



**STATE OF MARYLAND
MARYLAND DEPARTMENT OF GENERAL SERVICES (DGS)
REQUEST FOR PROPOSALS (RFP)**

**MSD FREDERICK CAMPUS DORMITORIES,
STUDENT CENTER, AND SATELLITE STUDENT HEALTH
CENTER**

RFP NUMBER: A-000-201-001

ISSUE DATE: FEBRUARY 2, 2024

NOTICE

**PROPOSALS FOR THIS SOLICITATION WILL ONLY BE
RECEIVED THROUGH EMARYLAND MARKETPLACE
ADVANTAGE. NO PAPER PROPOSALS WILL BE ACCEPTED.**

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

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

VENDOR FEEDBACK FORM

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

**Title: MSD Frederick Campus Dormitories, Student Center, and Satellite Student Health Center
Solicitation No: A-000-201-001**

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

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

REMARKS:

Vendor Name: _____ Date: _____

Contact Person: _____ Phone (____) _____ - _____

Address: _____

E-mail Address: _____

STATE OF MARYLAND
MARYLAND DEPARTMENT OF GENERAL SERVICES (DGS)
KEY INFORMATION SUMMARY SHEET

Request for Proposals	A/E – MSD Frederick Campus Dormitories, Student Center, and Satellite Student Health Center
Solicitation Number:	A-000-201-001
RFP Issue Date:	February 2, 2024
RFP Issuing Office:	Maryland Department of General Services (DGS or the Department)
Project Manager:	Christina Bryz-Gornia 301 W. Preston Street Baltimore, MD 21201
Procurement Officer: e-mail: Office Phone:	Kimberly McAllister 301 W. Preston Street, 12 th Flr Baltimore, MD 21201 Kimberly.McAllister@maryland.gov 410-767-5524
Proposals are to be sent to:	PROPOSALS FOR THIS SOLICITATION WILL ONLY BE RECEIVED THROUGH eMARYLAND MARKETPLACE ADVANTAGE. NO PAPER PROPOSALS WILL BE ACCEPTED.
Pre-Proposal Conference:	Wednesday, February 14, 2024 @ 10:30 AM Local Time Main Area of BJORLEE MUSEUM @ Maryland School for the Deaf 101 Clarke Place Frederick, MD 21701
Site-Walk:	Wednesday, February 14, 2024, immediately after the Pre-Proposal
Questions Due Date and Time	Wednesday, February 21, 2024 by 4:00 PM Local Time
Proposal Due (Closing) Date and Time:	Wednesday, March 6, 2024 by 3:00 PM Local Time Offerors are reminded that a completed Feedback Form is requested if a no-bid decision is made (see page iv).
MBE Subcontracting Goal:	25%
VSBE Subcontracting Goal:	5%
Contract Type:	Firm Fixed Prices
Contract Duration:	Seventy-Eight (78) Months, plus Twenty-Four (24) Months, limited participation

Project Location:	101 Clarke Place, Frederick, Maryland 21705
SBR Designation:	N/A
Federal Funding:	N/A

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1 Minimum Qualifications

1.1 Offeror Minimum Qualifications

- A) The Offeror must have a minimum of two (2) principals. In the event that a firm does not have two principals, as in the case of a sole proprietorship, the firm must submit a notarized Corporate Resolution outlining its contingency plan in the event of the unavailability of the named principal. The documentation supporting the necessary proof must be attached to the Organizational Chart in the firm's team data submission. Only the information that is submitted with the proposal will be considered in determining whether the firm with less than the required number of principals provides satisfactory protection to the State against possible delays in the project due to absence of the designated principal or principals.
- B) The Offeror must have a Maryland resident agent or Maryland representation.

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2 Contractor Requirements: Scope of Work

2.1 Summary Statement

- 2.1.1 The Maryland Department of General Services (DGS or the "Department") is issuing this Request for Proposals (RFP) in order to obtain professional services to provide replacement design of the siting, demolition and construction of three dormitories. One dormitory will include a student center. A second dormitory will include a student center. The third dormitory will require a flexible design to meet the changing needs of the student population.
- 2.1.2 Consultants retained by the State to assist with the drafting of the solicitation or assisting in the selection for award are prohibited from submitting a proposal or assisting another in submitting a proposal for the subject solicitation or working for the selected awardee for a period of time. Participation in this procurement solicitation must comply with MD State Fin & Pro Code §13-212.1 and COMAR 21.05.08.08 relating to Conflicts of Interest.
- 2.1.3 It is the State's intention to obtain goods and services, as specified in this RFP, from a Contract between the selected Offeror and the State.
- 2.1.4 The Department intends to make a single award as a result of this RFP. See RFP **Section 4.10 Award Basis** for more Contract award information.
- 2.1.5 An Offeror, either directly or through its subcontractor(s), must be able to provide all goods and services and meet all of the requirements requested in this solicitation and the successful Offeror (the Contractor) shall remain responsible for Contract performance regardless of subcontractor participation in the work.
- 2.1.6 Maryland State and local entities as defined in Finance and Procurement 13-110(a)(5)(i) and not-for-profit entities within the State of Maryland may NOT purchase from the Contractor goods or services covered by the Contract at the same prices chargeable to the State.

2.2 Background and Purpose

The proposed project consists of the demolition of three existing dormitories and construction of three new dormitories for residential students, Residential Life offices, a student center, and a satellite student health center. Two new dormitories will be co-located with two existing dormitories, and one new flexible-use dormitory will be in a different location on campus. The project is proposed to be constructed in phases in conjunction with a Construction Management (CM) At-Risk firm so that students can continue to be housed on campus and have access to either the existing or new health and student centers without interruption during construction, with all three buildings designed simultaneously for program and architectural consistency, and to address the dormitory deficiencies most expediently. The selected Offeror will provide design services as required to implement the design program as per the DGS Procedures Manual and work collaboratively with the CM At-Risk firm (to be selected under separate procurement solicitation) for the project to undergo both design and construction activities congruently. It is preferred that the selected A/E firm has experience working with a CM At-Risk firm or shows expressed willingness to work with one.

The first phase of the project consists of construction of one new, 19,650 GSF flexible use dormitory to house either girls or boys aged 14 through 21, depending on the needs of MSD. Proper physical segregation will be required in the design to separate students with age ranges of 14 through 21, and in the event the dorm would be used for both boys and girls of middle school age and younger high school boys and girls. MSD needs to be able to separate the students who are 18-21 years old from the

students who are middle school aged and under 16 years of age. This is true for both sexes. The design also needs to consider the changing gender identity issues surrounding youth and create a space to house students who identify as LGBTQIA. Groups of rooms or pods are desired in this building. The building will include offices for central residential administrative staff which includes offices for behavior specialists, the director of residential life, and a department secretary.

The second phase of the project consists of the demolition of one dormitory and construction of a 24,250 GSF dormitory for older high school girls. The building will also house a satellite student health center which includes a waiting area, staff office, an exam room, and recovery rooms. One wing or area will house girls between the ages of 18 to 21 years old with segregation of ages by floor or within a floor.

The third phase of the project consists of demolition of a second dormitory and construction of a 24,900 GSF dormitory for older high school boys. The building will also house a replacement Student Center for middle and high school student recreational activities. The space will provide comfortable seating areas, tables and chairs, and recreational activities, such as pool, foosball, air hockey, snacks, and dancing. A snack shop will be provided. In addition, the space will provide a computer lab with video relay for students to complete academic research or communicate with family and friends. One wing or area will house boys between the ages of 18 to 21 years old with segregation of ages by floor or within a floor.

Following the construction of the third new dormitory, demolition of the third existing dormitory will lead to the completion of the overall project and allow construction of an outdoor open space.

For all three dormitories, the need to segregate students by age group (separating 14-17 year old students from 18-21 year olds), gender, and/or gender identity may exist. Consideration should be given to how segregation could be achieved by separating groups of residents by floors, building wings, pods of rooms, or other physical design innovations. Electronically controlled door hardware could be considered to create changeable groupings of rooms based on the school's needs. Any solution or combination of solutions should give the school flexibility to change room groupings easily as the needs for age and gender segregation may change from year to year.

The design of all new buildings should take inspiration from the existing campus with its blend of modern and traditional buildings and will need to be designed in consultation with the Maryland Historic Trust (MHT). The selected Offeror is preferred to have experience designing with DeafSpace principles, but must, at a minimum, be willing to design with an understanding of DeafSpace principles. See attached Program Parts I and II for additional project information.

The anticipated duration of services to be provided under this Contract is as follows: Design/Construction – 6.5 years (78 months, inclusive of design and construction with CM At-Risk firm TBD); and Warranty (limited participation) – 2 years (24 months) for an estimated total of 8.5 years (102 months).

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3 Contractor Requirements: General

3.1 Contract Initiation Requirements

THIS SECTION IS INAPPLICABLE TO THIS RFP.

3.2 End of Contract Transition - Reserved

3.3 Invoicing

3.3.1 General

- A. The Contractor shall send the original of each invoice and signed authorization to invoice to the Project Manager.
- B. All invoices for services shall be verified by the Contractor as accurate at the time of submission.
- C. An invoice not satisfying the requirements of a Proper Invoice (as defined at COMAR 21.06.09.01 and .02) cannot be processed for payment. To be considered a Proper Invoice, invoices must include the following information, without error:
 - 1) Contractor name and address;
 - 2) Remittance address;
 - 3) Federal taxpayer identification (FEIN) number, social security number, as appropriate;
 - 4) Invoice period (i.e. time period during which services covered by invoice were performed);
 - 5) Invoice date;
 - 6) Invoice number;
 - 7) State assigned Contract number;
 - 8) State assigned (Blanket) Purchase Order number(s);
 - 9) Goods or services provided;
 - 10) Amount due; and
 - 11) Any additional documentation required by regulation or the Contract.
- D. Invoices that contain both fixed price and time and material items shall clearly identify each item as either fixed price or time and material billing.
- E. The Department reserves the right to reduce or withhold Contract payment in the event the Contractor does not provide the Department with all required deliverables within the time frame specified in the Contract or otherwise breaches the terms and conditions of the Contract until such time as the Contractor brings itself into full compliance with the Contract.
- F. Any action on the part of the Department, or dispute of action by the Contractor, shall be in accordance with the provisions of Md. Code Ann., State Finance and Procurement Article §§ 15-215 through 15-223 and with COMAR 21.10.04.

- G. The State is generally exempt from federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. The Contractor; however, is not exempt from such sales and use taxes and may be liable for the same.
- H. Invoices for final payment shall be clearly marked as “FINAL” and submitted when all work requirements have been completed and no further charges are to be incurred under the Contract. In no event shall any invoice be submitted later than 60 calendar days from the Contract termination date.

3.3.2 Invoice Submission Schedule

The Contractor shall submit invoices in accordance with agreed upon schedule.

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

- A. The amount invoiced is inconsistent with the Contract;
- B. The proper invoice has not been received by the party or office specified in the Contract;
- C. The invoice or performance is in dispute or the Contractor has failed to otherwise comply with the provisions of the Contract;
- D. The item or services have not been accepted;
- E. The quantity of items delivered is less than the quantity ordered;
- F. The items or services do not meet the quality requirements of the Contract;
- G. If the Contract provides for progress payments, the proper invoice for the progress payment has not been submitted pursuant to the schedule;
- H. If the Contract provides for withholding a retainage and the invoice is for the retainage, all stipulated conditions for release of the retainage have not been met; or
- I. The Contractor has not submitted satisfactory documentation or other evidence reasonably required by the Procurement Officer or by the Contract concerning performance under the Contract and compliance with its provisions.

