, use all other reasonable and available means to solicit the interest of MBE Firms certified to perform the work of the Contract. Examples of other means include:
- (a) attending any pre-bid meetings at which MBE Firms could be informed of contracting and subcontracting opportunities;
  - (b) if recommended by the procurement, advertising with or effectively using the services of at least two minority focused entities or media, including trade associations, minority/women community organizations, minority/women Contractors' groups, and local, state, and federal minority/women business assistance offices listed on the MDOT Office of Minority Business Enterprise website; and
  - (c) effectively using the services of other organizations, as allowed on a case-by-case basis and authorized in the procurement, to provide assistance in the recruitment and placement of MBE Firms.

**D. Negotiate with Interested MBE Firms**

Bidders/Offerors must negotiate in good faith with interested MBE/DBE Firms.

1. Evidence of negotiation includes, without limitation, the following:
- (a) the names, addresses, and telephone numbers of MBE/DBE Firms that were considered;
  - (b) a description of the information provided regarding the plans and specifications for the work selected for subcontracting and the means used to provide that information; and
  - (c) evidence as to why additional agreements could not be reached for MBE/DBE Firms to perform the work.

2. A bidder/offeror using good business judgment would consider a number of factors in negotiating with Subcontractors, including DBE Subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration.
3. The fact that there may be some additional costs involved in finding and using MBE/DBE Firms is not in itself sufficient reason for a bidder's/offeror's failure to meet the Contract DBE goal, as long as such costs are reasonable. Factors to take into consideration when determining whether a MBE/DBE Firm's quote is excessive or unreasonable include, without limitation, the following:
  - (a) the dollar difference between the MBE/DBE Subcontractor's quote and the average of the other Subcontractors' quotes received by the Bidder/Offeror;
  - (b) the percentage difference between the MBE/DBE Subcontractor's quote and the average of the other Subcontractors' quotes received by the bidder/offeror;
  - (c) the percentage that the DBE Subcontractor's quote represents of the overall contract amount;
  - (d) the number of MBE/DBE firms that the bidder/offeror solicited for that portion of the work;
  - (e) whether the work described in the MBE/DBE and Non-MBE/DBE Subcontractor quotes (or portions thereof) submitted for review is the same or comparable; and
  - (f) the number of quotes received by the bidder/offeror for that portion of the work.
4. The above factors are not intended to be mandatory, exclusive, or exhaustive, and other evidence of an excessive or unreasonable price may be relevant.
5. The bidder/offeror may not use its price for self-performing work as a basis for rejecting a MBE/DBE Firm's quote as excessive or unreasonable.
6. The "average of the other Subcontractors' quotes received by the bidder/offeror" refers to the average of the quotes received from all Subcontractors, except that there should be quotes from at least three Subcontractors, and there must be at least one quote from a MBE/DBE and one quote from a Non-MBE/DBE.
7. A bidder/offeror shall not reject a MBE/DBE Firm as unqualified without sound reasons based on a thorough investigation of the firm's capabilities. For each certified MBE/DBE that is rejected as unqualified or that placed a subcontract quotation or offer that the bidder/offeror concludes is not acceptable, the bidder/offeror must provide a written detailed statement listing the reasons for this conclusion. The bidder/offeror also must document the steps taken to verify the capabilities of the MBE/DBE and Non-MBE/DBE Firms quoting similar work.
  - (a) The factors to take into consideration when assessing the capabilities of a MBE/DBE Firm, include, but are not limited to the following: financial capability, physical capacity to perform, available personnel and equipment, existing workload, experience performing the type of work, conduct and performance in previous Contracts, and ability to meet reasonable Contract requirements.
  - (b) The MBE/DBE Firm's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the efforts to meet the project goal.

#### **E. Assisting Interested MBE/DBE Firms**

When appropriate under the circumstances, the decision-maker will consider whether the bidder/offeror:

1. made reasonable efforts to assist interested MBE/DBE Firms in obtaining the bonding, lines of credit, or insurance required by MDOT or the bidder/offeror; and
2. made reasonable efforts to assist interested MBE/DBE Firms in obtaining necessary equipment, supplies, materials, or related assistance or services.

### III. Other Considerations

In making a determination of Good Faith Efforts the decision-maker may consider engineering estimates, catalogue prices, general market availability and availability of certified MBE/DBE Firms 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/DBE and Non-MBE/DBE costs of participation, and their impact on the overall cost of the Contract to the State and any other relevant factors.

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

### IV. Documenting Good Faith Efforts

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

#### A. Items of Work (Complete Good Faith Efforts Documentation Form E, Part 2)

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

#### B. Outreach/Solicitation/Negotiation

1. The record of the bidder's/offeror's compliance with the outreach efforts prescribed by COMAR 21.11.03.09C(2)(a) through (e) and 49 C.F.R. Part 26, Appendix A. **(Complete Outreach Efforts Compliance Statement)**
2. A detailed statement of the efforts made to contact and negotiate with MBE/DBE Firms including:
  - (a) the names, addresses, and telephone numbers of the MBE/DBE Firms who were contacted, with the dates and manner of contacts (letter, fax, email, telephone, etc.) **(Complete Good Faith Efforts Form E, Part 3, and submit letters, fax cover sheets, emails, etc. documenting solicitations)**; and
  - (b) a description of the information provided to MBE/DBE Firms regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed and the means used to provide that information.

#### C. Rejected MBE/DBE Firms (Complete Good Faith Efforts Form E, Part 4)

1. For each MBE/DBE Firm that the bidder/offeror concludes is not acceptable or qualified, a detailed statement of the reasons for the bidder's/offeror's conclusion, including the steps taken to verify the capabilities of the MBE/DBE and Non-MBE/DBE Firms quoting similar work.
2. For each certified MBE/DBE Firm that the bidder/offeror concludes has provided an excessive or unreasonable price, a detailed statement of the reasons for the bidder's/offeror's conclusion, including the quotes received from all MBE/DBE and Non-MBE/DBE firms bidding on the same or comparable work. **(Include copies of all quotes received.)**

3. A list of MBE/DBE Firms contacted but found to be unavailable. This list should be accompanied by a Minority Contractor Unavailability Certificate signed by the MBE/DBE Contractor or a statement from the bidder/offeror that the MBE/DBE Contractor refused to sign the Minority Contractor Unavailability Certificate.

**D. Other Documentation**

1. Submit any other documentation requested by the Procurement Officer to ascertain the bidder's/offeror's Good Faith Efforts.
2. Submit any other documentation the bidder/offeror believes will help the Procurement Officer ascertain its Good Faith Efforts.

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**MDOT MBE/DBE FORM E**  
**GOOD FAITH EFFORTS GUIDANCE AND DOCUMENTATION**

**PART 2 – CERTIFICATION REGARDING GOOD FAITH EFFORTS**  
**DOCUMENTATION**

PAGE \_\_\_ OF \_\_\_

Prime Contractor	Project Description	Solicitation Number
	Internal Auditing Services	SV-3104-0000

**PARTS 3, 4, AND 5 MUST BE INCLUDED WITH THIS CERTIFICATE ALONG WITH ALL DOCUMENTS SUPPORTING YOUR WAIVER REQUEST.**

I hereby request a waiver of (1) the Minority Business Enterprise (MBE) participation goal and/or subgoal(s), (2) the Disadvantaged Business Enterprise (DBE) participation goal, or (3) a portion of the pertinent MBE/DBE participation goal and/or MBE subgoal(s) for this procurement. I affirm that I have reviewed the Good Faith Efforts Guidance MBE/DBE Form E. I further affirm under penalties of perjury that the contents of Parts 3, 4, and 5 of MDOT MBE/DBE Form E are true to the best of my knowledge, information and belief.

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Signature of Representative

\_\_\_\_\_  
Address

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Date

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\_\_\_\_\_  
1 MBE participation goals and subgoals apply to State-funded procurements. DBE participation goals apply to federally-funded procurements. Federally-funded Contracts do not have subgoals.

**MDOT MBE/DBE FORM E**  
**GOOD FAITH EFFORTS GUIDANCE AND DOCUMENTATION**  
**PART 3 – IDENTIFIED ITEMS OF WORK BIDDER/OFFEROR MADE AVAILABLE TO**  
**MBE/DBE FIRMS**  
**PAGE \_\_\_ OF \_\_\_**

Prime Contractor	Project Description	Solicitation Number
	Internal Auditing Services	SV-3104-0000

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

Identified Items of Work	Was this work listed in the procurement?	Does bidder/offeror normally self-perform this work?	Was this work made available to MBE/DBE Firms? If no, explain why?
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Please check if Additional Sheets are attached.

