

Invitation for Bids
Process Server

PROJECT NO. F10B3400002



DEPARTMENT OF
BUDGET AND MANAGEMENT

Issue Date: November 9, 2012

NOTICE:

Prospective Bidders who have received this document from the Department of Budget & Management's website or eMaryland Marketplace (<https://emaryland.buyspeed.com>), or who have received this document from a source other than the Procurement Officer, and who wish to assure receipt of any changes or additional materials related to this IFB, should immediately contact the Procurement Officer and provide their name and mailing address so that amendments to the IFB or other communications can be sent to them.

Minority Business Enterprises are encouraged to respond to this solicitation.

VENDOR COMMENTS

To help us improve the quality of State solicitations and make our procurement process more responsive and business-friendly, we ask that you take a few minutes to complete this form. Please email alockett@dbm.state.md.us, or fax (410-974-3274) this completed form to the attention of Ms. Andrea R. Lockett. Thank you for your assistance.

Bid/Proposal Number: F10B3400002 Entitled: Process Server

I. If you are not bidding, please indicate why:

- Other commitments preclude our participation at this time.
- The subject of the contract is not in our business line.
- We lack experience in the work/commodities required.
- The scope of work is beyond our current capacity.
- We cannot be competitive. (Please explain below.)
- The specifications are either unclear or too restrictive. (Please explain below.)
- Bid/proposal requirements, other than specifications, are unreasonable or too risky. (Please explain below.)
- Time for completion is insufficient.
- Bonding/insurance requirements are prohibitive. (Please explain below.)
- Doing business with government is simply too complicated.
- Prior experience with State of Maryland contracts was unprofitable or otherwise unsatisfactory. (Please explain below.)
- Other: _____

II. Please explain your response further, offer suggestions, or express concerns. (Use the back for additional information.)

Remarks: _____

OPTIONAL:

Vendor Name: _____ Date: _____

Contact: _____ Phone: _____

Address or email: _____

THANK YOU!!!

KEY INFORMATION SUMMARY SHEET

STATE OF MARYLAND Invitation For Bids

PROCESS SERVER

PROJECT NUMBER F10B3400002

IFB Issue Date: November 9, 2012

IFB Issuing Office: Department of Budget and Management
Central Collection Unit (CCU)

Procurement Officer: Andrea R. Lockett
Phone: (410) 260-7374
Fax: (410) 974-3274
e-mail: alockett@dbm.state.md.us

Bids are to be sent to: Department of Budget and Management
Division of Procurement Policy & Administration
45 Calvert Street, Room 145
Annapolis, MD 21401
Attention: Andrea R. Lockett

Pre-Bid Conference: **Wednesday, November 19, 2012, 10:00 AM – 12:00 P.M. (Local Time)**
Maryland Department of Transportation Headquarters
7201 Corporate Center Drive
TSO Conference Room - Testing & Training Front
Hanover, MD 21076
For directions see Attachment E

Closing Date and Time: Monday, December 3, 2012 at 2:00 PM (Local Time)

NOTE

Prospective Bidders who have received this document from the Department of Budget and Management's website or eMaryland Marketplace (<https://emaryland.buyspeed.com>), or who have received this document from a source other than the Procurement Officer, and who wish to assure receipt of any changes or additional materials related to this IFB, should immediately contact the Procurement Officer and provide their company name, contact name, email address, mailing address, and telephone number so that amendments to the IFB or other communications can be sent directly to them via email. Contact the Procurement Officer to obtain an electronic file of the IFB in Microsoft Word.

Minority Business Enterprises are encouraged to respond to this solicitation.

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SECTION 1 - GENERAL INFORMATION

1.1 Summary Statement

1.1.1 The Department of Budget and Management (DBM), Central Collection Unit (CCU) is issuing this Invitation for Bids to procure a contractor to serve as a process server to perfect service of process Statewide for the DBM/CCU pre and post judgment litigation. Specifically, the State's requirement is for the services of a Contractor to:

- a) Serve process on parties in CCU's litigation and certain others; and
- b) Prepare and file affidavits, all in accordance with the Maryland Rules and this IFB. See Attachment I – Maryland Rules.

1.1.2 DBM intends to make a single contract award as a result of this IFB.

1.2 Abbreviations and Definitions

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

- a) **Bidder** – An entity that submits a bid in response to this IFB.
- b) **BPW** – The Maryland Board of Public Works.
- c) **CCU** – Central Collection Unit.
- d) **COMAR** – Code of Maryland Regulations available on-line at www.dsd.state.md.us.
- e) **Contract Manager** – The State representative that will serve as the technical manager for the Contract that results from this IFB. The Contract Manager monitors the daily activities of the Contract and provides technical guidance to the Contractor.
- f) **Contractor's Contract Administrator** – Person designated at the time of Contract award by the Contractor as the single point of contact with the authority and knowledge to resolve Contract issues.
- g) **Contract** – The State's Contract attached to this IFB as **Attachment A**.
- h) **Contractor** – The selected Bidder, the business entity awarded the contract for the procured services identified in this IFB.
- i) **DBM or Department** – The Maryland Department of Budget & Management
- j) **IFB** – The entire contents of this Invitation for Bids, "**Process Server, Project # F10B3400002**" including any amendments/addenda thereto.
- k) **Local Time** – Time in the Eastern Time Zone as observed by the State.
- l) **Maryland Rules** – The Maryland Rules of Procedure, as amended from time to time.

m) MBE – A Minority Business Enterprise certified by the Maryland Department of Transportation under COMAR 21.11.03.

n) Notice To Proceed (NTP) – A formal notification issued by the Procurement Officer that directs the Contractor to begin performance of work as of a specified date.

o) Procurement Officer – The State representative responsible for this IFB and the determination of Contract scope issues and the only State representative who can authorize changes to the Contract. See § 1.5(A) for the designated DBM Procurement Officer. DBM may change the Procurement Officer at any time by written notice to the Contractor.

p) SFP – The State Finance and Procurement Article of the Maryland Annotated Code as amended from time to time.

q) VSBE – A Veteran-Owned Small Business Enterprise verified by the Center for Veterans Enterprise of the United States Department of Veterans Affairs as established in COMAR 21.11.13.

1.3 Contract Type

The Contract that results from this IFB will be an Indefinite Quantity Contract with Fixed Unit Prices in accordance with COMAR 21.06.03.06.

1.4 Contract Duration

1.4.1 The Contract that results from this IFB shall commence as of the date the Contract is signed by the Department following approval of the Contract by the Maryland Board of Public Works (“Contract Award”).

1.4.2 As of January 1, 2013, or later date as contained in a Notice to Proceed issued by the Procurement Officer the Contractor shall perform all activities required by the Contract, including the requirements of the IFB, for the compensation contained in the Bid Form.

1.4.3 The duration of the Contract will be for five years from the date of commencement through December 31, 2017.

1.5 Procurement Officer and Contract Manager

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

Andrea R. Lockett, Procurement Officer
Department of Budget and Management
Division of Procurement Policy & Administration
45 Calvert Street/First Floor, Room 145
Annapolis, Maryland 21401

Telephone: 410-260-7374
Fax: 410-974-3274
Email: alockett@dbm.state.md.us

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

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

Montez Foster
Fiscal Service Administrator II, Central Collection Unit
Department of Budget and Management
300 W. Preston Street, Room 503
Baltimore, Maryland 21201
Telephone: 410-767-1208
Fax: 410-333-5595
Email: mfooster@dbm.state.md.us

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

1.6 Pre-Bid Conference

A Pre-Bid Conference (Conference) will be held on Monday, November 19, 2012, beginning at 10:00 AM (Local time), at the following location:

Maryland Department of Transportation Headquarters
7201 Corporate Center Drive
TSO Conference Room - Testing & Training Front
Hanover, MD 21076

Attendance at the Pre-Bid Conference is not required; however, it may facilitate the bidder's understanding of the IFB requirements.

As promptly as feasible after the Conference, a summary and all questions and answers known at that time will be distributed, free of charge, to all prospective Bidders known to have received a copy of this IFB.