3.3.4 Travel Reimbursement

Travel will not be reimbursed under this RFP.

3.4 Liquidated Damages

3.4.1 MBE Liquidated Damages

MBE liquidated damages are identified in Attachment M.

3.4.2 Liquidated Damages other than MBE

THIS SECTION IS INAPPLICABLE TO THIS RFP.

3.5 Insurance Requirements

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

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

- A. Commercial General Liability - of \$2,000,000 combined single limit per occurrence for bodily injury, property damage, and personal and advertising injury and \$5,000,000 annual aggregate. The minimum limits required herein may be satisfied through any combination of primary and umbrella/excess liability policies.
 - B. Errors and Omissions/Professional Liability - \$2,000,000 per combined single limit per claim and \$3,000,000 annual aggregate.
 - C. Worker's Compensation - The Contractor shall maintain such insurance as necessary or as required under Workers' Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act, to not be less than one million dollars (\$1,000,000) per occurrence (unless a state's law requires a greater amount of coverage). Coverage must be valid in all states where work is performed.
 - D. Automobile or Commercial Truck Insurance - The Contractor shall maintain Automobile or Commercial Truck Insurance (including owned, leased, hired, and non-owned vehicles) as appropriate with Liability, Collision, and PIP limits no less than those required by the State where the vehicle(s) is registered, but in no case less than those required by the State of Maryland.
- 3.5.2 The State shall be listed as an additional insured on the faces of the certificates associated with the coverages listed above, including umbrella policies, excluding Workers' Compensation Insurance and professional liability.
- 3.5.3 All insurance policies shall be endorsed to include a clause requiring the insurance carrier provide the Procurement Officer, by certified mail, not less than 30 days' advance notice of any non-renewal, cancellation, or expiration. The Contractor shall notify the Procurement Officer in writing, if policies are cancelled or not renewed within five (5) days of learning of such cancellation or nonrenewal. The Contractor shall provide evidence of replacement insurance coverage to the Procurement Officer at least 15 days prior to the expiration of the insurance policy then in effect.
- 3.5.4 Any insurance furnished as a condition of the Contract shall be issued by a company authorized to do business in the State.
- 3.5.5 The recommended awardee must provide current certificate(s) of insurance with the prescribed coverages, limits and requirements set forth in this section within five (5) Business Days from notice of recommended award. During the period of performance for multi-year contracts, the Contractor shall provide certificates of insurance annually, or as otherwise directed by the Project Manager.
- 3.5.6 Subcontractor Insurance

The Contractor shall require any subcontractors to obtain and maintain comparable levels of coverage and shall provide the Project Manager with the same documentation as is required of the Contractor.

Failure to comply with the insurance requirement will result in the Proposal to be deemed not susceptible for award.

3.6 Security Requirements

The following requirements are applicable to the Contract:

3.6.1 Employee Identification

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

3.6.2 Security Clearance / Criminal Background Check

A security clearance is not required for Contractor Personnel assigned to the Contract.

3.6.3 On-Site Security Requirement(s)

- A. For the conditions noted below, Contractor Personnel may be barred from entrance or leaving any site until such time that the State's conditions and queries are satisfied.
 - 1) Contractor Personnel may be subject to random security checks when entering and leaving State secured areas. The State reserves the right to require Contractor Personnel to be accompanied while in secured premises.
 - 2) Some State sites, especially those premises of the Department of Public Safety and Correctional Services, require each person entering the premises to document and inventory items (such as tools and equipment) brought onto the site, and to submit to a physical search of his or her person. Therefore, Contractor Personnel shall always have available an inventory list of tools being brought onto a site and be prepared to present the inventory list to the State staff or an officer upon arrival for review, as well as present the tools or equipment for inspection. Before leaving the site, the Contractor Personnel will again present the inventory list and the tools or equipment for inspection. Upon both entering the site and leaving the site, State staff or a correctional or police officer may search Contractor Personnel. Depending upon facility rules, specific tools or personal items may be prohibited from being brought into the facility.
- B. Any Contractor Personnel who enters the premises of a facility under the jurisdiction of the Department may be searched, fingerprinted (for the purpose of a criminal history background check), photographed and required to wear an identification card issued by the Department.
- C. Further, Contractor Personnel shall not violate Md. Code Ann., Criminal Law Art. Section 9-410 through 9-417 and such other security policies of the agency that controls the facility to which the Contractor Personnel seeks access. The failure of any of the Contractor Personnel to comply with any provision of the Contract is sufficient grounds for the State to immediately terminate the Contract for default.

3.7 Problem Escalation Procedure

- 3.7.1 The Contractor, when requested, must provide and maintain a Problem Escalation Procedure (PEP) for both routine and emergency situations. The PEP must state how the Contractor will address problem situations as they occur during the performance of the Contract, especially problems that are not resolved to the satisfaction of the State within appropriate timeframes.
- 3.7.2 The Contractor shall provide contact information to the Project Manager, as well as to other State personnel as directed should the Project Manager not be available.
- 3.7.3 The Contractor must provide the PEP no later than ten (10) Business Days after notice of recommended award. The PEP, including any revisions thereto, must also be provided within ten (10) Business Days after the start of each Contract year and within ten (10) Business Days after any change in circumstance which changes the PEP. The PEP shall detail how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. The PEP shall include:
- A. The process for establishing the existence of a problem;
 - B. Names, titles, and contact information for progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;
 - C. For each individual listed in the Contractor's PEP, the maximum amount of time a problem will remain unresolved with that individual before the problem escalates to the next contact person listed in the Contractor's PEP;
 - D. Expedited escalation procedures and any circumstances that would trigger expediting them;
 - E. The method of providing feedback on resolution progress, including the frequency of feedback to be provided to the State;
 - F. Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays) and on an emergency basis; and
 - G. A process for updating and notifying the Project Manager of any changes to the PEP.
- 3.7.4 Nothing in this section shall be construed to limit any rights of the Project Manager or the State which may be allowed by the Contract or applicable law.

3.8 SOC 2 Type 2 Audit Report

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

3.9 Experience and Personnel

Please refer to Section 5.3 for information regarding Key Personnel requirements.

3.10 Substitution of Personnel

3.10.1 Continuous Performance of Key Personnel

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

- A. Key Personnel shall be available to perform Contract requirements as of the NTP Date. Unless explicitly authorized by the Project Manager or specified in the

Contract, Key Personnel shall be assigned to the State of Maryland as a dedicated resource.

- B. Key Personnel shall perform continuously for the duration of the Contract, or such lesser duration as specified in the Technical Proposal. Key Personnel may not be removed by the Contractor from working under the Contract without the prior written approval of the Project Manager.
- C. The provisions of this section apply to Key Personnel identified in any Task Order proposal and agreement, if issued, and any Work Order Request and Work Order, if issued.

3.10.2 Definitions

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

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

3.10.3 Contractor Personnel General Substitution Provisions

The following provisions apply to all of the circumstances of Contractor Personnel substitution described in **Section 3.10.4**.

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

3.10.4 Replacement Circumstances

A. Directed Personnel Replacement

- 1) The Project Manager may direct the Contractor to replace any Contractor Personnel who, in the sole discretion of the Project Manager, are perceived as being unqualified, non-productive, unable to fully perform the job duties, disruptive, or known, or reasonably believed, to have committed a major infraction(s) of law, Department policies, or Contract requirements. Normally, a directed personnel replacement will occur only after prior notification of problems with requested remediation, as described in paragraph **3.10.4**.
- 2) If deemed appropriate in the discretion of the Project Manager, the Project Manager may give written notice of any Contractor Personnel performance issues to the Contractor, describing the problem and delineating the remediation requirement(s). The Contractor shall provide a written response to the remediation requirements in a Remediation Plan within ten (10) days of the date of the notice and shall immediately implement the Remediation Plan upon written acceptance by the Project Manager. If the Project Manager rejects the Remediation Plan, the Contractor shall revise and resubmit the plan to the Project Manager within five (5) days, or in the timeframe set forth by the Project Manager in writing.
- 3) Should performance issues persist despite an approved Remediation Plan, the Project Manager may give written notice of the continuing performance issues and either request a new Remediation Plan within a specified time limit or direct the substitution of Contractor Personnel whose performance is at issue with a qualified substitute, including requiring the immediate removal of the Contractor Personnel at issue.
- 4) Replacement or substitution of Contractor Personnel under this section shall be in addition to, and not in lieu of, the State's remedies under the Contract or which otherwise may be available at law or in equity.
- 5) If the Project Manager determines to direct substitution under **3.10.4**, if at all possible, at least fifteen (15) days advance notice shall be given to the Contractor. However, if the Project Manager deems it necessary and in the State's best interests to remove the Contractor Personnel with less than fifteen (15) days' notice, the Project Manager may direct the removal in a timeframe of less than fifteen (15) days, including immediate removal.
- 6) In circumstances of directed removal, the Contractor shall, in accordance with paragraph **3.10.4** of this section, provide a suitable replacement for approval within fifteen (15) days of the notification of the need for removal, or the actual removal, whichever occurs first.

B. Key Personnel Replacement

- 1) To replace any Key Personnel in a circumstance other than as described in **3.10.4.A**, including transfers and promotions, the Contractor shall submit a substitution request as described in **Section 3.10.4** to the Project Manager at least fifteen (15) days prior to the intended date of change. A substitution may not occur unless and until the Project Manager approves the substitution in writing.
- 2) Key Personnel Replacement Due to Sudden Vacancy

- a) The Contractor shall replace Key Personnel whenever a sudden vacancy occurs (e.g., Extraordinary Personal Event, death, resignation, termination). A termination or resignation with thirty (30) days or more advance notice shall be treated as a replacement under **Section 3.10.4.A.1**.
 - b) Under any of the circumstances set forth in this paragraph B, the Contractor shall identify a suitable replacement and provide the same information and items required under **Section 3.10.3** within fifteen (15) days of the actual vacancy occurrence or from when the Contractor first knew or should have known that the vacancy would be occurring, whichever is earlier.
- 3) Key Personnel Replacement Due to an Indeterminate Absence
- a) If any Key Personnel has been absent from his/her job for a period of ten (10) days and it is not known or reasonably anticipated that the individual will be returning to work within the next twenty (20) days to fully resume all job duties, before the 25th day of continuous absence, the Contractor shall identify a suitable replacement and provide the same information and items to the Project Manager as required under **Section 3.10.3**.
 - b) However, if this person is available to return to work and fully perform all job duties before a replacement has been authorized by the Project Manager the Project Manager may, at his/her sole discretion, authorize the original personnel to continue to work under the Contract, or authorize the replacement personnel to replace the original personnel, notwithstanding the original personnel's ability to return.

3.10.5 Substitution Prior to and Within 30 Days after Contract Execution

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

3.11 Minority Business Enterprise (MBE) Reports

If this solicitation includes an MBE Goal (see **Section 4.27**), the Contractor shall:

- A. Submit the following reports by the 10th of each month to the Project Manager and the Department's MBE Liaison Officer:
 - 1) A Prime Contractor Paid/Unpaid MBE Invoice Report (Attachment D-4A) listing any unpaid invoices, over 45 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made; and
 - 2) (If Applicable) An MBE Prime Contractor Report (Attachment D-4B) identifying an MBE prime's self-performing work to be counted towards the MBE participation goals.