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**MDOT MBE/DBE FORM E**  
**GOOD FAITH EFFORTS GUIDANCE AND DOCUMENTATION**  
**PART 4 – IDENTIFIED MBE/DBE FIRMS AND RECORD OF SOLICITATIONS**  
**PAGE \_\_\_ OF \_\_\_**

<b>Prime Contractor</b>	<b>Project Description</b>	<b>Solicitation Number</b>
	Internal Auditing Services	SV-3104-0000

Identify the MBE/DBE Firms solicited to provide quotes for the Identified Items of Work made available for MBE/DBE participation. Include the name of the MBE/DBE Firm solicited, items of work for which bids/quotes were solicited, date and manner of initial and follow-up solicitations, whether the MBE/DBE provided a quote, and whether the MBE/DBE is being used to meet the MBE/DBE participation goal. MBE/DBE Firms used to meet the participation goal must be included on the MBE/DBE Participation Schedule, Form B. Note: If the procurement includes a list of the MBE/DBE Firms identified during the goal setting process as potentially available to perform the items of work, the bidder/offeror should solicit all of those MBE/DBE Firms or explain why a specific MBE/DBE was not solicited. If the bidder/offeror identifies additional MBE/DBE Firms who may be available to perform Identified Items of Work, those additional MBE/DBE Firms should also be included below. Copies of all written solicitations and documentation of follow-up calls to MBE/DBE Firms must be attached to this form. If the bidder/offeror used a Non-MBE/DBE or is self-performing the identified items of work, Part 4 must be completed.

Name of Identified MBE/DBE Firm & MBE Classification	Describe Item of Work Solicited	Initial Solicitation Date & Method	Follow-up Solicitation Date & Method	Details for Follow-up Calls	Quote Rec'd	Quote Used	Reason Quote Rejected
<b>Firm Name:</b> _____  <b>MBE Classification (Check only if requesting waiver of MBE subgoal.)</b>  <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American-Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification _____		<b>Date:</b>  <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email	<b>Date:</b>  <input type="checkbox"/> Phone <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email	<b>Time of Call:</b>  Spoke With:  <input type="checkbox"/> Left Message	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Used other MBE/DBE <input type="checkbox"/> Used Non-MBE/DBE  <input type="checkbox"/> Self-performing
<b>Firm Name:</b> _____  <b>MBE Classification (Check only if requesting waiver of MBE subgoal.)</b>  <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American-Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification _____		<b>Date:</b>  <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email	<b>Date:</b>  <input type="checkbox"/> Phone <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email	<b>Time of Call:</b>  Spoke With:  <input type="checkbox"/> Left Message	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Used other MBE/DBE <input type="checkbox"/> Used Non-MBE/DBE  <input type="checkbox"/> Self-performing

Please check if Additional Sheets are attached.



**MDOT MBE/DBE FORM E  
GOOD FAITH EFFORTS GUIDANCE AND DOCUMENTATION**

**PART 5 – ADDITIONAL INFORMATION REGARDING REJECTED MBE/DBE QUOTES**

PAGE \_\_\_ OF \_\_\_

<b>Prime Contractor</b>	<b>Project Description</b>	<b>Solicitation Number</b>
	Internal Auditing Services	SV-3104-0000

This form must be completed if Part 3 indicates that a MBE/DBE quote was rejected because the bidder/offeror is using a Non-MBE/DBE or is self-performing the Identified Items of Work. Provide the Identified Items Work, indicate whether the work will be self-performed or performed by a Non-MBE/DBE, and if applicable, state the name of the Non-MBE/DBE. Also include the names of all MBE/DBE and Non-MBE/DBE Firms that provided a quote and the amount of each quote.

Describe Identified Items of Work Not Being Performed by MBE/DBE (Include spec/section number from bid)	Self-performing or Using Non-MBE/DBE (Provide name)	Amount of Non-MBE/DBE Quote	Name of Other Firms Who Provided Quotes & Whether MBE/DBE or Non-MBE/DBE	Amount Quoted	Indicate Reason Why MBE/DBE Quote Rejected & Briefly Explain
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE/DBE _____	\$ _____	_____ <input type="checkbox"/> MBE/DBE <input type="checkbox"/> Non-MBE/DBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE/DBE _____	\$ _____	_____ <input type="checkbox"/> MBE/DBE <input type="checkbox"/> Non-MBE/DBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE/DBE _____	\$ _____	_____ <input type="checkbox"/> MBE/DBE <input type="checkbox"/> Non-MBE/DBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE/DBE _____	\$ _____	_____ <input type="checkbox"/> MBE/DBE <input type="checkbox"/> Non-MBE/DBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE/DBE _____	\$ _____	_____ <input type="checkbox"/> MBE/DBE <input type="checkbox"/> Non-MBE/DBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE/DBE _____	\$ _____	_____ <input type="checkbox"/> MBE/DBE <input type="checkbox"/> Non-MBE/DBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other

Please check if Additional Sheets are attached.

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**Attachment E. Veteran-Owned Small Business Enterprise (VSBE) Forms**

**Form E-1  
Veteran- Owned Small Business Enterprise (VSBE) Utilization Affidavit  
(Submit with Proposal)**

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

In conjunction with the Proposal submitted in response to Solicitation No. SV-3104-0000, I affirm the following:

1.  I acknowledge and intend to meet the overall verified VSBE participation goal of (0.05%).
2. Therefore, I will not be seeking a waiver.

**OR**

- I conclude that I am unable to achieve the VSBE participation goal. I hereby request a waiver, in whole or in part, of the overall goal. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.13.07. If this request is for a partial waiver, I have identified the portion of the VSBE goal that I intend to meet.
2. I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 days of receiving notice of the apparent award or from the date of conditional award (per COMAR 21.11.13.06), whichever is earlier.
  - (a) VSBE Participation Statement; and
  - (b) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain Offeror responsibility in connection with the VSBE participation goal.

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

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

Prime Contractor (Firm Name, Address, Phone):	Project Description: Internal Auditing Services
Project Number: SV-3104-0000	

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

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

Continue on a separate page, if needed.

**SUMMARY**

**TOTAL VSBE 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.

\_\_\_\_\_  
Offeror Name  
(PLEASE PRINT OR TYPE)

\_\_\_\_\_  
Signature of Affiant

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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**Form E-2**

**VSBE Subcontractor Participation Statement**

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

\_\_\_\_\_ (Prime Contractor) has entered into a contract with  
 \_\_\_\_\_ (Subcontractor) to provide services in connection with the  
 Solicitation described below.

Prime Contractor (Firm Name, Address, Phone):	Project Description:  Internal Auditing Services
Project Number: SV-3104-0000	Total Contract Amount: \$
Name of Veteran-Owned Firm:	DUNS Number:
Address:	FEIN:
Work to Be Performed:	
Percentage of Total Contract:	Total Subcontract Amount: \$

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

**PRIME CONTRACTOR SIGNATURE**

**SUBCONTRACTOR SIGNATURE**

By: \_\_\_\_\_  
 Name, Title

\_\_\_\_\_ Name, Title

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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**Attachment F. Maryland Living Wage Affidavit of Agreement for Service Contracts**

See link at <https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf> to complete the Affidavit.

- A. This contract is subject to the Living Wage requirements under Md. Code Ann., State Finance and Procurement Article, Title 18, and the regulations proposed by the Commissioner of Labor and Industry (Commissioner). The Living Wage generally applies to a Contractor or Subcontractor who performs work on a State Contract for services that is valued at one-hundred thousand dollars (\$100,000) or more. An employee is subject to the Living Wage if he/she is at least eighteen (18) years old or will turn eighteen (18) during the duration of the contract; works at least thirteen (13) consecutive weeks on the State Contract and spends at least one-half (1/2) of the employee's time during any work week on the State Contract.
- B. The Living Wage Law does not apply to:
- (1) A Contractor who:
    - (a) Has a State Contract for services valued at less than one-hundred thousand dollars (\$100,000), or
    - (b) Employs ten (10) or fewer employees and has a State contract for services valued at less than five-hundred thousand dollars (\$500,000).
  - (2) A Subcontractor who:
    - (a) Performs work on a State Contract for services valued at less than one-hundred thousand dollars (\$100,000),
    - (b) Employs ten (10) or fewer employees and performs work on a State contract for services valued at less than five-hundred thousand dollars (\$500,000), or
    - (c) Performs work for a Contractor not covered by the Living Wage Law as defined in B(1)(b) above, or B (3) or C below.
  - (3) Service contracts for the following:
    - (a) Services with a Public Service Company;
    - (b) Services with a nonprofit organization;
    - (c) Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement ("Unit"); or
    - (d) Services between a Unit and a County or Baltimore City.
- C. If the Unit responsible for the State Contract for services determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.
- D. A Contractor must not split or subdivide a State contract for services, pay an employee through a third party, or treat an employee as an independent Contractor or assign work to employees to avoid the imposition of any of the requirements of Md. Code Ann., State Finance and Procurement Article, Title 18.
- E. Each Contractor/Subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.