In order to assure adequate seating and other accommodations at the Pre-Bid Conference, it is requested that by Thursday, November 15, 2012, all potential bidders planning to attend, e-mail or otherwise return the Pre-Bid Conference Response Form (**Attachment D** to this IFB). In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, the State requests that at least five days advance notice be provided. DBM will make reasonable efforts to provide such special accommodation. See **Attachment E** of this IFB for directions.

1.7 Questions

The Procurement Officer, prior to the Conference, shall accept written questions from prospective Bidders. If possible and appropriate, such questions shall be answered at the Conference. (No substantive question shall be answered prior to the Conference.) Questions may be submitted preferably by e-mail, or by mail or facsimile to the Procurement Officer only.

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

1.8 Bids Due/Closing Date

An unbound original, plus two (2) copies, and an electronic version of the paper submission copy on CD or flash drive (See § 3.2.6(j)) of each bid must be received by the Procurement Officer, at the address listed in § 1.5(A), no later than **Monday, December 3, 2012, at 2:00 PM, Local Time**, in order to be considered. Requests for extension of this date or time shall not be granted. Bidders mailing bids should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.02.10, bids received by the Procurement Officer after the closing time and date will not be considered. Bids delivered by email or facsimile shall not be considered.

Bids will be opened on **December 3, 2012** at 2:30 PM, Local Time, in Room 163, 45 Calvert Street, Annapolis Maryland in accordance with the provisions of COMAR 21.05.02.11B. Bids will be made available for public inspection at or within a reasonable time after bid opening. Any material claimed to be confidential or proprietary by the bidder must be clearly marked and shall be readily separable from the bid in order to facilitate public inspection of the non-confidential portion of the bid. The reason for each claim shall be included.

1.9 Duration of Bid

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

1.10 Revisions to the IFB

If it becomes necessary to revise this IFB before the Bid due date, amendments will be provided to all prospective Bidders who were sent this IFB or otherwise are known to have obtained this IFB. Amendments will be posted on the DBM website (www.dbm.maryland.gov) and through eMaryland Marketplace.

Bidders shall acknowledge the receipt of all amendments to this IFB issued before the Bid due date in the Transmittal Letter accompanying their Bid. Failure to acknowledge receipt of amendment(s) does not relieve the Bidder from complying with all terms of any such amendment.

1.11 Cancellations

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

1.12 Incurred Expenses

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

1.13 Economy of Preparation

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

1.14 Protests/Disputes

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

1.15 Multiple or Alternate Bids

Multiple or alternate Bids will not be accepted.

1.16 Access to Public Information Act Notice

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

Bidders are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information must be disclosed. (See COMAR 21.05.08.01) **Information which is claimed to be confidential is to be submitted with the original copy of the Bid only.**

1.17 Bidder Responsibilities

The State shall enter into a Contract only with the selected Bidder. Subcontractors must be identified and a complete description of their roles in the Bid must be included in the Bid. The selected Bidder shall be responsible for all services required by this IFB.

If a Bidder that seeks to perform or provide the services required by this IFB is the subsidiary of another entity, all information submitted by the Bidder, such as but not limited to, references, financial reports, or experience and documentation (e.g. insurance policies, bonds, letters of credit) used to meet minimum Bidder qualifications, if any, shall pertain exclusively to the Bidder, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Bid shall contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.

1.18 Mandatory Contractual Terms

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

1.19 Bid/Proposal Affidavit

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

1.20 Contract Affidavit

All bidders are advised that if a contract is awarded as a result of this IFB, the successful bidder will be required to complete a Contract Affidavit. A copy of this Affidavit is included for informational purposes as **Attachment C** of this IFB. For purposes of this Affidavit, in terms of Corporation Registration and Tax Payment, please note that any company incorporated outside of Maryland is considered a "foreign" company. This Affidavit should not be submitted with a bidder's bid but shall be provided within five (5) business days of notification of proposed contract award.

1.21 Arrearages

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

1.22 Procurement Method

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

1.23 Reciprocal Preference

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

1.24 No Bid Statement

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

1.25 Award Basis

The State reserves the right to award the Contract to the responsive and responsible bidder submitting the most favorable evaluated bid price (as referenced in COMAR 21.05.02.13) for providing the services as specified in this IFB. The most favorable evaluated bid price will be the lowest total price on **Attachment F - Bid Price Sheet**.

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

1.26 Verification of Registration and Tax Payment

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

1.27 False Statements

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

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

1.28 Use of “e-Maryland Marketplace” (eMM)

eMM is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the DBM website (www.dbm.maryland.gov) and other means for transmitting the IFB and associated materials, a summary of the Pre-Bid Conference, Bidders’ questions and DBM responses, addenda and other solicitation information will be provided via eMM (<https://emaryland.buyspeed.com>).

A Bidder must be registered on eMM to receive a Contract award. Registration is free.

1.29 Electronic Funds Transfer

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 using the form COT/GAD X-10 Contractor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State Comptroller’s office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption. The COT/GAD X-10 form is provided as **Attachment G** and can also be downloaded at the following URL:

http://compnet.comp.state.md.us/General_Accounting_Division/Static_Files/APM/gadx-10.pdf

1.30 Living Wage Requirement

A solicitation for services under a State Contract valued at \$100,000 or more may be subject to Title 18 of the State Finance and Procurement Article of the Annotated Code of Maryland. Additional information regarding the State’s Living Wage requirement is contained in this

solicitation (see **Attachment J**, “Living Wage Requirements for Service Contracts & Affidavit of Agreement”). If a Bidder fails to submit and complete the Living Wage Affidavit of Agreement (see **Attachment J**), the State may determine a Bidder not to be responsible.

Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier area. The specific living wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State; **the per hour rate is subject to an annual adjustment [increase or decrease]**. The Tier 1 Area includes Montgomery, Prince George’s, Howard, Anne Arundel and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State Contract pursuant to §18-102(d) of the State Finance and Procurement Article shall assign the tier based upon where the recipients of the services are located.

The contract resulting from this solicitation has been determined to be a Tier _____ contract.

Information pertaining to current rates and reporting obligations may be found by going to the DLLR Website <http://www.dllr.state.md.us/> and clicking on Living Wage.

Questions regarding the application of the Living Wage Law relating to this procurement should be directed to the Procurement Officer.

NOTE: Whereas the Living Wage may change annually, the Contract price may not be changed because of a Living Wage change.

1.31 Electronic Procurement Authorized

- 1.31.1 The Department may conduct procurement transactions by electronic means, including the solicitation, bidding, award, execution, and administration of a contract, as provided in the Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21, Annotated Code of Maryland.
- 1.31.2 Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the bidder/offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the RFP, IFB or the Contract.
- 1.31.3 “Electronic means” refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes facsimile, electronic mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g. eMarylandMarketplace.com), and electronic data interchange.

1.31.4 In addition to specific electronic transactions specifically authorized in other sections of this RFP or IFB (e.g. §1.29 related to electronic funds transfer (EFT)) and subject to the exclusions noted in § 1.31.5 of this subsection, the following transactions are authorized to be conducted by electronic means on the terms described:

- A. The Procurement Officer may conduct this procurement using eMarylandMarketplace, e-mail or facsimile to issue:
 - a. the solicitation (e.g. the RFP or IFB);
 - b. any amendments;
 - c. pre-bid conference documents;
 - d. questions and responses;
 - e. communications regarding the solicitation or bid to any Bidder or potential Bidder including requests for cure, clarification, explanation, or removal of elements of a Bidder's bid deemed not acceptable;
 - f. notice that a bid is non-responsive, that a Bidder does not meet minimum qualifications and notices of award selection or non-selection; and
 - g. the Procurement Officer's decision on any protest or Contract claim.

- B. A Bidder or potential Bidder may use e-mail or facsimile to:
 - a. ask questions regarding the solicitation;
 - b. reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer's request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer; or, submit a "No Bid Response" to the solicitation.

- C. The Procurement Officer, the State's Contract Manager and the Contractor may conduct day-to-day Contract administration, except as outlined in § 1.31.5 of this subsection utilizing e-mail, facsimile or other electronic means if authorized by the Procurement Officer or Contract Manager .

