



**VOLUME I**

**CONTRACT NO. MAA-MC-23-014**

**SECURITY GUARD SERVICES**

**AT**

**BALTIMORE/WASHINGTON INTERNATIONAL  
THURGOOD MARSHALL AIRPORT**

**February 2023**

**MARYLAND AVIATION ADMINISTRATION**

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AT  
BALTIMORE/WASHINGTON INTERNATIONAL  
THURGOOD MARSHALL AIRPORT**

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## INVITATION FOR BIDS

### **CONTRACT NO. MAA-MC-23-014 SECURITY GUARD SERVICES AT BALTIMORE/WASHINGTON INTERNATIONAL THURGOOD MARSHALL AIRPORT**

Sealed Multi-Step Bids for the Maryland Aviation Administration (MAA) titled **Security Guard Services at Baltimore/Washington International Thurgood Marshall Airport** as found in **Contract No. MAA-MC-23-014** shall be submitted to the MAA's Office of Procurement and Materials Management, 7001 Aviation Blvd, 2<sup>nd</sup> Floor, Glen Burnie, Maryland 21061, until **1:00:00 p.m.**, local time, **March 30, 2023**. **Positively no bids shall be received after 1:00:00 p.m.** Price Bids from Contractors that are deemed acceptable will be publicly opened and read aloud on **April 13, 2023, at 11:00 a.m.** via **Microsoft Teams**. **Please use the following link to access the meeting or phone number to dial in:** [Click here to join the meeting](#) /667-262-2962  
Conference ID: 621366816#

**NOTICE TO BIDDERS:** Use of UPS, U.S. Mail or other delivery services may delay delivery. Bids shall be addressed to MAA, Attention: **Monica Queen**, 7001 Aviation Blvd, 2<sup>nd</sup> Floor, Glen Burnie, MD 21061. Late bids, late requests for modifications or late requests for withdrawal will not be considered. Hand Delivery is recommended. MDOT MAA is not responsible for bids received late and shall not accept any bids that are late.

The Contractor receiving an award shall provide professional, reliable and effective security guard services at BWI Thurgood Marshall Airport to assist the MAA in maintaining compliance with the **TSR Part 1542**, and any security directives issued by the Department of Homeland Security, Transportation Security Administration (TSA) during the duration of this contract. The intent of the MAA is to retain qualified, experienced and responsible security officers by limiting employment turnover.

The award of this Multi-Step Bid shall be made to the responsible bidder whose technical submission is determined to be acceptable to the state and is the lowest responsive bid.

**NOTICE TO BIDDERS:** Each Bidder, before submitting a bid shall become fully informed as to the extent and character of the work required. No consideration shall be granted for any alleged misunderstanding of the material to be furnished or work to be done. The submission of a bid is an agreement with all of the items and conditions referred to herein.

A Pre-Bid Meeting shall be held via **Microsoft Teams** at **10:00:00 a.m.** on **March 2, 2023**, for interested Bidders. Please complete the Pre-Bid RSVP form to notify MAA of your intent to attend. This meeting will occur via Microsoft Teams. Please use the following link to access the meeting or phone number to dial in: [Click here to join the meeting](#) /667-262-2962 Conference ID: 67458249#. Attendance at this meeting is not mandatory, but highly recommended.

Each Bid (Section P), if in the amount of \$100,000 or more, must be accompanied by a Bid Bond (Section L) in the amount of **five percent (5%)** of the total contract price. **If a Bidder fails to submit these documents, the MDOT MAA shall deem the bid non-responsive.** The Bid/Proposal Affidavit (Section M) shall also be submitted with each bid.

A Performance Bond (Section B) and Payment Bond (Section C) in the amount of **one hundred percent (100%)** of the total contract price shall be required of the successful Bidder. Assistance in obtaining Bid, Performance and Payment bonds may be available to qualifying businesses through the Maryland Small Business Development Financing Authority (MSBDF). See SP-1.06 for more details. A Hiring Agreement shall be required of the successful Bidder. See Volume II Section F Hiring Agreement.

The Performance and Payment Bond may be annualized. See SP 1.04 and SP 1.05 or details.

**NOTICE TO BIDDERS:** In accordance with Code of Maryland Regulations (COMAR) 21.05.02.16, to receive a contract award, a Bidder must be registered on **eMaryland Marketplace Advantage** as a vendor. To register on eMaryland Marketplace Advantage, go to the Office of State Procurement Website at <https://procurement.maryland.gov>.

The MAA hereby notifies all Bidders that in regard to any contract entered into pursuant to this advertisement, certified MDOT Minority Business Enterprise (MBE) firms shall be afforded full opportunity to submit bids in response to this notice and shall not be subjected to discrimination on the basis of race, color, sex, or national origin in consideration for an award. MBE firms are encouraged to respond to this solicitation notice.

An MBE subcontract participation goal of **twenty-nine percent (29%) of the total contract dollar amount of the Contractor's Bid** has been established for this procurement. By submitting a response to this solicitation, the Bidder agrees that this dollar amount of the contract will be performed by certified MBE firms as specified. A prime contractor, including an MBE prime contractor, must accomplish an amount of work not less than the MBE subcontract goals with certified MBE subcontractors. A prime contractor comprising a joint venture that includes MBE partner(s) must accomplish the MBE subcontract goal with certified MBE subcontractors.

**WARNING – PLEASE READ:**

- A firm must be listed in the MDOT MBE/DBE Directory with the gender category in order to be used to meet the gender subgoal.
- A firm must be listed in the MDOT MBE/DBE Directory with an ethnic/racial category in order to be used to meet the ethnic/racial subgoal.
- A firm must be listed in the MDOT MBE/DBE Directory with both the gender and ethnic/racial categories in order for a contractor to have the option of selecting which of those categories it will use for the firm on a State contract.
- Contractors should designate whether the MBE firm will be used as a woman-owned business or as a business owned by a member of a racial/ethnic group before calculating the percentage of MBE participation goals and subgoal they intend to meet.

Maryland's MBE/DBE Directory reflects the dual certification status. You can access the MBE/DBE Directory at <http://mbe.mdot.state.md.us>. Firms with dual certification are listed as follows:

Example:

ABC Corporation, Inc.

123 Corporate Circle

Hanover, MD 21076

**Female/African American**

00-000

**NOTICE TO BIDDERS:** The MDOT MAA has determined under the Maryland Living Wage Law (SP-1.56), the contract resulting from this solicitation has been deemed to be a **Tier 1** contract.

**NOTICE TO BIDDERS:** If any prospective Bidders are physically impaired and are planning to attend the Pre-Bid/Site Inspection or Bid Opening Meetings, please call ahead to 410-859-7031 (Office of Procurement & Materials Management), 410-859-7111 (MAA Communications Center), or 410-859-7227 (TDD) to advise of any reasonable accommodations required.

By submitting a response to this solicitation, a bidder shall be deemed to represent that it is not in arrears in



the payment of any obligation due and owing the State of Maryland. This includes the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of the contract if selected for contract award.

By submitting a response to this solicitation, the Bidder agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. The selected Bidder shall register with the EFT Registration, General Accounting Division form using the COT/GAD X10 Vendor Electronic Funds (EFT) Registration Request Form, available at <http://compnet.comp.state.md.us/gad/pdf/GADX-10.pdf>. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the reason for exemption.

Questions regarding the Electronic Funds Transfer should be referred to the Office of the Comptroller, General Accounting Division, 80 Calvert Street, Room 200, Annapolis, Maryland 21401, (410) 260-7820 or [mmcmahon@comp.state.md.us](mailto:mmcmahon@comp.state.md.us).

MAA reserves the right to reject any and all bids and/or waive technical defects if, in its judgment, the interest of the Administration may so require.

If there are any questions regarding this contract, please contact:

Monica Queen  
Procurement Manager  
Construction & Maintenance Section  
Office of Procurement and Materials Management  
Maryland Aviation Administration  
Ph: 410-859-7004  
[Mqueen6@bwairport.com](mailto:Mqueen6@bwairport.com)

### CONTRACT SUMMARY

Item							Description						
MAA Contract Number							MAA-MC-23-014						
Contract Title							Security Guard Services at BWI Thurgood Marshall Airport						
Small Business Reserve							YES ( ) – NO (X)						
MBE Participation Goal							29%						
Applicable General Conditions							All Except GC-1.51						
Applicable Special Provisions:							All Except SP- 1.01, 1.02, 1.05 and 1.07						
	SP-1.01	X	SP-1.09	X	SP-1.17	X	SP-1.25	X	SP-1.33	X	SP-1.41	X	SP-1.49
	SP-1.02	X	SP-1.10	X	SP-1.18	X	SP-1.26	X	SP-1.34	X	SP-1.42	X	SP-1.50
X	SP-1.03	X	SP-1.11	X	SP-1.19	X	SP-1.27	X	SP-1.35	X	SP-1.43	X	SP-1.51
X	SP-1.04	X	SP-1.12	X	SP-1.20	X	SP-1.28	X	SP-1.36	X	SP-1.44	X	SP-1.52
	SP-1.05	X	SP-1.13	X	SP-1.21	X	SP-1.29	X	SP-1.37	X	SP-1.45	X	SP-1.53
X	SP-1.06	X	SP-1.14	X	SP-1.22	X	SP-1.30	X	SP-1.38	X	SP-1.46	X	SP-1.54
	SP-1.07	X	SP-1.15	X	SP-1.23	X	SP-1.31	X	SP-1.39	X	SP-1.47	X	SP-1.55
X	SP-1.08	X	SP-1.16	X	SP-1.24	X	SP-1.32	X	SP-1.40	X	SP-1.48	X	SP-1.56
Applicable Technical Provisions							TP-1.01 through TP-2.01						
Wage Rates Required							YES (X ) - NO ( )						
Project Location							BWI Airport (X) - MTN Airport ( )						
Bid Bond Required							YES (X ) - NO ( )						
Performance Bond Required							YES (X ) - NO ( )						
Payment Bond Required							YES (X ) - NO ( )						
Contract Duration							5 Years with 1- (2) year renewal option						
MBE Liquidated Damages							YES ( X) - NO ( )						
Pre-Bid Meeting Date/Time							March 1, 2023 at 10:00 AM via Microsoft Teams <a href="#">Click here to join the meeting</a> / 667-262-2962 Conference ID: 67458249#						
Question Due Date Must be submitted in writing via email <a href="mailto:Mqueen6@bwiairport.com">Mqueen6@bwiairport.com</a>							March 9 at 4:00:00 PM						
Bid Due Date/Time via email <a href="mailto:Mqueen6@bwiairport.com">Mqueen6@bwiairport.com</a>							March 30, 2023 at 2:00:00 PM Office of Procurement & Materials Management 7001 Aviation Blvd. 2 <sup>nd</sup> Floor, Glen Burnie, Maryland 21061						
Bid Opening Date/Time							April 13, 2023, 11:00:00 AM via Microsoft Teams <a href="#">Click here to join the meeting</a> /667-262-2962 Conference ID: 621366816#						

## TECHNICAL PROVISIONS 1

### **Contract Overview, General Operating Information and Requirements**

**CONTRACT NO. MAA-MC-23-014**

**SECURITY GUARD SERVICES**

**AT**

**BALTIMORE/WASHINGTON INTERNATIONAL**

**THURGOOD MARSHALL AIRPORT**

#### **TP-1.01 General Scope of Work**

- A. The Contractor shall provide the necessary trained uniformed personnel, supervision, training, vehicles, equipment, insurance and expertise to cover the security guard assignments as required by the, Maryland Aviation Administration (Administration or (MAA) at Baltimore/Washington International Thurgood Marshall (BWI Thurgood Marshall) Airport in accordance with the following technical provisions and exhibits:
1. **TP-1, Contract Overview, General Operation Information and Requirements**
  2. **TP-2, Security Guard Assignments**
  3. **Exhibit A – Positions, Hours, Shifts and Guard Assignments**
- B. The intent of this contract is to provide professional, reliable and effective security guard services at BWI Thurgood Marshall to assist the Administration in maintaining compliance with the **TSR Part 49 CFR Part 1542 (Airport Security)**, and any security directives issued by the Department of Homeland Security Transportation Security Administration (TSA) during the duration of this contract. The intent of the Administration is to retain qualified, experienced and responsible security officers by limiting employment turnover.
- C. The MAA shall have the unilateral right to order, in writing, changes in the work within the scope of the contract in accordance with General Provisions clause "Changes".
- D. The term "Administration" is used through these specifications and means the MAA's Contract Administrator or a designee, or other management personnel. The phrases "the Contractor shall provide" and "at no additional cost to the Administration" means that there shall be no separate line item for compensation and that the cost shall be factored into any unit cost as stated in the specifications.
- E. Any Modification to the contract shall be considered an alteration of the specifications and shall be handled in accordance with **SP-1.45 Alteration of Specifications or of Character of Work**. Should such alterations in the Specifications result in the Contractor being assessed an increase in the cost of the Payment and Performance Bonds, the Administration shall compensate the Contractor for the increase in bonding cost upon receiving a copy of the surety's invoice.
- F. The Contractor shall be required to provide Bid, Payment and Performance Bonds in accordance with sections **SP-1.03 Bid Guarantee** and **SP-1.04 Performance Guarantee**. As bonding affects the amount of any bid all Contractors shall read these provisions.
- G. The order of preference of contract documents shall be as follows:

1. Bid Forms
2. Technical Provisions
3. Special Provisions
4. General Provisions

In the event of a conflict between contract documents, the earliest listed above shall prevail.

- H. This Contract is subject to various audits. The Contractor shall be available to assist and fully comply with any audit requests in a timely manner and according to **TP-1.23 Administration's Right to Inspect.**

**TP-1.02 Basis of Award and Preparation of Bid**

- A. The contract shall be awarded in accordance with the Instruction to Bidders.
- B. **All** line items in **Section P** must be completed at the time of the bid submittal. In preparing its Bid, the Contractor shall not leave any blank lines and blank spaces/boxes unfilled, including but not limited to contract unit prices. Any blank space shall render the Bid non-responsive. Bidders shall submit positive unit price amounts or a bid of zero on the Bid form only. No negative unit price amounts shall be accepted as responsive bids. The Administration reserves the right to reject any incomplete bid and proceed to the next lowest, responsive bid from a responsible bidder.
- C. In preparing its Bid, the Contractor shall not include with the Bid any stipulation(s) or qualification(s). The Administration shall reject any Bid that contains stipulations and qualifiers and proceed to the next lowest responsive bid from a responsible bidder.

**TP-1.03 Contractor Qualifications**

- A. The Contractor must make every effort to demonstrate to the Administration that the Contractor can fulfill the duties of the contract. The Administration shall not accept any excuse from the Contractor after award for lack of personnel to fill positions or scarcity of funds for payroll, uniforms, vehicles, equipment, etc. If the Contractor fails to perform any function of the contract to the Administration's satisfaction, the Contractor shall be found in default.
- B. **Licenses and Certifications**
1. The Contractor shall have all applicable licenses and certifications for its company and personnel as required by the State of Maryland for a security guard company conducting business in the State. The Contractor shall be in compliance with the Annotated Code of Maryland, Business Occupations and Professions, Title 19, Security Guard Agencies and Security Guard Certification, as amended.
  2. Contractor shall also be in compliance with COMAR Title 29.04.01. Department of State Police, Licensing and Permits.
  3. Contractor shall affirm by submitting a bid that demonstrates it has obtained all applicable certifications and licenses as required by these specifications for its company and personnel.
- C. **Experience**
1. The Contractor must have five (5) years' experience working at one (1) or more airports in the

past Eight (8) years (between January 1, 2015 and January 1, 2023), as a company working in airport security operations and management as the contracted security guard services provider for a Category X Airport (see “D.” below for definition and listing of airports). The experience must be in compliance with **49 CFR Part 1542**, Transportation Security Administration, Department of Transportation, and Airport Security. The Contractor may find a link to **49 CFR Part 1542** on the TSA website.

2. The Contractor must provide documentation and references that they have managed a security guard workforce of a minimum of 140 full-time equivalent (FTE) employees at a single Category X airport.
3. The Administration shall not accept the experience of individual employees or combinations of employees as company experience. The contractor shall submit documentation demonstrating the five (5) years’ experience, including company, address, contact person, telephone number, term of contract, description and amount.
4. The Contractor shall submit with its bid, documentation of its qualifications on **Section Q – Experience Questionnaire - Minimum requirements**

D. Definition of Category X Airport

A Category X Airport is an airport in the United States where screening is performed pursuant to 49 CFR, Part 1544.101(a)(1) or 1546.101 (a) and the number of annual enplanements is 5 million or more and international enplanements are 1 million or more. Currently, there are 27 Category X Airports in the United States that the Maryland Aviation Administration recognizes for the purposes of this contract as follows:

Number	Airport FAA ID	Category X Airport Name	State
1	ATL	Hartsfield-Jackson Atlanta International	Georgia
2	BOS	Boston Logan International	Massachusetts
3	BWI	Baltimore-Washington International Thurgood Marshall	Maryland
4	CLT	Charlotte/Douglas International	No. Carolina
5	DCA	Washington Reagan National	Virginia
6	DEN	Denver International	Colorado
7	DFW	Dallas/Fort Worth International	Texas
8	DTW	Detroit Metropolitan Wayne County	Michigan
9	EWR	Newark Liberty International	New Jersey
10	FLL	Fort Lauderdale – Hollywood International	Florida

<b>11</b>	<b>HNL</b>	Daniel K. Inouye International (Honolulu)	Hawaii
<b>12</b>	<b>IAD</b>	Washington-Dulles International	Virginia
<b>13</b>	<b>IAH</b>	George Bush Intercontinental (Houston)	Texas
<b>14</b>	<b>JFK</b>	John F. Kennedy International	New York
<b>15</b>	<b>LAS</b>	Harry Reid International (Las Vegas)	Nevada
<b>16</b>	<b>LAX</b>	Los Angeles International	California
<b>17</b>	<b>LGA</b>	LaGuardia	New York
<b>18</b>	<b>MCO</b>	Orlando International	Florida
<b>19</b>	<b>MIA</b>	Miami International	Florida
<b>20</b>	<b>MSP</b>	Minneapolis-St. Paul International	Minnesota
<b>21</b>	<b>ORD</b>	Chicago O'Hare International	Illinois
<b>22</b>	<b>PHL</b>	Philadelphia International	Pennsylvania
<b>23</b>	<b>PHX</b>	Phoenix Sky Harbor International	Arizona
<b>24</b>	<b>SEA</b>	Seattle-Tacoma International	Washington
<b>25</b>	<b>SFO</b>	San Francisco International	California
<b>26</b>	<b>SJU</b>	Luis Munoz Marin International	Puerto Rico
<b>27</b>	<b>STL</b>	Lambert St. Louis International	Missouri

E. Performance Evaluations

1. The Administration reserves the right to perform for the benefit of itself and other State agencies evaluations (interim and/or final) of the performance of the Contractor and subcontractors for this contract.
2. Performance evaluations may be used or reviewed by a Procurement Officer in the course of making a future determination of responsibility under other procurements.
3. Unsatisfactory performance of this contract (or any part of it), whether or not the contract is terminated for default and whether or not an unsatisfactory report (interim and/or final) is issued, may result in a determination that the Contractor is not a responsible bidder or Offeror under COMAR 21.06.01.01.
4. Nothing in this contract shall be construed to limit or qualify the authority of the Procurement Officer under the Procurement Statutes or COMAR Title 21.

#### **TP-1.04**      **Duration**

- A. This contract shall remain in effect for a period of five (5) years beginning with Notice to Proceed (NTP) and may be continued for one (1) additional two (2) year period at the option of the Administration.
- B. The Administration shall advise the Contractor of the exercise of any renewal option at least 120 days prior to termination of this contract. Any renewal option shall be subject to the Maryland Procurement Regulations (COMAR 21) and on the same terms and conditions as herein provided except that the unit prices to be paid to the Contractor during the renewal option shall be adjusted in accordance with the annual rate of change of the Consumer Price Index (CPI) as published by the U. S. Department of Labor, Bureau of Labor Statistics.
- C. The price change as determined by the Administration shall be based on the most current CPI for All Urban Consumers (CPI-U), Table A that is published for the eighth (8th) month preceding the expiration date of the existing contract by calculating the unit prices with the annual rate of change. If the renewal option is for more than one (1) year the Contractor shall be allowed an annual change for the second year calculated using the referenced CPI.
- D. In the event the spending authority (total cost of contract) has been expended prior to reaching the original termination date, the Administration reserves the right to rebid the contract.
- E. This contract includes a provision authorizing an extension for a reasonable, limited, and defined period of time to spend funds remaining on the contract as provided in Board Advisory 1995-1.

#### **TP-1.05**      **Pre-Startup Introduction and Preparation**

- A. A pre-work conference shall be scheduled between the Administration and the Contractor to discuss planning, proposed personnel, schedules, material sources, equipment, site coordination, contact information, procedures, and other matters essential to the satisfactory performance of the work within one month prior to the Notice to Proceed (NTP) of this Contract (refer to **SP-1.31 Pre-Work Conference**). At a minimum, the Contractor's Project Manager and Assistant Managers shall attend this conference.
- B. The Contractor shall present to the Administration its candidates for project manager and assistant managers for consideration within 15 calendar days of Recommendation of Award for consideration and approval by the Administration.
- C. Due to the lead time necessary to hire and train personnel, get all employees through the security badging process, and implement operations on the schedule established by the Administration, the Administration anticipates that the NTP date of the contract will be about 45 days prior to the start date of operations. Contractor shall have its project manager on site 45 days prior to the start of operations, and if possible, the assistant managers on-site 30 prior to start of operations.
- D. During this period, the Administration will conduct tours of the facilities, obtain required security clearances and identification badges, and explain Contract specifications and work assignments.

**Note:** U.S. Customs and Border Protection Clearance per **TP-1.11 Security Requirements**) usually takes up to four (4) weeks. Contractor should plan accordingly as no Contractor or Subcontractor employee who is not properly badged may start work on this Contract.

- E. The cost for the pre-work conference and all start-up costs required shall be factored into the bid costs in the Administration/Management Fee per **TP-1.14 Compensation to the Contractor A. 1.** and as listed in **Section P.**

**TP-1.06 Contractor's General Duties and Responsibilities**

- A. The Contractor shall provide fully trained security guards in sufficient quantities to cover all the security posts at all times, to include lunch, breaks, or other times when a guard is absent from a post. All posts must be covered at all times. The Contractor must submit a schedule detail for the Administration's review and approval encompassing the assignments and how they will be covered and the considerations set forth in this section and other sections of the contract within ten (10) days after notice of award and prior to Notice to Proceed (NTP). The Administration shall approve the schedule only if the Administration deems the proposed schedule to be adequate for security coverage and in the best interest of the Administration. Once the scheduling detail has been approved the Contractor may not deviate from the schedule without the Administration's express, written approval. Such approval may only be given upon submission and review of an amended scheduling detail.
- B. The services to be performed by the Contractor are vital to the safety, security and wellbeing of the Administration. A highly trained and motivated work force is critical to the Administration in order to ensure retention of highly qualified and professional individuals. Effective at the start of the contract term all new hires into the workforce of this contract will be hired, at a minimum, at a starting hourly rate in accordance with the State of Maryland living wage rate law.
- C. All 24-hour posts shall be staffed on three (3) shifts as listed in Exhibit A – Positions, Hours Shifts and Guard Assignments. The Administration must approve the scheduling of posts which are not staffed 24 hours per day, times as specified in **Section P.** The Administration prefers full-time employees but understands a mixture of full-time and part-time employees is necessary to staff the contract.
- D. If for any reasons the Administration or Contractor requests a change to the schedule, the Contractor shall provide to the Administration a new or revised schedule. This schedule shall be submitted to the Administration for approval at least 48 hours prior to implementation.
- E. The security guards shall limit admission to the Security Identification Display Areas (hereinafter "SIDA") to authorized vehicles and their drivers, and other authorized, persons who have proper identification as defined by the Administration or who are under appropriate escort. The Administration reserves the right to amend these policies at any time without any cost to the Administration.
- F. The security guards shall be responsible for fulfilling the written guidelines provided by the Administration. Security guards shall maintain accurate, legible records of all discrepancies, security breaches, emergency situations, accidents, damage to airport property and other incidents as required by the Administration. The Administration reserves the right to request the Contractor create electronic records in a format and to contain such information, as approved by the Administration. Security guards shall report any unauthorized or unusual activity to the Maryland Transportation Authority Police, Airport Operations, or any other department or section as directed by the Administration. The Administration reserves the right to amend the written guidelines at any time without any cost to the Administration.



- G. All security guards shall at all times while on duty be neatly and cleanly dressed and shall wear full uniforms with appropriate insignia that meets the approval of the Administration. See **TP-1.18 Uniforms and Equipment** for more information.
- H. The Contractor shall perform State of Maryland, Department of Motor Vehicles (MVA) checks on all security guards holding a State of Maryland driver's license, or a driver's license valid in the State of Maryland, and a "V" and "P" on their BWI SIDA badge as referenced in **TP-1.11, Security Requirements**, once a year to determine if any security guard has been convicted of driving while under the influence of drugs or alcohol. Copies of these records shall be provided to the Administration. Affirmative results of these checks shall be immediately given to the Administration in writing. If a security guard has been found guilty of driving under the influence of drugs or alcohol, the Contractor shall immediately notify the Administration and shall immediately suspend the security guard from further assignments at the Airport.
- I. Each security guard shall have a high school diploma or recognized General Education Diploma (GED). The Administration prefers the security guards have six (6) months' full-time experience as a security guard before working at the Airport. Records and documentation shall be provided to the Administration to support these requirements at the request of the Administration. Exceptions may be made, based on an individual's experience. Such exceptions shall be conducted on an individual basis and approved by the Administration.
- J. The security guards shall be of the highest integrity. Each guard shall be able to fluently speak, read and write the English language.
- K. The Administration reserves the right to prohibit any individual employee of the Contractor from working at the Airport without the necessity of cause or default. If the Administration instructs the Contractor to remove an individual employee of the Contractor from the Airport, temporarily or permanently, the Contractor shall replace that employee within two (2) hours.
- L. The Contractor is also fully responsible for the complete and continuous supervision of its subcontractors during the duration of this contract. All services provided by the subcontractor shall be the responsibility of the Contractor.
- M. In order to maintain a sufficient available workforce, the Contractor shall badge other guards from its work force that would not normally work at the Airport.
- N. **Restrictions.** Tasers, as well as chemical inhibitors such as Mace, Pepper Spray or any other chemical inhibitor is **prohibited** for use on this contract. Security guards shall **not** carry any weapons while on duty.

**TP-1.07 Contractor Supervision**

**A. Project Manager**

- 1. The Contractor shall provide an on-site Project Manager, Monday through Friday, for a minimum of eight (8) hours per day, on a schedule to be agreed upon between the Administration and the Contractor. The Project Manager shall also be on-call twenty-four (24) hours per day, seven (7) days a week.
- 2. The Project Manager is responsible for the day-to-day performance of the entire Security

Guard Services contract and has overall responsibility and control for the operations and work to be performed. Responsibilities include, but are not limited to: hiring, termination and recruitment of personnel; supervision; training; scheduling; payroll; quality of services provided; required documentation; and oversight per the technical provisions of this contract, or as amended per contract modification.

3. The Project Manager shall provide at least 40 hours of management per week in such a fashion as to maintain communications and coordination with the Administration, while providing the management and oversight responsibilities outlined in the technical specifications of this contract.
4. The Project Manager shall be required to possess a Driver's License valid in the State of Maryland. Verification of the license must be submitted to the Administration. Verification of the license must be submitted to the Administration within thirty (30) days after NTP and once a year during the remainder of the contract term.
5. Must be fully familiar with the requirements of the contract, the schedules and ensure the proper skilled staffing levels are provided.
6. Implement policies and procedures for the Administration and the Contractor relating to all services covered by the application of these technical specifications.
7. Issue reports and summaries to the Administration as required.
8. Responsible for the training of the Contractor's on-site personnel in the performance of their duties.
9. Responsible for the establishment of performance standards for each stage of the work performed.
10. Perform any additional duties on an as required basis where such duties are within the scope of contractual limitations, or as required by the Administration.
11. Should it be required, acquire the services of outside subcontractors, evaluate bids, make recommendations to the Administration, and supervise subcontract work to its completion.
12. When the project manager, for whatever reason, is unable to fulfill a 40-hour work week, one of the assistant project managers will take over the duties of the project manager.
13. In the execution of the contract the project manager is given substantial leverage in making decisions regarding personnel procedures and assignments. However, the Administration reserves the right to request the project manager notify the Administration whenever an exception is made to the contract provisions, and to correct the exception immediately if requested to do so.

B. Assistant Managers

1. Due to the security requirements of operating a large "Category X" airport as referenced in **TP-1.03 Contractor Qualifications**, the Contractor shall provide full-time Assistant Managers, as listed in Exhibit A, to assist the Project Manager in the daily supervision and oversight of the Contract. The titles and specific duties and responsibilities for the positions

is at the discretion of the Contractor but are subject to the approval of the Administration.

2. Each position shall provide a minimum of forty (40) hours of management/supervision per work week (Monday through Sunday as scheduled). Qualifications for the positions are to be provided by the Contractor with the approval of the Administration.
3. Duties of the positions include, but are not limited to; operations, compliance, payroll, scheduling, human resources, uniforms, inventory, disciplinary action, and other duties and responsibilities as assigned by the Project Manager and requested by the Administration.
4. As agreed upon between Contractor and Administration, whenever the Project Manager is not on-duty, on-site, the Contractor shall provide the Administration the name and cell phone number of the on-duty Assistant Manager or Quality Control Supervisor responsible for the on-site supervision of the operation.
5. The Assistant Managers are required to possess a Driver's License valid in the State of Maryland. Verification of such license is to be submitted to the Administration within 30 days of employment on the contract, and once per year during the remainder of the contract term.
6. Perform other duties and responsibilities as assigned by the Project Manager.

C. Quality Control Supervisors

The Contractor shall provide full time on-site Quality Control (QC) Supervisors, seven days per week, 24 hours per day (24/7), as listed in Exhibit A. Reporting directly to the designated Operations Manager, the QC Supervisors will be the direct contact for any operational issues and the duties and responsibilities shall include:

1. Providing daily direct and indirect supervision of all supervisors and officers (guards) to ensure all operational aspects of the contract are in compliance. Shall provide compliance reports on a scheduled basis and/or as requested by the Administration.
2. Shall be available to the Administration when on-duty at BWI Thurgood Marshall, and as necessary by cell phone when off-duty on a 24/7 basis.
3. Other duties and responsibilities as assigned by the Project Manager, and as requested by the Administration.
4. The Quality Control Supervisors are required to possess a Driver's License valid in the State of Maryland. Verification of such license is to be submitted to the Administration within thirty (30) days of employment on the contract, and once per year during the remainder of the contract term.

D. Compliance Supervisor

The Contractor shall provide one full time on-site Compliance Supervisor, Monday through Friday, eight (8) hours per day as listed in Exhibit A, on a schedule to be agreed upon between the Contractor and the Administration. Duties and responsibility include:

1. Ensure tasks assigned by the Administration are completed in a timely manner and in accordance with the Airport Security Program.

2. Monitor the Compliance Team's schedule and work flow and conduct training as required.
3. Provide representation at the BWI Thurgood Marshall Tenant Managers and Community Meetings as requested.
4. Complete tasks and assignments as directed by the Administration.
5. The Compliance Supervisor shall be required to possess a Driver's License valid in the State of Maryland. Verification of the license shall be submitted to the Administration prior to being accepted for the position as well as every six (6) months during the remainder of the contract term.

E. Security Guard Supervisors

1. The Contractor shall provide on-site security guard supervisors per shift for coverage 24 hours per day, seven (7) days per week as listed in **Exhibit A**. One of these security guard supervisors shall be a "floating" on-site security guard supervisor for coverage eight (8) hours per day, five (5) days per week. Contractor shall coordinate the coverage for this floating supervisor with the Administration.
2. The on-site supervisors may be delegated the responsibility for all scheduling, time keeping and other record keeping or reporting as required by the Administration, or other duties as directed by the Contractor.
3. Each Supervisor shall have two (2) years full-time experience as a police/security guard supervisor, or supervisors that are otherwise acceptable to the Administration.
4. The Contractor shall provide the Administration with a 24-hour telephone number(s) where the supervisor(s) may be reached in the event of any incident, which arises involving a guard on duty.
5. The Contractor shall be responsible for the proper personal conduct of all its personnel while on the premises.
6. The Contractor shall have at least one of the supervisors make random checks of the security guards at least once each shift during each calendar day and keep records of such checks and provide copies to the Administration every month.
7. The Contractor shall provide to either of the On-Site Supervisors a marked security vehicle equipped with a cell phone and radio communication.
8. The Supervisors shall be required to possess a Driver's License valid in the State of Maryland. Verification of the license must be submitted to the Administration within thirty (30) days after Notice to Proceed and once a year during the remainder of the contract term.

F. Area Wide-Supervision

1. The Contractor shall have a senior manager/supervisor conduct a monthly site inspection of all guard posts and areas to ensure that contract specifications are being performed. Costs for this position should be included in Contractor's overhead costs.

2. Inspections shall be conducted in such a way as to ensure that each security guard is subject to unscheduled inspection.
3. A report shall be provided to the Administration each month detailing each inspection. Report formats shall be approved by the Administration.
4. This same manager/supervisor shall make themselves available for regularly scheduled meetings as requested by the Administration.

G. Administration Approval of Contractor Personnel

The Administration reserves the right of approval and acceptability for the duration of the Contract for all Contractor and subcontractor personnel assigned to the Contract. The Administration has the unilateral right to request that employees be reassigned, or to remove any employee found to be incompetent or otherwise unsuitable for employment at BWI Thurgood Marshall without explanation. The Administration shall notify the Contractor in writing of any such request.

H. Monthly Schedules

The Contractor shall submit a Monthly Staffing Schedule for approval by the Administration five (5) business days before the start of a new calendar month. Such schedule shall be in a format approved by the Administration and be based on the work requirements of these technical provisions, or as agreed upon between the Contractor and Administration. The staffing schedule shall list the work schedule for the month for all contracted positions as follows:

1. Project Manager
2. Assistant Managers
3. Compliance Officers
4. Quality Control Supervisors
5. Security Guard Supervisors

- I. The monthly staffing schedules should include the shifts, positions, names of employees, and the total number of staff assigned to the operation for each day of the month. Should any of the employees in a position listed above be scheduled for leave for any period of time in the upcoming month, the employee and leave period shall be listed. Proper management and supervisory coverage are expected to be maintained. Should the schedule change during the month the Administration may request an updated schedule from the Contractor.
- J. When the Project Manager is on paid time off or unable to perform their duties, the Contractor must designate an acting Project Manager and provide sufficient project management coverage, as agreed upon between the Contractor and Administration.

