

Request for Proposals (RFP)

AUDIT SERVICES CONTRACT (ASC)

PROJECT NO. 050B9800006



**DEPARTMENT OF
BUDGET & MANAGEMENT**

Issue Date: December 1, 2009

NOTICE:

Prospective Offerors who have received this document from the Department of Budget and Management's web site or eMarylandMarketplace.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 RFP, should immediately contact the Procurement Officer and provide their name and mailing address so that amendments to the RFP or other communications can be sent to them.

Minority Business Enterprises are Encouraged to Respond to this Solicitation

**STATE OF MARYLAND
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. Thank you for your assistance. **Please return by email to: Jacque' Skinner-Boock at jboock@dbm.state.md.us or FAX 410.974-3274.**

Audit Services RFP Number: 050B9800006

Entitled: Audit Services Contract

- I. If you are not making an offer to this RFP, 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 services 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.)
 - Proposal requirements, other than specifications, are unreasonable or too risky. (Please explain below.)
 - Time for completion is insufficient.
 - 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 Person: _____ Phone: (____) _____ - _____
Address or e-mail: _____

THANK YOU!!

KEY INFORMATION SUMMARY SHEET

STATE OF MARYLAND

Request For Proposals

AUDIT SERVICES CONTRACT

PROJECT NO. 050B9800006

RFP Issue Date: **December 1, 2009**

RFP Issuing Office: **Maryland Department of Budget and Management
Division of Procurement Policy and Administration**

Procurement Officer: **Jacquelyn E. Skinner-Boock
Office Phone: (410) 260-7681
Facsimile: (410) 974-3274
E-mail: jboock@dbm.state.md.us
(See Section 1.7 for full address)**

Proposals are to be sent to: **Maryland Department of Budget and Management
45 Calvert Street, Room 137
Annapolis, MD 21401
Attention: Jacquelyn E. Skinner-Boock**

Pre-Proposal Conference: **Wednesday, December 16, 2009 – 10:00 AM Local Time
The Department of Budget and Management
45 Calvert Street, Room 164 A&B
Annapolis, MD 21401**

See Attachment A for directions.

Closing Date and Time: **Tuesday, January 26, 2010 – 2:00 PM Local Time**

NOTICE:

Prospective Offerors who have received this document from the Department of Budget and Management's web site or eMarylandMarketplace.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 RFP, should immediately contact the Procurement Officer and provide their name and mailing address so that amendments to the RFP or other communications can be sent to them.

Table of Contents

SECTION 1 - GENERAL INFORMATION	8
1.1 Summary Statement.....	8
1.2 Abbreviations and Definitions	8
1.3 Pre-Proposal Conference	10
1.4 Proposals Due (Closing) Date.....	10
1.5 Questions	11
1.6 Contract Duration.....	11
1.7 Procurement Officer	11
1.8 Contract Manager.....	11
1.9 Living Wage Requirement.....	12
1.10 Small Business Reserve.....	12
1.11 Minority Business Enterprises Notification	13
1.12 Minority Business Enterprises	13
1.13 Multiple or Alternate Proposals	14
1.14 Cancellations and Discussions	14
1.15 Oral Presentation	14
1.16 Duration of Offer	14
1.17 Public Information Act Notice	14
1.18 Arrearages.....	15
1.19 Proposal Affidavit.....	15
1.20 Contract Affidavit	15
1.21 Contract Type	15
1.22 Procurement Method	15
1.23 Mandatory Contractual Terms	15
1.24 Protests/Disputes	15
1.25 Revisions to the RFP.....	16
1.26 eMarylandMarketplace.....	16
1.27 Incurred Expenses.....	16
1.28 Economy of Preparation.....	16
1.29 Offeror Responsibilities	16
1.30 Verification of Registration and Tax Payment.....	17
1.31 False Statements	17
1.32 Payments by Electronic Funds Transfer.....	17
1.33 Conflict of Interest Affidavit and Disclosure / Certificate of Confidentiality Agreement / Non-Disclosure Agreement.....	18
1.34 Subcontractor Prompt Payment Policy.....	18

1.35	<i>Non-exclusive Use</i>	18
1.36	<i>Contract Extended To Include Maryland Non-State Governments Or Agencies</i>	18
1.37	<i>Electronic Procurements Authorized</i>	19
1.38	<i>American Recovery and Reinvestment Act</i>	20
SECTION 2 – MINIMUM QUALIFICATIONS of an OFFEROR		21
2.1	<i>Minimum Qualifications:</i>	21
SECTION 3 – SCOPE OF WORK		22
3.1	<i>Background</i>	22
3.2	<i>Purpose</i>	22
3.3	<i>Task Orders Process</i>	22
3.4	<i>Management Reports , Meetings, and Invoicing</i>	25
3.5	<i>Each TORFP’s Project Deliverables</i>	27
3.6	<i>Right of State to Discontinue or Suspend Participation of a Master Contractor</i>	27
3.7	<i>Subcontractors</i>	27
3.8	<i>Staffing</i>	28
3.9	<i>Substitution of Personnel</i>	29
3.10	<i>Labor Categories And Qualifications</i>	32
3.11	<i>Insurance Requirements</i>	38
3.12	<i>Security and Confidentiality</i>	39
3.13	<i>Quality Assurance</i>	39
3.14	<i>Conflicts of Interest</i>	39
SECTION 4 – PROPOSAL FORMAT		41
4.1	<i>Submit the Technical and Financial Proposals in Two Parts</i>	41
4.2	<i>Volume I – Technical Proposal</i>	42
4.6	<i>Volume II – Financial Proposal</i>	46
SECTION 5 – PRELIMINARY REVIEW and EVALUATION CRITERIA AND SELECTION PROCEDURES		48
5.1	<i>Form Submissions and Minimum Qualifications Criteria Reviewed in the Offeror’s Technical Proposal</i>	48
5.2	<i>Evaluation of Each Qualified Offeror’s Technical and Financial Proposals</i>	48
5.3	<i>Technical Criteria</i>	48
5.4	<i>Financial Criteria</i>	48
5.5	<i>Reciprocal Preference</i>	49
5.6	<i>Selection Procedures</i>	49
ATTACHMENTS		51
<i>ATTACHMENT A – PRE-PROPOSAL CONFERENCE RESPONSE FORM WITH DIRECTIONS</i>		54
<i>ATTACHMENT B – PROPOSAL AFFIDAVIT</i>		55

ATTACHMENT C – FINANCIAL PROPOSAL INSTRUCTIONS AND AFFIDAVIT 62

ATTACHMENT D – MINORITY BUSINESS ENTERPRISE PARTICIPATION: INSTRUCTIONS AND FORMS..... 65

INSTRUCTIONS AND FORMS FOR TASK ORDER REQUESTS FOR PROPOSALS (TORFPs)..... 66

ATTACHMENTS E—EXAMPLE TORFP LABOR CATEGORY SUMMARY SHEET 79

ATTACHMENT F—CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE..... 80

ATTACHMENT G—EXAMPLE OF A TASK ORDER AGREEMENT’S CERTIFICATE OF CONFIDENTIALITY AGREEMENT.. 81

ATTACHMENT H – EXAMPLE of a NON-DISCLOSURE AGREEMENT 83

ATTACHMENT I – ELECTRONIC FUNDS TRANSFER (EFT) REGISTRATION REQUEST FORM 85

ATTACHMENT J – CONTRACT AFFIDAVIT 87

ATTACHMENT K – SAMPLE OF THE STATE’S CONTRACT 88

ATTACHMENT L – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS 99

ATTACHMENT M – MOCKUP SAMPLE TASK ORDER AGREEMENT (TOA)..... 103

ATTACHMENT N-1 – AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA-1) 106

ATTACHMENT N-2 – AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (ARRA-2) 109

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SECTION 1 - GENERAL INFORMATION

1.1 Summary Statement

The Department of Budget and Management is soliciting proposals to select licensed Certified Public Accounting firms to perform audits for State of Maryland agencies.

DBM intends to award an unlimited number of Master Contracts to qualified Offerors that will compete as the need arises on subsequently issued Task Orders to perform audit services for Maryland State agencies and their component programs. Each required audit will be summarized in a Task Order Request for Proposals (TORFP), as needed, throughout the term of the Master Contracts.

Offerors, either exclusively or in combination with subcontractors, must be able to provide all services and meet all the requirements requested in this solicitation.

1.2 Abbreviations and Definitions

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

- A. **ADPICS** – Maryland’s current Advanced Purchasing and Inventory Control System.
- B. **COMAR** – Code of Maryland Regulations available online at http://www.dsd.state.md.us/comar/title_search/searchTitle21.htm
- C. **Contract** – Has the same meaning as Master Contract.
- D. **Contract Manager (CM)** – The State representative for who serves as the manager for the resulting Master Contracts. Contract administration functions include issuing written direction and compliance with terms and conditions. The CM monitors the daily activities of the Master Contracts and provides guidance to Master Contractors and user State Agencies. DBM may change the CM at any time by written notice to the Contractors.
- E. **Contractor** – Has the same meaning as Master Contractor.
- F. **Contractor’s Representative** – Person designated as the Contractor’s single point-of-contact with the authority and knowledge to act on behalf of the Contractor for TORFP notifications, Task Order and Master Contract matters .
- G. **DBM** – The Maryland Department of Budget and Management.
- H. **Fixed Hourly Labor Category Rates** – See Section 3.3.7
- I. **Fully loaded** – See Section 3.3.7

- J. Labor Categories** – See Section 3.3.7
- K. Local Time** – Time in the Eastern Time Zone as observed by the State.
- L. Master Contract** - The Contract entered between DBM and each of the Qualified Offerors for this RFP for audit services. The Contract will be in the form of Attachment K.
- M. Master Contractor** - Each Offeror awarded a Master Contract under this RFP.
- N. Minority Business Enterprise (MBE)** – A Minority Business Enterprise certified by the Maryland Department of Transportation under COMAR 21.11.03.
- O. Notice To Proceed (NTP)** -- Is the formal written notification from the DBM Contract Manager or designee that is initially provided in conjunction with an executed Task Order Agreement that states that the selected Master Contractor should immediately, or as of the date contained in the Notice, begin performance of the TOA within the scope specified in the Notice To Proceed.
- P. Procurement Officer** – The State representative responsible for this RFP, for the determination of Contract scope issues, and the only State representative that can authorize changes to a Master Contract.
- Q. Qualified Offeror** - An Offeror which is determined to be responsible and whose Technical Proposal is determined to be reasonably susceptible of being selected for award.
- R. RFP** – This Request for Proposals for the Audit Services Contract for Maryland State Agencies, Project Number **050B9800006**, dated December 1, 2009, including any amendments.
- S. Small Business Reserve (SBR)** – A program in accordance with Title 14, Subtitle 5 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended by Chapter 75, Laws of Maryland 2004, that reserves a certain percentage of the procurement dollars spent by certain designated agencies for small businesses registered with the Department of General Services (DGS).
- T. State** – The State of Maryland.
- U. SFP** - State Finance and Procurement Article, Annotated Code of Maryland
- V. State of Maryland Business Hours and Days** – Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: www.dbm.maryland.gov – keyword: State Holidays.
- W. Task Order Agreement (TOA)** – An executed contract between DBM and the Master Contractor(s) selected to perform an audit on the behalf of a particular State agency in response to a Task Order Request for Proposals. All general terms and conditions in the Master Contract apply to TOAs. A TOA may not conflict with or supersede the Master Contract’s term (period of performance), or terms and conditions.

- X. Task Order Manager (TOM)** - The specific State employee identified in a TORFP or its TOA, who will perform the management functions for the State for that respective TOA.
- Y. Task Order Proposal (TOP)** - The specific technical and financial response by a Master Contractor to a TORFP.
- Z. Task Order Request for Proposal (TORFP)** - A solicitation document which describes the scope of work and the specific circumstances regarding the performance of the audit services for a specific State agency pursuant to this RFP. A TORFP may not conflict, or supersede any provision of the Master Contract.
- AA. Time and Material** - Type of payment to the Contractor specific to TOA performance, based on Fully Loaded Fixed Hourly Labor Category Rates, plus non-routine travel costs as may be identified in a TOA, plus the actual pass through cost of any materials provided. The labor category hourly rates may not exceed the hourly rates specified in the Master Contract. The TO Contractor will be required to provide time records and/or other documentation documenting that all direct hours billed have actually been expended by its principals or employees, or those of subcontractors, totally and productively in the performance of the specific TOA. In addition, the Contractor must also provide documentation of the actual cost of materials or other activities directly used in the performance of a TOA.
- BB. Travel** – See Section 3.4.4-Master Contractor’s Invoicing and Invoicing Report

1.3 Pre-Proposal Conference

A Pre-Proposal Conference will be held on the date and time indicated in the Key Information Summary Sheet at the beginning of this RFP, at 45 Calvert Street, Annapolis, MD 21401. All interested Offerors are encouraged to attend this conference in order to facilitate better preparation of their proposals. In addition, attendance will facilitate the Offeror’s overall understanding and ability to meet the State’s Minority Business Enterprise (MBE) goals.

As promptly as is feasible subsequent to the Pre-Proposal Conference, a written summary of the Pre-Proposal Conference and all questions and answers known at that time will be distributed, free of charge, to all prospective Offerors known to have received a copy of this RFP.

In order to assure adequate seating and other accommodations, including sign language interpretation or other special accommodations due to a disability, at the Pre-Proposal Conference, please submit the Pre-Proposal Conference Response Form to the attention of the Procurement Officer noted in the Key Information Summary Sheet preferably via e-mail to jboock@dbm.state.md.us, or via facsimile at (410) 974-3274, using this RFP’s Attachment A-Pre-Proposal Conference Response Form no later than the date noted on the Attachment A-Pre-Proposal Conference Response Form.

1.4 Proposals Due (Closing) Date

One (1) unbound original and four (4) copies of each proposal (technical and financial) must be received by the Procurement Officer, at the address listed in Section 1.7, no later than 2:00 PM (local time) on January 26, 2010, in order to be considered. *See Section 4-Proposal Format for more detail.*

Unless provided by the Procurement Officer in writing to all vendors, extension of this due date and time will not be granted. Offerors mailing proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.02.10, proposals received by the Procurement Officer after the published due date and time will not be considered.

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

1.5 Questions

Written questions from prospective Offerors will be accepted by the Procurement Officer prior to the Pre-Proposal Conference. No substantive question will be answered prior to the Pre-Proposal Conference. Written questions may be submitted by mail, facsimile, or preferably, by e-mail to the Procurement Officer. Questions, both oral and written, will also be accepted from prospective Offerors attending the Pre-Proposal Conference. As reasonably possible and appropriate, questions will be answered at the Pre-Proposal Conference.

Questions will also be accepted after the Pre-Proposal Conference, but should be submitted to the Procurement Officer in a timely manner prior to the proposal due date. Time permitting, answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be distributed to all vendors who are known to have received a copy of the RFP.

1.6 Contract Duration

The Contract resulting from this RFP shall be for a period of approximately five (5) years beginning at contract execution through June 30, 2015.

1.7 Procurement Officer

The sole point of contact in the State for purposes of this RFP prior to the award of any Contract is the Procurement Officer and the contact information is:

Jacquelyn E. Skinner-Boock
Maryland Department of Budget and Management
Division of Procurement Policy & Administration
45 Calvert Street, Room 137
Annapolis, Maryland 21401
Phone Number: 410-260-7681
Fax Number: 410-974-3274
E-mail: jboock@dbm.state.md.us

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

1.8 Contract Manager

After the award of the contract, the Contract Manager for the State is:

Jacquelyn E. Skinner-Boock
Maryland Department of Budget and Management

Division of Procurement Policy & Administration
45 Calvert Street, Room 137
Annapolis, Maryland 21401
Phone Number: 410-260-7681
Fax Number: 410-974-3274
E-mail: jboock@dbm.state.md.us

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

1.9 Living Wage Requirement

A TORFP for services valued at \$100,000 or more under a State Master Contract may be subject to Title 18, State Finance and Procurement Article, Annotated Code of Maryland. Additional information regarding the State's Living Wage requirement is contained in this solicitation (see Attachment L-The Living Wage Requirements for Service Contracts). The Living Wage Law applies to each TOA issued under a TORFP. Each Task Order stands alone. If the Master Contractor fails to submit and complete the Living Wage Affidavit of Agreement with its response to a TORFP, the State may determine for that TORFP that the Master Contractor is not responsible.

Master Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at the rate specified by law which may be viewed on the Department of Labor, Licensing and Regulation website at: <http://www.dllr.maryland.gov/>.

The specific Living Wage rate is determined by whether a majority of services for a TORFP take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit issuing the TORFP pursuant to SFP §18-102 (d) shall assign the tier based upon where the recipients of the services are located. The tier determination will be made on the Task Order level and will be included in each TORFP. See the Affidavit of Agreement affixed as part of this RFP's Attachment L-The Living Wage Requirements for Service Contracts.

1.10 Small Business Reserve

The State reserves the right to designate any TORFP issued by an Agency designated under SFP §14-501(b) as an SBR TORFP. The resulting TOA may only be distributed to a qualified Master Contractor that meets the statutory qualifications of a Small Business as defined in SFP §14-501(c), Annotated Code of Maryland, and is registered with the Department of General Services Small Business Reserve Program at the time of Task Order award. Information regarding the Small Business Reserve Program and Small Business standards can be obtained from the Maryland Department of General Services website at www.smallbusinessreserve.maryland.gov.

As with all TORFPs, the applicable user State Agency shall assess the potential for an MBE subcontractor participation goal, if applicable, for each SBR TORFP.

Throughout the term of the Master Contract, Master Contractors registered under SBR guidelines shall promptly notify the DBM Contract Manager of any change in their SBR status. Should a Master Contractor become Maryland SBR-certified after award of a Master Contract, that Master Contractor shall notify the DBM Contract Manager and provide the DBM Contract Manager with its DGS-assigned SBR registration number.

1.11 Minority Business Enterprises Notification

MBE vendors are encouraged to obtain certification from the Office of Minority Business Enterprise. All questions related to certification should be directed to the Office of Minority Business Enterprise.

Director
Office of Minority Business Enterprise
Maryland Department of Transportation (MDOT)
P.O. Box 8755
BWI Airport, Maryland 21240-0755
Telephone: (410) 865-1269

1.12 Minority Business Enterprises

This RFP has established an overall aggregate thirty percent (30%) Master Contract goal for MBE subcontractor participation. While the overall objective is to collectively achieve 30% MBE participation for all TOAs issued under the RFP, the means to achieve this aggregated 30% participation will be through the establishment, where appropriate, of a discrete MBE subcontractor participation goal for each TORFP issued (including any TORFP designated as a Small Business Reserve). Accordingly, MBE compliance will be monitored on a TOA basis rather than at the Master Contract level.

Each Offeror shall complete, sign and submit without edits, Attachment D-1 Master (Offeror's Acknowledgement of Task Order Request for Proposals MBE Participation Requirements) with the Offeror's technical response to this RFP. Failure to do so shall result in the State's rejection of the Offeror's proposal (Technical and Financial) to this RFP.

A Master Contractor that responds to a TORFP that contains an MBE goal shall complete, sign, and submit all required MBE documentation (Attachments D-1 and D-2) with its TOP submission. Failure of the Master Contractor to complete, sign, and submit all required MBE documentation at the time it submits its TOP shall result in the State's rejection of the Master Contractor's Task Order Proposal.