1.31.5 The following transactions related to this procurement and any Contract awarded pursuant to it are *not authorized* to be conducted by electronic means:

- a. submission of initial bids or proposals;
- b. filing of protests;
- c. filing of Contract claims;
- d. submission of documents determined by DBM to require original signatures (e.g. Contract execution, Contract modifications, etc); or
- e. any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor, Bidder or Offeror be provided in writing or hard copy.

- 1.31.6 Any facsimile or electronic mail transmission is only authorized to the facsimile numbers or electronic mail addresses for the identified person as provided in the RFP or IFB, the Contract, or in the direction from the Procurement Officer or Contract Manager.

1.32 Prompt Payment Policy

This procurement and the contract to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs (GOMA) and dated August 1, 2008. Promulgated pursuant to Sections 11-201, 13-205(a), and Title 14, Subtitle 3 of the State Finance and Procurement Article (SFP), and Code of Maryland Regulations (COMAR) 21.01.01.03 and 21.11.03.01 et seq., the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The successful Bidder who is awarded a contract must comply with the prompt payment requirements outlined in the Contract, §31 (see Attachment A). Additional information is available on the GOMA website at:

http://www.mdminoritybusiness.com/documents/PROMPTPAYMENTFAQs_000.pdf.

1.33 Contract Extended To Include Maryland Local Entities

In accordance with § 13-110 of the State Finance and Procurement Article, Annotated Code of Maryland, any Local entity in Maryland (Maryland county, municipal corporation, bicounty or multicounty agency, public authority, special taxing district, or other political subdivision or unit of a political subdivision of this State, including boards of education and library boards that receive funding from the State), may purchase from the Contractor goods or services covered by this Contract at the same prices chargeable to the State. All such purchases by non-State Maryland governments or agencies: (1) shall constitute contracts between the Contractor and that government or agency; (2) shall not constitute purchases by the State or State agencies under this Contract; (3) shall not be binding or enforceable against the State, and (4) may be subject to other terms and conditions agreed to by the Contractor and the purchaser. The Contractor bears the risk of determining whether or not a government or agency with which the Contractor is dealing is a State agency.

Any usage of the Contract resulting from this IFB by Maryland Local entities will not be counted towards the amount established for this Contract. Nonetheless, Maryland Local entity Contract usage shall be at the same rates and with the same types and level of service as is required for State agencies.

1.34 Minority Business Enterprises

No MBE goal has been established for this solicitation.

1.35 Veteran-Owned Small Business Enterprises (VSBE)

No VSBE goal has been established for this solicitation.

SECTION 2 – SCOPE OF WORK

2.1 Background and Purpose

2.1.1 The Maryland Department of Budget and Management, Central Collection Unit is responsible for collecting certain delinquent accounts receivable on behalf of most State agencies. Accounts that remain unpaid and require legal action are referred to the staff of the Attorney General's Office dedicated to the Central Collection Unit for the filing of suits in the various Circuit and District courts throughout Maryland. Initial service of process is attempted by certified mail by the Clerk's office. If the Clerk's office is unsuccessful in obtaining service and the party or other individual's address appears accurate, the Attorney General's Office may attempt service by certified mail. Occasionally, the Sheriff's Office is used to serve process. If the home or work address appears accurate, the OAG and CCU will reissue the pleadings to have them served by private process. The above is the current procedure used by the Central Collection Unit and the Attorney General's Office.

2.1.2 Purpose: The purpose of this solicitation is to procure a private process server to perfect service of process Statewide through the use of:

- a. Routine Service in accordance with the terms of this IFB and the Maryland Rules; and
- b. Use of Affidavits in accordance with the terms of this IFB and the Maryland Rules
See **Attachment I**.

2.2 Bidder Qualifications

2.2.1. Bidders must complete the Minimum Requirements Certification (**Attachment H**) to:

- certify they have at least \$5,000 in aggregate business of service of process within Maryland **for each of** 2010 and 2011 (i.e. \$10,000 over the 2 years) and at least \$4,000 in aggregate business of service of process within Maryland thus far for 2012;
- possess three (3) references in each of the past 3 years evidencing a minimum annual billing total of at least \$500.00 received from each reference;
- certify their understanding of the rules for routine service;
- certify their understanding of the evasion of services rules; and
- affirm the Bidder's intent to serve all processes assigned by the Central Collection Unit (CCU) throughout the State of Maryland for the duration of this Contract for the Bid amounts submitted on the Bid Price Form (**Attachment F**).

- 2.2.2. Bidders will identify all subcontractors they will use to provide statewide coverage. Indicate intended geographic coverage area(s) for each subcontractor listed.

2.3 Scope of Project

- 2.3.1 The Attorney General's Office has historically filed approximately 3,000 suits in Maryland district and circuit courts on a yearly basis. Of this amount, approximately 40% are served by certified mail. The remainder, less out-of-state accounts (approximately 850/year), is reissued by the Attorney General's Office to the private process server which need to be personally served (approximately 950/year). In the past year, the cases were dispersed throughout Maryland in the following approximate percentages: Baltimore/Metropolitan Area – 50%; DC Suburbs – 33%; Southern Maryland – 6%; Western Maryland – 4%; Lower Eastern Shore – 5%; and Upper Eastern Shore – 2%. **Of these cases, the private process server has been approximately 65% successful (549/year).** The Central Collection Unit and the Attorney General's Office also use the private process server for service of process of various post-judgment pleadings. The figures provided are estimates, based on the process served over the past 2 years of the prior contract. These estimates are not to be construed as guarantees of the number of yearly or monthly process that may occur under the duration of this Contract.
- 2.3.2 Accounts referred for service of process may include, but are not limited to, certain student loans, school accounts with tuition, fees and fines, and other amounts owed to the State Highway Administration, Department of Health and Mental Hygiene, Motor Vehicle Administration, Department of Labor, Licensing and Regulation, Injured Workers' Insurance Fund, Department of Natural Resources, Department of Human Resources, and other State agencies.
- 2.3.3 Service of process will be needed for individuals and corporations. On behalf of the Central Collection Unit, the Attorney General's Office will submit a Summons and Complaint, which includes the debtor's name and most recent address. Whenever possible, the Attorney General's Office and the Central Collection Unit will also provide a date of birth and place of employment to help perfect service.
- 2.3.4 The contractor will pick-up the case files directly from the Office of the Attorney General, 300 W. Preston St., Room 407, Baltimore, MD 21201 on Tuesdays and Fridays between the hours of 9:00 A.M. and 4:00 P.M. local time.
- 2.3.5 Once service has been perfected, the Contractor shall, within 10 days of service: (i) file the affidavit of service directly with the appropriate courthouse, and (ii) hand deliver or mail a copy of the affidavit to the Office of the Attorney General at the location specified in § 2.3.4 above. The Contractor shall return all unserved documents to the Office of the Attorney General within 10 days of expiration of the Summons.
- 2.3.6 Under no circumstances shall the Contractor attempt service on expired summonses or make false service affidavits. Additionally, should it be determined by the State that a

false service affidavit has been filed with the courts or returned to the State as successful service, the Contractor shall be deemed to be in breach of the contract.

- 2.3.7 The Contractor shall also submit a monthly report to the Contract Manager or designee no later than the 15th of the following month summarizing all perfected service for the preceding month, showing the full names of persons served, dates of service and the total amount invoiced for all perfected service during the preceding month.

2.4 Bid Price

- 2.4.1 The Department will pay a set price for normal perfected service [*rates A.1, B.1, C.1, D.1, E.1*] as specified in the bid price sheet. The Department will not pay for service of process that is not timely in accordance with the Summons or the Maryland Rules, determined improper by CCU (incorrect person served), or stricken as improper by the court.
- 2.4.2 On prior written approval of the Office of the Attorney General, Contractor shall obtain and provide the Department with a more current address than the one provided by the Central Collection Unit and effect timely service with the more current address. For this service, Contractor shall be paid the Perfected Service including Contractor Updated Address rate [*rates A.2, B.2, C.2, D.2, E.2*] as specified in the bid price sheet.
- 2.4.3 On prior written approval of the Office of the Attorney General, Contractor shall prepare an Evasion of Service Affidavit. For this service, Contractor shall be paid the Affidavit of Evasion Preparation rate [*rates A.3, B.3, C.3, D.3, E.3*] as specified in the bid price sheet.
- 2.4.4 The Department will not pay for non-est (unserved), skip trace, or cancelled requests for service before service is obtained.
- 2.4.5 All unit bid prices [*rates A.1, B.1, C.1, D.1, E.1; A.2, B.2, C.2, D.2, E.2; and A.3, B.3, C.3, D.3, E.3*] submitted on the bid form (Attachment F -Bid Price Instructions and Form) for the base period (years 1 through 5) shall remain firm for the duration of the Contract.
- 2.4.6 All unit bid prices submitted on the bid form (Attachment F -Bid Price Instructions and Form) for any testimony [*rates A.4, B.4, C.4, D.4, E.4*] provided during the base period (years 1 through 5) shall remain firm for the duration of the Contract.
- 2.4.7 In any instance where the Department makes payment for service subsequently determined improper or stricken, the Contractor shall perform subsequent attempts at service without additional invoicing until service is effectuated or the Contractor advises the Department it is unable to perfect service. If Contractor is unable to perform service, the Contractor shall credit the Department for the amount paid on its next monthly invoice.