**TP-1.08 Security Guard Wages and Benefits**

- A. The Contractor shall take into consideration all current union agreements (if any) and any possible future union negotiations when preparing the **Section P**. The Administration shall not be bound by any agreements between the Contractor and any union.
- B. **SB 107, Secure Maryland Wage Act**

Hourly wages, as referenced in **TP-1.14, Compensation to Contractor** and priced in **Part II –**

**Personnel Salaries and Wages** of **Section P**, shall include the requirements of Maryland Senate Bill 107 (SB 107), Secure Maryland Wage Act. The bill was passed in the 2021 Maryland Legislative Session and covers nonexempt employees under the Fair Labor Standards Act (FLSA) who performs work at a “heightened security interest location”. Baltimore-Washington International Thurgood Marshall Airport is one of the two locations referenced and the bill requires an employer to pay a covered employee an hourly wage of at least:

1. January 1, 2023 - \$14.25 per hour
2. January 1, 2024 - \$15.00 per hour
3. January 1, 2025 - \$16.00 per hour

It is highly recommended that bidders read the text of the bill before submitting their bid. The text of SB 107 can be found at:

[https://mgaleg.maryland.gov/2021RS/fnotes/bil\\_0007/sb0107.pdf](https://mgaleg.maryland.gov/2021RS/fnotes/bil_0007/sb0107.pdf)

- C. The Contractor shall prohibit any security guard from working more than 16 hours during any 24-hour period and/or more than sixty (60) hours during any, one (1) week period. The Contractor shall also require each security guard to have a minimum of 24 hours’ consecutive hours off each week. One (1) week period shall be defined as being Sunday through Saturday. All times are based on local time, 24-hour clock.
- D. All full-time hourly rate employees, as referenced in **Part II – Personnel Salaried and Wages of Section P**, shall be given one 30-minute unpaid meal break per eight-hour shift, and restroom breaks as needed and appropriate. All breaks are to be scheduled so as not to interfere with requirements specified in these technical provisions and the posts listed in **Exhibit A**.
- E. The Administration shall pay only for the hours specified for each post and as required to offer, by State and Federal laws. Example: if post specifies sixteen (16) hours that is what the Administration will pay for. All posts must be staffed during breaks. Supervisors may not cover breaks of any duration for security guards. Supervisors must devote their full-time and attention to “Supervising”.
- F. The Contractor shall also provide for each Contractor employee assigned to BWI Thurgood Marshall as referenced in **TP-1.14 Compensation to Contractor**, and priced in **Part III – Employee Support Costs** of **Section P**, a benefit package for the duration of the contract, which includes, at a minimum, the following:

1. **Paid Time-Off (PTO) for Contractor Personnel**

For full-time employees, the Administration authorizes and will pay for up to 184 hours of paid leave per employee per year for the term of the contract as follows:

- a. Eight paid holidays (64 hours) per year per **TP-1.14 D Compensation to the Contractor**.
- b. Up to ten (10) days (80 hours) of vacation annually.
- c. Forty (40) hours of Safe and Sick Leave per the Maryland Healthy Working Families Act (Act) as referenced on the Maryland Department of Labor, Licensing &

Regulation (DLR) website as follows:

- 1) <http://www.dlr.state.md.us/paidleave/>
- 2) <http://www.dlr.state.md.us/paidleavefaqs.pdf>

2. Full-Time Employees

For the purposes of this clause, full-time employees shall be defined as working 2,080 hours in a contract year – the equivalent of forty (40) hours in a seven-day week, including paid time-off.

3. Part-Time Employees

Other than the requirements of the Maryland Healthy Working Families Act above, PTO for part-time employees is at the discretion of the Contractor. For the purposes of this clause part-time shall be defined as working less than 1,560 hours per contract year, or less than 30 hours per week. The Administration will pay for PTO, on a pro-rated basis, for Contractor employees that work at least 1,560 hours, including PTO, but less than the full 2,080 hours, per contract year.

4. Administration of Paid Time-Off

Administration of the PTO schedule is at the discretion of the Contractor. However, since there is usually heavy travel during holiday periods, it is imperative that the Contractor provide coverage as required in **TP-1.06 Contractor's General Duties and Responsibilities**, **TP-1.07 Contractor Supervision** and **Exhibit A**. Regardless of vacation and sick leave, all posts as listed in **Exhibit A** must be staffed. The Administration shall coordinate the staffing for the holiday periods with the Contractor to ensure the required coverage.

5. Compensation for Paid Time-Off

- a. There shall be no additional compensation by the Administration for PTO as referenced in **TP-1.08, F. 1. Security Guard Wages and Benefits** outside of what is paid to the Contractor for the personnel per Part II – Personnel Salaries and Wages for the costs listed in Part III – Employee Support Costs of **Section P**.
- b. Any additional paid time-off for Project Manager or Assistant Managers by the Contractor not referenced in this technical provision is at the expense of the Contractor and should be priced into the Administration/Management Fee per Part I of **Section P**.

6. Health Care Benefits:

- a. The Contractor shall offer a health care benefits package for Contractor's BWI Thurgood Marshall Airport employees only for the positions listed in **Section P**. Health care benefits are defined as medical, dental and vision care. The Contractor shall pay for a minimum of 80% of the policy cost and the employee shall pay no more than 20% of the policy cost.
- b. The medical plan shall offer a minimum deductible comprehensive medical coverage

for which the medical plan pays at least 80% of reasonable and customary covered medical expenses after the calendar year deductible has been met.

- c. Dependent coverage, life insurance and health savings accounts should be made available to the employees but shall be at employee's expense. The health care benefit costs paid for by the Administration shall not include life insurance, health care plan administrative fees, brokers fees, trust expenditures, or health savings accounts.

7. Probationary Employees

The Administration shall not pay for vacation leave per **TP-1.08, F. 1. b. Security Guard Wages and Benefits** and health care benefits per **TP-1.08, F. 6. Security Guard Wages and Benefits** for probationary employees as referenced in **TP-1.10, E. Training** This restriction does not apply to holiday pay per **TP-1.14, D. Compensation to the Contractor**. The costs for vacation and health care benefits billed the Administration for Contractor's BWI Thurgood Marshall Airport employees starts on the first day after the employee has passed their probationary period. Should the Contractor wish to provide benefits during the employee's probationary period, it is at the expense of the Contractor.

**TP-1.09**      **Present Security Guard Services Employees**

- A. Should the current contract not succeed themselves, the successful Contractor is required to give due consideration to employing all present security guard hourly rate personnel at BWI Thurgood Marshall Airport as referenced in Part II – Contractor Hourly Rate Employee Costs of Section P, who would like to continue working for the Contractor at the time the successful Contractor becomes responsible for security services.
- B. The Contractor must become fully acquainted with union (if any) and labor conditions, to smoothly coordinate a transition, if some are required.
- C. The Contractor shall make every effort to avoid any type of strike, boycott, picketing, work stoppage, slowdown, or other labor activity directed against the Contractor and/or Airport, resulting in curtailment of services or, in the opinion of the Administration in any manner adversely affecting Airport operations. However, in the event of such an occurrence, the Administration shall have the right during said period, either by itself or through any third person or persons and using such equipment of said Contractor as is on the premises, or otherwise renting or acquiring same to perform the services of said Contractor at the latter's expense.

**TP-1.10**      **Training**

- A. The Contractor shall submit to the Administration a certificate of training, retraining, or other acceptable document attesting to the skill, training, and/or job experience of each person assigned to duty under this contract. This documentation shall be presented to the Administration within ten (10) days from the Notice to Proceed date. Areas of training shall include as follows:
  - 1. Security measures
  - 2. Legal rights and responsibilities
  - 3. Use of radios and cell phones.
- B. The Contractor shall provide supervised, fully trained personnel for all phases of this contract. The Administration reserves the right to remove any untrained personnel from working at BWI Thurgood



Marshall. The cost of training shall be the responsibility of the Contractor and shall be factored into the Administrative/Management Fee as listed in **TP-1.14 Compensation to the Contractor** and **Section P**.

- C. The Administration shall provide to Contractor personnel training including, but not limited to the following:
  - 1. SIDA Training (approximately one hour)
  - 2. Airfield Driving (approximately one hour)
- D. On-the-job training provided by the Contractor upon the Administration's approval, includes but is not limited to the following:
  - 1. Intrusion Detection (IDS) Training
  - 2. Guard Post/Gate Training
  - 3. Communications Protocol.
- E. Probationary Period. Following training, all hourly rate employees shall be on a six (6) month probationary period, during which time any infraction of the rules shall result in immediate removal from BWI Thurgood Marshall.
- F. The Administration shall create and provide to the Contractor a set of written Standard Operating Procedures (SOP) that will detail what Contractor personnel can and cannot do while on duty at BWI Thurgood Marshall. These procedures shall be issued to each guard as well as posted in each guardhouse.
- G. The Administration may require any Contractor position, as designated by the Administration, to be required to complete formal training and /or obtain industry certifications that enhance the security capabilities at BWI Thurgood Marshall. Examples of such training include, but are not limited to: vehicle inspections, merchandise inspections, behavior analysis, report writing, and access control systems. Should the Administration mandate the training, it shall be paid for by the Administration out of **TP-1.15 Extra Work and Labor Allowance**, and as listed in Section VII of **Section P**.

#### **TP-1.11 Security Requirements**

- A. Security must be considered in all phases of the fence maintenance and repair work life cycle and treated as an integral part of any system development or implementation project, including system modifications. All systems, structures, procedures, techniques, practices, drawings, documents and arrangements must be treated as security sensitive information and shall be safeguarded at all times. It is the Contractor's responsibility to become familiar with the various aspects of **49 CFR Part 1542 (Airport Security)**, Transportation Security Administration, Department of Transportation, and Airport Security. Any violation by the Contractor and any subsequent fines imposed due to the violation will be the responsibility of the Contractor. The Contractor may find a link to **49 CFR Part 1542** on the TSA website.
- B. The Contractor must be aware and adhere to security regulations in and around the airport in relations to fence repair and maintenance work; such as the 10' clearance rule.
- C. All Contractor employees working in secured areas shall be required to obtain a valid airport-issued Security Identification Badge from the Administration, including a U.S. Customs Seal, in accordance with **SP-1.29 BWI Airport Security, Access Badge, Airfield Vehicle Ramp Permits and U.S.**

**Customs Access Badges.** Contractor personnel shall not be permitted to begin work on the job site until issued an Access Badge. Contractor must insure that Badges are displayed at all times while employees are in the Security Identification Display Area (SIDA).

**Note:** Airport Security Clearance usually takes about (2) weeks. Contractor should plan accordingly as no Contractor or Subcontractor employee who is not properly badged may start work on this Contract.

- D. The Contractor shall be required to obtain an Airport Customs Security Area Bond in accordance with **SP-1.29 BWI Marshall Airport Security, Access Badges, Airfield Vehicle Ramp Permits and U.S. Customs Access Badges.** The Contractor shall be reimbursed for the direct cost of the bond from the Extra Work Allowance upon receipt of appropriate documentation.
- E. The Contractor shall have sufficient escorting personnel available to escort the Contractor's equipment around the AOA.
- F. The Contractor is responsible for maintaining a list of MAA authorized identification badge holders within the Contractor's organization. Upon Administration's request, the Contractor must be able to submit a report listing the badge holders. The report must include the following:
  - 1. Company Name
  - 2. MAA Contract Number
  - 3. Application Date
  - 4. Name of Badge Holder
  - 5. Badge Number
  - 6. Badge Approval Date
  - 7. Customs Area Access Information
  - 8. Expiration Date.
- G. All Airport access identification badges are the property of the Administration. Upon the Contract Ending Date, or in the event any Representative is terminated for any reason or resigns, or is absent in excess of twenty-two (22) days, the access badges must be returned to the Administration within 24 hours. A copy of the return receipt certificate (issued by the Office of Airport Security) must be submitted to the Authorized Signer of the original application. The Contractor's monthly payment or a fine of \$1,000.00 per person per occurrence may be withheld unless the access badges are returned and a return receipt certificate is tendered.
- H. All Contractor employees who operate motorized vehicles shall be required to obtain a valid airport-issued driving permit. No individual shall be allowed to operate a motor vehicle unescorted in the BWI Thurgood Marshall Airport Air Operations Area (AOA) unless that individual is properly badged and has successfully completed Airfield Driver's Training.
- I. All motor vehicles operated by Contractor employees must have an airfield inspection performed before allowed onto the AOA. The vehicles must be free from any leaks (oil, fuel, coolant, hydraulic fluid, and chemicals), be equipped with safety equipment (fire extinguisher and triangles – no flares are acceptable), and all lights and warning devices shall be operational. The airfield inspection and all required repairs shall be at the Contractor's expense

**TP-1.12**      **Contract Administrator**

- A. The monitoring of the performance of this Contract is vested in the Administration's Contract Administrator, designee and higher supervision. The Contract Administrator, designee and higher supervision shall decide any and all questions, which may arise under the Contract, including but not limited to quality and acceptability of materials furnished, work performed, and also the manner of performance and rate of progress of the work.
- B. The Administration shall assign a Contract Administrator to administer the day-to-day functions and communications between the Administration and the Contractor. The Administration shall submit the name and phone number of the respective Contract Administrator to the Contractor as well as other management personnel that may have authority to request work and information.
- C. When contract specifications mention "under the direction of the Administration" or require Administration notification, etc., it is referencing the Contract Administrator or another authorized person.
- D. All work requiring the shutdown of the system, or any portion thereof must have the prior approval of the Administration.
- E. The Administration shall have free access to the materials, the work and work areas at all times for the purpose of measuring, inspecting and/or directing the work, and Contractor shall cooperate at all times.

**TP-1.13**      **Communications**

- A. The Contractor shall establish a communications link with the Administration for the duration of this contract. The Contractor must provide a home/office phone number or answering service where the Administration can contact or leave a message on a twenty-four (24)-hour, seven (7) days a week basis.
- B. The Contractor must also provide the Administration an e-mail address where work requests can be forwarded, or other exchanges of information may occur.
- C. The Contractor shall provide each security guard or post with a cell phone for on-duty use as specified by the Administration. The Administration shall furnish a list of appropriate numbers.
- D. The Administration reserves the right to withhold all or part of any payment due to the Contractor until such communication is present or if the Contractor fails to respond to the Administration by the next working day.
- E. The Contractor shall provide cell phones appropriate for the Airport environment. The costs for the cell phones and cell phone services shall be the responsibility of the Contractor.
- F. The Administration shall provide the Contractor with 800 Mhz radios, or equivalent.
- G. The Contractor shall be responsible for all Administration owned equipment utilized during the execution of duties by the Contractor. Contractor is required to perform an inventory of all Administration owned equipment on an annual basis, or as requested by the Administration. The inventory shall be in a format approved by the Administration.
- H. Correspondence

Routine day-to-day correspondence for administering the Contractor may be conducted by general

mail, fax or e-mail between the Contractor and Administration's contract administrator.

Official correspondence regarding notices, demands, claims, etc. shall be made by express mail (FedEx, USPS, UPS, etc.) to the Administration as follows:

**Maryland Aviation Administration  
Office of Procurement & Materials Management  
7001 Aviation Boulevard, 2<sup>nd</sup> floor  
Glen Burnie, Maryland 21061**

**TP-1.14 Compensation to the Contractor**

A. The Contractor shall be compensated in accordance with the **Section P** for the services performed per these technical provisions by the Contractor in the following pricing categories:

1. **Administration/Management Fee**

The Contractor shall be compensated on a monthly fixed-fee basis for Contractors overhead and profit as found in **Part I, Administration/Management Fee** for Bid Item B1 of **Section P** for the five years of the contract. The compensation includes all necessary direct and indirect costs necessary to run a contract of this type including, but not limited to:

- a. Start-up costs, and miscellaneous overhead costs such as: corporate management and contract oversight, profit, bonding, liability insurance, bookkeeping, recordkeeping, human resources and recruitment of personnel, training, security badging costs, transportation, meetings with the Administration, and all similar related incidental clerical, secretarial and administrative costs to complete the work.
- b. Office support costs including: office equipment, computer equipment, furniture, copier and fax machines, office supplies and materials, and office phones.
- c. Equipment costs including vehicles and vehicle-fueling and maintenance costs, cell phones, flashlights, and all necessary equipment, and personal protective equipment (PPE) required to perform the services required by these technical provisions.

2. **Personnel Salaries and Wages**

- a. The Administration shall compensate the Contractor on a monthly basis for salaries and wages for positions listed in Bid Items B2 through B10 per **Part II – Personnel Salaries and Wages** of **Section P** only while directly engaged in the performance of duties at BWI Thurgood Marshall Airport.
- b. The Contractor management and supervisory personnel are per **TP-1.07 Contractor Supervision**, and the Security Guards, Dispatchers and Compliance Officers are as referenced in **TP-1.07 Contractor Supervision**, **TP-1.08 Security Guard Wages and Benefits** and **TP-2 Security Guard Assignments** for the positions, hours, shifts and guard assignments as referenced in **Exhibit A**.
- c. Refer to **TP-1.08 Security Guard Wages and Benefits** for **Security Guard Wages**

and Benefits for additional information on hourly wages for nonexempt employees covered under the Fair Labor Standards Act (FLSA) as required by SB 107.

3. Employee Support Costs

Compensation for the following pricing categories for employee support costs listed in Bid Items B11 through B13 in Part III – Employee Support Costs of **Section P** as follows:

- a. Mandatory Employee Contributions as listed in Bid Item B11 including FICA, FUI, SUI and Workers Compensation Insurance.
- b. Employee Benefit Costs as listed in Bid Item B12 including:
  - 1) Paid time-off (PTO) and health care benefits as referenced in **TP-1.08, F. Security Guard Wages and Benefits**
  - 2) Uniforms, reflective vests, and proper rain gear and outer coats and gloves for cold weather as referenced in **TP-1.18 Uniforms and Equipment.**
  - 3) Any other employee benefits paid by the Contractor.

B. If the Administration receives a fine due to security violations that are the fault of the Contractor, as determined by the Transportation Security Administration, the Administration shall require the Contractor to pay that fine. If the fine is not paid within 30 days from notification by the Administration, the fine shall be deducted from the monthly compensation. Security fines typically range between \$1,000 and \$14,000 each; however, fines in excess of \$14,000 may be imposed by the TSA.

C. Overtime Pay

1. There is **no** overtime pay authorized for any positions listed in **Section P** without the prior written approval of the Administration. All overtime costs not approved by the Administration in writing are at the expense of the Contractor.
2. The Administration may authorize and pay overtime for hourly rate positions as listed in the **Section P** for disaster, operational or weather-related emergencies, as well as operational or security requirements, as determined by the Administration. The approval may initially be verbal or by text message but shall be followed up with a written authorization via e-mail.
3. All overtime shall be paid at one and a half (1.5) times the hourly rate for the applicable positions as listed in Part II – Personnel Salaries and Wages of **Section P** for the applicable contract year, plus any additional FICA costs owed for the difference between the regular hourly rate and the overtime rate. The overtime hourly rate should be listed in Section VII of **Section P** for Bid Items B15, B17, B19, B21 and B23.
4. All overtime costs shall be paid per **TP-1.15 Extra Work and Labor Allowance** and **Section VII** of the **Section P**.
5. The Contractor shall keep records of all hours paid by the Administration and provide those records to the Administration upon request. Any overtime found by the Administration to be paid in error shall be reimbursed to the Administration on the next monthly invoice. The Administration will provide clear instruction on how it is to appear on the invoice.

D. Holiday Pay

Employees scheduled to work on any of the annual holidays listed below shall receive holiday pay equal to one hour of holiday pay for each hour worked, for up to eight hours. This is in addition to the regular pay for scheduled hours worked. Employees who are scheduled off on any of the scheduled annual holidays below shall receive holiday pay for time off.

1. New Year's Day
2. Birthday of Dr. Martin Luther King, Jr.
3. Memorial Day
4. Juneteenth
5. Independence Day
6. Labor Day
7. Thanksgiving Day
8. Christmas Day

- E. The Administration, at its sole discretion, reserves the right to direct the Contractor to reduce authorized staffing levels to adjust to changing security requirements at BWI Thurgood Marshall Airport, or fiscal year budgetary concerns. Temporary reductions in authorized staffing levels shall be accomplished by contract letter from the Contract Administrator. The Administration shall provide a minimum 30-day written notification for any temporary reductions in staffing levels. Permanent reductions in authorized staffing levels shall be accomplished by contract modification.
- F. The Administration reserves the right to withhold payment for work that the Administration determines is incomplete or not properly completed as determined by the Administration, until the work is completed and approved by the Administration. The withheld amount shall be at the sole discretion of the Administration and be not less than twenty five percent (25%), nor more than fifty percent (50%) of the authorized amount.
- G. The Security Posts, as listed in Exhibit A, may be changed or relocated to another area at the Airport at no additional cost to the Administration.
- H. The Contractor shall be compensated on a per job basis for all extra work approved by the Administration per **TP-1.15, Extra Work and Labor Allowance**.

**TP-1.15**      **Extra Work and Labor Allowance**

- A. The Administration is authorized to request the Contractor to perform certain extra work. The Administration has included an Extra Work and Labor Allowance in **Section P**.
- B. The **Extra Work and Labor Allowance** may be used for, but is not limited to:
- a. Extra hours for security guards or additional hourly rate positions authorized for the term of this contract to support the security requirements and growth of BWI Thurgood Marshall Airport;
  - b. Providing security guard services to support construction projects in the BWI Thurgood Marshall Airport Air Operations Area (AOA) of the airfield;
  - c. Providing security guard services in and around the 3,600 acre property of BWI Thurgood Marshall Airport;
  - d. Additional security related physical hardware or software applications to assist with security protocols or enhancements;
  - e. Additional equipment, radios and associated accessories, vehicles and security training requested by the Administration;

- f. Overtime authorized by the Administration per **TP-1.14, C. Compensation to the Contractor**;
- g. Any other guard-related support duties for the Maryland Aviation Administration as requested by the Administration.

The Contractor shall also be required to provide written confirmation of completion of any additional assignments.

C. **Security Guard with Patrol Car**

The Administration has provided an overtime hourly rate in **Section VII** of **Section P** for a security guard with a patrol car for additional security requirements, and to support construction projects in the BWI Thurgood Marshall Airport Air Operations Area (AOA) of the airfield, as required and approved by the Administration.

The overtime hourly rates entered by the Contractor in Bid Items B16, B18, B20, B22 and B24 of **Section VII** of **Section P** should include the Security Guard overtime rate as referenced in **TP-1.14, C. 3. Compensation to the Contractor**, and listed in Bid Items B15, B17, B19, B21 and B23 of **Section VII** of **Section P** plus the operating cost, including fuel, of a patrol car as referenced in **TP-1.20 Vehicles**.

- D. Upon request for extra work by the Administration, the Contractor shall submit a proposal in writing to the Administration detailing the scope of work, the term(s) of the extra work, and an itemized breakdown of costs. Where applicable, authorized work shall be priced using the hourly rates found in **Section P**.
- E. Where applicable, the Administration shall reimburse the Contractor for all supplies and materials not provided by the Administration at the purchase price, which includes any tax or shipping, plus ten percent (10%) for mark-up for handling from the Extra Work and Labor Allowance. The Contractor shall be required to submit supporting documentation, such as parts invoices, with all invoices submitted to the Administration for payment. The Administration may allow the Contractor to use its Tax-Exempt Certificate.
- F. **Approval.** Extra work is at the sole discretion, and must have prior written authorization, of the Administration. Upon request for extra work by the Administration, the Contractor shall submit a proposal in writing to the Administration detailing the scope of work, the term(s) of the extra work, and an itemized breakdown of costs.
- G. **Uses of Allowances.** Although the Administration may have provided different types of extra work allowances, all allowances may be used to supplement others as needed.
- H. **Subcontracting.** The Administration may request the Contractor to use the services of other vendors for extra work related to this Contract. If requested, the Administration requires the Contractor to obtain a minimum of three (3) competitive quotations for work that shall be subcontracted to another company. Contractor shall submit quotations to the Administration for approval before proceeding with work. However, this requirement may be waived by the Administration for an acceptable reason. The Administration shall compensate the Contractor for this work at the agreed upon price of the selected vendor plus a ten percent (10%) administrative fee to cover the additional costs associated with procuring and managing the approved project. All subcontracting of extra work must have prior written approval of the Administration.

**TP-1.16**      **Invoicing and MBE Reporting**

- A. In accordance with section **SP-1.22 Payments and Invoices**, all invoices or correspondence pertaining to invoices shall be identified with the Contract number and either e-mailed to the MAA Accounts Payable (AP) department at [maaacctpayable@bwiairport.com](mailto:maaacctpayable@bwiairport.com); or forwarded to the following address:

**Maryland Aviation Administration  
Accounts Payable Department  
P.O. Box 8789  
BWI Airport, MD 21240-0789**

**Note:** The Administration's AP Department prefers to receive invoices and correspondence pertaining to invoices via the e-mail address provided.

- B. Contractor shall include the Vendor Federal Tax I.D. number or the Social Security Account number on the invoice submitted.
- C. The Contractor shall submit invoices within twenty (20) days of the end of the previous calendar month, unless otherwise instructed by the Administration in writing. Invoices will be considered late if they are submitted in excess of forty-five (45) days after the work has been completed.
- D. The Administration reserves the right to request electronic versions of all invoices submitted to the Administration Accounts Payable (AP) Department and/or to the Contract Administrator. This practice is intended to facilitate invoice approval and payment to the Contractor, as well as accurate record keeping of all services provided.
- E. The invoice shall detail separately routine and extra work.
- F. Upon Administration's request, Contractor must submit evidence of employment records stating the total number of hours worked for each employee.
- G. To ensure compliance with the certified MBE/DBE contract participation goals and in accordance with **SP-1.22 Minority Business Enterprise Program**, the Contractor shall:
1. Report monthly all payments to MBE/DBE subcontractors. The payments shall be submitted to the Administration on a monthly basis via the Maryland Department of Transportation (MDOT) iFMIS electronic payment verification and monitoring system or via manual submission. The Administration will notify the Contractor of the reporting method.
  2. Report all unpaid invoices, over 30 days, from all certified MBE/DBE subcontractors and the reason the payment has not been made.
  3. Include in its agreement with MBE/DBE subcontractors a requirement that the MBE/DBE subcontractors are to submit monthly to the Administration, a report identifying the prime Contractor and listing the following:
    - a. Payment received from the Contractor in the preceding 30 days; and
    - b. Invoices for which the subcontractor has not been paid.



4. Failure of the Contractor to report in a timely manner may result in a finding of non-compliance. Additional reports may be required by the Administration upon written request.
- H. The Contract Administrator shall receive copies of all reporting activities and communications regarding the certified MBE/DBE program.

**TP-1.17**      **Reports and Records**

- A. Contractor's employees shall maintain a log as requested by the Administration of its Standard Operating Procedures (SOP) to include but not limited to such things as:
1. Signing in and out
  2. TSA inquiries
  3. Facility damage
  4. Violations of any type
  5. Any other incident that may arise.
- B. The Contractor may currently have a version of a log used on another job that may be of use to the Administration, in which case the Administration will work with the Contractor to develop an appropriate log, its uses, and submittal process.
- C. The Contractor shall ensure that all records, inspection reports, and all record keeping required by this contract shall be maintained and updated by the Project Manager and the On-Site Supervisor.

**TP-1.18**      **Uniforms and Equipment**

- A. Dress shall be in a complete uniform consisting of a cap, trousers, shirt, shoes, and an upper exterior garment (jacket, blazer, etc.) appropriate to the season of the year per the following:
1. Uniforms shall be of style and design as to readily identify the guards as to their functions. Supervisor uniforms shall be so distinguished. Uniforms shall be approved by the Administration.
  2. Shoes shall be low quarter Corfram or plain toe, or any other acceptable style police shoe.
  3. The Contractor shall provide summer and winter wear that may include short sleeve shirts and shorts.
  4. The Contractor's personnel shall be in complete uniform at all times while on duty. Guards shall not mix seasonal clothes.
  5. Each guard shall have and wear a numbered badge that shall not be obstructed by any other garment.
  6. The Contractor shall provide each guard with coat, jacket, hat, gloves, and rain gear suitable for outdoor work in all seasons. These items should be ordered and on hand prior to the commencement of the Contract, and must be submitted for approval by the Administration, together with proof of purchase.
- B. Equipment needed by all guards shall be:

1. High powered flashlight (Mag-Light, etc.)
  2. Vehicle (where applicable)
  3. Reflective Vests at all exterior posts where vehicle traffic occurs.
  4. Proper rain gear and outer coats and gloves for cold weather
- C. The furnishing of uniforms, protection equipment, and equipment and supplies used in the performance of this contract shall be the responsibility of the Contractor.
- D. The costs for the uniforms, reflective vests, and proper rain gear and outer coats and gloves for cold weather, should be priced into the Employee Support Costs as referenced in **TP-1.14, A. 3. b. Compensation to the Contractor.**

**TP-1.19**      **Personal Conduct of All Contractor and Sub-Contractor Employees**

- A. The Contractor is also fully responsible for the conduct all its personnel during the duration of this contract. The Contractor shall be responsible for following all Federal OSHA Safety Laws as well as any other applicable State and local safety laws in performing the requirements of this Contract. All work shall be performed in a safe manner with consideration for the health and wellbeing of the employee and the public.
- B. The Contractor shall conduct work in such a manner and in such sequence as will ensure the least interference with passenger traffic. The Contractor's access to and movements within the various areas of work shall be scheduled so as to ensure minimal interference with the public and passenger flow, normal Airport operations and other contractors working in the area.
- C. The Contractor is responsible for the proper personal conduct of all its employees while on the premises. The Contractor agrees to (remove) any employee from this contract whose conduct the Administration believes is detrimental to the best interest of the Administration, general public, or tenants.
- D. The Contractor shall follow certain rules and regulations governing the on-site and on-duty conduct of employees. These rules and regulations shall include, but not necessarily be limited to, the following:
1. While on duty, employees shall **not**:
    - a. Be allowed to work while under the influence of drugs and/or alcohol.
    - b. Sleep, fight or engage in the willful destruction of Contractor's, tenants', public or fellow employee's property.
    - c. Engage in disorderly conduct while on the premises; i.e., dancing, swearing, horseplay, screaming, or overly loud talking and laughing.
    - d. Be discourteous to tenants or the traveling public.
    - e. Solicit or accept gratuities for any reason whatsoever from any tenant or person while on the premises.
  2. While on duty, employees **shall**:

- a. Act in a professional manner and be courteous to the travelling public and airport tenants. BWI Thurgood Marshall's customers will frequently ask badged and uniformed and non-uniformed airport employees for directions in and around the terminal to airline ticket counters, restrooms, baggage claim, security checkpoints, restaurants, shops, parking, transportation, elevators, etc. Employees should assist with directions and/or refer Airport customers to the Airport's Pathfinder Customer Service Desks located throughout the upper and lower levels of the unsecured areas of the terminal building.
- b. Report to Contractor all accidents that result in personal injury and/or property damage. Contractor must report those incidents to Airport Operations within 24 hours of occurrence.

**TP-1.20**      **Vehicles**

- A. The Contractor must have a minimum of twelve (12) available vehicles in good working condition for use at the Airport at all times. All vehicles shall be marked security 4-wheel drive sports utility vehicles. The use of non 4-wheel drive vehicles shall be at the sole discretion of the Administration. The vehicles and vehicle markings are subject to approval by the Administration.
- B. All vehicles used by the Contractor in performance of this contract shall have appropriate insignia that meets the approval of the Administration. Vehicle shall also have roof lights.
- C. Vehicles shall be in good working condition, with no leaking of fluid and no mechanical problems. The Administration may require the Contractor to have the vehicles inspected by the Administration's Auto Shop and obtain an airfield permit, at no additional expense to the Administration.

**TP-1.21**      **Parking and Transportation**

- A. Parking area for workers' vehicles may be located on Airport property at a location or locations as directed by the Administration. Annual Parking passes authorized by the Administration for Contractor and employee vehicles working on this contract will be provided at no cost to the Contractor.
- B. No vehicle owned by the Contractor's employees, subcontractor's employees, or other private individuals shall be allowed on the airfield, unless otherwise directed.
- C. The Contractor shall familiarize itself with all the methods of transportation facilities available to BWI Thurgood Marshall, and the transportation problems inherent in an airport facility that is remote from its primary source of labor.
- D. The Contractor and its employees are responsible for transportation to and from the Airport. All transportation costs are the responsibility of the Contractor or its employees, not the Administration.
- E. Personnel shortages due to transportation problems is unacceptable and shall be treated accordingly per **TP-1.14 Compensation to the Contractor**. The Contractor must make every effort to fill vacancies immediately.

**TP-1.22**      **Office Space**

- A. The Administration shall provide the Contractor with administrative office space and local telephone only.
- B. The Contractor shall be responsible for all office furnishings, office equipment, external telephone connection, etc.
- C. The Contractor shall be responsible for providing its own on-site copier, FAX machine, supplies and any other necessary office equipment required in the execution of this contract.

**TP-1.23 Administration's Right to Inspect**

- A. Until the end of the period specified for the keeping of books and records, the Administration shall have the right to inspect and audit all books and records of the Contractor relating to its operations under this contract. Records shall be made available at BWI Thurgood Marshall Airport unless the contractor requests the records to be maintained outside of BWI Thurgood Marshall Airport and agrees to pay for all travel costs associated with the audit by the Administration or its designated agent. Any such inspection or audit shall be conducted during regular business hours and may be conducted by Administration employees or by anyone authorized in writing by the Administration to conduct such inspections and audits. The contractor shall produce the appropriate books and records on request of the Administration, and further, shall reasonably accommodate the Administration's representatives who are conducting the inspection or audit by providing work space, allowing photocopying and allowing interviewing of employees and subcontractors. Such audit shall be in a form and in detail satisfactory to the Administration. Except as otherwise expressly provided herein, the cost of such audit shall be borne by the Administration. The Administration's right to inspect books and records extends to the books and records of all subcontractors under this contract as well as to the work papers of the Contractor's Certified Public Accountant as they relate to this contract.
- B. If an audit inspection in accordance with this section reveals reimbursements for inflated, inaccurate, and/or unauthorized charges by the Contractor to the Administration of more than one half of one percent (0.5%) of total billings for any monthly period, the Contractor shall upon written notice from the Administration, pay such additional sums. Any adjustments and/or payments which must be made as a result of any such audit inspection of the Contractor's records will be made within a reasonable amount of time (not to exceed thirty (30) days) from presentation of Administration findings to the Contractor.
- C. If, as a result of such inspection or audit, it is determined that the Administration has underpaid the Contractor, the Administration shall pay the Contractor an amount equal to such underpayment within thirty (30) calendar days following such determination.
- D. This State or any authorized representative of the Federal government shall also have the right to audit.

**TP-1.24 Maintenance of Books and Records**

- A. Contractor shall maintain all its records relating to performance of this Contract in accordance with generally accepted accounting principles. Such records shall be true and accurate, complete and detailed, showing all costs incurred by Contractor in performance of this Contract, together with source documents and supporting data. Such records shall include, but not necessarily be limited to, all invoices and billings received and records of payment thereof; personnel time slips; reports

and source data pertaining thereto (which may include without limitation, electronic media compatible with the computers available to the Administration, computer generated hard copies DVD's/CD's. Contractor shall retain such records (originals, not copies) pertaining to each year of its operations under this Contract for a period of not less than three (3) calendar years following the last day of each Contract Year within the term of this Contract. Prior to the end of each such three (3) year period, Contractor shall, in writing, notify the Administration of Contractor's intent to dispose of any such records, not later than thirty (30) calendar days in advance of such disposal. The Administration reserves the right to request the Contractor to extend the record retention period for an additional period of up to three (3) years. The Administration shall, in writing, notify Contractor as to whether or not the Administration shall exercise such right, within ninety (90) calendar days following receipt of notice of intent to dispose from Contractor. In the event that the Administration exercises such right, Contractor shall promptly transfer ownership and possession thereof to the Administration.

- B. Notwithstanding the foregoing, records pertaining to unresolved disputed items are not subject to the three (3) year limitation for retention and shall be retained beyond such three (3) year period until such dispute is resolved to the satisfaction of the Administration. Following such resolution, the Contractor shall comply with the notice procedure set forth with respect to notice of disposal of records pertaining to such disputed items.
- C. As to any records retained by the Contractor outside the boundaries of the Airport, upon written request by the Administration pursuant to this Section, the Contractor shall make such original records available at Airport within seven (7) calendar days, without charge to the Administration as an operating expense or otherwise.