- F. The Commissioner shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than ninety (90) days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.
- G. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of the health insurance premium, as provided in Md. Code Ann., State Finance and Procurement Article, §18-103(c), shall not lower an employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of health insurance premium shall comply with any record reporting requirements established by the Commissioner.
- H. A Contractor/Subcontractor may reduce the wage rates paid under Md. Code Ann., State Finance and Procurement Article, §18-103(a), by no more than fifty-cents (\$.50) of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413.
- I. Under Md. Code Ann., State Finance and Procurement Article, Title 18, if the Commissioner determines that the Contractor/Subcontractor violated a provision of this title or regulations of the Commissioner, the Contractor/Subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of twenty dollars (\$20.00) per day for each employee paid less than the Living Wage.
- J. Information pertaining to reporting obligations may be found by going to the Division of Labor and Industry website <http://www.dllr.state.md.us/labor/prev/livingwage.shtml> and clicking on Living Wage for State Service Contracts.

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**Attachment G. Federal Funds Attachments**

This solicitation does not include a Federal Funds Attachment.

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

See link at <https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf>

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**Attachment I. Non-Disclosure Agreement (Offeror or Contractor)**

This solicitation does not require a Non-Disclosure Agreement (Offeror or Contractor).

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**Attachment J. HIPAA Business Associate Agreement**

This solicitation does not require a HIPAA Business Associate Agreement.

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**Attachment K. Mercury Affidavit**

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

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**Attachment L. Location of the Performance of Services Disclosure**

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

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**Attachment M. Contract**

**Maryland Transportation Authority (MDTA)  
“Internal Auditing Services”  
Contract No. SV-3104-0000**

**THIS CONTRACT** (the “Contract”) is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_ (the “Contractor”) and the State of Maryland, acting through the Maryland Transportation Authority (MDTA).

In consideration of the promises and the covenants herein contained, the adequacy and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

**1. Definitions**

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

- 1.1 “COMAR” means Code of Maryland Regulations.
- 1.2 “Contractor” means the entity first named above whose principal business address is (**Contractor’s primary address**) and whose principal office in Maryland is (**Contractor’s local address**), whose Federal Employer Identification Number or Social Security Number is (**Contractor’s FEIN**), and whose eMaryland Marketplace Advantage (eMMA) vendor ID number is (**eMMA Number**).
- 1.3 “Financial Proposal” means the Contractor’s Financial Proposal **or Best and Final Offer (BAFO)**] dated \_\_\_\_\_ (**Financial Proposal date or BAFO date**).
- 1.4 Minority Business Enterprise (MBE) – Any legal entity certified as defined at COMAR 21.01.02.01B (54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- 1.5 “RFP” means the Request for Proposals for **Internal Auditing Services**, Solicitation #**SV-3104-0000**, and any amendments, addenda, and attachments thereto issued in writing by the MDTA.
- 1.6 “State” means the State of Maryland.
- 1.7 “Technical Proposal” means the Contractor’s Technical Proposal dated \_\_\_\_\_ (**Technical Proposal date**), as modified and supplemented by the Contractor’s responses to requests clarifications and requests for cure, and by any Best and Final Offer.
- 1.8 “Veteran-owned Small Business Enterprise” (VSBE) means A business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.
- 1.9 Capitalized terms not defined herein shall be ascribed the meaning given to them in the RFP.

**2. Scope of Contract**

- 2.1 The Contractor shall perform in accordance with this Contract and Exhibits A-D, which are listed below and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall control. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A – The RFP

Exhibit B – The Contract Affidavit, executed by the Contractor and dated (date of Attachment C)

Exhibit C – The Technical Proposal

Exhibit D – The Financial Proposal

- 2.2 The Procurement Officer may, at any time, by written order, make unilateral changes in the work within the general scope of the Contract. No other order, statement, or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.
- 2.3 Without limiting the rights of the Procurement Officer under Section 2.2 above, the Contract may be modified by mutual agreement of the parties, provided: (a) the modification is made in writing; (b) all parties sign the modification; and (c) all approvals by the required agencies as described in COMAR Title 21, are obtained.

### **3. Period of Performance**

- 3.1 The term of this Contract begins on the date the Contract is signed by the MDTA following any required prior approvals, including approval by the Board of Public Works, if such approval is required and shall continue for a period of three (3) years.
- 3.2 In its sole discretion, the MDTA shall have the unilateral right to extend the Contract for one (1) successive two-year period, at the prices established in the Financial Proposal, for the Renewal Option years.
- 3.3 The Contractor's performance under the Contract shall commence as of the date provided in a written Not To Exceed (NTP).
- 3.4 The Contractor's obligation to pay invoices to Subcontractors providing products/services in connection with this Contract, as well as the audit; confidentiality; document retention; patents, copyrights & intellectual property; warranty; indemnification obligations; and limitations of liability under this Contract; and any other obligations specifically identified, shall survive expiration or termination of the Contract.

### **4. Consideration and Payment**

- 4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the MDTA shall pay the Contractor in accordance with the terms of this Contract and at the prices quoted in the Financial Proposal. Unless properly modified (see above Section 2), payment to the Contractor pursuant to this Contract, including the Initial Term and any Renewal Term, shall not exceed the Contracted amount.



- 4.2 Contractor shall notify the Contract Manager, in writing, at least sixty (60) days before payments reach the NTE Amount. After notification by the Contractor, if the MDTA fails to increase the Contract amount, the Contractor shall have no obligation to perform under this Contract after payments reach the stated amount; provided, however, that, prior to the stated amount being reached, the Contractor shall: (a) promptly consult and work in good faith with the MDTA to establish a plan of action to assure that every reasonable effort is undertaken by the Contractor to complete MDTA-defined critical work in progress prior to the date the NTE Amount will be reached; and (b) when applicable secure databases, systems, platforms, and applications on which the Contractor is working in an industry standard manner so as to prevent damage or vulnerabilities to any of the same due to the existence of any such unfinished work.
- 4.3 Unless a payment is unauthorized, deferred, delayed, or set-off under COMAR 21.02.07, payments to the Contractor pursuant to this Contract shall be made no later than thirty (30) days after the MDTA's receipt of a proper invoice from the Contractor as required by RFP section 3.3.
- A. The Contractor may be eligible to receive late payment interest at the rate of 9% per annum if:
- (1) The Contractor submits an invoice for the late payment interest within thirty days after the date of the State's payment of the amount on which the interest accrued; and
  - (2) A contract claim has not been filed under State Finance and Procurement Article, Title 15, Subtitle 2, Annotated Code of Maryland.
- B. The State is not liable for interest:
- (1) Accruing more than one year after the 31st day after the agency receives the proper invoice; or
  - (2) On any amount representing unpaid interest. Charges for late payment of invoices are authorized only as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable.
- C. 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.
- D. Electronic funds transfer shall be used by the MDTA to pay Contractor pursuant to this Contract and any other MDTA payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.
- 4.4 In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may direct or authorize the Contract Manager to 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 Contract.
- 4.4 Payment of an invoice by the MDTA is not evidence that services were rendered as required under this Contract.

## **5. Rights to Records**

- 5.1 The Contractor agrees that all documents and materials including, but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical,

artwork, computations, and data prepared by the Contractor for purposes of this Contract shall be the sole property of the MDTA and shall be available to the MDTA at any time. The MDTA shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.

- 5.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a Deliverable under this Contract (as defined in **Section 7.2**), 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 made for hire for the MDTA, the Contractor hereby relinquishes, transfers, and assigns to the MDTA 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 MDTA in effectuating and registering any necessary assignments.
- 5.3 The Contractor shall report to the Contract Manager, 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.
- 5.4 The Contractor shall not affix any restrictive markings upon any data, documentation, or other materials provided to the MDTA hereunder and if such markings are affixed, the MDTA shall have the right at any time to modify, remove, obliterate, or ignore such warnings.
- 5.5 Upon termination or expiration of the Contract, the Contractor, at its own expense, shall deliver any equipment, software or other property provided by the MDTA to the place designated by the Procurement Officer.

## **6. Exclusive Use**

- 6.1 The MDTA shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable of being copyrighted, the MDTA shall be the copyright owner and Contractor may copyright material connected with this project only with the express written approval of the MDTA.
- 6.2 Except as may otherwise be set forth in this Contract, Contractor shall not use, sell, sub-lease, assign, give, or otherwise transfer to any third party any other information or material provided to Contractor by the MDTA or developed by Contractor relating to the Contract, except as provided for in **Section 8. Confidential or Proprietary Information and Documentation**.