- B. Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit an MBE Subcontractor Paid/Unpaid Invoice Report (**Attachment D-5**) by the 10th of each month to the Project Manager and the Department's MBE Liaison Officer that identifies the Contract and lists all payments to the MBE subcontractor received from the Contractor in the preceding reporting period month, as well as any outstanding invoices, and the amounts of those invoices.
- C. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the Contract, type of work performed by each, and actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
- D. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the Contract.
- E. Upon completion of the Contract and before final payment and release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

3.12 Veteran Small Business Enterprise (VSBE) Reports

If this solicitation includes a VSBE Goal (see **Section 4.28**), the Contractor shall:

- A. Submit the following reports by the 10th of the month following the reporting period to the Project Manager and the Department VSBE representative:
 - 1) VSBE Participation Prime Contractor Paid/Unpaid VSBE Invoice Report (**Attachment E-3**) listing any unpaid invoices, over 45 days old, received from any VSBE subcontractor, the amount of each invoice and the reason payment has not been made; and
 - 2) **Attachment E-4**, the VSBE Participation Subcontractor Paid/Unpaid VSBE Invoice Report by the 10th of the month following the reporting period to the Project Manager and the VSBE Liaison Officer.
- B. Include in its agreements with its VSBE subcontractors a requirement that those subcontractors submit monthly by the 10th of the month following the reporting period to the Project Manager and Department VSBE representative a report that identifies the prime contract and lists all payments received from Contractor in the preceding reporting period month, as well as any outstanding invoices, and the amount of those invoices (**Attachment E-4**).
- C. Maintain such records as are necessary to confirm compliance with its VSBE participation obligations. These records must indicate the identity of VSBE and non-VSBE subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed. The subcontract agreement documenting the work performed by all VSBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.

- D. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the VSBE participation obligations. The Contractor must retain all records concerning VSBE participation and make them available for State inspection for three years after final completion of the Contract.
- E. At the option of the Department, upon completion of the Contract and before final payment and release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from VSBE subcontractors.

3.13 Work Orders

THIS SECTION IS INAPPLICABLE TO THIS RFP.

3.14 Additional Clauses

3.14.1 No-Cost Extensions

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

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4 Procurement Instructions

4.1 Pre-Proposal Conference

- 4.1.1 A pre-Proposal conference (Conference) will be held at the date, time, and location indicated on the Key Information Summary Sheet.
- 4.1.2 Attendance at the Conference is **required**. All interested parties should attend in order to facilitate better preparation of their Proposals. If the solicitation includes an MBE goal, failure to attend the Conference will be taken into consideration as part of the evaluation of an Offeror's good faith efforts if there is a waiver request.
- 4.1.3 It is highly recommended that ALL Prime Contractors bring their intended subcontractors to the Conference/Site Visit to ensure that all parties understand the requirements of the contract and the MBE Goal.
- 4.1.4 MBE subcontractors are encouraged to attend the Conference to market their participation to potential prime contractors.
- 4.1.5 Following the Conference, the attendance record and summary of the Conference will be distributed via the same mechanism described for amendments and questions (see **Section 4.3.1 eMMA**).
- 4.1.6 In order to assure adequate seating and other accommodations at the Conference, please e-mail the Pre-Proposal Conference Response Form (**Attachment A**) no later than the time and date indicated on the form. In addition, if there is a need for sign language interpretation or other special accommodations due to a disability, please notify the Procurement Officer at least five (5) Business Days prior to the Conference date. The Department will make a reasonable effort to provide such special accommodation.

4.2 Letter of Interest

THIS SECTION IS INAPPLICABLE TO THIS RFP.

4.3 eMaryland Marketplace Advantage (eMMA)

- 4.3.1 eMMA is the electronic commerce system for the State of Maryland. The RFP, Conference summary and attendance sheet, Offerors' questions and the Procurement Officer's responses, addenda, and other solicitation-related information will be made available via eMMA.
- 4.3.2 In order to receive a contract award, a vendor must be registered on eMMA. Registration is free. Go to <https://emma.maryland.gov>, click on "New Vendor? Register Now" to begin the process, and then follow the prompts.
- 4.3.3 In order for a Joint Venture (JV) to be awarded a contract as a result of this solicitation, the JV must be registered in eMMA (must have a FEIN). The Joint Venture does not need to be registered prior to being informed of the intent to award.
- 4.3.4 PROPOSALS FOR THIS SOLICITATION WILL ONLY BE RECEIVED THROUGH eMARYLAND MARKETPLACE ADVANTAGE. NO PAPER PROPOSALS WILL BE ACCEPTED.

4.4 Questions

- 4.4.1 All questions, including concerns regarding any applicable MBE or VSBE participation

goals, shall identify in the subject line the Solicitation Number and Title (CC-623-230-002 - BCCC Learning Commons and Bard Library Renovation), and shall be submitted in writing via e-mail to the Procurement Officer no later than the date and time specified the Key Information Summary Sheet. The Procurement Officer, based on the availability of time to research and communicate an answer, shall decide whether an answer can be given before the Proposal due date.

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

4.5 Procurement Method

A Contract will be awarded in accordance with Maryland Code State Finance and Procurement Article §13-112, Qualification Based Selection, COMAR 21.05.01.01.H and COMAR 21.12.02.03-05.

4.6 Proposal Due (Closing) Date and Time

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

4.7 Multiple or Alternate Proposals

Multiple or alternate Proposals will not be accepted.

4.8 Economy of Preparation

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

4.9 Public Information Act Notice

- 4.9.1 The Offeror should give specific attention to the clear identification of those portions of its

Proposal that it considers confidential and/or proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Md. Code Ann., General Provisions Article, Title 4 (See also RFP **Section 5.3.2.B** “Claim of Confidentiality”). This information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical Proposal and if applicable, separately in the Financial Proposal.

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

4.10 Award Basis

A Contract or contracts shall be awarded after considering the technical proposals and qualifications of the persons submitting the proposals, and by following the evaluation and award processes as set forth in State Finance and Procurement Article §13-112 and COMAR 21.12.02.05. See RFP **Section 6** for further award information.

4.11 Oral Presentation

There is no Oral Presentation required for this procurement.

4.12 Duration of Proposal

Proposals submitted in response to this RFP are irrevocable for the latest of the following: 120 days following the Proposal due date and time, best and final offers if requested (see **Section 6.5.2**), or the date any protest concerning this RFP is finally resolved. This period may be extended at the Procurement Officer’s request only with the Offeror’s written agreement.

4.13 Revisions to the RFP

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

4.14 Cancellations

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

4.15 Incurred Expenses

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

4.16 Protest/Disputes

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

4.17 Offeror Responsibilities

- 4.17.1 Offerors must be able to provide all goods and services and meet all of the requirements requested in this solicitation and the successful Offeror shall be responsible for Contract performance including any subcontractor participation.
- 4.17.2 All subcontractors shall be identified and a complete description of their role relative to the Proposal shall be included in the Offeror's Proposal. If applicable, subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate Attachment(s) to this RFP (see **Section 4.27** "Minority Participation Goal" and **Section 4.28** "VSBE Goal").
- 4.17.3 If the Offeror is the subsidiary of another entity, all information submitted by the Offeror, including but not limited to references, financial reports, or experience and documentation (e.g. insurance policies, bonds, letters of credit) used to meet minimum qualifications, if any, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's Proposal shall contain an explicit statement, signed by an authorized representative of the parent organization, stating that the parent organization will guarantee the performance of the subsidiary.
- 4.17.4 A parental guarantee of the performance of the Offeror under this Section will not automatically result in crediting the Offeror with the experience or qualifications of the parent under any evaluation criteria pertaining to the actual Offeror's experience and

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

4.18 Acceptance of Terms and Conditions

By submitting a Proposal in response to this RFP, the Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached hereto as **Attachment M**. Any exceptions to this RFP or the Contract shall be clearly identified in the Transmittal Letter of the Technical Proposal. **All exceptions will be taken into consideration when evaluating the Offeror's Proposal. The Department reserves the right to accept or reject any exceptions. Exceptions to the RFP or the Contract may cause a proposal to be deemed not reasonably susceptible for award.**

4.19 Proposal Affidavit

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

4.20 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. A copy of this Affidavit is included for informational purposes as **Attachment N** of this RFP. This Affidavit must be provided within five (5) Business Days of notification of recommended award. For purposes of completing Section "B" of this Affidavit (Certification of Registration or Qualification with the State Department of Assessments and Taxation), a business entity that is organized outside of the State of Maryland is considered a "foreign" business.

4.21 Compliance with Laws/Arrearages

By submitting a Proposal in response to this RFP, the Offeror, if selected for award, agrees that it will comply with all federal, State, and local laws applicable to its activities and obligations under the Contract.

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

4.22 Verification of Registration and Tax Payment

Before a business entity can do business in the State, it must be registered with the State Department of Assessments and Taxation (SDAT). SDAT is located at State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. For registration information, visit <https://www.egov.maryland.gov/businessexpress>.

It is strongly recommended that any potential Offeror complete registration prior to the Proposal due date and time. The Offeror's failure to complete registration with SDAT may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

4.23 False Statements

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

- 4.23.1 In connection with a procurement contract a person may not willfully:
 - A. Falsify, conceal, or suppress a material fact by any scheme or device.
 - B. Make a false or fraudulent statement or representation of a material fact.
 - C. Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.
- 4.23.2 A person may not aid or conspire with another person to commit an act under **Section 4.22.1**.
- 4.23.3 A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding five (5) years or both.

4.24 Payments by Electronic Funds Transfer

By submitting a Proposal in response to this solicitation, the Offeror, if selected for award:

- 4.24.1 Agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller's Office grants an exemption. Payment by EFT is mandatory for contracts exceeding \$200,000. The successful Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form.
- 4.24.2 Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form, must include the business identification information as stated on the form, and must include the reason for the exemption. The COT/GAD X-10 form may be downloaded from the Comptroller's website at:
http://comptroller.marylandtaxes.com/Vendor_Services/Accounting_Information/Static_Files/GADX10Form20150615.pdf.

4.25 Prompt Payment Policy

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

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

4.26 Electronic Procurements Authorized

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

- 4.26.2 Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or Contract. In the case of electronic transactions authorized by this RFP, electronic records and signatures by an authorized representative satisfy a requirement for written submission and signatures.
- 4.26.3 “Electronic means” refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://procurement.maryland.gov>), and electronic data interchange.
- 4.26.4 In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., RFP § 4.23 describing payments by Electronic Funds Transfer), the following transactions are authorized to be conducted by electronic means on the terms as authorized in COMAR 21.03.05:
- A. The Procurement Officer may conduct the procurement using eMMA or e-mail, to issue:
 - 1) The RFP;
 - 2) Any amendments and requests for best and final offers;
 - 3) Pre-Proposal conference documents;
 - 4) Questions and responses;
 - 5) Communications regarding the solicitation or Proposal to any Offeror or potential Offeror;
 - 6) Notices of award selection or non-selection; and
 - 7) The Procurement Officer’s decision on any Proposal protest or Contract claim.
 - B. The Offeror or potential Offeror may use e-mail to:
 - 1) Ask questions regarding the solicitation;
 - 2) Reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer’s request or direction to reply by e-mail, but only on the terms specifically approved and directed by the Procurement Officer and;
 - 3) Submit a "No Proposal Response" to the RFP.
 - C. The Procurement Officer, the Project Manager, and the Contractor may conduct day-to-day Contract administration, except as outlined in **Section 4.25.5** of this subsection, utilizing e-mail, facsimile, or other electronic means if authorized by the Procurement Officer or Project Manager.
- 4.26.5 The following transactions related to this procurement and any Contract awarded pursuant to it are **not authorized** to be conducted by electronic means:
- A. Filing of protests;
 - B. Filing of Contract claims;

- C. Submission of documents determined by the Department to require original signatures (e.g., Contract execution, Contract modifications); or
 - D. Any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Offeror be provided in writing or hard copy.
- 4.26.6 Any facsimile or e-mail transmission is only authorized to the facsimile numbers or e-mail addresses for the identified person as provided in the solicitation, the Contract, or in the direction from the Procurement Officer or Project Manager.
- 4.26.7 PROPOSALS FOR THIS SOLICITATION WILL ONLY BE RECEIVED THROUGH eMARYLAND MARKETPLACE ADVANTAGE (eMMA). NO PAPER PROPOSALS WILL BE ACCEPTED.