#### **TP-1.25 Insurance Requirements**

- A. The Contractor shall be responsible for indemnifying the Administration, the State of Maryland, the Maryland Department of Transportation, and their authorized officers, directors, agents, employees, volunteers, and representatives for any and all operations authorized under this Contract and as set forth elsewhere in this Contract.
- B. The Contractor shall, at its own cost and expense, take out and carry in effect, through the term of this Contract (as defined elsewhere in this Contract) a policy or policies of insurance, with a reputable insurance company that is financially sound and, when possible, authorized to conduct business in the State of Maryland and upon whom process in any suit or action or other proceeding in the courts of the State of Maryland or of the United States may be served, insuring The Contractor against all liability, subject to policy terms, conditions and exclusions, for injuries to persons (including wrongful death) and damages to property caused by The Contractor' use and occupancy of the premises or otherwise caused by the Contractor' activities and operations on said premises or elsewhere at the Airport, the policy limits thereof to be in the minimum(s) which may be increased by the Administration, as deemed necessary, as set forth below. Said levels of insurance are to cover claims arising in connection with this Contract and shall not be subject to any degree of depletion as a result of claims arising in connection with other activities undertaken by the Contractor.
- C. **Commercial General Liability Insurance.** The Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance.
  - 1. The CGL insurance and, if necessary, commercial umbrella insurance shall be a limit of not less than five (5) million dollars (\$5,000,000) per occurrence and not less than

five (5) million dollars (\$5,000,000) aggregate, which may be increased by the Administration as deemed necessary.

2. The CGL insurance shall be written on ISO occurrence form CG 00 01 01 96 (or a substitute form providing equivalent coverage) and shall cover, but not be limited to, liability arising from Premises, Operations, Independent Contractors and Subcontractors, Products-Completed Operations, Personal Injury and Advertising Injury, and liability assumed under an insured contract, and contain separation of insured (cross liability) condition. Explosion, Collapse, and Underground Property Damage Liability shall not be excluded.
  3. The CGL insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the Administration. There shall be no endorsement or modification of the CGL to make it excess over other available insurance. If the CGL states that it is excess or pro rata, the policy shall be endorsed to be primary with respect to the additional insured.
  4. **Waiver of Subrogation.** The Contractor waives all rights against the State of Maryland, the Maryland Department of Transportation, the Administration and their agents, officers, directors, employees, volunteers, and representatives for recovery of damages to the extent these damages are covered by the CGL or umbrella liability insurance obtained by The Contractor pursuant to this Contract.
  5. **Additional Insured Endorsement.** The CGL and, if necessary, commercial umbrella insurance shall be endorsed to identify the State of Maryland, the Maryland Department of Transportation, the Administration, and their authorized officers, directors, agents, employees, volunteers, and representatives as additional insured, not named insured, as their interest may appear in connection with this Contract. A policy endorsement evidencing same must be provided to the Administration in accordance with Paragraph K. Evidence of Insurance.
  6. **Cancellation, Material Changes, or Non-Renewal Endorsement.** The CGL and, if necessary, commercial umbrella insurance shall be endorsed to provide the Administration with at least thirty (30) days, ten (10) days for non-payment of premium, advance notice, in writing, of cancellation, non-renewal, or material change. A policy endorsement evidencing same must be provided to the Administration in accordance with Paragraph K. Evidence of Insurance.
- D. **Commercial Automobile Liability Insurance.** The Contractor shall maintain automobile liability insurance and, if necessary, commercial umbrella liability insurance with limits, which may be increased by the Administration, as deemed necessary, as set forth below:
1. Non-Restricted Areas (Areas accessible to the General Public).  
**A limit of not less than One Million Dollars (\$1,000,000) for each accident.**
  2. Restricted Areas (Non-Movement Area Access – Aircraft ramp areas).  
**A limit of not less than Five Million Dollars (\$5,000,000) for each accident.**
  3. Restricted Areas (Movement Area Access – Runways and Taxiways).

**A limit of not less than Ten Million Dollars (\$10,000,000) for each accident.**

4. This Contract does require the Contractor to have vehicular access to the Restricted Areas (Non-Movement Area Access – Aircraft ramp areas) of the Airport and the associated limit provisions of commercial automobile liability insurance apply to this Contract. If, at a later date, escorted or unescorted vehicular access to the Restricted Areas of the Airport is necessary or required for The Contractor to carry out this Contract, then the appropriate insurance limits described above shall be obtained by The Contractor before accessing those restricted areas.
  5. Such insurance shall cover liability arising out of any auto. If the Contractor does not own automobiles, then coverage, at a minimum, shall be for non-owned and hired autos.
  6. Coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, or CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.
  7. **Waiver of Subrogation.** The Contractor waives all rights against the State of Maryland, the Maryland Department of Transportation, the Administration and their agents, officers, directors, employees, volunteers, and representatives for recovery of damages to the extent these damages are covered by the business auto liability or commercial umbrella liability insurance obtained by The Contractor pursuant to this Contract or under any applicable auto physical damage coverage.
  8. **Designated Insured Endorsement (Additional Insured).** The automotive liability insurance and, if necessary, commercial umbrella insurance shall be endorsed on ISO endorsement form CA 20 48 (or a substitute form providing equivalent coverage) to identify the State of Maryland, the Maryland Department of Transportation, the Administration, and their authorized officers, directors, agents, employees, volunteers, and representatives as additional insured, as their interest may appear in connection with this Contract. A policy endorsement evidencing same must be provided to the Administration in accordance with Paragraph K. Evidence of Insurance.
  9. **Cancellation, Material Changes, or Non-Renewal Endorsement.** The automotive liability insurance and, if necessary, commercial umbrella insurance shall be endorsed to provide the Administration with at least thirty (30) days, ten (10) days for non-payment of premium, advance notice, in writing, of cancellation, non-renewal, or material change. A policy endorsement evidencing same must be provided to the Administration in accordance with Paragraph K. Evidence of Insurance.
- E. **Workers' Compensation and Employer's Liability Insurance.** The Contractor shall maintain workers' compensation and employer's liability insurance.
1. **Workers' Compensation.** Coverage shall be at statutory limits as required by the laws of the State of Maryland.
  2. **Employer's Liability.** The commercial umbrella and/or employers liability limits shall not be less than One Million Dollars (\$1,000,000) each accident for bodily injury by accident or One Million Dollars (\$1,000,000) each employee for bodily injury by disease, which may be increased by the Administration, as deemed necessary.

3. **Waiver of Subrogation Endorsement (WC 00 03 13).** The Contractor waives all rights against the State of Maryland, the Maryland Department of Transportation, the Administration and their agents, officers, directors, employee's, volunteers, and representatives for recovery of damages to the extent these damages are covered by the workers' compensation and employer's liability or commercial umbrella liability insurance obtained by The Contractor pursuant to this Contract. The Contractor shall obtain an endorsement equivalent to WC 00 03 13 to affect this waiver which must be provided to The Contractor in accordance with Paragraph K. Evidence of Insurance.
4. **Cancellation, Material Changes, or Non-Renewal Endorsement.** The workers compensation and employer's liability insurance shall be endorsed to provide the Administration with at least thirty (30) days, ten (10) days for non-payment of premium, advance notice, in writing, of cancellation, non-renewal, or material change. A policy endorsement evidencing same must be provided to the Administration in accordance with Paragraph K. Evidence of Insurance.
- F. **Other Insurance.** Other insurance may be required during the term of this Contract, as determined by the Administration, and The Contractor shall obtain such additional insurance required by the Administration at its own cost and expense within forty-five (45) days after receipt of written request from the Administration.
- F. **Self-Insured Retention (SIR) or Deductible.** The use of a SIR or deductible is allowed. The limits of the SIR or deductible must be approved by the Administration.
- G. **Insurance Company's Financial Rating.** For those insurance companies subject to A.M. Best's ratings, they shall have an A.M. Best's rating of A- or better and a financial size category of VII or better. For those insurance companies not subject to A.M. Best's ratings, they shall have a nationally or internationally recognized reputation and responsibility and shall be approved by the Administration with such approval not to be unreasonably withheld.
- H. Insurance shall be written on an occurrence, not claims made basis. With the exception of Professional Liability Insurance and Environmental Impairment Liability Insurance, if required in this Contract, which shall be on claims made basis.
- I. **Required Endorsements**
  1. **Additional Insured Endorsement.** All policies, except workers' compensation and professional liability, shall be endorsed to identify the State of Maryland, the Maryland Department of Transportation, the Administration, and their authorized officers, agents, employees, directors, volunteers, and representatives as additional insured, not named insured, as their interest may appear in connection with this Contract. A policy endorsement evidencing same must be provided to the Administration in accordance with Paragraph K. Evidence of Insurance.
  2. **Designated Insured Endorsement (Additional Insured).** The automotive liability insurance and, if necessary, commercial umbrella insurance shall be endorsed on ISO endorsement form CA 20 48 (or a substitute form providing equivalent coverage) to identify the State of Maryland, the Maryland Department of Transportation, the Administration, and their authorized officers, directors, agents, employees, volunteers, and representatives as additional insured, as their interest may appear in connection with this



Contract. A policy endorsement evidencing same must be provided to the Administration in accordance with Paragraph K. Evidence of Insurance.

3. **Cancellation, Material Changes, or Non-Renewal Endorsement.** All policies shall be endorsed to provide the Administration with at least thirty (30) days, ten (10) days for non-payment of premium, advance notice, in writing, of cancellation, non-renewal, or material change. A policy endorsement evidencing same must be provided to the Administration in accordance with Paragraph K. Evidence of Insurance.
4. **WC 00 03 13 Endorsement.** An endorsement equivalent to WC 00 03 13 is required to affect the waiver of subrogation requirement for workers' compensation and employer's liability. A policy endorsement evidencing same must be provided to the Administration in accordance with Paragraph K. Evidence of Insurance.

J. **Evidence of Insurance.** Prior to the commencement of this Contract, unless otherwise specifically authorized by the Administration in writing, and at least annually thereafter, and as soon as possible after renewal but no later than five (5) business days after said renewal, The Contractor agrees to furnish the Administration with certificate(s) of insurance and the required endorsement(s) referenced herein, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements of this Contract.

1. Each certificate of insurance shall provide for thirty (30) days written notice to the Administration prior to the cancellation, non-renewal, or material change of any insurance referred to herein.
2. The words "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted from the cancellation provision of all certificates of insurance provided by The Contractor or duly authorized representative of each insurer.
3. Certificate(s) of insurance shall indicate at a minimum; the type, kind, and amount of insurance in effect, the period of the policies, the contract number of this Contract, and any applicable additional insured statement as referred to herein.
4. If commercial umbrella or excess policies are obtained by The Contractor to meet the required limits of insurance, then the certificate of insurance **must** indicate the policies covered by said umbrella or excess policies.
5. Required endorsements and certificate(s) of insurance and shall be e-mailed to Monica Queen at Mqueen6@bwiairport.com. The express mail (FedEx, UPS, etc.) address to the Administration is as follows:

**Maryland Aviation Administration  
Office of Procurement & Materials Management  
7001 Aviation Boulevard  
Glen Burnie, MD 21061**

K. The Administration 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. The Contractor shall provide certified copies of the required items

within ten (10) business days of the Administration written request for said copies. The Administration shall deem such information confidential commercial and/or confidential financial. All policies and declaration pages shall be returned to The Contractor upon review and acceptance by the Administration.

- L. In no event will any insurance referred to herein be cancelled by the Contractor without the prior written consent of the Administration.
- M. The failure of the Administration, 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 Administration harmless with respect to any items of injury or damage covered by this Contract.
- N. Failure to maintain the insurance required by this Contract shall be the basis for immediate termination of this Contract at Administrations option.
- O. **No Representation of Coverage Adequacy.** By requiring insurance herein, the Administration 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 liability under the indemnities granted to the Administration in this Contract.
- P. As indicated above, The 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 this Contract.
- Q. The Administration reserves the right at any time throughout the term of the Contract to adjust the aforementioned insurance requirements, if, in the Administrations reasonable judgment, the insurance required by the Contract is deemed inadequate to properly protect the Administrations interest.
- R. Incidents. To the extent of the Contractor's knowledge, the Contractor shall send a written report to the Administration within twenty-four (24) hours or as soon as possible, but no more than four (4) business days, of the Contractor's receipt of any knowledge of any accident or other event arising in any manner from the performance of the Contract which results in or might have resulted in bodily injury, personal injury, property damage, or loss of any kind. A copy of the report shall be e-mailed to the Contract Administrator and Monica Queen in the Office of Procurement and Materials Management at mqueen6@bwiairport.com. The express mail address is:

**Maryland Aviation Administration  
Office of Procurement & Materials Management  
7001 Aviation Boulevard  
Glen Burnie, MD 21061**

## TECHNICAL PROVISIONS 2

### **Security Guard Assignments**

**CONTRACT NO. MAA-MC-23-014  
SECURITY GUARD SERVICES  
AT  
BALTIMORE/WASHINGTON INTERNATIONAL  
THURGOOD MARSHALL AIRPORT**

**TP-2.01**      **Contractor's Assignments**

A.      Dispatchers:

1.      The Contractor shall provide full-time personnel at this post twenty-four (24) hours per day, seven (7) days per week as listed in Exhibit A.
2.      Functions to be performed at this post include, but are not limited to:
  - a.      Answer radio messages broadcast by security guards.
  - b.      Answer phone calls.
  - c.      Initiate proper action for emergency and security incidents at guard post locations.
  - d.      Door alarm monitoring, responding and acknowledgement for terminal door alarms for the Secured Area of the terminal and doors that access the SIDA from the terminal building.
3.      The hours of work shall be designated as needed by the Administration and changed as necessary. This position shall perform no other duties for functions related to this contract unless expressly approved, in writing, by the Administration.

B.      Compliance Officers:

1.      The Contractor shall provide full-time personnel at this post 24 hours per day, seven (7) days per week as listed in Exhibit A.
2.      Functions to be performed at this post include, but are not limited to assisting the Office of Airport Security with preventing security violations and assist with issues involving security compliance.
2.      This position shall perform no other duties or functions under this contract unless approved, in writing, by the Administration.

C.      Camera Monitors:

1. The Contractor shall provide full-time security guards at this post 24 hours per day, seven (7) days per week to monitor the CCTV cameras for the shift, number, and hours as listed in Exhibit A.
2. As there is sensitive security information in the functions and objectives for this position, the duties and responsibilities for this post shall be provided by the Administration after receipt of NTP by the Contractor.

D. Terminal Security Doors:

1. The Contractor shall provide full-time security guards for the terminal security doors for the shift, number, and hours as listed in Exhibit A.
2. Functions to be performed at these posts are to stop all personnel attempting to gain access to, or exiting the TSR 1542.201 area through that access point, and including but not limited to:
  - a. Identification Checks, Escorting and Badge Swiping:
    - (1) Check badge photo to ensure it matches the individual.
    - (2) Check badge expiration date to ensure badge is not expired.
    - (3) Ensure individual swipes through the electronic card reader and receives access.
    - (4) Ensure all persons being escorted are logged in the escort log.
  - b. Bag Searches, Wand Searches and Physical Pat-Downs; Individuals entering the SIDA will be randomly searched. The Administration may institute these searches based on the threat level of the Airport. The Administration shall provide the Guard Posts the search procedures will affect.
3. As there is sensitive security information in the functions and objectives for this position, the duties and responsibilities for this post shall be provided by the Administration after receipt of NTP by the Contractor.

E. Employee Inspection Posts:

1. The Contractor shall provide full-time security guards for employee inspection posts for the shift, number, and hours as listed in Exhibit A.
2. These posts shall conduct random inspections of employees entering the SIDA or Sterile Areas of the Airport. The purpose of the inspections is to combat the potential “insider threat” at BWI Thurgood Marshall Airport. All persons, property and

vehicles entering the SIDA or Sterile Areas of the Airport are subject to search by the Maryland Department of Transportation Authority Police (MdTAP), the Transportation Security Administration (TSA), or MAA Security and its authorized representatives.

3. The random inspections will be at high volume portals where employees enter the sterile area of the Airport from the public areas. The MAA Office of Airport Security will assign the times and places for the random inspections.
4. As there is sensitive security information in the functions and objectives for this position, the duties and responsibilities for this post shall be provided by the Administration after receipt of NTP by the Contractor.

F. Employee Parking Lots:

1. Contractor shall provide security guards for the employee parking lot posts, shifts, and hours as listed in Exhibit A.
2. The security stations located at the entrance to employee parking lots is comprised of a guardhouse equipped with a telephone and minimum furnishings, including heat and air conditioning. Functions of this station includes, but is not limited to:
  - a. Visually monitor the vehicular traffic into and out of the lots;
  - b. Monitor the lots for suspicious activity related to theft, vandalism, and employee personal security. Any suspicious activity shall be immediately reported to the Airport Police.

Note: These lots may eventually convert to public parking, therefore it will be necessary to remove any active guard post. It is assumed that the guard will be relocated to the new employee parking area once relocated.

G. Manager's Lot Entrance (at end of terminal building adjacent to International Terminal E):

1. Contractor shall provide security guards for the Manager's Parking lot post, shifts, and hours as listed in Exhibit A. This post is comprised of a guardhouse equipped with minimum furnishings, including heat and air-conditioning.
2. The functions to be performed at this station is to stop all vehicles attempting to gain access to the Manager's Parking Lot or to the terminal through the parking lot, and also includes but is not limited to:
  - a. Identification Check

- (1) Check badge photo to ensure it matched the individual.
  - (2) Check badge expiration date to ensure badge is not expired.
- b. Hang Tag Check.
  - (1) Check hang tag and its expiration date to ensure it has not expired.
  - (2) Restrict commercial deliveries from staging in the secure area of the parking lot.
- c. Vehicle Searches
  - (1) Visually inspect all major compartments of vehicle, such as trunks, spare tire compartments, cabinets, etc.
  - (2) If the vehicle contains items, which individually or in close contact with each other could contain 400 pounds of explosives, those items must be visually inspected. These items could include filled plastic garbage bags, large boxes or shipping containers, trashcans, etc.
  - (3) Visually inspect cargo beds or other storage compartments that are hidden, covered or otherwise obscured from view.
  - (4) Inspect all vehicle interiors, particularly if they are hidden by heavily tinted or masked glass;
- d. If the owner of a vehicle refuses to consent to the search;
  - (1) Do not allow the vehicle to enter the lot.
  - (2) Contact Airport Police at 410-859-7040.
  - (3) Note the license plate number, make, model and color of the vehicle.
  - (4) Prepare a description of the driver.

**NOTE: IF ANY SUSPECT ITEMS ARE DISCOVERED THE SECURITY OFFICER WILL IMMEDIATELY CONTACT THE MARYLAND TRANSPORTATION AUTHORITY POLICE AT 410-859-7040.**

H. Interior / Exterior Rovers:

1. The Contractor shall provide full-time security guards for Interior/Exterior Rovers for shifts, and hours as listed in Exhibit A. As assigned by the Administration, Rovers are to provide:
  - a. Exterior coverage 24/7 for the Power Gates and Employee Parking Lots,
  - b. Interior terminal coverage 24/7 on the Concourses.

- c. Door alarm monitoring, responding and acknowledgement for terminal door alarms for the Secured Area of the terminal and doors that access the SIDA from the terminal building.
2. The Employee Parking lots currently consist of the following separate lots:
  - a. C-Lot (Manager's Lot, Amtrak Way)
  - b. Air Cargo Lot
  - c. Employee Parking Lot (Stoney Run Road)
  - d. Manager's Lot (at end of terminal building adjacent to International Terminal E).
3. All Interior / Exterior Rovers shall assist any employee or patron who may be stranded or need help by contacting MAA Fire & Rescue or Maryland Transportation Authority Police (MdTAP) as appropriate. The Rovers must report anything suspicious to the proper authority, and respond to any post or area during an emergency as required.
4. Contractor shall use an appropriately marked security vehicle. Contractor shall submit a schedule of patrol times and routes. Contractor shall conduct at least two (2) Airport perimeter fence line inspections during each eight (8) hour shift.
5. The Administration reserves the right to also use this guard to temporarily stand post at bag belts or a security door, until a relief guard can be obtained.
6. The Rovers shall be required to possess valid Maryland Driver's License. Verification of the license must be submitted to the Administration Verification of the license must be submitted to the Administration within 30 days after Notice to Proceed and every 6 months during the remainder of the contract term.
7. Exterior Rovers shall be responsible for ensuring that security equipment such as lights, cameras, and phones are all in working order.
8. Interior Rovers shall be responsible for ensuring that security posts are covered during breaks.

I. Power Gates

1. The Contractor shall provide Security Guards for the Power Gate locations and hours as listed in Exhibit A. These posts are comprised of a guardhouse equipped with minimum furnishings, including heat and air-conditioning.
2. The functions to be performed at these Power Gate stations is to stop all vehicles and pedestrians attempting to gain access to the airfield via the power gate and also includes but is not limited to:

- a. Identification Check
  - (1) Check badge photo to ensure it matched the individual.
  - (2) Check badge expiration date to ensure badge is not expired.
- b. Vehicle Airfield Permit – check vehicle’s permits expiration date to ensure it has not expired.
- c. Vehicle Searches
  - (1) Visually inspect all major compartments of vehicle, such as trunks, spare tire compartments, cabinets, etc.
  - (2) If the vehicle contains items, which individually or in close contact with each other could contain 400 pounds of explosives, those items must be visually inspected. These items could include filled plastic garbage bags, large boxes or shipping containers, trashcans, etc.
  - (3) Visually inspect cargo beds or other storage compartments that are hidden, covered or otherwise obscured from view.
  - (4) Inspect all vehicle interiors, particularly if they are hidden by heavily tinted or masked glass;
- d. If the owner of a vehicle refuses to consent to the search;
  - (1) Do not allow the vehicle to enter the lot.
  - (2) Contact the police at 410-859-7040.
  - (3) Note the license plate number, make, model and color of the vehicle.
  - (4) Prepare a description of the driver.

**NOTE: IF ANY SUSPECT ITEMS ARE DISCOVERED THE SECURITY OFFICER WILL IMMEDIATELY CONTACT THE MARYLAND TRANSPORTATION AUTHORITY POLICE AT 410-859-7040.**

J. Guard Breakers:

- 1. The Contractor shall provide security guard breakers (Breakers) to cover the breaks for security guards for the posts, shifts, and hours as listed in Exhibit A.
- 2. The Breakers shall be responsible for ensuring that security posts are covered during breaks, and shall assist any employee or patron who may be stranded or need help by contacting MAA Fire Rescue or MD Transportation Authority Police (MdTAP) as appropriate. The Breakers must report anything suspicious to the proper authority, and respond to any post or area during an emergency as required by the MAA.



3. The Contractor shall use an appropriately marked security vehicle for use by the Breakers. Contractor shall submit a schedule of times, routes and breaks.
4. The Administration reserves the right to also use this guard to temporarily stand post at bag belts or a security door, until a relief guard can be obtained.
5. The Breakers shall be required to possess a valid Maryland Driver's License. Verification of the license must be submitted to the Administration. Verification of the license must be submitted to the Administration within 30 days after Notice to Proceed and every 6 months during the remainder of the contract term.

K. Additional Duties as Required:

1. The Administration reserves the right to relocate guards or to add additional assignments, to include but not limited to seasonal fluctuations and take up post at specified terminal door locations, as determined.
  2. The Contractor shall respond to all requests for additional guard service within two (2) hours from receiving the request from the Administration.
  3. Any additional guards/stations/posts would be compensated from extra work allowance or by contract modification.
- L. The Administration reserves the right to change or relocate any security post to another area at the Airport at no additional cost to the Administration.
- M. Security personnel shall render assistance via the use of telephone service to employees needing help.
- N. The Administration shall provide written Standard Operating Procedures (SOP) including but not limited to sign-in procedures; guidelines; and appropriate telephone numbers for use by the guards. The SOP's may be changed at any time at no additional cost to the Administration.
- O. Shift schedules and personnel rotation shall be at the discretion of the Contractor. However, it shall be the responsibility of the Contractor to assure the Administration that all personnel assigned to this contract arrive at the specified time, be in the proper uniform, and are otherwise fit and ready to assume their duties. They, furthermore, must be aware of all rules, regulations, and procedures affecting the security of the Airport, prior to coming on shift.
- P. The Administration reserves the right to relocate guards, at no extra cost to the Administration, or request the Contractor call in additional guards to provide crowd control services inside the Main Terminal Building during peak travel. These seasons include but are not limited to spring break, summer break, Easter, Thanksgiving, Christmas, and the New Year Holiday. Additional guards would be considered Extra Work.

- Q. If the Administration finds it necessary to assign State personnel to provide security for any amount of time for which the Contractor was responsible under this contract, it reserves the right to refuse payment for that period of time based on the hourly rates found in **Section P**. The Administration shall hold the Contractor liable for any wages paid to State personnel in the performance of security duties normally performed by the Contractor.
- R. The Contractor shall maintain with the Office of Airport Security a list of personnel that will be used as guards at BWI Marshall. The Contractor shall give advance notice of any scheduled change in the guard roster and immediate notice of any daily changes. Prior to assuming duties at BWI Marshall all personnel must have undergone appropriate training.
- S. Contractor employees assigned, badged and paid for on this contract may not be used on any other contract at BWI Marshall Airport without the express written permission of the Administration.

<u>EXHIBIT A</u>					
POSITIONS, HOURS, SHIFTS AND GUARD ASSIGNMENTS					
CONTRACT NO. MAA-MC-23-014					
SECURITY GUARD SERVICES					
AT					
BALTIMORE/WASHINGTON INTERNATIONAL					
THURGOOD MARSHALL AIRPORT					
<u>Part I - Project Management</u>					
Bid Item	No.	Position(s) Full-Time On-Site	Contract Reference	Days Per Week	Hours Per Week
P1	1	Project Manager	TP-1.07, A.	5	40
P2	5	Assistant Managers	TP-1.07, B.	5	200
	6	Total Maximum Routine Authorized - Project Management			240
<u>Part II - Contractor Hourly Rate Supervision:</u>					
Bid Item	No.	Position(s) Full-Time On-Site	Contract Reference	Days Per Week	Hours Per Week
P3	10	Compliance Officers (24 Hours Per Day)	TP-2.01, B.	7	400
P4	6	Quality Control Supervisors (24 Hours Per Day)	TP-1.07, C.	7	208
P5	1	Compliance Supervisor	TP-1.07, D.	5	40
	17	Total Maximum Routine Authorized - Hourly Rate Supervision			648

<b>Part III - Day Shift (7:00 a.m. to 3:00 p.m.):</b>					
<b>Bid Item</b>	<b>No.</b>	<b>Position(s) Full-Time On-Site</b>	<b>Contract Reference</b>	<b>Days Per Week</b>	<b>Hours Per Week</b>
S1	2	Dispatchers	TP-2.01, A	7	112
S2	3	Security Guard Supervisors	TP-1.07, E.	7	152
S3	2	Guard Camera Monitors	TP-2.01, C.	7	112
S4	1	Guard NT Freight Elevator (Upper Level ST1488)	TP-2.01, D.	7	56
S5	1	Guard CT Tunnel Door (Lower Level CT104)	TP-2.01, D.	7	56
S6	1	Guard Baggage Claim 7 & 8 Door (Lower Level ST114Ra and ST114A)	TP-2.01, D.	7	56
S7	1	Guard Pier A Baggage Claim 1 Door:	TP-2.01, D.	7	56
S8	1	Guard Employee Inspection Posts	TP-2.01, E.	7	56
S9	4	Guard Breakers	TP-2.01, J.	7	224
S10	2	Guards Power Gate A	TP-2.01, I.	7	112
S11	3	Guards Power Gate G	TP-2.01, I.	7	168
S12	1	Guard Power Gate K	TP-2.01, I.	7	56
S13	1	Guard Manager's Lot Entrance	TP-2.01, G.	7	56
S14	1	Guard Employee Parking Lots	TP-2.01, F.	7	56
S15	9	Guard Interior/Exterior Rovers	TP-2.01, H.	7	504
	<b>33</b>	<b>Total Maximum Routine Positions Authorized - Day Shift</b>			<b>1,832</b>

<b>Part IV - Evening Shift (3:00 p.m. to 11:00 p.m.)</b>					
<b>Bid Item</b>	<b>No.</b>	<b>Position(s) Full-Time On-Site</b>	<b>Contract Reference</b>	<b>Days Per Week</b>	<b>Hours Per Week</b>
S1	2	Dispatchers	TP-2.01, A	7	112
S2	2	Security Guard Supervisors	TP-1.07, E.	7	112
S3	2	Guard Camera Monitors	TP-2.01, C.	7	112
S4	1	Guard NT Freight Elevator (Upper Level ST1488)	TP-2.01, D.	7	56
S5	1	Guard CT Tunnel Door (Lower Level CT104)	TP-2.01, D.	7	56
S6	1	Guard Baggage Claim 7 & 8 Door (Lower Level ST114Ra and ST114A)	TP-2.01, D.	7	56
S7	1	Guard Pier A Baggage Claim 1 Door:	TP-2.01, D.	7	56
S8	1	Guard Employee Inspection Posts	TP-2.01, E.	7	56
S9	4	Guard Breakers	TP-2.01, J.	7	184
S10	2	Guards Power Gate A	TP-2.01, I.	7	112
S11	3	Guards Power Gate G	TP-2.01, I.	7	168
S12	1	Guard Power Gate K	TP-2.01, I.	7	56
S13	1	Guard Manager's Lot Entrance	TP-2.01, G.	7	56
S14	1	Guard Employee Parking Lots	TP-2.01, F.	7	56
S15	9	Guard Interior/Exterior Rovers	TP-2.01, H.	7	504
	<b>32</b>	<b>Total Maximum Routine Positions Authorized - Evening Shift</b>			<b>1,752</b>

<b>Part V - Overnight Shift (11:00 p.m. to 7:00 a.m.)</b>					
<b>Bid Item</b>	<b>No.</b>	<b>Position(s) Full-Time On-Site</b>	<b>Contract Reference</b>	<b>Days Per Week</b>	<b>Hours Per Week</b>
S1	2	Dispatchers	TP-2.01, A.	7	112
S2	2	Security Guard Supervisors	TP-1.07, E.	7	112
S3	2	Guard Camera Monitors	TP-2.01, C.	7	112
S4	1	Guard NT Freight Elevator (Upper Level ST1488)	TP-2.01, D.	7	56
S5	1	Guard CT Tunnel Door (Lower Level CT104)	TP-2.01, D.	7	56
S6	1	Guard Baggage Claim 7 & 8 Door (Lower Level ST114Ra and ST 114A)	TP-2.01, D.	7	56
S8	1	Guard Employee Inspection Posts	TP-2.01, E.	7	56
S9	3	Guard Breakers	TP-2.01, J.	7	168
S10	2	Guards Power Gate A	TP-2.01, I.	7	112
S11	3	Guards Power Gate G	TP-2.01, I.	7	168
S12	1	Guard Power Gate K	TP-2.01, I.	7	56
S13	1	Guard Manager's Lot Entrance	TP-2.01, G.	7	56
S14	1	Guard Employee Parking Lots	TP-2.01, F.	7	56
S15	6	Guard Interior/Exterior Rovers	TP-2.01, H.	7	336
	<b>27</b>	<b>Total Maximum Routine Positions Authorized - Night Shift</b>			<b>1,512</b>

	<b>Total No.</b>	<b>Total Maximum Routine Positions and Hours Authorized Per Day</b>	<b>Total Hours Authorized</b>
	6	Total Maximum Authorized Per Day - Project Management	240
	17	Total Maximum Authorized Per Day - Hourly Rate Supervision	648
	<b>23</b>	<b>Total Maximum Routine Hours Authorized Per Week - Supervision</b>	<b>888</b>
	6	Total Maximum Authorized Per Day - Dispatchers	336
	7	Total Maximum Authorized Per Day - Security Guard Supervisors	376
	79	Total Maximum Authorized Per Day - Security Guards (All Shifts)	4,384
	<b>92</b>	<b>Total Maximum Routine Hours Authorized Per Week - All Shifts</b>	<b>5,096</b>
	<b>115</b>	<b>Total Maximum Routine Hours Authorized Per Week - All Inclusive</b>	<b>5,984</b>
		<b>Total Maximum Routine Hours Authorized Per Year @ 52 Weeks - All Shifts</b>	<b>264,992</b>
		<b>Total Maximum Routine Hours Authorized Per Year @ 52 Weeks - All Inclusive</b>	<b>311,168</b>

**SPECIAL PROVISIONS  
FOR  
MAINTENANCE CONTRACTS**

**SP-1.01**      **Small Business Reserve (SBR) Program**

- A. This contract is subject to the Small Business Reserve Program for which award will be limited to Certified Small Business vendors. Only businesses that meet the requirements set forth in State Finance and Procurement Article, §14-501 - §14-505, Annotated Code of Maryland, and who are registered with the Department of General Services Small Business Reserve Program are eligible for award of a contract.
- B. For the purposes of a Small Business Reserve Procurement, a small business is a for profit business, other than a broker, that meets the following criteria:
1. The business is independently owned and operated.
  2. The business is not a subsidiary of another business.
  3. The business is not dominant in its field of operation.
  4. The **wholesale** operations of the business did not employ more than 50 persons, and the gross sales of the business did not exceed an average of \$4,000,000 in its most recently completed three (3) fiscal years\*.
  5. The **retail** operations of the business did not employ more than 25 persons, and the gross sales of the business did not exceed an average of \$3,000,000 in its most recently completed three (3) fiscal years\*.
  6. The **manufacturing** operations of the business did not employ more than 100 persons, and the gross sales of the business did not exceed an average of \$2,000,000 in its most recently completed three (3) fiscal years\*.
  7. The **service** operations of the business did not employ more than 100 persons, and the gross sales of the business did not exceed an average of \$10,000,000 in its most recently completed three (3) fiscal years;\* and
  8. The **construction** operations of the business did not employ more than 50 persons, and the gross sales of the business did not exceed an average of \$7,000,000 in its most recently completed three (3) fiscal years.
  9. The **architectural** and **engineering** services of the business did not employ more than 100 persons and the gross sales of the business did not exceed an average of \$4,500,000 in its most recently completed 3 fiscal years. \*

*\* If a business has not existed for three years, the employment and gross sales average(s) is the average for each year or part of a year during which the business has been in existence.*



- C. Further information on the certification process is available at [www.dgs.state.md.us](http://www.dgs.state.md.us) and click on the *Small Business Reserve* link.

**SP-1.02**      **Small Business Preference**

- A. This procurement is subject to designation as a Small Business Preference in accordance with Title 14, Subtitle 2, of the State Finance and Procurement Article of the Maryland Annotated Code. The preference percentages shall be stated as follows:
1. State-certified, small business (not a veteran-owned or disabled-veteran-owned small business) 5%
  2. State-certified, veteran-owned small business 7%
  3. State-certified, disabled-veteran-owned small business 8%
- B. The procurement agency will accept the most favorable responsive bid from a responsible, certified small business if the bid does not exceed the most favorable responsive received from a bidder who is not a certified small business by more than the percentage(s) listed above.
- C. To be eligible for the preference, your company must have a current small business certification from the Maryland Department of General Services.
- D. **Small business size standards in Maryland are different than federal standards. You CANNOT substitute an SBA 8(a) certification or VetBiz verification for Maryland small business certification.**
- E. If your small business is eligible but not certified by the State, apply for certification on the Department of General Services website at [www.smallbusinessreserve.maryland.gov](http://www.smallbusinessreserve.maryland.gov) and obtain a small business certification number. State Law requires that the veteran business owner be domiciled in Maryland. There is no Maryland residency requirement for owners of small businesses participating in the Preference as small businesses without the veteran-owned or disabled-veteran-owned designation.
- F. The bidder must provide the following to the procurement officer to prove eligibility for the preference:
1. **Certified small business that is not veteran-owned or disabled veteran-owned:** Provide the DGS small business certification number.
  2. **Veteran-owned certified small business:** Provide the DGS small business certification number **AND** a copy of the business owner's DD Form 214 attesting to discharge or release under conditions other than dishonorable.
  3. **Disabled-veteran-owned small business that is currently verified and**

**registered on *www.VetBiz.gov*:** Provide the DGS small business certification number **AND** a copy of the letter from the U.S. Department of Veterans Affairs Verification Program showing your verification is current.