2.5 Invoicing

- 2.5.1 Invoices for the payment of services shall be submitted to the Contract Manager or designee for each perfected service or affidavit of evasions preparation monthly for services completed the previous month.
- 2.5.2 The invoice shall include for each service perfected: the full name of the person served, that person's address, the date s/he was served and the unit rate (see § 2.4.1 and item A.1, B.1, C.1, D.1, E.1 on the price sheet). Contractor shall include a copy of the written Office of the Attorney General approval (including date of approval and name of approver) with each incident of: (i) Perfected Service including Contractor Updated Address (see § 2.4.2 and item A.2, B.2, C.2, D.2, E.2 on the price sheet), and (ii) Affidavit of Evasion Preparation (see § 2.4.3 and item A.3, B.3, C.3, D.3, E.3 on the price sheet).
- 2.5.3 The Contractor shall also submit a monthly report to the Contract Manager or designee no later than the 15th of the following month summarizing all perfected service for the preceding month, showing the full names of persons served, dates of service and the total amount invoiced for all perfected service during the preceding month.
- 2.5.4 Invoices may be submitted as proof of service to an officer of the court or used by the Department for any other official purpose.
- 2.5.5 Current Certificate of Insurance (See § 2.7.2.3) due at each Contract anniversary date shall be submitted to the Contract Manager.

2.6 Past Contracts with State

As part of its bid, each Bidder is to provide a list of all contracts with any entity of the State of Maryland that it is currently performing or which it has held within the last 5 years. For each identified contract the Bidder is to provide:

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

Information obtained regarding the bidders' level of performance on State contracts will be considered as part of the responsibility determination by the Procurement Officer.

2.7 Insurance Requirements

2.7.1 The Contractor shall maintain property and casualty insurance with minimum limits sufficient to cover losses resulting from or arising out of Contractor action or inaction in the performance of the Contract by the Contractor, its agents, servants, employees or subcontractors as specified in § 2.7.2.

2.7.2 The Contractor shall maintain insurance policies of the proper type and limits specified below.

2.7.2.1 Worker's Compensation - The Contractor shall maintain such insurance as necessary and/or as required under Worker's Compensation Acts, U.S. Longshoremen's and Harbor Workers' Compensation Act and the Federal Employers Liability Act.

2.7.2.2 General Liability - The Contractor shall maintain the following insurance protection for liability claims arising as a result of the Contractor's operations under this Contract.

Commercial General Liability, Occurrence Form:

- i. \$2,000,000 - General Aggregate Limit (other than products/completed operations)
- ii. \$2,000,000 - Products/completed operations aggregate limit
- iii. \$1,000,000 - Business Automobile Liability per occurrence.
- iv. \$1,000,000 - Each Occurrence Limit
- v. \$1,000,000 - Personal and Advertising Injury Limits
- vi. \$ 50,000 - Fire Damage Limit
- vii. \$ 5,000 - Medical Expense

2.7.2.3 Within 5 business days of being recommended for award, the Contractor shall: (i) provide the State with current certificates of insurance that identify the State as an additional insured, and (ii) shall maintain and report such insurance annually to the Contract Manager (see Section 2.5.5).

2.7.2.4 The certificate of insurance shall acknowledge a requirement for the insurer to provide 45 days notice to the Department in the event the Contractor's insurance will lapse due to non-payment of premiums, or will not be renewed by the insurer. In this event the Contractor must provide the Department Contract Manager with evidence of replacement insurance within 30 days. At no time may the Contractor provide services under this contract without appropriate insurance coverage.

2.7.3 Failure to comply with the above sections shall be grounds for termination of the contract by the State.

2.8 Availability

- 2.8.1 The Contractor must be available, on reasonable notice, to testify at a hearing before a court or administrative body held at locations throughout the State. The Contractor may be required to testify at a proceeding held within one (1) year of the expiration of the contract if the matter involves service of process done during the contract term. The Contractor will be compensated only at the rate provided in the bid form for that testimony.

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SECTION 3 – BID SUBMISSION REQUIREMENTS

3.1 General

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

3.2 Preparation/Submission of Bids

- 3.2.1 Bids must be submitted to the Procurement Officer identified at the address identified in IFB Section 1.5(A).
- 3.2.3 Bids must be delivered on time, on or before the due date and time specified in IFB Section 1.8.
- 3.2.4 Bids must be submitted in a sealed envelope clearly labeled as follows:
 - a. “Sealed Bid - Maryland Department of Budget & Management, Central Collection Unit, Process Server, Project #F10B3400002
 - b. The Bid Due Date and Time; and
 - c. The Name of the bidder.
- 3.2.5 **Attachment H** – Completion of Bidder’s Minimum Qualifications Document.
- 3.2.6 Prepare and submit an unbound original, plus two (2) paper copies and an electronic version of the complete paper submission copy on a CD or flash drive:
 - a. **Attachment F** – Bid Form. Completed and signed by an individual who is authorized to bind the bidder to the services and prices contained in the bid.
 - b. Acknowledgement of the receipt of all addenda to the IFB, if any.
 - c. Bidder Qualifications Sheet – **Attachment H**
 - d. Bid/Proposal Affidavit – **Attachment B**
 - e. Living Wage Affidavit – **Attachment J**
 - f. Fiscal Integrity. Bidders shall provide documentation that addresses the bidder’s financial solvency that may include, but not be limited to, one or all of the following:
 - a current balance sheet
 - a certified financial statement
 - Dunn and Bradstreet rating;

- Line of credit;
 - Successful financial track record;
 - Evidence of adequate working capital.
- g. Information on past contracts required by IFB Section 2.6
- h. Legal Action Summary. A statement as to whether there are any current or past legal actions or claims against the bidder and a brief description of any such action(s), including:
- A brief description of any settled or closed legal actions or claims against the bidder within the past five (5) years.
 - A description of any judgments against the bidder within the past five (5) years, including the case name, number, court, and what the final ruling or determination was from the court.
 - In instances where litigation is ongoing and the bidder has been directed by the court not to disclose information, the name of the judge and location of the court.
- i. References: Bidders shall provide three references on **Attachment H** from current and/or previous customers within the immediate past three years who are capable of documenting experience in providing the same or similar services. DBM reserves the right to request additional references. Each reference shall include:
- Name of client organization.
 - Name, title, and telephone number of point of contact for client organization.
 - Contract Value, type of contract, and duration of contract(s) (Period of Performance), the products and/or services provided, scope of the contract, geographic area supported, etc.
 - An explanation of why the bidder is no longer providing the services to the client organization, if the bidder is no longer serving this client.
- j. An unbound original, plus two (2) copies, and an electronic version of the paper submission copy on a CD or flash drive (See Section 1.8.) of each bid shall be submitted. The CD or flash drive shall be clearly labeled with the Bid Date, Bid Title and bidder's name. This version may consist of a variety of software files (i.e. pdf, doc, xls, etc.) as determined by the bidder.
- k. Certificate of Insurance: Copy of Bidder's current certificate of insurance to meet the conditions of Section 2.7.

ATTACHMENTS

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

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

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

ATTACHMENT D - Pre-Bid Conference Response Form. Request this form be completed and submitted as described in IFB section 1.6 by those potential bidders who plan on attending the conference.