A Master Contractor whose TOP has been recommended for award shall complete, sign, and submit Attachments TORFP D-3 and TORFP D-4 within 10 working days of notification of award. For each awarded TOA, a Master Contractor and its MBE Subcontractor(s) shall complete the following forms once a month until each applicable TOA is deemed by the State to be completed: TORFP D-5-Prime Contractor Paid/Unpaid MBE Invoice Report (See enclosed sample); and, TORFP D-6-Subcontractor Paid/Unpaid MBE Invoice Report (See enclosed sample).

The Master Contractor is fully responsible for communicating with its MBE subcontractor(s) and managing its commitments to those MBE subcontractors. Any desired change to any TOA MBE commitment must be discussed and have the prior written approval of the DBM Contract Manager (to include any required

contractual TOA modifications). This includes actions such as removing a designated MBE or adding a new MBE to a TOA.

A current directory of certified MBEs is available through the Maryland State Department of Transportation, Office of Minority Business Enterprise, 7201 Corporate Center Drive. P.O. Box 548, Hanover, MD 21076. Phone numbers: 410-865-1269, or 1-800-544-6056, or TTY 410-865-1342. The directory is also available at <http://www.mdot.state.md.us>. The most current and up-to-date information on MBEs is available via this website.

1.13 Multiple or Alternate Proposals

Neither multiple nor alternate proposals will be accepted in response to this RFP.

1.14 Cancellations and Discussions

The State reserves the right to cancel this RFP, accept or reject any and all proposals, in whole or in part, received in response to this RFP, to waive or permit cure of minor irregularities, and to conduct discussions with all qualified or potentially qualified Offerors in any manner necessary to serve the best interests of the State. The State also reserves the right, in its sole discretion, to award a Master Contract based upon the written proposals received without prior discussions or negotiations.

1.15 Oral Presentation

Offerors may be required to make oral presentations to State representatives. Significant representations made by an Offeror during any oral presentation shall be submitted in writing. All such representations will become part of the Offeror's proposal and are binding if the Contract is awarded. The Procurement Officer will notify Offerors of the time and place of any oral presentations.

1.16 Duration of Offer

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

1.17 Public Information Act Notice

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

Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information can be disclosed (see COMAR 21.05.08.01). Information in a proposal response to this RFP which is claimed to be confidential is to be placed

after the Title Page and before the Table of Contents in the Technical proposal in a Cover Letter that accompanies the Financial Proposal, if applicable.

1.18 Arrearages

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

1.19 Proposal Affidavit

A proposal submitted by an Offeror shall be accompanied by a completed Proposal Affidavit in its Technical Proposal. A copy of the Proposal Affidavit is included as Attachment B of this RFP.

1.20 Contract Affidavit

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

1.21 Contract Type

The Master Contract shall be an Indefinite Quantity Contract as defined in COMAR 21.06.03.05 and 06. The TOAs issued under the Master Contracts that result from this RFP shall be a Time and Materials, Indefinite Quantity Contract with Fixed Unit Prices in accordance with COMAR 21.06.03.06 as described in each TORFP. The Fixed Unit Prices as proposed and accepted under the Contract will be in effect for the applicable Contract Year term of the Master Contract. The Fixed Unit Prices are referred to in this RFP as the *Fully Loaded Fixed Hourly Labor Category Rates*.

1.22 Procurement Method

Master Contracts will be awarded in accordance with the Competitive Sealed Proposals process under COMAR 21.05.03.

1.23 Mandatory Contractual Terms

By submitting an offer in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms of this RFP and the Master Contract, attached as Attachment K-Sample of the State's Contract. Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary of the Offeror's Technical Proposal. However, an Offeror must note that any proposal that takes exception to these terms and conditions may be rejected by the State. No exceptions shall be noted in the Offeror's financial submission.

1.24 Protests/Disputes

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

1.25 Revisions to the RFP

If it becomes necessary to revise this RFP before the due date for proposals, amendments will be provided to all vendors who were sent this RFP and otherwise are known by the Procurement Officer to have obtained this RFP. In addition, amendments to the RFP will be posted on the DBM Procurement Web page and through eMarylandMarketplace.

Amendments made after the due date for proposals will be sent only to those Offerors who are qualified and submitted a timely proposal.

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

1.26 eMarylandMarketplace

Each Offeror must indicate its eMarylandMarketplace vendor number in the Transmittal Letter submitted with its Technical Proposal submission to this RFP .

eMarylandMarketplace is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the DBM web site (<https://ebidmarketplace.com/>) and other means for transmitting the RFP and associated materials, the solicitation and summary of the Pre-Proposal Conference, Offerors' questions and the Procurement Officer's responses, addenda, and other solicitation related information will be provided via eMarylandMarketplace.

In order to receive a contract award, a vendor must be registered on eMarylandMarketplace. Registration is free and administered by the Maryland Department of General Services (DGS). Go here to register: <https://ebidmarketplace.com/>. Click on "Registration" to begin the process and follow the prompts.

1.27 Incurred Expenses

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

1.28 Economy of Preparation

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

1.29 Offeror Responsibilities

The selected Offerors shall be responsible for all products and services as required by this RFP. Additional information regarding MBE subcontractors is provided under Section 1.12-Minority Business Enterprise. If an Offeror that seeks to perform or provide the services required by this RFP is a subsidiary of another entity, all information submitted by the Offeror, such as but not limited to, references and financial reports, shall pertain

exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's proposal shall contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.

1.30 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, MD 21201. It is strongly recommended that any potential Offeror complete registration prior to the due date for receipt of proposals. An Offeror's failure to complete registration with the Department of Assessments and Taxation may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

Master Contracts may be periodically checked by the Contract Manager to assure continued registration.

1.31 False Statements

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

- (a) In connection with a procurement Contract, a person may not willfully:
 - 1) Falsify, conceal, or suppress a material fact by any scheme or device;
 - 2) Make a false or fraudulent statement or representation of a material fact; or
 - 3) 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.

1.32 Payments by Electronic Funds Transfer

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

1.33 Conflict of Interest Affidavit and Disclosure / Certificate of Confidentiality Agreement / Non-Disclosure Agreement

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Master Contractor's personnel and each of the participating subcontractor personnel under each applicable TORFP shall be required to complete agreements such as Attachment F-Conflict of Interest Affidavit and Disclosure.

A TOA may also include other agreements for confidentiality and non-disclosure. See e.g., Attachment G-Example of the Task Order Agreement Contractor's Certificate of Confidentiality and Attachment H-Example of a Non-Disclosure Agreement are examples of these types of documents. These or similar Agreements must be provided in response to a TORFP or TOA as directed in order to begin services for the applicable Maryland State Agency.

1.34 Subcontractor Prompt Payment Policy

This procurement and the contract's TOAs to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs dated August 1, 2008. Promulgated pursuant to SFP sections 11-201, 13-205(a), and Title 14, Subtitle 3, and (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 Offerors to this solicitation who are awarded Task Order Agreements under this contract must comply with the prompt payment requirements outlined in the Contract, § 32.-Subcontractor Prompt Payment. Additional prompt payment information is available on the GOMA website at: http://www.mdminoritybusiness.com/documents/PROMPTPAYMENTFAQs_000.pdf

1.35 Non-exclusive Use

It is the State's intention to obtain general auditing services as specified in this RFP. However, these Master Contracts will not be construed to require the State or any State agency to use this Contract exclusively. The State maintains separate contracts to perform other State audits as required by the federal government and associated activities. Various State agencies also have special topic auditing contracts, and due to the nature and scope of the specialty areas these special purpose audit contracts may continue to be separately procured. In addition, the State reserves the right to procure auditing services of any nature from other sources when it is in the best interest of the State to do so and without notice to the Master Contractors.

1.36 Contract Extended To Include Maryland Non-State Governments Or Agencies

County, municipal, and other Maryland non-state governments or agencies may purchase services from the Contractors goods or services covered by this contract at the same prices chargeable to the State.

All such purchases by non-State governments or agencies:

- (1) Shall constitute contracts between the Master Contractor and that government or agency;
- (2) Shall not constitute purchases directed 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 Master 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.

1.37 Electronic Procurements Authorized

- A. Under COMAR 21.03.05, unless otherwise prohibited by law, the Department of Budget & Management (DBM) 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.
- B. 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 or the Contract.
- C. “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.
- D. In addition to specific electronic transactions specifically authorized in other sections of this RFP (e.g. §1.30 related to EFT) and subject to the exclusions noted in section 5 of this subsection, the following transactions are authorized to be conducted by electronic means on the terms described:
1. The Procurement Officer may conduct this procurement using eMarylandMarketplace, e-mail or facsimile to issue:
 - (i) the solicitation (e.g. the RFP);
 - (ii) any amendments;
 - (iii) pre-proposal conference documents;
 - (iv) questions and responses;
 - (v) communications regarding the solicitation or proposal to any Offeror or potential Offeror including requests for clarification, explanation, or removal of elements of an Offeror’s proposal deemed not acceptable;
 - (vi) notices of award selection or non-selection; and
 - (vii) the Procurement Officer’s decision on any protest or Contract claim.
 2. An Offeror or potential Offeror may use e-mail or facsimile to:
 - (i) ask questions regarding this solicitation;
 - (ii) 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;
 - (iii) request a debriefing; or,
 - (iv) submit a “No Bid Response” to this solicitation.
 3. The Procurement Officer, the State’s Contract Manager and the Contractor may conduct day-to-day Contract administration, except as outlined in section 5 of this subsection utilizing e-mail, facsimile or other electronic means if authorized by the Procurement Officer or Contract Manager.

- E. The following transactions related to this procurement and any Contract awarded pursuant to it are not authorized to be conducted by electronic means:
1. submission of initial bids or proposals;
 2. filing of protests;
 3. filing of Contract claims;
 4. submission of documents determined by DBM to require original signatures (e.g. Contract execution, Contract modifications, etc); or
 5. 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.

F. 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 RPF, the Contract, or in the direction from the Procurement Officer or Contract Manager.

1.38 American Recovery and Reinvestment Act
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For any TORFPs that are funded in whole or in part with American Recovery and Reinvestment Act of 2009, Public Law 111-5 (ARRA) funds, the supplemental terms and conditions contained on Attachments N-1 and N-2 are incorporated by reference and apply.

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SECTION 2 – MINIMUM QUALIFICATIONS of an OFFEROR

This section specifies minimum qualifications and the forms of proof to be submitted with the Offeror's technical proposal to demonstrate the Offeror meets the qualifications. **An Offeror that does not meet the minimum qualifications will be rejected without consideration of its Technical Proposal, and its sealed Financial Proposal will be returned (See also subsection 4.2.4.3-Minimum Qualifications in the Section 4-Proposal Format).**

2.1 Minimum Qualifications:

A. Permit to Practice Certified Public Accountancy

Minimum Qualification: An Offeror must hold a current and valid permit issued by the Maryland State Board of Public Accountancy to practice certified public accountancy in accordance with The Annotated Code of Maryland, Business Occupations and Professions Article, Section 2-401.

Proof that the Minimum Qualification has been met: Each Offeror shall provide a copy of the Offeror's current permit. (See Section 4.2.4.3.A).

B. Unmodified Peer Review

Minimum Qualification: An Offeror must have been subject to and received a written report documenting a quality control peer review in accordance with Generally Accepted Government Auditing Standards, within the three (3) years preceding the date of proposal submission to this RFP.

Proof that the Minimum Qualification has been met: Each Offeror shall provide a dated copy of the acceptance letter or report that indicates that an unmodified peer review was obtained. (See Section 4.2.4.3.B); and

C. Five Audits Conducted

Minimum Qualification: An Offeror must have performed, within the three (3) years preceding the date of proposal submission to this RFP, not less than five (5) audits of public or private entities wherein the entity being audited had not less than twenty-five (25) employees.

Proof that the Minimum Qualification has been met: Provide the following information for each of the five required audits: (See Section 4.2.4.3.C).

1. Name of client organization;
2. Name, title, email address and telephone number of point of contact for client organization who can verify that the audits were performed; and,
3. Value, type, timeframe, and duration of Contract(s) supporting its client organization.

SECTION 3 – SCOPE OF WORK

3.1 Background

Through the time of this RFP's release, twenty TORFPs were issued over a four year period on behalf of seventeen of the State's Agencies. Sixteen resulting TOAs were awarded to Master Contractors for a total of approximately 2.9 million dollars. The State hopes to expand its use under this Audit Services Master Contract by attracting a larger pool of Master Contractors. Also, the new contract seeks to provide a means for State agencies to utilize the Master Contractors that qualify under the Small Business Reserve program (See RFP Section 1.10) for specific Task Orders where deemed appropriate.

3.2 Purpose

The State plans to contract on a task order basis with licensed Certified Public Accounting firms that are qualified to perform audit services for State agencies and which have no conflicts of interest, or preconceived positions of how agencies are, or should be operating.

Audit services may be required for an entire agency, a specific program or other component of an agency, or a contract being performed for an agency or component program. DBM intends to award an unlimited number of Master Contracts to qualified Offerors to perform these audits.

After Master Contract award, each audit requested by a State agency will be summarized in a Task Order Request for Proposal (TORFP) per the guidelines stipulated in this Scope of Work. TORFPs will be issued solely through DBM.

Except for Small Business Reserve-designated TORFPs that will be distributed exclusively to Small Businesses as described in RFP Sections 1.10, all Offerors awarded a Master Contract will be invited to compete for the work that will be issued via each TORFP.

Master Contractors, either exclusively or in combination with subcontractors, must provide all services and meet all the requirements as noted herein.

3.3 Task Orders Process

- 3.3.1 A requesting agency will develop a Scope of Work (SOW) for a TORFP in conjunction with the DBM Contract Manager. For SBR-designated TORFPs, all SBR Master Contractors in good standing will be invited to submit a TOP to the TORFP. For all TORFPs that are not SBR-designated, all Master Contractors in Good Standing will be invited to submit a TOP to the TORFP.
- 3.3.2 Each Contractor receiving the TORFP must respond by providing a TOP in response to the requirements of the TORFP, or a written notification to the TOM that it does not intend to submit a TOP and the reason(s) why.

- 3.3.3 Based on an evaluation of the TOPs received, the State will select a Master Contractor(s) to perform the TORFP. The State and selected Master Contractor(s) will enter into a specific TOA which will bind the Master Contractor(s) to the TORFP and the contents of the TOP. Neither a TORFP, a TOP, nor a TOA, may in any way conflict with or supersede the Master Contract.
- 3.3.4 An initial Notice-To-Proceed will be issued following the TOA's execution; however, the TOM may issue more than one Notice-To-Proceed for a particular TORFP at the TOM's discretion. An example would be that a Task Order Manager might divide the Scope of Work into manageable sections in line with fiscal funding.
- 3.3.5 There is no limit to the number of TOAs that may be awarded to any given Master Contractor as long as they remain in Good Standing.
- 3.3.6 TORFPs will be initiated by the State and will define the scope and requirements that meet the objectives of the Requesting (user) State Agency. The Contractor will be paid for services performed based on the Fully Loaded Fixed Hourly Labor Category Rate proposed in the TOP plus non-routine travel costs as may be identified and approved in a TOA, up to a specified cost ceiling. The product of multiplying the estimated number of Labor Hours by the approved Fully-Loaded Fixed Hourly Labor Category Rates form the basis of the Master Contractor's Financial TOP and the final Not-To-Exceed dollar amount approved for each TOA. The following are examples of information that may be contained or requested in the TORFPs:
- A. Administrative information;
 - B. Information required in any Executive Summary/Cover Letter;
 - C. Performance objectives and deliverables;
 - D. Experience and capabilities of Master Contractor and its subcontractors, and the proposed personnel;
 - E. The TORFP term ;
 - F. Security Requirements;
 - G. Invoicing Requirements;
 - H. Project and contract management requirements;
 - I. Work Plan requirements;
 - J. Conflict of Interest Affidavit requirements;
 - K. Confidentiality Affidavit requirements;
 - L. Non-disclosure Affidavit requirements;
 - M. Minority Business Enterprise Goal and Small Business Reserve, as applicable;
 - N. Master Contractor's documentation of an Unmodified Peer Review within the three (3) years preceding the due date for a TOP;
 - O. Economic Benefits to Maryland;
 - P. Living Wage and other applicable socio-economic requirements;
 - Q. Applicable Labor Categories;
 - R. Completed Labor Category Summary Sheet with resumes for each person proposed; and
 - S. The criteria for making a TOA award determination and the relative importance of each criterion and price.

3.3.7 The TORFP's Financial Requirements:

The Master Contractor's Financial Proposal will be based on a single Evaluated Price. A Master Contractor will complete the Financial Proposal Affidavit based upon the Master Contract's labor classifications to support the Work Plan. The Fully Loaded Fixed Hourly Labor Category Rates may not exceed the rates approved by the Master Contract for a given Contract Year.

3.3.7.1 Financial Terms:

- A. Labor Category(ies) – This RFP designates the specific Labor Categories that Master Contractors must utilize in their Technical TOP Work Plan hours and associated Financial TOP.
- B. Fully Loaded – The inclusion in labor category billing rates of all profit and direct and indirect costs associated with performing a TOA. The indirect costs shall include all costs that would normally be considered General and Administrative costs and/or routine travel costs, or which in any way are allocated by the Contractor against direct labor hours as a means of calculating profit or recouping costs which cannot be directly attributable to a TOA. Non-routine travel costs will be identified in a TORFP, when appropriate.
- C. Fixed Hourly Labor Category Rates – These are the fully loaded hourly rates as established in the Master Contract to be utilized by the Master Contractor upon proposing and executing services under the Master Contract and TOAs. The rates quoted in a Master Contractor's Financial TOP in response to a TORFP may not exceed the fixed Fully Loaded Fixed Hourly Labor Category Rates approved in the Master Contract for the applicable Labor Category and Contract Year.

3.3.7.2 TOA Not-to-Exceed (NTE) Ceiling Dollar Amount

Each TOA will establish a NTE ceiling dollar amount. The TOA Contractors must monitor invoiced amounts under each TOA. When a TOA is projected to reach 75% and 90% of the NTE ceiling dollar amount while performing a TOA, the TOA Contractor shall give notice to the TOM and the DBM Contract Manager that the TOA has reached, or is projected to reach the 75% and 90% level respectively. Each notice will also include an analysis of the TOA Contractor's ability to complete the project within the NTE ceiling amount. If the analysis concludes that the project cannot be completed within the NTE ceiling amount, the rationale for this conclusion must be provided, along with a projection of the amount that would be needed to complete the project. However, providing such a projection shall not obligate the State to change the NTE ceiling dollar amount. If a TOA Contractor reaches the TOA's NTE ceiling dollar amount, the TOA Contractor must stop performing any services for which it would seek payment beyond the NTE ceiling dollar amount.

3.3.8 Commencement Of Work Under a TOA

- 3.3.8.1 Audit services in response to a TOA shall be initiated only upon issuance of a fully executed TOA, and an initial Notice to Proceed (NTP) issued in tandem or separately by the DBM Contract Manager. Subsequent project Notice To Proceeds may be utilized by the applicable TOM for management of project services and deliverables.

3.3.8.2 To ensure contract compliance and good communication, all technical direction for a TOA will be through the TOM designated in the applicable TORFP. The Master Contractor will direct all deliverables under a TOA to the TOM designated in the applicable TORFP.