4. **Disabled-veteran-owned small business that is NOT currently verified and registered on *www.VetBiz.gov*:** Provide the DGS small business certification number **AND** a copy of your DD Form 214 showing discharge or release under conditions other than dishonorable **AND** a copy of your Adjudication Letter from the U.S. Veterans Administration.

#### **SP-1.03**      **Bid Guarantee**

- A. Each Bid or Proposal over \$100,000 total price shall be accompanied by a bid guarantee (Section L) in the amount of **five percent (5%)** of the total contract price. A Proposal or Bid shall not be considered unless accompanied by a bid guarantee. Acceptable Bid Guarantee shall be as set forth in COMAR 21.06.07.01B.
- B. The Bid guarantee shall be returned to the Contractor as soon as the contract is approved by the appropriate sources and executed by the Administration, or as otherwise determined by the Administration.

#### **SP-1.04**      **Performance Guarantee (If contract price is over \$100,000)**

- A. The selected Contractor shall be required to execute and deliver to the Administration, prior to execution, a Performance Guarantee, in the amount equal to **one hundred percent (100%)** of the total contract price. The selected Contractor shall provide the Performance Guarantee in one of the forms provided for in COMAR Title 21.06.07.01B. The selected Contractor shall deliver the guarantee to the Administration upon request and prior to execution by the Administration. If a Contractor fails to deliver the required Performance Guarantee, the Contractor's bid shall be rejected, its bid security may be enforced, and award of the contract may be made to the next lowest responsive and responsible bidder.
- B. The selected Contractor shall maintain such Performance Guarantee for the entire term of the contract, to include any extension thereto. The Performance Guarantee may be issued for a one (1) year period; provided, however, that the said bond shall then be renewed annually at least 60 days prior to the anniversary of the contracts effective date for each year of the contract term. One (1) form of Performance Guarantee may be substituted for another form of Performance Guarantee during the contract term at the option of the selected Contractor provided there shall not be any lapse of Performance Guarantee throughout the complete term of the contract.
- C. This Performance Guarantee assures performance of the contract by the selected Contractor and the payment to the Administration of all required fees, and shall be subject to claim in full or in part by the Administration in the event of default by the selected Contractor for failure to perform fully the contract.

- D. In the event said Performance Guarantee is not provided 60 days prior to the anniversary of the contract's effective date for following contract years Contractor shall be in default and the selected Contractor's contract may be terminated.
- E. NOTE: This special provision shall in no way bind the bonding agent or surety to this contract or prime contractor for the duration. Prime contractor may change surety or the surety may cancel according to the agreement between surety and prime contractor. This section only is intended to make the contractor responsible for bonding protection.

**SP-1.05**      **Payment Guarantee (If contract price is over \$100,000)**

- A. The selected Contractor shall be required to execute and deliver to the Administration, prior to execution, a Payment Guarantee, in the amount equal to **one hundred percent (100%)** of the total contract price. The selected Contractor shall provide the Payment Guarantee in one of the forms provided for in COMAR Title 21.06.07.01B. The selected Contractor shall deliver the guarantee to the Administration upon request and prior to execution by the Administration. If a Contractor fails to deliver the required Payment Guarantee, the Contractor's bid shall be rejected, its bid security may be enforced, and award of the contract may be made to the next lowest responsive and responsible bidder.
- B. The selected Contractor shall maintain such Payment Guarantee for the entire term of the contract, to include any extension thereto. The Payment Guarantee may be issued for a one (1) year period; provided, however, that the said bond shall then be renewed annually at least 60 days prior to the anniversary of the contracts effective date for each year of the contract term. One (1) form of Payment Guarantee may be substituted for another form of Payment Guarantee during the contract term at the option of the selected Contractor provided there shall not be any lapse of Payment Guarantee throughout the complete term of the contract.
- C. This Payment Guarantee ensures that the Contractor shall pay in full all bills and accounts for materials and labor used in the performance of this contract, as provided by law.
- D. In the event said Payment Guarantee is not provided 60 days prior to the anniversary of the contract's effective date for following contract years the selected Contractor shall be in default and the selected Contractor's contract may be terminated.
- E. NOTE: This special provision shall in no way bind the bonding agent or surety to this contract or prime contractor for the duration. Prime contractor may change surety or the surety may cancel according to the agreement between surety and prime contractor. This section only is intended to make the contractor responsible for bonding protection.

**SP-1.06**      **Surety Bond Assistance Program**

- A. Small Businesses may qualify for assistance in obtaining bid, performance and payment bonds through the Maryland Small Business Development Financing Authority (MSBDFA). MSBDFA can directly issue bid, performance or payment bonds up to \$5 million. MSBDFA may also guarantee up to 90% of a surety's losses resulting from a contractor's breach of a bid,

performance or payment bond or \$1,350,000, whichever is less. Bonds issued directly by MSBDFA's Surety Bond Program (Program) will remain in effect for the duration of the contract. Bond guarantees will remain in effect for the term of the bond.

- B. To be eligible for bonding assistance, an applicant must:
1. Have its principal place of business in Maryland or be a Maryland resident;
  2. First be denied bonding by at least one surety in both the standard and specialty markets within 90 days of submitting a bonding application to MSBDFA;
  3. Employ fewer than 500 full-time employees or have gross sales of less than \$50 million annually;
  4. Not subcontract more than 75% of the work;
  5. Have a good moral character and a history of financial responsibility;
  6. Demonstrate that the contract will have a substantial economic impact; and
  7. Never have defaulted on any loan or financial assistance made or guaranteed by MSBDFA.
- C. Applicants are encouraged to apply for assistance under the Program through their respective bonding agents. Questions regarding the bonding assistance program should be referred to:

Maryland Small Business Development Financing Authority  
C/O Meridian Management Group, Inc.  
826 East Baltimore Street  
Baltimore, Maryland 21202  
Phone: 410-333-2548 Fax: 410-333-2552  
Email: [mmgdeal@mmggroup.com](mailto:mmgdeal@mmggroup.com)

**SP-1.07**      **Individual Surety Bonds** **REPEALED**

- A. Bid, payment, and performance security may be in the form of: (1) a bond executed by a surety company authorized to do business in the State; (2) a bond executed by an individual surety that meets certain criteria; (3) cash; (4) another form of security required by State or federal law; or (5) another form of security satisfactory to the State Agency awarding the contract. Sections 13-207, 13-216, 17-104 of the State Finance and Procurement Article, Annotated Code of Maryland.
- B. The 2006 General Assembly expanded the scope of acceptable security to provide more State contracting opportunities for businesses unable to obtain bonding from surety companies. The 2006 law permits *individuals* to serve as sureties. (Chapter 299, Laws of 2006.)
- C. Procedure

Acceptability of Bonds from Individual Sureties: A State agency may accept a bond provided by an individual surety ONLY if:

1. The contractor has been denied bonding by a corporate surety, or
2. The individual surety transacts business through an insurance agency licensed by the Maryland Insurance Administration, or
3. The individual surety attaches an Affidavit of Individual Surety with Appendix to the bid security (Attachments A and B), or
4. The individual surety pledges one or more of the following assets in an amount equal to or greater than the bond's total penal amount:
  - (a) Cash or certificates of deposit.
  - (b) Cash equivalents held with a federally insured financial institution.
  - (c) Certain assets evidenced by a security interest including irrevocable trust receipts.
  - (d) U.S. Government securities at market value.
  - (e) Stocks and bonds that meet certain criteria\*.
  - (f) Real property that meets certain criteria\*.
  - (g) Irrevocable letters of credit that meet certain criteria\*.

\*These criteria may be found at State Finance and Procurement Article §§13-207 and 17-104

#### D. Pledged Assets

1. *Personal property.* If using the personal property assets listed in II. D. 1-5, 7 above, an individual surety must provide a current UCC-1 financing statement at the time the bond is furnished. The financing statement is filed to perfect the State's security interest in the property and establishes the State's priority in case of debtor default or bankruptcy. An example of a UCC-1 financing statement (National UCC Financing Statement) may be found on the State Department of Assessments and Taxation Web site ([www.dat.state.md.us/sdatweb/ucc/ucc1.pdf](http://www.dat.state.md.us/sdatweb/ucc/ucc1.pdf)).
2. *Real property.* Pledged real property must be owned by the contractor or individual surety in fee simple or by co-tenants who all agree to act jointly. Evidence of title must be a certificate of title prepared by an attorney or a title insurance company licensed by the State. Title evidence must show:
  - (a) Fee simple title vested in the contractor or surety along with any concurrent owners,
  - (b) Whether any real estate taxes are due and payable, and
  - (c) Any recorded encumbrances.

The individual surety must also provide a copy of the current real estate tax assessment of the property or a current appraisal dated no earlier than 6 months before the bond date, prepared by a professional appraiser who certifies that the appraisal was conducted in accordance with the generally accepted appraisal standards as reflected in the Uniform Standards of Professional Appraisal Practice.

3. Pledged assets may not be pledged for any other security or contract until the State agency releases the asset.
- E. *Who may act as an individual surety?* An individual surety must be a United States citizen. Corporations and partnerships cannot act as individual sureties. Individual sureties who have been suspended or debarred by the State may not submit bonds.
- F. Contractor who cannot obtain bid, payment, and performance bonds, and wish to use an *individual* surety, must complete Attachment C in its entirety. The information submitted in Attachment C will determine whether the requirements for the use of an *individual* surety have been met. Before accepting a bond from an individual surety, the Procurement Officer must consult with the Office of the Attorney General to determine whether the requirements for an *individual* surety bond have been met.
- G. If an *individual* surety is used for a bid bond Attachments A, and B must be submitted with the bid at the time of bidding, if they are not submitted with the bid the bid will be rejected as non-responsive. If used for a payment or performance bond all attachments shall be submitted at the request of the Administration following bid opening.
- H. Attachments: *Refer to Section S in Bid documents*
  1. **Affidavit of Individual Surety** (Attachment A)
  2. **Surety Affidavit Appendix** (Attachment B)
  3. **Acceptability of Individual** Surety Bonds (Attachment C)

#### **SP-1.08      Delivery of Bids**

The Contractor shall submit each bid in a sealed envelope plainly marked to indicate its contents. When sent by mail, the sealed bid must be addressed to the Administration at the address and in care of the official in whose office the bids are to be received. All bids shall be filed prior to the time and at the place specified in the Invitation for Bids. Bids received after the time for opening of bids will be treated in accordance with the provision of **SP-1.12 Late Bids, Late Withdrawals, and Late Modifications**.

#### **SP-1.09      Communications and Interpretations – Prior to Bid Opening**

- A. Any information regarding the requirements or the interpretation of any provision of the General Conditions, Special and Technical Provisions, or any part of the bidding documents shall be requested, in writing, from the Procurement Officer, and delivered no later than ten (10) days prior to the scheduled date of bid opening. Responses to questions or inquiries having any material effect on the bids shall be made by written addenda, or by written notice sent to all prospective bidders. **DO NOT MAKE VERBAL INQUIRIES.**
- B. Any verbal interpretations or oral pre-bid statements made by State employees or their

representatives shall not be binding upon the State.

**SP-1.10**      **Addendum to Invitations for Bids**

Each addendum to an Invitation for Bids shall be in writing and identified as such. Unless otherwise provided the bidder shall acknowledge receipt of all addenda.

**SP-1.11**      **Pre-Opening Modification or Withdrawal of Bid**

- A. Bids may be modified or withdrawn by written notice received in the office designated in the Invitation for Bids, before the time and date set for bid opening. A telegraphic modification or withdrawal received by telephone from the receiving telegraph company confirms the telephone message by sending a written copy of the telegram showing that the message was received at the telegraph company's office before the time and date set for bid opening.
- B. If a bid/proposal is withdrawn in accordance with this regulation, the bid security, if any, shall be returned to the bidder/offeror.

**SP-1.12**      **Late Bids, Late Withdrawals, and Late Modifications**

- A. Any bid/proposal received at the place designated in the solicitation after the time and date set for receipt of bid/proposal is late. Any request for withdrawal or request for modification received at the place designated in the solicitation after the time and date set for receipt of bid/proposal is late.
- B. A late bid/proposal, late request for modification, or late request for withdrawal may not be considered. Late bids/proposals will be returned to the bidder/offeror unopened. Upon written approval of the Office of the Attorney General, exceptions may be made when a late bid/proposal, withdrawal, or modification is received before contract award, and the bid withdrawal, or modification would have been timely but for the action or inaction of State personnel directing the procurement activity or their employees.

**SP-1.13**      **Opening and Recording of Bids**

- A. Bids and modifications shall be opened publicly, at the time, date and place designated in the Invitation for Bids. The name of each bidder, the bid price, and such other information as is deemed appropriate shall be read aloud or otherwise made available. This information also shall be recorded at the time of bid opening. The bids shall be tabulated or a bid abstract made. The opened bid shall be available for public inspection at a reasonable time after bid opening but in any case before contract award except to the extent the bidder designated trade secrets or other proprietary data to be confidential as set forth in COMAR 21. Material so designated shall accompany the bid and shall be readily separable from the bid in order to facilitate public inspection of the non-confidential portion of the bid. Price, make, and model or catalog numbers of the items offered, deliveries, and terms of payment shall be publicly available at a reasonable time after bid opening but in any event before contract award regardless of any designation to the contrary at the time of bid opening.

- B. The Procurement Officer shall examine the bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. Confidential, proprietary information, and trade secrets furnished by a bidder or offeror may be disclosed to another outside of State government except as provided by the Public Information Act or other applicable laws of this State.

#### **SP-1.14**      **Mistakes in Bids**

- A. A bidder may correct mistakes discovered before the time and date set for bid opening by withdrawing or correcting the bid as provided in **SP-1.11 Pre-Opening Modification or Withdrawal of Bid.**
- B. If the Procurement Officer knows or has reason to conclude that a mistake may have been made the bidder may be required to confirm the bid. Situations in which confirmation may be requested include obvious, apparent errors on the face of the bid or a bid unreasonably lower than the other bids submitted. If the bidder alleges mistake, the bid may be corrected or withdrawn upon written approval of the Office of the Attorney General if any of the following conditions are met:
1. If the mistake and intended correction are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.
  2. A bidder may be permitted to withdraw a low bid if:
    - a. A mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
    - b. The bidder submits proof of evidentiary value, which clearly and convincingly demonstrates that a mistake was made.
- C. Mistakes may not be corrected after award of the Contract except when the Procurement Officer and the head of a procurement agency makes a determination that it would be unconscionable not to allow the mistake to be corrected. Changes in price are not permitted. Corrections shall be submitted to and approved by the Office of the Attorney General.

#### **SP-1.15**      **Minor Irregularities or Informalities**

- A. Minor irregularities or informalities in bids, as defined below, may be waived if the Procurement Officer determines that it shall be in the State's best interest. The Procurement Officer may either give a bidder an opportunity to cure any deficiency resulting from a technicality or minor irregularity in its bid, or waive the deficiency where it is to the State's advantage to do so.
- B. When at any public opening of bids, a bid appears to be irregular, as therein specified, this



fact may be announced when read. Said bid shall be read as other bids and then referred to the Procurement Officer for consideration and appropriate action thereon in accordance with these Provisions, Laws and Regulations.

- C. A minor irregularity is one, which is merely a matter of form and not of substance or pertains to some immaterial or inconsequential defect or variation of a bid or proposal from the exact requirement of the solicitation, the correction or waiver of which would not be prejudicial to other bidders or offerors. The defect or variation in the bid or proposal is immaterial and inconsequential when its significance to price, quantity, quality, or delivery is trivial or negligible when contrasted with the total cost or scope of the supplies or services being procured and the intent and meaning of the entire bid or proposal is clear.

#### **SP-1.16**      **Cancellation of Invitations for Bids**

- A. Before opening of bids a solicitation may be canceled in whole or in part when the State determines this action is fiscally advantageous or otherwise in its best interest.
- B. When a solicitation is canceled before bid opening, the bids shall be returned to the vendors submitting them and notice of cancellation shall be included.

#### **SP-1.17**      **Rejection of Individual Bids or Proposals**

- A. Any bid may be rejected in whole or in part when it is in the best interest of the State to do so.
- B. Reasons for rejection of a bid may include but are not limited to:
1. The bid is not responsive i.e., it does not conform in material respects to the solicitation;
  2. Unreasonable price;
  3. The bidder submitting the bid is determined to be non-responsible. A determination of non-responsibility may be made for, but is not limited to, any of the following reasons:
    - a. Bidder debarred or ineligible and period of debarment or ineligibility not expired.
    - b. The unit prices contained in a bid are unbalanced.
    - c. Evidence of collusion among bidders.
    - d. Inadequate quantity and/or quality of experience, plant, equipment, financing, manpower or other resources required to perform the contract.
    - e. Bidder's workload, which, in the judgement of the Administration, might hinder or prevent the prompt completion of the subject work if awarded.
    - f. Default by the bidder on other contracts.
    - g. Failure to pay or satisfactorily settle all reasonable and just bills due for labor and material on prior or current contracts.
    - h. The same person has an interest in more than one bid on a contract exclusive of being named by another bidder as a subcontractor.

- i. Failure to perform satisfactorily on other contracts awarded, and the conditions leading to unsatisfactory performance remain unresolved.
  - j. Any other reason affecting the bidder's ability to perform, or record business integrity.
  - k. Bidder not otherwise qualified and eligible to receive an award under applicable laws and regulations.
- C. The bidder or offeror fails to supply information to the Procurement Officer promptly, after notification from the Procurement Officer that such information is required in connection with a determination to be made pursuant to this **SP-1.17**.

**SP-1.18**      **Rejection of all Bids**

- A. After opening of bids or proposals but before award, all bids or proposals may be rejected in whole or in part when the Procurement Officer, with the approval of the agency head or his designee, determines that this action is fiscally advantageous or otherwise in the State's best interest.
- B. A notice of rejection of all bids shall be sent to all vendors that submitted bids and bids, which have been opened, shall be retained by the Administration.

**SP-1.19**      **Bid Evaluation and Award**

- A. The Contract is to be awarded to the responsible and responsive bidder whose bid meets the requirements and evaluation criteria set for the in the Invitation for Bids, and is either the lowest bid price or the lowest evaluated bid price.
- B. Bids shall be evaluated to determine which bidder offers the lowest cost to the State in accordance with the evaluation criteria set forth in the Invitation for Bids.
- C. Except as otherwise provided under **SP-1.14 Mistakes in Bids**:
  - 1. The unit price will govern in the event of a discrepancy between the unit price bid and the extended price (product of unit price multiplied by the quantity).
  - 2. The sum of the extended prices will govern in the event of a discrepancy between the total lump sum bid and the extended prices.
  - 3. The written words will govern in the event of a discrepancy between the prices written in words and the prices written in figures.
  - 4. If a unit price has been omitted, the unit price will be determined by dividing the extended price by the quantity.
- D. The Administration reserves the right to make the award by item, or groups of items, or total bid if it is in the best interest of the State to do so unless the bidder specifies in his bid that a particular or progressive award is not acceptable.

- E. Upon determination of the lowest bidder, review of the bid for responsiveness, and satisfaction that the bidder is responsible, the Contract may be awarded to that bidder. A contract may be awarded to a bidder offering a higher quality item than that designated in the Invitation for Bids if that bidder is also the lowest responsive and responsible bidder.

**SP-1.20 Corporate Registration**

- A. A corporation not incorporated in the State of Maryland is considered to be a foreign corporation and is, therefore required to be registered with the Maryland State Department of Assessments and Taxation in order to operate in the State (Annotated Code of Maryland, Corporations and Associations, Title 7). Where the bidder is currently registered with the Maryland State Department of Assessments and Taxation, it shall submit a copy of this good standing certificate upon request from the Administration.
- B. If the bidder is not currently registered, the bidder shall register and provide a copy of its Qualification Acknowledgement upon request from the Administration.

**SP-1.21 Bid Protests**

- A. The Board of Public Works does not have jurisdiction to consider protests relating to this solicitation or an award of contract under the solicitation.
- B. All protests relating to this solicitation, the selections and/or award must be filed in writing with the appropriate Administration, and within the time limitations set forth in COMAR 21.10.07 and 21.10.02. Bid protests shall be filed no later than seven (7) days after the basis for protest is known or should have been known whichever is earlier. Oral protests shall not be considered.
- C. The specific details of the protest procedures to be followed by aggrieved actual or prospective bidders, or offerors is contained in COMAR 21.10. A written summary of this procedure shall be provided, upon request, by contacting each MDOT Administration, or:

Office of Procurement  
Maryland Aviation Administration  
P. O. Box 8766  
BWI Airport, Maryland 21240

**SP-1.22 Payments and Invoicing**

- A. Contractor shall receive and accept the compensation, as herein provided for furnishing all materials, labor, tools, and equipment, and for performing all work contemplated and embraced under the contract. If a progress payment is requested, the Contractor shall submit a current estimate in accordance with Administration requirements to determine fair and reasonable compensation for work satisfactorily completed, subject to such retainage that the Administration deems appropriate. Invoices shall be forwarded to the Administration in triplicate.

- B. Before a contractor receives a progress or final payment under a contract covered by payment security, the contractor shall certify in writing that, in accordance with contractual arrangements, suppliers:
1. Have been paid from the proceeds of previous progress payments; and
  2. Shall be paid in a timely manner from the proceeds of the progress or final payment currently due.
- C. All invoices or correspondence pertaining to invoices shall be identified with the contract number and forwarded to the following address:
- Maryland Aviation Administration  
Accounting Section  
P. O. Box 8789  
BWI Airport, MD 21240-0789
- Contractor shall include the Vendor Federal Tax I.D. number or the Social Security Account number on each invoice submitted.
- D. All invoices for work completed shall be submitted to the Administration within 45 days of completion or partial completion date.

**SP-1.23**      **Subcontractors - Prompt Payment**

- A. If a contractor withholds payment of an undisputed amount to its subcontractor, the Agency, at its option and in its sole discretion, may take one or more of the following actions:
1. Not process further payments to the contractor until payment to the subcontractor is verified;
  2. Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
  3. Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;
  4. Place a payment for an undisputed amount in an interest-bearing escrow account; or;
  5. Take other or further actions as appropriate to resolve the withheld payment.
- B. An “undisputed amount” means an amount owed by a contractor to a subcontractor for which there is no good faith dispute, including any retainage withheld, and includes an amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
- C. An act, failure to act, or decision of a procurement officer or a representative of the Agency, concerning a withheld payment between a contractor and subcontractor under this policy directive, may not:

1. Affect the rights of the contracting parties under any other provision of law;
  2. Be used as evidence on the merits of a dispute between the Agency and the contractor in any other proceeding; or
  3. Result in liability against or prejudice the rights of the Agency.
- D. The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise program.
- E. To ensure compliance with certified MBE subcontract participation goals, the Agency may, consistent with COMAR 21.11.03.13, take the following measures:
1. Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule.
  2. This verification may include, as appropriate:
    - a. Inspecting any relevant records of the contractor;
    - b. Inspecting the jobsite; and
    - c. Interviewing subcontractors and workers.
    - d. Verification shall include a review of:
      - 1) The contractor's monthly report listing unpaid invoices over 30 days old from certified MBE subcontractors and the reason for nonpayment; and
      - 2) The monthly report of each certified MBE subcontractor, which lists payments received from the contractor in the preceding 30 days and invoices for which the subcontractor has not been paid.
  3. If the Agency determines that a contractor is in noncompliance with certified MBE participation goals, then the Agency will notify the contractor in writing of its findings, and will require the contractor to take appropriate corrective action.
    - a. 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.
  4. If the Agency determines that a contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that the Agency requires, then the Agency may:
    - a. Terminate the contract;
    - b. Refer the matter to the Office of the Attorney General for appropriate action; or
    - c. Initiate any other specific remedy identified by the contract, including the

contractual remedies required by this Directive regarding the payment of undisputed amounts.

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

#### **SP-1.24**      **Subcontracting**

##### **A.**      **Approval of Subcontractors**

The Contractor shall not employ any subcontractors, organizations, or other persons whether initially or as a substitute without written approval from the Administration. If the Administration has reasonable objections to the subcontractor, a substitute subcontractor shall be offered to the Administration for review and possible approval. If the Administration should accept a substitute subcontractor after the Notice of Award has been issued, the contract price may be amended following negotiation and appropriate modification of contract.

##### **B.**      **Subcontracting with Non-Minority Business Enterprise (MBE) Firms.**

The Administration urges all subcontracting opportunities to be offered to a certified MBE first; however, there is the possibility that MBE subcontractors may not exist for certain types of work or there may not be sufficient time to locate a certified MBE contractor. If any portion of the work under this contract is to be subcontracted to a non-MBE contractor the prime Contractor must submit a copy of a Subcontractor Agreement or Purchase Order between the Contractor and Subcontractor, prior to that subcontractor doing work.

##### **C.**      **Disadvantaged Business Enterprise (DBE)**

This contract is subject to the provision of 49 CFR Part 26 (1999). In accordance with 49 CFR Part 26, and official guidance issued by the United States Department of Transportation, any firm seeking to participate on this contract as a DBE must complete a Certificate of Disadvantage and a Statement of Personal Net Worth to the Maryland Department of Transportation (MDOT) before the firm may be counted as a DBE. These forms are available from the MDOT, Office of Minority Business Enterprise, P.O. Box 8766, BWI Airport, Maryland, 21240. DBEs cannot be listed on affirmative action plans for this contract unless they have completed and submitted the necessary forms and attachments to MDOT. Firms that have not completed and submitted these forms will not be counted for DBE participation.

#### **SP-1.25**      **Subcontracting with Minority Business Enterprise (MBE) Firms**

##### **A.**      **Purpose**

Contractor shall structure its procedures for the performance of the work required in this contract to attempt to achieve the minority business enterprise (MBE) goal stated in the

Invitation for Bids or Request for Proposals. MBE performance must be in accordance with these specifications, as authorized by Code of Maryland Regulations (COMAR) 21.11.03. Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in these specifications.

B. MBE Goals and Sub Goals

1. By submitting a response to this solicitation, the bidder or offeror agrees that the dollar amounts of the contract will be performed by certified minority business enterprises as specified.
2. A prime contractor — including an MBE prime contractor — must accomplish an amount of work not less than the MBE subcontract goal with certified MBE subcontractors.
3. A prime contractor comprising a joint venture that includes MBE partner(s) must accomplish the MBE subcontract goal with certified MBE subcontractors.

C. Solicitation and Contract Formation

1. If an MBE participation goal and sub-goals have been established by the Administration and identified in the Invitation for Bids or Request for Proposals the successful offeror shall furnish the following documentation to the Administration with its bid or proposal:
  - a. Certified MBE Utilization and Fair Solicitation Affidavit (Section N of the Bid Documents, Attachment A) fully completed.
  - b. MBE Participation Schedule (Section N of the Bid Documents, Attachment B) fully completed.
2. **If bidder or offeror fails to submit (Attachment A and Attachment B with the bid or offer as required, the Procurement Officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.**
3. A business may not participate in the MBE/DBE program prior to certification by the Maryland Department of Transportation.
4. Within ten (10) working days from notification that the apparent awardee or from the date of actual award, whichever is earlier, the apparent awardee must provide the following documentation to the Procurement Officer:
  - a. Outreach Effort Compliance Statement (Section N of the Bid Documents, Attachment C) fully completed.
  - b. Subcontractor Project Participation Statement (Section N of the Bid Documents, Attachment D) fully completed.

5. If the apparent awardee believes a waiver (in whole or in part) of the overall MBE goal or any sub goal is necessary, it must submit a fully documented waiver request that complies with COMAR 21.11.03.11, which shall include:
  - a. A detailed statement of the efforts made to select portions of the work proposed to be performed by MBEs.
  - b. A detailed statement of the efforts made to contact and negotiate with certified MBEs including.
  - c. The names, addresses, dates and telephone numbers of certified MBEs contacted.
  - d. A detailed description of the information provided to Certified MBEs regarding the plans, specifications and anticipated time schedule for portions of the work to be performed.
  - e. As to each certified MBE that placed a subcontract quotation or offer, which the apparent low bidder/successful offeror considers not to be acceptable, a detailed statement of the reasons for this conclusion.
  - f. List of minority subcontractors found to be unavailable, should be accompanied by an unavailability certification signed by the MBE, or a statement from the apparent low bidder/successful offeror that the MBE refused to give the written certification.
  - g. Any other documentation required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.
6. **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 responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.**

D. Contract Administration Requirements

1. Contractor shall submit monthly to the Department a report listing any unpaid invoices, over 30 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made.
2. Contractor shall include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit monthly to the Department a report that identifies the prime contract and lists all payments received from Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices.
3. Contractor shall maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed.



Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.

4. Contractor shall consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the contract.
  5. Contractor shall at the option of the procurement agency, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.
- E. The name of an employee designated as the Bidder's Liaison Officer for minority affairs, and a current copy of the bidder's EEO/Affirmative Action Program.
- F. The Bidder must produce any of the following documentation when appropriate:
1. Joint Venture Disclosure Affidavit (Form D-EEO-006).
  2. Minority Contractor Unavailability Certificates (Form D-EEO-005).
- G. Any other documentation considered appropriate by the Department or ADMINISTRATION to ascertain bidder responsibility in connection with the contract MBE participation goal.
- H. Contractor by submitting a bid/offer, consents to provide such documentation as requested by the Department or Administration pursuant to COMAR 21.11.03.13, and to provide right of entry at any reasonable time for purposes of the State's representatives verifying compliance with MBE subcontractor requirements.
- I. MBE participation Credit shall only be allowed for work/service actually performed by the MBE. All MBEs must possess the capability, as determined by the MDOT, to perform the items of work/service projected for the MBE participation. MBE BROKERING IS PROHIBITED. (MBEs must serve a commercially useful function).
- J. There shall be no double-payee, two-party checks to MBEs and suppliers for the purchase of supplies and materials.
- K. The Contractor must submit a copy of the **EXECUTED SUBCONTRACTOR AGREEMENT** or Purchase Order between the Contractor and MBE subcontractor/supplier.
- L. In the event that the MBE subcontracting participation goals should change during the term of the contract, the Administration shall notify the Contractor of the new percentage, and that this new percentage shall take effect at the beginning of the next renewal option.

- M. The Contractors are reminded that Criminal Fraud Provisions and Administrative Sanctions may be imposed for failure to attain established MBE goals.
- N. The Contractor shall cooperate with the Administration Representative in any reviews of the Contractor's procedures and practices with respect to certified businesses, which the Administration Representative may from time to time conduct.
- O. Questions regarding MBE requirements should be addressed to Mr. Mark Berry, Chief, Construction & Maintenance Section, Office of Procurement, 410-859-7004.

**SP-1.26**      **Good Faith Efforts**

It is the policy of the Maryland Department of Transportation (MDOT) that businesses owned by socially and economically disadvantaged person(s) shall have the maximum feasible opportunity to participate in the performance of contracts awarded by the MDOT. The MDOT requires its contractors and subcontractors not to discriminate on the basis of race, color, religion, national origin, sex or disability in the award or performance of contracts. In support of this commitment, the MDOT has adopted the following Good Faith Efforts (GFE) Policy, which shall be applicable to all contracts awarded by the MDOT or its modal administrations.

- A. In accordance with 49 CFR, Part 26.53 and Md. Code Ann., State Fin. & Proc. Art., 14-302, the MDOT shall award a contract only to a bidder/offeror that makes GFE to meet the Minority Business Enterprise (MBE) or Disadvantaged Business Enterprise (DBE) contract goal. A determination that a bidder/offeror has made GFE shall only be made upon a determination by the MDOT that the bidder/offeror has shown that it:
  - 1. Has obtained enough MBE or DBE participation to meet the contract goal; or
  - 2. Has taken all necessary and reasonable steps to achieve the goal, which by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain sufficient MBE/DBE participation, even if they were ultimately unsuccessful.
- B. The MDOT will make a fair and reasonable judgment whether a bidder/offeror who did not meet the goal made adequate GFEs. This policy expands the definition of Good Faith Effort (GFE) to allow greater flexibility to ensure DBE/MBE participation is obtained.
- C. At a minimum, a statement of GFE submitted by the bidder/offeror shall include:
  - 1. The name, address, and telephone number of all DBE/MBEs contacted, as the date of contact;
  - 2. A description of the information provided to the contacted DBE/MBEs regarding the plans, specifications and anticipated time schedule for portions of the work to be performed;
  - 3. As appropriate, a detailed statement of the reasons why a DBE/MBE quotation was considered unacceptable; and
  - 4. As appropriate, a list of DBE/MBE subcontractors found to be unavailable. For

DBE/MBE contractors that are unavailable, the bidder/offeror shall provide a Minority Contractor Unavailability Certificate Form (Form D-005) signed by an owner or officer of the DBE/MBE. If a DBE/MBE refuses to sign the unavailability certificate, the bidder/offeror shall submit a statement indicating as such.

- D. To aid in the determination of whether the bidder/offeror has shown GFE, the MDOT may also look at the percentage of DBE/MBE participation obtained by other bidders/offerors on the procurement.
- E. In addition to the requirements above, the following is a list of outreach efforts that MDOT will consider as part of the bidder/offeror's GFE to obtain DBE/MBE participation. Bidder/offerors shall be encouraged to offer innovative GFE initiatives to demonstrate GFE. MDOT administrations have the flexibility to approve such innovative initiatives. The following list is illustrative only and not intended to be exhaustive:
  - 1. The bidder/offeror's efforts to solicit through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and/or written notices) the interest of certified DBEs/MBEs that may have the capability to perform the work of the contract. The bidder/offeror should present evidence that it solicited this interest within adequate time to allow the DBEs/MBEs to respond to the solicitation. The bidder/offeror should also provide evidence that it took appropriate steps to follow up initial solicitations.
  - 2. The bidder/offeror's selection of the work to be performed by DBEs/MBEs in order to increase the likelihood that the DBE/MBE contract goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE/MBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
  - 3. The bidder/offeror's actions to provide interested DBEs/MBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
  - 4. The bidder/offeror's negotiations with DBE/MBEs.
    - (a) Negotiating in good faith with interested DBEs/MBEs. It is the bidder's responsibility to make a portion of the work available to DBE/MBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE/MBE subcontractors and suppliers. Evidence of such negotiation shall include the names, addresses, and telephone numbers of DBEs/MBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and information as to why additional agreements could not be reached for DBEs/MBEs to perform the work.
    - (b) A bidder/Offeror using good business judgment would consider a number

of factors in negotiating with subcontractors, including DBE/MBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs/MBEs is not in itself sufficient reason for a bidder/offeror's failure to meet the contract DBE/MBE goal, as long as such costs are reasonable. Also, the ability or desire of a bidder/offeror to perform the work of a contract with its own organization does not relieve that bidder/offeror of the responsibility to make GFE to meet the contract goal. This policy does not require a prime contractor to accept a higher quote from a DBE/MBE if the price is excessive or unreasonable.