4.27 MBE Participation Goal

4.27.1 Establishment of Goal and Subgoals

An overall MBE subcontractor participation goal as identified in the Key Information Summary Sheet has been established for this procurement, representing a percentage of the total Contract dollar value, including all renewal option terms, if any, has been established for this procurement.

Notwithstanding any subgoals established for this RFP, the Contractor is encouraged to use a diverse group of subcontractors and suppliers from any/all of the various MBE classifications to meet the remainder of the overall MBE participation goal.

By submitting a response to this solicitation, the Offeror acknowledges the overall MBE subcontractor participation goal and subgoals, and commits to achieving the overall goal and subgoals by utilizing certified minority business enterprises, or requests a full or partial waiver of the overall goal and subgoals.

An Offeror that does not commit to meeting the entire MBE participation goal outlined in this Section 4.27 must submit a request for waiver with its proposal submission that is supported by good faith efforts documentation to meet the MBE goal made prior to submission of its proposal as outlined in Attachment D-1B, Waiver Guidance. Failure of an Offeror to properly complete, sign, and submit Attachment D-1A at the time it submits its Technical Response(s) to the RFP will result in the State's rejection of the Offeror's Proposal for the applicable Service Category. This failure is not curable.

4.27.2 Attachments.

- A. D-1 to D-5 – The following Minority Business Enterprise participation instructions, and forms are provided to assist Offerors:
 - 1. Attachment D-1A MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (must be submitted with Proposal)
 - 2. Attachment D-1B Waiver Guidance
 - 3. Attachment D-1C Good Faith Efforts Documentation to Support Waiver Request
 - 4. Attachment D-2 Outreach Efforts Compliance Statement

5. Attachment D-3A MBE Subcontractor Project Participation Certification
 6. Attachment D-3B MBE Prime Project Participation Certification
 7. Attachment D-4A Prime Contractor Paid/Unpaid MBE Invoice Report
 8. Attachment D-4B MBE Prime Contractor Report
 9. Attachment D-5 Subcontractor Paid/Unpaid MBE Invoice Report
- B. The Offeror shall include with its Proposal a completed MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) whereby:
1. The Offeror acknowledges the certified MBE participation goal and commits to make a good faith effort to achieve the goal and any applicable subgoals, or requests a waiver, and affirms that MBE subcontractors were treated fairly in the solicitation process; and
 2. The Offeror responds to the expected degree of MBE participation, as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of Proposal submission. The Offeror shall specify the percentage of total contract value associated with each MBE subcontractor identified on the MBE participation schedule, including any work performed by the MBE prime (including a prime participating as a joint venture) to be counted towards meeting the MBE participation goals.
 3. The Offeror requesting a waiver should review **Attachment D-1B** (Waiver Guidance) and **D-1C** (Good Faith Efforts Documentation to Support Waiver Request) prior to submitting its request.

If the Offeror fails to submit a completed Attachment D-1A with the Proposal as required, the Procurement Officer may determine that the Proposal is not reasonably susceptible of being selected for award.

- 4.27.3 Offerors are responsible for verifying that each MBE (including any MBE prime and MBE prime participating in a joint venture) selected to meet the goal and any subgoals and subsequently identified in **Attachment D-1A** is appropriately certified and has the correct NAICS codes allowing it to perform the committed work.
- 4.27.4 Within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, the Offeror must provide the following documentation to the Procurement Officer.
- A. Outreach Efforts Compliance Statement (**Attachment D-2**);
 - B. MBE Subcontractor/Prime Project Participation Certification (**Attachment D-3A/3B**); and
 - C. Any other documentation required by the Procurement Officer to ascertain Offeror responsibility in connection with the certified MBE subcontractor participation goal or any applicable subgoals.
 - D. Further, if the recommended awardee believes a waiver (in whole or in part) of the overall MBE goal or of any applicable subgoal is necessary, the recommended

awardee must submit a fully-documented waiver request that complies with COMAR 21.11.03.11.

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

- 4.27.5 A current directory of certified MBEs is available through the Maryland State Department of Transportation (MDOT), Office of Minority Business Enterprise, 7201 Corporate Center Drive, Hanover, Maryland 21076. The phone numbers are (410) 865-1269, 1-800-544-6056, or TTY (410) 865-1342. The directory is also available on the MDOT website at <http://mbe.mdot.maryland.gov/directory/>. The most current and up-to-date information on MBEs is available via this website. **Only MDOT-certified MBEs may be used to meet the MBE subcontracting goals.**
- 4.27.6 The Offeror that requested a waiver of the goal or any of the applicable subgoals will be responsible for submitting the Good Faith Efforts Documentation to Support Waiver Request (**Attachment D-1C**) and all documentation within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, as required in COMAR 21.11.03.11.
- 4.27.7 All documents, including the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (**Attachment D-1A**), completed and submitted by the Offeror in connection with its certified MBE participation commitment shall be considered a part of the Contract and are hereby expressly incorporated into the Contract by reference thereto. All of the referenced documents will be considered a part of the Proposal for order of precedence purposes (see Contract – **Attachment M, Section 2.1**).
- 4.27.8 The Offeror is advised that liquidated damages will apply in the event the Contractor fails to comply in good faith with the requirements of the MBE program and pertinent Contract provisions. (See Contract – **Attachment M, Liquidated Damages for MBE, section 39**).
- 4.27.9 As set forth in COMAR 21.11.03.12-1(D), when a certified MBE firm participates on a contract as a prime contractor (including a joint-venture where the MBE firm is a partner), a procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own work force towards fulfilling up to fifty-percent (50%) of the MBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the contract.

In order to receive credit for self-performance, an MBE prime must list its firm in Section 4A of the MBE Participation Schedule (**Attachment D-1A**) and include information regarding the work it will self-perform. For the remaining portion of the overall goal and the subgoals, the MBE prime must also identify other certified MBE subcontractors [see Section 4B of the MBE Participation Schedule (**Attachment D-1A**)] used to meet those goals. If dually-certified, the MBE prime can be designated as only one of the MBE subgoal classifications but can self-perform up to 100% of the stated subgoal.

As set forth in COMAR 21.11.03.12-1, once the Contract work begins, the work performed by a certified MBE firm, including an MBE prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract. Refer to MBE forms (**Attachment D**) for additional information.

4.28 VSBE Goal

4.28.1 Purpose

- A. The Contractor shall structure its procedures for the performance of the work required in the Contract to attempt to achieve the VSBE participation goal stated in this solicitation. VSBE performance must be in accordance with this section and **Attachment E**, as authorized by COMAR 21.11.13. The Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this section and **Attachment E**.
- B. Veteran-Owned Small Business Enterprises must be verified by the Office of Small and Disadvantaged Business Utilization (OSDBU) of the United States Department of Veterans Affairs. The listing of verified VSBEs may be found at <http://www.va.gov/osdbu>.

4.28.2 VSBE Goal

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

4.28.3 Solicitation and Contract Formation

- A. In accordance with COMAR 21.11.13.05 C (1), this solicitation requires Offerors to:
 - 1) Identify specific work categories within the scope of the procurement appropriate for subcontracting;
 - 2) Solicit VSBEs before Proposals are due, describing the identified work categories and providing instructions on how to bid on the subcontracts;
 - 3) Attempt to make personal contact with the VSBEs solicited and to document these attempts;
 - 4) Assist VSBEs to fulfill, or to seek waiver of, bonding requirements; and
 - 5) Attempt to attend pre-proposal or other meetings the procurement agency schedules to publicize contracting opportunities to VSBEs.
- B. The Offeror must include with its Proposal a completed VSBE Utilization Affidavit and Prime/Subcontractor Participation Schedule (**Attachment E-1**) whereby the Offeror:
 - 1) Acknowledges it: a) intends to meet the VSBE participation goal; or b) requests a full or partial waiver of the VSBE participation goal. If the Offeror commits to the full VSBE goal or requests a partial waiver, it shall commit to making a good faith effort to achieve the stated goal; and

Responds to the expected degree of VSBE participation as stated in the solicitation, by identifying the specific commitment of VSBEs at the time of Proposal submission. The Offeror shall specify the percentage of contract value associated with each VSBE prime/subcontractor identified on the VSBE Participation Schedule.

4.29 Living Wage Requirements

There is no Living Wage requirement for this procurement.

4.30 Federal Funding Acknowledgement

This Contract does not contain federal funds.

4.31 Conflict of Interest Affidavit and Disclosure

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

4.32 Non-Disclosure Agreement

4.32.1 Non-Disclosure Agreement (Offeror)

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

4.33 HIPAA - Business Associate Agreement

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

4.34 Nonvisual Access

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

4.35 Mercury and Products That Contain Mercury

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

4.36 Location of the Performance of Services Disclosure

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

4.37 Department of Human Services (DHS) Hiring Agreement

This solicitation does not require a DHS Hiring Agreement.

4.38 Small Business Reserve (SBR) Procurement

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

4.39 Maryland Healthy Working Families Act Requirements

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

4.40 eMMA (eMaryland Marketplace Advantage) Electronic Transaction Fee

- 4.40.1 The contractor shall pay an electronic transaction fee to the State in the amount of one percent (1%) of the total contract sales. The electronic transaction fee is calculated based on all invoices paid under the contract, minus any returns or credits. The electronic transaction fee shall not be charged directly to the customer, e.g., as a separate line item, fee, or surcharge, but shall be included in the contract's unit prices.
- 4.40.2 The electronic transaction fee shall be submitted to:
Office of State Procurement, Fiscal Services Division
301 W. Preston Street, Room 1309
Baltimore, MD, 21201
- 4.40.3 No later than Forty-five (45) calendar days after the end of each reporting period, along with a Monthly Usage Report documenting all invoices paid. An Excel version of the Monthly Usage Report shall be emailed to dgs.statewidecontractsusagereport@maryland.gov.
- 4.40.4 Failure to remit transaction fees in a timely manner or remittance of fees inconsistent with the contract's requirements may result in the State exercising all recourse available under the contract, including, but not limited to, a third-party analysis of all contract activity.
- 4.40.5 Prior to Award, Contractors will be asked to confirm in writing that their unit prices include the one percent (1%) electronic transaction fee.