ATTACHMENT E - Directions to the Pre-Bid Conference

ATTACHMENT F - Bid Price Instructions and Form. Bid Price forms must be completed and submitted as instructed.

ATTACHMENT G – Electronic Funds Transfer (EFT) Form

ATTACHMENT H – Bidder Qualifications. This form must be completed and submitted with the bid.

ATTACHMENT I – Maryland Rules

ATTACHMENT J – Living Wage Affidavit. This form must be completed and submitted with the bid.

ATTACHMENT A – CONTRACT

THIS CONTRACT (“Contract”) is made this _____ day of _____, 2012 by and between _____ and the **STATE OF MARYLAND (“State”)**, acting by and through the **DEPARTMENT OF BUDGET AND MANAGEMENT, DIVISION OF PROCUREMENT POLICY AND ADMINISTRATION, CENTRAL COLLECTION UNIT (CCU)**.

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

1. Definitions

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

- 1.1 “Contract Manager”** means the person listed in IFB § 1.5(B), designated by the Department. The Department may change the Contract Manager at any time by written notice.
- 1.2 “Contractor”** means _____ whose principal business address is _____ and whose principal office in Maryland is _____.
- 1.3 “Department”** means the Maryland Department of Budget and Management.
- 1.4 “Effective Date”** means the date on which the State executes this Contract.
- 1.5 “IFB”** means this Invitation for Bids, “Process Server, Project #F10B3400002” including any amendments thereto issued in writing by the State.
- 1.6 “Notice To Proceed (NTP)”** means the formal notification issued by the Procurement Officer that directs the Contractor to immediately, or as of a date contained in the notice, begin performance of work
- 1.7 “Procurement Officer”** means the person listed in IFB § 1.5(A), designated by the Department. The Department may change the Procurement Officer at any time by written notice.
- 1.8 “State”** means the State of Maryland.

2. Scope of Work

2.1 The Contractor shall provide Process Server and other administrative services as described in the IFB. These services shall be provided in accordance with this Contract and the following exhibits, which are attached and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is

any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

- Exhibit A – Invitation for Bids - Project No. F10B3400002 dated _____.
- Exhibit B – Contractor’s Bid - Project No. F10B3400002, dated _____.
- Exhibit C – Contract Affidavit, dated _____.

2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor’s cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

3. Time for Performance.

In accordance with IFB § 1.4, the Contract resulting from this IFB shall be for a period of five years from the date of commencement through December 31, 2017, unless terminated earlier as provided in this Contract. The Contractor shall provide services upon receipt of a Notice to Proceed from the Procurement Officer.

Confidentiality (§ 7), Document Retention (§ 22), and Indemnification (§ 27) obligations under this Contract shall survive expiration of the Contract.

4. Consideration and Payment

4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the Department shall pay the Contractor in accordance with the IFB and the terms of Contract Exhibit B, the Contractor’s Bid. Except with the express written consent of the Procurement Officer, payment to the Contractor pursuant to this Contract shall not exceed \$_____. The Contractor shall notify the Contract Manager, in writing, at least 60 days before payments reach the specified amount. Any work performed by the Contractor in excess of the not-to-exceed amount without the prior written approval of the Procurement Officer is at the Contractor’s risk of non-payment. After notification by the Contractor, if the State fails to increase the Contract amount, the Contractor shall have no obligation to perform under this Contract after payments reach the stated amount.

4.2 Payments to the Contractor for billed services shall be made no later than thirty (30) days after receipt of a proper invoice from the Contractor and acceptance by the using agency of the services provided by the Contractor. Each invoice for services rendered must include the Contractor’s Federal Tax Identification Number which is _____.

for late payment of invoices other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, as from time to time amended, are prohibited. Invoices should be submitted to the requesting agency with a copy to the Contract Manager.

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

4.4 Electronic funds transfer will be used by the State to pay Contractor for this Contract and any other State payments due Contractor unless the State Comptroller's Office grants an exemption.

4.5 Contractor's eMarylandMarketplace vendor ID number is _____.

5. Rights to Records

The Contractor agrees that all documents and materials including but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations and data prepared by the Contractor, solely for purposes of this Contract with the State of Maryland shall be the sole property of the Department and shall be available to the Department at any time. The Department shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.

6. Patents, Copyrights, Intellectual Property

6.1 If the Contractor furnishes any product, design, service, device, material, process, or other item (hereinafter collectively referred to for purposes of Section 6 and Section 28 as "Items"), which is covered by a patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such Items.

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

6.3 If any Items furnished by the Contractor become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement, the Contractor will, at its option and expense: a) procure for the State the right to continue using the applicable Item, b) replace the Item with a non-infringing Item substantially complying with the Item's specifications, or c) modify the Item

so that it becomes non-infringing and performs in a substantially similar manner to the original Item. Contractor shall immediately notify the State's Procurement Officer and the State's Contract Manager, in writing, of the possibility of any claim of infringement arising hereunder.

7. Confidentiality

Subject to the Maryland Public Information Act and any other applicable laws, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided that the data may be collected, used, disclosed, stored and disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party, (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information or (e) which such party is required to disclose by law. This Section 6 shall survive expiration of this Contract.

8. Loss of or Damage to Data

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

9. Non-Hiring of Employees

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

10. Disputes

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

the Contract, the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

11. Maryland Law

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

12. Nondiscrimination in Employment

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

13. Contingent Fee Prohibition

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

14. Non-availability of Funding

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

15. Termination for Cause

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

16. Termination for Convenience

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

17. Delays and Extensions of Time

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

18. Suspension of Work

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

19. Pre-Existing Regulations

In accordance with the provisions of Section 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, as from time to time amended, the regulations set forth in

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

20. Financial Disclosure

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

21. Political Contribution Disclosure

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

22. Retention of Records

The Contractor shall retain and maintain all records and documents in any way relating to this Contract for five (5) years after final payment by the State of Maryland under this Contract or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or the Procurement Officer’s designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section. The Contractor agrees to cooperate fully in any audit conducted by or on behalf of the State, including, by way of example only, making records and employees available as, where, and to the extent requested by the State and by assisting the auditors in reconciling any audit variances. Contractor shall not be compensated for providing any such cooperation and assistance. This Section 20 shall survive expiration of this Contract.

23. Warranties

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

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

24. Cost and Price Certification

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

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

25. Subcontracting; Assignment

The Contractor may not subcontract any portion of the Services provided under this Contract without obtaining the prior written approval of the Procurement Officer, which approval the State may withhold or condition in its sole and absolute subjective discretion. Contractor may not assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Procurement Officer, which approval the State may withhold or condition in its sole and absolute subjective discretion. Any such subcontract or assignment shall include the terms of Sections 5 through 22 of this Contract and any other terms and conditions that the State deems necessary to protect its interests. The State shall not be responsible for the fulfillment of the Contractor's obligations to the subcontractors.

26. Administrative

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

26.2 Contract Manager. The work to be accomplished under this Contract shall be performed under the direction of the DBM/CCU Contract Manager.

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

If to the State: Montez Foster, Fiscal Service Administrator II
Central Collection Unit
Department of Budget and Management
300 W. Preston Street, Room 503
Baltimore, Maryland 21201

With a copy to: Andrea R. Lockett, Procurement Officer
Division of Procurement Policy & Administration
Department of Budget and Management
45 Calvert Street, Room 145
Annapolis, Maryland 21401

If to the Contractor: _____

27. Indemnification

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

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

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

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

27.5 This Section 27 shall survive termination of this contract.

28. Parent Company Guarantee [If determined to be applicable by the State]

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

grant, withhold, or qualify in its sole and absolute subjective discretion. "[Corporate name of Parent Company]" further agrees that if the State brings any claim, action, suit or proceeding against "[Contractor]", "[Corporate name of Parent Company]" may be named as a party, in its capacity as Absolute Guarantor.

29. Living Wage

- 29.1 A State contract for services valued at \$100,000 or more may be subject to Title 18, State Finance and Procurement Article, Annotated Code of Maryland and COMAR 21.11.10.
- 29.2 Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier Area; ; **the per hour rate is subject to an annual adjustment [increase or decrease]**. The resulting contract has been determined to be a **Tier 1** contract.
- 29.3 The Contractor shall comply with Title 18, State Finance and Procurement Article, Annotated Code of Maryland and COMAR 21.11.10, including the submission of payroll reports to the Commissioner of Labor and Industry and the posting 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.
- 29.4 The Contractor shall make any subcontractor on this Contract aware of the Living Wage law requirements.