5. The bidder/offeror must provide sound reasons for rejecting an DBE/MBE as unqualified. Any rejection of a DBE/MBE as unqualified shall be based on a thorough investigation of its capabilities. The DBE/MBE's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example, union vs. non-union employee's status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.
  6. The bidder/offeror's efforts to assist interested DBEs/MBEs in obtaining bonding, lines of credit, or insurance as required by the owner or contract.
  7. The bidder/Offerors efforts, with prior written approval of the MDOT agency, to assist interested DBEs/MBEs to obtain necessary equipment, supplies, materials, or related assistance or services.
  8. The bidder/offeror's effective use of the services of available minority/women community organizations; minority/women contractors' groups; local, state and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case to provide assistance in the recruitment and placement of DBE/MBE.
  9. The bidder/offeror's efforts to identify and assist firms that are not certified but could possibly serve on a contract and satisfy DBE/MBE goals if the firm were to become certified by the MDOT.
  10. Evidence of the bidder/offeror's record of meeting or exceeding DBE/MBE participation goals on prior projects.
- E. This policy applies to all MDOT contracts that contain a DBE/MBE participation goal. All MDOT personnel are responsible for implementing and adhering to this policy.

#### **SP-1.27 Contractor Affirmative Action/Equal Employment Opportunity Programs**

##### **A. General**

1. Contractors shall cooperate with the Maryland Aviation Administration (Administration) in carrying out its Contractor Affirmative Action/Equal Employment Opportunity (EEO) obligations and in the Administration's review of Contractor's activities performed under this contractual agreement.
2. Contractors shall comply with the Governor's Code of Fair Practices, (Governor's Executive Order 01.01.1995.19). Contractors shall include these requirements in every subcontract with such modifications of language as is necessary to make these provisions binding on the subcontractor.
3. Contractors shall comply with the Code of Maryland Regulations (COMAR), Title 21, State Procurement Regulations.
4. Contractors shall comply with Maryland Department of Transportation (MDOT) Minority Business Enterprise (MBE) Program requirements.

B. Applicability

1. The Administration's Contractor Affirmative Action/EEO Program requirements are applicable to all Contractors doing business with the Administration.
2. The Administration's MBE Program requirements are applicable to construction contracts in excess of \$50,000.
3. The Administration's MBE program requirements are applicable to the procurement of supplies, services, and maintenance in excess of \$50,000.

C. Definitions

1. Affirmative Actions – Efforts exerted toward achieving EEO through positive, aggressive, continuous results-oriented measures to correct past and present discriminating practices and their effects on conditions/privileges of employment.
2. Contractor/Subcontractor – Individual, partnership, firm or corporation undertaking execution of work under contract terms acting directly or through agents/employees.
3. Corrective Action – Contractors written, signed commitment outlining specific action to be taken with time limits, goals, etc., to correct violation of EEO regulations.
4. Discrimination – Distinction in treatment, whether intentional/unintentional, based on political, religious opinion/affiliation, race, color, creed, national origin, sex, physical/mental disability, age, except where sex, disability or age involves a bona fide job requirement.
5. Equal Employment Opportunity Officer – Designated employee of Contractor whose responsibility it shall be to implement and maintain the Affirmative Action Plan.

6. Good Faith Effort – Documented efforts on the part of a bidder/contractor that were intensive, aggressive and of a sincere nature for a specific project far beyond a simple paperwork exercise.
7. Personnel Actions – All decisions respecting employment including, but not limited to, hiring, upgrading, demotion, transfer, recruitment or advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training to include apprenticeship, pre-apprenticeship or on-the-job training.

D. Legal Mandates

1. Title VI, Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin in all programs and activities, which receive Federal Financial Aid. Employment discrimination is prohibited if primary purpose of Federal assistance is a provision of employment, e.g. apprenticeship, training, or similar programs. Revised 1973 guidelines prohibit discriminatory employment practices in programs if such practices cause discrimination in services provided to beneficiaries of the program.
2. Title VII, Civil Rights of 1964 (as amended by the EEO Act of 1972). Title VII prohibits discrimination because of race, color, religion, sex, national origin, in any term, condition, or privilege of employment.
3. Executive Order 11246 (as amended). Order issued by President in 1965 requires EEO/Affirmative Action Programs by all Federal Contractors/subcontractors. It also requires firms with contracts over \$50,000 and 50 or more employee develop/implement written programs, which shall be monitored by the Federal Office of Contract Compliance. Specific requirements for such result-oriented programs are identified in Revised Order #4, issued by the Federal Office of Contract Compliance US Department of Labor. Requirements include identifying areas of minority/female under-utilization, numerical promotional, hiring goals, and other actions to increase minority employment in classifications where they are currently under-utilized.
4. The Age Discrimination Act of 1967 prohibits employers of 25 or more persons from discriminating against persons 40-65 years of age in employment due to age.
5. National Labor Relations Act of 1935. Discrimination on the basis of race, religion, sex, or national origin constitutes an unfair labor practice under this Act. It shall be unlawful for employers to participate with unions in the commission of any discriminatory practices under this Act, or to practice discrimination in a manner, which gives rise to racial, or other division, amongst employees to the detriment of organized union activity. It is unlawful for unions to exclude individuals discriminatorily from union memberships, which cause them to lose job opportunities, discriminate in the representation of union members or non-members in collective bargaining, in processing or grievance, or in any other respect, which may cause or attempt to cause employers to enter into discriminatory agreements, or otherwise discriminate against members and non-members.

6. Governor's Code of Fair Practices for the State of Maryland (Amended). The Governor of Maryland issued a revised Code of Fair Practices, which was promulgated July 1988 as the Governor's Executive Order 01.01.1995.19, in recognition of the State's responsibility to root out evils of discrimination based on race, color, creed, national origin, sex, and age. This Code was amended to be in compliance with Federal mandates regulating laws pertinent to EEO/Affirmative Action.
7. Rehabilitation Act of 1973 (Public Law 93-112). Law provides a statutory basis for Rehabilitation Services Administration to authorize programs to promote/expand employment opportunities in public and private sectors for handicapped individuals.
8. Article 78A, Section 7A, Annotated Code of Maryland provides for non-discrimination in State construction contracts and subcontracts. Provision obligates Contractor not to discriminate in any manner against any employee or applicant for employment because of race, creed, color, or national origin and obligates subcontractors to the same.
9. Other Laws. Courts have also ruled employment discrimination to be prohibited by the civil Rights Acts of 1866 and 1870, the equal protection clause of the Fourteenth Amendment of the Constitution of the United States, and the Equal Pay Act of 1963. Action may be taken on behalf of individuals or groups, private organizations, trade unions, or other groups, under these laws.

E. Assignment of Responsibilities

1. Contractor shall designate an EEO Officer, whose responsibilities shall include implementing Affirmative Action Plan, coordinate, advise, assist management, and key officials, render periodic reports to responsible executives relative to progress, and make appropriate recommendations along these lines to executives of project.
2. The name of the EEO Officer, telephone number, and address where he/she can be reached concerning any acts or alleged acts of discrimination, shall be posted on the bulletin board at the home office as well as on the bulletin boards on all job-sites.

F. Dissemination of Policy

The Contractor shall take appropriate steps to insure that all employees are advised of its policy of non-discrimination and of its interest in actively and affirmatively providing equal employment opportunity for all citizens. The steps include:

1. Periodic meetings of supervisory and personnel office employees to be conducted at least every 6 months so that the EEO policy and plan may be revised and explained.
2. All new supervisory and personnel office employees are to be made aware of the EEO policy and plan as soon as practicable, but certainly within 30 days following the date of entry for duty.

3. Contractor shall make EEO policy known to all employees, prospective employees, and potential sources of employees, through schools, employment agencies, labor unions, college placement officers, etc., by taking the following actions:
  - a. Notices and posters setting forth the EEO policy shall be placed in areas readily accessible to employees and applicants for employment.
  - b. The EEO policy and the procedures for implementing the EEO policy shall be brought to the attention of employees through meetings, employee handbooks, or other appropriate means.

G. Recruitment

1. Contractor shall include in all advertising the following notation: "An Equal Opportunity Employer". Contractor shall insert all advertisements in newspapers or publications having large circulation among minorities/females in area from which the project work is derived.
2. Contractor shall, unless precluded by valid collective bargaining agreement, conduct systematic, direct recruitment through public and private employee referral sources likely to yield qualified minority/female applicants, including, but not limited to, State employment agencies, school, college, minority/female organizations, i.e., the Urban League, NAACP, etc. To meet this requirement, we shall identify sources of potential minority/female employees and establish such sources procedures whereby minority/female applicants may be referred to us for employment consideration
3. Contractor shall develop procedures for promoting employment of minority/ female youth on an after-school, summer, and vacation basis, to the extent possible.
4. Contractor shall encourage its employees to refer minority/female applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority/female applicants shall be discussed with employees.

H. Personnel Actions

To avoid discrimination in personnel actions, the following procedures shall be followed:

1. Contractor shall conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory practices.
2. Contractor shall periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
3. Contractor shall periodically review personnel actions in depth to determine whether there is any evidence of discrimination. Where evidence is found, prompt corrective



action shall be taken immediately.

4. Contractor shall investigate all complaints of alleged discrimination and attempt to resolve such complaints. Additionally, if the investigation indicates that the discrimination may affect persons other than complainant, appropriate corrective actions shall include other persons. Upon completion of each investigation, each complainant shall be informed of all avenues of appeal.

I. Training and Promotion

To eliminate discrimination in training and promotion, the following actions shall be taken:

1. Contractor shall assist in locating, qualifying, and increasing the skills of minority/female employees and applicants for employment.
2. Consistent with employment requirements and permissible under State regulations, full use shall be made of training programs, i.e., pre-apprenticeship, apprenticeship, and on-the-job training programs for the geographical area of contract performance.
3. Contractor shall advise employees and applicants for employment of available training programs and entrance requirements for the programs.
4. Contractor shall periodically review training/promotional potential of minority/ female employees and encourage eligible employees to apply for training/ promotions.

J. Utilization of Unions

1. In carrying out the Affirmative Action Plan, the Contractor shall use good faith efforts to increase opportunities for minority/female groups through unions, as a source of employees
2. The Contractor shall include the procedures set forth below, directly or through a Contractor's association acting as the agent.
  - a. Use good faith efforts to develop, in cooperation with the unions, joint training programs aimed at qualifying more minorities/females for membership in the unions and increasing their skills so they may qualify for higher paying employment.
  - b. Incorporate an Equal Employment Opportunity clause into all union agreements so they shall be contractually obligated not to discriminate in the referral of job applications.

K. Utilization of Subcontractors

2. Contractor shall use good faith efforts to employ subcontractors whose employees

reflect minority/female groups approximately equal to the number available in the current labor pool population or owned by a minority/female.

3. Contractor shall use good faith efforts to assure all subcontractors comply with EEO obligations as defined in the amended Governor's Code of Fair Practices.

L. Records and Reports

1. In accordance with the Governor's Code, Article III, Section A&C (2), Contractor shall keep such records as are necessary to determine compliance with EEO obligations. The records kept shall be designed to indicate:
  - a. Number of minority/female and other persons employed in each work classification of the project.
  - b. Progress/efforts being made in cooperation with unions, if any, to increase minority/female employment opportunities.
  - c. Progress/efforts being made in locating, hiring, training, qualifying, and upgrading minority/female employees.
  - d. Progress/efforts made to secure services of minority/female subcontractors.
2. All such records shall be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the Administration.
3. Contractor shall submit to Administration a monthly report for the first three months after contract begins and thereafter, upon request of the Administration for the duration of the project. Report shall indicate number of minority/female employees currently engaged in each work classification.

M. Monitoring

Contractor shall periodically evaluate its Affirmative Action Plan and the results achieved to insure that the plan is in compliance with its commitments.

N. Employment Goals and Timetables for Minority & Female Utilization in All Trades

For a project performed in any region addressed below, the following goals and timetables, as appropriate, for minority/female utilization shall be applicable.

1. Baltimore Metropolitan SMSA - Region I

Area includes Anne Arundel, Baltimore, Carroll, Harford, Howard Counties, and Baltimore City. Total distribution of work hours (actual hours performed on job) for minorities/females shall be consistent with the following utilization goals for minorities/females, respectively, and shall apply to all trades.

- a. Minority Utilization  
From: October 3, 1990 to October 3, 1995 23.0% - 27.5%
- b. Female Utilization  
From: August 16, 1990 to August 16, 1995 6.9%

2. Eastern Shore Maryland NON-SMSA - Region II

Area includes Caroline, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, Worcester Counties. Total distribution of work hours (actual hours performed on job) for minorities/females shall be consistent with the following utilization goals for minorities/females, respectively, and shall apply to all trades.

- a. Minority Utilization  
From: October 3, 1990 to October 3, 1995 23.8% - 27.5%
- b. Female Utilization  
From: August 16, 1990 to August 15, 1995 6.9%

3. Southern Maryland NON-SMSA - Region III

Area includes Calvert, Frederick, Washington, and St. Mary's Counties. Total distribution of work hours (actual hours performed on job) for minorities/females shall be consistent with the following utilization goals for minorities/females respectively, and shall apply to all trades.

- a. Minority Utilization  
From: October 3, 1990 to October 3, 1995 25.2%
- b. Female Utilization  
From: August 16, 1990 to August 16, 1995 6.9%

4. Washington, D.C. Metropolitan SMSA - Region IV

Area includes Charles, Montgomery, and Prince George's Counties. Total distribution of work hours (actual hrs performed on job) for minorities/females shall be consistent with the following utilization goals for minorities/females, respectively and shall apply to all trades.

- a. Minority Utilization  
From: October 3, 1990 to October 3, 1995 28.0%
- b. Female Utilization  
From: August 16, 1990 to August 16, 1995 6.9%

5. Western Maryland NON-SMSA - Region V

Area includes Allegany, Garrett Counties. Total distribution of work hours (actual hrs. performed on job) for minorities/females shall be consistent with the following utilization goals for minority/females, respectively, and shall apply to all

trades.

a. Minority Utilization

From: October 3, 1990 to October 3, 1995 4.8%

b. Female Utilization

From: August 16, 1990 to August 16, 1995 6.9%

6. Wilmington, Delaware SMSA - Region VI

Area includes Cecil County only. Total distribution of work hours (actual hours performed on the job) for minorities/females shall be consistent with the following utilization goals for minorities/females, respectively, and shall apply to all trades.

a. Minority Utilization

From: October 3, 1990 to October 3, 1995 12.3%

b. Female Utilization

From: August 16, 1990 to August 15, 1995

**SP-1.28 Minority Business Enterprise Program**

A. General Information

The Contractor shall structure its procedures for the performance of the work required in this solicitation to attempt to achieve the Minority Business Enterprise (MBE) goal stated in the Invitation for Bids or Request for Proposals. MBE performance must be in accordance with this Section, as authorized by Code of Maryland Regulations (COMAR) 21.11.03. Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this Section. For the purpose of these requirements, the following terms as defined below shall apply:

1. Administration – Any one of the Administrations within the Maryland Department of Transportation (MDOT) to include: Maryland Aviation Administration, State Highway Administration, Maryland Port Administration, Mass Transit Administration, Motor Vehicle Administration, Maryland Transportation Authority, and the Office of the Secretary.
2. Administration Representative – MBE Officer, or employee of an Administration who deals with laws and regulations pertaining to minority business enterprise.
4. Administrator/Executive Director – The chief executive of an Administration who is charged with the implementation of the MBE Program for his/her Administration.
5. Affirmative Actions – Specific steps taken to eliminate discrimination and its effects, to ensure nondiscriminatory results and practices in the future and to involve MBEs fully in contracts and programs funded by the Administration.
6. Award – The decision by the procurement agency to appoint or present a purchase

agreement or contract to a vendor.

7. Bid – A statement of price, terms of sale, and description of the supplies, services, maintenance, or construction offered by a vendor to the State.
8. Bidder's Application – The appropriate form designed by the procurement agency for use by vendors wishing to do business with the State.
9. Business Enterprise – Any legal entity, which is organized in any form other than as a joint venture (e.g., sold proprietorship, partnership, corporation, etc.) to engage in lawful commercial transactions.
10. Certified Business – A business enterprise, which by order of the Chair/MBEAC or his/her designee, has been certified as a bona fide MBE. MDOT certification does not equate to a pre-qualification status.
10. Commercially Useful Function – Work performed by an MBE in a particular transaction can be counted towards goals only if the Administration determines that it involves a commercially useful function. A certified business is considered to perform commercially useful function when it is responsible for the execution of a distinct element of the work of a contract and carries out its responsibilities by actually performing, managing, and supervising the work involved. That is, in light of industry practices and other relevant considerations, the MBE must have a necessary and useful role in the transaction for which there is a market outside context of the MBE Program. The firm's role cannot be a superfluous step added in an attempt to obtain credit goals.
11. Commodity – An item of purchase, which may include office goods and materials, food, printing, building materials, and other items needed to support normal operations. Commodity differs from "supply" in that commodity does not include insurance.
12. Contract – Any agreement entered into by a State agency for the procurement of supplies, services, maintenance, construction, or any other item and includes:
  - a. Awards and notices of award;
  - b. Contracts of a fixed-price, cost-reimbursement, cost-plus-fixed fee, fixed-price incentive, or cost-plus incentive fee type;
  - c. Contracts providing for the issuance of job or task orders;
  - d. Leases;
  - e. Letter contracts;
  - f. Purchase orders;
  - g. Supplemental agreements with respect to any of these; and/or
  - h. Orders.

"Contract" does not include:

- a. Collective bargaining agreements with employees organizations; or

- b. Medicaid, Medicare, Judicare, or similar reimbursement contracts for which user eligibility and cost are set by law, or regulation.
13. Contractor/Subcontractor – One who participates, through a contract, subcontract, or lease agreement, in any manner covered by this program.
14. Determination – The decision made by a public official or employee which shall be in writing and based upon written findings.
15. Emergency – A sudden and unexpected occurrence or condition which agency management reasonably could not foresee, posing an actual and immediate threat to the continuance of essential normal operations of a State agency or need to cope with public exigency condition. Any commodity procurement with a value of less than \$500 is not considered emergencies regardless of procurement method.
16. Good Faith Efforts – Efforts to achieve an MBE goal, which by their scope, intensity and appropriateness to the objective can reasonably be expected to fulfill the program requirements.
17. Invitation for Quotation – An invitation for bids.
18. Invoice – A vendor's request for payment for supplies, commodities, services, maintenance and construction provided, which meets the requirements of Title 15, Subtitle 1 of the State Finance and Procurement Article.
19. Joint Venture – Association of a MBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills, and knowledge, and in which the MBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of joint venture are commensurate with its ownership interest.
20. Maintenance – Work necessary to repair, prevent damage, or sustain existing components of a facility, structure or building system (including built-in equipment). Maintenance includes, but is not limited to, routine and emergency repair work, or replacements for example, roof repair or replacement, site upkeep, utilities work, paving repair or replacement (bituminous and concrete), elevator maintenance, modification or inspection, building renovation or minor alterations, fire and safety modifications, energy conservation projects, boiler retubing and repair, mechanical systems renovations such as plumbing and heating ventilating and air condition (HVAC), interior and exterior painting, high voltage electrical equipment, automatic temperature control system, water treatment (boiler, condenser, chiller), boiler burner maintenance, and fire extinguisher maintenance.
21. Manufacturer – A firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Contractor.

- 22. MBE Contract Goal – The amount of a contract to be completed by certified businesses, i.e., MBEs, for State-financed contracts.
- 23. MDOT – Maryland Department of Transportation.
- 24. Minority Business Enterprise (MBE) – Any legal entity, other than a joint venture, organized to engage in commercial transactions which is; a) at least 51% owned and controlled by one or more individuals who are socially and economically disadvantaged; and b) managed by and daily business operations of which are controlled by, one or more of the socially and economically disadvantaged individuals who own it. A MBE also includes a not-for-profit entity organized to promote the interests of the physically or mentally disabled individuals.

**An MBE must be certified in order to have its contract participation counted under the MDOT MBE program.**

- 25. Minority Business Enterprise Officer – The Department employee who provides guidance to the Administration(s) on MBE related matters.
- 26. Minority Person – A member of a socially and economically disadvantaged minority group which for purposes of this section includes African Americans/Blacks, Hispanics, Native Americans (American Indians), Asians, Women, and the physically and mentally disabled.
- 27. Oral Bids – Bids, which are proposed by a means other than by writing.
- 28. Procurement – Includes all functions that pertain to the obtaining of any public procurement, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phase of contract administration.
- 29. Procurement Agency – Any State agency, which is authorized by law or regulations to procure or contract.
- 30. Procurement Officer – Any person authorized by a State agency in accordance with laws or regulations to formulate, enter into, or administer contracts or make written determinations and findings with respect to them. The term also includes an authorized representative acting within the limits of authority.
- 31. Procuring – Buying, leasing, purchasing, granting, or otherwise obtaining any supplies, services, maintenance or construction.
- 32. Proposal – The response by an Offeror to a solicitation of the State for a service. The response may include but is not limited to an Offerors price and terms for the proposed contract, a description of technical expertise, work experience, and other information as requested in the solicitation.

33. Purchase Order – A purchaser’s document authorizing a procurement from a vendor. Upon acceptance by a vendor, the purchase order becomes a contract.
34. Services – The rendering of time, effort, or work, rather than the furnishing of a specific physical product other than reports incidental to the required performance. It includes, but is not limited to, the professional, personal, and/or contractual services provided by architects, engineers, attorneys, accountants, physicians, consultant, appraisers, land surveyors and where the service is associated with the provision of expertise or labor, or both; for example, property management, janitorial, security, waste disposal, pest control, environmental control, trash removal, window cleaning computer hardware and software, closed circuit television systems, snow removal, energy consultation, office equipment maintenance (typewriter, photocopy machine, calculator, etc.) services.
- “Services” does not include:
- a. The work normally associated with the repair or maintenance, or both of facilities, structures or building systems defined as “maintenance;”
  - b. Provision of:
    - (1) Human or social services directly to third party clients; or
    - (2) Cultural or educational services directly to third party clients or the public when the direct provisions of those services, is the primary purpose of any agreement.
35. Small Business – A small business as defined pursuant to §14-501 - §14-505, Annotated Code of Maryland and relevant regulations promulgated pursuant thereto.
36. Solicitation – Invitation for bids, request for quotations, request for proposals or any other method or instrument used to communicate to potential bidders or Offerors a State agency’s procurement needs.
37. Supply – All property, including equipment and leases on equipment, printing and insurance, except any interest in real property.
38. Using Agency – Any State agency, which uses any supplies, services, maintenance, or construction procured under this title.
39. Vendor – A business desiring to enter into a contract with the State.
40. Vendor’s List – A list(s) developed and maintained by a procurement agency, which includes businesses that have submitted a business application and/or have requested such listing.
41. Voucher – A claim for reimbursement of funds resulting from an expenditure related



to official State business.

B. Bidder's Action

1. Contract Award
  - a. Determination of MBE Bidder responsibility for Straight State Supply and Service Contracts – Direct Procurement from MBE.
  - b. Evaluation, determination and approval of the apparent low responsive and responsible bidder in accordance with all specifications and procedures.
2. Bidder shall seek commitments from certified businesses for supplies/services the combined value of which equals or exceeds the goals and sub-goals established for a specific project. Bidder may count towards its MBE goal 60% of its expenditures for materials/supplies required under the contract and obtained from an MBE regular dealer/supplier, and 100% of such expenditures to an MBE manufacturer. Materials/supplies in the performance of the work contracted to any MBE may count towards contract goal only when the MBE performs a commercially useful function in the procurement or required materials/supplies including all of the following conditions:
  - a. Initiate and negotiate the purchase of the item(s).
  - b. Be invoiced directly for the cost.
  - c. Pay for the materials directly (no two-party checks from prime contractor to subcontractor to supplier).
  - d. Assume complete responsibility and liability for the item(s).
3. A certified business is considered to perform a commercially useful function when it is responsible for execution of a distinct element of work of a contract and carries out its responsibilities by actually performing, managing and supervising the work involved. To determine whether a certified business is performing a commercially useful function, the Administration shall evaluate amount of work subcontracted, industry practices and other relevant factors. The Administration is responsible for determining whether or not a supplier is performing a commercially useful function.

C. Solicitation and Contract Formation

1. A bidder/Offeror must include with its bid or offer:
  - a. A completed Certified MBE Utilization and Fair Solicitation Affidavit (Attachment A) whereby the bidder or Offeror acknowledges the certified MBE participation goal, commits to make a good faith effort to achieve the goal, and affirms that MBE subcontractors were treated fairly in the solicitation process.
  - b. A completed MBE Participation Schedule (Attachment B) whereby the bidder or 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 submission. The bidder/Offeror shall specify the price and/or the percentage of contract value associated with each MBE subcontractor identified on the MBE Participation Schedule.

**If a bidder/Offeror fails to submit Attachment A and Attachment B as required, the Procurement Officer may deem the bid non-responsive or determine that the offer is unacceptable and not reasonably susceptible of award (as applicable).**

2. Within 10 working days from notification that it is the apparent Awardee or from the date of the actual award, whichever is earlier, the apparent Awardee must provide the following documentation to the Procurement Officer.
  - a. A completed Outreach Efforts Compliance Statement (Attachment C)
  - b. A completed Subcontractor Project Participation Statement (Attachment D)
  - c. If the apparent Awardee believes a waiver (in whole or in part) of the overall MBE goal or in any sub-goal is necessary, it must submit a fully documented waiver request that complies with COMAR 21.11.03.11.
  - d. And any other documentation required by the Procurement Officer to ascertain bidder/Offeror responsibility in connection with the certified MBE 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 responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.**

3. Name of an employee designated as the bidder's liaison officer for minority affairs, and a current copy of the bidder's EEO/Affirmative Action Program;
4. Bidder must produce any of the following documentation when appropriate:
  - a. Joint Venture Disclosure Affidavit (Form D-EEO-006);
  - b. Minority Contractor Unavailability Certificate (Form D-EEO-005).
5. Contractor by submitting its bid/offer, consents to provide such documentation as requested by the Department or Administration pursuant to COMAR 21.11.03.13, and to provide right of entry at any reasonable time for purposes of the State's representatives verifying compliance with MBE subcontractor requirements.

6. Use of MBE Banks – The bidder shall consider, whenever possible, utilizing the services of minority-owned banks. Most minority banks are full-service corporations that can provide an array of financial services such as Treasury and Ax Loan Fund Accounts, Time and Demand Deposit Accounts, payroll Services, and if needed, organization investment counseling. It is the policy of the MDOT to encourage its contactors to utilize, on a continuing basis, MBE banks.
7. Amendment for Unforeseen Circumstances – If at any time before award, and apparent low bidder believes or has reason to believe that a MBE listed on its MBE Participation Schedule of MBEs is unable to perform or has become unqualified or unavailable, the low bidder will immediately notify the Administration's Representative. Failure to make such efforts may result in a determination that the apparent bidder is not eligible for award of the contract.
8. Cooperate with the Administration Representative in any reviews of the Contractor's procedures and practices with respect to certified businesses, which the Administration Representative may from time to time conduct.

D. Contract Administration Requirements

1. Submit monthly to the Administration a report listing any unpaid invoices, over 30 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made.
2. Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit monthly to the Administration a report that identifies the prime contract and lists all payments received from Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices.
3. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
4. Consent to provide such documentation as reasonably requested and to provide right-of entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for State inspection for three (3) years after final completion of the contract.
5. At the option of the procurement agency, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

E. Administration Procedures for Enforcement

1. Whenever the Administration believes the bidder or any subcontractor may not be operating in compliance with the terms of these provisions, the Administration Representative shall conduct an investigation. If the Administration Representative finds that the bidder or any subcontractor is not in compliance with these provisions, the Contractor shall be notified in writing of such steps as shall, in the judgment of the Administration, bring such Contractor into compliance. In the event that such Contractor fails or refuses to perform fully such steps, the Administration's Representative shall make a final report of non-compliance to the Executive Director who may direct the imposition of one or more of the sanctions listed below:
  - a. Suspension of work on the project, pending correction.
  - b. Withholding a percentage of progress payment thereof, pending correction.
  - c. Referral of MBEs to MDOT Office of MBE for review for decertification and/or for review/referral to the Attorney General's Office for review/initiation of debarment or for review for criminal prosecution through the MDOT office of the General Counsel.
  - d. Initiation of suspension of suspension in accordance with COMAR regulations.
  - e. Referral to Office of the Attorney General for review, for debarment or for criminal prosecution through the MDOT Office of General Counsel.
  - f. Any other action as appropriate.
2. If documents used to determine status of certified business contain false, misleading, or misrepresenting information, the matter may be referred to the Office of the Attorney General for appropriate action. In addition, when directed by the Executive Director, the Contractor shall terminate, without liability to the Administration, its contract with a disqualified MBE and promptly submit for approval the Contractor's plans for maintaining the appropriate certified business participation on the project. The program and all revision require the Administrator's approval.

F. Attachments: *Refer to Bid documents*

1. **Certified MBE Utilization and Fair Solicitation Affidavit**, (Attachment A), must be submitted with bid/offer.
2. **MBE Participation Schedule**, (Attachment B), must be submitted with bid/offer.
3. **Outreach Efforts Compliance Statement**, (Attachment C), must be submitted within 10 working days of notification of apparent award or actual award, whichever is earlier.
4. **Subcontractor Project Participation Statement**, (Attachment D), must be

submitted within 10 working days of notification of apparent award or actual award, whichever is earlier.

5. **Subcontractor Utilization Report** (Attachment E); to be with monthly invoices.

**SP-1.29 BWI Marshall Airport Security, Access Badges, Airfield Vehicle Ramp Permits and US Customs Access Badges**

A. **Introduction to Airport Security**

1. All Contractor employees and subcontractors and their employees shall comply with all BWI Marshall Airport Security Program (ASP) and all Transportation Security Administration (TSA) regulations. The Airport shall take immediate and aggressive action to ensure compliance with the federally issued Transportation Security Regulations (TSR), Part 1542 (Airport Security), the BWI ASP, and United States Public Laws 106-528 and 107-71.
2. Security is to be maintained at all times. If security is breached or penetrated by contract personnel in any manner or form at any time during this contract the Contractor is required to immediately restore "security" regardless of the cost and circumstances. The Contractor and all subcontractors, in the performance of their duties, shall be responsible for maintaining the integrity of the controlled access security system for the duration of this contract.
3. The information contained in this section is confidential, and protected under the Transportation Security Regulation (TSR) 1520.
4. It is imperative that everyone fully understands the responsibilities of airport security. Failure to comply with the above requirements or any other local, state and federal directives, may result in civil penalties directly to the individual responsible.
5. All inquiries pertaining to security procedures and process contained in this contract shall be referred to the BWI Marshall Airport Security Coordinator, the Alternate Airport Security Coordinator, or the BWI Security Center.

B. **Definitions**

Air Carrier: An entity holding an FAA Air Carrier Operating Certificate who is engaged in conducting scheduled passenger operations or public charter operations. These entities are regulated under TSR 1544. Air Carriers are also referred to as Airlines.

1. **Air Operations Area (AOA)**: The portion of an airport designed and used for landing, taking off or surface maneuvering of airplanes.
2. **Airport Operator**: An entity holding an FAA Airport Operating Certificate who

operates an airport regularly serving scheduled passenger operations or public charter operations. These entities are regulated under TSR 1542. The Maryland Aviation Administration is the Airport Operator for BWI Marshall Airport.

3. Airport Security Coordinator (ASC): Primary contact for security-related activities and communications with the Transportation Security Administration (TSA).
4. ASRU: Aviation Security Regulatory Unit. The section within the TSA responsible for conducting tests of an Airport's Security Program. They perform special emphasis assessments and comprehensive assessments of the airport's security posture.
5. Challenge Procedure: Airport-approved process by which individuals with unescorted access to the SIDA or other areas controlled for security purposes, contact, approach, or point out to appropriate authorities, individuals or vehicles present in those areas but not displaying appropriate airport-approved identification media.
6. Criminal History Records Check (CHRC): A fingerprint based check of an individual's criminal history performed through the FBI's Criminal Fingerprint Database to determine if an individual has been convicted of one of 36 disqualifying crimes in accordance with Public Laws 106-528 and 107-71. This is required of all new applicants for Unescorted SIDA Access after December 23, 2000, by Public Law 106-528 and for all Airport Employees having unescorted SIDA access by Public Law 107-71.
7. Escorted Access: Authorized to be in the SIDA only when properly accompanied by an escort in accordance with the Airport Security Program. Proper escort procedures at BWI require the badged employee providing the escort to know the individual(s) they are escorting and that they remain within sight and reasonable speaking distance of that individual while in the SIDA.
8. Maryland Aviation Administration: (MAA) A Agency within the Maryland Department of Transportation (MDOT) responsible for the ownership and administration of Baltimore/Washington International Airport (BWI).
9. Public Law 106-528: An act (law) passed by the United States Congress on November 23, 2000, entitled "The Airport Security Improvement Act".
10. Public Law 107-71: An act (law) passed by the United States Congress on November 19, 2001, entitled "The Aviation and Transportation Security Act".
11. Secure Area: An area whose access control system meets the requirements specified in TSR 1542.201. This area is also referred to as the SIDA-Secured. It is made up of the aircraft ramps and loading areas around the main terminal building.

12. Security Identification Display Area (SIDA): Any area identified in the Airport Security Program as requiring each person to continuously display airport-approved identification badge, unless the person is under airport-approved escort. The proper way to display a badge is face out, above the waist but below the neck and on the outermost garment. At BWI, the SIDA is considered to be everything within the airport's security fence-line.
13. Sterile Area: An area to which access is controlled by the inspection of persons and property in accordance with an approved Security Program. Sterile Areas at BWI Marshall Airport are restricted to ticketed passengers only and appropriately badged employees. As of April 1, 2003, individuals working in the sterile area must have undergone a criminal history records check via fingerprinting. The Sterile Areas at BWI Marshall Airport are the Concourses or Piers.
14. TSA: Transportation Security Administration. An agency of the United States Federal Government (Executive Branch) responsible for Civil Aviation Security through the enforcement of regulations (Under Title 49) designed to safeguard Civil Aviation Operations against acts of violence or acts of unlawful interference. TSA is responsible for the safety and security of passengers, flight crews, ground operations personnel and the general public.
15. Unescorted Access: Authorized to be in the SIDA, or other controlled areas for security purposes. An individual must possess and properly display a BWI SIDA Access Badge in order to have unescorted SIDA access privileges.
16. 49 CFR Part 1542: Section within Title 49 Code of Federal Regulations specifically dealing with Airport Security.
17. 49 CFR Part 1544: Section within Title 49 Code of Federal Regulations specifically dealing with Aircraft Operator Security (Airline Security).

C. BWI Marshall Airport Access Badges

1. The Administration's office or section with the primary duty of managing the subject contract (known as the Airport Operator) shall sponsor the badging of one individual from the Contractor's company (usually a manager or supervisor), and perform an employment history investigation if necessary. This individual shall then be responsible for sponsoring (signing badge applications) and performing employment history investigations for all subsequent Contractor employees. (See **SP-1.30, D**)
2. All Contractor personnel who, in the performance of their duties, must have access to the Security Identification Display Area (SIDA) of the Airport, or who are seeking access to the Sterile Areas of the Airport, shall first obtain a valid Airport-issued Badge (Identification) from the Administration. Prior to Badge issuance, the individual requesting a Badge must first submit to fingerprinting for the purposes of undergoing a Criminal History Record Check. The Criminal History Record Check

will determine whether an individual has, within the last 10-years, been convicted of one of 36 disqualifying crimes. In accordance with 49 CFR Part 1542 and Public Law 106-528, this will be used as the sole determining factor for granting permanent unescorted SIDA access privileges or Sterile Area access privileges.