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5 Proposal Format

5.1 Two Part Submission

Offerors shall submit Proposals in separate volumes:

- Volume I – Technical Proposal
- Volume II – Financial Proposal (not requested at this time)

5.2 Proposal Delivery and Packaging

- 5.2.1 Proposals delivered by hard copy (paper), facsimile or email shall not be considered.
- 5.2.2 Provide no pricing information in the Technical Proposal.
- 5.2.3 Offerors may submit Proposals only by the electronic means as described.
 - A. Electronic means submission through the eMaryland Marketplace Advantage procurement software only.
 - B. The Procurement Officer will not accept submissions after the date and exact time stated in the Key Information Summary Sheet. Requests for extension of this date or time will not be granted. Except as provided in COMAR 21.05.03.02F, Proposals received after the due date and time will not be considered.
 - C. The Procurement Officer will only contact those Offerors with Proposals that are reasonably susceptible for award.

5.3 Volume I - Technical Proposal

NOTE: Omit all pricing information from the Technical Proposal.

- 5.3.1 In addition to the instructions below, responses in the Offeror’s Technical Proposal shall reference the organization and numbering of Sections in the RFP (e.g., “Section 2.2.1 Response . . .; “Section 2.2.2 Response . . .”). All pages of the Proposal shall be consecutively numbered from beginning (Page 1) to end (Page “x”).
- 5.3.2 The Technical Proposal shall include the following documents and information in the order specified as follows, indexed by chapter marker/bookmark/tab (in PDF) in the following order: (For information on how to create bookmarks in Adobe™, please visit the following link: <https://helpx.adobe.com/acrobat/using/page-thumbnails-bookmarks-pdfs.html>)
 - A. Title Page and Table of Contents (Submit under TAB A)

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

- B. Claim of Confidentiality (Submit under TAB A)

Any information which is claimed to be confidential and/or proprietary information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical Proposal. An explanation for each claim of confidentiality shall be included (see **Section 4.9 “Public Information Act Notice”**). The entire Proposal cannot be given a blanket confidentiality designation - any confidentiality designation must apply to specific sections, pages, or portions of pages of the Proposal and an explanation for each claim shall be included.

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

The Offeror Information Sheet (see **Appendix 2**) and a Transmittal Letter shall accompany the Technical Proposal. The purpose of the Transmittal Letter is to transmit the Proposal and acknowledge the receipt of any addenda to this RFP issued before the Proposal due date and time. Transmittal Letter should be brief, be signed by an individual who is authorized to commit the Offeror to its Proposal and the requirements as stated in this RFP. It should also indicate the point of contact information, including email.

D. Joint Venture Agreement (if applicable) (Submit under TAB B)

E. Team Organizational Chart (Submit under TAB C)

The Team Organization Chart should reference all proposed personnel, including support personnel, and should include items such as names, firm/organization and discipline. Resumes for support personnel should not be included. The top of the Organization Chart should include the Principals of the organization(s) with their relevant names, title, firm/organization and discipline. The Organization Chart may be presented in an 11 x 17 format if needed. This Organization Chart fulfills SF-330 Section D.

F. Standard Form 330 (SF-330) (Submit under TAB C-1)

Firms considered for this project and their sub-consultants must submit a Form SF-330. Sub-consultants should be referenced as needed by the Prime in the SF-330 Part I. All sub-consultants should complete the SF-330 Part II. In completing the SF-330, please note the following:

1) Page 1, Items A, B, C part 9-11

This item is to reflect the firm's legal name, and its address.

Individuals, corporations, partnerships, and other entities performing architectural, engineering, landscape architecture or land surveying services must have the licenses and permits required by Maryland law. The licenses and permit numbers issued to corporations, partnerships, and other entities by the appropriate Maryland State Board are to be included in Item C "Proposed Team", Section 9, underneath each firm name. Please note that if a firm is practicing architecture, engineering, landscape architecture or land surveying in the State of Maryland and is not a sole proprietorship, that firm must be licensed by the appropriate Maryland State Board.

2) Page 1, part 1-C (9-11) Additional requirements for Joint Ventures

Include name and address of the principal designated as contact person for each firm participating in the joint venture.

3) Page 2, Item E 12-19 "Resume of Key Personnel"

This item should be completed for each of the Key Personnel within the proposed team performing a project. If one person is responsible for more than one discipline, the disciplines should be clearly noted.

Key Personnel is defined as the productive staff who have major project responsibilities. Unless otherwise directed by the Department, the total key staff proposed shall not exceed the number of individuals listed as Key Personnel. Each Key Personnel should complete Section E and a separate one (1) page resume. The resume should immediately follow the Key Personnel's completed Section E. The

resume should contain both general experience and specific experience related to the subject Project which can supplement or add to the SF 330 Section E.

Key Personnel may have multiple roles (e.g. Principal and Architect and Interior Designer, Electrical Engineer and Security Consultant, etc.); if this is the case, responsive bidders must explicitly and clearly identify EACH role of EACH key personnel on the SF-330 form. The State cannot make any assumptions.

The Specific Roles requested in the SF-330 should identify individual project contributions.

For this Project, the following Key Personnel are required. Key personnel marked with an asterisk (*) must be registered and/or licensed engineers or architects by the State of Maryland:

- a) Principal-in-Charge – Architect* or Engineer*
- b) Principal – Architect* or Engineer*
- c) Project Manager – AIA, NCARB, RA, PE, LEED AP BD+C, PMP, or PMI-CP
- d) Architect*
- e) Civil Engineer*
- f) Fire Protection Engineer* **
- g) Electrical/Lighting Engineer*
- h) Mechanical/Plumbing/HVAC Engineer*
- i) Landscape Architect*
- j) Security Consultant
- k) Environmental Engineer
- l) Acoustical Consultant

*Key Personnel marked with an asterisk are required to be registered and/or licensed engineers or architects by the State of Maryland; **At least one Principal must be an Architect.**

** Fire protection engineer shall design and produce Construction Documents and coordinate all life safety/fire protection drawings and specifications (including fire suppression systems) in conjunction with all other disciplines including HVAC/mechanical/plumbing, electrical/lighting, structural, civil, architectural, equipment, and fixtures.

The Principal in Charge, Principal, Project Manager and Architect must be a member of the Prime/Joint Venture. If a Joint Venture is submitted, the Principal in Charge, Principal, Project Manager and Architect can be from different members of the Joint Venture or both from one member of the Joint Venture. The remaining Key Personnel can be comprised of members of the Prime/Joint Venture or Sub-Consultant(s).

Please note: For each person identified as Key Personnel and for whom Maryland Registration is required, a copy of his/her certificate of registration or a copy of his/her registration card is to be included immediately following the person's resume.

A "principal", as seen above, is a partner, officer, or owner of a firm who is empowered to commit the firm financially and technically and is a registered architect or engineer in the State of Maryland.

- 4) Page 3, Item F 21-25 "Work by Firm or Joint Venture Members Which Best Illustrates Current Qualifications Relevant to this Contract" (List not more than 5 projects)."

SF 330, Item F is to be revised to read as follows:

- a) Heading, "Work by Firm or Joint Venture Which Best Illustrates Current Qualifications Relevant to this Project (List not more than 5 projects)"
- b) F-22 "Construction" should be revised to "Actual Completion Date for Construction"
- c) F-24 "Brief Description of Project and Relevance to this Contract" should be revised to: "Brief Description of Project and Relevance to this Project. The description should include actual construction cost (in thousands)."

Four (4) new construction or major renovation projects in education within the past 10 years with construction costs of \$5M or above; minimum of two (2) dormitories, residence halls, or mixed-use student campus buildings, such as a student center or learning commons. Use of DeafSpace concepts in design is highly preferred, but not required, and should be clearly identified. Work in connection with CM At-Risk contracts is also preferred, but not required, and should be clearly identified. Identify and discuss project constraints and solutions, as well as methods for achieving environmental goals, if applicable.

Each firm's role in the development of their submitted projects must be clearly stated.

In lieu of the SF-330 Section F, A matrix containing all four (4) projects, highlighting qualifying criteria found in SF-330 Section F can be provided for each project presented. Include name, address, and telephone number for a reference contact for each project listed.

- 5) Page 4, Item G "Key Personnel Participation in Example Projects"

In this section, the Offeror shall set forth the specific responsibilities of each Key Personnel within the Project.

At a minimum, the following Key Personnel must be involved, and clearly identified, with at least one (1) submitted project for maximum scoring:

- Project Manager
- Architect

- 6) Page 5, Item H "Additional Information"
 - a) Should include information regarding Originality and Quality of Design in Previous Work. Information can include photographs and drawings of built work; design awards; publication of design work in professional journals; review of work by independent authors; other recognitions and honors; and the consultant's explanation of appropriateness and originality of illustrated work.

- b) Offeror should provide any additional information relative to the criteria to be considered in the evaluation of projects submitted for consideration which is not provided for elsewhere in the form.
- c) Offeror should indicate the following in this section (as applicable):
 - i) Was the design schedule met? If no, please explain.
 - ii) Was the project bid within the construction budget? If no, please explain.
 - iii) Was the project completed within the construction schedule? If no, please explain.
- d) The Offeror shall state, in a clear, concise manner, its interpretation and understanding of the project and the program and its design and implementation approach for this project. In addition, the A/E firm is expected to express how its qualifications can best be applied to the program problem. The statement should be objective and limited to not more than three (3) single-spaced, typewritten pages.
- e) a, b, and c, above, is limited to four (4) pages. d is limited to three (3) for a total of seven (7) pages.
- 7) Page 5, Item I “Authorized Representative” must be signed to indicate that the information submitted in the SF-330 is "a statement of facts." Failure to sign may cause the submission to be rejected.
- 8) Page 6, Part II – General Qualifications

Part II should be completed by each Prime/Joint Venture member and all proposed Sub-Consultants. Additionally, Section 12, “Authorized Representative” must be signed to indicate that the information submitted in the SF-330 is "a statement of facts." Failure to sign may cause the submission to be rejected.

G. MBE Form D-1A (**Attachment D**) (Submit under TAB D)

For information regarding the completion of this form, please refer to Section 4.26 of this RFP.

- H. Bid/Proposal Affidavit (**Attachment C**) (Submit under TAB E)
- I. Certificate of Insurance (**Section 3.5 and paragraph below**) (Submit under TAB F)
 - The Offeror shall provide a copy of its current certificate of insurance showing the types and limits of insurance in effect as of the Proposal submission date. The current insurance types and limits do not have to be the same as described in Section 3.5. See Section 3.5 for the required insurance certificate submission for the apparent awardee.
- J. Conflict of Interest Affidavit and Disclosure (**Attachment H**) (Submit under TAB G)
- K. Corporate Diversity Addendum (**Attachment Q**) (Submit under TAB H)

5.4 Volume II – Financial Proposal

A Financial Proposal shall not be submitted with the Technical Proposal.

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6 Evaluation and Selection Process

6.1 Evaluation Committee

Evaluation of Proposals will be performed in accordance with COMAR 21.05.03 by a committee established for that purpose and based on the evaluation criteria set forth below. The Evaluation Committee will review Proposals, participate in Offeror oral presentations (if required) and discussions, and provide input to the Procurement Officer. The Department reserves the right to utilize the services of individuals outside of the established Evaluation Committee for advice and assistance, as deemed appropriate.

During the evaluation process, the Procurement Officer may determine at any time that a particular Offeror is not susceptible for award.

6.2 Technical Proposal Evaluation Criteria

The criteria to be used to evaluate each Technical Proposal are listed below in descending order of importance. Unless stated otherwise, any sub-criteria within each criterion have equal weight.

6.2.1 Special Experience, design approach or other special qualifications

In the evaluation of this item, highest consideration will be given to projects similar in size and scope to that described in the referenced project's program. The Evaluation Committee will only consider four (4) projects.