3.4 Management Reports , Meetings, and Invoicing

The Master Contractor will be responsible for each of the following:

3.4.1 Kick-Off Meeting(s)

Master Contractors shall participate in the Master Contract's Kick-Off Meeting that the DBM Contract Manager will arrange and coordinate at the beginning of the Master Contract term to set the stage for good communication and relay the initial procedures and formats that will be utilized for the TORFP/TOA process.

3.4.2 Periodic Meetings with the DBM Contract Manager: The Contractor's Representative shall meet and participate in discussions with the DBM Contract Manager as frequently as may be necessary up to (and including) twelve (12) times per contract year to review contract activity and assist with any issues. These meetings are intended to keep both the DBM Contract Manager and the Master Contractor up-to-date on Master Contract issues and activities. These meetings are in addition to any meetings as required and specified in any TOA, or as may be necessary concerning performance issues.

3.4.3 Reports

3.4.3.1 Special Status Reports to the DBM Contract Manager:

The DBM Contract Manager may request from the Master Contractor, and the Master Contractor shall provide to the DBM Contract Manager at no additional costs to the State additional information needed by the State as required for special inquiries, remedial action plans, etc. Examples of these include but are not limited to audits to a State Agency and inquiries during the Maryland General Assembly Sessions.

3.4.3.2 Monthly Status Reports to TOM: The Master Contractor shall provide to each TOM, monthly management/status reports that shall include the information noted below with regard to its applicable TOA(s). Reports shall be provided in MS Word or MS Excel unless the TOM approves in writing another software format. The Master Contractor shall deliver reports to the applicable TOM as directed no later than the 10th of each month for the preceding month's activities. A sample status report may include but is not limited to the following information:

- A. Agency Name;
- B. TOA Project Number;
- C. TOA NTP Date;
- D. Target Completion Date;
- E. TOA Not To Exceed (NTE) Dollar Value;
- F. TOA Payments Received to Date;
- G. Status of Project, including percentage complete and projected hours and dollars. The percent and timing is governed by the TORFP requirements, and those stated in Section 3.3.1 pertaining to each TOA's NTE Ceiling Dollar Amount;
- H. MBE Monthly Reports from both the Master Contractor and its MBE Subcontractor(s); and,

- I. Any other relevant information the TOM, or DBM Contract Manager requests due to the nature of a given TOA's scope of work.

3.4.4 Master Contactor's Invoicing and Invoicing Report(s):

- A) Invoices with documentation are due to the applicable TOM no later than the 10th of the calendar month for the proceeding month's Task Order Agreement activity, unless there is prior written approval by the TOM for another submission date for the specific month.
- B) Invoices shall include but not be limited to the following information: name and address of the TOA's applicable State Agency, Contractor's name, remittance address, federal taxpayer identification (or if owned by an individual, his/her social security number), Invoice Period, Invoice Date, Invoice Number, and Total Amount Due and the ADPICS/Purchase Order Number(s) for each TOA being billed.
- C) The Total Amount Due for each TOA will be derived from the information detailed on the invoice. Invoices submitted without the required backup information will not be approved or processed for payment until the TOA Contractor provides the required information. Information required to be included:
 1. The Labor Categories being billed and each applicable personnel's name; and,
 2. The personnel's total hours for the month, and her/his applicable Hourly Rate.
- D) For each invoice (per 'C' above), the Contractor shall provide documentation that all the direct hours invoiced for its employees and subcontractors have actually been expended as documented, totally and productively, in the performance of the TOA. The employee time sheets or electronic time keeping records shall be certified by the Contractor to be the actual time worked by the employees and its subcontractors. The Master Contractor shall provide the invoice and its applicable documentation to the applicable TOM.
- E) Travel-

The Task Order Manager (TOM) shall determine the applicability of Routine Travel versus Non-Routine travel for a particular TORFP/TOA.

 1. Routine Travel is defined as travel within a 50 mile radius of the requesting agency's base location, as identified in the TORFP, or the Master Contractor's facility, whichever is closer to the applicable audit site. There will be no payment for labor hours for travel time or reimbursement for any travel expenses for work performed within these radiuses or at the Master Contractor's facility.
 2. Non-routine travel is defined as travel beyond the 50 mile radius of agency's base location, as identified in the TORFP, or the Master Contractor's facility, whichever is closer to the consulting site. Allowable Non-routine travel will be identified within a TOA, if appropriate, and will be reimbursed according to the State's current travel regulations and reimbursement rates, which can be found at 222.DBM.maryland.gov – search: Fleet Management. If non-routine travel is conducted by automobile, the first 50 miles of such travel will be treated as routine travel and as described in Section 2.2.4.1 of this definition, and will not be reimbursed. The Master Contractor may bill for labor hours expended in non-routine travel beyond the identified 50-mile radius, only if so specified in the TORFP or TOA.

3. Any Non-Routine Travel that has had prior written approval from the TOM and has actually been expended may be submitted to the TOM for approval. Appropriate backup for the Non-Routine Travel must be enclosed with the invoice. Appropriate backup would include the written confirmation from the applicable TOM showing prior approval for the Non-Routine Travel, and copies of all travel invoices. Any additional documentation required by the DBM Contract Manager, the TOM, or the State's travel policies must be provided upon request in order for the Non-Routine Travel to be approved.

The Non-Routine Travel if approved in the TOA must be billed by the Contractor on a separate line item from the Labor Hours being invoiced. The TOA Contractor shall provide a separate invoice for any State Agency that requests a separate invoice for invoiced travel due to its accounting policies.

3.5 Each TORFP's Project Deliverables

Each TORFP will detail its Project's services and deliverables, and the Master Contractor must meet those requirements and deliverables within the Time, Scope, and Not-To-Exceed price of the TOA.

3.6 Right of State to Discontinue or Suspend Participation of a Master Contractor

3.6.1 **In Good Standing** - Each Master Contractor shall perform according to the terms and conditions of its Master Contract and satisfy the specific work requirements of any TOA to which it is a party. Master Contractors meeting these standards will be deemed to be "In Good Standing" relative to the Master Contract. While a Master Contractor remains In Good Standing, it is able to participate in the Master Contract TORFP processes.

3.6.2 Failure to Conform -

If in the opinion of the Contract Manager, a Master Contractor does not conform to the terms and conditions of the Master Contract or any TOA, the Contract Manager may notify the Master Contractor in writing by hard copy or electronically that the Master Contractor will not be able to participate in future TORFP processes until such time as the condition(s) or issue(s) have been resolved to the State's satisfaction. At the time that the Contract Manager believes the condition(s) or issue(s) to be satisfied, the Contract Manager will notify the Master Contractor in writing by hard copy or electronically that it may again participate in the TORFP processes. Approval will not be unreasonably withheld.

3.6.3 The following circumstances, which are not intended to be all inclusive, may result in a finding that the Master Contractor is not in Good Standing:

- a. Failure to maintain good standing with the State (e.g., State Department of Assessments and Taxation, State Comptroller's Office (Not maintaining corporate registration, not paying required taxes);
- b. Being in arrears in the payment of any obligations due and owing the State;
- c. Not fulfilling the responsibilities of the socio-economic programs under a TOA and/or the Master Contract (e.g., Living Wage, Prompt Payment of Subcontractors, MBE commitments, and Commercial Non-Discrimination, as applicable);
- d. Repeatedly failing to respond to TORFPs;
- e. Repeatedly declining to propose to TORFPs;
- f. Having difficulty in performing one or more TOAs;

- g. Not providing documents required under a TOA (e.g., non-disclosure agreement, conflict of interest);
- h. Not maintaining its Permit To Practice in Certified Public Accountancy in the State ;
- i. Not providing documentation when requested of the Master Contractor's Unmodified Peer Review within the three years preceding the request; or,
- j. Lack of compliance by the Contractor Representative (See Section 3.8.6).

3.6.4 If the State determines that a Master Contractor is not in Good Standing and not able to participate in a TORFP, or is in danger of being so determined, the DBM Contract Manager may request a Remediation Plan from the Master Contractor. The Master Contractor shall provide immediate attention and remediation to any such concerns.

3.6.7 **Permit to Practice:** Contractors shall maintain their State permit to practice in Certified Public Accountancy during the full term of the Master Contract. For each anniversary date of the Contract upon request by the DBM Contract Manager, the Contractor shall provide to the DBM Contract Manager proof of its Maryland permit. A Contractor that fails to maintain the required permit, is in default of its Master Contract.

3.7 Subcontractors:

3.7.1 The Master Contractor shall communicate with and manage its commitments to its subcontractor(s) and the State. See also Section 1.34-Subcontractor Prompt Payment Policy;

3.7.2 For any subcontractors proposed on a TOA, the Master Contractor shall provide documentation upon the State's request of the written, signed and dated commitment between the Master Contractor and the subcontractor, and the specific agreed for scope of work and commitment. The commitment must be in place before the Master Contractor utilizes such subcontractor in a TOP. If at any point during the TORFP/TOP process that the Master Contractor becomes aware of a subcontractor's inability to perform the services as committed to and indicated in its TOP, the Master Contractor shall promptly document this in writing to the DBM Contract Manager. As this may affect the Master Contractor's ability to complete the applicable TOA, or receive a subsequent applicable TOA award, the DBM Contract Manager will provide written direction on any further process required to remedy the issue.

3.8 Staffing

3.8.1 In response to each TORFP, the Master Contractor shall propose staff that is available at the time of the Master Contractor's TOP for the time period specified in the applicable TORFP. The staff that is proposed by the Master Contractor shall be the staff utilized if awarded the TOA. From the date that a TOP is received by the DBM Contract Manager (or designee), any subsequent changes to personnel requested by the Master Contractor must be done per the procedures outlined below in Section 3.9-Substitution of Personnel.

3.8.2 The Subject Matter Expert Labor Category and a rate up to and including its Fully loaded Fixed Hourly Labor Category Rate are to be used for a TORFP that defines specific areas of required expertise beyond those provided in the established Labor Categories. The Contractors shall certify that the proposed Subject Matter Expert candidate meets the required qualifications identified in the TORFP.

- 3.8.3 At the option of the TOM, each of the Contractor’s personnel may be approved for performance in multiple skill categories for which they are qualified; however, each person may only be assigned and billed for expended time under one labor classification for each TOP.
- 3.8.4 Substitution of Education for Experience. A Master’s Degree or higher may be substituted for the general and specialized experience for those labor categories requiring a Bachelor’s Degree at the discretion of and with the written prior approval by the State's designated TOM. See Section 3.10 and its Table for specific substitution allowances.
- 3.8.5 Substitution of Experience for Education. Substitution of experience for education may be permitted at the discretion of and on with the written prior approval of the State's TOM. See Section 3.10 and its Table for specific substitution allowances.
- 3.8.6 Contractor’s Representative

The Master Contractor shall assign a representative who will act as the official liaison on the Master Contract as the Contractor’s Representative whose duties will include but not be limited to acting as the conduit to accept all TORFPs for the Master Contractor, provide the Master Contractor’s Technical and Financial Proposal responses (the TOPs), administer the Task Order processes to include attending Oral Discussions along with key members of the team for each of its TOPs, and address any issues as they arise during the term of a TOA. In addition, the Contractor’s Representative shall:

- 3.8.6.1 Meet with the DBM Contract Manager, Task Order Managers, and other agency staff as necessary and requested during the course of the Master Contract, and coordinate all issues brought to his/her attention.
- 3.8.6.3 Have the power and authority to commit and bind the Master Contractor and its resources during the course of the Master Contract.
- 3.8.6.4 Have an understanding of audits and their processes according to the standards set forth in this RFP in order to address, and provide solutions to any issues that arise.
- 3.8.6.5 Effectively communicate with its subcontractors and the State and effectively manage the Master Contractor’s efforts on TOP responses/processes, its audit teams’ capabilities, contract management, project management, reporting requirements, any presentations, and issues.
- 3.8.6.6 The Master Contractor shall obtain the DBM Contract Manager’s advance written approval for any change to the Contractor’s staff is in this position.

3.9 Substitution Of Personnel

A. Continuous Performance of Key Personnel

Unless substitution is approved per sections B-D of this section, key personnel shall be the same personnel proposed in the Contractor’s technical proposal, which will be incorporated into the Contract by reference. Such identified key personnel shall perform continuously for the duration of the Contract or TORFP/TOA (as applicable), or such lesser duration as specified in the technical proposal. Key personnel may not be removed

by the Contractor from working under this Contract as described in the RFP or the Contractor's technical proposal without the prior written concurrence of the Contract Manager.

As the Contract is task order based, the following provisions apply to key personnel identified in each Task Order Proposal and Task Order Agreement.

B. Definitions

As used in this section:

“Contract Manager” means the Contract Manager previously identified in this solicitation, and/or a person designated in writing by the Contract Manager or the Department or agency to act for the Contract Manager concerning Contractor personnel substitution issues.

“Day” or **“Days”** means calendar day or days.

“Extraordinary Personal Circumstance” means any circumstance in an individual's personal life that reasonably requires immediate and continuous attention for more than 15 days that precludes the individual from performing his/her job duties under this Contract. Examples of such circumstances might include but are not limited to: a sudden leave of absence to care for a family member that is injured, sick or incapacitated; the death of a family member, including the need to attend to the estate or other affairs of the deceased or his/her dependents; substantial damage to, or destruction of the individual's home that causes a major disruption in the individual's normal living circumstances; criminal or civil proceedings against the individual or a family member; jury duty; military service call-up; etc.

“Incapacitating” means any health circumstance that substantially impairs the ability of an individual to perform the job duties described for that individual's position in the RFP or the Contractor's technical proposal.

“Sudden” means when the Contractor has less than 30 days' prior notice of a circumstance beyond its control that will require the replacement of any key personnel working under the Contract.

C. Key Staff General Substitution Provisions

The following provisions apply to all of the circumstances of staff substitution described in section D of this section.

1. The Contractor shall demonstrate to the Contract Manager's satisfaction that the proposed substitute personnel have qualifications equal to or better than those of the personnel for whom the replacement is requested.
2. The Contractor shall provide the Contract Manager with a substitution request that shall include:
 - a. A detailed explanation of the reason(s) for the substitution request;
 - b. The resume of the proposed substitute personnel, signed by the substituting individual and his/her formal supervisor;

- c. The official resume of the current employee for comparison purposes; and,
- d. Any required credentials.

3. The Contract Manager may request additional information concerning the proposed substitution. In addition, the Contract Manager, and/or other appropriate State personnel involved with the Contract may interview the proposed substitute personnel prior to deciding whether to approve the substitution request.

4. The Contract Manager will notify the Contractor in writing of: (i) the acceptance or denial, or (ii) contingent or temporary approval for a specified time limit, of the requested substitution. The Contract Manager will not unreasonably withhold approval of a requested key personnel replacement.

D. Replacement Circumstances

1. Voluntary Staff Replacement

To voluntarily replace any key staff, the Contractor shall submit a substitution request as described in section C of this section to the Contract Manager not less than 15 days prior to the intended date of change. Except in a circumstance described in section D.2 of this clause, a substitution may not occur unless and until the Contract Manager approves the substitution in writing.

2. Staff Replacement Due to Vacancy

The Contractor shall replace key staff whenever a vacancy occurs due to the Sudden termination, resignation or leave of absence due to an Extraordinary Personal Circumstance of such staff, Incapacitating injury, illness or physical condition, or death. (A termination or resignation with 30 days or more advance notice shall be treated as a Voluntary Staff Replacement as per section D.1 of this clause.)

Under any of the above D.2 circumstances, the Contractor shall identify a suitable replacement and provide the same information or items required under Section C of this section within 15 days of the sooner of the actual vacancy occurrence or from when it was first learned by the Contractor that the vacancy would be occurring.

3. Staff Replacement Due to an Indeterminate Absence

If any key staff has been absent from his/her job for a period of 10 days due to injury, illness, or other physical condition, leave of absence under a family medical leave or Extraordinary Personal Circumstance and it is not known or reasonably anticipated that the individual will be returning to work within the next 20 days to fully resume his/her job duties, before the 25th day of continuous absence the Contractor shall identify a suitable replacement and provide the same information or items required under section C of this section.

However, if this person is available to return to work and fully perform all job duties before a replacement has been authorized by the Contract Manager, at the option of the Contract Manager the original staff may continue to work under the Contract, or the replacement staff will be authorized to replace the original staff, notwithstanding the original staff's ability to return.

4. Directed Staff Replacement

a. The Contract Manager may direct the Contractor to replace any staff that is perceived as being unqualified, non-productive, unable to fully perform his/her job duties due to full or partial Incapacity or Extraordinary Personal Circumstance, disruptive, or that has committed a major infraction(s) of law or agency or Contract requirements. Normally a directed replacement would only occur after prior notification of problems with requested remediation, as described in 4.b. below. If after such remediation the Contract Manager determines that the staff performance has not improved to the level necessary to continue under the Contract, if at all possible not less than 15 days' replacement notification will be provided. However, if the Contract Manager deems it necessary to remove the offending individual with less than 15 days' notice, the Contract Manager can direct the removal in a timeframe of less than 15 days, to include immediate removal.

In circumstances of directed removal, the Contractor shall, in accordance with section C of this section, provide a suitable replacement for approval within 15 days of the notification of the need for removal, or the actual removal, if that occurs first.

b. If deemed appropriate in the discretion of the Contract Manager, the Contract Manager shall give written notice of any personnel performance issues to the Contractor, describing the problem and delineating the remediation requirement(s). The Contractor shall provide a written Remediation Plan within 10 days of the date of notice and implement the Remediation Plan immediately upon written acceptance by the Contract Manager, or revise and resubmit the plan to the Contract Manager within 5 days, as directed in writing by the Contract Manager.

Should performance issues persist despite the previously agreed to Remediation Plan, the Contract Manager will give written notice of the continuing performance issues and either request a new Remediation Plan within a specified time limit, or direct the substitution of personnel whose performance is at issue with a qualified substitute, including requiring the immediate removal of the key staff at issue.

Replacement or substitution of personnel under this section shall be in addition to and not in lieu of the State's remedies under the Contract.

3.10 Labor Categories And Qualifications

The following section describes the Labor Categories approved for the Master Contract. Master Contractors shall utilize only these specified labor categories when proposing to a TORFP and providing subsequent services under a TOA. Labor categories may not be added after Master Contract Award.

**The Master Contract's Summary of Approved Labor Categories and Minimum Requirements
Labor Category Table - Page 1 of 4**

Labor Category	Education	License Requirement	Experience: General and Specialized	Duties
Partner	Bachelor's Degree from an accredited college or university in Accounting or other related discipline	A Maryland Licensed Certified Public Accountant (CPA) is required.	Eight (8) years relevant experience in auditing. Four (4) of those years must be in audit supervision or oversight.	Overall responsibility for performance of the assigned audit to include: Schedule audit assignments; entrance and exit conferences; staff training and evaluation; research of audit and accounting literature; work paper review; report review; liaison with audit staff and the firm; and client relationships. Have proven superior technical competence and managerial abilities. Provides firm leadership and is ultimately responsible for the entire engagement, ensuring that the proper firm resources are provided. Monitor the engagement to help ensure that the approaches employed are best suited for the project objectives and that overall implementation and delivery of contracted services are of the highest possible quality. May review all underlying work papers, internal control surveys and evaluations, audit programs, permanent files, and engagement memoranda and will review and sign final auditors' reports. May periodically be engaged in management meetings to report the status of projects and address any additional needs of the client.
Manager	Bachelor's degree from an accredited college or university in Accounting or other related discipline. A Masters of Business Administration or a Masters of Public Administration is preferred but not required.	A Maryland Licensed Certified Public Accountant is required.	Six (6) years relevant experience in auditing. Three (3) years of the required six (6) years must demonstrate a leadership role in not less than three (3) successful projects that were delivered on time and on budget and that delivered promised business value. A Master's Degree may be substituted for 2 years worth of required experience.	Responsible for overall supervision of staff, communication, and coordination of meetings with appropriate management members, and designing the project and audit approach. Will communicate and will update the audit partner as to the status of the audit and any technical issues that may surface during the course of the engagement. May review all underlying work papers, internal control surveys and evaluations, audit programs, permanent files, and engagement memoranda and prepare summary and specific issues memoranda for review by the Partner.