3. If the work to be completed by a particular individual or sub-contractor is short-term, and the Contractor has appropriately badged personnel available, said individuals may be escorted. The escort(s) must stay with the non-Badged individuals(s) at all times, and must be able to "control" such individuals. Control implies remaining within a reasonable speaking distance of the person being escorted.
4. Contractor personnel shall not be permitted to begin work on the job site until issued an Access Badge. Contractor must insure that Badges are displayed at all times while employees are in the SIDA.
5. The Administration reserves the right to confiscate or suspend the Access Badge of any employee allegedly involved in any of the criminal acts enumerated under 49 CFR Part 1542 or for security violation at the Airport; and to permanently revoke the Access Badge upon a guilty, nolo contendere, or probation before judgment disposition of the charges.
6. The Contractor is hereby on notice that all persons not properly identified by BWI Marshall Airport-issued Access Badges may be challenged, and if positive identification or association cannot be made, appropriate corrective action shall be taken by the Administration.
7. All Airport Access Identification Badges are the property of the Administration and upon completion of the contract or in the event any employees are terminated the Contractor must return all Access Badges to the Administration. Additionally, the Contractor shall be responsible for the replacement cost of lost Badges.

D. Access Badge Application Procedures

1. All BWI Marshall Airport Identification badge applicants and those requesting the authority to authorize others to have unescorted access privileges to the BWI SIDA or the BWI Marshall Airport Sterile Areas must clearly demonstrate a need to have that access at BWI Marshall Airport for business-related functions. Convenience does not equate to demonstrating a need for SIDA Access.
2. BWI Marshall Airport Identification Badge application may be obtained from the Airport Security Division, your sponsoring section. The application must be typed and include original signatures. Sections 1, 2, 5, and 6 must be filled out.
3. A Security Threat Assessment (STA) Form, or the security threat assessment part of the badge application form, must be filled out. Security Directive SD 1542-04-08C requires air carriers, tenants and contractors to verify the identity and



citizenship, or immigration status of each individual applying for any kind of airport issued ID medium. This is done through the STA form. The documentation in support of the STA form must be verified by the authorized signer.

4. Beginning December 11, 2006, all individuals applying for ID badges (new applicants) will need to bring to the Airport Security Division the Security Threat Assessment (STA) Form described above, and two forms of ID to support the STA form: A Driver's License (or Military ID) plus a Birth Certificate, Passport, Alien Registration Card, or a visa card, form, or document showing eligibility to live and work in the United States. Please use the list on the back of the STA Form to guide you.
5. The Contractor and Administration section shall decide what type of access Contractors' employees will require. Access is granted on the basis of operational need, not convenience. Decide whether you will need a Black, Red, Blue, Green or Yellow badge.
6. Bring the completed and typed badge application to the Airport Security Division, along with two valid forms of identification as noted below.
7. The Airport Security Division must verify the identity of the access badge applicant through the presentation of two (2) forms of identification prior to fingerprinting. Please be prepared to present original documentation. One (1) form of identification must have the individual's photograph and must be a State or Federally issued document such as a valid US passport, state issued driver's license or identification card, military ID, Certificate of US Citizenship, Certification of Naturalization, etc. The second form of identification acceptable for supporting identification purposes is items such as social security card, voter's registration card, education ID, etc.

**PLEASE NOTE: Acceptable identification is limited to that listed on the application. Identification, which is expired or appears altered, will not be accepted.** Once acceptable, original identification is presented and copies are made by the Airport Security Center, the individual will then be fingerprinted.

8. All contractors who, in the performance of their duties, must have unescorted access to the BWI Marshall Airport Security Identification Display Area (SIDA) or the BWI Marshall Airport Sterile Areas shall first obtain a valid BWI Marshall Airport SIDA Identification Badge. Prior to badge issuance, the individual requesting an unescorted SIDA Identification badge must first undergo a Criminal History Record Check (CHRC) via FINGERPRINTING as mandated by United States Public Laws 106-528 and 107-71 and SD 1542-02-3A. Airport contractors and non-air carrier employees (falling under Transportation Security Regulation (TSR) 1542) must be fingerprinted by the BWI Marshall Airport Security Division under the Airport's Submitting Office Number (SON). The results of the CHRC are returned to the Airport for adjudication.

9. Once the Airport Security Division receives classifiable and cleared fingerprint results, and there are no disqualifying crime convictions in accordance with Public Laws, the individual will be eligible to attend SIDA Training and may be issued a SIDA Identification Badge. If the CHRC discloses any disqualifying crime convictions, a SIDA Identification Badge will not be issued. If you are denied a SIDA Access badge you will receive a letter from the Airport Security Administration advising you of your status and your options.
10. If the work to be completed by a particular Contractor or Subcontractor is short-term, and appropriately badged personnel are available, said employees may be escorted. The escort(s) must stay within physical proximity of the escorted employee(s) at all times (normal speaking distance).
11. The Contractor shall not be permitted to begin work on the BWI Marshall Airport SIDA until issued an Identification Badge, unless proper escort procedures are in process. Badges must be displayed at all times below the neck; above the waist on the outer garment with the photograph facing outwards while the employee is in the SIDA. Please see Exhibit #2 for a depiction of BWI Marshall Airport badges and access levels.

**PLEASE NOTE: Falsification of Identification Badge documentation is a violation of Federal Law and may lead to criminal prosecution.**

E. Authorized Signers for BWI Marshall Airport Access Badges

1. Sponsorship into the BWI Marshall Airport Community  
The Administration section sponsoring the Contractor must issue a letter of sponsorship. As a Contractor for the MAA, the Administration's Division of Contractor Support or the Division of Facilities Development and Construction will be sponsoring you. They may be reached at 410-859-7025 or 410-859-7081.
2. Authorized Signers
  - a. The Contractor must designate an authorized signer for the company. The Contractor's sponsor shall sign for the first badge (that of the Authorized Signer). This individual must be badged first.
  - b. The section within the Administration with the primary duty of managing the Contractor shall be responsible for sponsoring the Contractor and their Authorized Signer. In order to do this, the Administration section responsible for managing the contract must submit, in writing, to the Airport Security Division, a sponsorship letter on MAA letterhead, stating the name of the contractor or new tenant. The letter must include the following:
    - (1) The contract number and project title and description or purpose.

- (2) Access requirements, duration, point-of-contact and hours of operation.
  - (3) The individual(s) identified as being given the signatory authority, their title, and contact information if different from section #2 on the application.
  - (4) An original signature sample for each authorized signer.
  - (5) An Administration's Authorized Signer must sign the letter. It is required that designated "Authorized Signers" sign this letter so that their signatures can be on file in the Airport Badging Office. Please refer to the sample letter.
- c. Once the Authorized Signer for Contractor has been established and processed, this individual shall have the authority to sign all access badge applications for that Contractor's employees. The Authorized Signer must possess a valid badge in order to sign for other individuals to be badged. Note: An Authorized Signer cannot authorize for greater access than they themselves possess (i.e., If the Authorized Signer has been issued a Green badge, they cannot sign for someone to be processed for a Red Badge).

F. Unclassifiable Fingerprints

When an individual's prints are returned from the FBI as "unclassifiable," the airline or airport operator is required by law to attempt a second printing of the individual (either electronically or via ink) prior to deferring the case to alternate procedures. When an individual's fingerprints are returned from FBI as "Unclassifiable" for the second time, the following procedure must now be utilized in order to clear an individual for access to the SIDA:

1. The airport operator (if printed under 1542.209) or aircraft operator (if printed under 1544.229) must now conduct a full 10-year employment verification on the individual. An individual shall not be considered "cleared" under this investigation if there is an unexplained gap of 30 days or more pertaining to the individual's whereabouts during this 10-year period. A guidebook for acceptable alternatives in cases where an individual has not been employed for periods of time during the 10-year period is available on the Airport Security and Air Carrier Security WebBoards.
2. The individual must present, with his or her application for unescorted access authority, a certified birth certificate (along with a certified translation if the birth certificate is not in English).

3. The individual must present, with his or her application for unescorted access authority, a current government-issued identification card with a photo of the individual.
4. If the individual is a foreign national, the individual must present, with the application for unescorted access authority, a valid and current work visa or other equivalent document (which the employer must verify with the Immigration and Naturalization Service).
5. The airport operator or the aircraft operator, as appropriate, must request, through the TSA, a manual of FBI criminal history records check (CHRC) based on personal information contained in the documents described above.

G. Badge Renewals

1. BWI SIDA ID Badges and Sterile Area ID Badges are programmed to expire yearly on the badge holder's birthday. Badge holders must renew their BWI Marshall Airport ID Badges in person prior to the expiration date, which appears on the badge.
2. BWI SIDA ID Badge holders can renew their badges up to 30 days prior to the expiration date on the badge.
3. BWI SIDA ID Badge holders must bring their badge and any SIDA Access (perimeter gate) keys, which have been issued to them to the BWI Security Division in order to have an annual audit, conducted.
4. The BWI SIDA badge renewal process consists of filling out and signing the badge renewal form, undergoing BWI SIDA Training, and passing the test. The test consists of 20 questions and the applicant must achieve a passing score of 100% in order to retain their unescorted SIDA access privileges.
5. Failure to renew a BWI SIDA access badge prior to its expiration may result in a violation being assessed against the badge holder. The badge holder's signing authority may submit a letter explaining the reasons why a particular individual failed to renew on time. This letter must explain the circumstances, include the dates that the individual was indisposed, unavailable etc., and must assert that the individual in question has remained continuously employed by the sponsoring entity.

H. Security Violations and Penalties

1. In the event that the Administration shall be subject to any fine or penalty by reason of any violation at BWI Marshall Airport of any governmental (including TSA) rules, regulations or standards as they now exist or may hereafter be promulgated or enacted, the Administration may conduct an investigation and make a

determination as to the identity of the party responsible for the violation. If it is determined by the Administration that a contractor/tenant or staff member is responsible for all or part of the fine or penalty, the contractor/tenant shall pay said amount of the fine or penalty.

2. Individuals found in non-compliance of the security regulations for BWI Marshall Airport shall have their unescorted SIDA access privileges temporarily suspended or permanently revoked. Under certain circumstances, a monetary fine or criminal prosecution may be applicable. Please refer to the following table for standard penalties.

3. BWI Marshall Airport Security Program Violations and Standard Penalties:

VIOLATION	PENALTY
Failure to Challenge	1 to 7 day suspension of badge + repeat SIDA training
Failure to display badge on the outermost garment, above the waist	1 to 7 day suspension of badge + repeat SIDA training
Failure to ensure closing and locking of a Air Operations Area or Secured Area portal	1 to 7 day suspension of badge + repeat SIDA training
Failure to prevent "PIGGYBACKING" through a 1542.201/1542.203 portal	3 to 7 day suspension of badge + repeat SIDA training
Failure to follow correct escort procedures for individuals or vehicles; or escorting someone for other than business reasons or to bypass screening	3 to 7 day suspension of badge + repeat SIDA training
Utilization or attempt to utilize an ID badge other than the one specifically issued to you	3 to 7 day suspension of badge + repeat SIDA training
Utilization of altered or expired ID badge or Unauthorized Access to an area not granted by you badge	1 to 7 day suspension of badge + repeat SIDA training
Failure to report a lost or stolen badge within 24 hours	1 to 7 day suspension of badge + repeat SIDA training
Failure to renew a badge prior to its expiration	1 to 7 day suspension of badge + repeat SIDA training
Failure to surrender a badge to a law enforcement officer or an Airport Security Representative	1 to 7 day suspension of badge + repeat SIDA training

**NOTE: SIDA Training for individuals committing security violations consists of training on the Inter-active Employee Training (IET) System, which involves testing. An individual will need to pass this test prior to having their access privileges re-instated. An individual under suspension of badge cannot be escorted into the SIDA.**

I. Vehicular Movement on the Air Operations Area (AOA), SIDA and Airfield Driver Training

1. Control of vehicle traffic on the AOA is regulated by Code of Maryland Regulation

(COMAR), 11.03.01.04. Detailed regulations are available at the Airport Security Center (Study Guide -- COMAR 11.03.01.04). As part of the Airfield Safety Training requirements, and prior to taking the written test, it is the responsibility of the Contractor to obtain the Study Guide and provide to all appropriate personnel.

2. The Airport Security Division **Will Not** train any individuals unless they have an approved BWI Marshall Airport SIDA Identification Badge Application. The individuals must have undergone a CHRC via fingerprinting and have received results, which show their eligibility for unescorted SIDA access (thus proving that they have an operational need to know as prescribed by 49 CFR 1520). The Airport Security Division will maintain a training log for each training session conducted. The Airport Security Division will also maintain an individual training record for each individual trained for at least 180 days after termination of such individual.
3. SIDA training and instruction is done through lecture and video. Only an Administration approved SIDA video specific to BWI shall be used. The lecture portion of the training curriculum must follow the video and must include a question and answer period. Participant questions shall be allowed and encouraged during this time.
4. No individual shall be granted unescorted SIDA access at BWI Marshall Airport unless that individual has successfully completed BWI SIDA Training and passed the test. The test consists of 20 multiple choice questions, and the applicant must achieve a passing score of 100% in order to be granted unescorted SIDA access privileges. The test can be administered immediately following the video and lecture or at a pre-determined scheduled time. An individual may take the test up to 2 times. A 24-hour waiting/study period is mandatory prior to each re-test.
5. No individual shall be allowed to operate a motor vehicle unescorted in the BWI Marshall Airport AOA unless that individual is properly badged and has successfully completed Airfield Driver's Training and passed the test with a score of 80% or better.
6. Airfield Driver's Training and Instruction is done through lecture and video. Only an Administration-approved Airfield Driver's Training Video specific to BWI is used. The lecture portion of the training curriculum follows the video and includes a question and answer period. The test consists of 20 questions and the applicant must achieve a passing score of 80% in order to be granted driving privileges. The test can be administered immediately following the video and lecture or at a pre-determined scheduled time. An individual may take the test up to 2 times. A 24-hour waiting/study period is mandatory prior to each re-test.

J. Airfield Vehicle Ramp Permit and Temporary Airfield Vehicle Registration

1. The Contractor shall secure from the Administration's Airport Operation Center an Airfield Vehicle Ramp Permit or Temporary Airfield Vehicle Registration for all

its vehicles to be used in and around restricted areas of BWI Marshall Airport in connection to the fulfillment of its contractual obligation.

2. All vehicles shall be inspected and approved for operating on the AOA by the Administration's Division of Maintenance prior to receiving the airfield vehicle registration documentation. Vehicles satisfactorily completing the safety inspection shall be registered by the Airport Operations Center centrally located in the main terminal on the third floor. Please contact the MAA Automotive Shop at 410-859-7096 for hours and appointments in regards to vehicle inspections. Airport Operations can be reached at 410-859-7018. All vehicles are required to be covered on the company's insurance, coverage is a minimum of \$1,000,000, and a copy of the current proof of insurance (Accord) must be on file with Airport Operations.
3. The Contractor shall abide by all driving and parking rules and regulations at BWI Marshall Airport as stipulated and enforced by the Administration.

K. Airport Perimeter Access Control

1. All perimeter fence gates (manual and automatic) must be secured or manned (guarded) at all times. Any access portal (gates/doors) found to be unsecured, or any entry by an unauthorized person(s) and/or vehicle(s) as a result of the Contractor's failure to follow proper Airport Security procedures shall subject the Contractor to a TSA-imposed fine of up to \$10,000 per occurrence, and/or suspension of badge/revocation of the violator's BWI Access Badge.
2. Gate attendants (guards) may be Contractor employees, or others hired by the Contractor for this sole purpose. It shall be the responsibility of the Contractor to ensure all required security training is completed and understood. All gate attendants must have been issued a BWI Marshall Airport Access Badge prior to manning any access portal, and they must display their Badges at all times while in the SIDA. Specific TSA-mandated security rules and regulations, as well as BWI Marshall Airport Security Program requirements will be provided by the Airport Security Center.

L. U. S. Customs Access Badges

1. All Contractor personnel who, in the performance of their duties and must have access to the U. S. Customs and Immigration areas of the Airport shall comply with 19CFR Subpart S – Access to Customs Security Areas and 19USC113, Appendix A, Airport Customs Security Area Bond.
2. With the exception of all Federal and uniformed State and local law enforcement personnel, all Contractor personnel who have unescorted access to the Customs security area, must have and openly display or produce upon demand an approved identification card, strip, or seal issued by Customs.

3. Below are the items necessary in order to apply for a Customs seal:
  - a. A completed typed "Application for Identification Card" Customs Form 3078. (Available from Customs Office)
  - b. A letter on company letterhead from the employer requesting access and the justification for a Customs Seal.
  - c. A photocopy of a driver's license, state ID card, or passport and a valid BWI Marshall Airport Badge.
  - d. A photocopy of the completed (to include training and OPM number) of the BWI Marshall Airport badge application.
  - e. A photocopy of the Airport Customs Security Area Bond for \$25,000 (Twenty-Five Thousand Dollars).
4. Above items shall be submitted in person to the U. S. Customs office in the International Terminal. After submitting the request for a Customs seal individuals will need to visit the office (approximately 3 weeks) to verify the completion of their request. Do not call. Once approval is granted by Customs please return the original form stating access is granted to the Airport Security Center, who will update the badge and necessary access. The Airport Security Center cannot affix Customs seal without approval from the U. S. Customs.

M. General Information

1. The Administration reserves the right to confiscate and suspend the BWI ID Badge of any employee allegedly involved in any felonious act or security violation at the Airport; and, upon a guilty, nolo contendere, or probation before judgment disposition of the charge, to revoke the BWI ID Badge.
2. A Contractor is hereby warned that all persons not properly identified by an Airport-issued access badge may be challenged, and if positive identification or association cannot be made, the appropriate corrective action shall be taken.
3. At the completion of the contract or in the event any employees are terminated, the contractor/tenant must return all access badges and airfield vehicle permits to the Administration for computer deprogramming as soon as possible.
4. If the badge is lost, the individual or contractor/tenant is responsible for the cost of the replacement badge.
5. If a badge is damaged, please return it immediately to the BWI Marshall Airport Badging Office for a replacement. Failure to do so may result in a security violation.
6. The Contractor is responsible for maintaining a list of MAA authorized identification badge holders within the Contractor's organization. Upon



Administration's request, the Contractor must be able to submit a report listing the badge holders. The report must include the following: Company Name, MAA Contract Number, Application Date, Name of Badge Holder, Badge Number, Badge Approval Date, and Expiration Date

7. **FINAL NOTE:** The BWI Marshall Airport ID Badge Application along with the attachments shall be submitted to the Administration prior to access badge issuance. The applicant's CHRC and all other badging and security training information shall be maintained by the employing agency/company in paper form until 180 days after the termination of the individual's authority for unescorted access. This paperwork must include a copy of the individual's BWI SIDA ID Badge application, the results of the Criminal History Records Check (CHRC) including the OPM case and file number and the final determination whether the individual is eligible for unescorted SIDA access privileges in accordance with Public Law 106-528 and Public law 107-71.

### **SP-1.30**      **Airport Operations**

- A. The Contractor's attention is called to the fact that neither interruption of airport operations, except as hereinafter specified, nor the existence of any condition, which may create a hazard to airport operations, shall be tolerated during this project. For this reason, the Contractor shall strictly comply with the requirements of these Specifications and the written and verbal direction of the Administration. The proposed work shall be conducted so as to interfere as little as possible with other contractors on-site, passengers, and aircraft traffic.
- B. During the progress of the work, it may be necessary for the Administration to adjust the approved schedule to better suit airport operations. In addition, other contracts may be in progress concurrently with this contract; thus the Contractor shall coordinate its work as required in the subsection of the General Conditions, entitled "Other Contract". The Contractor shall cooperate fully with the Administration in the performance of its work to ensure the uninterrupted functioning of service essential to the operation of the Airport and the maintenance of necessary State and Federal security measures.
- C. The Contractor shall not under any circumstances, be permitted to conduct any work that would require the blockage of any portion and/or disrupt the flow of traffic on any taxiway or runways bounding the contract area, unless written authorization is received from the Administration.
- D. The Contractor shall conduct and schedule the work at all times in such a manner and in such sequence as shall assure the least interference with passenger traffic, airport operations, and other contractors working in the area. The Contractor's access to and movements within the various areas of work shall be coordinated through the Administration on a priority and availability basis.

### **SP-1.31**      **Pre-Work Conference**

A pre-work conference shall be scheduled with the Contractor to discuss its planning, proposed personnel, schedules, material sources, equipment, and other matters essential to the satisfactory performance of the work.

**SP-1.32**      **Housekeeping and Clean-Up**

- A. The Contractor shall not allow the site of the work to become littered with trash and waste material, but shall be responsible for and execute good "housekeeping" on a continuous basis. Upon completion of the work each day, Contractor shall remove all debris and surplus material of every description, leaving the entire premises in a clean and acceptable condition.
- B. The Contractor shall take steps to fully protect carpeting, floor finishes, walls and finishes, signs, and other terminal facilities from damage, staining, or defacing and shall be responsible for repair or replacement of same.
- C. The Contractor shall expeditiously remove all of its property, construction materials and debris from the area after final completion of work before the contractual obligations shall be considered fulfilled.

**SP-1.33**      **Contract Time for Completion of Work**

- A. The Contractor shall diligently prosecute the work so that it shall be entirely completed within the time specified on the Bid from the date of Notice to Proceed or within such time as extended in accordance with the provisions of these specifications.
- B. The Contractor shall prosecute the work in this contract in accordance with that proposed by its work schedule and approved by the Administration with labor and equipment adequate to complete the major items, portions or sections, within the designated areas in accordance with the scheduled approved by the Administration.
- C. In the event the Contractor fails to proceed with the work as rapidly as is provided in the progress schedule, or if it appears at any time that such work is not being prosecuted in a manner that shall insure its completion within the time specified, the Administration may require the Contractor to furnish and place in operation such additional labor and equipment as the Administration shall deem necessary to bring the work back on schedule. If the Contractor fails to comply, the Administration may initiate measures to meet the requirements of the schedule and charge the Contractor for the full cost thereof.

**SP-1.34**      **Adjacent Property**

- A. The Contractor shall take special care and precaution not to disturb and damage private property. Should any private property be damaged as a result of the Contractor's operations the Contractor shall, at its own cost and expense, restore such private property to a condition equivalent to that which existed before the damage was done, to the satisfaction of the owner and the Administration, and indemnify, defend and hold the Administration harmless from any action or claim thereupon.

- B. The Contractor shall not remove or damage any trees, shrubs, street or alley pavements, public walks or curbs unless as part of this contract, nor shall he remove or damage any property constituting a part of any utility system such as poles, light standards, conduits, gas mains, sewers, steam or water pipes, fire hydrants, fire alarm boxes, police call boxes, meters, transformers, etc., whether owned by the State of Maryland or by a private utility company. Should such utilities or paving be damaged as a result of the Contractor's operations the Contractor shall, at its own cost and expense, restore such utility or paving to a condition equal to that which existed before damage was done, to the satisfaction of the Administration.

**SP-1.35**      **Beneficial Occupancy**

The Contractor shall be responsive to the Administration directly to make certain areas available, within the limits of the contract, for beneficial occupancy by tenants as required. This beneficial occupancy shall be administered on a partial acceptance basis.

**SP-1.36**      **Extension of Time**

- A. If the Contractor is delayed or obstructed in the beginning or prosecution of the work by any neglect, delay, or default attributed to the Administration, or by strikes which it has no power or authority to adjust, or by any damage that may happen to the work by fire, unavoidable accident, or unusual action of the elements, it shall be entitled to such an extension of time for completion of the work. Any extension shall be certified by the Administration to be just and reasonable. Any claim for an extension of time must be submitted in writing to the Administration within five (5) days subsequent to date when the alleged cause for such extension of time occurred.
- B. If, through no act or fault of the Contractor or any of its representatives, the beginning and/or the continuance of the work should be stopped under an order of any court or other public authority having jurisdiction, then said time for completion shall be extended for a period of time equal to the aggregate number of days said work shall be so delayed and/or stopped; and the Contractor shall not be required to pay liquidated damages for and during such extension.
- C. If the satisfactory execution and completion of the contract shall require work or material in greater amounts or quantities than those set forth in the contract, the contract time shall be increased in the same proportion as the value of the additional work bears to the total value of the original work contracted for.
- D. The Contractor shall not be entitled to any extension of time for delays attributed to any act, omission, neglect, or default on its part or on the part of any of its employees, agents, or subcontractors, or to any failure of the Contractor, its employees, agents, or subcontractors to comply with any provision of the Contract Documents.

**SP-1.37**      **Accident Prevention**

- A. The Contractor shall take all reasonable steps to prevent injury to persons (including employees) and property in the performance of this contract, including all steps and actions

required under the safety provisions or applicable laws and applicable building construction codes. The Contractor shall be further required to guard all machinery, equipment, and explosives and to eliminate all hazards in accordance with the safety provisions of the Manual of Accident Prevention and Construction, published by the Associated General Contractors of America.

- B. It is a condition of this contract and shall be made a condition of each subcontract entered into pursuant to this contract, that the Contractor or any subcontractor shall not require any laborer, or mechanic employed in the performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to its health or safety as determined under construction Safety and Health Standards/Title 29 Code of Federal Regulations, Paragraph 1519/36 F.R. 7340/promulgated by the U.S. Secretary of Labor, in accordance with Section 107 of the Contract Work House and Safety Standards Act./83 Sta. 96/. The Contractor shall also comply with all the latest regulations of the Occupational Safety and Health Acts.
- C. The Contractor shall at all times conduct its work to assure the least possible obstruction to public vehicular traffic. The safety and convenience of the general public and protection of persons and property of the Airport is to be provided by the Contractor. The Contractor shall provide and pay for, if necessary, a Traffic Safety Plan, to include barricades, suitable and sufficient lights, danger signals, and signs for the protection of the work and any other safety devices that may be required or needed are to be submitted to the Administration for approval prior to use.

#### **SP-1.38**      **Building Permits**

- A. All new construction or modifications to existing facilities in and on state-owned property under the jurisdictions of the Administration can be undertaken only upon prior issuance of an Administration Building Permit (ADMINISTRATION-180).
- B. Applications for Building Permits (ADMINISTRATION-179) are available from the Office of Engineering & Construction Management, Division of Facilities Construction, P.O. Box 8766, BWI Marshall Airport, Maryland, 21240.
- C. The Application for Building Permits (ADMINISTRATION-179) shall be submitted, in duplicate, to the Division of Facilities Construction.
- D. The Application shall be accompanied by five (5) sets of detailed specifications, prepared by a licensed engineer or architect. The specifications must clearly show all demolition work. Utility connections such as gas, water, electricity, and sewer shall be identified. Construction method and materials must be clearly specified. The finished exterior and interior colors shall be indicated (sample colors may be required).
- E. The design and construction work shall be in accordance with the following codes and regulations and other applicable regulations:

1. The International Building Code, of the latest edition, together with all appendices, references, and additions.
  2. The International Plumbing Code, of the latest edition.
  3. The National Fire Protection Association (NFPA) No. 101 Life Safety Code of the latest edition.
  4. State of Maryland Fire Prevention Code, Title 12, Code of Maryland Regulations.
  5. Regulations governing the construction of facilities for the handicapped by the State of Maryland.
  6. The National Electrical Code (NEC) of the latest edition.
  7. Maryland State Department of Health Regulations for eating and drinking establishments, as interpreted by the Office of Food Protection and Community Health Services of the State Health Department.
  8. Water Resources Regulations and Rules of Procedure of the latest edition, as issued by the State Department of the Environment.
  9. The American Society of Heating, Refrigerating and Air conditioning Engineers, Inc. (ASHRAE) of the latest edition.
- F. The applicant should expect and make allowances for a four (4) week review and processing of the Building Permit by ADMINISTRATION.
- G. If approved, one (1) copy of the application, plus an approved ADMINISTRATION Building Permit (ADMINISTRATION-180), shall be returned to the Applicant.
- H. The ADMINISTRATION Building Permit (ADMINISTRATION-180) must be displayed on the construction site at all times.
- I. No construction work shall begin prior to issuance of the Building Permit by ADMINISTRATION. Any work occurring without a Building Permit may have to be removed and the affected area restored to its original condition at the tenant's expense, if so directed by the ADMINISTRATION.
- J. ADMINISTRATION representatives may inspect the construction site at any time without prior notice to Applicant. The Applicant shall promptly correct any work that does not comply with the Building Permit requirements.
- K. All construction sites on and adjacent to the Airport operations area must be kept continuously free of all foreign objects including dirt, dust, and debris. The Contractor shall employ continuous sweeping procedures, if necessary, to ensure a clean and safe work area.
- L. During the course of construction, the Applicant or Applicant's agent shall insure that all portions of the site adjacent to public areas are kept clean and safe for public convenience. Dust partitions shall be installed around all construction sites. All security areas shall remain secure at all times. All violations cited by ADMINISTRATION's representative shall be corrected in a time frame acceptable to the ADMINISTRATION. Contractor shall notify the ADMINISTRATION Office of Planning and Engineering a minimum of five (5) working days before shutdown of utilities.

- M. Upon completion of the construction work and prior to occupancy, the Applicant shall contact the ADMINISTRATION Division of Facilities Construction to arrange for pre-occupancy inspection of the construction site.
- N. The ADMINISTRATION reserves the right to prevent occupancy of the premises if the Applicant does not meet the terms and conditions of the Building Permit.
- O. The Applicant must submit a set of reproducible "As-Built" plans to the ADMINISTRATION Division of Facilities Construction within 45 days after completion of the project.

**SP-1.39**      **Laws to be Observed**

The Contractor shall perform all phases of the contract work in accordance with the following codes and regulations:

- A. The International Building Code of the latest edition, together with all appendices, references, and additions.
- B. The International Plumbing Code of the latest edition.
- C. The NFPA No. 101 Life Safety Code of the latest edition.
- D. State of Maryland Fire Prevention Code.
- E. Regulations governing the construction of facilities for the handicapped by the State of Maryland.
- F. The National Electric Code of the latest edition.
- G. Maryland State Department of Health Regulations for eating and drinking establishments, as interpreted by the Environmental Health Services Section of the State Health Department.
- H. Water Resources Regulations and Rules of Procedure of the latest edition, as issued by the State Water Resources Administration.
- I. Regulations governing elevators, dumbwaiters, escalators, and moving walks ANSI-A17-1, of the latest edition and other requirements of the State Department of Licensing and Regulation, Division of Labor and Industry.
- J. Rules and Regulations of Baltimore/Washington International Thurgood Marshall and Martin State Airports.

**SP-1.40**      **Familiarity with Laws, etc.**

The Contractor shall be familiar with all Federal, State, local and municipal laws, ordinances, rules and regulations which in any manner affect those engaged or employed in the work, or the materials or equipment used in or upon the work, or in any way affect the work. No plea of misunderstanding shall be considered due to ignorance thereof. If the Bidder or Contractor shall discover any provision in the Specifications or other Contract Documents, which is contrary to, or inconsistent with, any such law, ordinance, rule, or regulation, he shall immediately report it to the Administration in writing.

**SP-1.41**      **Interpretations by Addendum**

If any person contemplating submitting a bid for the proposed contract is in doubt as to the

true meaning of any part of the Specifications or other proposed Contract Documents, he may submit to the Administration a written request for an interpretation thereof. The person submitting the request shall be responsible for its prompt delivery. Any interpretation of the proposed documents shall be made only by Addendum duly issued. A copy of such Addendum shall be mailed or delivered to each person receiving a set of documents. The Administration shall not be responsible for any other explanation or interpretations of the proposed documents.

#### **SP-1.42**      **Liability of Contractor**

The Contractor or any of its subcontractors shall obtain any permits or licenses to perform work under this contract as required by any existing or future Federal, State, and local laws, rules, or regulations. Contractor shall be solely liable for all suits, actions, costs, damages, and claims of every kind and description resulting or which may result, directly or indirectly, from any such operation or operations, and shall indemnify, defend and save harmless the Administration, the Maryland Department of Transportation, the State of Maryland, and the Administration, from any and all suits, claims, actions, costs, and damages of every kind and description arising or which may arise, directly or indirectly, from the said operation or operations whether or not Contractor or subcontractor is in compliance with said laws, ordinances, rules, or regulations. Contractor shall notify Administration of any and all such suits, actions, and claims within ten (10) days of receipt.

#### **SP-1.43**      **Indemnification of the Maryland Aviation Administration**

The Contractor shall pay, indemnify, defend and save harmless the Administration, the Maryland Department of Transportation, the State of Maryland, the Administration, their agents and employees, from all suits, actions, claims, demands, damages, losses, expenses, and/or costs of every kind and description to which the Administration, the Maryland Department of Transportation, the State of Maryland, the Administration, their agents and employees, may be subjected to or put by reason of injury (including death) to persons or property resulting from the manner or method employed by the Contractor, its agents and employees, or subcontractors, or from any subcontractors, in the performance of the contract, or any part thereof, or from, by or on account of any act or omission of the Contractor, its agents and employees, or subcontractors, and the whole or so much of the monies due or to become due the Contractor under the contract, as may be considered necessary by the Administration, may be retained by the Administration until such suits of claims for damages or injuries shall have been settled or otherwise disposed of, and satisfactory evidence to that effect furnished to the Administration.

#### **SP-1.44**      **Interpretation of Plans, etc.**

On all Plans, Drawings, etc., the figured dimensions shall govern in the case of discrepancy between the scales and figures. The Specifications are intended to supplement and clarify the Plans, as sometimes work is called for in the Specifications that is not shown on the Plans; and sometimes the Plans indicate work that is not mentioned in the Specifications. Both Plans and Specifications must be complied with in order to fulfill the contract requirements. The Contractor shall not take advantage of any error or omission in the Plans or of any discrepancy between the Plans and Specifications. The Administration shall make such corrections and the intent of the Specifications and of the Plans as construed by them. In all cases of doubt as to the true meaning of the

Specifications, Plans, and/or Drawings, the decision of the Administration shall be conclusive.

**SP-1.45**      **Alteration of Specifications or of Character of Work**

The Administration reserves the right to make such alterations in the Specifications or in the character of the work as may be considered necessary or desirable, to complete fully and perfectly the work under the contract, provided such alterations do not materially change the original Specifications. Such alteration shall not be considered as a waiver of any condition of the contract or an invalidation of any of the provisions thereof. Should such alterations in the Specifications or in the character of the work be productive of increased cost or result in decreased cost to the Contractor, a fair and equitable sum, therefore, to be agreed upon in writing by the Contractor and the Administration before such work is begun, shall be added to, or deducted from the contract price, as the case may be. No allowance shall be made for anticipated profits on work omitted.

**SP-1.46**      **Contract Furnished to Contractor**

The Contractor shall be supplied with a copy of the contract from the Administration. The Contractor shall have available on the work site; at all times during the prosecution of the work, one (1) copy of said document. Additional complete copies of the contract are available at the price stated in the Invitation for Bids.

**SP-1.47**      **Supervision by the Administration**

- A. The work is to be carried out under the supervision and to the complete satisfaction of the Administration. The work and materials shall be strictly of the best quality of the types herein specified. Should any work or material other than those specified or shown be introduced into the construction of the work, the Administration, or its authorized agent shall have full power to reject them, and they shall be removed from the premises within 24 hours by the Contractor after being notified to do so.
- B. The Contractor shall furnish to the Administration any documentation requested by the Administration or its designee concerning the performance and functioning of the contract, which documents shall include but not be limited to: personnel records; time sheets; inspection reports (either by contract or requested by the Administration); unit prices; and payroll.
- C. The Administration shall decide all questions which may arise as to the quality and acceptability of materials furnished and work performed and as to the rate of progress of said work; all questions which may arise as to the interpretation of any or all Specifications; and all questions as to the acceptable fulfillment of the contract on the part of the Contractor.
- D. The Administration shall have the authority to suspend the work wholly or in part due to the failure of the Contractor to carry out provisions of the contract.