30. Commercial Nondiscrimination

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

B. The Contractor shall include the above Commercial Nondiscrimination clause, or similar clause approved by DBM, in all sub-contracts.

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

31. Prompt Payment Policy

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

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

31.2 An "undisputed amount" means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute, 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.

31.3 An act, failure to act, or decision of a procurement officer or a representative of the Department, concerning a withheld payment between the Contractor and subcontractor under this policy directive, may not:

- A. Affect the rights of the contracting parties under any other provision of law;
- B. Be used as evidence on the merits of a dispute between the Department and the Contractor in any other proceeding; or
- C. Result in liability against or prejudice the rights of the Department.

31.4 The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise program.

31.5 To ensure compliance with certified MBE subcontract participation goals, the Department may, consistent with COMAR 21.11.03.13, take the following measures:

A. Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule.

B. This verification may include, as appropriate:

1. Inspecting any relevant records of the Contractor;
2. Inspecting the jobsite; and
3. Interviewing subcontractors and workers.
4. Verification shall include a review of:
 - a. The Contractor's monthly report listing unpaid invoices over 30 days old from certified MBE subcontractors and the reason for nonpayment; and
 - b. 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.

C. If the Department determines that the Contractor is in noncompliance with certified MBE participation goals, then the Department will notify the Contractor in writing of its findings, and will require the Contractor to take appropriate corrective action.

1. 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.

D. If the Department determines that the Contractor is in material noncompliance with MBE Contract provisions and refuses or fails to take the corrective action that the Department requires, then the Department may:

1. Terminate the Contract;
2. Refer the matter to the Office of the Attorney General for appropriate action; or
3. Initiate any other specific remedy identified by the Contract, including the contractual remedies required by this Directive regarding the payment of undisputed amounts.

E. 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.

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

CONTRACTOR:

**STATE OF MARYLAND:
MARYLAND DEPARTMENT OF
BUDGET AND MANAGEMENT**

(SEAL)

By: _____

By: T. Eloise Foster, Secretary _____

_____ Date

_____ Date

_____ Witness

_____ Witness

APPROVED FOR FORM AND LEGAL SUFFICIENCY THIS _____ DAY OF _____ 2012.

ASSISTANT ATTORNEY GENERAL

ATTACHMENT B – BID/PROPOSAL AFFIDAVIT

A. AUTHORITY

I HEREBY AFFIRM THAT:

I, _____ (name of affiant) am the _____ (title) and duly authorized representative of _____ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in §19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. "Discrimination" means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendor's, supplier's, or commercial customer's employees or owners. "Discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination". Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the bidder discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder agrees to comply in all respects with the State's Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.

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

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

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

B-2. Certification Regarding Veteran-Owned Small Business Enterprises. The undersigned bidder hereby certifies and agrees that it has fully complied with the State veteran-owned small business enterprise law, State Finance and Procurement Article, §14-605, Annotated Code of Maryland, which provides that a person may not:

(1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;

(2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran-owned small business enterprise in order to obtain or retain a bid preference or a procurement contract;

(3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;

(4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;

(5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.12; or

(6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of §B-2(1) — (5) of this regulation.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

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

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

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

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

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

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

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

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

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

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

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

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

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

(9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B and C and subsections D(1)—(8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or

imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

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

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

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

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

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

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

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

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

(1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of

Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

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

K. ACKNOWLEDGEMENT

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

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

Date: _____

By: _____

(print name of Authorized Representative
and Affiant)

(signature of Authorized Representative
and Affiant)

ATTACHMENT C – CONTRACT AFFIDAVIT

A. AUTHORITY

I HEREBY AFFIRM THAT:

I, _____ (name of affiant) am the _____ (title) and duly authorized representative of _____ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

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

I FURTHER AFFIRM THAT:

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

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

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

Name and Department ID

Number: _____ Address: _____

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

Name and Department ID Number: _____

Address: _____.

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

E. DRUG AND ALCOHOL FREE WORKPLACE

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

I CERTIFY THAT:

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) Within 30 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following

sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:

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

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

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

(4) I acknowledge and agree that:

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

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

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

F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

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

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

Date: _____

By: _____

(print name of Authorized Representative
and Affiant)

(signature of Authorized Representative
and Affiant)

ATTACHMENT D – PRE-BID CONFERENCE RESPONSE FORM

**Project No. F10B3400002
Project Title: Process Server**

A Pre-Bid Conference will be held at **10:00 AM (Local Time), on Monday, November 19, 2012 at:**

Maryland Department of Transportation Headquarters
7201 Corporate Center Drive
TSO Conference Room - Testing & Training Front
Hanover, MD 21076

For directions to the meeting site, See Attachment E—Directions to the Pre-Bid Conference or you may contact Ms. Andrea R. Lockett via e-mail at alockett@dbm.state.md.us or phone 410-260-7374.

Scan/E-mail or return this form to the Procurement Officer by 1:00 PM on Thursday, November 15, 2012, advising whether or not you plan to attend this Conference:

Andrea R. Lockett
Department of Budget & Management
Division of Procurement Policy & Administration
45 Calvert Street, Room 145
Annapolis, MD 21401
Phone: (410) 260-7374
Fax # (410) 974-3274
e-mail: alockett@dbm.state.md.us

Please indicate:

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

- 1.
- 2.
- 3.

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

Company/Firm/Vendor Name

Telephone

Contact Name

ATTACHMENT E – DIRECTIONS TO PRE-BID CONFERENCE

**Maryland Department of Transportation Headquarters
7201 Corporate Center Drive
TSO Conference Room - Testing & Training Front
Hanover, MD 21076**

10:00 A.M, Monday, November 19, 2012

Baltimore:

From 695; Take Baltimore –Washington Parkway (295) south to I-195 towards the BWI airport. Take I-195 to Md. Rte 170 south towards Dorsey. Go to the fifth traffic light and turn left on Stoney Run Rd. (“ramp” for Rental Car Return). Turn left at top of “ramp” to stay on Stoney Run Rd. Go to the next light at New Ridge Rd. and Corporate Center Dr. Turn right onto Corporate Center Dr. (Corporate Center Dr. curves to the left.) Take Corporate Center Dr. to 7201 on the right side of road. Parking is on the left side of road.

Washington:

From Baltimore-Washington Parkway (295); Take Baltimore-Washington Parkway North to I-195 and exit towards the BWI Airport (East). Take I-195 towards the BWI Airport to Md. Rte.170. Take Md. Rte. 170 south towards Dorsey. Go to the fifth traffic light and turn left on Stoney Run Rd. (“ramp” for Rental Car Return). Turn left at top of “ramp” to stay on Stoney Run Rd. Go to the next light at New Ridge Rd. and Corporate Center Dr. Turn right onto Corporate Center Dr. (Corporate Center Dr. curves to the left.) Take Corporate Center Dr. to 7201 on the right side of road. Parking is on the left side of road.

Annapolis:

From I-97; Take I-97 North to Rte.100 towards Columbia (west). Take Rte. 100 to Rte 170 north towards BWI Airport. Take Rte. 170 to the third traffic light and turn right on Stoney Run Rd. (“ramp” for Rental Car Return). Turn left at top of “ramp” to stay on Stoney Run Rd. Go to the next light at New Ridge Rd. and Corporate Center Dr. Turn right onto Corporate Center Dr. (Corporate Center Dr. curves to the left.) Take Corporate Center Dr. to 7201 on the right side of road. Parking is on the left side of road.