Labor Category Table

<u>Labor Category</u>	<u>Education</u>	<u>License Requirement</u>	<u>Experience: General and Specialized</u>	<u>Duties</u>
Cost Accountant	Bachelor's Degree from an accredited college or university in Economics, Business, Accounting, Finance, or related discipline. A Masters of Business Administration or a Masters of Public Administration is preferred but not required.	A CPA license is preferred but not required.	Eight (8) years relevant experience as a cost analyst or involved in analysis in business-related subject areas such as accounting, finance or economics. Not less than five (5) of the eight (8) years of experience shall be in financial cost accounting with demonstrated success in analyzing entity accounting, budgeting and auditing systems. A Master's Degree may be substituted for 2 years worth of required experience.	Conducts investment analyses or other complex operational analyses. Provides expertise and support in conducting a full range of investment analyses activities, including market surveys, cost analyses, benefits analyses, risk analyses, economic analyses, requirements definitions, schedule development, and tradeoff studies. Conducts analytical studies involving complex technical analyses, schedule constraints, and system benefits and system cost factors. Identifies cost accounting or financial problems and recommends solutions. Presents plans, analyses, and other advice within functional areas.
Financial Analyst	Bachelor's Degree from an accredited college or university in Economics, Business, Accounting, Finance, or related discipline. A Masters of Business Administration or a Masters of Public Administration is preferred but not required.	A CPA license is preferred but not required.	Eight (8) years progressive experience as an analyst or involved in analyst type functions in a business related subject area such as accounting, finance or economics. Not less than five (5) of the eight (8) years of experience must be financial management experience with demonstrated ability in analyzing entity accounting, budgeting, and auditing systems. A Master's Degree may be substituted for 2 years worth of required experience.	Provides financial management planning and execution support. Has proven knowledge of theories, principles and practices of financial management, including time value analyses, cash flow analyses and cost/benefit and return on investment analyses. Conducts investment analyses or other complex operational analyses. Provides expertise and support in conducting a full range of investment analyses activities, including market surveys, cost analyses, benefits analyses, risk analyses, economic analyses, requirements definitions, schedule development, and tradeoff studies. Classifies and summarizes financial data for the preparation and submission of reports on a recurring basis.

Labor Category Table Page 3 of 4

**Experience:
General and
Specialized**

<u>Labor Category</u>	<u>Education</u>	<u>License Requirement</u>		<u>Duties</u>
Audit Supervisor	Bachelor's Degree from an accredited college or university in Accounting or a related field.	A Maryland Licensed Certified Public Accountant is required.	Four (4) years experience in auditing. At least two (2) years of the required four (4) years of experience must have exhibited technical proficiency and the ability to oversee engagements.	Responsibility for completion of all audit steps, audit programs, and preparation of financial statements. Understands governmental accounting principles and will be responsible for the day-to-day supervision of staff, interviewing management to gain an understanding of the client's business, and performance of detail test work related to more critical areas of the engagement that may require industry-specific knowledge and experience. Responsible for reporting the progress of the engagement to the Manager and communicating any potential technical issues that are encountered during the course of the engagement, as well as any additional service opportunities that are identified and can be offered to the client to improve its business processes and functions.
Senior Auditor	Bachelor's degree from an accredited college or university in Accounting, Finance, Business, or related field.	A CPA is preferred but not required.	Three (3) years auditing experience after a Degree was earned. At least one (1) of those three (3) years must be with demonstrated audit supervisory experience.	Has proven a thorough understanding of generally accepted auditing standards and common audit practices and techniques. Performing the day-to-day, detailed test work required to achieve and support the audit objective, including performing statistical sampling, interviewing management to gain an understanding of the client's business, testing internal controls for effectiveness, and performing analytical and substantive procedures as deemed necessary. Report findings related to non-performance and weaknesses in internal control to the Audit Supervisor or Manager.
Staff Auditor	Bachelor's degree from an accredited college or university in Accounting, Finance, Business, or a related field.		Not less than a total of six consecutive months of auditing experience after a Degree was earned.	Provides general auditing services.

Labor Category Table Page 4 of 4

<u>Labor Category</u>	<u>Education</u>	<u>License Requirement</u>	<u>Experience: General and Specialized</u>	<u>Duties</u>
Subject Matter Expert (SME)	Bachelor's degree from an accredited college or university in the specific discipline required by the State. A Master's or Doctorate is preferred but not required. The Masters degree will be the equivalent of a Masters of Business Administration or a Masters of Public Administration.	If there is a license or certification requirement for the applicable area of expertise being requested, then the proposed person must have attained it prior to being utilized in a Master Contractor's TOP.	Eight (8) years of relevant industry experience in the discipline required by the State. A Master's Degree may be substituted for 2 years worth of required experience. A Doctorate Degree may be substituted for 4 years worth of required experience.	<p>Expertise related to a specific discipline required by the State Agency. Examples of what may be utilized are: Health care, education, public safety, social services, human resources, transportation, environment, telecommunications, Emergency System Number Boards, toll collection, accounting records reconciliation, lottery, collections, retirement, 3rd party billings, claims eligibility, registrant's mileage records, contract assessments, SAS-70 Type 1 and Type 2, etc.</p> <p>A Subject Matter Expert (SME) refers to an individual who is an expert in a particular area. This category will require expertise in the designated area being audited. Expertise may be that the individual either has worked at a high level in the noted field or has experience auditing in the complex area and can assist in the development of audit program and test procedures as well as the analysis required to be conducted.</p> <p>A SME Defines requirements, performs analyses, and develops plans and requirements such as for Business Process Re-engineering.</p>
Business Process Consultant	Bachelor's Degree from an accredited college or university in Business, Human Resources Management or a related field. A Masters of Business Administration or a Masters of Public Administration is preferred but not required.		Not less than eight (8) years experience in business process re-engineering. At least five (5) of the eight years must be in re-engineering large scale business processes. A Master's Degree may be substituted for 2 years worth of required experience.	Develops business requirements and business processes re-engineering methodologies. Solves application and process related problems by creating detail process and system design specifications; and works with other areas across the business units to support a total solution approach. Communicates business requirements for reports and applications development. Facilitates collaboration within and across business units. Resolves problems and improves business units' technical environments.

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3.11 Insurance Requirements

3.11.1 The Master Contractor shall maintain a policy of general liability, 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.

3.11.2 Within five working days after notice of potential award, the Master Contractor shall provide a copy of the Master Contractor's current certificate of insurance, which, at a minimum, shall contain the following:

- A) Worker's Compensation -The Master Contractor shall maintain such insurance as necessary or required under Worker's Compensation Acts, and any other applicable laws.
- B) Professional Liability -with a minimum limit of \$5,000,000 on an occurrence and aggregate basis as applicable for liability claims under each TORFP issued under this RFP; and
- C) General Liability - The Master Contractor shall purchase and maintain the following insurance protection on an occurrence and aggregate basis as applicable for liability claims arising as a result of the Master Contractor's operations under each TORFP issued under this RFP.

\$1,000,000- General Aggregate Limit (other than products/completed operations)

\$1,000,000- Products/completed operations aggregate limit

\$ 500,000- Each Occurrence Limit

\$ 500,000- Personal and Accidental Injury Limits

\$ 50,000- Fire Damage Limit

\$ 5,000- Medical Expense

- D) Automobile Liability, if applicable.

3.11.3 The State shall be named as an additional insured on the policies of all property, casualty, liability, and other types of insurance evidencing this coverage (Worker's Compensation excepted). All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Procurement Officer, by certified mail, not less than thirty (60) days advance notice of any non-renewal, cancellation, or expiration. In the event the State receives a notice of non-renewal, the Master Contractor must provide the State with an insurance policy from another carrier at least thirty (30) days prior to the expiration of the insurance policy then in effect. All insurance policies must be with a company licensed to do business in Maryland. In the event that the Contractor fails to procure and keep in force at all relevant times hereunder such insurance, the State shall have the right, but not the obligation, to obtain such insurance on behalf of the Master Contractor and the State shall have the right to withhold the cost of such insurance from any amounts otherwise due to the Master Contractor. If there are no amounts otherwise due to the Master Contractor hereunder, the cost of such insurance shall become immediately payable by the Master Contractor to the State.

3.11.4 The Master Contractor shall require that any subcontractors that are utilized to fulfill the obligations of this Contract obtain and maintain similar levels of insurance and shall provide the State with the same documentation as is required of the Master Contractor in any given TORFP.

3.11.5 Any TORFP may contain requirements for higher levels of coverage and/or additional types and limits of insurance beyond what is required for Master Contractors under this Section 3.11.

When a specific TORFP has additional insurance requirements the Master Contractor shall maintain the types and minimum limits of insurance specified above, in addition to those specified in the applicable TORFP.

3.12 Security and Confidentiality

Master Contractors and the individual members of their staff (whether their own or subcontractor's staff) shall sign confidentiality agreements and comply with security policies, practices for each State agency, and practices for their facilities as applicable. Security requirements within each State Agency may vary. The Master Contractor and all its personnel including its subcontractors must submit to security requirements that the applicable State Agency employs. Failure to do so may cause the Master Contractor and applicable personnel to be suspended from further activities under a TOA or the Master Contract upon written notification by the DBM Contracts Manager. In addition, contractual remedies will apply as applicable. Master Contractors shall brief their personnel on the applicable Agency's security requirements before any meeting date or onsite activity in order to assure compliance. Examples of the two forms to be utilized are enclosed as Attachment G-Example of the Task Order Agreement's Certificate of Confidentiality Agreement, and Attachment H-Example of a Non-Disclosure Agreement.

3.13 Quality Assurance

The products that result from the audit services may be utilized by reference or reviewed by other State personnel and committees; therefore, the Master Contractor must maintain high ethical and quality assurance levels in its submissions, and during the performance of services under the Master Contract and TOAs including but not limited to personnel, the services performed, and resulting reports.

Deliverables under a TOA shall be provided to the State under this Contract generally free of typographical errors and other product quality/delivery issues. Non-compliant deliverables may be returned to the Contractor for compliance, which may delay acceptance of the deliverable and subsequent payment.

3.14 Conflicts of Interest

For policies and procedures applying specifically to Conflicts of Interest, the Master Contract and subsequent TOAs are governed by COMAR 21.05.08.08. Each TORFP will include a Conflict of Interest Affidavit that must be completed by each Master Contractor as part of its TOP. Additional Conflict of Interest Affidavits shall be completed by each of the Master Contractor's individual participating staff and subcontractor's staff. See Attachment F-Conflict of Interest Affidavit and Disclosure as an example of the form that will be utilized in TORFPs.

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SECTION 4 – PROPOSAL FORMAT

4.1 Submit the Technical and Financial Proposals in Two Parts
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4.1.1 Offerors shall submit their Technical and Financial proposals in two separate sealed packaged volumes as:

- A. Volume I – TECHNICAL PROPOSAL** (bound, unbound, and electronic versions).
 - 1. The label on the front of the sealed envelope for the Technical Proposal shall state:
 - a. The RFP title and number (Audit Services Contract, 050B9800006);
 - b. The appropriate Volume number (Volume I-Technical Proposal);
 - c. The name of the Offeror’s Company;
 - d. Offeror’s contact information including name, complete address, telephone number, cell telephone number, and email address; and,
 - e. The closing date and time for receipt of the proposals.
 - 2. Label the hard copy and electronic versions inside the Volume I –Technical Proposal package with the RFP number and name, the name of the Offeror and the volume number;
 - 3. Provide an unbound original (original signatures, attachments, documents, etc.) kept together with a clasp or rubber band, and labeled as such, along with its electronic version; and,
 - 4. Provide four additional paper copies of Volume I in 3-Ring Binders and labeled as Technical Copy-1, Technical Copy-2, Technical Copy-3, and Technical Copy-4.

- B. Volume II – FINANCIAL PROPOSAL** (bound, unbound, and electronic versions).
 - 1. The label on the front of the sealed envelope for the Financial Proposal shall state:
 - a. The RFP title and number (Audit Services Contract, 050B9800006);
 - b. The appropriate Volume number (Volume II-Financial Proposal);
 - c. The name of the Offeror’s Company;
 - d. Offeror’s contact information including name, complete address, telephone number, cell telephone number, and email address; and,
 - e. The closing date and time for receipt of the proposals.
 - 2. Label the hard copy and electronic versions inside the Volume II – Financial Proposal package with the RFP number and name, the name of the Offeror and the volume number;
 - 3. Provide an unbound original (original signatures, attachments, documents, etc.) kept together with a clasp or rubber band, and labeled as such, along with electronic version; and
 - 4. Provide four additional paper copies of Volume II in 3-Ring Binders and labeled as Financial Copy-1, Financial Copy-2, Financial Copy-3, and Financial Copy-4.

4.1.2. All pages of each proposal volume (Technical and Financial) shall be consecutively numbered from beginning (Page 1) to end (Page “xx”).

4.2.1 Transmittal Letter

The Offeror’s Transmittal Letter shall accompany the Offeror’s Technical Proposal. The purpose of this letter is to transmit the proposal and acknowledge the receipt of all addenda (if any) by its number. The Transmittal Letter should be brief and signed by an individual who is authorized to commit the Offeror to the services and requirements as stated in this RFP. Only one Transmittal Letter is needed. Enclose the Transmittal Letter with the unbound original Technical Proposal.

4.2.2.1 What The Transmittal Letter Needs to Include

In the Offeror’s Transmittal Letter:

- a. Identify the proposal and the date of your submission and provide contact information identified in Section 4.1.1.A.1 above;
- b. Acknowledge the receipt and date of all (if any) addenda to this RFP and their respective dates;
- c. Acknowledge whether the Offeror is currently registered with the Maryland Department of Assessments and Taxation (SDAT) to do business in the State of Maryland, and whether the Offeror is in good standing with SDAT;
- d. Acknowledge if the Offeror is registered with the Maryland Department of General Services as a Maryland Small Business Reserve (SBR) business, and if it is, provide its SBR registration number;
- e. Acknowledge if the Offeror is certified by the Maryland Department of Transportation (MDOT) as a Minority Business Enterprise (MBE) business, and if it is, provide its MDOT MBE certification number;
- f. Provide the Offeror’s current eMaryland Marketplace vendor number; and
- g. Indicate if there is any information in the Technical Proposal that the Offeror claims is confidential under the Maryland Public Information Act (See also Section 4.2.4.1).

4.2.3 Complete, sign and submit the following Affidavits with the Offeror’s unbound original Technical Proposal to this RFP:

- a. Attachment B-Proposal Affidavit; and,
- b. Attachment D-1 Master – Certified MBE Utilization and Fair Solicitation Affidavit .

Failure to do so shall result in the State’s rejection of the Offeror’s proposal (Technical and Financial) to this RFP).

- c. Insurance Certificate (See Section 4.4 below for details).

4.2.4 Additional Content and Format Requirements for the Offeror’s Technical Proposal:

- a. The RFP sections are numbered for ease of reference. The Offeror’s Technical Proposal should be organized and numbered in the same order and correspond with the referenced sections in the RFP.

- b. When the Offeror responds to each of the sections, explain to the State how you are able to accomplish the requirements of the Section 3-Scope of Work. The Offeror must provide information on not only who and what they are providing, but information that substantiates its ability to provide 'x' and information that demonstrates its actual understanding of the requirements. A response such as 'Agree' or 'Will Comply' does not usually demonstrate to the State an Offeror's abilities to comprehend and respond to requirements. Please be concise but thorough in your Technical explanation of the requirements.
- c. Offeror's Technical Proposal shall also include the information discussed below in the order noted.

4.2.4.1 Title / Confidential Information / Table of Contents

- a. Title Page - The Technical Proposal should begin with a title page bearing the name and address of the Offeror and the name, number, and date of this RFP and the dates of all addenda;
- b. Confidential information – Specific information on what is claimed to be confidential is to be placed after the Title page and before the Table of Contents in the Offeror's Technical Proposal. Include an explanation for each claim of confidentiality; and,
- c. Table of Contents - A Table of Contents shall follow the title page for the Technical Proposal.

4.2.4.2 Include: An Executive Summary

- a. Following the Table of Contents, the Offeror shall condense and highlight the contents of its Technical Proposal in a separate section titled "Executive Summary." The Executive Summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the sample Contract (Attachment K), or any other attachments. Exceptions to terms and conditions may result in having the proposal deemed not reasonably susceptible of being selected for award.

If the Offeror has taken no exceptions to the requirements of this RFP, the sample Contract (Attachment K), or any other attachments, the Executive Summary must also state this clearly.

- b. Indicate the Offeror's understanding of the requirements for: Conflict of Interest Affidavit and Disclosure, Certificate of Confidentiality Agreement, Non-Disclosure Agreement; and,
- c. Indicate the Offeror's understanding of Section 1.9-Living Wage Requirement.

4.2.4.3 Minimum Qualifications

Following the Executive Summary, the Offeror shall address each of the requirements from the RFP's Section 2-Minimum Qualifications for an Offeror. Explain and provide accompanying documentation demonstrating that the Offeror meets these requirements.

- A. Permit to Practice Certified Public Accountancy

Minimum Qualification: An Offeror must hold a current and valid permit issued by the Maryland State Board of Public Accountancy to practice certified public accountancy in accordance with The Annotated Code of Maryland, Business Occupations and Professions Article, Section 2-401.

PROVIDE: Proof that the Minimum Qualification has been met: Each Offeror shall provide a copy of the Offeror's current permit. (See Section 2.1.A).

B. Unmodified Peer Review

Minimum Qualification: An Offeror must have been subject to and received a written report documenting a quality control peer review in accordance with Generally Accepted Government Auditing Standards, within the three (3) years preceding the date of proposal submission to this RFP.

PROVIDE: Proof that the Minimum Qualification has been met: Each Offeror shall provide a dated copy of the acceptance letter or report that indicates that an unmodified peer review was obtained. (See Section 2.1.B); and

C. Five Audits Conducted

Minimum Qualification: An Offeror must have performed, within the three (3) years preceding the date of proposal submission to this RFP, not less than five (5) audits of public or private entities wherein the entity being audited had not less than twenty-five (25) employees. (See Section 2.1.C)

PROVIDE: Proof that the Minimum Qualification has been met: Complete the following for each of the five required audits:

1. Name of client organization;
2. Name, title, email address and telephone number of point of contact for client organization who can verify that the audits were performed;
3. Value, type, timeframe, and duration of Contract(s) supporting its client organization.