**SP-1.48**      **Legal Address**



- A. The address given in the Bid or Proposal is hereby designated as the legal address of the Contractor. Such address may be changed at any time by notice in writing delivered to the Administration. The delivering of such legal address or the depositing in any post office, in a post paid registered wrapper directed to the above-named address, of any notice, letter, or other communication to the Contractor, shall be deemed to be legal and sufficient service thereof upon the Contractor.
- B. The delivering at, or the mailing to, the Contractor's business address (written notice of which address shall be given to the Administration), of the delivering to the Contractor in person or to its authorized representative, of any notice, letter or other communication shall also be, and shall be deemed to be, a legal and sufficient service thereof upon the Contractor.

#### **SP-1.49**      **Licensing**

All personnel performing services in accordance with the Scope of Work must be licensed, or be capable of being licensed in the State of Maryland in those trades, crafts, and professions, which require licensing for the function being performed. The license must be of a grade or level consistent with the requirements of the work to be performed. In the event that the Contractor brings personnel in from outside the State, they must obtain the appropriate Maryland license within 90 days of their appointment to this contract.

#### **SP-1.50**      **Cross Utilization**

The cross utilization of personnel is prohibited when a Contractor has more than one (1) contractual agreement with the Administration, unless written permission is first received from the Administration.

#### **SP-1.51**      **Minimum Specifications**

It is the intent that all materials and services specified in the Special and Technical Provisions, and/or Plans, Diagrams, Drawings, etc., of this contract shall be considered as the minimum unless otherwise stated. Any material and services provided shall include all related and affiliated items that shall result in a complete project. The completion of the project shall be at no additional cost to the Administration unless work is specifically provided for under the Extra Work Allowance Provisions of the document.

#### **SP-1.52**      **Patent Infringement**

The Contractor agrees to indemnify, protect, and save harmless the State, its officers, agents, and employees with respect to any claim, action, cost, or judgement for patent infringement arising out of the purchase or use of materials, supplies, equipment, designs, methodologies, or services covered by this contract. Furthermore, the Contractor agrees to indemnify, protect, and save harmless the State, its officers, agents, and employees with respect to any claim, action, dispute, or judgement arising from any dispute concerning the validity of any patent which in any way related to the process that is required by these specifications for the removal of asbestos as more specifically set forth in the contract specifications. This indemnification obligation is not limited to but is in addition to the

insurance obligations and performance bonds contained in this agreement.

**SP-1.53**      **Non-Payment for Work Improperly Done**

- A.     The Administration reserves the right to withhold any and all payments for work improperly performed, until such time as the work is corrected. Payment for and judgment of work performance quality is at the discretion of the Administration.
- B.     The Administration shall notify the Contractor of any non-payment in writing. Any non-payment shall be in the form of a reduction of dollars from the total contract cost.

**SP-1.54**      **Successful Termination of Contractor's Responsibility and Final Acceptance**

A contract shall be considered successfully fulfilled when the work has been completed in accordance with the terms of the contract. The Administration's representative shall present a Final Acceptance Certificate (FAC) to the Contractor for signatures. The certificate must be completed, signed, and returned to the Administration within a period of ten (10) days prior to termination and ten (10) days after termination. A complete copy shall be forwarded to the Contractor once all signatures have been affixed.

**SP-1.55**      **Commercial Nondiscrimination Clause**

The following provision is mandatory for all State contracts and subcontracts:

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

of all subcontractors, vendors, and suppliers that Contractor has used in the past 4 years on any of its contracts that were undertaken within the state of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that is requested by the State. Contractor understands that violation of this clause is a material breach of this Agreement and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

**SP-1.56**      **Maryland Living Wage Law**

- A. A solicitation for services under a State contract valued at \$100,000 or more may be subject to Title 18, State Finance and Procurement Article, Annotated Code of Maryland. Additional information regarding the State's Living Wage requirement is contained in this solicitation (see below Living Wage Requirements for Service Contracts). If the Bidder/Offeror fails to submit and complete the Affidavit of Agreement, the State may determine a Bidder/Offeror to be not responsible.
- B. Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at least **\$14.42** per hour, if State contract services valued at 50% or more of the total value of the contract is performed in the Tier 1 Area. If State contract services valued at 50% or more of the total contract value is performed in the Tier 2 Area, a Bidder/Offeror shall pay each covered employee at least **\$10.83** per hour. 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. 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) shall assign the tier based upon where the recipients of the services are located.

**The contract resulting from this solicitation has been deemed to be a Tier 1 contract.**

C. **Living Wage Requirements for Service Contracts**

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

- D. The Living Wage Law does not apply to:
1. Contractor who:
    - a. Has a State contract for services valued at less than \$100,000, or
    - b. Employs ten (10) or fewer employees and has a State contract for services valued at less than \$500,000.
  2. A Subcontractor who:
    - a. Performs work on a State contract for services valued at less than \$100,000, or
    - b. Employs ten (10) or fewer employees and performs work on a State contract for services valued at less than \$500,000, or
    - c. Performs work for a contractor not covered by the Living Wage Law as defined in B (1)(B) above, or B (3) or C below.
  3. Service contracts for the following:
    - a. Services with a Public Service Company.
    - b. Services with a nonprofit organization.
    - c. Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter in too a procurement ("Unit").
    - d. Services between a Unit and a County or Baltimore City.
- E. 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.
- F. 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 Title 18, State Finance and Procurement, Annotated Code of Maryland.
- G. 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.
- H. The Commissioner of Labor and Industry shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's Website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.

- I. 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 §18-103(c), State Finance and Procurement Article, Annotated Code of Maryland, shall not lower an employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland. 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 of Labor and Industry.
- J. A Contractor/Subcontractor may reduce the wage rates paid under §18-103(a), State Finance and Procurement, Annotated Code of Maryland, by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland.
- K. Under Title 18, State and Finance Procurement Article, Annotated Code of Maryland, if the Commissioner determines that the Contractor/Subcontractor violated a provision of this title or regulations of the Commissioner, the Contractor/Subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of \$20 per day for each employee paid less than the Living Wage.
- L. Information pertaining to reporting obligations may be found by going to the DLLR Website <http://www.dllr.state.md.us/> and clicking on Living Wage.
- M. 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, Licensing and Regulation, the agency may withhold payment of any invoice or retainage. The agency may require certification from the Commissioner on a quarterly basis that such records were properly submitted.
- N. Attachment: Refer to Bid documents: **Affidavit of Agreement** (Attachment T)

**SP-1.57 Insurance Requirements**

- A. The Contractor shall be responsible for indemnifying the Administration, the State of Maryland, the Maryland Department of Transportation, and their authorized officers, directors, agents, employees, volunteers, and representatives for any and all operations authorized under this Contract and as set forth elsewhere in this Contract.
- B. The Contractor shall, at its own cost and expense, take out and carry in effect, through the term of this Contract (as defined elsewhere in this Contract) a policy or policies of insurance, with a reputable insurance company that is financially sound and, when possible, authorized to conduct business in the State of Maryland and upon whom process in any suit or action or other proceeding in the courts of the State of Maryland or of the United

States may be served, insuring the Contractor against all liability, subject to policy terms, conditions and exclusions, for injuries to persons (including wrongful death) and damages to property caused by the Contractor's use and occupancy of the Premises or otherwise caused by the Contractor's activities and operations on said Premises or elsewhere at the Airport, the policy limits thereof to be in the minimum(s) which may be increased by the Administration, as deemed necessary, as set forth below. Said levels of insurance are to cover claims arising in connection with this Contract and shall not be subject to any degree of depletion as a result of claims arising in connection with other activities undertaken by the Contractor.

- C. The Contractor shall be responsible to ensure that all Subcontractors independently carry the minimum insurance requirements or are covered under the Contractor's policies.
1. Commercial General Liability Insurance. The Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance.
    - a. The CGL insurance and, if necessary, commercial umbrella insurance shall be a limit of not less than **One Million Dollars (\$1,000,000)** for each occurrence, which may be increased by the Administration, as deemed necessary.
    - b. The CGL insurance shall be written on ISO occurrence form CG 00 01 01 96 (or a substitute form providing equivalent coverage) and shall cover, but not be limited to, liability arising from Premises, Operations, Independent Contractors and Subcontractors, Products-Completed Operations, Personal Injury and Advertising Injury, and liability assumed under an insured contract, and contain separation of insureds (cross liability) condition. Explosion, Collapse, and Underground Property Damage Liability shall not be excluded.
    - c. The CGL insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the Administration. There shall be no endorsement or modification of the CGL to make it excess over other available insurance. If the CGL states that it is excess or pro rata, the policy shall be endorsed to be primary with respect to the additional insured.
    - d. Waiver of Subrogation. Contractor waives all rights against the State of Maryland, the Maryland Department of Transportation, the Administration and their agents, officers, directors, employees, volunteers, and representatives for recovery of damages to the extent these damages are covered by the CGL or umbrella liability insurance obtained by the Contractor pursuant to this Contract.
    - e. Additional Insureds Endorsement. The CGL and, if necessary, commercial

umbrella insurance shall be endorsed to identify the State of Maryland, the Maryland Department of Transportation, the Administration, and their authorized officers, directors, agents, employees, volunteers, and representatives as additional insureds, not named insureds, as their interest may appear in connection with this Contract. A policy endorsement evidencing the same must be provided to the Administration in accordance with Paragraph H. Evidence of Insurance.

- f. Cancellation, Material Changes, or Non-Renewal Endorsement. The CGL and, if necessary, commercial umbrella insurance shall be endorsed to provide the Administration with at least thirty (30) days, ten (10) days for non-payment of premium, advance notice, in writing, of cancellation, non-renewal, or material change. A policy endorsement evidencing the same must be provided to the Administration in accordance with Paragraph H. Evidence of Insurance.

2. Commercial Automobile Liability Insurance

- a. The Contractor shall maintain automobile liability insurance and, if necessary, commercial umbrella liability insurance with limits, which may be increased by the Administration, as deemed necessary, as set forth below:
- 1) Non-Restricted Areas (Areas accessible to the General Public). A limit of not less than Five Million Dollars (\$5,000,000) for each accident.
  - 2) Restricted Areas (Non-Movement Area Access – Aircraft ramp areas). A limit of not less than Five Million Dollars (\$5,000,000) for each accident.
  - 3) Restricted Areas (Movement Area Access – Runways and Taxiways). A limit of not less than Ten Million Dollars (\$10,000,000) for each accident.
- b. This Contract ***does/does not*** require the Contractor to have vehicular access to the Restricted Areas of the Airport. The limit provisions of commercial automobile liability insurance for ***non-restricted areas in section C.2.a.1)*** apply to this Contract. If, at a later date, escorted or unescorted vehicular access to the ***restricted areas of the Airport*** are necessary or required for the Contractor to carry out this Contract, then the appropriate insurance limits described above shall be obtained by the Contractor before accessing those restricted areas.
- c. Such insurance shall cover liability arising out of any auto. If the Administration does not own automobiles, then coverage, at a minimum, shall be for non-owned and hired autos.

- d. Coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, or CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.
  - e. Waiver of Subrogation. The Contractor waives all rights against the State of Maryland, the Maryland Department of Transportation, the Administration and their agents, officers, directors, employees, volunteers, and representatives for recovery of damages to the extent these damages are covered by the business auto liability or commercial umbrella liability insurance obtained by the Contractor pursuant to this Contract or under any applicable auto physical damage coverage.
  - f. Designated Insured Endorsement (Additional Insured). The automotive liability insurance and, if necessary, commercial umbrella insurance shall be endorsed on ISO endorsement form CA 20 48 (or a substitute form providing equivalent coverage) to identify the State of Maryland, the Maryland Department of Transportation, the Administration, and their authorized officers, directors, agents, employees, volunteers, and representatives as additional insureds, as their interest may appear in connection with this Contract. A policy endorsement evidencing the same must be provided to the Administration in accordance with Paragraph H. Evidence of Insurance.
  - g. Cancellation, Material Changes, or Non-Renewal Endorsement. The automotive liability insurance and, if necessary, commercial umbrella insurance shall be endorsed to provide the Administration with at least thirty (30) days, ten (10) days for non-payment of premium, advance notice, in writing, of cancellation, non-renewal, or material change. A policy endorsement evidencing the same must be provided to the Administration in accordance with Paragraph H. Evidence of Insurance.
3. Worker's Compensation and Employer Liability Insurance. Contractor shall maintain workers' compensation and employer's liability insurance.
- a. Worker's Compensation. Coverage shall be at statutory limits as required by the laws of the State of Maryland.
  - b. Employer's Liability. The commercial umbrella and/or employers liability limits shall not be less than **One Million Dollars (\$1,000,000)** each accident for bodily injury by accident or **One Million Dollars (\$1,000,000)** each employee for bodily injury by disease, which may be increased by the Administration as deemed necessary.
  - c. Waiver of Subrogation Endorsement (WC 00 03 13). Contractor waives all rights against the State of Maryland, the Maryland Department of



Transportation, the Administration and their agents, officers, directors, employee's, volunteers, and representatives for recovery of damages to the extent these damages are covered by the workers' compensation and employer's liability or commercial umbrella liability insurance obtained by the Contractor pursuant to this Contract. The Contractor shall obtain an endorsement equivalent to WC 00 03 13 to affect this waiver which must be provided to the Administration in accordance with Paragraph H. Evidence of Insurance.

- d. Cancellation, Material Changes, or Non-Renewal Endorsement. The workers compensation and employers liability insurance shall be endorsed to provide the Administration with at least thirty (30) days, ten (10) days for non-payment of premium, advance notice, in writing, of cancellation, non-renewal, or material change. A policy endorsement evidencing the same must be provided to the Administration in accordance with Paragraph H. Evidence of Insurance.
- 4. Other Insurance. Other insurance may be required during the term of this Contract, as determined by the Administration and the Contractor shall obtain such additional insurance required by the Administration at its own cost and expense within forty-five (45) days after receipt of written request from the Administration.
- D. Self-Insured Retention (SIR) or Deductible. The use of a SIR or deductible is allowed. The limits of the SIR or deductible must be approved by the Administration.
- E. Insurance Company's Financial Rating. For those insurance companies subject to A.M. Best's ratings, they shall have an A.M. Best's rating of A- or better and a financial size category of VII or better. For those insurance companies not subject to A.M. Best's ratings, they shall have a nationally or internationally recognized reputation and responsibility and shall be approved by the Administration with such approval not to be unreasonably withheld.
- F. Insurance shall be written on an occurrence, not claims made basis. Professional Liability Insurance and Environmental Impairment Liability Insurance, if required in this Contract, shall be on a claims-made basis.
- G. Required Endorsements
  - 1. Additional Insureds Endorsement. All policies, except workers' compensation and professional liability, shall be endorsed to identify the State of Maryland, the Maryland Department of Transportation, the Administration, and their authorized officers, agents, employees, directors, volunteers, and representatives as additional insureds, not named insureds, as their interest may appear in connection with this Contract. A policy endorsement evidencing the same must be provided to the Administration in accordance with Paragraph G. Evidence of Insurance.

2. Designated Insured Endorsement (Additional Insured). The automotive liability insurance and, if necessary, commercial umbrella insurance shall be endorsed on ISO endorsement form CA 20 48 (or a substitute form providing equivalent coverage) to identify the State of Maryland, the Maryland Department of Transportation, the Administration, and their authorized officers, directors, agents, employees, volunteers, and representatives as additional insureds, as their interest may appear in connection with this Contract. A policy endorsement evidencing the same must be provided to the Administration in accordance with Paragraph G. Evidence of Insurance.
3. Cancellation, Material Changes, or Non-Renewal Endorsement. All policies shall be endorsed to provide the Administration with at least thirty (30) days, ten (10) days for non-payment of premium, advance notice, in writing, of cancellation, non-renewal, or material change. A policy endorsement evidencing the same must be provided to the Administration in accordance with Paragraph G. Evidence of Insurance.
4. WC 00 03 13 Endorsement. An endorsement equivalent to WC 00 03 13 is required to affect the waiver of subrogation requirement for workers' compensation and employer's liability. A policy endorsement evidencing the same must be provided to the Administration in accordance with Paragraph G. Evidence of Insurance.

H. Evidence of Insurance

1. Prior to the commencement of this Contract, unless otherwise specifically authorized by the Administration in writing, and at least annually thereafter, and as soon as possible after renewal but no later than five (5) business days after said renewal, the Contractor agrees to furnish the Administration with certificate(s) of insurance and the required endorsement(s) referenced herein, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements of this Contract.
  - a. Each certificate of insurance shall provide for thirty (30) days written notice to the Administration prior to the cancellation, non-renewal, or material change of any insurance referred to herein.
  - b. The words "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted from the cancellation provision of all certificates of insurance provided by Contractor or duly authorized representative of each insurer.
  - c. Certificate(s) of insurance shall indicate at a minimum; the type, kind, and amount of insurance in effect, the period of the policies, the Contract Number of this Contract, and any applicable additional insured statement as referred to herein.

- d. If commercial umbrella or excess policies are obtained by The Contractor to meet the required limits of insurance, then the certificate of insurance **must** indicate the policies covered by said umbrella or excess policies.
- e. Required endorsements and certificate(s) of insurance and shall be issued to:

**Maryland Aviation Administration**  
**Office of Procurement**  
**Post Office Box 8766**  
**BWI Airport, Maryland 21240-0766**

- 2. The Administration 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. The Contractor shall provide certified copies of the required items within ten (10) business days of the Administration's written request for said copies. The Administration shall deem such information confidential commercial and/or confidential financial. All policies and declaration pages shall be returned to the Contractor upon review and acceptance by the Administration.
- I. In no event will any insurance referred to herein be cancelled by the Contractor without the prior written consent of the Administration.
- J. The failure of the Administration 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 Administration harmless with respect to any items of injury or damage covered by this Contract.
- K. Failure to maintain the insurance required by this Contract shall be the basis for immediate termination of this Contract at the Administration's option.
- L. No Representation of Coverage Adequacy. By requiring insurance herein, the Administration 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 Administration in this Contract.
- M. As indicated above, the 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 this Contract.
- N. The Administration reserves the right at any time throughout the term of the Contract to adjust the aforementioned insurance requirements, if, in the Administration's reasonable judgment, the insurance required by the Contract is deemed inadequate to properly protect

the Administration's interest. The Contractor agrees that it will adjust such insurance requirements, and, if necessary, those of its Subcontractors, at its own cost and expense, within forty-five (45) days after receipt of written request from the Administration.

- O. Incidents. To the extent of the Contractor's knowledge, the Contractor shall send a written report to the Administration within twenty-four (24) hours or as soon as possible, but no more than four (4) business days, of the Contractor's receipt of any knowledge of any accident or other event arising in any manner from the performance of the Contract which results in or might have resulted in bodily injury, personal injury, property damage, or loss of any kind. A copy of the report shall be sent to:

**Maryland Aviation Administration  
Airport Risk Management Division  
P. O. Box 8766  
BWI Airport, MD 21240-0766**

**GENERAL CONDITIONS  
FOR  
MAINTENANCE CONTRACTS**

**GC-1.01**      **Definitions**

A.      Wherever in these General Conditions or in other contract documents the following terms or abbreviations are used, the meaning shall be as follows:

B.      Organizational Structure

The Maryland Department of Transportation is composed of the following Jurisdictions:

1.      Maryland Aviation Administration (ADMINISTRATION)
2.      Maryland Port Administration (MPA)
3.      Maryland Transportation Authority (MdTA)
4.      Mass Transit Administration (MTA)
5.      Motor Vehicle Administration (MVA)
6.      State Highway Administration (SHA) and
7.      Office of the Secretary (TSO)

C.      Definitions

1.      **Agreement** - Contract.
2.      **Award** - The decision by a Jurisdiction to execute a purchase agreement or contract after all necessary approvals have been obtained.
3.      **Biannual** – Twice a year.
4.      **Bid/Offer** - A statement of price, terms of sale, and description of the supplies, services, or construction related services submitted to the State, in response to an Invitation for Bids or offers under procurement by competitive sealed bidding or comparable small procurement procedures.
5.      **Biennial** – Every two years.
6.      **Bimonthly** – Every two months.
7.      **Biweekly** – Every two weeks.
8.      **Board** - The Board of Public Works of the State of Maryland.

9. **Business** - Any corporation, partnership, individual, sole proprietorship, joint venture, or any other legal entity through which commercial activity is conducted.
10. **Change Order** - A written order signed by the responsible Procurement Officer, directing a Contractor to make changes which the changes clause of a contract authorizes the Procurement Officer to order with or without the consent of the Contractor.
11. **Code** - The Annotated Code of Maryland.
12. **COMAR** - Code of Maryland Regulations.
13. **Construction** - The process of building, adding, altering, converting, relocating, renovating, replacing, repairing, improving, demolishing or restoring of real property in which the State has an interest.
14. **Contract** - Any agreement entered into by a Jurisdiction for the acquisition of supplies, services, construction, or any other item, including:
  - (a) Awards and notices of award;
  - (b) Contracts of a fixed-price, cost-reimbursement, cost-plus-a-fixed-fee, fixed-price incentive, or cost-plus incentive fee type;
  - (c) Contract providing for the issuance of job or task orders;
  - (d) Leases;
  - (e) Letter contracts;
  - (f) Purchase orders;
  - (g) Supplemental agreements with respect to any of these;
  - (h) Orders; and
  - (i) Grants.

Contract does not include:

- (a) Collective bargaining agreements with employee organizations; or
  - (b) Medical, Medicare, Judicare, or similar reimbursement contracts for which eligibility and cost are set by law or regulation.
15. **Contract Affidavit** - An affidavit in compliance with, and in substantially the same form as set forth, in COMAR 21.05.08.07 and amendments thereto.
16. **Contract Drawing** - See "Plans"
17. **Contract Modification** - Any written alteration in the specifications, delivery point, date of delivery, contract period, price, quantity, or other provision of any existing contract, whether accomplished in accordance with a contract provision, or by mutual action of the parties to the Contract. It

includes Change Orders, Extra Work Orders, Supplemental Agreements, Contract amendments, reinstatements, or options/renewals.

18. **Contractor** - Any person (see definition for Person) having a contract with a Jurisdiction. Contractor does not include any employee claiming such status pursuant to any collective bargaining agreement.
19. **Day** - Calendar day unless otherwise designated.
20. **Department** - The Maryland Department of Transportation (MDOT).
21. **Engineer** - Any person designated by the Jurisdiction or the Procurement Officer, acting directly or through the duly authorized representative, such representative acting within the scope of the assigned duties or authority.
22. **Extension** - As applied to contracts for the performance of maintenance work or services, means a change in the scope of services to be performed by the Contractor by including in the Contract a requirement for the performance of phases of services not previously included.
23. **Extra Work Order** - Change Order.
24. **Firm** - Business
25. **Inspector** - The authorized representative of the procurement officer assigned to make detailed inspections of any or all portions of the work, or materials thereof.
26. **Invitation for Bids** - Any document, whether attached or incorporated by reference, used for soliciting bids under procurement by competitive sealed bidding and small procurement procedures including requests for quotations.
27. **Jurisdiction** - Any one of the above Administrations or Authorities within the Maryland Department of Transportation, as listed in Section 1.B.
28. **Maintenance** - Any work or services necessary for the continued operation or upkeep of a facility, structure, building, grounds, or building system, including built-in equipment or an in-ground system.
29. **Minority Business Enterprise** - Any legal entity, other than a joint venture, organized to engage in commercial transactions, which is at least 51 percent owned and controlled by one or more minority persons. A non-profit entity organized to promote the interests of the physically or mentally disabled and is "Certified" by the Department. Certified means that the Department, through established procedures, has determined that a legal entity is a minority business enterprise.

- 30. **Minority Person** - A member of a socially or economically disadvantaged minority group, including African American/Black (not of Hispanic origin), Hispanic American, Asian American, Native American, Alaska natives, Asians, Pacific Islanders, Women, and the Physically or Mentally Disabled.
- 31. **Notice to Proceed** - A written notice to the Contractor of the date on or before which the Contractor shall begin performing the work to be done under the Contract.
- 32. **Offeror** - A person or entity that responds to a Proposal and desires to enter into a contract with the Department.
- 33. **Payment Bond** - Security as stated in COMAR 21.06.07.01B as a guarantee that Contractor will pay in full all bills and accounts for materials and labor used in the work, as provided by law.
- 34. **Performance Bond** - Security as stated in COMAR 21.06.07.01B, guaranteeing complete performance of the Contract.
- 35. **Person** - Any individual or a corporation, partnership, sole proprietorship, joint stock company, joint venture, unincorporated association, union, committee, club or other organization or legal entity.
- 36. **Plans** - The official drawings issued by the Jurisdiction as part of the contract documents, including those incorporated in the contract documents by reference.
- 37. **Price Proposal** - A contractor written price derivation response, with required support documentation and affidavits, to a Department request for price from a Contractor technically selected for a specific Project. The Price Proposal shall be signed by the person(s) required to legally bind the Contractor to the proposal.
- 38. **Procurement Officer** - Any person authorized by a State agency in accordance with law or regulations to formulate, enter into, or administer contracts or make written determinations and findings with respect to them. The term also includes an authorized representative acting within the limits of authority.
- 39. **Proposal** - The response by an offeror to a solicitation of the Jurisdiction for a supply or service. The response may include, but not be limited to, an Offeror's price and terms for the proposed Contract, a description of the technical expertise, work experience and other information as requested in the solicitation.



- 40. **Public Improvement** - The construction, maintenance and repair of any building, structure or other public work now or hereafter constructed or acquired by the State or any the Department.
- 41. **Quotation** - Bid/Offer
- 42. **Request for Proposals** - Any document, whether attached or incorporated by reference, used for soliciting proposals under procurement by competitive sealed proposals, noncompetitive negotiations, multi-step and comparable small procurement procedures.
- 43. **Resident Business** - A business enterprise that has a Maryland address, is registered to do business in the State of Maryland, employs Maryland residents, and regularly conducts business within the State. The term includes subsidiaries, divisions and branches of a business enterprise headquartered outside of the State of Maryland.
- 44. **Responsible Bidder or Offeror** - A person who has the capability in all respects to perform fully the Contract requirements, and the integrity and reliability which will assure good faith performance.
- 45. **Secretary** - The Chief Executive Officer of the MDOT.
- 46. **Services** - The rendering of a person's time, effort or work, rather than the furnishing of a specific physical product other than reports incidental to the required performance of services. It includes, but is not limited to, professional, personal and/or contractual services provided by attorneys, architects, engineers, accountants, physicians, consultants, appraisers, land surveyors, and property management, where the service is associated with the provision of expertise and/or labor. "Services" does not include the work normally associated with the repair and/or maintenance of facilities, structures, or building systems defined as "maintenance."
- 47. **Specification** - A written description of functional characteristics, or the nature of an item to be procured. It may include a statement of any of the user's requirements and may provide for inspection, testing, or preparation of an item before procurement. Procedures to accomplish tasks may be included.
- 48. **Solicitation** - Invitation for bids, Request for Proposals, or any other method or instrument used to provide public notice and advertisement of a Jurisdiction's intent to procure supplies, services, and construction.
- 49. **State** - The State of Maryland acting through its authorized representative including any Jurisdiction as listed in Section 1.B.

50. **State Agency** - Any administration, agency, association, authority, board, bureau, college, commission, committee, council, foundations, fund, department, institute, institution, public corporation, service, trust, university, or other unit of the Executive Branch of the State Government and including any subunit within any of the foregoing.
51. **Subcontractor** - Any Person undertaking a part of the work under the terms of the Contract, by virtue of an agreement with the Contractor, who, prior to such undertaking, receives the approval of the surety and the Jurisdiction.
52. **Superintendent** - The executive representative of the Contractor authorized to receive and execute instructions from the Procurement Officer, and/or Inspector that shall supervise and direct the work.
53. **Supplemental Agreement** - Any contract modification which is accomplished by the mutual action of the parties.
54. **Supplemental Specification** - Additions and revisions to the Standard Specifications. Generally include five (5), new or improved procedures, construction items or materials developed subsequent to the publication of Standard Specifications.
55. **Work** - The furnishing of all labor, materials, equipment, and other incidentals necessary to the successful completion of the project and the carrying out of all the duties and obligations imposed by the Contract.
- D. Any reference to one gender shall be deemed to include the other gender, unless the Contract clearly requires otherwise.

#### **GC-1.02**      **Preparation of Bid/Proposal**

- A. Offeror shall submit its bid/proposal upon the forms furnished by the Jurisdiction; carefully following bid preparation instructions provided. A completed Bid/Proposal Affidavit is an essential part of the proposal submission. A completed Contract Affidavit will be required of the successful Offeror before issuance of notice to proceed.
- B. Offerors should give specific attention to the identification of those portions of their proposals, which they deem to be confidential, proprietary information or trade secrets, and provide any written justification of why such materials, upon request, should not be disclosed by the State, under the Maryland Public Information Act, Section 10-611 et seq. of the State Government Article of the Annotated Code of Maryland.

### **GC-1.03**      **Site Investigation**

The Contractor acknowledges that he has investigated and satisfied himself as to the conditions affecting the work, including but not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads and uncertainties of weather, river stages, tides or similar physical conditions at the site, the conformation and conditions of the ground, the character of equipment and facilities needed preliminary to and during prosecution of the work. The Contractor further acknowledges that he has satisfied himself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the State, as well as from information presented by the drawings and specifications made a part of this Contract. Any failure by the Contractor to acquaint himself with the available information may not relieve him from responsibility for estimating properly the difficulty or cost of successfully performing the work. The State assumes no responsibility for any conclusions or interpretations made by the Contractor on the basis of the information made available by the State.

### **GC-1.04**      **Bid, Performance and Payment Bonds**

A.      **Bid Bonds**

If required for a procurement in excess of \$100,000, a proposal shall not be considered unless accompanied by a guaranty in an amount not less than 5% of the amount bid, and made payable to the State of Maryland.

B.      **Performance Bonds**

A performance bond may be required for maintenance contracts in excess of \$100,000 in the amount equal to at least 100 percent of the Contract price. If required by the Special Provisions of the Contract, the Contractor shall deliver the performance bond to the State no later than the time the Contract is executed. If a Contractor fails to deliver the required performance bond, that Contractor's bid shall be rejected, its bid security shall be enforced, and the award of the Contract shall be made to the next lowest responsible and responsive offeror.

C.      **Payment Bonds**

A payment bond may be required for maintenance contracts in excess of \$100,000 in the amount equal to at least 100 percent of the Contract price. If required by the Special Provisions of the Contract, the Contractor shall deliver the payment bond to the State no later than the time the Contract is executed. If a Contractor fails to deliver the required payment bond, the Contractor's bid shall be rejected, its bid security shall be enforced, and award of the Contract shall be made to the next lowest responsible and responsive offeror.

D.      **Acceptable Security**

Acceptable security for bid, performance and payment bonds shall be as set forth in COMAR 21.06.07.01B.

**GC-1.05**      **Contingent Fee Prohibition**

- A. The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or bona fide agent, bona fide salesperson, or commercial selling agency working for the Contractor to solicit or secure this Contract, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide agent, bona fide salesperson or commercial selling agency, any fee or other consideration contingent on the making of this Contract.
- B. For breach or violation of this warranty, the Jurisdiction shall have the right to terminate this Contract without liability or, in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

**GC-1.06**      **Cost and Price Certification**

- A. The Contractor, by submitting cost or price information, certifies that, to the best of its knowledge, the information submitted is accurate, complete, and current as of a mutually determined specified date prior to the conclusion of any price discussions or negotiations for:
  - 1. A negotiated Contract, if the total Contract price is expected to exceed \$100,000, or a smaller amount set by the Procurement Officer; or,
  - 2. A change order or contract modification expected to exceed \$100,000, or a smaller amount set by the Procurement Officer.
- B. The price, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date agreed upon between the parties, was inaccurate, incomplete, or not current.

**GC-1.07**      **Contract Administration**

This Contract shall be administered on behalf of the Department or Jurisdiction as the case may be, by the Procurement Officer.

**GC-1.08**      **Authority of the Procurement Officer**

- A. The Procurement Officer shall decide all questions which may arise as to the quality and acceptability of work performed and as to the rate of progress of said work; all questions which may arise as to the interpretation of any or all plans and/or specifications; and all questions as to the acceptable fulfillment of the terms of the Contract on the part of the Contractor.

- B. The Procurement Officer shall determine the amount of work performed to be paid for under the Contract.
- C. The Procurement Officer shall have the authority to suspend the work wholly or in part due to the failure of the Contractor to carry out provisions of the Contract.
- D. The Procurement Officer may authorize progress payments for work satisfactorily completed, subject to such retainage, as the Procurement Officer deems appropriate.

**GC-1.09 Corporate Registration and Tax Payment Certification**

Corporations are required to execute a Certification of Corporation Registration and Tax Payment.

**GC-1.10 Compliance with Laws**

The Contractor hereby represents and warrants that:

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

**GC-1.11 Initiation of Work**

The Contractor shall not commence performance of the Work or Services until it receives a formal written Notice to Proceed from the Jurisdiction.

**GC-1.12 Notice to Proceed and Completion of the Work**

- A. After the Contract has been executed, the Jurisdiction will, within the time limit specified elsewhere in the Contract documents, issue to the Contractor a Notice to Proceed stipulating the date on or before which the Contractor shall begin Work. The specified Contract time shall begin on the first day that the Contract Work (other than the erection of the inspector's office, construction stakeout, and mobilization) actually starts or on the day stipulated in the Notice to Proceed,

whichever is earlier. Any preliminary work started, or materials ordered, before receipt of the Notice to Proceed, shall be at the Contractor's sole risk.

- B. The Contractor shall begin Work promptly within the time specified by the Procurement Officer and shall notify the Procurement Officer at least forty-eight (48) hours before starting Work. The Contractor shall submit a progress schedule, in writing, to the Procurement Officer within ten (10) days from the date of the Notice to Proceed. This schedule shall be updated and revised to reflect all changes affecting the job progress.
- C. After the Work has once been started; it shall be conducted continuously on all acceptable working days without stoppage until the entire Contract is complete. Should the progress of the Work for any reason be discontinued, the Contractor shall notify the Procurement Officer of its intention to stop and shall also notify the Procurement Officer at least twenty-four (24) hours in advance of resuming operations. The Contractor shall confirm said notification in writing.

#### **GC-1.13**      **Conformity with Contract Requirements**

- A. All Work performed and all materials furnished shall be in conformity with the Contract requirements. In the event the Procurement Officer finds the materials or the finished product in which the materials are used or the Work performed do not conform to the Contract requirements and have resulted in an inferior or unsatisfactory product, the Work or materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor.
- B. In the event the Procurement Officer finds the materials or the finished product in which the materials are used are not in conformity with the Contract requirements but that acceptable work has been produced, the Procurement Officer shall then make a determination if the work shall be accepted. In this event, the Procurement Officer will document the basis of acceptance by a change order, which may provide for an equitable adjustment in the Contract price. Any action taken pursuant to this paragraph may not result in an increase of the Contract price.
- C. When any article is specified in the Contract by proprietary name, trade name, and/or name of manufacturer with or without the addition of such expressions as "or equal" or "or approved equal," it is to be understood that the article named or the equal thereof is intended, subject to the approval of the Procurement Officer as to the quality thereof; and it is distinctly understood: (a) that the Procurement Officer is to exercise independent judgment in determining, from time to time, whether or not any article proposed to be substituted is the equal of any article so specified; (b) that the decision of the Procurement Officer on all such questions of equality shall be final; and (c) that, in the event of any adverse decision by the Procurement Officer, no claim of any sort shall be made or allowed against the Procurement Officer, or the Jurisdiction, because of such decision.

- D. The offer of an article by the Contractor for an article specified will raise the presumption that any such substitution it is for the purpose of saving money. If, in such a case, the article is approved, the Jurisdiction shall be given credit in the amount of the difference between the net cost to the Contractor of the article submitted and the price at which he could have obtained the lowest priced article specified. For convenience in checking the credit, if any, the Contractor shall submit these figures when the offer of substitution is made, and no article shall be considered without such figures.
- E. The word "article," wherever used in this Section 13, subsection entitled "Equal or Approved Equal," shall be taken to mean any article, material or thing.