ATTACHMENT F – BID PRICE INSTRUCTIONS & FORM

1. In order to assist bidders in the preparation of their bids and to comply with the requirements of this solicitation, Attachment F (Bid Price Instructions & Form), has been prepared. Bidders shall submit their bids using Attachment F (Bid Form) and in accordance with the instructions on the form and as specified herein.
2. The Bid Form is to be completed, signed and dated by an individual who is authorized to bind the bidder to the unit price as noted on Attachment F (Bid Price Instructions & Form).
3. For purposes of determining the most favorable evaluated bid price (as referenced in COMAR 21.05.02.13), Bids will be evaluated based on the lowest total price submitted.
4. No taxes, surcharges, or fees of any type, kind, or amount whatsoever may be added to the unit price contracted.
5. Do not change or alter the Attachment F bid form in any way to include conditions otherwise your bid will be rejected. The prohibition against conditioning the bid includes making written or numerical alterations on the bid form, and attaching, and/or referencing any other document or wording that contains conditions, including vendor stated interpretations of any wording in this document.
6. All qualified Bidders will be ranked from the lowest to the highest price based on their total bid price proposed. Prices are based on a model that is solely for evaluation purposes only. No representations or guarantees of purchases, commitments, or of any other type are made or intended in connection with any such model.
7. Insert totals for each of the five (5) years for Perfected Service (A.1, B.1, C.1, D.1 and E.1); Perfected Service including Contractor Updated Address (A.2, B.2, C.2, D.2 and E.2); Affidavit of Evasion Preparation (A.3, B.3, C.3, D.3 and E.3); and Testimony (A.4, B.4, C.4, D.4 and E.4). Enter the Total Year Evaluated Sum for Years 1 through 5 as indicated. Enter the Grand Total of the Total Year Evaluated Sum for Years 1 through 5 as indicated. This will be the figure used to identify the lowest Bid/Bidder.
8. Initial to acknowledge the Living Wage Tier contract information (See Section 1.30) on the appropriate line of the Bid Form.

ATTACHMENT F – Bid Form

An individual who is authorized to bind the Bidder to all statements, including products, support, and pricing must sign the Authorized Signature block in the bid.

A.1 Year 1 \$ Unit Price for Perfected Service	Multiplied by	# of Estimated Cases	Equals	Total \$ Evaluated Bid Price for Perfected Service
	X	2,000	=	\$

A.2 Year 1 \$ Unit Price for Perfected Service including Contractor Updated Address	Multiplied by	# of Estimated Cases	Equals	Total \$ Evaluated Bid Price for Perfected Service including Contractor Updated Address
	X	80	=	\$

A.3 Year 1 \$ Unit Price for Affidavit of Evasion Preparation	Multiplied by	# of Estimated Cases	Equals	Total \$ Evaluated Bid Price for Affidavit of Evasion Preparation
	X	65	=	\$

A.4 Year 1 \$ Hourly Rate for Testimony	Multiplied by	# of Estimated Testimonies	Equals	Total \$ Evaluated Bid Price for Testimony
	X	2	=	\$

Total Year 1 Evaluated Sum of A.1 through A.4	
--	--

B.1 Year 2 \$ Unit Price for Perfected Service	Multiplied by	# of Estimated Cases	Equals	Total \$ Evaluated Bid Price for Perfected Service
	X	2,000	=	\$

B.2 Year 2 \$ Unit Price for Perfected Service including Contractor Updated Address	Multiplied by	# of Estimated Cases	Equals	Total \$ Evaluated Bid Price for Perfected Service including Contractor Updated Address
	X	80	=	\$

B.3 Year 2 \$ Unit Price for Affidavit of Evasion Preparation	Multiplied by	# of Estimated Cases	Equals	Total \$ Evaluated Bid Price for Affidavit of Evasion Preparation
	X	65	=	\$

B.4 Year 2 \$ Hourly Rate for Testimony	Multiplied by	# of Estimated Testimonies	Equals	Total \$ Evaluated Bid Price for Testimony
	X	2	=	\$

Total Year 2 Evaluated Sum of B.1 through B.4	
--	--

C.1 Year 3 \$ Unit Price for Perfected Service	Multiplied by	# of Estimated Cases	Equals	Total \$ Evaluated Bid Price for Perfected Service
	X	2,000	=	\$

C.2 Year 3 \$ Unit Price for Perfected Service including Contractor Updated Address	Multiplied by	# of Estimated Cases	Equals	Total \$ Evaluated Bid Price for Perfected Service including Contractor Updated Address
	X	80	=	\$

C.3 Year 3 \$ Unit Price for Affidavit of Evasion Preparation	Multiplied by	# of Estimated Cases	Equals	Total \$ Evaluated Bid Price for Affidavit of Evasion Preparation
	X	65	=	\$

C.4 Year 3 \$ Hourly Rate for Testimony	Multiplied by	# of Estimated Testimonies	Equals	Total \$ Evaluated Bid Price for Testimony
	X	2	=	\$

Total Year 3 Evaluated Sum of C.1 through C.4	
--	--

D.1 Year 4 \$ Unit Price for Perfected Service	Multiplied by	# of Estimated Cases	Equals	Total \$ Evaluated Bid Price for Perfected Service
	X	2,000	=	\$

D.2 Year 4 \$ Unit Price for Perfected Service including Contractor Updated Address	Multiplied by	# of Estimated Cases	Equals	Total \$ Evaluated Bid Price for Perfected Service including Contractor Updated Address
	X	80	=	\$

D.3 Year 4 \$ Unit Price for Affidavit of Evasion Preparation	Multiplied by	# of Estimated Cases	Equals	Total \$ Evaluated Bid Price for Affidavit of Evasion Preparation
	X	65	=	\$

D.4 Year 4 \$ Hourly Rate for Testimony	Multiplied by	# of Estimated Testimonies	Equals	Total \$ Evaluated Bid Price for Testimony
	X	2	=	\$

Total Year 4 Evaluated Sum of D.1 through D.4	
--	--

E.1 Year 5 \$ Unit Price for Perfected Service	Multiplied by	# of Estimated Cases	Equals	Total \$ Evaluated Bid Price for Perfected Service
	X	2,000	=	\$

E.2 Year 5 \$ Unit Price for Perfected Service including Contractor Updated Address	Multiplied by	# of Estimated Cases	Equals	Total \$ Evaluated Bid Price for Perfected Service including Contractor Updated Address
	X	80	=	\$

E.3 Year 5 \$ Unit Price for Affidavit of Evasion Preparation	Multiplied by	# of Estimated Cases	Equals	Total \$ Evaluated Bid Price for Affidavit of Evasion Preparation
	X	65	=	\$

E.4 Year 5 \$ Hourly Rate for Testimony	Multiplied by	# of Estimated Testimonies	Equals	Total \$ Evaluated Bid Price for Testimony
	X	2	=	\$

Total Year 5 Evaluated Sum of E.1 through E.4	
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ATTACHMENT G – ELECTRONIC FUNDS TRANSFER (EFT) FORM

Date of request _____

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

Business name _____

Address line 1 _____

Address line 2 _____

City _____ State _____ Zip code

Taxpayer identification number:

Federal Employer Identification Number:

(or) Social Security Number:

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

Financial institution information:

Name and address _____

Contact name, phone number (include area code), _____

ABA number

Account number

Account type Checking Money Market Savings

Format Desired: _____ CCD _____ CCD+ _____ CTX* (Check one.)

*Note – There may be a charge to you by your bank with this format.

A VOIDED CHECK from the bank account shall be attached.

Transaction requested:

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

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

*Name of registering business entity

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

Completed by GAD/STO

Date Received _____

GAD registration information verified _____ Date to STO _____

STO registration information verified _____ Date to GAD _____

R*STARS Vendor No. and Mail Code Assigned:

 State Treasurer’s Office approval date

 General Accounting Division approval date

To Requestor:

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

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

Instructions: Electronic Funds Transfer instructions are located: <http://compnet.comp.state.md.us/gad>. Questions may be requested by email, gad@comp.state.md.us. Or call 1-888-784-0144. COT/GAD X-10

ATTACHMENT H – BIDDER QUALIFICATIONS

(Attachments May Be Included)

IMPORTANT NOTE: ALL FIVE (5) ITEMS MUST BE ANSWERED

Contractor (Include Name, Address, and Telephone Number)

1) **Experience:** Must show at least \$5,000 in aggregate business of service of process within Maryland **for each of** 2010 and 2011 (i.e. \$10,000 over the 2 years) and at least \$4,000 in aggregate business of service of process within Maryland **thus far** for 2012.