4.2.4.4 Offeror's Experience and Capabilities

Provide information on firm's past experience with similar audit services. Include the following:

- A. The number of years the Offeror has provided these services as a company/entity;
- B. An organization chart of the Offeror showing all major component units. Identify which component(s) will perform the requirements of this Contract, where the management of this Contract will fall within the organization, and what corporate resources will be available to support this Contract in primary and back-up roles. Provide the names, titles, and resumes of the key management personnel who would perform the services rendered under this Contract;
- C. Provide at minimum the following information for at least five references:
 - a) The entity (agency, etc.);
 - b) A brief description of the services/goods provided;
 - c) The dollar value of the Contract;
 - d) The term (period of performance) of the Contract;
 - e) The contact person (name, title, telephone number and e-mail address); and

- f) Whether the Contract was terminated before the end of the term (period of performance) specified in the original Contract, including whether any available renewal option was not exercised.

D. Provide any other relevant information the Offeror wants to include relevant to evaluation.

4.2.4.5. Contractor's Representative

- a) Provide the name and resume of the person the Offeror has proposed for this position;
- b) Describe the abilities of the proposed Contractor Representative per the requirements of this RFP;
- c) Describe the proposed Contractor Representative's current duties, responsibilities and overall managing experience and abilities;
- d) Describe the proposed Contractor Representative's authority and means to communicate, address, and resolve issues and/or other related activity, both internally and as they relate to RFP requirements; and,
- e) Provide three professional references, preferably external to the Offeror's company, for the proposed Contractor's Representative that can verify the Contractor's Representative's abilities and quality of the services the proposed Contractor's Representative has provided to them in the past.

4.2.4.6 Services to the State of Maryland for the Last Five Years

Provide a list of all agreements (contracts, Task Order Agreements, etc.) with any entity of the State of Maryland that it is currently performing or which have been completed within the last 5 years. If there is no prior contractual relationship with the State, so state. For each identified Contract the Offeror is to provide:

- g) The State Contracting entity (agency, etc.);
- h) A brief description of the services/goods provided;
- i) The dollar value of the Contract;
- j) The term (period of performance) of the Contract;
- k) The State employee contact person (name, title, telephone number and e-mail address); and,
- l) Whether the Contract was terminated before the end of the term (period of performance) specified in the original Contract, including whether any available renewal option was not exercised.

4.2.4.7 Overall RFP Requirements

Include a detailed response demonstrating that the Offeror has a comprehensive understanding of the requirements. Address each RFP requirement in the Technical Proposal and describe how Offeror's proposed services will meet those requirements. If the State is seeking Offeror agreement to a requirement, the Offeror shall state agreement or disagreement. As stated previously, any exception to a term or condition may result in having the proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award. Do not merely state agreement to perform the requested work; but rather, outline how the Offeror can fulfill the requested tasks in a manner that best meets the State's needs.

4.3 Financial Capability/Capacity and Statements

Provide documentation that the Offeror has a successful financial tract record and adequate working capital by providing at least three of the four types of documentation listed below that will demonstrate capability and capacity:

- a. Copies of the last two (2) consecutive year-end audited financial statements or best available equivalent report and an analysis of those financial statements/reports;
- b. Abbreviated profit and loss statements and abbreviated balance sheets for the last two consecutive years;
- c. A least one (1) bank or other financial institution credit (line(s) of credit) and financial reference;
- d. Dunn and Bradstreet rating.

4.4 Certificate of Insurance

a) Provide an insurance certificate based upon the coverage requirements in this RFP's Section 3.11-Insurance Requirements.

b) Within five working days after a notice of recommended award, the Offeror shall provide a *final current* certificate of insurance with all the prescribed requirements noted in the Section 3.11. Failure to provide a final certificate of insurance, with all the prescribed requirements within the five working days after notice of potential award, may result in a withdrawal of recommended award.

4.5 Management of Subcontractors

Describe the Offeror's capabilities, contract, and project management plans to provide good communication, coordination, and reporting for and with proposed sub-contractors and their organizations.

4.6 Volume II – Financial Proposal

Under separate sealed cover from the Technical Proposal and clearly identified as described in Section 4.1.B., the Contractor shall submit an unbound original (original signatures, attachments, documents, etc.) kept together with a clasp or rubber band (labeled as such), along with an electronic version; and four additional paper copies of Volume II in 3-Ring Binders (labeled as Financial Copy-1, Financial Copy-2, Financial Copy-3, and Financial Copy-4).

The Financial Proposal shall contain all price information in the format specified in Attachment C. Complete the price sheet only as provided in the Price Proposal Instructions of Attachment C.

Information in an Offeror's Financial proposal response to this RFP which is claimed to be confidential is to be placed in a Cover Letter that accompanies the Financial Proposal, if applicable. See further information in Section 1.17-Public Information Act Notice of this RFP.

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SECTION 5 – PRELIMINARY REVIEW and EVALUATION CRITERIA AND SELECTION PROCEDURES

5.1 Form Submissions and Minimum Qualifications Criteria Reviewed in the Offeror's Technical Proposal

The following items are preliminarily reviewed by the Procurement Officer:

- 5.1.1 MBE:** The Procurement Officer will confirm that the form Attachment D-1 Master – Offeror's Acknowledgement of Task Order Request for Proposals' MBE Participation Requirements has been completed and submitted at the time of the Offeror's Technical Proposal submission due date and time (for this RFP). If this form has not been completed properly and submitted with the Offeror's Technical Response to this RFP when due, the Offeror's Proposal (Technical and Financial) will be rejected by the State. See Section 1.12-Minority Business Enterprises.
- 5.1.2 Minimum Qualifications:** The Procurement Officer will verify that the Offeror meets all minimum qualifications before the Offeror's Technical Proposal will be evaluated. Any Offeror determined not to meet the minimum qualifications will be rejected without consideration of its Technical Proposal, and its sealed Financial Proposal will not be considered and will be returned to the Offeror unopened.

5.2 Evaluation of Each Qualified Offeror's Technical and Financial Proposals

Technical proposals that meet the initial criteria in Section 5.1 will be evaluated by an Evaluation Committee based on the criteria set forth below.

5.3 Technical Criteria

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

- 5.3.1 Offeror's Experience and Capabilities: (Reference Sections 4.2.4.4, and 4.2.4.6)
- 5.3.2 Offeror's Overall Understanding of the RFP Requirements: (Reference Section 4.2.4.7)
- 5.3.3 Offeror's Contractor Representative: Offeror's will be evaluated on the experience, capability, and communication strength of the person proposed for this position. (Reference Section 4.2.4.5)
- 5.3.4 Offeror's Capability/Capacity: (Reference Section 4.3)
- 5.3.5 Offeror's Management of Subcontractors (Reference Section 4.5)

5.4 Financial Criteria

Financial Proposals will be evaluated separately. Offerors shall propose prices only for labor categories they are qualified to provide. Offerors shall provide prices for Contract years one through five for all labor categories proposed. These are the maximum prices the State will pay for all proposed labor categories.

5.5 Reciprocal Preference

Although Maryland law does not authorize procuring agencies to favor resident Offerors in awarding procurement Contracts, many other states do grant their resident businesses preferences over Maryland Contractors. Therefore, as described in COMAR 21.05.01.04, a resident business preference will be given if: a responsible Offeror whose headquarters, principal Base of Operations, or principal site that will primarily provide the services required under this RFP is in another state submits the most advantageous offer; the other state gives a preference to its residents through law, policy, or practice; and, the preference does not conflict with a Federal law or grant affecting the procurement Contract. The preference given shall be identical to the preference that the other state, through law, policy or practice gives to its residents.

5.6 Selection Procedures

5.6.1 General Selection Process

Contracts will be awarded in accordance with the competitive sealed proposals process under COMAR 21.05.03. The competitive sealed proposals method is based on discussions and revision of proposals during these discussions.

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

5.6.2 Selection Process Sequence

5.6.2.1 The first step in the selection process will be an evaluation for technical merit. During this review oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the State's requirements and the Offeror's ability to perform, and to facilitate arrival at a Contract that will be most advantageous to the State.

5.6.2.2 Offerors shall confirm in writing any substantive oral clarification of, or change in, their proposals made in the course of any discussions with or other communications from the Procurement Officer. Any such written clarification or change then becomes part of the Offeror's proposal and any contract that is awarded.

5.6.2.3 The Financial Proposal of each qualified Offeror will be evaluated separately from its Technical Proposal's evaluation. After a review of the Financial Proposals of qualified Offerors, the Procurement Officer may make clarification inquiries or again conduct discussions to further evaluate the Offeror's entire proposal.

5.6.2.4 When it is in the best interest of the State, the Procurement Officer may permit Offerors who have submitted acceptable proposals to revise their initial proposals and submit, in writing, Best and Final Offers (BAFOs).

5.6.3 Award Determination

Upon completion of all evaluations, discussions, negotiations, and reference checks, the Procurement Officer will recommend award of a Master Contract to all responsible technically qualified Offeror(s) who are reasonably susceptible of being selected for award.

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ATTACHMENTS

ATTACHMENT A – Pre-Proposal Conference Response Form.

The Procurement Officer requests that all interested parties who plan on attending the Pre-Proposal Conference for this RFP complete and submit this form as described in RFP Section 1.3.

ATTACHMENT B – Proposal Affidavit. This form shall be completed and submitted with the Offeror’s Technical Proposal.

ATTACHMENT C – Financial Proposal Instructions and Financial Proposal Affidavit

- C-1: Pricing Instructions: Read and follow the directions.
- C-2: Audit Services Contract RFP (050B9800006) Financial Proposal Affidavit
Complete and submit as the Offeror’s Financial Proposal to this RFP

ATTACHMENT D – Minority Business Enterprise Participation

- A) Purpose, Definitions, and Instructions
- B) Attachment D-1-Master - Certified MBE Utilization and Fair Solicitation Affidavit
This form is due within the Offeror’s Technical Proposal to this RFP. Failure to provide this completed form at the time of the Offeror’s timely Technical Proposal submittal to this RFP shall cause the State to reject the Offeror’s Proposal (Technical and Financial).
- C) Each Offeror that becomes a Master Contractor must complete and submit the following forms in its responses to the future TORFPs under its Master Contract:
 - a) TORFP D-1- Certified MBE Utilization and Fair Solicitation Affidavit
 - b) TORFP D-2-Certified MBE Participation Schedule
 - c) TORFP D-3-Certified MBE Outreach Efforts Compliance Statement
 - d) TORFP D-4-Certified MBE Subcontractor Project participation Statement
- D) For each future Task Order Agreement a Master Contractor is awarded, the Master Contractor and its MBE Subcontractor(s) will complete the following forms once a month until each applicable Task Order Agreement is deemed by the State to be completed:
 - a) TORFP D-5-Prime Contractor Paid/Unpaid MBE Invoice Report
(See enclosed sample)
 - b) TORFP D-6-Subcontractor Paid/Unpaid MBE Invoice Report
(See enclosed sample)
 - c) SAMPLE TORFP D-5-Prime Contractor Paid/Unpaid MBE Invoice Report
 - d) SAMPLE TORFP D-6-Subcontractor Paid/Unpaid MBE invoice Report

ATTACHMENT E – Task Order Request for Proposals (TORFP) Labor Category Summary Sheet

Each Offeror that becomes a Master Contractor must submit this form in its responses to the future TORFPs under its Master Contract.

ATTACHMENT F – Conflict of Interest Affidavit and Disclosure

Each Offeror that becomes a Master Contractor must submit this form in its responses to the future TORFPs under its Master Contract.

ATTACHMENT G – Example of a Task Order Agreement’s Certificate of Confidentiality Agreement

Each Offeror that becomes a Master Contractor must submit this form as requested in its responses to the future TORFPs under its Master Contract.

ATTACHMENT H – Example of a Non-Disclosure Agreement.

This Affidavit is not due with the Offeror’s proposals submissions to this RFP. However, it shall be completed, signed and returned by each Offeror recommended for award to the Procurement Officer within five (5) working days of notification of proposed Contract award.

ATTACHMENT I –Electronic Funds Transfer (EFT) Registration Request Form

If the Offeror has not previously completed and submitted this registration form to the Comptroller of Maryland’s Office, it is recommended they do so immediately in order to avoid any delay in future payment transactions with the State.

ATTACHMENT J – Contract Affidavit.

This Affidavit is not due at the Offeror’s proposal submission time to this RFP. However, it shall be completed, signed and returned by each Offeror recommended for award to the Procurement Officer within five (5) working days of notification of proposed Contract award.

ATTACHMENT K – Sample of the State’s Contract.

This is a sample of the State’s Contract and is provided with this RFP for informational purposes and is not due at the Offeror’s proposal submission time. However, a similar contract shall be completed, signed and returned by each Offeror recommended for award to the Procurement Officer within five (5) working days of notification of proposed Contract award. At the time of recommendation for award, the Procurement Officer will forward an appropriate and filled-in State Contract to the Offeror.

ATTACHMENT L – Living Wage Requirements for Service Contracts.

See Section 1.9-Living Wage Requirement for an explanation.

ATTACHMENT M –Mockup Sample Task Order Agreement (TOA)

This is a sample TOA for informational purposes only.

ATTACHMENT N (N-1 and N-2) –

American Recovery and Reinvestment Act of 2009, Public Law 111-5 (ARRA) information and forms.

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ATTACHMENT A – PRE-PROPOSAL CONFERENCE RESPONSE FORM WITH DIRECTIONS

**Project No. 050B9800006
AUDIT SERVICES CONTRACT**

A Pre-Proposal Conference for this RFP will be held at **10:00 AM, on December 16, 2009**, Room 164 A&B at: **The Department of Budget and Management, 45 Calvert Street, Annapolis, MD 21401.**

Please complete the bottom of this form and return it by December 15, 2009 advising whether or not you plan to attend.

Directions (*Allow sufficient time for your commute and parking. Fee'd Parking is available at local garages*):

From the North and West of Annapolis: Take US-50 East to Exit 24 MD 70/Rowe Blvd. toward Downtown Annapolis. Stay on Rowe Blvd and turn Right on Calvert Street. The Department of Budget and Management's building is the first red brick building on the Right. Pay-for Parking Garages are indicated along Rowe Blvd and Calvert Streets.

From the East of Annapolis: Take US-50 West to Exit 24A MD 70/Rowe Blvd. toward Downtown Annapolis. Stay on Rowe Blvd and turn Right on Calvert Street. The Department of Budget and Management's building is the first red brick building on the Right. Pay-for Parking Garages are indicated along Rowe Blvd. and Calvert Streets.

From the South of Annapolis: Take Route 2 going North until it connects to Route US-50 East which will connect you to Exit 24 MD 70/Rowe Blvd., or take US-50 East until you reach the Exit 24 MD 70/Rowe Blvd. Take Rowe Blvd. toward Downtown Annapolis. Stay on Rowe Blvd. and turn Right on Calvert Street. The Department of Budget and Management's building is the first red brick building on the Right. Pay-for Parking Garages are indicated along Rowe Blvd and Calvert Streets.

Return or FAX this form to the Procurement Officer:

Jacquelyn E. Skinner-Boock
Department of Budget and Management
Procurement Unit
45 Calvert Street, Room 137
Annapolis, MD 21401
Fax # (410) 974-3274

PLEASE INDICATE: _____ Yes, the following representatives will be in attendance. (Please print legibly):

1.

2.

OR: _____ No, the representatives of our company, _____, will not be in attendance.

ATTACHMENT B – PROPOSAL AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

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

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned Offeror hereby certifies and agrees that the following information is correct: In preparing its offer on this project, the Offeror 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 vendors, 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 offer submitted by the Offeror on this project, and terminate any contract awarded based on the offer. As part of its offer or proposal, the Offeror 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 Offeror discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Offeror 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.

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 §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 the §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 subsection (1) through (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; or
- (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 — C and subsections (1) through (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 §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 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 offer is submitted.

I. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of §13-221 of the State Finance and Procurement Article of the 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.

J. 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.

K. 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 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 whom 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' 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 §K(2)(b), above;
 - (h) Notify its employees in the statement required by §K(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 §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;
 - (j) Within 30 days after receiving notice under §K(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 §K(2)(a)—(j), above.
- (3) If the business is an individual, the individual shall certify and agree as set forth in §K(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.

L. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

(1) The business named above is a (domestic ___) (foreign ___) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is: Name: _____ Address: _____

(If not applicable, so state).

(2) 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.

M. 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.

N. Repealed.

O. 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 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: _____ (Authorized Representative and Affiant)

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ATTACHMENT C – FINANCIAL PROPOSAL INSTRUCTIONS AND AFFIDAVIT

C-1: Pricing Instructions

In order to assist Offerors in the preparation of their Financial Proposal and to comply with the requirements of this solicitation, Pricing Instructions and a Financial Proposal Affidavit have been prepared. Offerors shall submit their financial offer on the form, ‘Section C.2-Financial Proposal Affidavit’ in accordance with the instructions as specified herein. Do not alter the form. *The Financial Proposal Affidavit is to be signed and dated where requested, by an individual who is authorized to bind the Offeror to all proposed prices.*

The Section C.2-Financial Proposal Affidavit must be printed and completed exactly as indicated in the following instructions. The completed Section C.2-Financial Proposal Affidavit will constitute the Offeror’s Financial Offer to this RFP. Please carefully read and follow the instructions in Numbers 1 through 5 below.

1. All of the Offeror’s **Fully-Loaded Fixed Hourly Labor Category Rates** for each Labor Category (Line Items 1 through 9) shall be rounded to the nearest cent and clearly entered in dollars and cents to two decimal places, e.g., \$24.15. For an explanation of what the terms ‘Fully-Loaded’ and ‘Fixed Hourly Labor Category Rates’ indicate, please see Section 3.3.7.
2. Every blank in the form, Section C.2-Financial Proposal Affidavit, shall be filled in.
3. Except as instructed herein, nothing shall be entered on the Section C.2-Financial Proposal Affidavit that alters or proposes conditions or contingencies on the prices. No assumptions may be noted in the Offeror’s Financial Proposal. Any assumptions that the Offeror feels necessary to note, must be provided in the Offeror’s Executive Summary Letter with its Technical Proposal as noted in Section 4.2.4.2.
4. It is imperative that the prices included on the Section C.2-Financial Proposal Affidavit be entered correctly by the Offeror. Any incorrect entries by the Offeror will be treated as provided in COMAR 21.05.03.03E and 21.05.02.12.
5. The explanation for each column and calculation in the Section C.-2 Financial Proposal Worksheet is:
 - A. Column C through Column G: For each Line Item and its Labor Category, the Offeror shall propose a Fully Loaded Fixed Hourly Labor Category Rate that is for each of the five timeframes noted. Each timeframe is for a complete ‘Contract Year.’
 - B. All pricing for each Line Item shall be the maximum actual price the State shall pay for each expended labor hour utilized during the course of an applicable future Task Order Agreement. (Note: Actual unit prices proposed under any subsequent Task Order Request for Proposals (TORFP) may be lower but no higher than the hourly rate proposed for each applicable labor category and applicable Contract Year that is proposed.)

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**ATTACHMENT D – MINORITY BUSINESS ENTERPRISE PARTICIPATION:
INSTRUCTIONS AND FORMS**

**State of Maryland
DEPARTMENT OF BUDGET & MANAGEMENT**

Each Master Contractor shall structure its procedures for the performance of its services required in the Master Contract and Task Order Agreement (TOA) to attempt to achieve the Minority Business Enterprise (MBE) goal stated in each Task Order Request for Proposals (TORFP). MBE performance must be in accordance with this Attachment, as authorized by Code of Maryland Regulations (COMAR) 21.11.03. Each Master Contractor agrees to make a good faith effort to carry out the MBE participation commitments set forth in this Attachment.