Experience with deaf space design and/or Construction Management At-Risk

Projects constructed within the last ten (10) years will be acceptable; however, projects for which construction was completed within the last five (5) years will receive highest consideration.

6.2.2 Originality and quality of design in previous work

In the evaluation of this item, the Evaluation Committee will consider photographs and drawings of built work; design awards; publication of design work in professional journals; review of work by independent authors; other recognitions and honors; and the consultant's explanation of appropriateness and originality of illustrated work.

6.2.3 General Competence (including sub-consultants)

In the evaluation of this item, particular attention will be paid to the information provided in SF-330, including the Key Personnel's resume. Proposals which demonstrate that the individual has experience similar to that required for this solicitation will receive highest consideration.

6.2.4 Understanding of the project and the scope of work

The response provided on SF-330 Section H will be used to evaluate this item. The Pre-Proposal meeting **is required** for this project. In accordance with the instructions stated below, firms which do not attend the Pre-Proposal Meeting will have one (1) weighted value point deducted from this item.

6.2.5 Past Performance on State Work or Similar Work by the Prime/Joint Venture and Sub-Consultants

In the evaluation of these items, the Evaluation Committee shall consider, in depth, past performance of the prime firm/joint venture partners and their consultants on State of Maryland work or similar work with regard to design performance, including errors, omissions, overruns, adherence to budget, and schedule limitations within the last five (5) years.

Projects in various stages of construction will be considered with regards to past performance only. If the performance of the Prime or its Sub-Consultants on past State of Maryland work or similar work has been less than satisfactory, the Evaluation Committee will consider the less than satisfactory experience in its evaluation.

Evaluations will be based, in part, on information available from within the Department and discussions with contacts cited for specific relevant projects.

6.2.6 Minority Participation

The Evaluation Committee will consider the Offeror's minority participation for this project, as stated on Form D-1A. The MBE participation is to be achieved only through Prime/Joint Venture and Sub-Consultants directly contracting with each other. Second tier consultants are not eligible to achieve the MBE goal.

Failure to meet the minimum goal could cause your submission to be rejected.

6.2.7 Geographic location

In the evaluation of this item, the Evaluation Committee will consider the location and travel time to the project site of the prime firm or prime joint-venture firms, major consultants, and required specialists as identified in the SF-330. Greater consideration will be given to prime firms or prime joint-venture firms located within a 150 mile radius of the project site.

6.3 Financial Proposal Evaluation Criteria

Financial Proposals are not required at this time.

6.4 Reciprocal Preference

6.4.1 Although Maryland law does not authorize procuring agencies to favor resident Offerors in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. COMAR 21.05.01.04 permits procuring agencies to apply a reciprocal preference under the following conditions:

- A. The Maryland resident business is a responsible Offeror;
- B. The most advantageous Proposal is from a responsible Offeror whose principal office, or principal base of operations is in another state;
- C. The other state gives a preference to its resident businesses through law, policy, or practice; and
- D. The preference does not conflict with a federal law or grant affecting the procurement Contract.

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

6.5 Selection Procedures

6.5.1 General

- A. The Contract will be awarded in accordance with the Competitive Sealed Proposals (CSP) method found at COMAR 21.05.03. The CSP method allows for the conducting of discussions and the revision of Proposals during these discussions.

Therefore, the State may conduct discussions with all Offerors that have submitted Proposals that are determined to be reasonably susceptible of being selected for contract award or potentially so. However, the State reserves the right to make an award without holding discussions.

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

6.5.2 Selection Process Sequence

- A. A determination is made that the MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) is included and is properly completed, if there is a MBE goal. In addition, a determination is made that the VSBE Utilization Affidavit and subcontractor Participation Schedule (**Attachment E-1**) is included and is properly completed, if there is a VSBE goal.
- B. Technical Proposals are evaluated for technical merit and ranked. During this review, oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the State's requirements and the Offeror's ability to perform the services, as well as to facilitate arrival at a Contract that is most advantageous to the State. Offerors will be contacted by the State if/or as soon as any discussions are scheduled.
- C. Offerors must confirm in writing any substantive oral clarifications of, or changes in, their Technical Proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror's Technical Proposal. Technical Proposals are given a final review and ranked.
- D. When in the best interest of the State, the Procurement Officer may permit Qualified Offerors to revise their initial Proposals and submit, in writing, Best and Final Offers (BAFOs). The State may make an award without issuing a request for a BAFO. **Offerors may only perform limited substitutions of proposed personnel as allowed in Section 3.11 (Substitution of Personnel).**

6.5.3 Award Determination

Upon completion of the Technical Proposal and Financial Proposal evaluations and rankings, each Offeror will receive an overall ranking. The Procurement Officer will recommend award of the Contract to the responsible Offeror that submitted the Proposal determined to be the most advantageous to the State.

6.6 Documents Required upon Notice of Recommendation for Contract Award

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

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7 RFP ATTACHMENTS AND APPENDICES

Instructions Page

A Proposal submitted by the Offeror must be accompanied by the completed forms and/or affidavits identified as “with Proposal” in the “When to Submit” column in Table 1 below. All forms and affidavits applicable to this RFP, including any applicable instructions and/or terms, are identified in the “Applies” and “Label” columns in Table 1.

For documents required as part of the Proposal:

1. In the electronic submission, submit one (1) copy of each with signatures.

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete certain forms and affidavits after notification of recommended award. The list of forms and affidavits that must be provided is described in Table 1 below in the “When to Submit” column.

For documents required after award, submit the requested amount of copies of each document within the appropriate number of days after notification of recommended award, as listed in Table 1 below in the “When to Submit” column.

Table 1: RFP ATTACHMENTS AND APPENDICES

Applies?	When to Submit	Label	Attachment Name
Y	Before Proposal	A	Pre-Proposal Conference Response Form
N	Upon Request	B	Financial Proposal Instructions and Form
Y	With Proposal	C	Bid/Proposal Affidavit (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf)
Y	With Proposal	D	MBE Forms D-1A (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf) IMPORTANT: If this RFP contains different Functional Areas or Service Categories. A separate Attachment D-1A is to be submitted for each Functional Area or Service Category where there is a MBE goal.
Y	10 Business Days after recommended award	D	MBE Forms D-1B, D-1C,D-2, D-3A, D-3B (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf) Important: Attachment D-1C, if a waiver has been requested, is also required within 10 days of recommended award.

Applies?	When to Submit	Label	Attachment Name
Y	As directed in forms	D	MBE Forms D-4A, D-4B, D-5 (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf)
Y	With Proposal	E	Veteran-Owned Small Business Enterprise (VSBE) Form E-1A (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf) IMPORTANT: If this RFP contains different Functional Areas or Service Categories. A separate Attachment E-1A is to be submitted for each Functional Area or Service Category where there is a VSBE goal.
Y	As directed in forms	E	VSBE Forms E-1B, E-2, E-3 (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf) Important: Attachment E-1B, if a waiver has been requested, is also required within 10 days of recommended award.
N	N/A	F	Maryland Living Wage Requirements for Service Contracts and Affidavit of Agreement (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf)
N	N/A	G	Federal Funds Attachments (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentG-FederalFundsAttachment.pdf)
Y	With Proposal	H	Conflict of Interest Affidavit and Disclosure (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf)
N	N/A	I	Non-Disclosure Agreement (Offeror) (see link at https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-3-Non-Disclosure-Agreement-Offeror-1.dotx)
N	N/A	J	HIPAA Business Associate Agreement (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentJ-HIPAABusinessAssociateAgreement.pdf)

Applies?	When to Submit	Label	Attachment Name
N	N/A	K	Mercury Affidavit (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-K-MercuryAffidavit.pdf)
N	N/A	L	Location of the Performance of Services Disclosure (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-L-PerformanceofServicesDisclosure.pdf)
Y	5 Business Days after recommended award	M	Sample Contract (included in this RFP)
Y	5 Business Days after recommended award	N	Contract Affidavit (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-N-ContractAffidavit.pdf)
N	N/A	O	DHS Hiring Agreement (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-O-DHSHiringAgreement.pdf)
Y	With Proposal	Q	Corporate Diversity Addendum (see link at https://procurement.maryland.gov/wp-content/uploads/sites/12/2022/09/Corporate-Diversity-Addendum-Version-8.12.2022.docx)
Appendices			
Applies?	When to Submit	Label	Attachment Name
Y	N/A	1	Abbreviations and Definitions (included in this RFP)
Y	With Proposal	2	Offeror Information Sheet (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf)
Additional Submissions			
Applies?	When to Submit	Label	Document Name
Y	With Proposal		Evidence of meeting insurance requirements (see Section 3.5 and 5.3.2 I); 1 copy

Attachment A. Pre-Proposal Conference Response Form

Solicitation Number A-000-201-001

MSD Frederick Campus Dormitories, Student Center, and Satellite Student Health Center
A Pre-Proposal conference will be held on **Wednesday, February 14, 2024 at 10:30 A.M. Local Time**, at the location indicated in the Key Information Summary Sheet.

Please return this form by **Wednesday, February 7, 2024 by 3:00 P.M., local time**, advising whether or not your firm plans to attend. **PLEASE NOTE: IF YOU NEED AN INTERPRETER, WE MUST KNOW BY FEBRUARY 7 TO PROVIDE THE SERVICE.** The completed form should be returned via e-mail to the Procurement Officer at the contact information below:

Kimberly McAllister
E-mail: Kimberly.McAllister@maryland.gov

Please indicate:

- Yes, the following representatives will attend.
Attendees (Check the RFP for limits to the number of attendees allowed):
1. _____
2. _____
3. _____
- No, we will not be in attendance.

Please specify whether any reasonable accommodations are requested (see RFP § 4.1“Pre-Proposal conference”):

Offeror: _____
Offeror Name (please print or type)

By: _____
Signature/Seal

Printed Name: _____
Printed Name

Title: _____
Title

Date: _____

Attachment B. Financial Proposal Instructions

Not Applicable at this time.

Attachment C. Proposal Affidavit

See link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf.

Attachment D. Minority Business Enterprise (MBE) Forms

See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf>.

This solicitation includes a Minority Business Enterprise (MBE) participation goal of 20 percent and no subgoals.

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

See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf>.

This solicitation includes a Veteran-Owned Small Business Enterprise (VSBE) participation goal of 5 percent.

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

This solicitation does not require a Living Wage Affidavit of Agreement.

Attachment G. Federal Funds Attachments

This solicitation does not include a Federal Funds Attachment.

Attachment H. Conflict of Interest Affidavit and Disclosure

See link on page 35 under Conflict of Interest Affidavit and Disclosure”.

Attachment I. Non-Disclosure Agreement

This solicitation does not require a Non-disclosure Agreement.

Attachment J. HIPAA Business Associate Agreement

This solicitation does not require a HIPPA Business Associate Agreement.

Attachment K. Mercury Affidavit

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

Attachment L. Location of the Performance of Service Disclosure

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

Attachment M. Contract

State of Maryland
Department of General Services
Standard Form of Agreement with Architects and Engineers

Project Title [insert]
DGS Project Number [insert]

This Agreement is made this ___ day of _____, between the State of Maryland (“State”), acting by and through the Department of General Services (“DGS”) and _____ (“A/E”), whose principal place of business is [insert address of A/E here], hereinafter collectively referred to as the Parties.