## **7. Patents, Copyrights, and Intellectual Property**

- 7.1. All copyrights, patents, trademarks, trade secrets, and any other intellectual property rights existing prior to the Effective Date of this Contract shall belong to the party that owned such rights immediately prior to the Effective Date (“Pre-Existing Intellectual Property”). If any design, device, material, process, or other item provided by Contractor is covered by a patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the MDTA to use such item or items pursuant to its rights granted under the Contract.
- 7.2 Except for (1) information created or otherwise owned by the MDTA or licensed by the MDTA from third parties, including all information provided by the MDTA to Contractor; (2) materials created by Contractor or its Subcontractor(s) specifically for the MDTA under the Contract (“Deliverables”),

except for any Contractor Pre-Existing Intellectual Property included therein; and (3) the license rights granted to the MDTA, all right, title, and interest in the intellectual property embodied in the solution, including the know-how and methods by which the solution is provided and the processes that make up the solution, will belong solely and exclusively to Contractor and its licensors, and the MDTA will have no rights to the same except as expressly granted in this Contract. Any SaaS Software developed by Contractor during the performance of the Contract will belong solely and exclusively to Contractor and its licensors. For all Software provided by the Contractor under the Contract, Contractor hereby grants to the MDTA a nonexclusive, irrevocable, unlimited, perpetual, non-cancelable, and non-terminable right to use and make copies of the Software and any modifications to the Software. For all Contractor Pre-Existing Intellectual Property embedded in any Deliverables, Contractor grants to the MDTA a license to use such Contractor Pre-Existing Intellectual Property in connection with its permitted use of such Deliverable. During the period between delivery of a Deliverable by Contractor and the date of payment therefor by the MDTA in accordance with this Contract (including throughout the duration of any payment dispute discussions), subject to the terms and conditions contained herein, Contractor grants the MDTA a royalty-free, non-exclusive, limited license to use such Deliverable and to use any Contractor Materials contained therein in accordance with this Contract.

- 7.3. Subject to the terms of **Section 10**, Contractor shall defend, indemnify and hold harmless the MDTA and its agents and employees, from and against any and all claims, costs, losses, damages, liabilities, judgments and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with any third party claim that the Contractor-provided products/services infringe, misappropriate or otherwise violate any third party intellectual property rights. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the MDTA or that adversely affects the MDTA's rights or interests, without the MDTA's prior written consent.
- 7.4 Without limiting Contractor's obligations under Section 5.3, if an infringement claim occurs, or if the MDTA or the Contractor believes such a claim is likely to occur, Contractor (after consultation with the MDTA and at no cost to the MDTA): (a) shall procure for the MDTA the right to continue using the allegedly infringing component or service in accordance with its rights under this Contract; or (b) replace or modify the allegedly infringing component or service so that it becomes non-infringing and remains compliant with all applicable specifications.
- 7.5 Except as otherwise provided herein, Contractor shall not acquire any right, title or interest (including any intellectual property rights subsisting therein) in or to any goods, Software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the MDTA to the Contractor. Notwithstanding anything to the contrary herein, the MDTA may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a separate writing executed by the Contractor and an authorized representative of the MDTA as well as all required MDTA approvals.
- 7.6 Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall use any Software or technology in a manner that will cause any patents, copyrights or other intellectual property which are owned or controlled by the MDTA or any of its affiliates (or for which the MDTA or any of its subcontractors has received license rights) to become subject to any encumbrance or terms and conditions of any third party or open source license (including, without limitation, any open source license listed on <http://www.opensource.org/licenses/alphabetical>) (each an "Open Source License"). These restrictions, limitations, exclusions and conditions shall apply even if the MDTA or any of its subcontractors becomes aware of or fails to act in a manner to address any violation or failure to comply therewith. No act by the MDTA or any of its subcontractors that is undertaken under this Contract as to any Software or technology shall be construed as intending to cause any patents, copyrights or other intellectual property that are owned or controlled by the MDTA (or for which the

MDTA has received license rights) to become subject to any encumbrance or terms and conditions of any open source license.

- 7.7 The Contractor shall report to the , promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Deliverables delivered under this Contract.
- 7.8 The Contractor shall not affix (or permit any third party to affix), without the 's consent, any restrictive markings upon any Deliverables that are owned by the MDTA, and if such markings are affixed, the shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

## **8. Confidential or Proprietary Information and Documentation**

- 8.1 Subject to the Maryland Public Information Act and any other applicable laws including, without limitation, HIPAA, the HI-TECH Act, and the Maryland Medical Records Act and regulations promulgated pursuant thereto, 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 or cloud infrastructure, if applicable) shall be held in confidence by the other party. Each party shall, however, be permitted to disclose, as provided by and consistent with applicable law, relevant confidential information to its officers, agents, and Contractor Personnel to the extent that such disclosure is necessary for the performance of their duties under this Contract. Each officer, agent, and Contractor Personnel to whom any of the MDTA's confidential information is to be disclosed shall be advised by Contractor provided that each officer, agent, and Contractor Personnel to whom any of the MDTA's confidential information is to be disclosed shall be advised by Contractor of the obligations hereunder, and bound by, confidentiality at least as restrictive as those of set forth in this Contract.
- 8.2 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 rightfully 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.

## **9. Loss of Data**

- 9.1 In the event of loss of any MDTA data or records where such loss is due to the act or omission of the Contractor or any of its Subcontractors or agents, the Contractor shall be responsible for restoring or recreating, as applicable, 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 recoverable by the Contractor. At no time shall any Contractor actions (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms, and applications with which the Contractor is working hereunder.
- 9.2 In accordance with prevailing federal or state law or regulations, the Contractor shall report the loss of non-public data as directed in **RFP Section 3.7**.
- 9.3 Protection of data and personal privacy (as further described and defined in RFP Section 3.8) shall be an integral part of the business activities of the Contractor to ensure there is no inappropriate or unauthorized use of MDTA information at any time. To this end, the Contractor shall safeguard the confidentiality, integrity and availability of MDTA information and comply with the conditions identified in **RFP Section 3.7**.

**10. Indemnification and Notification of Legal Requests**

- 10.1. At its sole cost and expense, Contractor shall (i) indemnify and hold the MDTA, its employees and agents harmless from and against any and all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs and expenses (including but not limited to attorneys' fees and costs), whether or not involving a third party claim, which arise out of or relate to the Contractor's, or any of its Subcontractors', performance of this Contract and (ii) cooperate, assist, and consult with the MDTA in the defense or investigation of any such claim, demand, action or suit. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the MDTA or that adversely affects the MDTA's rights or interests, without the MDTA's prior written consent.
- 10.2. The MDTA has no obligation: (i) 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 against the Contractor or its Subcontractors as a result of or relating to the Contractor's obligations or performance under this Contract, or (ii) to pay any judgment or settlement of any such suit, claim or action. Notwithstanding the foregoing, the Contractor shall promptly notify the Procurement Officer of any such claims, demands, actions, or suits.
- 10.3. Notification of Legal Requests. In the event the Contractor receives a subpoena or other validly issued administrative or judicial process, or any discovery request in connection with any litigation, requesting MDTA Pre-Existing Intellectual Property, of other information considered to be the property of the MDTA, including but not limited to MDTA data stored with or otherwise accessible by the Contractor, the Contractor shall not respond to such subpoena, process or other legal request without first notifying the MDTA, unless prohibited by law from providing such notice. The Contractor shall promptly notify the MDTA of such receipt providing the MDTA with a reasonable opportunity to intervene in the proceeding before the time that Contractor is required to comply with such subpoena, other process or discovery request.

**11. Non-Hiring of Employees**

No official or employee of the MDTA, as defined under Md. Code Ann., General Provisions Article, § 5-101, 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 MDTA, become or be an employee of the Contractor or any entity that is a Subcontractor on this Contract.

**12. Disputes**

This Contract shall be subject to the provisions of Md. Code Ann., State Finance and Procurement Article, Title 15, Subtitle 2, 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 thirty (30) days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within thirty (30) days of the filing of a notice of claim, but no later than the date of final payment under the Contract, the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

**13. Maryland Law Prevails**

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



- 13.2 The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland) does not apply to this Contract or any Purchase Order, Work Order, or Notice to Proceed issued thereunder, or any software, or any software license acquired hereunder.
- 13.3 Any and all references to the Maryland Code, annotated and contained in this Contract shall be construed to refer to such Code sections as are from time to time amended.