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

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

Note: A Minority Business Enterprise also includes a not-for-profit entity organized to promote the interests of physically or mentally disabled individuals. A MBE **must be** Certified for the applicable type of service by the Maryland Department of Transportation (MDOT) in order to have its contract participation acknowledged under the Department’s MBE program.

MBE PARTICIPATION GOALS AND SUB-GOALS

The Master Contractor shall achieve the MBE subcontracting goal and any sub-goals established for each individual Task Order Agreement (TOA), by subcontracting a sufficient portion of the TOA’s scope of work that results in total MBE payments that meet or exceed the MBE percent participation goal established for the applicable TOA to one or more MDOT-certified MBEs unless it has requested and been granted a waiver.

If awarded a Master Contract, each Master Contractor awarded a TOA, including Master Contractors that are themselves MDOT MBE-Certified, shall accomplish the TOA’s requirements with sufficient participation of MDOT MBE certified subcontractors. Appropriate participation and payments to the applicable qualified and certified MDOT MBE Subcontractors are monitored by the State through monitoring of both the Master Contractor and the applicable MDOT MBE Subcontractors.

REQUIRED FORMS

Each Offeror to this RFP must sign and submit the enclosed ‘Attachment D-1 Master – Offeror’s Acknowledgement of Task Order Request for Proposals MBE Participation Commitment’ with its Technical Proposal submission to this RFP. By completing and signing the Attachment D-1-Master, the Offeror affirms that if it is awarded a Master Contract it will comply with all MBE requirements and processes associated with the Master Contract and any subsequent TORFP and TOA. **An Offeror’s failure to submit Attachment D-1-Master with its technical proposal for this RFP will result in the Offeror’s proposal being deemed not reasonably susceptible for award, and the Offeror being eliminated from consideration for a Master Contract award under this contract.**

INSTRUCTIONS AND FORMS FOR TASK ORDER REQUEST FOR PROPOSALS (TORFPs)

FUTURE

To meet a task order goal using MBE subcontractors, Master Contractors must:

- a. Identify work areas for subcontracting
- b. Solicit minority business enterprises through written notice or personal contact
- c. Help minority businesses meet bonding requirements or grant them a waiver of bonding requirements
- d. Identify their MBE subcontractors at the time they submit their task order proposals

An MBE **must be** certified at the time of task order proposal submission in order to have its Contract participation counted under the Department’s MBE program.

For a TORFP issued with an MBE participation goal, the Master Contractor must complete, sign and submit with its Task Order Proposal (TOP) submission:

- 1) TORFP D-1 Certified MBE Utilization and Fair Solicitation Affidavit; and
- 2) TORFP D-2 MBE Participation Schedule.

If a Master Contractor believes that a waiver of some or all of the MBE participation goal or any sub-goals is necessary, the waiver request must be clearly indicated on the applicable Attachment TORFP D-1 and included with the TOP submission.

COMAR 21.11.03.09C(6). The failure of an Offeror to complete and submit the MBE utilization affidavit and the MBE participation schedule shall result in a determination that the proposal is not susceptible of being selected for award.

Within 10 working days from notification that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee must provide the following documentation to the Procurement Officer.

- 3) TORFP D-3 Outreach Efforts Compliance Statement; and,
- 4) TORFP D-4 Subcontractor Project Participation Statement.

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

MONTHLY REPORTING DURING THE TERM PERIODS OF TASK ORDER AGREEMENTS:

- 5) TORFP D-5 and TORFP D-6 are monthly MBE reporting forms that would be utilized for each applicable TOA that is awarded (See “Contract Administration Requirements” below). Samples of completed forms are attached as ‘Sample TORFP D-5’ and ‘Sample TORFP D-6.’

CONTRACT ADMINISTRATION REQUIREMENTS

For each Task Order Agreement, the Master Contractor shall:

1. Submit monthly to the assigned Requesting Agency a TORFP D-5 / Prime Master Contractor Paid/Unpaid MBE Invoice Report listing all paid invoices and any unpaid invoices which are they have received from each of their certified MDOT MBE subcontractor(s) working under each applicable TOA. This report will list each invoice, and for those invoices received but not yet paid out to the MBE subcontractor, the reason payment has not been made. For informational purposes only, a sample prime Master Contractor unpaid invoice report is also attached.

The TORFP D-5 Report will note at the top right hand side, the dollars that the Prime Master Contractor has received to-date from the applicable State Agency, and also what dollar amount has actually been paid-out by the Prime Master Contractor to the applicable MBE Subcontractor for that TORFP to-date.

2. Include in its agreements with its certified MDOT MBE subcontractors a requirement that those MDOT MBE subcontractors submit monthly to the Requesting Agency a TORFP D-6 Minority Business Enterprise Participation Subcontractor Paid/Unpaid MBE Invoice Report that identifies the applicable TOA and lists all payments received from the Master Contractor in the preceding 30 days, as well as any outstanding invoices already billed to the Prime Master Contractor, and the amount of those invoices. For informational purposes only, a completed sample TORFP D-6 MBE Subcontractor Paid/Unpaid Invoice report is also attached herein.
3. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of MDOT certified MBE subcontractors employed on each applicable TOA, the type of work performed by each, the actual dollar value of work performed, the actual dollar value paid to each applicable MBE

subcontractor, and the amount of dollars received from the State to-date for each applicable TOA.

- 4.. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations under this contract. The Master Contractor must retain all records concerning MBE participation and make them available for State inspection per the terms of the contract for record retention (See Attachment K -- Example Master Contract).
5. At the conclusion of each TOA, submit a report in affidavit form and under penalty of perjury, of all payments made to, or withheld from the applicable MBE subcontractor(s). Details of format and time will be included in each TORFP.
6. Towards the end of each of the Master Contract's Contract Years during the course of the Master Contract, upon request by the DBM Contract Manager, The Master Contractor shall submit a report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors by TOA during the course of the Master Contract and for the specified period of time. These types of reports may also be required for State reporting requirements during other times. Examples of these include but are not limited to audits to a State Agency and inquiries during the Maryland General Assembly Sessions. Each Master Contractor and its subcontractors shall be compliant and assist in attaining information or reports for any such inquiries at no additional expense to the State.
7. To ensure success for the Master Contract's MBE participation goals, the applicable user Agency, the DBM Contract Manager, and the DBM MBE Liaison Officer will provide remediation efforts with the Master Contractor for applicable MDOT MBE subcontractors as needed. These efforts may include counseling, written instruction, and formal contract direction in order to ensure that every effort for Master Contract and TOA compliance is met.

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MINORITY BUSINESS ENTERPRISE PARTICIPATION FORMS

MUST BE SUBMITTED WITH TECHNICAL PROPOSAL IN RESPONSE TO THIS RFP:

Attachment D-1 Master—Offeror’s Acknowledgement of Task Order Request for Proposal MBE Participation Commitment.

MUST BE SUBMITTED WITH TASK ORDER PROPOSAL TO TORFPs ISSUED UNDER THE MASTER CONTRACT

TORFP D-1 – *Certified MBE Utilization and Fair Solicitation Affidavit*

TORFP D-2 – *MBE Participation Schedule*

MUST BE SUBMITTED WITHIN 10 WORKING DAYS AFTER NOTIFICATION OF APPARENT AWARD OF TOA:

TORFP D-3 – *Certified MBE Outreach Efforts Compliance Statement*

TORFP D-4 – *Certified MBE Subcontractor Project Participation Statement*

MUST BE SUBMITTED ON A MONTHLY BASIS AFTER AWARD OF TOA:

TORFP D-5 - *Prime Contractor Paid/Unpaid MBE Invoice Report*

TORFP D-6 - *Subcontractor Paid/Unpaid MBE Invoice Report*

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The following Attachments D-1 through D-6 are sample forms for information purposes relative to this Audit Services Contract RFP No. 050B9800006, and are not completed or submitted with the Offeror's response to this RFP.

The forms are required to be completed and submitted after Master Contract award with the Master Contractor's Task Order Proposal responses pursuant to any applicable TORFP issued under this RFP.

This document shall be submitted with the Master Contractor's TORFP Proposal response. If the Master Contractor fails to submit this form with its TORFP Proposal response, the Procurement Officer shall determine that the Master Contractor's TORFP Proposal response is not reasonably susceptible of being selected for award and will be rejected.

ATTACHMENT TORFP D-1

Certified MBE Utilization and Fair Solicitation Affidavit

In conjunction with the proposal submitted in response to **TORFP No.** _____, I affirm the following:

1.
 - A. I acknowledge the overall certified Minority Business Enterprise (MBE) participation goal of ____% and I have made a good faith effort to achieve this goal.

OR
 - B. After having made a good faith effort to contact MDOT certified MBEs to achieve the stated MBE participation goal, I conclude I am unable to achieve it. Instead, I intend to achieve an MBE goal of ____% and I request a waiver of the remainder of the goal. If I selected as the apparent Task Order Agreement (TOA) awardee, I will submit written waiver documentation that complies with COMAR 21.11.03.11 within 10 working days of receiving notification that my firm is the apparent TOA awardee.
2. I have identified the specific commitment of certified Minority Business Enterprises by completing and submitting a MBE Participation Schedule (Attachment TORFP D-2) with the TORFP Proposal response.
3. I acknowledge that the MDOT certified MBE subcontractors listed in the MBE Participation Schedule will be used to accomplish the percentage of MBE participation that I intend to achieve.
4. I understand that if I am notified that I am the apparent TOA awardee, I must submit the following documentation within 10 working days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier:
 - (a) Outreach Efforts Compliance Statement (Attachment TORFP D-3)
 - (b) Subcontractor Project Participation Statement for each MBE (Attachment TORFP D-4)
 - (c) MBE Waiver Documentation per COMAR 21.11.03.11 (if applicable)
 - (d) Any other documentation required by the Procurement Officer to ascertain the Master Contractor as 'Offeror' responsibility in connection with the certified MBE participation goal.

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

5. In the solicitation to subcontractors, MBE subcontractors were provided not less than the same information and amount of time to respond as were non-MBE subcontractors.

ATTACHMENT **TORFP D-1 (Continued)**

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

Master Contractor's Company Name

Signature of Master Contractor and Date

Master Contractor's Printed Name and Title

Master Contractor's Telephone Number

Master Contractor's Email Address: _____

Master Contractor's FEIN: _____

Master Contractor's Address: _____

THIS FORM IS TO BE SUBMITTED BY THE MASTER CONTRACTOR WITH EACH OF ITS TASK ORDER PROPOSALS IN RESPONSE TO EACH TORFP.

SAMPLE
TORFP D-2
MBE Participation Schedule
(for submission with the Master Contractor's TOP)

This document shall be included with the submittal of the Master Contractor's Task Order Proposal (TOP). If additional lines are needed, attach a similar document to the back of the form.

Master Contractor (Firm Name, Address, Phone, Email Address):

TORFP Number:

List Information for Each Certified MDOT MBE Subcontractor on This Project

1. MBE Firm Name, Address, and Contact Information:

MDOT MBE Certification Number: _____

Work To Be Performed / SIC Code (if applicable): _____

Percentage of Total Awarded TOA: _____%

2. MBE Firm Name, Address, and Contact Information:

MDOT MBE Certification Number: _____

Work To Be Performed / SIC Code (if applicable): _____

Percentage of Total Awarded TOA: _____%

TOTAL MBE PARTICIPATION: _____%

TOTAL WOMAN-OWNED MBE PARTICIPATION: _____%

TOTAL AFRICAN AMERICAN-OWNED MBE PARTICIPATION: _____%

Document Prepared By:

Master Contractor: _____

(Please print clearly or type)

Name: _____ Title: _____

Date: _____

TORFP D-3 / Outreach Efforts Compliance Statement
(for submission with the Master Contractor's Task Order Proposal)

In conjunction with the offer submitted in response to TORFP No. _____, I state the following:

1. I, as the Master Contractor, _____, have identified opportunities to subcontract in these specific work categories:

2. ____ Attached to this form are copies of written solicitations (with their written instructions) used to solicit certified MDOT MBEs for these subcontract opportunities.

3. I, as the Master Contractor have made the following attempts to personally contact the solicited MBEs listed below:

4. Complete one of the following:

Assisted MBEs to fulfill or to seek waiver of bonding requirements if they were/are required.
(DESCRIBE EFFORTS)

This project does not involve bonding requirements.

Master Contractor's Company Name Master Contractor's Signature and Date

Master Contractor's Representative Name and Title

Master Contractor's Representative Telephone Number: _____

Master Contractor's Representative Email Address: _____

TORFP D-4 SUBCONTRACTOR PROJECT PARTICIPATION STATEMENT
(for submission with Master Contractor's Task Order Proposal)

SUBMIT ONE FORM FOR EACH CERTIFIED MBE LISTED IN THE MBE PARTICIPATION SCHEDULE

Provided that _____ is awarded the Task Order Agreement in
(Master Contractor Firm's Name)

conjunction with TORFP No. _____, we the Master Contractor and
_____, (Subcontractor Firm's Name)

whose current MDOT MBE Certification No. is _____, intend to enter into a contract by which the
subcontractor shall (Describe the services to be performed by the qualified MDOT MBE):

- No bonds are required of Subcontractor
- The following amount and type of bonds are required of Subcontractor:

By:

Master Contractor Firm	MDOT MBE Subcontractor Firm
Signature of Representative	Subcontractor Representative Signature
Typed Name	Typed Name
Title	Title
Date: _____	Date: _____

TORFP D-5

**Minority Business Enterprise Participation
Prime Contractor Paid/Unpaid MBE Invoice Report**

This form is to be completed monthly by the Master Contractor for EACH MBE Subcontractor utilized on the TOA

Report No.: _____ (Sequential Number for each Reporting Month of the TOA) Reporting Period (Month/Year): _____ Report is due by the 10th of the month following the month the services were provided.	TOA No: State Agency: Total Awarded TOA \$: MBE Subcontract Percent Participation Goal: _____% Cum \$ Paid to the MBE Subcontractor Thru This Reporting Period on this TOA: \$_____ Cum Percent MBE Participation Completed Thru This Reporting Period on this TOA: _____% Project Begin Date: Project End Date:
---	---

Master Contractor :		Contact Person:	
Address:			
City:		State:	ZIP:
Phone:	FAX No. and Email Address:		
This TORFP D-5 is for MBE Subcontractor:		Contact Person:	
Phone:	FAX No. and Email Address:		

List all payments made to MBE subcontractor named above during this reporting period: <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:5%;"></th> <th style="width:35%; text-align: center;"><u>Invoice No.</u></th> <th style="width:60%; text-align: center;"><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td colspan="3">Total Dollars Paid: \$ _____</td> </tr> </tbody> </table>		<u>Invoice No.</u>	<u>Amount</u>	1.			2.			3.			Total Dollars Paid: \$ _____			List dates and amounts of <u>ALL</u> outstanding invoices received From MBE Subcontractor but not Paid Yet: <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:5%;"></th> <th style="width:35%; text-align: center;"><u>Invoice No.</u></th> <th style="width:60%; text-align: center;"><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td colspan="3">Total Dollars Unpaid: \$ _____</td> </tr> </tbody> </table>		<u>Invoice No.</u>	<u>Amount</u>	1.			2.			3.			Total Dollars Unpaid: \$ _____		
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Total Dollars Unpaid: \$ _____																															

<p>Send this Report electronically to the Task Order Manager via email in a format that captures your signature and date.</p> <p>Send To: Task Order Manager State Agency Address City/State/Zip E-mail: Telephone No.:</p>

Signature: _____ Date: _____

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

Report No.: _____ (Sequential Number for each Reporting Month of the TOA) Reporting Period (Month/Year): _____ Report is due by the 10th of the month following the month the services were performed.	TOA No: State Agency: Total Awarded TOA \$ to the MBE Subcontractor: \$ _____ MBE Subcontract Percent TOA Participation Goal: _____% Cum \$ Paid by the Master Contractor Thru This Reporting Period to the MBE Subcontractor on this TOA: \$ _____ Project Begin Date: Project End Date:
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MBE Subcontractor Name:																															
MDOT Certification No.:																															
Contact Person:																															
Address:																															
City:	State:	ZIP:																													
Phone:	FAX No. and Email Address:																														
List all payments received from the Master Contractor during reporting period indicated above. <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 40%; text-align: center;"><u>Invoice Amt</u></th> <th style="width: 15%; text-align: center;"><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td colspan="3">Total Dollars Paid: \$ _____</td> </tr> </tbody> </table>		<u>Invoice Amt</u>	<u>Date</u>	1.			2.			3.			Total Dollars Paid: \$ _____			List dates and amounts of <u>ALL</u> invoices sent to the Master Contractor but not paid by the Master Contractor yet. <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 40%; text-align: center;"><u>Invoice Amt</u></th> <th style="width: 15%; text-align: center;"><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td colspan="3">Total Dollars Unpaid: \$ _____</td> </tr> </tbody> </table>		<u>Invoice Amt</u>	<u>Date</u>	1.			2.			3.			Total Dollars Unpaid: \$ _____		
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1.																															
2.																															
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Total Dollars Unpaid: \$ _____																															
Master Contractor:		Contact Person:																													

Send this Report electronically to the Task Order Manager via email in a format that captures your signature and date. Send To: Task Order Manager State Agency Address City/State/Zip E-mail: Telephone No.: _____
--

Signature: _____ Date: _____

ATTACHMENT F

Conflict Of Interest Affidavit And Disclosure
Reference COMAR 21.05.08.08

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

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

C. The Offeror warrants on behalf of itself and all Persons as defined above performing under this TORFP, that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.

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

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

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

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

SUBMIT THIS AFFIDAVIT WITH A TOP'S TECHNICAL RESPONSE TO A TORFP

ATTACHMENT G

EXAMPLE OF A TASK ORDER AGREEMENT'S CERTIFICATE OF CONFIDENTIALITY AGREEMENT

This Agreement, dated as of _____, 20__, is by and between the DEPARTMENT OF _____ and _____, (“the TOA Contractor”) and is incorporated into the Task Order Agreement (Audit Services Contract’s TOA _____) between the parties as Exhibit A to that Task Order Agreement.

The parties agree as follows:

1. For purposes of this Confidentiality Agreement and the Task Order Agreement executed by the parties, the term “Information” means any and all information, data, records, or documents to which the TOA Contractor gains access, learns, discovers, acquires or uses in connection with performing the duties required in connection with the Task Order Agreement.
2. The purpose of this Confidentiality Agreement is to protect and prevent unauthorized disclosure of certain confidential information (the Information) of the Department while also permitting the TOA Contractor to fulfill its obligations under the terms of the Contract.
3. With respect to the Information, the TOA Contractor shall comply with all Federal and State laws and use reasonable efforts to:
 - (a) restrict disclosure of the Information solely to those of its employees with a need to know and not disclose it to third parties;
 - (b) advise employees, agents and subcontractors who receive the Information of the obligation of confidentiality hereunder and assure that such employees, agents and subcontractors take steps consistent with this Confidentiality Agreement to protect the Information;
 - (c) use the same degree of care to protect the Information and to prevent disclosure of the Information which is at least as stringent as that used with the TOA Contractor’s own confidential information, and which shall be at least the degree of care which a reasonably prudent person would use to protect and prevent disclosure of confidential information; and
 - (d) use the Information only for the purpose of fulfilling the TOA Contractor’s obligations under the Task Order Agreement.
4. Notwithstanding anything to the contrary herein, the TOA Contractor shall not have the obligation to preserve the confidentiality of any Information which:
 - (a) was previously known by both of the parties to be free of any obligation to keep it confidential;
 - (b) is or becomes publicly available by the action of the Department, other than by unauthorized disclosure; or

(c) is independently developed by the TOA Contractor.