WHEREAS, the A/E has represented themselves to be professionally qualified and having met the requirements of the Code of Maryland Regulations (COMAR) §21.12.04 or §21.12.05, as applicable; and having been fully informed as to the scope of the project and having read and examined the State's RFP No. [_____] and titled _____ and dated, and any addenda issued thereto; and

WHEREAS, the parties mutually agree to enter into this negotiated agreement based upon the Scope of Work set forth within the above referenced RFP and attached hereto as Exhibit 1.

NOW, THEREFORE, under the terms and conditions named herein, the Parties agree as follows: The A/E shall perform all services consistent with this Agreement, the Program, the DGS Procedure Manual for Professional Services as amended, and within the mutually agreed upon schedule for the completion of the several phases of services utilizing good professional skill and care along with the timely and orderly progress of the work.

**PART I
DEFINITIONS**

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

- A. “A/E” means the Architect/Engineer (“A/E”) firm
- B. “COMAR” means the Code of Maryland Regulations
- C. “DGS” means the Department of General Services, or Agency, or State, or Owner
- D. “Procedures Manual” means the State of Maryland-Department of General Services Procedure Manual for Professional Services
- E. “Program” means the document(s) that is used as the justification for the capital project; defines and explains the scope of work; and provides detailed guidance for the project design.
- F. “Project” means a government-sponsored endeavor initiated to facilitate the creation, in whole or in part, of a specific capital improvement including, but not limited to, programming, consulting services, design services, construction services and/or other

relevant tasks/services which support the creation of the specified capital improvement, executed over a specified period of time under specified guidelines and within specified cost limitations.

G. "Secretary" means the Secretary of the Department of General Services, or designee

PART II ORDER OF PRECEDENCE

If there is any conflict among the Agreement documents then the following order of precedence will govern:

1. This Agreement, including Exhibit 1- RFP and Exhibit 2-Agreement Affidavit; and any amendments thereto;
2. The RFP No. [insert] and titled [insert], and subsequent addenda;
3. The Procedures Manual; then
4. The A/E's Proposal.

PART III PERIOD OF PERFORMANCE

The term of this Agreement begins on the date the Agreement is signed by the Department following any required approvals of the Agreement, including approval of the Board of Public Works, if such approval is required. This Agreement shall end on [insert date here], but may be extended at the sole discretion of the Department and at the prices quoted and accepted in the A/E's final price proposal.

PART IV THE ARCHITECT'S/ENGINEER'S SERVICES

- A. The A/E's services shall consist of some or all of the following six (6) principal phases in accordance with this Agreement and Exhibit 1-Scope of Services and shall include the A/E's final negotiated price proposal: (1) Schematic Design Phase, (2) Design Development Phase, (3) Construction Documents Phase, (4) Bidding Phase, (5) Construction Phase and (6) Post Construction Phase (hereinafter collectively referred to as "Design Phases").
- B. In rendering these services, the A/E shall comply with the DGS Procedure Manual for Professional Services for each phase of work for which the A/E has entered into this Agreement; and be solely responsible for the technical completeness and sufficiency of all Construction Documents consisting of drawings and specifications which is set forth in detail the requirements for the construction of the Project. DGS acknowledges that, in order for the A/E to complete the work, construction contractors and related vendors may be required to provide additional information, including but not limited to shop drawings, product data, samples and similar submittals for the A/E to review.

**PART V
OWNERSHIP OF DOCUMENTS AND RIGHTS TO RECORDS**

- A. 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 (“deliverables”) which are prepared by the A/E and form a part of its services for the purpose of this Agreement, shall, upon completion of the deliverables, become the sole property of the State of Maryland and shall be delivered to the Secretary upon request and upon completion. The State shall receive all original deliverables and the A/E shall retain a reproducible copy. If at any time the A/E is requested to reproduce or deliver in electronic format reproducible copies of the deliverables prepared for the purpose of this Agreement, the A/E shall be responsible for the protection and/or replacement of any of the deliverables, except to the extent that such deliverables are: 1) modified by someone other than the A/E; 2) modified at the direction of someone other than the A/E; or 3) there is an unlicensed use of such deliverables not under the custody and control of the A/E after transmission.
- B. The State shall have the right to use the same without restriction and without compensation to the A/E other than that specifically provided for herein.
- C. The A/E agrees that at all times during the term of this Agreement and thereafter, works created as a deliverable under this Agreement, and services performed under this Agreement 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 Agreement are not works made for hire for the State, the A/E 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 Agreement, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.
- D. The A/E shall report to the Project Manager, promptly and in written detail, each notice or claim of copyright infringement received by the A/E with respect to all data delivered under this Agreement; and agrees to indemnify and hold harmless the State and DGS for any claim of copyright infringement in the use of any works made for hire which are either determined by a court of competent jurisdiction to be the property of another, or agreed to in any manner by the A/E to be the property of another.
- E. The A/E 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.

**PART VI
FEES AND PAYMENT**

- A. The extent of the A/E's services required by this Agreement shall govern and determine the method and amount of compensation to be paid by the State to the A/E with a total

amount not to exceed [insert total amount of the Agreement here]. The A/E may apply to the Secretary for periodic progress payments based upon approved invoices submitted by the A/E. However, the granting of any such application in whole or in part, is solely within the Secretary's discretion, who may refuse such application and may require the A/E to complete the deliverables required for any particular Phase and any revisions thereto as hereinbefore provided. The A/E shall secure the approval of such documents as a prerequisite to the A/E's entitlement to payment of said compensation. The granting of the A/E's application for such periodic payments by the Secretary and the remittance thereof shall not constitute, in any sense, approval by the State of Maryland for the percentage of work completed for such Phase, or any part thereof, such approval being expressly reserved to the Secretary upon the completion of each of the said Phases, and in accordance with this Agreement.

B. Agreement Work / Elements: When the Scope of Services to be performed by the A/E under this Agreement includes the Schematic Design Phase and the Design Development Phase, any one or all of the Construction Documents Phase, the Bidding Phase, the Construction Phase and the Post Construction Phase, the A/E shall be compensated as provided for below. However, at the completion of each of the Phases and the approval thereof by the Secretary the periodic progress payments submitted by the A/E by way of invoices, shall not exceed the following:

1. At the completion and approval of the Schematic Design Phase = \$
2. At the completion and approval of the Design Development Phase = \$
3. At the completion and approval of the Construction Documents Phase = \$
4. At the completion and approval of the Bidding Phase = \$
5. At the completion and approval of the Construction Phase = \$
6. At the completion and approval of the Post Construction Phase = \$
7. Other = \$

When required by the Secretary to substantiate the degree of completion claimed in any such application for periodic progress payments, the A/E shall furnish copies of the deliverables evidencing the degree of completion claimed.

C. Additional Services / Agreement Modifications:

1. The Procurement Officer may, at any time, by written order designated or indicated to be a change order, make any change in the work within the general scope of the Agreement.
2. Any other written order from the Procurement Officer which causes any such change, shall be treated as a change order under this clause, provided that the A/E

- gives the Procurement Officer written notice stating the date, circumstances, and source of the order and that the A/E regards the order as a change order.
3. Except as herein provided, no order, statement, or conduct of the Procurement Officer shall be treated as a change under this clause or entitle the A/E to an equitable adjustment hereunder.
 4. If any change under this clause causes an increase or decrease in the A/E cost of, or the time required for, the performance of any part of the work under this Agreement, whether or not changed by any order, an equitable adjustment shall be made and the Agreement modified in writing accordingly. If the A/E intends to assert a claim for an equitable adjustment under this clause, it shall, within 30 days after receipt of a written change order under subsection 1 above or the furnishing of written notice under subsection 2 above, submit to the Procurement Officer a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the State. The statement of claim hereunder may be included in the notice under subsection 2 above.
 5. No claim by the A/E for an equitable adjustment hereunder shall be allowed if asserted after final payment under this Agreement.
- D. When the Scope of Services to be performed by the A/E under this Agreement includes the Construction Phase, applications by the A/E for periodic progress payments of its compensation under this Phase shall correspond to and be based upon the work then completed by the A/E upon the Project.
- E. Within the discretion of the Project Manager, the compensation payable to the A/E under this Agreement may be reduced because of additional costs of constructing the Project incurred by the State of Maryland because of errors in, and improper coordination of the drawings and specifications comprising the Construction Documents. The amount of such reduction in compensation, if any, shall not exceed the amount of such additional costs of constructing the Project.
- F. Upon all applications for periodic payments of compensation, excepting only the first such application, the A/E shall certify in writing to the Secretary, under penalty of perjury, that all consultants and sub-consultants, the extent of whose work comprised a portion of the prior application for periodic payment, were paid in full to the extent of such, as was approved by the Secretary, within ten (10) calendar days next succeeding the date on which the A/E received payment from the State for such prior application. All A/E invoices to the State shall set forth the A/E's Federal Employer identification number or Social Security number.

PART VII GENERAL PROVISIONS

- A. **Schedule of Dates:** Within thirty (30) days after the date of this Agreement, the Secretary and the A/E shall mutually agree upon a schedule of dates for the completion of the several Phases on the A/E's services, as provided herein.

- B. **Termination for Default:** If the A/E fails to fulfill its obligations under this Agreement properly and on time, or otherwise violates any provision of the Agreement, the State may terminate this Agreement by written notice to the A/E. The notice shall specify the acts or omissions relied on as cause for termination. All finished or unfinished supplies and services provided by the A/E, shall at the State's option, become the State's property. The State shall pay the A/E fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by A/E's breach. If the damages are more than the compensation payable to the A/E, the A/E will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11(B).
- C. **Non-Assignment:** The A/E may not assign or transfer any interest in this Agreement except with the written approval of the Secretary. In the event that death or other cause necessitates substitution by the State of another A/E in place of the party hereto in order to complete the services called for by the Agreement, the Secretary shall determine the division of the fee between the substitution and the A/E who is party hereto.
- D. **Change in A/E Organization/Personnel:** The A/E must promptly notify the Secretary of any major changes in its organization or personnel by submitting revised Standard Form 330. Such change shall not occur without the approval of the Secretary.
- E. **Disputes:** This Agreement shall be subject to the provisions of State Finance and Procurement Article, Title 15, Subtitle 2, Annotated Code of Maryland, and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the A/E shall proceed diligently with the performance of the Agreement in accordance with the Procurement Officer's decision. COMAR 21.07.01.06(A).
- F. **Delays and Extensions of Time:** The A/E agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Agreement. 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 A/E, 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 A/E in the performance of an Agreement 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 A/E or the subcontractors or suppliers. COMAR 21.07.01.13.
- G. **Suspension of Work:** The Procurement Officer unilaterally may order the A/E in writing to suspend, delay, or interrupt all or any part of the work for such period of time as he may determine to be appropriate for the convenience of the State. COMAR 21.07.01.16.
- H. **Termination for Convenience:** The performance of work under this Agreement may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the Procurement Officer shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this

Agreement that the A/E has incurred up to the date of termination and all reasonable costs associated with termination of the Agreement. However, the A/E shall not be reimbursed for any anticipatory profits which have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A (2).