**14. 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, sexual orientation, gender identification, marital status, national origin, ancestry, genetic information, or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause Subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

**15. Contingent Fee Prohibition**

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

**16. Non-Availability of Funding**

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

**17. Termination for Default**

If the Contractor fails to fulfill its obligations under this Contract properly and on time, fails to provide any required annual and renewable bond 30 days prior to expiration of the current bond then in effect, or otherwise violates any provision of the Contract, the MDTA 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 MDTA's option, become the MDTA's property. The MDTA 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 MDTA 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.

## **18. Termination for Convenience**

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

## **19. Delays and Extensions of Time**

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

19.2 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 MDTA in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the MDTA, 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.

## **20. Suspension of Work**

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

## **21. Pre-Existing Regulations**

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

## **22. Financial Disclosure**

The Contractor shall comply with the provisions of Section §13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State or its agencies during a calendar year under which the business is to receive in the aggregate, \$200,000 or more, shall within thirty (30) days of the time when the aggregate value of these contracts, leases or other agreements reaches \$200,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

## **23. Political Contribution Disclosure**

The Contractor shall comply with Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract with the State, a county, or a municipal corporation,

or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31. Additional information is available on the State Board of Elections website: [http://www.elections.state.md.us/campaign\\_finance/index.html](http://www.elections.state.md.us/campaign_finance/index.html).

#### **24. Retention of Records**

The Contractor and Subcontractors shall retain and maintain all records and documents in any way relating to this Contract for (i) three (3) years after final payment by the State hereunder, or (ii) any applicable federal or State retention requirements (such as HIPAA) or condition of award, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the MDTA, as designated by the Procurement Officer, at all reasonable times. The Contractor shall provide copies of all documents requested by the MDTA, 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. All records related in any way to the Contract are to be retained for the entire time provided under this section.

#### **25. Right to Audit**

- 25.1 The State reserves the right, at its sole discretion and at any time, to perform an audit of the Contractor's performance under this Contract. An audit is defined as a planned and documented independent activity performed by qualified personnel, including but not limited to State and federal auditors, to determine by investigation, examination, or evaluation of objective evidence from data, statements, records, operations and performance practices (financial or otherwise) the Contractor's compliance with the Contract, including but not limited to adequacy and compliance with established procedures and internal controls over the services performed pursuant to the Contract.
- 25.2 Upon three (3) Business Days' notice, the MDTA shall be provided reasonable access to Contractor's records to perform any such audits. The MDTA may conduct these audits with any or all of its own internal resources or by securing the services of a third party accounting or audit firm, solely at the MDTA's election. The MDTA may copy any record related to the services performed pursuant to the Contract. The Contractor agrees to fully cooperate and assist in any audit conducted by or on behalf of the MDTA, including, by way of example only, making records and employees available as, where, and to the extent requested by the MDTA and by assisting the auditors in reconciling any audit variances. Contractor shall not be compensated for providing any such cooperation and assistance.
- 25.3 The right to audit shall include any of the Contractor's Subcontractors including but not limited to any lower tier Subcontractor(s). The Contractor shall ensure the MDTA has the right to audit such Subcontractor(s).

#### **26. Compliance with Laws**

The Contractor hereby represents and warrants that:

- a. It is qualified to do business in the State 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, 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;
- 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.

## **27. Cost and Price Certification**

- 27.1 The Contractor, by submitting cost or price information certifies that, to the best of its knowledge, the information submitted is accurate, complete, and current as of the date of its Proposal.
- 27.2 The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date of its Proposal, was inaccurate, incomplete, or not current.

## **28. Subcontracting; Assignment**

The Contractor may not subcontract any of its obligations 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, each at the MDTA's sole and absolute discretion; provided, however, that a Contractor may assign monies receivable under a contract after written notice to the MDTA. Any subcontracts shall include such language as may be required in various clauses contained within this Contract, exhibits, and attachments. The Contract shall not be assigned until all approvals, documents, and affidavits are completed and properly registered. The MDTA shall not be responsible for fulfillment of the Contractor's obligations to its Subcontractors.

## **29. Limitations of Liability**

- 29.1 Contractor shall be liable for any loss or damage to the MDTA occasioned by the acts or omissions of Contractor, its Subcontractors, agents or employees as follows:
  - (a) For infringement of patents, trademarks, trade secrets and copyrights as provided in **Section 7 "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; and
  - (c) For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract and regardless of the basis on which the claim is made, Contractor's liability shall be unlimited.
  - (d) In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that all Subcontractors shall be held to be agents of Contractor.
- 29.2 Contractor's indemnification obligations for Third party claims arising under Section 10 ("Indemnification") of this Contract are included in this limitation of liability only if the MDTA is immune from liability. Contractor's indemnification liability for third party claims arising under Section 10 of this Contract shall be unlimited if the MDTA is not immune from liability for claims arising under Section 10.

29.3. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that it is responsible for performance of the services and compliance with the relevant obligations hereunder by its Subcontractors.

**30. Commercial Nondiscrimination**

30.1 As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry, national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual's refusal to submit to a genetic test or make available the results of a genetic test or on the basis of disability, or otherwise 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 Contract and may result in termination of this Contract, 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.

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

30.4 The Contractor shall include the language from 30.1, or similar clause approved in writing by the MDTA, in all subcontracts.

**31. Prompt Pay Requirements**

31.1 If the Contractor withholds payment of an undisputed amount to its Subcontractor, the MDTA, at its option and in its sole discretion, may take one or more of the following actions:

- (a) Not process further payments to the Contractor until payment to the Subcontractor is verified;
- (b) Suspend all or some of the Contract work without affecting the completion date(s) for the Contract work;
- (c) Pay or cause payment of the undisputed amount to the Subcontractor from monies otherwise due or that may become due to the Contractor;
- (d) Place a payment for an undisputed amount in an interest-bearing escrow account; or
- (e) Take other or further actions as appropriate to resolve the withheld payment.

- 31.2 An “undisputed amount” means an amount owed by the Contractor to a Subcontractor for which there is no good faith dispute. Such “undisputed amounts” include, without limitation: (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.
- 31.3 An act, failure to act, or decision of a Procurement Officer or a representative of the MDTA concerning a withheld payment between the Contractor and a Subcontractor under this **section 31**, may not:
- (a) Affect the rights of the contracting parties under any other provision of law;
  - (b) Be used as evidence on the merits of a dispute between the MDTA and the Contractor in any other proceeding; or
  - (c) Result in liability against or prejudice the rights of the MDTA.
- 31.4 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 MBE program.
- 31.5 To ensure compliance with certified MBE subcontract participation goals, the MDTA may, consistent with COMAR 21.11.03.13, take the following measures:
- (a) 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. This verification may include, as appropriate:
    - i. Inspecting any relevant records of the Contractor;
    - ii. Inspecting the jobsite; and
    - iii. Interviewing Subcontractors and workers.Verification shall include a review of:
    - i. The Contractor’s monthly report listing unpaid invoices over thirty (30) days old from certified MBE Subcontractors and the reason for nonpayment; and
    - ii. The monthly report of each certified MBE Subcontractor, which lists payments received from the Contractor in the preceding thirty (30) days and invoices for which the Subcontractor has not been paid.
  - (b) If the MDTA determines that the Contractor is not in compliance with certified MBE participation goals, then the MDTA 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.
  - (c) If the MDTA determines that the Contractor is in material noncompliance with MBE Contract provisions and refuses or fails to take the corrective action that the MDTA requires, then the MDTA may:
    - i. Terminate the Contract;
    - ii. Refer the matter to the Office of the Attorney General for appropriate action; or
    - iii. Initiate any other specific remedy identified by the Contract, including the contractual remedies required by any applicable laws, regulations, and directives regarding the payment of undisputed amounts.

- (d) 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.

**32. Living Wage**

If a Contractor subject to the Living Wage law fails to submit all records required under COMAR 21.11.10.05 to the Commissioner of Labor and Industry at the Department of Labor, the MDTA may withhold payment of any invoice or retainage. The MDTA may require certification from the Commissioner on a quarterly basis that such records were properly submitted.

**33. Use of Estimated Quantities**

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

**34. Risk of Loss; Transfer of Title**

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

**35. Effect of Contractor Bankruptcy**

All rights and licenses granted by the Contractor under this Contract are and shall be deemed to be rights and licenses to "intellectual property," and the subject matter of this Contract, including services, is and shall be deemed to be "embodiments of intellectual property" for purposes of and as such terms are used and interpreted under § 365(n) of the United States Bankruptcy Code ("Code") (11 U.S.C. § 365(n) (2010)). The MDTA has the right to exercise all rights and elections under the Code and all other applicable bankruptcy, insolvency and similar laws with respect to this Contract (including all executory statement of works). Without limiting the generality of the foregoing, if the Contractor or its estate becomes subject to any bankruptcy or similar proceeding: (a) subject to the MDTA's rights of election, all rights and licenses granted to the MDTA under this Contract shall continue subject to the respective terms and conditions of this Contract; and (b) the MDTA shall be entitled to a complete duplicate of (or complete access to, as appropriate) all such intellectual property and embodiments of intellectual property, and the same, if not already in the MDTA's possession, shall be promptly delivered to the MDTA, unless the Contractor elects to and does in fact continue to perform all of its obligations under this Contract.