5. Upon the request of the Department, the TOA Contractor shall return all documents and records, including those in matching-readable media, which contain the Information, without retaining any copies, of such documents or records that contain the Information. Upon the request of the Department, all Information contained in the data banks of any computer or electronic data system operated by the TOA Contractor shall be destroyed. Upon request by the Department, an officer or other appropriate representative of the TOA Contractor shall provide a certificate which shall confirm that the foregoing, including the destruction, have taken place. The TOA Contractor shall request written authorization of the Department to retain any Information in any format.

Nothing contained in this Agreement shall be construed as granting to or conferring upon the TOA Contractor any rights by license or otherwise in any Information disclosed, except for the limited right to use the Information for the purposes set forth in this Confidentiality Agreement and the Task Order Agreement.

6. This Confidentiality Agreement shall be governed and construed in accordance with the laws of the State of Maryland, and shall bind and insure to the benefit of the parties hereto and their respective successors and assigns.

7. This Agreement shall become effective on the date set forth above and shall continue through the end of the term of the Task Order Agreement between the parties. The obligation to protect the confidential nature of the Information received, used, retained or known to the TOA Contractor as a result of its performance under the Task Order Agreement shall survive the termination of the Task Order Agreement, the Master Contract and this Agreement.

The parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year set forth above.

TOA CONTRACTOR::

MARYLAND STATE AGENCY:

By: _____

By: _____

Date: _____

Date: _____

Print name: _____

Print name: _____

Title: _____

Title: _____

ATTACHMENT H – EXAMPLE of a NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT (“Agreement”) is made as of this ___ day of _____, 20__, by and between the State of Maryland ("the State"), acting by and through its Department of Budget and Management (the “Department”) and _____ (“Contractor”).

RECITALS

WHEREAS, the Contractor has been awarded a contract (the “Contract”) for Audit Services Contract RFP No. 050B9800006, dated December 1, 2009 (the “RFP”); and

WHEREAS, in order for the Contractor to perform the work required under the Contract, it will be necessary for the State at times to provide the Contractor and the Contractor’s employees, agents, and subcontractors (collectively the “Contractor’s Personnel”) with access to certain information the State deems confidential information (the “Confidential Information”).

NOW, THEREFORE, in consideration of being given access to the Confidential Information in connection with the RFP and the Contract, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties do hereby agree as follows:

1. Confidential Information means any and all information provided by or made available by the State to the Contractor in connection with the Contract, regardless of the form, format, or media on or in which the Confidential Information is provided and regardless of whether any such Confidential Information is marked as such. Confidential Information includes, by way of example only, information that the Contractor views, takes notes from, copies (if the State agrees in writing to permit copying), possesses or is otherwise provided access to and use of by the State in relation to the Contract.
2. Contractor shall not, without the State’s prior written consent, copy, disclose, publish, release, transfer, disseminate, use, or allow access for any purpose or in any form, any Confidential Information provided by the State except for the sole and exclusive purpose of performing under the Contract. Contractor shall limit access to the Confidential Information to the Contractor’s Personnel who have a demonstrable need to know such Confidential Information in order to perform under the Contract and who have agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information. The names of the Contractor’s Personnel are attached hereto and made a part hereof as Exhibit A. Each individual whose name appears on Exhibit A shall execute a copy of this Agreement and thereby be subject to the terms and conditions of this Agreement to the same extent as the Contractor. Contractor shall update Exhibit A by adding additional names (whether Contractor’s personnel or a subcontractor’s personnel) as needed, from time to time, and as examples, during their performance under a Task Order Agreement or responding to a Task Order Request for Proposals.
3. If the Contractor intends to disseminate any portion of the Confidential Information to non-employee agents who are assisting in the Contractor’s performance of the RFP or who will otherwise have a role in performing any aspect of the RFP, the Contractor shall first obtain the written consent of the State to any such dissemination. The State may grant, deny, or condition any such consent, as it may deem appropriate in its sole and absolute subjective discretion.
4. Contractor hereby agrees to hold the Confidential Information in trust and in strictest confidence, to adopt or establish operating procedures and physical security measures, and to take all other measures necessary to protect the Confidential Information from inadvertent release or disclosure to unauthorized third parties and to prevent all or any portion of the Confidential Information from falling into the public domain or into the possession of persons not bound to maintain the confidentiality of the Confidential Information.

5. Contractor shall promptly advise the State in writing if it learns of any unauthorized use, misappropriation, or disclosure of the Confidential Information by any of the Contractor's Personnel or the Contractor's former Personnel. Contractor shall, at its own expense, cooperate with the State in seeking injunctive or other equitable relief against any such person(s).
6. Contractor shall, at its own expense, return to the Department, all copies of the Confidential Information in its care, custody, control or possession upon request of the Department or on termination of the Contract.
7. A breach of this Agreement by the Contractor or by the Contractor's Personnel shall constitute a breach of the Contract between the Contractor and the State.
8. Contractor acknowledges that any failure by the Contractor or the Contractor's Personnel to abide by the terms and conditions of use of the Confidential Information may cause irreparable harm to the State and that monetary damages may be inadequate to compensate the State for such breach. Accordingly, the Contractor agrees that the State may obtain an injunction to prevent the disclosure, copying or improper use of the Confidential Information. The Contractor consents to personal jurisdiction in the Maryland State Courts. The State's rights and remedies hereunder are cumulative and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and to seek damages from the Contractor and the Contractor's Personnel for a failure to comply with the requirements of this Agreement. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys' fees and disbursements) that are attributable, in whole or in part to any failure by the Contractor or any of the Contractor's Personnel to comply with the requirements of this Agreement, the Contractor shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and costs.
9. Contractor and each of the Contractor's Personnel who receive or have access to any Confidential Information shall execute a copy of an agreement substantially similar to this Agreement and the Contractor shall provide originals of such executed Agreements to the State.
10. The parties further agree that:
 - a. This Agreement shall be governed by the laws of the State of Maryland;
 - b. The rights and obligations of the Contractor under this Agreement may not be assigned or delegated, by operation of law or otherwise, without the prior written consent of the State;
 - c. The State makes no representations or warranties as to the accuracy or completeness of any Confidential Information;
 - d. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement;
 - e. Signatures exchanged by facsimile are effective for all purposes hereunder to the same extent as original signatures; and
 - f. The Recitals are not merely prefatory but are an integral part hereof.

<INSERT NAME> Contractor:

Maryland Department of Budget & Management:

By: _____ (SEAL)

By: _____

Printed Name and Title: _____

Printed Name and Title _____

Date: _____

Date: _____

**ATTACHMENT I – ELECTRONIC FUNDS TRANSFER (EFT) REGISTRATION REQUEST
FORM**

State of Maryland
Comptroller of Maryland

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

Checking Money Market Savings
Account type

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.

ATTACHMENT J – CONTRACT AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the _____(title) and the duly authorized representative of _____(business and address) and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

B. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

(1) The business named above is a (domestic____) (foreign____) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is:

Name:_____ Address:_____.

(2) 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.

C. 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 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:_____ (Authorized Representative and Affiant)

ATTACHMENT K – SAMPLE OF THE STATE’S CONTRACT

AUDIT SERVICES MASTER CONTRACT

THIS CONTRACT (the “Contract”) is made as of this ____ day of _____, 2010 by and between _____ and the STATE OF MARYLAND, acting through the DEPARTMENT OF BUDGET AND MANAGEMENT, DIVISION OF PROCUREMENT POLICY AND ADMINISTRATION.

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

1. Definitions

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

- 1.1 “Contract Manager” means the official designated by the Department as noted in Section 1.8 of the RFP that provides contract management for the contract. 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 “Financial Proposal” means the Contractor’s Financial Proposal dated _____.
- 1.5 “Procurement Officer” means the Maryland procurement official designated by the Department as noted in Section 1.7 of the RFP. The Department may change the Procurement Officer at any time by written notice.
- 1.6 “RFP” means the Request For Proposals for Audit Services Contract, Project No. 050B9800006, dated December 1, 2009, and any amendments thereto issued in writing by the State.
- 1.7 “State” means the State of Maryland.
- 1.8 “Technical Proposal” means the Contractor’s Technical Proposal, dated _____.

2. Scope of Work

2.1 The Contractor shall provide auditing services as specified in the RFP. These services shall be provided in accordance with the terms and conditions of this Contract and the following Exhibits, which are attached hereto 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 – The RFP
- Exhibit B – The Technical Proposal
- Exhibit C – The Financial Proposal

Exhibit D - State Contract Affidavit, executed by the Contractor and dated _____

2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract or the RFP. 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 shall 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

The Contract resulting from this RFP shall be for a period of five years beginning at **contract execution by the Department and ending on June 30, 2015**, unless terminated earlier as provided in this Contract. The Contractor shall provide services upon receipt of a Notice to Proceed from the Procurement Officer.

4. Consideration and Payment

4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the State shall pay the Contractor in accordance with the terms of this Contract and the rates established in Contractor's TOP which may not exceed the rates set forth in Exhibit C, Contractor's Financial Proposal. TOAs are on a time and materials basis and shall include a Not To Exceed ceiling for payments. Contractor shall notify the Contract Administrator, 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 The Contractor(s) shall invoice each individual requesting agency for receipt of payment. Payments from State agencies to the Contractor shall be made in accordance with the TOA and no later than thirty (30) days after the requesting State agency's receipt of a proper invoice for services provided by the Contractor, acceptance by the requesting agency of services provided by the Contractor, and pursuant to the terms of the RFP. A TOA may specify that a portion of the payments due will be withheld until completion the TOA. The amount withheld from each payment shall be paid to the Contractor within thirty (30) days of acceptance of all deliverables required under the TOA and receipt from the Contractor of a release in a form prescribed by the State for any claims arising out of or related to the TORFP. Each invoice for services rendered shall include the Contractor's Federal Tax Identification Number which is _____. Charges for late payment of invoices other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, are prohibited. Invoices shall be submitted to the Contract Manager. Electronic funds transfer shall be used by the State to pay Contractor pursuant to this Contract and any other State payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.

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 Contractor's eMarylandMarketplace vendor ID number is _____.

5. Rights to Records

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

5.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a deliverable under this Contract, and services performed under this Contract shall be “works made for hire” as that term is interpreted under U.S. copyright law. To the extent that any products created as a deliverable under this Contract are not works for hire for the State, the Contractor hereby relinquishes, transfers, and assigns to the State all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.

5.3 The Contractor shall report to the Contract Manager, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all data delivered under this Contract.

5.4 The Contractor shall not affix any restrictive markings upon any data, documentation, or other materials provided to the State hereunder and if such markings are affixed, the State shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

6. Exclusive Use

The State shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable of being copyrighted, the State shall be the copyright owner and Contractor may copyright material connected with this project only with the express prior written approval of the State.

7. Patents, Copyrights, Intellectual Property

7.1 If the Contractor furnishes any design, device, material, process, or other item, which is covered by a patent, trademark or service mark, or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items.

7.2 The Contractor will defend or settle, at its own expense, any claim or suit against the State alleging that any such item furnished by the Contractor infringes any patent, trademark, service mark, copyright, or trade secret. If a third party claims that a product infringes that party’s patent, trademark, service mark, trade secret, or copyright, the Contractor will defend the State against that claim at Contractor’s expense and will pay all damages, costs and attorney fees that a court finally awards, provided the State (i) 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. The obligations of this paragraph are in addition to those stated in Section 7.3 below.

7.3 If any products furnished by the Contractor become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement, the Contractor will, at its option and expense: a) procure for the State the right to continue using the applicable item, b) replace the product with a non-infringing product 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.

8. 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.

9. Loss of Data

In the event of loss of any State data or records where such loss 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 data in the manner and on the schedule set by the Contract Manager. The Contractor shall ensure that all data is backed up and recoverable by the Contractor. Contractor shall use its best efforts to assure that at no time shall any actions undertaken by the Contractor under this Contract (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms or applications with which the Contractor is working hereunder.

10. Indemnification

10.1 The Contractor shall hold harmless and indemnify the State from and against any and all losses, damages, claims, suits, actions, liabilities and expenses, including, without limitation, attorneys' fees and disbursements of any character that arise from, are in connection with or are attributable to the performance or nonperformance of the Contractor or its subcontractors under this Contract, including but in no way limited to Contractor's failure to comply with the requirements of Section 9, above.

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

10.3 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.

10.4 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.

11. Non-Hiring of Employees

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

12. 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, regulation, or the Contract, the Contractor shall file a written notice of claim with the Procurement Officer within 30 days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within 30 days of the filing of a notice of claim, but no later than the date of final payment under the Contract, the Contractor shall submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

13. 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, Maryland Code Annotated, Commercial Law Article, Title 22, does not apply to this Contract, or to any Task Order Agreement, purchase order, or Notice to Proceed, issued under this Contract. 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.

14. Nondiscrimination in Employment

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

15. Contingent Fee Prohibition

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, 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 this Contract.

16. Non-availability of Funding

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

17. 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 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.

18. 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).

19. 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.

20. 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.

21. Pre-Existing Regulations

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

22. Financial Disclosure

The Contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every person that enters into Contracts, leases, or other agreements with the State or its agencies during a calendar year under which the business is to receive in the aggregate, \$100,000 or more, shall within 30 days of the time when the aggregate value of these Contracts, leases

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

23. Political Contribution Disclosure

The Contractor shall 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, 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.

24. Retention of Records

The Contractor shall retain and maintain all records and documents in any way relating to this Contract for three years after Contract closeout and final payment by the State 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 shall, upon request by the Department, surrender all and every copy of documents needed by the State, including, but not limited to itemized billing documentation containing the dates, hours spent and work performed by the Contractor and its subcontractors under the Contract. In the event of any audit, Contractor shall provide assistance to the State, without additional compensation, to identify, investigate and reconcile any audit discrepancies or variances.

25. Representations and Warranties

The Contractor hereby represents and warrants that:

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

26. 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 offer.

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 offer, was inaccurate, incomplete, or not current.

27. Subcontracting; Assignment

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the express prior written approval of the State, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the express prior written approval of the State. Any such subcontract or assignment shall include the terms of Sections 11 and 13 through 26 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.

28. Parent Company Guarantee (If Applicable)

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

29. Administrative

29.1 **Procurement Officer.** All matters relating to the interpretation of this Contract shall be referred to the Procurement Officer for determination.

29.2 **Contract Manager.** The work to be accomplished under this Contract shall be performed under the direction of the DBM Contract Manager. The Department may change the Contract Manager at any time by written notice.

29.3 **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: The Department of Budget and Management
45 Calvert Street, Room 137
Annapolis, MD 21401

Attention: Contract Manager

If to the Contractor: _____

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

31. Subcontractor Prompt Payment

- 31.1. If a contractor withholds payment of an undisputed amount to its subcontractor, the Agency, at its option and in its sole discretion, may take one or more of the following actions:
 - 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.
- 32.2. An “undisputed amount” means an amount owed by a contractor to a subcontractor for which there is no good faith dispute, including any retainage withheld, and includes an amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
- 32.3. An act, failure to act, or decision of a procurement officer or a representative of the Agency, concerning a withheld payment between a contractor and subcontractor under this policy directive, may not:
 - 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 Agency and the contractor in any other proceeding; or
 - C. Result in liability against or prejudice the rights of the Agency.
- 32.4. 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.

- 32.5. To ensure compliance with certified MBE subcontract participation goals, the Agency 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
 - (c) payments received from the contractor in the preceding 30 days and invoices
 - (d) for which the subcontractor has not been paid.
 - C. If the Agency determines that a contractor is in noncompliance with certified MBE participation goals, then the Agency will notify the contractor in writing of its findings, and will require the contractor to take appropriate corrective action.
 - (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 Agency determines that a contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that the Agency requires, then the Agency may:
 - (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 WHEREOF, the parties have executed this Contract as of the date hereinabove set forth.

CONTRACTOR

By: _____ (SEAL)

Title: _____ Date: _____

Witness/Attest: _____

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

By: _____

Title: _____ Date: _____

Witness: _____

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

Assistant Attorney General

APPROVED BY BPW: _____
(Date) (BPW Item #)

ATTACHMENT L – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS

{TO BE SUBMITTED UNDER THE TORFP PROCESS AND NOT WITH THE OFFEROR’S TECHNICAL PROPOSAL TO THIS RFP}

- 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.

**Attachment L's 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)

- Offeror is a nonprofit organization
- Offeror is a public service company
- Offeror employs 10 or fewer employees and the proposed contract value is less than \$500,000.
- 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 Title 18, 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 wage 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.

Advisory 2007-1
Attachment D 12/10/07

**Attachment L's (continued) Affidavit of Agreement
Maryland Living Wage Requirements-Service Contracts**

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

- All employee(s) proposed to work on the State contract will spend less than one-half of the employee's time during every work week on the State;
- All employee(s) proposed to work on the State contract will be 17 years of age or younger during the duration of the State contract; or,
- All employee(s) proposed to work on the State 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 (Type or Print Clearly)

Signature of Authorized Representative

Date

Title

Witness Signature

Date

Advisory
2007-1
Attachment D
12/10/07

ATTACHMENT M – MOCKUP SAMPLE TASK ORDER AGREEMENT (TOA)

**MASTER CONTRACT No. 050B980006
TASK ORDER AGREEMENT
AUDIT TORFP No. ASC-2010-01-001-(DBM)
Purchase Order No. F1099999999**

This Task Order Agreement (“TOA”) is made this 15th day of September 2010 by and between John Brown Company and the STATE OF MARYLAND, acting through the DEPARTMENT OF BUDGET AND MANAGEMENT (DBM), OFFICE OF THE SECRETARY.

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

1. Definitions. In this Contract, the following words have the meanings indicated:
 - a. “Agency” means the DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES/EMERGENCY NUMBER SYSTEMS BOARD (ENSB), identified in the AUDIT TORFP No. **ASC-2009-01-001-(DBM)**.
 - b. “AUDIT TORFP” means the Department of Budget and Management, Task Order Request for **ASC-2010-01-001-(DBM)**, dated **June 2, 2010** and its **Amendment No. 1, dated June 10, 2010**.
 - c. “Contract Manager” means the State individual designated by the State on the Master Contract or a successor designated by the Department;
 - d. “DBM Procurement Officer” means the State individual designated by the State on the Master Contract or a successor designated by the Department;
 - e. “State” means the State of Maryland;
 - f. “TOA” means this Task Order Agreement;
 - g. “TOA Contractor” means the master contractor selected to perform the task order agreement work identified in the AUDIT TORFP No. **ASC-2010-01-001-(DBM)**;
 - h. “TOM” means the agency Task Order Manager or a successor designated by the agency;
 - i. “TOP-Technical Proposal” means the TOA Contractor’s Technical response dated August 1, 2010 to the AUDIT TORFP;
 - j. “TOP-Financial Proposal” means the TOA Contractor’s Financial response dated August 1, 2010 to the AUDIT TORFP;
 - k. “TOP-BAFO” means the TOA Contractor’s combined Technical and Financial final response to the AUDIT TORFP, dated August 22, 2010 as a Best and Final Offer; and,

1. "TOA Contractor's Certificate of Confidentiality" means the TORFP's Attachment 6 completed form for the TOA Contractor's Certificate of Confidentiality, dated September 15, 2010, that becomes the Exhibit A to the TOA.