2) **References:** List three (3) references in each of the past 3 years evidencing a minimum annual billing total of at least \$500.00 received from each reference. These references can be the same for each year or different references for each year; i.e. between 3 and 9 total references may be submitted.

For each reference, include a contact person, current telephone number and email address.

3) **Routine Service:** Acknowledge and certify understanding of Rule 2-121(a) and Rule 3-121(a) requirements.

ATTACHMENT H – BIDDER QUALIFICATIONS CONTINUED

- 4) **Evasion of Service:** Acknowledge and certify understanding of Rule 2-121(b) and Rule 3-121(b) requirements and Rules 2-122(a) and 3-121(b) for service by posting or publication.
- 5) **I affirm I will serve all processes** assigned by the Central Collection Unit (CCU) throughout the State of Maryland for the duration of this Contract for the Bid amounts submitted on the Bid Price Form (Attachment F).

RULE 2-121. PROCESS--SERVICE--IN PERSONAM

(a) Generally. Service of process may be made within this State or, when authorized by the law of this State, outside of this State (1) by delivering to the person to be served a copy of the summons, complaint, and all other papers filed with it; (2) if the person to be served is an individual, by leaving a copy of the summons, complaint, and all other papers filed with it at the individual's dwelling house or usual place of abode with a resident of suitable age and discretion; or (3) by mailing to the person to be served a copy of the summons, complaint, and all other papers filed with it by certified mail requesting: "Restricted Delivery--show to whom, date, address of delivery." Service by certified mail under this Rule is complete upon delivery. Service outside of the State may also be made in the manner prescribed by the court or prescribed by the foreign jurisdiction if reasonably calculated to give actual notice.

(b) Evasion of Service. When proof is made by affidavit that a defendant has acted to evade service, the court may order that service be made by mailing a copy of the summons, complaint, and all other papers filed with it to the defendant at the defendant's last known residence and delivering a copy of each to a person of suitable age and discretion at the place of business of the defendant.

(c) By Order of Court. When proof is made by affidavit that good faith efforts to serve the defendant pursuant to section (a) of this Rule have not succeeded and that service pursuant to section (b) of this Rule is inapplicable or impracticable, the court may order any other means of service that it deems appropriate in the circumstances and reasonably calculated to give actual notice.

(d) Methods Not Exclusive. The methods of service provided in this Rule are in addition to and not exclusive of any other means of service that may be provided by statute or rule for obtaining jurisdiction over a defendant.

RULE 2-122. PROCESS-SERVICE-IN REM OR QUASI IN REM

(a) Service by Posting or Publication. In an in rem or quasi in rem action when the plaintiff has shown by affidavit that the whereabouts of the defendant are unknown and that reasonable efforts have been made in good faith to locate the defendant, the court may order service by the mailing of a notice to the defendant's last known address and:

- (1) by the posting of the notice by the sheriff at the courthouse door or on a bulletin board within its immediate vicinity, or

- (2) (by publishing the notice at least once a week in each of three successive weeks in one or more newspapers of general circulation published in the county in which the action is pending, or
- (3) in an action in which the rights relating to land including leasehold interests are involved, by the posting of the notice by a person authorized to serve process in accordance with Rule 2-123 (a) in a conspicuous place on the land.

Additionally, the court may order any other means of notice that it deems appropriate in the circumstances.

(b) Time. The mailing and the posting or publication shall be accomplished at least 30 days before the date by which a response to the complaint is to be filed.

(c) Content of Notice. The notice shall be signed by the clerk and shall include the caption of the case; describe the substance of the complaint and the relief sought; inform the defendant of the latest date by which the response is to be filed; warn the defendant that failure to file the response within the time allowed may result in a judgment by default or the granting of the relief sought; and contain any other information required by the court.

RULE 3-121. PROCESS--SERVICE--IN PERSONAM

(a) Generally. Service of process may be made within this State or, when authorized by the law of this State, outside of this State (1) by delivering to the person to be served a copy of the summons, complaint, and all other papers filed with it; (2) if the person to be served is an individual, by leaving a copy of the summons, complaint, and all other papers filed with it at the individual's dwelling house or usual place of abode with a resident of suitable age and discretion; or (3) by mailing to the person to be served a copy of the summons, complaint, and all other papers filed with it by certified mail requesting: "Restricted Delivery--show to whom, date, address of delivery." Service by certified mail under this Rule is complete upon delivery. Service outside of the State may also be made in the manner prescribed by the court or prescribed by the foreign jurisdiction if reasonably calculated to give actual notice.

(b) Evasion of Service. When proof is made by affidavit that a defendant has acted to evade service, the court may order that service be made by mailing a copy of the summons, complaint, and all other papers filed with it to the defendant at the defendant's last known residence and delivering a copy of each to a person of suitable age and discretion at the place of business of the defendant.

(c) By Order of Court. When proof is made by affidavit that good faith efforts to serve the defendant pursuant to section (a) of this Rule have not succeeded and that service pursuant to section (b) of this Rule is inapplicable or impracticable, the court may order any other means of service that it deems appropriate in the circumstances and reasonably calculated to give actual

notice.

(d) Methods Not Exclusive. The methods of service provided in this Rule are in addition to and not exclusive of any other means of service that may be provided by statute or rule for obtaining jurisdiction over a defendant.

ATTACHMENT J – LIVING WAGE REQUIREMENTS AND AFFIDAVIT

Living Wage Requirements for Service Contracts

- A. 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 work week on the State Contract.
- B. The Living Wage Law does not apply to:
- (1) A Contractor who:
 - (A) has a State contract for services valued at less than \$100,000, or
 - (B) employs 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,
 - (B) employs 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 into a procurement (“Unit”); or
 - (D) services between a Unit and a County or Baltimore City.
- C. If the Unit responsible for the State contract for services determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.
- D. A Contractor must not split or subdivide a State contract for services, pay an employee through a third party, or treat an employee as an independent contractor or assign work to

employees to avoid the imposition of any of the requirements of Title 18, State Finance and Procurement, Annotated Code of Maryland.

- E. Each Contractor/Subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.
- F. The Commissioner 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.
- G. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of the health insurance premium, as provided in §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.
- H. 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.
- I. 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.
- J. 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.

Affidavit of Agreement

Maryland Living Wage Requirements-Service Contracts

Contract No. _____

Name of Contractor _____

Address _____

City _____ State _____ Zip Code _____

If the Contract is Exempt from the Living Wage Law

The Undersigned, being an authorized representative of the above named Contractor, hereby affirms that the Contract is exempt from Maryland’s Living Wage Law for the following reasons (check all that apply):

- _____ Bidder/Offeror is a nonprofit organization
- _____ Bidder/Offeror is a public service company
- _____ Bidder/Offeror employs 10 or fewer employees and the proposed contract value is less than \$500,000
- _____ Bidder/Offeror employs more than 10 employees and the proposed contract value is less than \$100,000

If the Contract is a Living Wage Contract

A. The Undersigned, being an authorized representative of the above named Contractor, hereby affirms our commitment to comply with Title18, State Finance and Procurement Article, Annotated Code of Maryland and, if required, to submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Bidder/Offeror agrees to pay covered employees who are subject to living wage at least the living rate in effect at the time service is provided for hours spent on State contract activities, and to ensure that its Subcontractors who are not exempt also pay the required living wage rate to their covered employees who are subject to the living wage for hours spent on a State contract for services. The Contractor agrees to comply with, and ensure its Subcontractors comply with, the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate established by the Commissioner of Labor and Industry, automatically upon the effective date of the revised wage rate.

Affidavit of Agreement
Maryland Living Wage Requirements-Service Contracts (continued)

B. _____(initial here if applicable) The Bidder/Offeror affirms it has no covered employees for the following reasons: (check all that apply):

- _____ All employee(s) proposed to work on the contract will spend less than one-half of the employee's time during every work week on the State contract;
- _____ All employee(s) proposed to work on the contract will be 17 years of age or younger during the duration of the contract; or
- _____ All employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

The Commissioner of Labor and Industry reserves the right to request payroll records and other data that the Commissioner deems sufficient to confirm these affirmations at any time.

Name of Authorized Representative: _____

Signature of Authorized Representative Date

Title

Witness Name (Typed or Printed)

Witness Signature Date