**36. Miscellaneous**

- 36.1 Any provision of this Contract which contemplates performance or observance subsequent to any termination or expiration of this Contract shall survive termination or expiration of this Contract and continue in full force and effect.
- 36.2 If any term contained in this Contract is held or finally determined to be invalid, illegal, or unenforceable in any respect, in whole or in part, such term shall be severed from this Contract, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.
- 36.3 The headings of the sections contained in this Contract are for convenience only and shall not be deemed to control or affect the meaning or construction of any provision of this Contract.

36.4 This Contract may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Signatures provided by facsimile or other electronic means, e.g, and not by way of limitation, in Adobe .PDF sent by electronic mail, shall be deemed to be original signatures.

**37. Contract Manager and Procurement Officer**

37.1 The MDTA representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Manager may authorize in writing one or more MDTA representatives to act on behalf of the Contract Manager in the performance of the Contract Manager’s responsibilities. The MDTA may change the Contract Manager at any time by written notice to the Contractor.

37.2 The Procurement Officer has responsibilities as detailed in the Contract and is the only MDTA representative who can authorize changes to the Contract. The MDTA may change the Procurement Officer at any time by written notice to the Contractor.

**38. 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 MDTA:

Paul Trentalance, Contract Manager  
MDTA  
2310 Broening Highway  
Baltimore, MD 21224  
Phone Number: 410-537-5672  
E-Mail: [ptrentalance@mdta.state.md.us](mailto:ptrentalance@mdta.state.md.us)

With a copy to:

Ruth Carnes, Procurement Officer  
MDTA  
2310 Broening Highway  
Baltimore, MD 21224  
Phone Number: 410-537-7837  
E-Mail: [rcarnes2@mdta.state.md.us](mailto:rcarnes2@mdta.state.md.us)

If to the Contractor:

(Contractor’s Name)  
(Contractor’s primary address)  
Attn: \_\_\_\_\_

**[[Delete the following if a parent company guarantee is inapplicable:]]**

Parent Company Guarantor:

Contact: \_\_\_\_\_  
Attn: \_\_\_\_\_

**39. Liquidated Damages for MBE**

39.1 The Contract requires the Contractor to comply in good faith with the MBE Program and Contract provisions. The MDTA and the Contractor acknowledge and agree that the MDTA will incur damages, including but not limited to loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources, if the Contractor does not comply in good faith with the requirements of the MBE Program and MBE Contract provisions. The parties further acknowledge and agree that the damages the MDTA might reasonably be anticipated to accrue as a result of such lack of compliance are difficult to ascertain with precision.

39.2 Therefore, upon issuance of a written determination by the MDTA that the Contractor failed to comply in good faith with one or more of the specified MBE Program requirements or MBE Contract provisions, the Contractor shall pay liquidated damages to the MDTA at the rates set forth below. The Contractor expressly agrees that the MDTA may withhold payment on any invoices as a set-off against liquidated damages owed. The Contractor further agrees that for each specified violation, the agreed upon liquidated damages are reasonably proximate to the loss the MDTA is anticipated to incur as a result of such violation.

- (a) Failure to submit each monthly payment report in full compliance with COMAR 21.11.03.13B (3): \$23.00 per day until the monthly report is submitted as required.
- (b) Failure to include in its agreements with MBE Subcontractors a provision requiring submission of payment reports in full compliance with COMAR 21.11.03.13B (4): \$82.00 per MBE Subcontractor.
- (c) Failure to comply with COMAR 21.11.03.12 in terminating, canceling, or changing the scope of work/value of a contract with an MBE Subcontractor and amendment of the MBE participation schedule: the difference between the dollar value of the MBE participation commitment on the MBE participation schedule for that specific MBE firm and the dollar value of the work performed by that MBE firm for the Contract.
- (d) Failure to meet the Contractor's total MBE participation goal and sub goal commitments: the difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually achieved.
- (e) Failure to promptly pay all undisputed amounts to an MBE Subcontractor in full compliance with the prompt payment provisions of the Contract: \$90.00 appropriate rate following calculation instructions from GOSBA per day until the undisputed amount due to the MBE Subcontractor is paid.

39.2 Notwithstanding the assessment or availability of liquidated damages, the MDTA reserves the right to terminate the Contract and exercise any and all other rights or remedies which may be available under the Contract or Law.

**40. Parent Company Guarantee (If applicable)**

(Corporate name of Contractor's 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 Contractor's Parent Company)** may not transfer this absolute guaranty to any other person or entity without the prior express written approval of the MDTA, which approval the MDTA may grant, withhold, or qualify in its sole and absolute subjective discretion. **(Corporate name of Contractor's Parent Company)** further agrees that if the MDTA brings any claim, action, lawsuit or proceeding against **(Contractor)**, **(Corporate name of Contractor's Parent Company)** may be named as a party, in its capacity as Absolute Guarantor.

**41. Compliance with federal Health Insurance Portability and Accountability Act (HIPAA) and State Confidentiality Law**

HIPAA clauses do not apply to this Contract.

**42. Limited English Proficiency**

The Contractor shall provide equal access to public services to individuals with limited English proficiency in compliance with Md. Code Ann., State Government Article, §§ 10-1101 et seq., and Policy Guidance issued by the Office of Civil Rights, Department of Health and Human Services, and MDH Policy 02.06.07.

**SIGNATURES ON NEXT PAGE**



**IN WITNESS THEREOF**, the parties have entered into this Contract No. SV-3104-0000 as of the date hereinabove set forth.

**WITNESS:**

**NAME OF CONTRACTOR**

\_\_\_\_\_  
*Signature*

By: \_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Printed Name*

\_\_\_\_\_  
*Printed Name*

**PARENT COMPANY (GUARANTOR)  
(if applicable)**

\_\_\_\_\_  
*Title*

By: \_\_\_\_\_

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*

**MARYLAND TRANSPORTATION AUTHORITY**

\_\_\_\_\_  
*Witness*

By: \_\_\_\_\_  
*James F. Ports, Jr., Executive Director*

\_\_\_\_\_  
*Date*

**Approved as to Form and Legal Sufficiency:**

\_\_\_\_\_  
*Assistant Attorney General*

\_\_\_\_\_  
*Date*

**Acknowledgement of Availability of Funds:**

\_\_\_\_\_  
*Director, Finance*

\_\_\_\_\_  
*Date*

**Approved by the Board of Public Works (BPW):**

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Item #*



**Attachment N. Contract Affidavit**

See link at <https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-N-ContractAffidavit.pdf>.

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**Attachment O. DHS Hiring Agreement**

This solicitation does not require a DHS Hiring Agreement.

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## Appendix 1. – Abbreviations and Definitions

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

- A. Acceptable Use Policy (AUP) - A written policy documenting constraints and practices that a user must agree to in order to access a private network or the Internet.
- B. Access – The ability or the means necessary to read, write, modify, or communicate data/information or otherwise use any information system resource.
- C. Business Day(s) – The official working days of the week to include Monday through Friday. Official working days excluding State Holidays (see definition of “Normal State Business Hours” below).
- D. COMAR – Code of Maryland Regulations available on-line at <http://www.dsd.state.md.us/COMAR/ComarHome.html>.
- E. Contract – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of **Attachment M**.
- F. Contract Manager – The MDTA representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Manager, or Designee, may authorize in writing one or more MDTA representatives to act on behalf of the Contract Manager in the performance of the Contract Manager’s responsibilities. The MDTA may change the Contract Manager at any time by written notice to the Contractor.
- G. Contractor – The selected Offeror that is awarded a Contract by the MDTA.
- H. Contractor Personnel – Employees and agents and Subcontractor employees and agents performing work at the direction of the Contractor under the terms of the Contract awarded from this RFP.
- I. Data Breach – The unauthorized acquisition, use, modification or disclosure of State data, or other Sensitive Data.
- J. Maryland Transportation Authority (MDTA) – The State Agency issuing and Managing this Solicitation.
- K. eMMA – eMaryland Marketplace Advantage (see RFP **Section 4.2**).
- L. Information System – A discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.
- M. Key Personnel – All Contractor Personnel identified in the solicitation as such that are essential to the work being performed under the Contract. See RFP **Sections 3.10**.
- N. Local Time – Time in the Eastern Time Zone as observed by the State of Maryland. Unless otherwise specified, all stated times shall be Local Time, even if not expressly designated as such.
- O. Minority Business Enterprise (MBE) – Any legal entity certified as defined at COMAR 21.01.02.01B (54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.

- P. Normal State Business Hours - Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: [www.dbm.maryland.gov](http://www.dbm.maryland.gov) – keyword: State Holidays.
- Q. Notice to Proceed (NTP) – A written notice from the Procurement Officer that work under the Contract, project, Task Order or Work Order (as applicable) is to begin as of a specified date. The NTP Date is the start date of work under the Contract, project, Task Order or Work Order. Additional NTPs may be issued by either the Procurement Officer or the Contract Monitor regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date.
- R. NTP Date – The date specified in a NTP for work on Contract, project, Task Order or Work Order to begin.
- S. Offeror – An entity that submits a Proposal in response to this RFP.
- T. Personally Identifiable Information (PII) – Any information about an individual maintained by the State, including (1) any information that can be used to distinguish or trace an individual identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.
- U. Procurement Officer – Prior to the award of any Contract, the sole point of contact in the State for purposes of this solicitation. After Contract award, the Procurement Officer has responsibilities as detailed in the Contract (**Attachment M**) and is the only State representative who can authorize changes to the Contract. The MDTA may change the Procurement Officer at any time by written notice to the Contractor.
- V. Proposal – As appropriate, either or both of the Offeror’s Technical or Financial Proposal.
- W. Request for Proposals (RFP) – This Request for Proposals issued by the MDTA, with the Solicitation Number and date of issuance indicated in the Key Information Summary Sheet, including any amendments thereto.
- A.  
W. State – The State of Maryland.
- X. Technical Safeguards – The technology and the policy and procedures for its use that protect State Data and control access to it.
- Y. Total Proposal Price - The Offeror’s total price for goods and services in response to this solicitation, included in Financial Proposal, **Attachment B** –2 Financial Proposal Form.
- Z. Veteran-owned Small Business Enterprise (VSBE) – A business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.
- AA. Work Day(s): Same as Business Day(s).
- BB. Work Order–. An individually assigned project being requested of the Contractor by the MDTA Contract Manager for fulfillment (ranging from small to large) which includes a project description, scope of work, and anticipated completion date, to which the Contractor shall respond in writing within a certain number of Working Days after receipt from the MDTA Contract Manager with a proposed work plan, specific staffing, schedule and number of man hours by labor classification, with appropriate approved hourly rates with a Not to Exceed Ceiling total cost for the assignment. The MDTA Contract Manager may

negotiate changes to the work plan and the Contractor shall implement said changes and proceed with the Work Order upon receipt of a NTP.

2. Other Definitions

- A. Where "as shown," "as indicated," "as detailed," or words of similar intent are used, it shall be understood that reference to the documents accompanying the Contract is made unless otherwise stated.
- B. Where "as directed," "as required," "as authorized" "as reviewed," "as accepted," or words of similar intent are used, it shall be understood that the direction, requirements, permission, authorization, review, or acceptance of the MDTA's Representative and/or MDTA is intended, unless otherwise stated. The MDTA's Representative for this Contract will be the Contract Manager.

**END OF APPENDIX 1**

## Appendix 2. – Offeror Information Sheet

See link at [https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder\\_OfferorInformationSheet.pdf](https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf).

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### Appendix 3. – Personnel Experience Qualifications and Labor Categories

#### Key Personnel Category 1 – Partner – At least one (1) individual

**Education:** Bachelor’s Degree from an accredited college or university in Accounting or other related discipline.

**Experience (Specialized and General):** Eight (8) years relevant experience in auditing. Four (4) of those years must be in audit supervision or oversight.

**License/Permit Requirements:** A Certified Public Accountant (CPA) licensed in accordance with Title 2 of the Business Occupations and Professions Article of the Maryland Annotated Code is required.

**Duties:** Overall responsibility for performance of the assigned audit to include: Schedule audit assignments; entrance and exit conferences; staff training and evaluation; research of audit and accounting literature; work paper review; report review; liaison with audit staff and the firm; and client relationships. Possesses proven superior technical competence and managerial abilities. Provides firm leadership and is ultimately responsible for the entire engagement, ensuring that the proper firm resources are provided. Monitors the engagement to help ensure that the approaches employed are best suited for the project objectives and that overall implementation and delivery of contracted services are of the highest possible quality. May review all underlying work papers, internal control surveys and evaluations, audit programs, permanent files, and engagement memoranda and will review and sign final auditors’ reports. May periodically be engaged in management meetings to report the status of projects and address any additional needs of the client.

#### Key Personnel Category 2 – Manager – At least one (1) individual

**Education:** Bachelor’s Degree from an accredited college or university in Accounting or other related discipline. A Masters of Business Administration or a Masters of Public Administration is preferred but not required.

**Experience (Specialized and General):** Six (6) years relevant experience in auditing. Three (3) years of the required six (6) years must demonstrate a leadership role in not less than three (3) projects that were delivered on time and on budget and that delivered promised business value. A Master’s Degree may be substituted for 2 years’ worth of required experience or 1 project.

**License/Permit Requirements:** A Certified Public Accountant (CPA) licensed in accordance with Title 2 of the Business Occupations and Professions Article of the Maryland Annotated Code is required.

**Duties:** Responsible for overall supervision of staff, communication, and coordination of meetings with appropriate management members, and designing the project and audit approach. Will communicate and will update the audit partner as to the status of the audit and any technical issues that may surface during the course of the engagement. May review all underlying work papers, internal control surveys and evaluations, audit programs, permanent files, and engagement memoranda and prepare summary and specific issues memoranda for review by the Partner.

**Personnel Category 3 – Cost Accountant – At least one (1) individual**

**Education:** Bachelor’s Degree from an accredited college or university in Economics, Business, Accounting, Finance, or related discipline. A Masters of Business Administration or a Masters of Public Administration is preferred but not required.

**Experience (Specialized and General):** Eight (8) years relevant experience as a cost analyst or involved in analysis in business-related subject areas such as accounting, finance or economics. Not less than five (5) of the eight (8) years of experience shall be in financial cost accounting including analyzing entity accounting, budgeting and auditing systems. A Master’s Degree may be substituted for 2 years’ worth of required experience or one (1) project.

**License/Permit Requirements:** A Certified Public Accountant (CPA) licensed in accordance with Title 2 of the Business Occupations and Professions Article of the Maryland Annotated Code is preferred but not required.

**Duties:** Conducts investment analyses or other complex operational analyses. Provides expertise and support in conducting a full range of investment analyses activities, including market surveys, cost analyses, benefits analyses, risk analyses, economic analyses, requirements definitions, schedule development, and tradeoff studies. Conducts analytical studies involving complex technical analyses, schedule constraints, and system benefits and system cost factors. Identifies cost accounting or financial problems and recommends solutions. Presents plans, analyses, and other advice within functional areas.

**Key Personnel Category 4 – Information Technology (IT) Audit Manager – At least one (1) individual**

**Education:** Bachelors or Master’s Degree from an accredited college or university in Accounting or Information Technology (IT).

**Experience (Specialized and General):** Six (6) years relevant experience in IT auditing. Three (3) years of the required six (6) years must demonstrate a leadership role in not less than three (3) successful projects that were delivered on time and on budget and that delivered promised business value. A Master’s Degree may be substituted for two (2) years’ worth of required experience.

**License/Permit Requirements:** A Maryland Licensed Certified Public Accountant (CPA) is preferred but is not required. Certified Information Systems Auditor (CISA) or Certified Information Security Manager (CISM) is required.

**Duties:** Responsible for overall supervision of IT staff, communication, and coordination of meetings with appropriate management members, and designing the project and audit approach. Will communicate and will update the audit partner as to the status of the audit and any technical issues that may surface during the course of the engagement. May review all underlying work papers, internal control surveys and evaluations, audit programs, permanent files, and engagement memoranda and prepare summary and specific issues memoranda for review by the Partner.

**Personnel Category 5 – IT Audit Supervisor – At least two (2) individuals**

**Education:** Bachelor’s Degree from an accredited college or university in Accounting or a related field.



**Experience (Specialized and General):** Four (4) years' experience in IT auditing. At least two (2) years of the required four (4) years of experience must have exhibited technical proficiency and the ability to oversee engagements.

**License/Permit Requirements:** A Maryland Licensed Certified Public Accountant (CPA) is preferred but is not required. Certified Information Systems Auditor (CISA) or Certified Information Security Manager (CISM) is required.

**Duties:** Responsibility for completion of all IT audit steps, IT audit programs. Will be responsible for the day-to-day supervision of staff, interviewing management to gain an understanding of the client's business, and performance of detail test work related to more critical areas of the engagement that may require industry-specific knowledge and experience. Responsible for reporting the progress of the engagement to the IT Manager and communicating any potential technical issues that are encountered during the course of the engagement, as well as any additional service opportunities that are identified and can be offered to the client to improve its business processes and functions.

### Personnel Category 6 – IT Senior Auditor – At least three (3) individuals

**Education:** Bachelor's Degree from an accredited college or university in Accounting, Information Technology or related field.

**Experience (Specialized and General):** Three (3) years' experience in IT auditing after a Degree was earned. At least one (1) of those three (3) years must be with demonstrated audit supervisory or lead worker experience.

**License/Permit Requirements:** A Maryland Licensed Certified Public Accountant (CPA) is preferred, but is not required. Certified Information Systems Auditor (CISA) or Certified Information Security Manager (CISM) is required.

**Duties:** Performing the day-to-day, detailed IT test work required to achieve and support the audit objective, including performing statistical sampling, data analysis, system security, interviewing management to gain an understanding of the client's business, testing internal controls for effectiveness, and performing analytical and substantive procedures as deemed necessary. Report findings related to non-performance and weaknesses in internal control to the IT Audit Supervisor or Manager.

### Personnel Category 7 – Financial Analyst – At least one (1) individual

**Education:** Bachelor's Degree from an accredited college or university in Economics, Business, Accounting, Finance, or related discipline. A Masters of Business Administration or a Masters of Public Administration is preferred but not required.

**Experience (Specialized and General):** Eight (8) years progressive experience as an analyst or involved in analyst type functions in a business related subject area such as accounting, finance or economics. Not less than five (5) of the eight (8) years of experience must be financial management experience with an emphasis on analyzing entity accounting, budgeting, and auditing systems. At the discretion of the MDTA, a Master's Degree may be substituted for two (2) years' worth of required experience.

**License/Permit Requirements:** A Certified Public Accountant (CPA) licensed in accordance with Title 2 of the Business Occupations and Professions Article of the Maryland Annotated Code is preferred but not required.

**Duties:** Provides financial management planning and execution support. Has proven knowledge of theories, principles and practices of financial management, including time value analyses, cash flow analyses and cost/ benefit and return on investment analyses. Conducts investment analyses or other complex operational analyses. Provides expertise and support in conducting a full range of investment analyses activities, including market surveys, cost analyses, benefits analyses, risk analyses, economic analyses, requirements definitions, schedule development, and tradeoff studies. Classifies and summarizes financial data for the preparation and submission of reports on a recurring basis.

### **Personnel Category 8 – Audit Supervisor – At least two (2) individuals**

**Education:** Bachelor’s Degree from an accredited college or university in Accounting or a related field.

**Experience (Specialized and General):** Four (4) years’ experience in auditing. At least two (2) years of the required four (4) years with measurable technical proficiency and the ability to oversee engagements.

**License/Permit Requirements:** A Certified Public Accountant (CPA) licensed in accordance with Title 2 of the Business Occupations and Professions Article of the Maryland Annotated Code is required.

**Duties:** Responsibility for completion of all audit steps, audit programs, and preparation of financial statements. Understands governmental accounting principles and will be responsible for the day-to-day supervision of staff, interviewing management to gain an understanding of the client’s business, and performance of detail test work related to more critical areas of the engagement that may require industry-specific knowledge and experience. Responsible for reporting the progress of the engagement to the Contractor’s Manager and communicating any potential technical issues that are encountered during the course of the engagement, as well as any additional service opportunities that are identified and can be offered to the client to improve its business processes and functions.

### **Personnel Category 9 – Senior Auditor – At least three (3) individuals**

**Education:** Bachelor’s Degree from an accredited college or university in Accounting, Finance, Business or related field.

**Experience (Specialized and General):** Three (3) years of auditing experience after a degree was earned. At least one (1) of those three (3) years must be in an audit supervisory capacity.

**License/Permit Requirements:** A Certified Public Accountant (CPA) licensed in accordance with Title 2 of the Business Occupations and Professions Article of the Maryland Annotated Code is preferred but not required.

**Duties:** Has proven a thorough understanding of generally accepted auditing standards and common audit practices and techniques. Performing the day-to-day, detailed test work required to achieve and support the audit objective, including performing statistical sampling, interviewing management to gain an understanding of the client’s business, testing internal controls for effectiveness, and performing analytical and substantive procedures as deemed necessary. Report findings related to non-performance and weaknesses in internal control to the Audit Supervisor or Manager.

**Personnel Category 10 – Staff Auditor – At least three (3) individuals**

**Education:** Bachelor’s Degree from an accredited college or university in Accounting, Finance, Business or other related field.

**Experience (Specialized and General):** Not less than a total of six (6) consecutive months of auditing experience after a degree was earned.

**License/Permit Requirements:** N/A.

**Duties:** Provides general auditing services.

**Personnel Category 11 – Subject Matter Expert (SME) – At least one (1) individual**

**Education:** Bachelor’s Degree from an accredited college or university in the specific discipline required by the State. A master’s or doctoral degree is preferred but not required. The master’s degree will be the equivalent of a Master of Business Administration or a Master of Public Administration.

**Experience (Specialized and General):** Eight (8) years of relevant industry experience in the discipline required by the State. A master’s degree may be substituted for two (2) years’ worth of required experience. At the discretion of the MDTA, a Doctoral Degree may be substituted for four (4) years’ worth of required experience.

**License/Permit Requirements:** All licenses or certification requirements for the applicable area(s) of expertise, as provided in the RFP.

**Duties:** Expertise related to a specific discipline required by the State Agency. Examples of what may be utilized are: Health care, education, public safety, social services, human resources, transportation, environment, telecommunications, Emergency System Number Boards, toll collection, accounting records reconciliation, lottery, collections, retirement, 3rd party billings, claims eligibility, registrant’s mileage records, contract assessments, SAS-70 Type 1 and Type 2, etc. A Subject Matter Expert (SME) is an individual who is an expert in a particular area. This category will require expertise in the designated area being audited. Expertise may be that the individual either has worked at a high level in the noted field or has experience auditing in the complex area and can help in the development of audit program; test procedures; and the analysis required to be conducted. A SME defines requirements, performs analyses, and develops plans and requirements such as for Business Process Re-engineering.

**Personnel Category 12 – Business Process Consultant – At least one (1) individual**

**Education:** Bachelor’s Degree from an accredited college or university in Business, Human Resources Management or a related field.

**Experience (Specialized and General):** Not less than eight (8) years’ experience in business process re-engineering. At least five (5) of the eight years must be in re-engineering large scale business processes. At the discretion of the MDTA, a Master’s Degree may be substituted for two (2) years’ worth of required experience in either experience category.

**License/Permit Requirements:** N/A.

**Duties:** Develops business requirements and business processes re-engineering methodologies. Solves application and process related problems by creating detail process and system design specifications; and works with other areas across the business units to support a total solution approach. Communicates business requirements for reports and applications development. Facilitates collaboration within and across business units. Resolves problems and improves business units' technical environments.

**END OF APPENDIX 3**

**Exhibit 1. – MDTA Vendor Electronic Funds Transfer (EFT) Registration Form**



**Vendor Electronic Funds Transfer (EFT)  
Registration Request Form**

Please submit this form to:  
Maryland Transportation Authority  
Attn: Finance Division  
2310 Broening Hwy.  
Baltimore, MD 21224

Company name and address

Company Name  Tax ID:   
Address 1   
Address 2  Do you want to receive your payments electronically?  Yes  
City  State  ZIP   No

**Financial institution information:**

Please enter the information below or attach a voided check

Bank Name  Please retain a copy of this form for your records.  
Allow 30 days for us to process your request. Be sure  
Bank Address  to notify us of any changes to your banking information  
City  State  ZIP   
ABA Number   Checking  
Account No.   Money Market  
 Savings

I am authorized by this company to make the representations contained in this document. This company authorizes the Maryland Transportation Authority to register it for electronic funds transfer (EFT) using the information contained in and attached to this registration form. This company agrees to receive all funds from the Maryland Transportation Authority by electronic funds transfer according to the terms of the EFT program. This company agrees to return to the Maryland Transportation Authority any EFT payment incorrectly disbursed by the Maryland Transportation Authority to this company's account. This company agrees to hold harmless the State of Maryland and its agencies and departments for any delays or errors caused by inaccurate or outdated registration information or by the financial institution listed above. Initiate all disbursements via EFT to the above account.

Signature of individual, company treasurer, controller, or chief financial officer

Date

Printed Name   
Telephone Number

Remittance advice email addresses:  
1   
2