2. Scope of Work

2.1 The TOA Contractor shall, in full satisfaction of the specific requirements of this TOA, provide the services set forth in Section 2 of the AUDIT TORFP No. **ASC-2010-01-001-(DBM)**;

2.2 These services shall be provided in accordance with the Master Contract, this TOA, and the following exhibits, which are attached and incorporated herein by reference. If there is any conflict among the Master Contract, this TOA, and these Exhibits, the terms of the Master Contract shall govern. If there is any conflict among this TOA and these Exhibits, the following order of precedence shall determine the prevailing provision:

A) This TOA, dated September 15, 2010;

B) Exhibit A, The TOA Contractor Certificate of Confidentiality, dated September 15, 2010;

C) Exhibit B – AUDIT TORFP: ASC-2010-01-001-(DBM), dated June 2, 2009 and its Amendment No. 1, dated June 10, 2010;

D) Exhibit C-TOA Contractor's TOP-BAFO, dated August 22, 2010;

E) Exhibit D-Master Contractor's TOP-Technical, dated August 1, 2010; and,

F) Exhibit E-Master Contractor's TOP-Financial, dated August 1, 2010.

2.3 The DBM Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the TOA. No other order, statement or conduct of the DBM Procurement Officer or any other person shall be treated as a change or entitle the TOA Contractor to an equitable adjustment under this section. Except as otherwise provided in this TOA, if any change under this section causes an increase or decrease in the TOA 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 TOA price shall be made and the TOA modified in writing accordingly. The TOA 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 TOA Contractor shall be allowed if asserted after final payment under this TOA. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause of the Master Contract. Nothing in this section shall excuse the TOA Contractor from proceeding with the TOA as changed.

3. Time for Performance.

Unless terminated earlier as provided in the Master Contract, the TOA Contractor shall provide the services described in its TOP and in accordance with the AUDIT TORFP. The term of this TOA is for a period that commences on the date of the initial Notice to Proceed and terminates February 15, 2011. The TOA Contractor shall provide services upon receipt of a Notice to Proceed from the DBM Contract Manager.

4. Consideration and Payment

4.1 The consideration to be paid the TOA Contractor shall be a Not-To-Exceed of **\$92,000.00**. **As the Master Contract is a Time and Materials contract (For labor, only time actually worked per the TORFP's proposed and approved labor classifications and labor rates may be invoiced.) the fixed Fully-Loaded Labor Category Hourly Rates shall be no greater than what was proposed in the TOA Contractor's Master Contract or applicable TOP for the applicable TORFP.** Any work performed by the TOA Contractor in excess of the Not-To-Exceed ceiling amount of TOA without the prior written approval of the DBM Contract Manager is at the TOA Contractor's risk of non-payment. All invoices must be presented with appropriate Time Card backup as noted in the TORFP's Section 2.

- 4.2 Each invoice for services rendered must include the TOA Contractor's Federal Tax Identification Number which is **00-0000000**. Charges for late payment of invoices other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, as from time-to-time amended, are prohibited. Invoices must be submitted to the Agency TOM unless otherwise specified herein.
- 4.3 In addition to any other available remedies, if, in the opinion of the DBM Procurement Officer, the TOA Contractor fails to perform in a satisfactory and timely manner, the DBM Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the TOA Contractor to be reduced or withheld until such time as the TOA Contractor meets performance standards as established by the DBM Procurement Officer.

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

John Brown Company

MARYLAND DEPARTMENT OF BUDGET AND MANAGEMENT

Signature

Signature

By: _____

By: Jacquelyn E. Skinner-Boock
DBM Procurement Officer

9/13/2010
Date: _____

9/15/2010
Date: _____

Witness: _____ *Signature* _____

Witness: _____ *Signature* _____

ATTACHMENT N-1 – ARRA-1

ARRA-1 Supplemental Terms and Conditions For TORFPs Funded in Whole or in Part with ARRA Funds

1. General

This TORFP and TOA are governed by the provisions of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (ARRA), federal regulations and ARRA implementing guidance from the federal government as may be revised and updated from time to time (collectively “ARRA Requirements”).

A. Compliance. The Contractor agrees that it will comply with all ARRA Requirements applicable to this contract, including modifications or additional requirements that may be imposed by law, future guidance and clarifications of ARRA requirements.

B. Conflict of Laws. The Contractor agrees that to the extent ARRA requirements conflict with State requirements, the ARRA requirements shall control.

C. Enforceability. The Contractor agrees that if Contractor or one of its subcontractors fails to comply with all applicable federal and State requirements governing the use of ARRA funds, the State may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds following an audit. This provision is in addition to all other remedies available to the State under all applicable State and federal laws.

2. Contractor Identification

All Contractors are required to provide the State with either their unique Dun & Bradstreet Data Universal Numbering System (DUNS) number or, for those Contractors that do not have a DUNS number, the name and zip code of the Contractor’s headquarters prior to award.

Contractors can request a DUNS number or modification to an existing DUNS record by using the online webform process at <http://fedgov.dnb.com/webform> (for US and International locations) or they can call 866-705-5711, option 3. The toll free number is for US locations only. Registrants will be asked for their entity name, address, city, state, country, postal code, highest ranking individual’s name and title, line of business, # of employees and legal structure (corporation, non-profit, etc.) and socio-economic data (veteran owned, woman owned, etc.). If the webform is used, there are mailing address area, SIC code and annual revenue data lines, but these are optional.

3. Job Creation and Retention

Pursuant to Section 1512 of ARRA, the Contractor shall timely report to the State all of the data noted on the enclosed **Monthly Employment Report**, **Attachment N-2**, no later than the 8th day of each month, for the previous month’s reporting data. For any subcontracts of less than \$25,000 or to individuals, the required information may be reported in the aggregate and requires the certification of an authorized officer of the Contractor that the information contained in the report is accurate. The Contractor agrees to provide any other information reasonably requested by the State or required by State or federal law or regulation.

Further instructions for reporting are provided in **Attachment N-2**.

The Contractor’s failure to provide complete, accurate and timely reports under this section may constitute an event of default under the Contract.

Electronic reporting is preferred. The required information shall be submitted to:

NAME of AGENCY'S REPORT RECIPIENT
ADDRESS
EMAIL
PHONE NUMBER

NOTE: All areas highlighted in yellow above should be customized by your agency according to the specifics of your solicitations/contracts.

4. Access to Project Records and Employees Clause

A. U.S. Comptroller General Authority to Inspect

1. Pursuant to Section 902 of ARRA, the U.S. Comptroller General (CG) and the CG's representatives have the authority to:

(a) examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontracts; and

(b) interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

2. Nothing in this section shall be interpreted to limit or restrict in any way any existing authority of the CG.

B. U.S. Inspector General Authority to Inspect

1. Pursuant to Section 1515 of ARRA, the U.S. Inspector General (IG) and any of the IG's representatives have the authority to:

(a) examine any records of the contractor or grantee or any of its subcontractors, or any State or local agency administering such contract, that pertain to, and involve transactions relating to, the contract or subcontract; and

(b) interview any officer or employee of the contractor, or any of its subcontractors, or of any State or local government agency administering the contract or grant, regarding such transactions.

2. Nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an IG.

C. Requirements Extended to Subcontractors

The Contractor shall include in all of the Contractor's agreements with its subcontractors performing work funded in whole or in part with ARRA funds under this Contract, and shall require subcontractors to include with lower tier subcontractors, the language provided in Parts A, B and C of this subsection.

5. Whistleblower Protections Under ARRA

A. The Contractor agrees that both it and its subcontractors shall comply with Section 1553 of the ARRA, which prohibits the Contractor and its subcontractors from discharging, demoting, or otherwise discriminating against an employee as a reprisal for disclosures by the employee that the employee reasonably believes are evidence of (1)

gross mismanagement of a contract or grant relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to implementation or use of ARRA funds; or (5) a violation of law, rule, or regulation related to a State contract (including the competition for or negotiation of a contract) awarded or issued relating to ARRA funds.

B. The investigation of complaints, remedies and enforcement under this section shall be governed by §1553 of ARRA, applicable federal regulations and federal law.

C. The Contractor and its subcontractors at any tier shall post notice of the rights and remedies available to employees under Section 1553 of Division A, Title XV of ARRA.

D. The Contractor shall include the substance of these Whistleblower Protections under ARRA, including this paragraph D in its contracts with employees and subcontractors, and require its subcontractors at any tier to do the same.

More information related to ARRA Whistleblower Protection requirements, including a down loadable poster, can be found at the following links:

<http://www.oig.dol.gov/recovery/arrawhistleblowers.htm>
<http://www.oig.dol.gov/recovery/Section1553WhistleblowerProvisions.pdf>

6. Use of Maryland Workforce Exchange

To as quickly as possible help achieve the hiring of individuals into jobs that are ARRA-funded in whole or in part, the Contractor shall:

1. Post all jobs which are to be newly filled, whether for an entirely new job or for an existing job that is currently vacant, on the Maryland Workforce Exchange website of the Maryland Department of Labor, Licensing and Regulation. Link: <https://mwe.dllr.state.md.us/default.asp?SessionUID=a>. Posting shall be done after contract award, as part of “start-up” procedures to fulfill the requirements of this contract.
2. Continue to post for the duration of this contract, on the Maryland Workforce Exchange new jobs that are created to perform under this contract, and existing jobs that are filled as a result of turnover of existing employees that fully or substantially work under the contract.
3. Stipulate the requirements for posting job openings with the Maryland Workforce Exchange, as per clauses 1 and 2 of this section, as requirements for any subcontractor(s) the contractor uses in the fulfillment of this contract.

The requirements to post ARRA-funded job openings on the Maryland Workforce Exchange, as per clauses 1-3 of this section, are not meant to be the exclusive means for the contractor or subcontractors to hire employees. The contractor or subcontractors may use any other means of job advertising and recruitment, in addition to the use of the Maryland Workforce Exchange.

Exceptions: Contractors are not required to post on the Maryland Workforce Exchange those jobs the Contractor intends to fill with a present employee, a laid-off former employee or a job candidate from a previous recruitment.

ATTACHMENT N-2 – ARRA-2

ARRA-2 Instructions for Completing the Monthly Employment Report

Part 1:

Enter the last day of the Month being Reported (e.g. September 30, 2009), the Contract Number (to be provided by the State), and contact information for the individual completing the report.

Part 2:

Enter Prime Contractor information.

Type of Organization: Contractor should use one of the following types that represents the Contractor's organization:

- Nonprofit with 501C3 IRS Status (Other than Institution of Higher Education)
- Nonprofit without 501C3 IRS Status (Other than Institution of Higher Education)
- Individual
- For-Profit Organization (other than small business)
- Small Business
- State, County or Local Government
- Special District or Regional Government
- US Territory or Possession
- Independent School District
- Hispanic-serving Institution
- Alaska Native and Native Hawaiian Serving Institutions
- Public/State Controlled Institution of Higher Education
- Indian/Native American Tribal Government (Federally Recognized)
- Indian/Native American Tribally Designated Organization
- Public/Indian Housing Authority
- Tribally Controlled Colleges and Universities
- Historically Black Colleges and Universities (HBCUs)
- Private Institution of Higher Education
- Non-domestic (non-US) entity
- Other

Part 3:

Enter the names and total compensation of the five most highly compensated officers of the Contractor entity **if:**

1. the Contractor in its preceding fiscal year received:
 - a. 80% or more of its annual gross revenues in Federal awards; and
 - b. \$25,000,000 or more in annual gross revenues from Federal awards; **and**
2. the public does not have access to information about the compensation of the senior executives of the contractor's entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 USC 78m(a), 78o(d) or section 6104 of the Internal Revenue Code of 1986 (26 USC §6104).

Total Compensation means the cash and noncash dollar value earned by the executive during the Contractor's past fiscal year for the following (for more information see 17 CFR 229.402(c)(2)):

- i. Salary and bonus.
- ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with FAS 123R.
- iii. Earnings for services under non-equity incentive plans. Does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives and are available generally to all salaried employees.
- iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- v. Above-market earnings on deferred compensation which are not tax qualified.
- vi. Other compensation. For example, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property if the value for the executive exceeds \$10,000.

Part 4:

Only jobs **directly** created or retained by the Contractor as a result of the contract activity should be reported.

A **job created** is a newly created position or an existing unfilled position that is filled and paid in whole or in part with ARRA funds. A **job retained** is an existing position that would not have continued to be filled without ARRA funding. A job cannot be both created and retained. Aggregate numbers for jobs created/retained are to be reported as noted below.

Note: Do not report on the employment impact on materials suppliers and central service providers ("indirect" jobs) or on the local community (induced" jobs). Employees who are not directly charged to ARRA supported activities, which nonetheless provide critical indirect support (e.g., clerical/administrative staff preparing reports, institutional review board staff members, departmental administrators) are NOT counted or reported as jobs created/retained.

Part 4 Column (a): enter the address or work location where the work, or majority of work, is being performed.

Part 4 Column (b): enter a brief narrative description of the jobs created/retained by the Contractor. For example: construction trades jobs, health care professionals, consultants.

Part 4 Column (c): enter the cumulative number of hours worked from the start of the contract up through the end of the reporting period by individuals in jobs created/retained. The report for the initial month will include only those hours worked during the initial month; the report for subsequent reports will include the cumulative number of hours worked from the start of the contract up through the end of the reporting month. Examples are provided below.

Initial Month Reporting

Example: if there were 3 employees working in jobs that were created/retained, and Employees #1 and #2 each work full time, 40 hours per week, during the initial reporting month, for a total of 176 hours each (40 hours x 4.4 weeks = 176 hours). Employee #3 works part-time, 20 hours per week, for a total of 88 hours during the entire reporting month (20 hours x 4.4 work weeks = 88 hours).

Employees in Jobs Created/Retained:	1st mo Total Hours Worked/Reported
○ Employee #1 full time (40 hrs/wk)	176
○ Employee #2 full time (40 hrs/wk)	176
○ Employee #3 part time (20 hrs/wk)	88
Total Hours Worked by all Employees)	440

Together the three employees in jobs created/retained worked 440 total hours during the initial reporting month. Enter 440 into Column (c) on Part 4 of the Monthly Employment Report for month one.

Second Month Reporting

Example: if the Contractor’s Employees #1 and #2 each work 168 hours during the second month (40 hours x 4.2 weeks), Employee #3 works 84 hours during the second month (20 hours x 4.2 weeks), and a fourth Employee is hired during the second reporting month and works 40 hours during the month. Together the four employees in jobs created/retained worked of 460 hours during the second month.

Employees in Jobs Created/Retained:	1st month Total Hours Worked	2nd month Total Hours Worked	Cum. Hours to be Reported
○ Employee #1 full time (40 hrs/wk)	176	168	344
○ Employee #2 full time (40 hrs/wk)	176	168	344
○ Employee #3 part time (20 hrs/wk)	88	84	172
○ Employee #4 part time (40 hrs/mo)	0	40	40
Total Hours Worked by all Employees	440	460	900

Because Total Hours Worked by employees in jobs created/retained are to be reported on a *cumulative* basis over the life of the contract, the hours to be reported in the second reporting month are the total hours worked in month one **plus** the total hours worked in month two. As shown above, the cumulative total hours for month one and month two for employees in jobs created/retained is 900. Enter 900 into Column (c) on Part 4 of the Monthly Employment Report for month two.

Third Month Reporting

Example: If the Contractor’s Employees #1 and #2 each work 184 hours during the third month (40 hours/week x 4.6 weeks), Employee #3 works 92 hours (20 hours/week x 4.6 weeks), and a fourth Employee is hired and works 40 hours. Together employees in jobs created/retained worked 500 hours in month three.

Employees in Jobs Created/Retained:	1 st month Total Hours Worked	2 nd month Total Hours Worked	3 rd month Total Hours Worked	Cum. Hours to be Reported
○ Employee #1 full time (40 hrs/wk)	176	168	184	528
○ Employee #2 full time (40 hrs/wk)	176	168	184	528
○ Employee #3 part time (20 hrs/wk)	88	84	92	264
○ Employee #4 part time (40 hrs/mo)	0	40	40	80
Total Hours Worked by all Employees <i>ate</i>	440	460	500	1400

Because Total Hours Worked by employees in jobs created/retained are to be reported on a **cumulative** basis over the life of the contract, the hours to be reported for the third reporting month are the total hours worked in month one, **plus** the total hours worked in month two, **plus** the total hours worked in month three. As shown above, the total hours for months one, two and three cumulatively total 1400 hours for employees in jobs created/retained. Enter 1400 into Column (c) on Part 4 of the Monthly Employment Report for month three.

Subsequent Month Reporting

Subsequent monthly employment reports should be handled consistent with the process outlined above. Remember, because reporting is cumulative across the life of the contract, the hours reported in subsequent reports will include all hours worked in prior reporting periods (or the cumulative hours reported in the immediately prior reporting period) **plus** the hours worked during the current reporting period.

Part 4 Column (d): enter the cumulative number of hours that a full-time-equivalent would have worked from the start of the contract up through the end of the reporting period.

Initial Reporting Month:

Example #1: if a full-time schedule is 40 hours per week, or 2080 hours per year (40 hours x 52 weeks = 2080 hours per year), enter 173.3 in Part 4 Column (d) on the Monthly Employment Report (2080 hours per year ÷ 12 months = 173.3 hours per month).

Example #2: if a full-time schedule is 35 hours per week, or 1820 hours per year (35 hours x 52 weeks = 1820 hours per year), enter 151.7 in Part 4 Column (d) on the Monthly Employment Report (1820 ÷ 12 months = 151.7 hours per month).

Subsequent Month Reporting:

Example 1: if the number of hours for a full-time schedule is 173.3 per month as indicated in Example 1 above (2080 hours per year ÷ 12 months), enter 346.6 in Part 4 Column (d) on the Monthly Employment Report for the second monthly report (173.3 x 2 months). For the third monthly report, enter 519.9 in Part 4 Column (d) on the Monthly Employment Report (173.3 x 3 months). Subsequent reporting periods should be handled consistently.

Example 2: if the number of hours for a full-time schedule is 151.7 per month as indicated in Example 2 above, enter 303.4 in Part 4 Column (d) on the Monthly Employment Report for the second monthly report (151.7 x 2). For the third monthly report enter 455.1 in Part 4 Column (d) on the Monthly Employment Report (151.7x 3). Subsequent reporting periods should be handled consistently.

Part 4 Column (e): Do not enter anything in column(e). This column will automatically calculate the number of full time equivalents in jobs created/retained based on the data entered in column (c) and column (d).

Part 5:

Part 5 is for reporting jobs created or retained by each subcontractor that receives a subcontract valued at \$25,000 or more and is not an Individual. Only jobs directly created or retained by subcontractors as a result of the contract activity should be reported.

For each subcontractor that receives a subcontract valued at \$25,000 or more and is not an Individual, report the name of the subcontractor in column (a). Report the same data in columns (b) through (e) as indicated in Part 4 relating to each subcontractor's workforce.

Part 6:

Part 6 is for reporting, in aggregate, jobs created or retained by subcontractors that receive one or more subcontracts valued at less than \$25,000 and by subcontractors who are Individuals. Only jobs directly created or retained by subcontractors as a result of the contract activity should be reported.

Part 6 Column (a): enter the total number of subcontractors that are being reported in the aggregate

For columns (b) through (e), follow the instructions in Part 4 and report cumulatively for subcontractors that are Individuals or have one or more subcontracts valued at less than \$25,000.

Part 7:

Contractor signature required.