#### **GC-1.14**      **Inspection of Work**

- A. All materials and each part or detail of the Work shall be subject at all times to inspection by the Procurement Officer, or other appropriate persons from the Jurisdiction. The Contractor shall be held strictly to the Contract including allowable tolerances, quality of materials and workmanship, and the diligent execution of the Contract. Such inspection may include mill, plant or shop inspection. Any material furnished under the Contract is subject to such inspection. The Procurement Officer, or other appropriate person from the Jurisdiction, shall be allowed access to all parts of the Work and shall be furnished with such information and assistance by the Contractor as is required to make a complete and detailed inspection.
- B. If the Procurement Officer so requests, the Contractor, at any time before the Jurisdiction's acceptance of the Work, shall remove or uncover such portions of the finished Work as may be directed. After inspection, the Contractor shall restore said portions of the Work to the standards required by the Contract. Should the Work thus exposed or inspected prove acceptable, adjustments in the Contract time and price will be made by Change Order for the uncovering or removing, and the replacing of the covering or making good of the parts removed. Should the Work so exposed or examined prove unacceptable, the uncovering, removing and/or replacing, shall be at the Contractor's sole expense.
- C. When the United States Government or any railroad, corporation or other agency is to pay a portion of the cost of the Work covered by this Contract, a representative of any such entity shall have the right to inspect the Work.

#### **GC-1.15**      **Removal of Defective Work**

- A. All Work and materials, which do not conform to the requirements of the Contract, shall be considered unacceptable, unless otherwise determined acceptable under the provisions in Section 13 herein.
- B. Any defective Work, whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause, found to exist, shall be

removed and replaced by Work and materials which shall conform to the specifications or shall be remedied otherwise in an acceptable manner authorized by the Procurement Officer. Upon any failure by the Contractor to comply promptly with any order of the Procurement Officer made under the provisions of this Section 15, the Procurement Officer shall have the authority to cause defective Work to be remedied or removed and replaced and unauthorized Work to be removed, and to deduct the costs attributable to such corrective notions from any monies due or to become due to Contractor under this Contract.

**GC-1.16**      **Discrepancies in Contract Documents**

In the event the Contractor discovers any discrepancies in the Contract documents, the Contractor shall immediately notify the Procurement Officer. The Procurement Officer will then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the Contract. In the event of a conflict between these General Conditions and any other provision of the Contract documents, these General Conditions shall prevail unless such other provision expressly provides to the contrary.

**GC-1.17**      **Cooperation by Contractor**

- A. The Contractor shall give the Work the constant attention necessary to facilitate the progress thereof, and shall cooperate with the Procurement Officer and the Jurisdiction's inspectors in every way possible.
- B. The Contractor shall assign to the Contract, as its agent, a competent superintendent capable of communicating in English, capable of reading and thoroughly understanding the Contract documents, and thoroughly experienced in the type of work being performed, who shall receive instructions from the Procurement Officer or an authorized Jurisdiction representative. The superintendent shall have full authority to execute the orders or directions of the Procurement Officer without delay, and to promptly supply such materials, equipment, tools, labor and incidentals as may be required. Such superintendent(s) shall be furnished irrespective of the amount of Work sublet.

**GC-1.18**      **Cooperation with Utilities**

- A. The Contractor has considered in its bid all of the permanent and temporary utility appurtenances in their present or relocated positions. No additional compensation shall be allowed for normal delays, inconvenience, or damage sustained by the Contractor due to any interference from the said utility appurtenances or the operation of moving them.
- B. The Contractor shall have sole responsibility for notifying all affected utility companies prior to the necessity of performing any work on their utilities and shall cooperate with them in achieving the desired results. All damage to utility facilities caused by Contractor's operations shall be the sole responsibility of the Contractor.



- C. In the event of interruption to utility service as a result of accidental breakage or as a result of being exposed or unsupported, the Contractor shall promptly notify the proper authority and shall cooperate with said authority in the restoration of service. No Work shall be undertaken around fire hydrants until the local fire authority has approved provisions for continued service.

**GC-1.19**      **Cooperation Between Contractors**

- A. Separate Contractors on adjoining or overlapping work shall cooperate with each other as necessary. Such cooperation shall include but is not limited to, (1) arrangement and conduct of Work, and (2) storage and disposal of materials, etc., by each in such a manner as to not unnecessarily interfere with or hinder the progress of the work being performed by other Contractors. Contiguous Work shall be joined in an acceptable manner.
- B. The Jurisdiction shall have the right, at any time, to contract for and perform other work on, near, over or under the Work covered by this Contract. In addition, other work may be performed under the direction of another Jurisdiction. The Contractor shall cooperate fully with such other contractors and carefully fit its own Work to such other work as may be directed by the Procurement Officer.
- C. In the event of dispute as to cooperation, the Procurement Officer shall act as referee and decisions made by the Procurement Officer will be binding. The Contractor shall make no claims against the Jurisdiction for any inconvenience, delay or loss experienced by the Contractor because of the presence and/or operations of other contractors.

**GC-1.20**      **Jurisdiction Furnished Material**

- A. The Contractor shall furnish all materials required to complete the Work, except those specified to be furnished by the Jurisdiction. Materials furnished by the Jurisdiction will be delivered or made available to the Contractor at the point or points specified in the Special Provisions. All costs of handling and placing all materials, after delivery to the Contractor, are included in the Contract price for the item in connection with which they are used.
- B. The Contractor is responsible for all delivered material. Deductions shall be made from any monies due him to make good any shortages and deficiencies, and for any damage which may occur after such delivery from any cause whatsoever, and for any demurrage charges.
- C. In cases where materials are supplied by the Jurisdiction and incorporated in the Contract Work by the Contractor, materials inspection and acceptance will not be a prerequisite for acceptance of the final product as the product pertains to these items.

## **GC-1.21**      **Indemnification and Insurance**

### **A.**      **Responsibility for Claims and Liability**

1.      The Contractor(s) shall protect, defend, indemnify, save harmless, release and discharge the Department and the Jurisdiction, their Officers, agents, and employees from and against all claims, suits, judgments, expenses, actions, damages, and costs of every name and description arising out of or resulting from errors, omissions, negligent acts, negligent performance or nonperformance of any rights or obligations of the Contractor or those of its subcontractors, agents or employees under this Contract, or arising from or based on the violation of applicable federal, State or local law, ordinance, regulations, order or decree, whether by itself or its employees or subcontractors.
2.      Further, the Contractor shall pay any claims for personal injury, bodily injury or property damage which the Contractor is legally obligated to pay and shall indemnify the Department and the Jurisdiction, their officers, agents and employees from any third party claim seeking such damages. The provisions of this Paragraph shall survive termination or expiration of this Contract with respect to any liability arising prior to such termination or expiration.

### **B.**      **Insurance Requirements**

The Contractor or its subcontractor shall carry and maintain in full force and effect for the duration of this Contract, and any supplement or extension thereto, the insurance coverage sufficient to protect the Department, the Jurisdiction, and the State, and their officers, agents, employees, invitees, successors and assigns, from claims which may arise out of or as a result of the Contractor's or subcontractor's activities under this Contract. The Contractor or its subcontractor shall obtain and maintain at least the minimum levels of insurance specified, and any other coverage specified by the Department or Jurisdiction, in the amounts specified elsewhere in the Contract documents. The Contractor or its subcontractor shall submit to the Department or Jurisdiction a certificate of insurance indicating the existence of coverage required by this provision. An insurance company authorized to do business in the State of Maryland and approved by the Department or Jurisdiction shall issue policies.

1.      **Comprehensive General Liability Insurance**  
Occurrence form of comprehensive General Liability Insurance with Comprehensive Broad Form endorsement including, but not limited to, coverage for damage to persons or property arising out of or relating to the performance of work under this Contract by the Contractor, its subcontractors, employees and agents.

2. Professional Liability Insurance  
Professional Liability Insurance Policy which covers the Indemnification Clause of this Contract (Paragraph 21.A above) as it relates to errors, omissions, negligent acts or negligent performance in the Work performed under this Contract by the Contractor, its subcontractors, employees and agents.
3. Worker's Compensation Insurance  
Workers' compensation as required by the laws of the State of Maryland, including Employer's Liability Coverage and coverage for the benefits set forth under the U.S. Longshoremen and Harbor Workers Compensation Act, the Jones Act, and other federal laws where applicable.
4. Comprehensive Automobile Liability Insurance  
Comprehensive Business Automobile Liability covering use of any motor vehicle to be used in conjunction with this Contract, including hire automobiles and non-owned automobiles. Loading and unloading of any motor vehicle shall be covered by endorsement to the automobile liability policy or policies.

- C. Prior to the start of Work on any contract, the Contractor shall submit to the Procurement Officer Certificate(s) of Insurance demonstrating that the Contractor carries insurance against the risks and in the amounts specified elsewhere in the Contract. If at any time during the term of the Contract any of the above required insurance policies are canceled, terminated or modified so that the insurance is not in full force and effect as required herein, the Department or Jurisdiction may terminate this Contract for default, or, at its sole option, the Department or Jurisdiction may obtain insurance coverage equal to that required herein, the full cost of which shall be charged to and paid for by the Contractor.

#### **GC-1.22 Responsibility for Damage Claims**

- A. The Contractor shall protect, defend, indemnify, save harmless, release and discharge the State and all of its representatives from all suits, actions, or claims of any character brought on account of any injuries or damages sustained by any person or property in consequence of any neglect in safeguarding the Work or through the use of unacceptable materials in the construction of the improvement, or on account of any act or omission by the said Contractor, or as a result of faulty, inadequate or improper temporary drainage during construction, or on account of the use, misuse, storage or handling of explosives, or on account of any claims or amounts recovered for any infringement of patent, trademark, or copyright, or from any claims or amounts arising or recovered under the Workers' Compensation Laws, or any other law, bylaw, ordinance, order or decree or any claims, suits, judgments, expenses, actions, damages and costs arising from or based on the violation of any federal, State or local law, ordinance, regulation, order or decree, whether by himself or its employees or subcontractors. The Contractor shall be responsible for all damage or

injury to property of any character during the prosecution of the Work resulting from any act, omission, neglect or misconduct, in the manner or method of executing said work satisfactorily or due to the non-execution of said Work or at any time due to defective work or materials and said responsibility shall continue until the improvement shall have been completed and accepted.

- B. The Contractor shall not be held responsible for any claims arising from accidents incurred because of any traffic and/or general use permitted during the time the project or any section thereof is open to traffic except from accidents which are attributable to the Contractor's negligence.

#### **GC-1.23**      **Assignment**

The Contractor shall not assign this Contract in whole or in part, or any monies due or to become due under this Contract without the prior written consent of the Jurisdiction. Any attempted assignment without such consent is void ab initio. In the event that the Contractor assigns all or any part of the monies due or to become due under this Contract, the instrument of assignment shall contain a clause providing that the right of the assignee in and to any monies due or to become due to the Contractor shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the Work called for in this Contract.

#### **GC-1.24**      **General Guaranty**

Neither the final acceptance of the Work nor payment therefor nor any provision in the Contract documents nor partial or entire use of the Work by the Jurisdiction shall constitute an acceptance of work which is not performed in accordance with the Contract documents or relieve the Contractor of liability for any express warranties or responsibility for faulty materials or workmanship. The Contractor shall remedy any defects in the Work, and pay for any damage to other Work resulting from defects in the Work which shall appear within a period of one (1) year from the date of final acceptance of Work, unless a longer period is specified. The Jurisdiction shall give notice of observed defects with reasonable promptness.

#### **GC-1.25**      **Final Acceptance and Payment**

Upon completion of all the Work under this Contract, the Procurement Officer shall make a final inspection of the entire Work and direct the Contractor to take any corrective action to properly complete the Work. Once the Procurement Officer is satisfied that the Work is properly completed, the Procurement Officer shall certify to the Jurisdiction, in writing, the final acceptance of the entire project. The Jurisdiction, upon receipt and approval of said certificate, shall pay, or cause to be paid, to the Contractor, the whole amount of money then due the Contractor under the terms of the Contract.

#### **GC-1.26**      **Personal Liability of Public Officials**

In carrying out any of the provisions of the Contract, or in exercising any power or authority granted to them by or within the scope of the Contract, there shall be no liability upon the

Jurisdiction, Procurement Officer or other authorized representatives, either personally or as officials of the State. It is understood that in all such matters they act solely as authorized agents and representatives of the State.

#### **GC-1.27**      **Approval Authority**

This Contract is subject to any Change Order, Contract Modification, or amendment thereto, and is subject to the approval requirements established by the Secretary of the Department of Transportation and the Board of Public Works of Maryland. The Contract shall be considered to bind the parties hereto in accordance with the Constitution and Laws of the State of Maryland.

#### **GC-1.28**      **Remedies and Termination**

##### **A.      Termination for Default**

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

##### **B.      Termination for Convenience of the State**

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

#### **GC-1.29**      **Delays and Extensions of Time**

The Contractor agrees to prosecute the Work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances, from any cause whatsoever, during the progress of any portion of the Work specified in this Contract. Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and

without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

**GC-1.30**      **Differing Site Conditions**

- A. The Contractor shall, within ten (10) days of discovering any of the following conditions, and before such conditions are disturbed, notify the Procurement Officer in writing of: (1) subsurface or latent physical conditions at the site differing materially from those indicated in this Contract; (2) unknown physical conditions at the site of an unusual nature, differing materially from those indicated in this Contract; or (3) unknown physical conditions at the site of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract. Upon receipt of such written notice, the Procurement Officer shall promptly investigate the conditions, and if he finds that such conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the Contract modified in writing accordingly.
- B. No claim of the Contractor under this clause shall be allowed unless the Contractor has given the notice required in A. above; provided, however, the time prescribed therefore may be extended by the State.
- C. No claims by the Contractor for an equitable adjustment hereunder, shall be allowed if asserted after final payment under this Contract.

**GC-1.31**      **Changes**

- A. The Procurement Officer unilaterally may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a Change Order, make any change in the Work within the general scope of the Contract, including but not limited to changes:
  - 1. In the Specifications (including drawings and designs);
  - 2. In the method or manner of performance of the Work;
  - 3. In the State-furnished facilities, equipment, materials, Services, or site; or
  - 4. In any acceleration in the performance of the Work.

- B. Any other written order or an oral order including a direction, instruction, interpretation or determination from the Procurement Officer that causes any such change, shall be treated as a Change Order under this clause, provided that the Contractor gives the Procurement Officer written notice stating the date, circumstances, and source of the order and that the Contractor regards the order as a Change Order.
- C. Except as herein provided, no order, statement, or conduct of the Procurement Officer shall be treated as a Change Order under this clause or entitle the Contractor to an equitable adjustment hereunder.
- D. Subject to subparagraph **F.** herein, if any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the Work under this Contract, whether or not changed by any order, an equitable adjustment shall be made and the Contract modified in writing accordingly: provided, however, that except for claims based on defective Specifications, no claim for any change under **B.** above shall be allowed for any costs incurred more than twenty (20) days before the Contractor gives written notice as therein required; and provided further, that in the case of defective specifications for which the State is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with such defective Specifications.
- E. If the Contractor intends to assert a claim for an equitable adjustment under this clause, the Contractor shall, within thirty (30) days after receipt of a written Change Order under **A.** above or the furnishing of written notice under **B.** above, submit to the Procurement Officer a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the State. The statement of claim hereunder may be included in the notice under **B.** above.
- F. Each Contract modification or Change Order that affects Contract price shall be subject to the prior written approval of the Procurement Officer and other appropriate authorities and to prior certification of the modification or Change Order on the project budget or the total construction cost. If, according to the certification of the fiscal authority, the Contract Modification or Change Order will cause an increase in cost that will exceed budgeted and available funds, the modification or Change Order may not be made unless sufficient additional funds are made available or the scope of the project is adjusted to permit its completion within the project budget.
- G. No claims by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this Contract.

**GC-1.32**      **Negotiated Payment Provision**

- A. If the Contractor is entitled to an equitable adjustment, the Contractor shall be allowed to add the following maximum percentages for overhead and profit to its costs for labor, materials and equipment:
1. The Contractor for overhead and profit may add 20% for work performed by its forces.
  2. 15% may be added only by the first-tier subcontractor for overhead and profit for work performed by the first-tier subcontractor; the Contractor may add an additional 5% of the first-tier subcontractor's costs for labor, material and equipment.
- B. The provisions of Section 32, **1.** and **2.**, apply only to price adjustments negotiated prior to completion of the added or changed Work and do not apply to work performed on a force account basis as provided for in Paragraph 34.

**GC-1.33**      **Suspension of Work**

- A. The Procurement Officer unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as the Procurement Officer may determine to be appropriate for the convenience of the Jurisdiction.
- B. If the performance of all or any part of the Work is for an unreasonable period of time, suspended, delayed, or interrupted by an act of the Procurement Officer in the administration of this Contract or by his/her failure to act within the time specified in this Contract (or if no time is specified, within a reasonable time) an adjustment shall be made for any increase in the cost of performance of this Contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. No adjustment shall be made under this clause for any suspension, delay, or interruption to the extent: (1) that performance would have been so suspended, delayed, or interrupted by any other cause including the fault or negligence of the Contractor or (2) for which any equitable adjustment is provided for or excluded under any other provision of this Contract.
- C. No claim under this clause shall be allowed (1) for any costs incurred more than twenty (20) days before the Contractor shall have notified the Procurement Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but no later than the date of final payment under the Contract.



#### **GC-1.34**      **Force Account Work**

When the Contractor is required to perform Work as a result of additions or changes to the Contract for which there are no applicable unit prices in the contract, the Jurisdiction and Contractor shall make every effort to come to an agreed upon price for the performance of such work. If an agreement cannot be reached, the Jurisdiction may require the Contractor to do such work on a force account basis to be compensated in accordance with the following:

- A.    Labor  
For all labor and for foremen in direct charge of the specific operations, the Contractor shall receive the actual wages for each and every hour that said labor and foremen are actually engaged in such work.
  
- B.    Materials  
For materials accepted by the Procurement Officer and used, the Contractor shall receive the actual cost of such materials delivered to the work site, including transportation charges paid by the Contractor (exclusive of machinery rentals as hereinafter set forth).
  
- C.    Equipment  
For any machinery or special equipment (other than small tools, whether rented or owned), the use of which has been authorized by the Procurement Officer, the Contractor shall receive the rates agreed upon in writing before such work is begun, or the Contractor shall receive those rates which may be specified elsewhere in the Special Provisions. For the purpose of definition, equipment with a new cost of \$100 or less will be considered small tools.
  
- D.    Materials and Supplies Not Incorporated in the Work  
For materials and supplies expended in the performance of the Work (excluding those required for rented equipment) and approved by the Procurement Officer, Contractor shall receive the actual cost of such materials and supplies used. Contractor shall receive a reasonable allowance for materials used but not expended in the performance of the Work.
  
- E.    Subcontractors  
The Contractor shall receive the actual cost of Work performed by a subcontractor. Subcontractor's cost is to be determined as in **A., B., C. and D.** above, plus the fixed fee for overhead and profit allowance computed as in **G.**
  
- F.    Superintendence  
No additional allowance shall be made for general superintendence, the use of small tools, or other costs for which no specific allowance is herein provided.

G. Contractor's Fixed Fee

The Procurement Officer and the Contractor shall negotiate a fixed fee for force account work performed pursuant to this Paragraph 34 by the Contractor and any subcontractor(s), as compensation for overhead and profit for the Work performed. Failure of the Contractor and the Procurement Officer to negotiate a fixed fee consistent with applicable cost principles in COMAR 21.09.01, shall be treated as a dispute pursuant to Paragraph 52 herein and in the event of such dispute, the Contractor shall proceed diligently with the performance of the force account work to completion. The Contractor's fixed fee shall include an amount equal to the sum of 65%, of **A.**, which shall include, but not be limited to, the following:

1. Compensation for all costs paid to, or on behalf of, workers by reason of subsistence and travel allowances, health and welfare benefits, pension fund benefits or other benefits that may be required by collective bargaining agreement or other employment contracts generally applicable to the classes of labor employed in the Work.
2. Bond premiums, property damage, liability and worker's compensation insurance premiums, unemployment insurance contributions and Social Security taxes on the force account work. The Contractor's fixed fee may also include an amount not to exceed 20% of **B.** and 5% of **D.** and **E.** as defined above.

H. Compensation

The compensation as set forth above shall be received by the Contractor as payment in full for Change Order work done on a force account basis. At the end of each day, the Contractor's representative and the Procurement Officer shall compare records of the cost of work ordered on a force account basis.

I. Statements

No payment shall be made for work performed on a force account basis until the Contractor furnishes the Procurement Officer duplicate itemized statements of the cost of such force account work detailed as to the following:

1. Name, classification, date, daily hours, total hours, rate, and an extension for each laborer or foreman.
2. Designation, dates, daily hours, total hours, rental rate, and extension for each unit of machinery and equipment.
3. Quantities of materials, prices and extensions.
4. Transportation of materials.
5. Payments of items under **I.1.** shall be accomplished by copies of certified payrolls. Under **I.2.**, original receipted invoices for rentals must be provided if requested by the Procurement Officer. **I.3.** and **4.** shall be accompanied by original receipted invoices for materials used and transportation charges. If, however, the materials used in the force account work were not specifically

purchased for such work but were taken from the Contractor's stock, then in lieu of the original invoices the statements shall contain or be accompanied by an affidavit of the Contractor which shall certify that such materials were taken from its stock, that the quantity claimed was actually used and that the price and transportation of the material as claimed represent actual cost. Any request for payment shall be submitted in the order outlined above.

**GC-1.35**      **Variations in Estimated Quantities**

Where the quantity of a pay item in this Contract is an estimated quantity and where the actual quantity of such pay item varies more than 25% above or below the estimated quantity stated in this Contract, an equitable adjustment in the Contract price shall be made upon demand of either party. The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above 125% or below 75% of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the Procurement Officer shall, upon receipt of a written request for an extension of time within ten (10) days from the beginning of the delay, or within a further period of time which may be granted by the Procurement Officer before the date of final settlement of the Contract, ascertain the facts and make the adjustment for extending the completion date as in its judgment of the findings justified.

**GC-1.36**      **Sanctions upon Improper Acts**

- A. In the event the Contractor, or any of its officers, partners, principals or employees, is convicted of a crime arising out of, or in connection with, the procurement of work to be done or payment to be made under this Contract, the Contract may, in the discretion of the Department, be terminated for default under Paragraph 28A herein. The following sections of the Annotated Code of Maryland and COMAR are incorporated herein by reference:
- B. Section 16-203 of State Finance and Procurement Article of the Annotated Code of Maryland, and COMAR 21.08, which relate to contracts with persons convicted of bribery, attempted bribery or conspiracy to bribe.
- C. Section 11-205 of State Finance and Procurement Article of the Annotated Code of Maryland and COMAR 21.08.03 relating to collusion for purposes of defrauding the State.
- D. Subtitle 08 of Title 21 of COMAR, "Disqualification, Suspension, Debarment, Reinstatement and Sanctions".

**GC-1.37**      **Non-Hiring of Employees**

No employee of the State of Maryland or any unit thereof, whose duties as such employee include matters relating to or affecting the subject matter of this Contract, shall, while so employed, become or be an employee of the party or parties hereby contracting with the State of Maryland or any unit thereof.

**GC-1.38**      **Conflict of Interest Law**

It is unlawful for any State officer, employee or agent to participate personally in an official capacity through decision, approval, disapproval, recommendation, advice or investigation in any contract or other matter in which he/she, his/her spouse, parent, minor child, brother or sister, has a financial interest or to which any firm, corporation, association or other organization in which he has a financial interest or in which he/she is serving as an officer, director, trustee, partner, or employee is a party, or to which any person or organization with whom he/she is negotiating or has any arrangement concerning prospective employment, is a party, unless such officer, employee or agent has previously complied with the provisions of Article 40A, Subsection 3-101 et seq. of the Annotated Code of Maryland.

**GC-1.39**      **Registration**

Pursuant to Subsection 7-201 et seq. of the Corporations and Associations Article of the Annotated Code of Maryland, corporations not incorporated in the State shall be registered with the State Department of Assessments and Taxation, 301 W. Preston Street, Baltimore, Maryland 21201, before doing any inter-state or foreign business in this State. Before doing any intra-state business in this State, a foreign corporation shall qualify with the Department of Assessments and Taxation.

**GC-1.40**      **Taxes - Responsibility for Payment, Exemption, Forms to be Filed, etc.**

- A. The Contractor is responsible for, and by submitting a bid, agrees to pay all retail sales, income, real estate, sales and use, transportation and special taxes applicable to and assessable against any materials, equipment, processes and operations incident to or involved in the work. Contractor is responsible for ascertaining and acquainting himself with such taxes and making all necessary arrangements to pay it.
- B. The Jurisdiction hereby reserves the right to withhold final payment under this Contract until the Contractor and any subcontractor performing any duties under this Contract have furnished or caused to be furnished to the Comptroller of the State of Maryland all properly completed forms required by the said Comptroller and until all of said retail sales and/or use taxes due the State of Maryland by the Contractor have been paid and the Contractor exhibits a release or receipt from the Comptroller evidencing such payment.

**GC-1.41**      **Tax Exemption**

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

#### **GC-1.42**      **Specifications**

All materials, equipment, supplies of services shall conform to federal and State laws and regulations and to the Specifications contained in the solicitation.

#### **GC-1.43**      **Delivery**

Delivery shall be made in accordance with the Contract Specifications. The State reserves the right to test any materials, equipment, supplies or services delivered to determine if the Specifications have been met. Any material that is defective or fails to meet the terms of the Specifications shall be rejected. Rejected materials shall be promptly replaced by the Contractor or, in the Jurisdiction's sole discretion, by the Jurisdiction at the Contractor's sole cost. In the event the Contractor does not replace rejected materials, the State reserves the right to purchase replacement materials in the open market. Contractors failing to promptly replace materials lawfully rejected shall be liable for any excess price paid by the Jurisdiction for the replacement plus applicable expenses, if any.

#### **GC-1.44**      **Patent, Trade Mark and Copyright Infringements**

Contractor shall indemnify, protect, defend and save harmless the State, its officers, agents and employees with respect to any claim, action, cost or judgment for patent, trademark and copyright infringements, arising out of purchase or use of materials, supplies, equipment or services covered by this Contract. This clause shall control over any other clause herein, which may conflict with it.

#### **GC-1.45**      **Occupational Safety and Health Act (OSHA)**

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

#### **GC-1.46**      **Minority Business Enterprise and Affirmative Action**

- A. This Contract is subject to Executive Order 01.01.1970.15, December 9, 1970; amended by Order 01.01.1976.05, July 9, 1976 (Code of Fair Practices), and COMAR 21.11.04 Contractor's Affirmative Action Plan Review/Approval and Compliance Monitoring Process -- DOT. This Contract is also subject to the applicable provisions of Title 14, Subtitle 3 of State Finance and Procurement Article of the Annotated Code of Maryland; COMAR 21.11.03 Minority Business Enterprise Policies; and COMAR 11.01.10 which incorporates by reference the current revision of the Minority Business Enterprise (MBE) Program. Copies of the MBE Program may be obtained from the Department of Transportation Fair Practices Officer, P.O. Box 8755, BWI Airport, Maryland 21240. This Contract is also subject to all applicable federal and State laws and regulations pertaining to MBE and Affirmative Action.

- B. To the extent any of the above laws or regulations are applicable to this Contract, they are specifically incorporated herein.
- C. Third Tier Contracting
  - 1. Two (2) conditions must be met before an Administration may approve a third tier contracting arrangement, which may be entered into to meet a MBE goal.
    - a. The Administration awarding this contract must be satisfied that there is no way except by third tier contracting that a MBE goal can be achieved.
    - b. The Contractor must request of the Administration, in writing, prior to the award of this contract, that approval be granted for each third tier contract arrangement. The request must contain specifics as to why a third tier contracting arrangement should be approved.
  - 2. An Administration approving a third tier contract should do so, in writing, setting forth the parameters of this contract. All records of this contract shall be maintained by the Administration granting approval.
  - 3. Third tier contracting to meet a MBE goal is to be considered the exception and not the rule.

**GC-1.47**      **Small Business Procurement**

If this solicitation indicates that this procurement has been designated for a small business preference, the provisions of COMAR 21.11.01.02 pertaining to small business preferences shall apply and are incorporated herein by reference.

**GC-1.48**      **Non-Discrimination in Employment**

A. Compliance with State Law and Regulations

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

B. Compliance with Federal Law

1. Contractors providing materials, equipment, supplies, or services to the State under this Contract herewith assure the State that they are conforming to the provision of the Civil Rights Act of 1964, and Section 202 of Executive Order 11246 of the President of the United States of America as amended by Executive Order 11375, as applicable.
2. The Contractor shall comply with all applicable federal laws pertaining to non-discrimination in employment.

C. Sanctions for Non-Compliance

In the event of the Contractor's non-compliance with the non-discrimination provisions of this Contract, the Department shall impose such sanctions as it may determine to be appropriate, including but not limited to:

1. Withholding of payment to the Contractor under the Contract until the Contractor complies, and/or
2. Cancellation, termination or suspension of the Contract in whole or in part.

**GC-1.49 Multi-Year Contracts Contingent Upon Appropriations**

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

**GC-1.50 "Buy American Steel" Act**

The provisions of COMAR 21.11.02 pertaining to implementation of the "Buy American Steel" Act (State Finance and Procurement Article, Title 17, Subtitle 3 of the Annotated Code of Maryland) are incorporated in this Contract by reference.

**GC-1.51 Prevailing Wage Contracts for Public Work**

The provisions of State Finance and Procurement Article, Title 17, Subtitle 2 of the Annotated Code of Maryland and COMAR 21.11.11 are incorporated in maintenance contracts of \$500,000 or more, by reference.

#### **GC-1.52**      **Disputes**

This Contract shall be subject to the provisions of State Finance and Procurement Article, Title 15, Subtitle 2 (Dispute Resolution) of the Annotated Code of Maryland and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision. Unless a lesser period is provided by applicable statute, regulation, or this 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) day of the filing of a notice of claim, but no later than the date of final payment under this Contract, the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

#### **GC-1.53**      **Liquidated Damages**

Time is an essential element of the Contract and it is important that the Work be vigorously prosecuted until completion. For each day that any Work shall remain uncompleted beyond the time(s) specified elsewhere in the Contract, the Contractor shall be liable for liquidated damages in the amount(s) provided for in the solicitation; provided however, that due account shall be taken of any adjustment of specified completion time(s) for completion of Work as granted by approved change orders such liquidated damages are not intended as a penalty but rather as compensation determined in advance for Contractor's failure to fully perform under this Contract.

#### **GC-1.54**      **Contractor's Invoices**

Contractor agrees to include its federal Tax Identification or Social Security Number on the face of all invoices billed to the State.

#### **GC-1.55**      **Financial Disclosure**

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

#### **GC-1.56**      **Political Contribution Disclosure**

The Contractor shall comply with the provisions of Article 33, 14-101 through 14-104 of the Annotated Code of Maryland, which require that every person that enters into contracts, leases, or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$100,000 or more, shall file with the State Administrative Board of Election Laws a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general



election. The statement shall be filed with the State Administrative Board of Election Laws: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5 to cover the 6-month period ending July 31.

**GC-1.57**      **Incorporation by Reference**

All terms and conditions set forth in the solicitation, any amendments thereto and Contractor's Bid/Proposal are made a part of this Contract.

**GC-1.58**      **Maryland Law Prevails**

The parties hereby agree that:

- A. This Contract was made and entered into in Maryland, and under the laws of Maryland.
- B. The Law of Maryland shall govern the resolution of any issue arising in connection with this Contract, including, but not limited to, all questions concerning the validity of this Contract the capacity of the parties to enter therein, any modification or amendment thereto, and the rights and obligations of the parties hereunder.

**GC-1.59**      **Bid Award - Resident Business**

- A. When awarding a contract by competitive bidding, the Department or Jurisdiction may give a preference to the lowest responsive and responsible bid/offer from a Maryland firm over that of a non-resident firm if the State in which the non-resident firm is located gives a resident business preference.
- B. The preference given under this Paragraph shall be identical to the preference given to its residents by the state in which the non-resident firm is located.
- C. This provision shall not apply if it conflicts with any federal grant or regulation affecting this Contract.

**GC-1.60**      **Payment of State Obligations**

- A. Electronic funds transfer will be used by the State to pay Contractor for this Contract and any other State payments due Contractor unless State Comptroller's Office grants Contractor and exemption.
- B. Payments to the Contractor pursuant to this Contract shall be made no later than thirty (30) days after the State's receipt of a proper invoice from the Contractor. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1,

of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable, are prohibited.

- C. A proper invoice shall include a description of the items or services provided; the date the goods were received or the inclusive dates the services were rendered; the Contract price(s); retention, if any; the basis for the billing; the Contract or purchase order number; the Contractor's federal Tax Identification Number or Social Security Number; the name and address of the proper invoice recipient.
- D. In order to receive payment of interest, the Contractor must submit a proper invoice for accrued interest within thirty (30) calendar days after the payment date of the amount on which the interest is claimed to have accrued. Interest may not be claimed for more than one (1) year following the 31st calendar day after the date that a proper invoice was received, or on amounts representing unpaid interest, or if a claim has been filed under State Finance and Procurement Article, Title 15, Subtitle 2 of the Annotated Code of Maryland.
- E. For the purposes of this Contract, an amount shall not be deemed due and payable if any of the following apply:
  - 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 under the Contract is in dispute or Contractor has failed to otherwise comply with the provisions of the Contract.
  - 4. The item or services have not been accepted.
  - 5. The quantity of items delivered is less than the quantity ordered.
  - 6. The items or services do not meet the quality requirements of the Contract.
  - 7. If the Contract provides for progress payments, the proper invoice for the progress payment has not been submitted pursuant to the schedule contained in the Contract.
  - 8. If the Contract provides for withholding a retainage and the invoice is for the retainage, all stipulated conditions for release of the retainage have not been met.
  - 9. The 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.

#### **GC-1.61**      **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 Title 21) in effect on the date of execution of this Contract are applicable to this Contract.

#### **GC-1.62**      **Retention of Records**

The Contractor shall retain and maintain all records and documents relating to this Contract for three (3) years after final payment by the State hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or authorized designee, at all reasonable times.

#### **GC-1.63**      **General Conditions Controlling**

In the event of a conflict between these General Conditions and any other provision of the Contract documents, these General Conditions shall prevail unless such other provision expressly provides to the contrary.

#### **GC-1.64**      **Dissemination of Information**

During the term of this Contract, the Contractor shall not release any information related to the services or performances of the services under this Contract nor publish any final reports or documents.

#### **GC-1.65**      **Insolvency**

In the event Contractor files a voluntary petition in the Bankruptcy Courts of the United States, Contractor shall notify the Department or Jurisdiction in writing of its intent to file. This notice must be received by not less than ten (10) days prior to such filing. Failure to provide such notice shall be a material breach of the Contract, and in this event, this Contract shall, as a result of such breach, terminate automatically and cease to be of any further force or effect as of the ninth (9th) day prior to such filing. In the event Contractor becomes the subject of any involuntary petition filed in the Bankruptcy Courts of the United States, Contractor shall notify the Department or Jurisdiction of such filing no later than ten (10) days after the petition was filed. Failure to provide such notice shall be a material breach of the Contract, and in that event, this Contract shall, as a result of such breach, terminate automatically and cease to be of any further force and effect as of the eleventh (11th) day after such filing.