- I. **Pre-existing Regulations:** In accordance with the provisions of §11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, the regulations set forth in COMAR Title 21 in effect on the date of execution of this Agreement are applicable to this Agreement. COMAR 21.07.01.17.
- J. **Payment of State Obligations:** Unless a payment is unauthorized, deferred, delayed, or set-off under COMAR 21.02.07, Payments to the A/E pursuant to this Agreement shall be made no later than 30 days after the State's receipt of a proper invoice from the A/E. The A/E may be eligible to receive late payment interest at the rate of 9% per annum if:
1. The A/E submits an invoice for the late payment interest within thirty days after the date of the State's payment of the amount on which the interest accrued; and
 2. An Agreement claim has not been filed under State Finance and Procurement Article, Title 15, Subtitle 2, Annotated Code of Maryland.

The State is not liable for interest:

1. Accruing more than one year after the 31st day after the agency receives the proper invoice; or
 2. On any amount representing unpaid interest. Charges for late payment of invoices are authorized only as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable. COMAR 21.07.01.18.
- K. **Contingent Fee Prohibition:** The A/E, architect, or engineer (as applicable) warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the A/E, architect, or engineer, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this Agreement. COMAR 21.07.01.09.
- L. **Nondiscrimination in Employment:** The A/E agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry genetic information or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test; (b) to include a provision similar to that contained in subsection (a) above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post

and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause. COMAR 21.07.01.08.

- M. **Commercial Nondiscrimination Clause:** As a condition of entering into this Agreement, the A/E 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, the A/E may not discriminate on the basis of race, color, religion, ancestry, national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual's refusal to submit to a genetic test or make available the results of a genetic test or on the basis of disability, or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the A/E retaliate against any person for reporting instances of such discrimination. The A/E 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. A/E 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 A/E from participating in State Agreements, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

In addition, as a condition of entering into this Agreement, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against the A/E under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended from time to time, the A/E agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that the A/E has used in the past 4 years on any of its Agreements that were undertaken within the State of Maryland, including the total dollar amount paid by the A/E on each subcontractor or supply contract. The A/E 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 are requested by the State. The A/E understands that violation of this clause is a material breach of this Agreement and may result in Agreement termination, disqualification by the State from participating in State Agreements, and other sanctions. COMAR 21.07.01.26

- N. **Compliance with Laws:** The A/E hereby represents and warrants that:
1. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
 2. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to

the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Agreement;

3. It shall comply with all federal, State, and local laws, regulations, and ordinances applicable to its activities and obligations under this Agreement; and
 4. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Agreement. COMAR 21.07.01.22.
- O. **Maryland Law Prevails:** The provisions of this agreement shall be governed by the laws of the State of Maryland. COMAR 21.07.01.07.
- P. **Retention of Records:** The A/E shall retain and maintain all records and documents relating to this Agreement for three years after final payment by the State hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or designee, at all reasonable times. COMAR 21.07.01.21.
- Q. **Truth-In-Negotiation Certification:** This provision is applicable solely for those A/E Agreements that exceed \$100,000. The A/E, by submitting cost or price information, including wage rates or other factual unit costs, certifies to the best of its knowledge, information and belief, that:
1. The wage rates and other factual unit costs supporting the firm's compensation, as set forth in the proposal, are accurate, complete and current as of the Agreement date;
 2. If any of the items of compensation were increased due to the furnishing of inaccurate, incomplete or noncurrent wage rates or other units of costs, the State is entitled to an adjustment in all appropriate items of compensation, including profit or fee, to exclude any significant sum by which the price was increased because of the defective data. The State's right to adjustment includes the right to a price adjustment for defects in costs or pricing data submitted by a prospective or actual subcontractor; and
 3. If additions are made to the original price of the Agreement, such additions may be adjusted to exclude any significant sums where it is determined the price has been increased due to inaccurate, incomplete or noncurrent wage rates and other factual costs. COMAR 21.07.01.24.
- R. **Multi Year Agreements Contingent Upon Appropriations:** If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Agreement succeeding the first fiscal period, this Agreement shall be cancelled 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 A/E's rights under any termination clause in this Agreement. The effect of termination of the Agreement hereunder will be to discharge both the A/E and the State from future performance of the Agreement, but not from their rights and obligations existing at the time of termination. The A/E shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized

in the price of the Agreement. The State shall notify the A/E as soon as it has knowledge that funds may not be available for the continuation of this Agreement for each succeeding fiscal period beyond the first. COMAR 21.07.01.10.

- S. **Liquidated Damages:** In the event, the A/E fails to comply in good faith with the requirements of the MBE program. COMAR 21.07.01.14 Liquidated damages will be assessed as follows:
1. Failure to submit each monthly payment report in full compliance with COMAR 21.11.03.13B (3): \$153.00 per day until the monthly report is submitted as required.
 2. Failure to include in its agreements with MBE subcontractors a provision requiring submission of payment reports in full compliance with COMAR 21.11.03.13B (4): \$76.00 per MBE subcontractor.
 3. Failure to comply with COMAR 21.11.03.12 in terminating, canceling, or changing the scope of work/value of an Agreement with an MBE subcontractor and/or amendment of the MBE participation schedule; the difference between the dollar value of the MBE participation commitment on the MBE participation schedule for that specific MBE firm and the dollar value of the work performed by that MBE firm for the Agreement.
 4. Failure to meet the A/E's total MBE participation goal and sub-goal commitments: the difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually received.
 5. Failure to promptly pay all undisputed amounts to an MBE subcontractor in full compliance with the prompt payment provisions of the Agreement: \$153.00 per day until the undisputed amount due to the subcontractor is paid.
- T. **Financial Disclosure:** The A/E shall comply with the provisions of §13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into Agreements, 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 \$200,000 or more, shall, within 30 days of the time when the aggregate value of these Agreements, leases or other agreements reaches \$200,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business. COMAR 21.07.01.19.
- U. **Political Contribution Disclosure:** The A/E shall comply with Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement Agreement with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives an Agreement with a governmental entity in the amount of \$200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contribution in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with

the State Board of Elections: (a) before execution of an Agreement by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when an Agreement was awarded; and (b) if the contribution is made after the execution of an Agreement, then twice a year, throughout the Agreement term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31. Additional information is available on the State Board of Election website:

http://www.elections.state.md.us/campaign_finance/index.html. COMAR 21.07.01.20.

- V. **Non-Hiring of Officials and Employees:** No official or employee of the State of Maryland, as defined under State Government Article, §15-102, Annotated Code of Maryland, whose duties as such official or employee include matters relating to or affecting the subject matter of this Agreement, shall during the pendency and term of this Agreement and while serving as an official or employee of the State become or be an employee of the A/E or any entity that is a subcontractor on this Agreement. COMAR 21.07.07.05.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement by causing the same to be signed on the day and year first above written.

A/E

STATE OF MARYLAND
DEPARTMENT OF GENERAL SERVICES

By:

By: Procurement Officer

Date

Date

PARENT COMPANY (GUARANTOR) (if applicable)

By:

Date

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

Assistant Attorney General

Approved by:
Board of Public Works _____
DGS Procurement Review Board _____
Date _____ Item NO. _____

Attachment N. Contract Affidavit

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

Attachment O. DHS Hiring Agreement

This solicitation does not require a DHS Hiring Agreement.

Attachment Q. Corporate Diversity Addendum

See link at: <https://procurement.maryland.gov/wp-content/uploads/sites/12/2022/09/Corporate-Diversity-Addendum-Version-8.12.2022.docx>

Appendix 1. – Abbreviations and Definitions

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

- A. Architectural services – professional or creative work in connection with the design and supervision of construction or alteration of a building or its parts, requiring architectural education, training, and experience in consultation, investigation, evaluation, planning, architectural design and preparation of related documents, and coordination of services furnished by structural, civil, mechanical, electrical engineers, and other consultants. Business Day(s) – The official working days of the week to include Monday through Friday. Official working days excluding State Holidays (see definition of “Normal State Business Hours” below).
- B. COMAR – Code of Maryland Regulations available on-line at <http://www.dsd.state.md.us/COMAR/ComarHome.html>.
- C. Contract – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of **Attachment M**.
- D. Project Manager – The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Project Manager may authorize in writing one or more State representatives to act on behalf of the Project Manager in the performance of the Project Manager’s responsibilities. The Department may change the Project Manager at any time by written notice to the Contractor.
- E. Contractor – The selected Offeror that is awarded a Contract by the State.
- F. Contractor Personnel – Employees and agents and subcontractor employees and agents performing work at the direction of the Contractor under the terms of the Contract awarded from this RFP.
- G. Maryland Department of General Services or (DGS or the “Department”).
- H. eMMA – eMaryland Marketplace Advantage (see RFP **Section 4.2**).
- I. Engineering services – professional or creative work in connection with public or private utilities, structures, buildings, machines, equipment and processes for projects requiring engineering education, training, and experience and the application of special knowledge of the mathematical, physical and engineering sciences to such professional service or creative work as consultation, investigation, evaluation, planning, design, and supervision of construction for the purpose of assuring compliance with specifications and design.
- J. Landscape architect services – Professional or creative work such as consultation, investigation, research, planning, design, and preparation of drawings and specifications. “Landscape architect services” may also mean responsible supervision of the development of land areas when the objective is to preserve, enhance, or determine the following:
 - (i) Proper land uses;
 - (ii) Natural land features;
 - (iii) Planting;
 - (iv) Natural and aesthetic values;

- (v) Setting and approaches to structure or other improvements;
 - (vi) Setting of grades and determining drainage;
 - (vii) Providing for storm drainage systems when these systems do not require the hydraulic design, structural design, or system components and are restricted to the use, when relevant, of any standards prescribed by local or State authorities; and
 - (viii) Determination of environmental problems of land, including erosion, blight and other hazards.
- K. Key Personnel – All Contractor Personnel identified in the solicitation as such that are essential to the work being performed under the Contract. See RFP **Sections 3.10**.
- L. Local Time – Time in the Eastern Time Zone as observed by the State of Maryland. Unless otherwise specified, all stated times shall be Local Time, even if not expressly designated as such.
- M. Minority Business Enterprise (MBE) – Any legal entity certified as defined at COMAR 21.01.02.01B (54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- N. Normal State Business Hours - Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: www.dbm.maryland.gov – keyword: State Holidays.
- O. Notice to Proceed (NTP) – A written notice from the Procurement Officer that work under the Contract, project, Task Order or Work Order (as applicable) is to begin as of a specified date. The NTP Date is the start date of work under the Contract, project, Task Order or Work Order. Additional NTPs may be issued by either the Procurement Officer or the Project Manager regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date.
- P. NTP Date – The date specified in a NTP for work on Contract, project, Task Order or Work Order to begin.
- Q. Offeror – An entity that submits a Proposal in response to this RFP.
- R. Procurement Officer – Prior to the award of any Contract, the sole point of contact in the State for purposes of this solicitation. After Contract award, the Procurement Officer has responsibilities as detailed in the Contract (**Attachment M**), and is the only State representative who can authorize changes to the Contract. The Department may change the Procurement Officer at any time by written notice to the Contractor.
- S. Proposal – As appropriate, either or both of the Offeror’s Technical or Financial Proposal.
- T. Request for Proposals (RFP) – This Request for Proposals issued by the Maryland Department of General Services (Department), with the Solicitation Number and date of issuance indicated in the Key Information Summary Sheet, including any amendments thereto.
- U. Veteran-owned Small Business Enterprise (VSBE) – A business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.
- V. Work Order– A subset of work authorized by the Project Manager performed under the general scope of this RFP, which is defined in advance of Contractor fulfillment, and which may not require a Contract Modification. Except as otherwise provided, any reference to the Contract shall be deemed to include reference to a Work Order.

Appendix 2. – Offeror Information Sheet

See link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf.