

STATE OF MARYLAND

Request for Proposal

Technical Assistance in Biological Sciences (Biological Sciences)

Solicitation No. RFP-K00R0400172



Issue Date: March 2, 2010

NOTICE

Prospective Offerors who have received this document from the Department of Natural Resources web site or who have received this document from a source other than the Procurement Officer, and who wish to assure receipt of any changes or additional materials related to this RFP, should immediately contact the Procurement Officer and provide their name and mailing address so that amendments to the RFP or other communications can be sent to them.

Minority Business Enterprises are encouraged to respond to this solicitation.

VENDOR COMMENTS

In order to help us improve the quality of State proposal solicitations, and to make our procurement process more responsive and business friendly, we ask that you take a few minutes and provide comments and suggestions regarding the enclosed solicitation. Please fax this completed form to the attention of Shiela Harrison at (410)-260-8670. Thank you for your assistance.

Solicitation No: PRFP-K00R0400172 Entitled: Technical Assistance in Biological Sciences

I. If you have responded with a "no bid", please indicate the reason(s) below:

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

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

REMARKS: _____

OPTIONAL:
Vendor Name: _____ Date: _____

Contact: _____ Phone: _____

Address or email: _____

THANK YOU!!!

KEY INFORMATION SUMMARY SHEET

**STATE OF MARYLAND
Department of Natural Resources
Request for Proposals**

Technical Assistance in Biological Sciences (Biological Sciences)

SOLICITATION NO: RFP-K00R0400172

RFP Issue Date: March 2, 2010

RFP Issuing Office: Department of Natural Resources
Resource Assessment Services
Power Plant Research Program

Procurement Officer: Ms. Shiela Harrison
Procurement Officer
Office Phone: (410) 260-8500
Fax: (410) 260-8670
E-mail: sharrison@dnr.state.md.us

Proposals are to be sent to: Department of Natural Resources
Resource Assessment Service
Power Plant Research Program
Tawes State Office Bldg. B-3
580 Taylor Avenue
Annapolis, MD 21401
Attn: Gayle Moreland

Pre-Proposal Conference: March 18, 2010 at 2:00 PM (Local Time)
Department of Natural Resources
580 Taylor Avenue
C-1 Conference Room
Annapolis, MD 21401
For directions, see Attachment E
or call Donna Taylor at 410-260-8660

Closing Date and Time: April 6, 2010, 2:00 PM (**Local Time**)

Prospective bidders who have received this document from the Department of Natural Resources web site or who have received this document from a source other than the Procurement Officer, and who wish to assure receipt of any changes or additional materials related to this RFP, should immediately contact the Procurement Officer and provide their name and mailing address so that amendments to the RFP or other communications can be sent to them. Contact Donna Taylor (410-260-8660) to obtain an electronic file of the RFP in Microsoft software.

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SECTION 1 - GENERAL INFORMATION

1.1 Introduction

The Power Plant Research Program (PPRP), functions to ensure that Maryland meets its electricity demands at reasonable costs while protecting the State's valuable natural resources. It provides a continuing program for evaluating electric generation issues and recommending responsible, long-term solutions. PPRP is administered through the Department of Natural Resources (DNR) Power Plant Assessment Division. For additional information about PPRP, go to www.dnr.maryland.gov/Bay/pprp.

1.2 Purpose of this RFP

PPRP is seeking a contractor (Biological Sciences Integrator) to provide technical assistance in the area of Biological Sciences as it relates to the siting, licensing and operation of electric power plants and ancillary facilities including solid waste disposal sites and transmission lines within or affecting Maryland.

The intended contract will be awarded as a time and materials contract with fixed unit prices of indefinite quantity for a period of approximately five years. Funding for these services is annually contingent upon approval by the Maryland General Assembly as well as satisfactory performance in the prior year of the contract. The contract period will run from contract award and will end on June 30, 2015.

1.3 Abbreviations and Definitions

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

- A. **BSI** – Biological Sciences Integrator
- B. **CONTRACT** means DNR's contract with the vendor as a result of this RFP. An example is provided within this RFP as ATTACHMENT A. The Offeror selected for award becomes the Contractor after execution of this contract by the State and Offeror.
- C. **CONTRACTOR** means a vendor who is selected as the winning bidder and executes a valid contract with the State for this work. Contractor also means "Integrator" for purposes of this RFP.
- D. **CONTRACTOR'S REPRESENTATIVE** means a person designated by the Offeror as a single point of contact for the State. This person shall be authorized to make binding decisions related to this RFP and the Contract, if awarded.
- E. **DAY** means calendar day.
- F. **DNR** means the Department of Natural Resources.

G. **LABOR CATEGORY(IES)** – This RFP designates the specific Labor Categories that Contractors must utilize to form the basis of their Technical and Financial Proposals. See Section 2.5.1, Contractor Key Personnel, and Attachment F- Financial Proposal Instructions and Form/Affidavit.

H. **LABOR CATEGORY HOURLY RATES** - The Labor Category Hourly Rates provided by the Offeror as part of the Financial Proposal will be the Fully-Loaded Labor Category Hourly Rates approved in the Contract for each applicable Labor Category and Contract Year, if awarded the Contract. Please see this RFP’s Attachment F – Financial Proposal Instructions and Form/Affidavit.

These Labor Category Hourly rates are ‘Fully-Loaded’ which relates to the inclusion in labor category bill rates of all profit and direct and indirect costs associated with performing services under this contract. Indirect costs shall include all costs that would normally be considered General and Administrative costs, as well as, Routine Travel costs, or which in any way are allocated by the Contractor against direct labor hours as a means of calculating profit or recouping costs which cannot be directly attributable to the contract.

I. **LABOR HOURS** – The estimated number of Labor Hours associated with each Labor Category in Attachment F – Financial Proposal Instructions and Form/Affidavit and approved through the Contract process are the Labor Hours that shall form the basis of the Contractor’s Financial Proposal. The product of multiplying the estimated number of Labor Hours by the approved Labor Category Hourly Rates form the basis of the Contractor’s Financial Proposal and the final Not-To-Exceed dollar amount approved for the Contract. Approval to utilize Labor Hours in a different way than what was proposed by the Contractor’s original work plan must be obtained from the Contract Manager; however, it is the total Not-To-Exceed dollar amount that may not be exceeded without a prior executed modification of the Contract.

J. **LOCAL TIME** means local time in Maryland.

K. **MBE** means a Minority Business Enterprise that is certified as such by the Maryland Department of Transportation. A “graduated” MBE for the related service category is NOT a qualified MBE for purposes of this solicitation.

L. **OFFEROR** means a vendor who responds to the RFP by submitting a proposal to provide the requested services.

M. **PPRP** means the Power Plant Research Program.

N. **PROJECTS or TASKS** are subsets of the Contract; the Contractor will propose Projects and their associated budgets in their annual work plans for approval by the Contract Manager.

- O. **RFP** means this Request for Proposals
- P. **STATE** means the State of Maryland.
- Q. **STATE CONTRACT MANAGER** or Contract Manager means the DNR Contract Manager previously identified in this solicitation, and/or a person designated in writing by the DNR Contract Manager to act on behalf of the DNR Contract Manager concerning Contractor issues.
- R. **SUBCONTRACTOR** means an organization or entity that the Contractor utilizes for the purposes of services covered under this contract.
- S. **TRAVEL** - It will be up to the State Contract Manager to determine the applicability of Routine Travel versus Non-Routine Travel during the course of the contract. Any questions may be directed to the State Contract Manager.
1. Routine Travel is travel within a 50 mile radius of DNR as the primary work site represented in the Contract, or the Contractor's facility, whichever is closer to the applicable work site. There will be no payment for labor hours for travel time or reimbursement for any travel expenses for work performed within this radius or at the Contractor's facility.
 2. Non-routine travel is travel beyond the 50 mile radius stated above for Routine Travel. If appropriate, the allowable Non-routine travel will be identified by the Contractor in writing to the State Contract Manager; and if pre-approved by the State Contract Manager, will be reimbursed according to the State's current travel regulations and reimbursement rates over and above the Not To Exceed dollars formed from the basis of the proposed Labor Hours, and therefore, from the Fully-Loaded Labor Category Hourly Rates. (see the Department of Business Management's Web Site at: http://www.dbm.maryland.gov/portal/server.pt?open=17&objID=4999&DirMode=1&parentname=Dir&parentid=2&mode=2&in_hi_userid=1332&cached=true).

1.4 Contract Type

The Contract that results from this RFP shall be a Time and Materials Indefinite Quantity contract with fixed unit prices in accordance with COMAR 21.06.03.05 and 21.06.03.06.

1.5 Contract Duration

The contract resulting from this RFP shall be for a period of approximately five years beginning at contract award and ending on June 30, 2015.

1.6 Procurement Officer and Contract Manager

1.6.1 The Procurement Officer for this RFP is listed below:

Shiela Harrison
Procurement Officer
Department of Natural Resources
580 Taylor Avenue, B-4
Annapolis, Maryland 21401
Telephone #: 410-260-8500
Fax #: 410-260-8670
E-mail: sharrison@dnr.state.md.us

1.6.2 The individual responsible for day-to-day administration and management of the Contract issued pursuant to this RFP shall be the Contract Manager identified below:

Sandra Patty
Department of Natural Resources
Power Plant Research Program
580 Taylor Avenue B-3
Annapolis, MD 21401
Telephone: 410-260-8668
Fax: 410-260-8670
Email: spatty@dnr.state.md.us

All correspondence that goes to the Procurement Officer shall include a reference to the solicitation number, RFP- K00R0400172, in the subject. The Department of Natural Resources may change the Procurement Officer and/or the Contract Manager at any time during the course of the Contract by written notice to the Contractor.

1.7 Pre-Proposal Conference

A Pre-Proposal Conference will be held on March 18, 2010 at 2:00 PM at the Department of Natural Resources, 580 Taylor Avenue, Tawes State Office Building, Conference Room C-1, Annapolis MD 21401. Attendance at the Pre-Proposal Conference is not mandatory, but all interested Offerors are encouraged to attend in order to facilitate better preparation of their proposals. In addition, attendance may help facilitate the Offeror's understanding and ability to meet the State's Minority Business Enterprise (MBE) goals.

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

If there is a need for sign language interpretation and/or other special accommodations due to a disability, it is requested that at least five days advance notice be provided to the Procurement Officer. DNR will make reasonable efforts to provide such special accommodation.

1.8 Use of e-Maryland Marketplace

eMarylandMarketplace is an electronic commerce system administered by the Maryland Department of General Services.

In order to receive a Contract award, a vendor must be registered on eMaryland Marketplace (eMM). Registration is free. Go here to register: <https://ebidmarketplace.com/>. Click on “Registration” to begin the process and follow the prompts.

The Offeror’s eMarylandMarketplace vendor ID number must be provided in the transmittal letter accompanying the Offeror’s technical and financial proposals. (See Section 3.4.1.)

1.9 Questions

The Procurement Officer, prior to the Pre-Proposal Conference, will accept written questions from prospective Offerors. If possible and appropriate, such questions will be answered at the Pre-Proposal Conference. (No substantive questions will be answered prior to the Pre-Proposal Conference.) Questions may be submitted by mail, facsimile, or preferably, by e-mail to the Procurement Officer with a copy to the Contracts Manager. Questions, both oral and written, will also be accepted from prospective Offerors attending the Pre-Proposal Conference. If possible and appropriate, these questions will be answered at the Pre-Proposal Conference.

Questions will also be accepted subsequent to the Pre-Proposal Conference. All post-conference questions shall be submitted in writing and in a timely manner to the Procurement Officer with a copy to the Contracts Manager. The Procurement Officer shall, based on the availability of time to research and communicate an answer, decide whether an answer can be given before the proposal due date. Answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be distributed to all Offerors who are known to have received a copy of the RFP.

1.10 Proposals Due (Closing) Date

In order to be considered, the Offeror’s proposal (technical and financial) must be received by the Procurement Officer’s designee no later than the time and date indicated on the Key Information Summary Sheet.

Requests for extension of this date and/or time will not be granted. Offerors mailing proposals shall allow sufficient mail delivery time to ensure timely receipt by DNR. Except as provided in COMAR 21.05.03.02F, proposals received by DNR after the time and date indicated on the Key Information Summary Sheet will not be considered. Proposals may not be submitted by e-mail or facsimile.

1.11 Duration of Offer

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

1.12 Revisions to the RFP

If it becomes necessary to revise this RFP before the due date for proposals, amendments will be posted on the DNR website (<http://www.dnr.maryland.gov/Bay/pprp/>) and provided to all prospective Offerors who were sent this RFP or otherwise are known by the Procurement Officer or her designee to have obtained this RFP. Amendments made after the due date for proposals will be sent only to those Offerors who submitted a timely proposal.

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

1.13 Cancellations; Discussions

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

1.14 Oral Presentation

Offerors may be required to make oral presentations to State representatives. Significant representations made by an Offeror during the oral presentation must be reduced to writing. All written representations will become part of the Offeror's proposal and are binding if the contract is awarded. The Offerors will be notified of the time and place of oral presentations. Typically, oral presentations occur approximately two weeks after the proposal due date.

1.15 Incurred Expenses

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

1.16 Economy of Preparation

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

1.17 Protests/Disputes

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

1.18 Multiple or Alternative Proposals

Neither multiple nor alternate proposals will be accepted.

1.19 Access to Public Records Act Notice

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

Information, which is claimed to be confidential, is to be placed after the Title Page and before the Table of Contents in the Offeror's Technical Proposal, and if applicable, also in its Financial Proposal. Offerors are advised that, upon request for this information from a third party, the State will make an independent determination whether the information must be disclosed (see COMAR 21.05.08.01).

1.20 Offeror Responsibilities

The selected Offeror/Contractor shall be responsible for all products and services required by this RFP. Subcontractors must be clearly identified, and a complete description of their roles relative to the proposals must be included in the Proposal. The selected Offeror retains the responsibility for all work performed by all deliverables submitted by a Subcontractor. Additional information regarding MBE subcontractors is provided in Section 1.24 below, and ATTACHMENT D.

If an Offeror that seeks to perform or provide the services required by this RFP is the subsidiary of another entity, all information submitted by the Offeror such as, but not limited to, proposed services, description of the Offeror's ability to perform the scope of work, references and financial reports, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's proposal must contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.

1.21 Mandatory Contractual Terms

By submitting an offer in response to this RFP, the Offeror, if selected for award, shall be deemed to have accepted the terms of this RFP and the Contract, (see ATTACHMENT A). Any exceptions to this RFP or the Contract must be clearly identified in the Executive Summary of the Technical Proposal. A proposal that takes exception to these terms will be rejected.

1.22 Proposal Affidavit

A completed Bid/Proposal Affidavit must be included in an Offeror's Proposal in order for the Proposal to be evaluated. A copy of this Affidavit is included as ATTACHMENT B of this RFP.

1.23 Contract Affidavit, Non-Disclosure Agreement

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 and Non-Disclosure Agreement. Copies of these documents are included for informational purposes as ATTACHMENT C and ATTACHMENT G to this RFP. These documents must be completed and submitted within five business days of notification of Contract award.

1.24 Minority Business Enterprises

A Minority Business Enterprise (MBE) subcontractor **participation goal of 10%** of the fees to the Contractor has been established for this procurement. The Contractor shall, in a good faith effort, structure its award(s) of subcontracts under this Contract to achieve this goal by utilizing businesses certified by the State of Maryland as minority owned and controlled. MBE requirements are specified in ATTACHMENT D of this RFP. Subcontractors used to meet the MBE goal of this RFP must be clearly identified in the Offeror's proposal.

Questions or concerns regarding the MBE requirements of this solicitation must be raised before the Proposal closing date/time.

ATTACHMENTS D-1 and D-2 must be completed and submitted with each Offeror's proposal. **Failure to submit these completed attachments as indicated will eliminate an Offeror from further consideration as the Offeror will be deemed not susceptible for contract award.** Attachments D-3 and D-4 must be completed and submitted within five (5) business days of notice of contract award.

A current directory of MBEs is available through the Maryland State Department of Transportation, Office of Minority Business Enterprise, P.O. Box 8755, B.W.I. Airport, Maryland 21240-0755. The phone number is 410-865-1269. The directory is also available at <http://www.mdot.state.md.us>. Select the MBE Program label. The most current and up-to-date information on MBEs is generally available via the web site.

1.25 Arrearages

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

1.26 Procurement Method

This Contract will be awarded in accordance with the competitive sealed proposals process under COMAR 21.05.03.

1.27 Verification of Registration and Tax Payment

Before a corporation can do business in the State of Maryland it must be registered with the Department of Assessments and Taxation, State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. It is strongly recommended that any potential Offeror complete registration prior to the Proposal closing date/time. An Offeror's failure to complete registration with the Department of Assessments and Taxation may disqualify an otherwise successful Offeror from final consideration and recommendation for contract award.

1.28 False Statements

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

- A. In connection with a procurement contract a person may not willfully:
 - 1. falsify, conceal, or suppress a material fact by any scheme or device;
 - 2. make a false or fraudulent statement or representation of a material fact; or
 - 3. use a false writing or document that contains a false or fraudulent statement or entry of a material fact.

- B. A person may not aid or conspire with another person to commit an act under subsection (a) of this section.

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

1.29 Electronic Funds Transfers

By submitting a response to this solicitation, the Offeror agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. The selected Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Forms are available from the Comptroller's Offices or website. Any request for

exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption.

1.30 Contract Labor Category Rate Adjustments

1.30.1 Price Adjustment

On the subsequent annual anniversary date of the beginning of the Contract, the Contractor shall be entitled to an adjustment to the Labor Category Hourly Rates. Within five (5) days of the publication of the U.S. City Average Consumer Price Index for the month immediately prior to the Contract anniversary date, the Contractor shall advise the State of the requested percentage adjustment for each Labor Category Hourly Rate.

For example, if the Contract begins on January 1, 2010, the adjustment applied to year 2 of the Contract shall be based on the change in the Consumer Price Index from December 2009 through December 2010 as described in Section 1.30.2 below. (The adjustment to be applied to year 3 of the Contract will be based on the CPI change from December 2010 through December 2011.) However, the maximum annual increase for each adjustment year shall be limited to 5% of the unit prices in effect at the time of the price adjustment.

1.30.2 Consumer Price Index Information

The adjustment will be calculated by reference to the annual change in the U.S. Department of Labor, Bureau of Labor Statistics (BLS), the U.S. City Average Consumer Price Index - All Urban Consumers ("CPI-U"), all items, base period 1982-84, no seasonal adjustment, for the month of December released approximately mid-month in January.

The Contractor will calculate the adjustment as a percentage resulting from the annual change in the index from the preceding December. An example of the calculation is provided below. In the event that the BLS data is not available in a timely manner, adjustments shall be based upon the first available month where CPI information is publically available. In the event that the BLS discontinues the use of the index described above, adjustments shall be based upon the most comparable successor index to the CPI. The determination as to which index is most comparable shall be within the sole discretion of the State.

The following example illustrates the computation of percent change to be applied to year 2 of the Contract (assuming that year 2 starts January 1, 2011):

CPI for December 2010	136.0
Less CPI for December 2009	129.9
Equals index point change	6.1
Divided by CPI for December 2009	129.9

Equals	0.047
Result multiplied by 100	0.047 x 100
Equals percent change	4.7%

1.31 Living Wage Requirements

A solicitation for services under a State contract valued at \$100,000 or more may be subject to Title 18, State Finance and Procurement Article, Annotated Code of Maryland.

Additional information regarding the State’s Living Wage requirement is contained in Attachment I, entitled, *Living Wage Requirements for Service Contracts*. If an Offeror fails to complete and submit the required Living Wage documentation (Attachment I-1 Affidavit, Maryland Living Wage Requirement), the Proposal will not be evaluated.

Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at the rate specified by law which may be viewed on the Department of Labor, Licensing and Regulation website at: <http://www.dllr.maryland.gov/> for areas: Tier 1 and Tier 2.

The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area currently includes Montgomery, Prince George’s, Howard, Anne Arundel, and Baltimore Counties, and Baltimore City. The Tier 2 Area currently includes any county in the State not included in the Tier 1 Area.

1.32 Prompt Payment Requirement to Subcontractors

1.32.1 If a contractor withholds payment of an undisputed amount to its Subcontractor, DNR, at its option and in its sole discretion, may take one or more of the following actions:

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

1.32.2 An “undisputed amount” means an amount owed by a Contractor to a Subcontractor for which there is no good faith dispute, including any retainage withheld, and includes an

amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.

1.32.3 An act, failure to act, or decision of a Procurement Officer or a representative of DNR, concerning a withheld payment between a Contractor and Subcontractor under this policy directive, may not:

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

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

1.33 Conflict of Interest Affidavit

A completed Conflict of Interest Affidavit must be included in an Offeror's Proposal in order for the Proposal to be evaluated. A copy of this Affidavit is included as ATTACHMENT J of this RFP.

Note that because of the potential for conflict of interest, the Integrator shall be unable to contract with any Maryland electric distribution company or power plant developer operating in Maryland for work that may be introduced in legal or regulatory proceedings. The Integrator shall also be unable to contract with any other organization acting as an intervener in such proceedings. Other circumstances and general research will be evaluated against this restriction on a case-by-case basis.

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SECTION 2 – SCOPE OF WORK

2.1 Purpose

- 2.1.1. The State is issuing this solicitation for the purpose of providing the Power Plant Research Program (PPRP) with services of a Contractor to provide technical assistance in the area of Biological Sciences as it relates to the siting, licensing and operation of electric power plants and ancillary facilities including solid waste disposal sites and transmission lines within or affecting Maryland. The Contract that results from this RFP shall be a Time and Materials Indefinite Quantity contract with fixed unit prices in accordance with COMAR 21.06.03.05 and 21.06.03.06.

2.2 Background

- 2.2.1 The majority of the PPRP projects are performed by scientists, engineers, and economists working on task-based assignments under contract to PPRP. These contractors are retained to provide continuing consultation on matters related to power generation issues and are termed “Integrators.” Issues identified by PPRP and evaluated by consulting Integrators provide information for various decision processes related to power plant siting and impact issues. The results form the basis for recommendations to pertinent regulatory bodies.
- 2.2.2 Integrator responsibilities are structured according to topical area. Biological Sciences is the topical integrator responsibility solicited through this RFP. The Biological Sciences Integrator (BSI) shall provide technical expertise in such areas as the effects of steam electric and hydroelectric facility operations on populations of aquatic biota and freshwater and estuarine ecosystems. The BSI also provides an evaluation of natural resource management regulatory issues as they may relate to power plants and transmission facilities and the evaluations and recommendations appropriate for ecological risk assessment. Further, the BSI provides appropriate technical support for renewable energy projects, such as offshore wind generating facilities. The necessary studies are conducted by the BSI, subcontractors managed by the BSI, or other PPRP contractors. The BSI also prepares and presents testimony for hearings and adjudicatory proceedings before the Public Service Commission and other regulatory bodies.
- 2.2.3 PPRP staff is directly in charge of establishing the annual work plan, the detailed assignments and schedules and budgets for the types of projects described above.

2.3 Objectives

- 2.3.1 The BSI conducts projects to address the following three broad areas and technical disciplines:
- A. Siting, licensing, and permitting of electric power generating and transmission facilities in Maryland;

- B. Cumulative power generation and transmission related impacts to Maryland's aquatic and terrestrial ecosystems, and;
- C. General regulatory and program support, including database management and technical review.

2.4 Requirements

2.4.1 Contractor shall be responsible for meeting the objectives noted in Section 2.3 in accordance with the following requirements:

2.4.1.1 Provide Coordination and Cooperation

The integrator shall coordinate with other PPRP contractors, subcontractors, regulatory agencies, generation companies, utilities, and other interested parties during various projects. In some cases PPRP will be conducting studies jointly with utility companies or other state agencies, and in all cases cooperation with utilities or other state agencies, including exchange of data and study results, will be required.

In addition, many projects conducted by PPRP, e.g., a detailed site evaluation, involves more than one contractor (or Integrator). In such cases, a lead integrator is identified. The Integrator selected as lead is responsible not only for projects within its usual area of responsibility, but also coordinating the results of other contractors and Integrators in the development of overall conclusions. Integrators not serving as lead are responsible for coordinating with the lead integrator in providing results of pertinent projects.

2.4.1.2 Maintain Expertise in Biological Sciences

The BSI will provide expertise in all such areas as freshwater, estuarine, marine and terrestrial ecology, fisheries biology, survey design and statistical analysis, water quality and carbon sequestration modeling, GIS and remote sensing data analysis and applications techniques, Maryland PSC, FERC and NRC licensing and permitting procedures, and radiological laboratory operations, all capabilities that are necessary to understand and assess the impacts of diverse modes of power generation and transmission, including renewable energy facilities, on water quality and aquatic and terrestrial ecosystems in Maryland. The BSI also supplies technical support on ecological effects of atmospheric deposition, biological modes of greenhouse gas control and mitigation, and evaluation of state and federal regulatory issues related to water quality and ecological effects of power generation and transmission. The BSI assists PPRP in coordinating relevant program activities with those of state and federal agencies responsible for natural resource protection and management and those pursuing efforts to restore the Chesapeake Bay through such efforts as the Chesapeake Bay Program.

2.4.1.3 Maintain an Integrator Location

Because of the extensive interaction required between the Integrator and PPRP staff, other PPRP contractors, other government agencies, and utility companies, a presence within 150 miles of Annapolis, Maryland is required during the term of the Contract.

2.4.1.4 Provide Program Support

A. The BSI shall provide biological sciences services to carry out research on power related topics, including:

1. Identifying emerging and important water quality and ecological issues
2. Designing programs of study to address these issues
3. Implementing studies, including conducting field studies in terrestrial and aquatic environments throughout Maryland
4. Analyzing and interpreting study findings
5. Presenting conclusions and management and regulatory implications

B. The BSI shall provide both long term study efforts and short term, quick-response efforts, for example to evaluate potential causes of a fish kill downstream of a hydroelectric facility. In addition, the BSI shall review and analyze specific issues as they arise, and provide the State with assistance in the definition, design, and coordination of studies designed to address these issues. The BSI is responsible for technical oversight and quality control for these studies, with final authority for decisions regarding performance remaining with PPRP.

C. Many of these activities will be conducted as part of regulatory proceedings, especially those of the Maryland Public Service Commission (PSC). The tasks associated with participating in such a regulatory proceeding include the following:

1. Review of power plant PSC or related applications;
2. Review of an applicants environmental and studies;
3. Conduct studies to supplement or verify the application material;
4. Preparation and presentation of testimony for hearings and adjudicatory proceedings;
5. Review of, and response to, an applicants' testimony.

2.4.1.5 Maintain Flexibility

Because many projects will be conducted as part of a regulatory proceeding, the resolution of issues must be completed within the schedule set by the regulatory agency. This may require diverting effort from other ongoing studies not constrained by regulatory proceedings. Although it is expected that appropriate planning will reduce the number of occasions on which such redirection is necessary, the Integrator must be sufficiently flexible to address issues and allocate staff to address emerging issues not fully defined and scoped at the outset of project or task.

2.4.1.6 Provide Periodic Management Reports

The Contractor shall provide management/status reports for their applicable tasks to the Contract Manager. Contractor shall provide reports in Microsoft Word or Microsoft Excel unless another software format is specified by the Contract Manager. Contractor shall provide reports in the following manner:

- A. Contractor shall provide a monthly status and project activity report to the Contract Manager as an attachment to the monthly invoices and shall include the following information:
 - 1. Project Numbers;
 - 2. Project Notice to Proceed (Startup Authorization) Date;
 - 3. Target Completion Date;
 - 4. Project Not To Exceed (NTE) Value (Original Budget and/or Revised Budget);
 - 5. Payments Received to Date;
 - 6. Status of Project, including percentage complete and projected hours and dollars;
 - 7. Special notice when a Project's NTE amount is projected to reach approximately 75% completion within 60 days of the reporting month;
 - 8. MBE monthly reports as specified in Attachment D; and,
 - 9. Any other relevant information the Contractor or the Contract Manager believes must be included due to the nature of a given Project's scope of work.

- B. A Semi-annual Project Highlights and Summary shall be provided to the Contract Manager.

- C. All reporting to the State that requires a first draft with formal review by the State, and then have the State's comments incorporated will be identified by the State Contract Manager. The Contractor shall ensure compliance to the State Contract Manager's direction.

2.4.1.7 Provide for a Transition Plan

The Contractor shall provide and maintain a transition plan for assuming the work outlined within this RFP and all work that is currently being performed by the incumbent Contractor. The Contractor shall assist the Contract Manager in performing up to three orientation programs. The orientation programs shall be held at 580 Taylor Avenue and shall be no more than about eight hours per program. A formal transition plan must be delivered to the Contract Manager at the contract kick-off meeting, which will be scheduled to start approximately 30 days after contract award. The Contractor shall supply orientation materials to all attendees of the orientation programs. There will be approximately 12 persons briefed. The

Contractor shall have a detailed implementation plan for establishing Biological Sciences services including tasks, schedules, man-hours and any State assistance necessary for implementation.

2.4.2 Equipment

All non-expendable equipment procured with funds from the Contract shall be DNR property and shall be procured, utilized and expensed per ATTACHMENT A, Article IV. Each piece of equipment shall be labeled the property of DNR and be given an identification number. The Contractor shall report its acquisition of non-expendable equipment covered by the Contract to PPRP annually. The report shall include, but not be limited to, item name, identification number, description, purchase date and item price.

2.4.3 Not-to-Exceed (NTE) Ceiling Dollar Amount

The Contractor shall monitor invoiced and forecasted amounts under the Contract. When the Contract is projected to reach 75% and 90% of the annual NTE ceiling dollar amount that has been established while performing under the Contract, the Contractor shall give notice to the Contract Manager that the Contract has reached, or is projected to reach the 75% and 90% level respectively. If the Contractor reaches the Contract's NTE ceiling dollar amount, the Contractor must stop performing all services for which it would seek payment beyond the NTE ceiling dollar.

2.4.4 Contract Close-out Requirements

Within 90 days of the end of the contract term, the State requires a smooth and orderly transition from the Contractor to the State or the State's entity to ensure minimum disruption and to avoid a decline in service to the State. The Contractor must be available and cooperative in any transition during all Contract close-out.

2.4.5 Project Management

- 2.4.5.1 The Contractor shall be responsible for managing the project to meet specified deadlines, for assuring the technical quality of all work and products, and for providing the technical expertise, staff and material resources necessary to meet project requirements.
- 2.4.5.2. The Contractor shall designate a single point of contact for the State as the Contractor's Representative for the Contract.
- 2.4.5.3 The Contractor shall meet with the State Contract Manager at least every two weeks or more often as the project's need arises per the State Contract Manager, and shall provide briefings to senior DNR management on the status of a project(s) as requested by the Contract Manager.

2.4.6 Other Requirements

2.4.6.1 Documentation of Time

For services performed under this Contract, the Contractor shall provide documentation of all Labor Hours expended by each of the Contractor's approved personnel (employees), including all sub-contractors' employees to the Contract Manager. The documentation shall be either certified employee time sheets or electronic time keeping records certified by the Contractor's Representative.

2.4.6.2 The Contractor shall provide a staff loading chart indicating the amount of time each staff person will be involved in each project. The staff loading chart will also designate the appropriate approved Labor Categories for each of the staff by which labor hours will be expended.

2.5 Staffing Requirements

The Contractor must meet the following requirements.

2.5.1 Contractor Key Personnel

The Contractor shall provide their own Key Personnel or subcontracted Key Personnel to meet the following minimum requirements to implement and support the Contract. Described below are the personnel minimums required in the performance of the Contract. The State must approve each staff person utilized for each position before the staff is utilized during the course of the Contract period.

2.5.1.1 Senior Manager - Plans, conducts and supervises projects of major significance, necessitating advanced knowledge and ability to originate and apply new and unique methods and procedures. Supplies technical advice and counsel to other professionals. Generally operates with wide latitude for unreviewed action and has authority for making corporate decisions. May provide expert testimony in an adjudicatory hearing. Doctorate (Ph.D.) degree or equivalent in an applicable technical field; and at least 10 years relevant industry experience in an applicable technical discipline as specified in Sections 2.2 and 2.3.

2.5.1.2 Project Manager - Plans, conducts and supervises major assignments normally involving teams of staff. Estimates and schedules work to meet completion dates. Directs assistance, reviews progress and evaluates results; makes changes in methods, design or equipment where necessary. Operates with some latitude for unreviewed action or decision. May provide expert testimony in an adjudicatory hearing. Master of Science (MS) degree, Master of Art (MA) degree or equivalent in an applicable technical field and at least 8 years relevant industry experience in an applicable technical discipline as specified in Sections 2.2 and 2.3.

- 2.5.1.3 Senior Scientist - Serves as technical lead for major project elements and manages specific technical tasks. Works under the direction of the Project Manager. May provide expert testimony in an adjudatory hearing. MA, MS or equivalent in an applicable technical field and at least 5 years relevant industry experience in an applicable technical discipline as specified in Sections 2.2 and 2.3.
- 2.5.1.4 Scientist - Under supervision of a Senior or Project Manager, carries out assignments associated with projects. Translates technical guidance received from supervisor into usable data applicable to the particular assignment; coordinates the activities of juniors or technicians. Work assignments are varied and require some originality and ingenuity. Bachelor of Science (BS) degree, Bachelor of Arts (BA) degree or equivalent in an applicable technical field and at least 3 years relevant industry experience.
- 2.5.1.5 Technician - Junior support staff working under the direct supervision of Project Manager; carries out assignments such as data collection, data entry, and field activity support, where supervisors review work carefully. BS or BA degree or equivalent in applicable technical field, no experience required.
- 2.5.1.6 Subject Matter Expert - Supplies expert technical advice and counsel to PPRP on a specific area on a case by case basis as identified by PPRP. Works under the direction of the Senior Manager. May provide expert testimony in an adjudatory hearing. Ph.D. degree or equivalent in an applicable technical field; and at least 10 years relevant industry experience in an applicable technical discipline as specified in Sections 2.2 and 2.3. As with any staff utilized on the Contract, additions or changes to Subject Matter Experts must be preapproved by the Contract Manager.
- 2.5.1.6.1 Definitions of experience and equivalency are provided below:
- A. Any combination of additional years of experience in the proposed field of expertise plus full-time college level study in the particular field totaling four years will be an acceptable substitute for a BS or BA degree.
 - B. A BA or BS degree plus any combination of additional years of experience and graduate level study in the proposed field of experience totaling 2 years will be an acceptable substitute for a MS or MA degree.
 - C. A BS or BA degree plus any combination of additional years of experience and graduate level study in the proposed field of expertise totaling 4 years or a MS or MA degree plus 2 years of either additional experience or graduate level study in the proposed field of expertise will be an acceptable substitute for a Ph.D. degree.
 - D. Additional years of graduate level study in an appropriate field will be considered equal to years of experience on a one-for-one basis.

- E. The DNR contract manager has the ability to provide written approval for contractor personnel on a case by case basis that does not necessarily meet the requirements of education and experience, or a combination thereof, that is noted herein.

2.5.2 Key Personnel Availability, Replacement, Substitution and Additions

- 2.5.2.1 The Contractor shall ensure the designated Key Personnel identified in its Technical Proposal will be available to perform Contract requirements. Contractor designated personnel shall not be reassigned, replaced, or substituted under any circumstances without the prior written approval of the Contract Manager. The Contractor shall promptly notify the Contract Manager of any possible changes to designated Key Personnel.
- 2.5.2.2 Any proposed replacement or substitution of Key Personnel must have equal or better qualifications than the incumbent. The Contractor shall bear the burden of illustrating this comparison. The resumes of the initially assigned personnel shall become the minimum requirement for qualifications for the duration of the Contract term. All proposed replacements or substitutions of personnel must be submitted in writing to the Contract Manager. The Contract Manager must agree to the replacement or substitution in writing before such action shall become effective.
- 2.5.2.3 If any of the personnel are unavailable for work under this Contract for a continuous Period exceeding 15 business days, the Contractor shall immediately notify the Contract Manager and propose a replacement or substitute of equal or better qualifications. If or when the person originally designated person is available to return to work on this Contract and can fully perform all job duties, the Contract Manager may allow the original Key Personnel to continue to work under the Contract.
- 2.5.2.4 All requests for replacements or substitutions must provide a detailed explanation of the circumstances necessitating the proposed action, a resume of the proposed replacement or substitution and any other information requested by the Contract Manager to make a determination. The Contract Manager, and/or other appropriate State personnel involved with the Contract may interview the proposed replacement or substitution prior to deciding whether to approve the request. The Contract Manager will not unreasonably withhold approval of a requested Key Personnel replacement or substitution.
- 2.5.2.5 All requests for additions to Key Personnel must provide a detailed explanation of the circumstances necessitating the proposed action, a resume of the proposed addition, a completed and any other information requested by the Contract Manager to make a determination. The Contract Manager, and/or other appropriate State personnel involved with the Contract may interview the proposed addition prior to deciding whether to approve the request. The Contract Manager will not unreasonably withhold approval of a requested Key Personnel addition.

- 2.5.2.6 The State will, at any time, have the right to require the Contractor to immediately remove any of its Key Personnel assigned to the Contract if uncooperative, inefficient, unprofessional in their appearance or actions, demonstrate an inability to perform the requirements specified in the RFP, or have committed a major infraction(s) of law. In circumstances of directed removal, the Contractor shall provide a suitable replacement for approval within 15 business days of the notification of the need for removal date, or the actual removal, whichever occurs first.
- 2.5.2.7 Unless a replacement is approved per this RFP, Key Personnel shall be the same personnel proposed in the Contractor's Technical Proposal, which will be incorporated into the Contract by reference. Such identified Key Personnel shall perform continuously for the duration of the Contract, or such lesser duration as specified in the Technical Proposal. Key Personnel may not be removed by the Contractor from working under this Contract as described in the RFP or the Contractor's Technical Proposal without the prior written concurrence of the Contract Manager.
- 2.5.2.8 If deemed appropriate, the Contract Manager will give written notice of any personnel performance issues to the Contractor, describing the problem and delineating the remediation requirement(s). The Contractor shall provide a written remediation plan within 10 days of the date of notice and implement the remediation plan immediately upon written acceptance by the Contract Manager, or revise and resubmit the plan to the Contract Manager within 5 days, as directed in writing by the Contract Manager. Should performance issues persist despite the previously agreed to remediation plan, the Contract Manager will give written notice of the continuing performance issues and either request a new remediation plan within a specified time limit, or direct the Contractor to propose replacement of the personnel whose performance is at issue. Replacement of personnel under this section shall be in addition to and not in lieu of the State's remedies under the Contract.

2.5.3 Subcontractors

The Contractor shall have and provide to the State upon request a letter of commitment from any subcontractor utilized on the Contract, including those meeting the MBE sub-contracting goal. All subcontractor personnel shall meet all staffing requirements and technical requirements of this Contract.

2.6 Contractor Work Plan and Project Completion Times

The State Contract Manager will provide an example of a final Work Plan to the selected Contractor with the initial Notice to Proceed. The Contractor shall deliver a final draft Work Plan for Year 1 activities within 15 business days after receipt of the Notice to Proceed. The final Work Plan for Year 1 activities shall be subject to approval by the State Contract Manager. Any deviation from the final Work Plan for Year 1 activities requires the written consent of the

State Contract Manager. Work Plans for Years 2 through 5 shall be provided annually by the Contractor and within 15 business days of the State Contract Manager's request.

2.7 Standards and Acceptance Criteria for Deliverables

When presented for acceptance, a written deliverable defined as a final document must satisfy the scope and requirements of the RFP for that deliverable. Final written deliverables shall not contain structural errors such as poor grammar, misspellings or incorrect punctuation, and must:

- A. Be submitted on or before the due date as established by the Contract Manager;
- B. Provide an executive summary that precisely describes findings in addition to more detailed full analysis in the body of the report;
- C. Be presented in a format appropriate for the subject matter and depth of discussion;
- D. Be organized in a manner that presents a logical flow of the deliverable's content;
- E. Represent factual information reasonably expected to have been known at the time of submittal;
- F. Present information that is relevant to the portion of the deliverable in the submittal;
- G. Meet the content requirements of the Contract as determined by the State Contract Manager: and,
- H. Be reviewed and accepted by the Contract Manager.

2.8 Invoicing

2.8.1 Contactor's Invoicing and Invoicing Report

- A. The Contractor will be paid for services performed based on approved direct Labor Hours billed at the approved fully-loaded Labor Category Hourly Rates as identified in a Contract, up to the specified Not-To-Exceed price ceiling. **As the Contract is a Time and Materials Contract, only Labor Hours actually approved and expended under the Contract will be invoiced to the State.**
- B. Upon receiving a monthly invoice from the Contractor for work under the Contract, the Contractor will be paid for their services based on **expended** direct Labor Hours and applicable Labor Categories and billed at the approved fixed fully-loaded Labor Category Hourly Rates up to and including the Not-To-Exceed Ceiling dollar amount. For each invoice, the Contractor will be required to provide documentation that all direct hours invoiced have actually been expended by its personnel, or those of Subcontractors, totally and productively, in the performance of the Contract. The documentation shall be certified personnel (employee) time sheets or electronic time keeping records certified by the Contractor's Representative to be the actual time worked by Contractor personnel or its Subcontractors.
- C. Invoices with their documentation are due to the Contract Manager no later than the 10th of the calendar month for the proceeding month's activity, unless there is prior

written approval by the Contract Manager for another submission date for the specific month.

- D. Invoices must include but not be limited to the following information: Contractor's name, remittance address, federal taxpayer identification (or if owned by an individual, his/her social security number), Invoice Period, Invoice Date, Invoice Number, and Total Amount Due and the ADPICS/Purchase Order Number.
- E. The Total Amount Due will be derived from the information detailed on the invoice to include at a minimum the following information. Invoices submitted without the required backup information will not be considered for approval until the Contractor provides the required information.
 - 1. The Labor Categories being billed and each applicable personnel's name; and,
 - 2. The personnel's total hours for the month, and their applicable Labor Category Hourly Rate.
- F. Any Non-Routine Travel or other direct expense that has had prior approval and has actually been expended may be submitted to the Contract Manager for approval. The Non-Routine Travel or other direct expense must be billed as a separate line item from the Labor Hours being invoiced.

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

- G. The invoice shall include a recap section detailing cumulative billings to date by employee.
- H. A pre-authorized representative of the Contractor must sign each invoice. Invoices submitted without the required information will not be processed for payment until the Contractor provides it.

2.8.2 Timing of Invoices

The Contractor shall submit its monthly invoice with all appropriate backup by the 10th of the month following the month services were provided.

2.9 Insurance Requirements

- 2.9.1 The Contractor shall maintain a policy of general liability, property and casualty insurance with minimum limits sufficient to cover losses resulting from or arising out of

Contractor action or inaction in the performance of the contract by the Contractor, its agents, servants, employees or subcontractors.

- 2.9.2 Within five working days after notice of potential award, the Contractor shall provide a copy of the Contractor's final current certificate of insurance, which, at a minimum, shall contain the following:
- A. Worker's Compensation -The Contractor shall maintain such insurance as necessary or required under Worker's Compensation Acts, and any other applicable laws.
 - B. The Contractor shall at all times have and maintain comprehensive Liability Insurance in the following minimum amounts:
 - 1. One Million Dollars (\$1,000,000) for bodily injury, per occurrence,
 - 2. Five Hundred Thousand Dollars (\$500,000) per person,
 - B. Five Hundred Thousand Dollars (\$500,000) for property damage, per occurrence.
- 2.9.3 The State will be named as an additional insured on the policies of all property, casualty, liability, and other types of insurance evidencing this coverage (Workman's Compensation excepted). All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Procurement Officer, by certified mail, not less than sixty (60) days advance notice of any non-renewal, cancellation, or expiration. In the event the State receives a notice of non-renewal, the Contractor must provide the State with an insurance policy from another carrier at least thirty (30) days prior to the expiration of the insurance policy then in effect. All insurance policies must be with a company licensed to do business in Maryland. In the event that the Contractor fails to procure and keep in force at all relevant times hereunder such insurance, the State will have the right, but not the obligation, to obtain such insurance on behalf of the Contractor and the State will have the right to withhold the cost of such insurance from any amounts otherwise due to the Contractor. If there are no amounts otherwise due to the Contractor hereunder, the cost of such insurance shall become immediately payable by the Contractor to the State.
- 2.9.4 The Contractor shall require that all Subcontractors that are utilized to fulfill the obligations of this contract obtain and maintain similar levels of insurance and shall provide the State with the same documentation as is required of the Contractor.

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SECTION 3 – PROPOSAL SUBMISSION FORMAT

3.1 Two Part Submission

Offerors must submit proposals in two separate volumes:

- “Volume I – (TECHNICAL PROPOSAL)”
- “Volume II – (FINANCIAL PROPOSAL)”

Offerors must propose all services identified within the RFP. Offerors, who fail to propose all services or all Labor Category Hourly Rates for these services, as outlined in ATTACHMENT F, Financial Proposal Instructions and Form/Affidavit, shall be deemed as not reasonably susceptible of being selected for award. Technical proposals will be evaluated separately from the financial proposal.

3.2 Proposals

Volume I-Technical Proposal must be sealed separately from Volume II-Financial Proposal but submitted simultaneously to the Procurement Officer’s designee (address listed on Key Information Summary and in Section 1). This is the only address to which proposals may be submitted. An unbound original, so identified, and eight (8) bound copies of each volume are to be submitted. Hard copies must be a complete proposal containing all information contained on the CDs unless otherwise directed in Section 4.

Offerors must attach to the original unbound Technical Proposal one (1) separate CDs containing an electronic version of Volume I-Technical Proposal (in MS Excel format and Word, as appropriate). Offerors must also attach to the original unbound Financial Proposal one (1) separate CD containing an electronic version of the Volume II- Financial Proposal (in MS Excel format).

Please note that the Offeror must provide separate CDs for the Technical Proposal and the Financial Proposal, resulting in two (2) CDs attached to the proposal. The CDs containing the electronic responses shall be placed in separate envelopes labeled “Offeror Response CDs – Volume “X” (“X” is Volume I or Volume II, as appropriate) and include the RFP title, RFP number and Offeror’s name.

3.3 Submission

Each Offeror is required to submit a separate sealed package for each Volume, to be labeled “Volume I-Technical Proposal” and “Volume II-Financial Proposal” respectively. Each sealed package must bear the RFP title and number, name and address of the Offeror, the volume number (I or II), and the closing date and time for receipt of the proposals on the outside of the package. Please label the electronic media with Volume I-Technical Proposal and Volume II-Financial Proposal, as appropriate.

All pages of both proposal volumes must be consecutively numbered from beginning (Page 1) to end (Page “x”).

3.4 Volume I – Technical Proposal

3.4.1 Transmittal Letter

A transmittal letter must accompany the Technical Proposal. The purpose of this letter is to transmit the proposal and acknowledge the receipt of any addenda/amendments. The transmittal letter shall be brief and signed by an individual who is authorized to commit the Offeror to the services and requirements as stated in this RFP. The transmittal letter shall also include the Offeror’s eMarylandMarketplace vendor ID number (refer to Section 1.8).

Any exceptions for Technical or Financial must be noted in the Executive Summary of the Offeror’s Technical Proposal. No exceptions are allowed to be noted in the Offeror’s Financial submission. However, do not indicate any of the Offeror’s dollar amount offers, either in the Transmittal Letter or anywhere in the Technical Proposal.

3.4.2 Format of Technical Proposal; Required Submissions

Inside a sealed package described in Section 3.3, above, an unbound original, to be so labeled, eight (8) bound copies and the electronic version shall be provided. Section 2 of this RFP provides requirements and Section 3 provides reply instructions. The paragraphs in these RFP sections are numbered for ease of reference. In addition to the instructions below, the Offeror’s Technical Proposal shall be organized and numbered in the same order as this RFP. This proposal organization will allow State officials and the Evaluation Committee to “map” Offeror responses directly to RFP requirements by paragraph number.

The Technical Proposal shall include the following sections in this order:

3.4.2.1 Title and Table of Contents

The Technical Proposal shall 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 for the Technical Proposal shall follow the title page. Information, which is claimed to be confidential, is to be identified after the Title Page and before the Table of Contents in the Offeror’s Technical Proposal, and if applicable, also in the Offeror’s Financial Proposal. An explanation for each claim of confidentiality shall be included.

3.4.2.2 Executive Summary

The Offeror shall condense and highlight the contents of the Technical Proposal in a separate section titled “Executive Summary” including how the Offeror meets the minimum qualifications outlined in Section 2.

The summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the contract (ATTACHMENT A), or any other attachments. Exceptions to terms and conditions of the RFP, the contract, or any other attachment may result in having the proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award. If there are no exceptions, the Executive Summary shall so state.

3.4.2.3 Offeror Technical Response to RFP Requirements

In a concise manner, the Offeror shall address each requirement in Section 2 (“Scope of Work”) of this RFP and describe how the Offeror’s proposed services will meet those requirements. The Offeror shall use the sub-headings provided by this RFP to organize the response.

If the State is seeking Offeror agreement to a requirement, the Offeror shall state agreement or disagreement. However, the Offeror shall not merely rely on a stated agreement to perform the requested work; rather the Offeror shall outline how the Offeror can fulfill the requested tasks in a manner that best meets the State’s needs. An Offeror’s response to work requirements in the RFP shall illustrate a comprehensive understanding of the work requirements, include an explanation of the methodology and how the work will be done, and provide a basic schedule to meet deadlines.

3.4.2.4 Corporate Experience, Capability and Past Performance

- A. Provide a description of your company to include its history, organizational structure and ownership.
- B. Describe the firm’s recent experience in performing services similar in size and scope to the requirements of this RFP.

Specifically the Offeror shall describe its experience and capabilities through a response to the following:

1. An overview of the Offeror’s experience providing biological studies and evaluation services. This description shall include:
 - a. A summary of the services provided
 - b. The extent of similar services provided to existing customer base
 - c. The number of years the Offeror has provided these services
 - d. The number of clients and geographic locations the Offeror currently serves.
2. Efforts and capabilities that will be dedicated to the biological studies and evaluation services contract.
3. The degree of dedication and the number of personnel to be assigned to the State’s account.
4. Methods on how the Offeror will provide biological studies and evaluation services and provide the services in an economical manner.
5. The process for resolving billing errors.

- C. Provide an organization chart and resumes for the proposed Key Personnel and your approach to managing BSI projects.

Specifically the Offeror shall include all major component units, which components(s) will perform the requirements of this contract, where the management of this contract will fall within the organization, and what corporate resources will be available to support this contract in both primary and secondary or back-up roles. In addition, the Offeror shall include the names, titles and resumes of the Key Personnel directly involved with supervising the services rendered under this Contract.

- D. As part of its offer, each Offeror is to provide a list of all contracts with any entity of the State of Maryland that it is currently performing or which has been completed within the last five years. For each identified contract the Offeror is to provide in its Technical Proposal:

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

The Procurement Officer or a designee will contact some or all of the identified State agencies, to ascertain the Offeror's level of performance of State contracts.

Information obtained regarding the Offeror's level of performance on State contracts will be considered as part of the experience and past performance evaluation criteria of the RFP.

- E. As part of its offer, each Offeror is to provide a list of three (3) recent references with names and phone numbers of contact persons for engagements covering projects similar in scope to this RFP.

The references offered by the Offeror shall be able to discuss specifically: -

1. The quality and breadth of biological studies and evaluation services provided by the Offeror.
2. Each client reference must include the following information:
 - a. Value, type and duration of contract(s) supporting client organization.
 - b. The services provided, scope of the contract, geographic area being supported, and performance objectives satisfied and improvements made to client needs.
 - c. An explanation of why the Offeror is no longer providing the services to the client organization, should that be the case.

- F. Provide a list of all former clients with contracts in excess of \$500,000 per year who have terminated their contracts with the Offeror within the past three years. Include with the list the reasons for terminations, client name, and contact person and phone number.
- G. Provide evidence that the company has corporate/governmental annual billings for each of the immediate past three (3) calendar years in excess of \$10,000,000 in corporate or governmental accounts or any combination of corporate and governmental accounts.

3.4.2.5 Personnel Qualifications

- 3.4.2.5.1 When the Offeror proposes Key Personnel in its response to this RFP, the Offeror shall provide personnel that satisfy the labor qualifications specified herein. The Offeror shall only propose staff that is available when the Offeror responds to this RFP and for the contract period specified in the RFP. Key Personnel that is proposed by the Offeror shall be the staff utilized if awarded the Contract. From the date that the Offeror's Technical and Financial Proposal is received by the State, any subsequent changes to Key Personnel requested by the Offeror must be done per the requirements of Section 2.5.2.
- 3.4.2.5.2 As a part of the Offeror's Technical Proposal, a Conflict of Interest Affidavit must be provided (see Attachment J).
- 3.4.2.5.3 The Contractor shall provide a description of its proposed system for tracking and reporting of project personnel time, commitments and deliverables.

3.4.2.6 Economic Benefit Factors

- A. The Offeror shall describe the benefits that will accrue to the State of Maryland economy as a direct or indirect result of the Offeror's performance of the contract resulting from this RFP. The Offeror will take into consideration the following elements. (Do not include any detail of the Financial Proposal with this technical information):
 - 1. The estimated percentage of contract dollars to be recycled into Maryland's economy in support of the Contract, through the use of Maryland subcontractors, suppliers and joint venture partners. Offeror shall be as specific as possible and provide a percentage breakdown of expenditures in this category.
 - 2. The estimated number and types of jobs for Maryland residents resulting from this Contract. Indicate job classifications, number of employees in each classification, and the aggregate Maryland payroll percentages to which the contract has committed at both prime and, if applicable, subcontract levels.
 - 3. Tax revenues to be generated for Maryland and its political subdivisions as a result of this contract. Indicate tax category (sales tax, inventory taxes and estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from the Contract.

4. The estimated percentage of subcontract dollars committed to Maryland small businesses and MBEs.

B. In addition to the factors listed above, the Offeror shall explain any other economic benefit to the State of Maryland that would result from the Offeror's proposal.

3.4.2.7 Financial Capability and Statements

The Offeror shall provide evidence that the Offeror has the financial capability to provide the services by providing copies of the last two (2) year end abbreviated Profit and Loss (P&L) and Balance Sheets (independently audited preferred). The financial statements shall be for the entity proposing to provide services under this RFP and not for any prospective owners or parent companies not involved in the provision of services.

3.4.2.8 Certificate of Insurance

Evidence of current insurance shall be submitted with the Offeror's Technical Proposal.

Within five working days after a notice of potential award, the Offeror shall provide a final certificate of insurance with all the prescribed requirements, inclusive of types and dollar levels, etc., as noted in the Section 2.9. If the certificate is the exact same as previously presented showing the prescribed coverage during the Offeror's Technical Proposal submission, then the Offeror shall provide written confirmation of this to the Procurement Officer. Failure to provide a final certificate of insurance, with all the prescribed requirements within the five working days after notice of potential award, may negate the Offeror from a Contract award.

3.4.2.9 Subcontractors

Offerors shall identify and describe both MBE and known non-MBE Subcontractors and the role these Subcontractors will have in the performance of the Contract.

3.4.2.10 Summary of Required Technical Submissions

- A. Transmittal Letter (Section 3.4.1)
- B. Technical Proposal, Volume I (Sections 3.4.2.1 through 3.4.2.9)
- C. Bid/Proposal Affidavit (ATTACHMENT B)
- D. MBE Forms (ATTACHMENTS D-1 and D-2)
- E. Certificate of Insurance (Sections 2.9 & 3.4.2.8)
- F. Living Wage (ATTACHMENT I-1)
- G. Evidence of Verification of Registration and Tax Payment (Section 1.27)
- H. Conflict of Interest Affidavit (ATTACHMENT J)

3.5 Volume II - Financial Proposal

Under separate sealed cover from the Technical Proposal and clearly identified with the same information noted on the Technical Proposal, the Offeror must submit an original unbound copy,

eight (8) bound copies, and one (1) electronic copy (in a CD-ROM) in a separate envelope labeled as described in Sections 3.2 and 3.3. The Financial Proposal must contain all price information in the format specified in ATTACHMENTS F-1, F-2 and F-3. Offerors must follow the instructions of ATTACHMENT F in preparing their Financial Proposals.

No exceptions are allowed to be noted in the Offeror's Financial submission. Also please note that notations and exceptions expressed as part of the Financial proposal is considered to be a conditioned proposal, and the State will not accept conditioned proposals.

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SECTION 4 – EVALUATION CRITERIA AND SELECTION PROCEDURE

4.1 Evaluation Criteria

A committee organized for that purpose will perform evaluation of the proposals. Evaluations will be based on the criteria set forth below.

4.2 Technical Criteria

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

1. Offeror Technical Response to RFP Requirements. An Offeror's response to the RFP shall illustrate a comprehensive understanding of work requirements to include an explanation of how the work will be done. Responses to work requirements such as "concur" or "will comply" will receive a lower evaluation ranking than those Offerors who demonstrate they understand a work requirement and have a plan to meet or exceed it. (Ref. Section 3.4.2.3)
2. Corporate Experience, Capability and Past Performance (Ref. Section 3.4.2.4)
3. Personnel Qualifications (Ref. Section 3.4.2.5)
4. Subcontractors (Ref. Section 3.4.2.9)
5. Economic Benefit Factors (Ref. Section 3.4.2.6)

4.3 Financial Criteria

All qualified Offerors will be ranked from the lowest to the highest price based on the Total Evaluated Price proposed as shown in ATTACHMENT F-3-Financial Proposal Form/Affidavit.

4.4 Reciprocal Preference

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

4.5 Selection Procedures

4.5.1 General Selection Process

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

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

4.5.2 Selection Process Sequence

- A. The first level of review will be an evaluation for technical merit. During this review oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the State's requirements and the Offeror's ability to perform, and to facilitate arrival at a Contract that will be most advantageous to the State. For scheduling purposes, Offerors shall be prepared to make an oral presentation and participate in discussions within two to four weeks of the delivery of proposals to the State. The Procurement Officer or a designee will contact Offerors when the schedule is set by the State.
- B. Offerors must confirm in writing any substantive oral clarification of, or change in, their proposals made in the course of discussions. Any such written clarification or change then becomes part of the Offeror's proposal.
- C. The Financial Proposal of each Offeror will be evaluated separately from the technical evaluation. After a review of the Financial Proposals of Offerors, the Procurement Officer may again conduct discussions.
- D. When in the best interest of the State, the Procurement Officer may direct Offerors who have submitted acceptable proposals to revise their initial proposals and submit, in writing, best and final offers (BAFOs).

4.6 Award Determination

Upon completion of the evaluation process, the Procurement Officer will recommend award of the Contract to the responsible Offeror whose proposal is determined to be the most advantageous to the State considering technical evaluation factors and price factors as set forth in this RFP. In making the most advantageous Offeror determination, technical factors will be given greater weight than price factors.

ATTACHMENTS

ATTACHMENT A—CONTRACT. This is the State’s contract. It is provided with the RFP for informational purposes and is not required at proposal submission time. However, it must be completed, signed and returned by the selected Contractor to the Procurement Officer expeditiously upon notification of proposed contract award.

ATTACHMENT B—BID/PROPOSAL AFFIDAVIT. This form must be completed and submitted with the Offeror’s technical proposal.

ATTACHMENT C—CONTRACT AFFIDAVIT. The Contract Affidavit is not required at proposals submission time. It must be submitted by the selected Offeror to the Procurement Officer within 5 working days of notification of proposed award.

ATTACHMENT D—MINORITY BUSINESS ENTERPRISE PARTICIPATION. This attachment and Attachments D-1 through D-6 explain the MBE program and forms submission requirements. Attachments D-1 and D-2 are submitted with the Technical Proposal. Attachments D-3 and D-4 must be completed and submitted by the selected Offeror upon notice of Contract Award.

ATTACHMENT E—PRE-PROPOSAL CONFERENCE RESPONSE FORM. The State requests that this form be completed and submitted by those potential Offerors who plan on attending the conference.

ATTACHMENT F—FINANCIAL PROPOSAL INSTRUCTIONS AND FORM. The Financial Proposal Form/Affidavit (Attachment F-3) must be completed and submitted as the Financial Proposal.

ATTACHMENT G – NON-DISCLOSURE AGREEMENT. This attachment is provided with the RFP for informational purposes and is not required at proposal submission time. However, it must be completed, signed and returned by the selected Offeror to the Procurement Officer with the Contract Affidavit.

ATTACHMENT H—PROCUREMENT OFFICER’S CHECKLIST. Used as an aid to be certain all the components of the Technical Proposal are completed and submitted. Since the Procurement Officer uses the checklist to see if all required parts of the proposal are present at submission due date, an Offeror can use the checklist for the same purpose. The checklist will not be a part of the technical evaluation.

ATTACHMENT I – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRCTS. This form must be completed and submitted with the Offeror’s technical proposal.

ATTACHMENT J – CONFLICT OF INTEREST AFFIDAVIT. This form must be completed and submitted with the Offeror’s technical proposal.

**ATTACHMENT A - CONTRACT
DEPARTMENT OF NATURAL RESOURCES
SERVICE CONTRACT
REV. 11/06**

(I.D. No.: _____)

THIS CONTRACT is entered into this ____ day of _____, 20____, by and between the

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

Resource Assessment Service

Power Plant Assessment Division

580 Taylor Avenue Tawes Building B-3

Annapolis, MD 21401

hereinafter (“Department”),

and

hereinafter (“Contractor”).

WHEREAS, the Department has chosen the Contractor, and the Contractor has agreed to perform work and be bound by the terms of this Contract;

NOW, THEREFORE, the Department and the Contractor agree as follows:

ARTICLE I - NATURE OF CONTRACT

This Contract is for services as defined in the State Finance and Procurement Article, §11-101 of the Annotated Code of Maryland and Title 21 of the Code of Maryland Regulations.

ARTICLE II - TYPE OF CONTRACT

Pursuant to COMAR 21.06.03, this Contract is designated as the following type (check one):

- Fixed-Price
- Fixed-Price Incentive
- Cost-Plus Incentive Fee
- Cost-Plus Fixed Fee
- Cost-Reimbursement
- Other: Time and Materials Indefinite Quantity Contract with fixed unit prices

ARTICLE III - PROCUREMENT METHOD

Pursuant to COMAR 21.05, this Contract is being awarded by the following procurement method (check one):

- Competitive Sealed Bidding
- Competitive Sealed Proposal
- Sole Source
- Other: _____

ARTICLE IV - SCOPE OF WORK

The Contractor shall: provide biological studies and evaluation services to DNR. The services shall be provided in accordance with this Contract and the following exhibits, which are attached and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

- Exhibit A – Request for Proposal – K00R0400172
- Exhibit B – Contractor’s Technical Proposal dated_____.
- Exhibit C – Contractor’s Financial Proposal dated_____.
- Exhibit D – State Contract Affidavit

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

This work is more particularly described in the attached Scope of Work and/or in an Invitation for Bids, Request for Proposals, or other statement of work made a part of this Contract.

ARTICLE V - COMPENSATION AND METHOD OF PAYMENT

The services set forth above shall be performed as a Time and Materials Indefinite Quantity contract with fixed unit prices for a period of approximately five years and for a not to exceed value of \$_____ .

The Contractor shall submit billings for all costs expended in the performance of this Contract in accordance with the payment schedule set forth in the attached Scope of Work. In the absence of a payment schedule, billing shall be monthly. The Contractor shall follow a standard billing format and include the Contractor’s Federal Tax Identification Number of _____, or Social Security Number of _____ and this Contract Identification Number. The Contractor shall follow cost accounting practices in accordance with COMAR 21.09 and uniform practices of the profession as acceptable to the Department. Billings shall be due and payable within 30 days of receipt by the Department.

ARTICLE VI - TERM

The term of this Contract shall be from _____ through June 30, 2015. No work may be initiated under this Contract until it has been fully executed by all parties and the Contractor has been instructed to proceed by the Department.

ARTICLE VII - GENERAL CONDITIONS

The Department of Natural Resources, General Conditions, Service Contracts (Rev. 1/02), are attached and made a part of this Contract.

ARTICLE VIII - CONTRACT AFFIDAVIT

Except as provided by COMAR 21.03.01.03, this Contract shall be void unless it is accompanied by a properly executed contract affidavit.

ARTICLE IX - CONTRACT REPRESENTATIVES

The following individuals are designated as contract representatives for their respective parties [name and address]:

Department	<u>Sandra Patty</u>
	<u>Power Plant Assessment Division</u>
	<u>580 Taylor Avenue Tawes Bld. B-3</u>
	<u>Annapolis, MD 21401</u>
Phone:	<u>410-260-8660</u>
Contractor	_____

Phone:	_____

The scope of authority of the designated Contract Representatives to act for their respective parties is set forth in the attached General Conditions.

ARTICLE X - KEY PERSONNEL

The Contractor agrees that the following named individuals are considered to be essential to the work being performed hereunder, and are designated as Key Personnel who shall be made available to the full extent required to carry out the work under this Contract:

Should any of these individuals become unavailable during the term of this Contract, personnel of equivalent capability shall be assigned to the project. Any such substitutions shall require prior written approval by the Department, which approval may be denied by the Department at its sole discretion. Should the Contractor be unable to provide substitutes acceptable to the Department, the Department may terminate this Contract, or, at its option, negotiate with the contractor for an equitable adjustment under the Contract relative to the loss of such Key Personnel.

ARTICLE XI - MERGER

This Contract embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations regarding the parties' agreement other than those contained herein or incorporated herein by reference.

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

CONTRACTOR

WITNESS

By _____
(Name)
(Title)

STATE OF MARYLAND
DEPARTMENT OF NATURAL RESOURCES

WITNESS

By _____
(Name)
(Title)

Approved as to form and legal sufficiency

this _____ day of _____, 20____

Assistant Attorney General

**DEPARTMENT OF NATURAL RESOURCES
GENERAL CONDITIONS FOR
SERVICE CONTRACTS
REV. 1/02 (reviewed 11/06)**

(I.D. No: _____)

ARTICLE I - TERMS AND APPLICABILITY

These General Conditions apply to contracts for services as defined in the State Finance and Procurement Article, §11-101 of the Annotated Code of Maryland and Title 21 of the Code of Maryland Regulations. The General Conditions do not constitute a complete agreement but are part of a document, executed by all parties, which identifies the specific work to be performed, compensation, term, and special conditions, if any (“the Services Contract”). The General Conditions and the Services Contract are intended to be complementary and shall be construed together. In the event of a direct conflict between them, the terms of the Services Contract shall govern and control. Specific terms used in this document have the following meaning:

- A. “Contract” means the agreement between the Department and the Contractor for performance of services, including the Services Contract, Scope of Work and these General Conditions.
- B. “Scope of Work” or “Work” refers to the specific contractual obligation of the Contractor as identified in the Services Contract, Invitation for Bids, Request for Proposals, or other work statement incorporated into the Contract.
- C. “Contractor” means the person, firm, corporation or other entity obligated to perform services for the Department under this Contract.
- D. “Department” means the Maryland Department of Natural Resources.

ARTICLE II - THE PARTIES

- A. Independent Contractor - The Contractor is not an employee of the Department but is an independent contractor. The Contractor shall be responsible for providing all supplies and materials necessary for performance of all work under the Contract, and for withholding any taxes and social security payments due in relation to the Contract. The Contractor is not an agent of the Department or the State of Maryland, and cannot commit the Department or the State to any expenditure of funds, or enter into any contractual obligation on behalf of the Department or the State.
- B. Contract Representatives - The Contractor’s Contract Representative identified in the Services Contract shall be deemed to have authority to render any decision or take any action required under the Contract. The Department’s Contract Representative identified in the Services Contract is the person to be contacted by

the Contractor for the purposes of communicating routine information, requesting assistance or making routine inquiries with respect to the Contract. Unless otherwise specified by law, regulation or this Contract, the Department's Procurement Officer is the only official authorized to enter into or administer the contract, to make determinations and findings with respect to the contract, to authorize changes to the Scope of Work, or to issue Stop Work Orders.

- C. Notices - Service of any notice required by the Contract shall be complete upon mailing of such notice, postage prepaid, to the appropriate contract representative at the address indicated in the Contract. If no contract representative is named, then the person executing the Contract for a party shall be the contract representative for purposes of notice.

ARTICLE III - PERFORMANCE

- A. Standard of Performance - The Contractor is responsible for the supervision and inspection of, and the technical accuracy and coordination of, all data and work pursuant to this Contract, and shall provide services and products meeting professional standards of quality and methodology.
- B. Delays and Extensions of Time - The Contractor agrees to prosecute all work under this Contract continuously and diligently and to meet all milestones contained in the Contract. The Contractor further agrees that no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not limited to, act of God, acts of the public enemy, act of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or its subcontractors or suppliers.

- C. Subletting or Assignment - The benefits and obligations hereunder shall inure to and be binding upon the parties hereto and their respective successors, provided that the personnel of any such successor, whether such successor be an individual, a partnership or a corporation, is acceptable to the Department. The Contractor shall not hire consultants, sublet, sell, transfer, assign or otherwise dispose of this Contract or any portion thereof, or of its right, title or interest therein, without prior written consent of the Department.

In the case of any subcontract, the Contractor agrees to bind the Subcontractor and every Subcontractor agrees to be bound by all terms of this Contract unless particular provisions are expressly waived in writing by the Department.

D. Variations in Estimated Quantities

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

- E. Changes - The Department, by written direction to the Contractor, may at any time make any change in the work within the general scope of the Contract. Within fifteen (15) days of receipt of a Notice of Change, the Contractor shall advise the Department of the effect, if any, such changes would have on budgeting, cost, delivery schedules, milestones or any other Contract provisions. If such effects are acceptable to the Department, the Department shall issue a Notice to Proceed With Changes, upon receipt of which the Contractor shall immediately institute all such requested changes. Such directed additions or changes to the Scope of Work shall become part of the contractual obligation.

If the contractor intends to assert a claim for an equitable adjustment, he shall, within 30 days after receipt of a written order above or the furnishing of written notice, submit to the Procurement Officer a written statement setting forth the general nature and monetary extent of such claim, unless this period is expressly extended by the Procurement Officer in writing.

Each contract modification or change order that affects the contract price shall be subject to the prior written approval of the Procurement Officer and other appropriate authorities and to prior certification of the appropriate fiscal authority of fund availability and the effect of the modification or change order on the project budget or the total cost.

- F. Suspension of Work - The Procurement Officer unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for a period of time as determined to be appropriate for the convenience of the State.

- G. Disputes - This Contract is 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 Contractor shall proceed diligently with the performance of the contract in accordance with the Procurement Officer's decision.

ARTICLE IV - PROPERTY

- A. Rights in Data, Public Disclosures - Unless otherwise specified by addendum to this Contract, the Contractor agrees that all reports, drawings, studies, specifications, estimates, maps and computations prepared by or for it under the terms of this Contract shall be delivered to and become and remains the property of the Department upon termination or completion of the work. The Department shall have the absolute right to duplicate and use, for any purpose whatsoever, all or any part of the technical data which are to be delivered under this Contract.

The Contractor shall notify the Department in advance of public disclosure of any information related to this Contract, unless such disclosure is compelled by legislative or judicial process. The Contractor shall in all cases submit to the Department three (3) copies of any scientific or technical paper, abstract, report or other vehicle pertaining in whole or in part to this Contract which the Contractor desires to publish, submit for publication, distribute or otherwise publicly disseminate. Such submission shall be made by the Contractor to the Department at least thirty (30) days prior to its planned initial public dissemination, disclosure, or submission for publication. The Contractor shall include in any such documents or vehicles of public disclosure a statement which acknowledges the Department, the specific programs therein, and the financial support provided by this Contract. Furthermore, upon receipt of a written request from the Department, the Contractor shall also provide a disclaimer stating that the contents of the aforesaid document or vehicle of public disclosure do not in any way reflect the views, opinions, or policies of the Department.

- B. Patents and Copyrights - The Contractor agrees that the State of Maryland shall become the sole owner of any U.S. or foreign patent either conceived or first actually reduced to practice in the course of performance under this Contract, or resulting from the scope of this Contract as delineated herein. The Contractor also agrees that the State of Maryland shall become the sole owner of any U.S. or foreign copyrights obtained on material conceived or first actually written in the course of performance under this Contract, or resulting from data or analysis conducted in relation thereto. The Contractor further agrees that it retains no ownership interest or rights in such patents or copyrights, and that it will faithfully and promptly execute and deliver any documents required to officially establish ownership of such in the name of the State of Maryland.

The Contractor shall have the duty to disclose to the Department any invention associated with or reduced to practice in the course of performance under this

Contract. Furthermore, the Contractor agrees that, if at any time during the course of performance of this Contract, it should become aware of a potential conflict between the rights of the State of Maryland under this Contract, and those of any other party or entity, as to ownership of any patent or copyright interests developing in relation to said performance, then the Department shall be immediately notified of such conflict.

In such a case, it is agreed and understood that the terms of this Contract may be adjusted to provide for an equitable relationship between monies expended hereunder in pursuit of such patent or copyright interests, and benefits to be obtained therefrom by the Department.

The Contractor assumes the risk that any materials, equipment, process, or other items required under the Contract or furnished by the Contractor are subject to any patent, copyright, trademark, trade secret or other property right of another. The Contractor shall pay for all royalties and license fees and shall obtain all necessary licenses or permits to permit use of any such item by the State. The Contractor shall defend all suits or claims of infringement of any patent, copyright, trademark, trade secret or other property right of another and shall save the State harmless from loss or expense on account thereof.

- C. Equipment - All non-expendable equipment, including equipment as defined in this Article, procured with funds from this Contract, shall be Department property and shall be used primarily for work under this Contract. Prior written approval of the Department shall be required for use of the equipment, on a non-interference basis, for other work of the Contractor. The Contractor shall use all effort to care for and maintain the equipment. Upon termination of this Contract, the Department shall determine what disposition shall be made of the equipment and shall so notify the Contractor within thirty (30) days. The Contractor shall report its acquisition of non-expendable equipment covered by this Contract to the Department annually. Non-expendable equipment is that which: 1) has a probable useful life in excess of one year beyond the date of acquisition, and 2) costs at least \$500, either as an individual piece or as a group of pieces intended to be used together.

All items of Equipment to be procured with funds from this Contract shall be itemized in the budget of this Contract. "Equipment" shall be defined as any item of equipment costing Two Thousand Dollars (\$2,000.00) or more. Unless itemized in the budget approved by the Department, purchase of each item of Equipment shall require prior written approval of the Department.

ARTICLE V - INDEMNIFICATION

- A. Maryland Saved Harmless - The Contractor is, to the fullest extent permitted by law, responsible for all damage to life and property due to its activities, or those of its agents, employees, or subcontractors, in connection with its performance

under this Contract, and is responsible for all work, both permanent and temporary, until all services under this Contract are declared accepted by the Department.

The Contractor shall, to the fullest extent permitted by law, indemnify and save harmless and defend the State of Maryland and all of its representatives from all suits, actions or claims of any character, brought on account of any injuries or damage sustained by any person or property in consequence of any work performed under this Contract, either by the Contractor or any subcontractor, or their employees, agents or representatives. This responsibility is not to be deemed as a waiver of any immunity which may exist in any action against the Department.

- B. Insurance - The Contractor shall at all times have and maintain insurance in accordance with Section 2.9 of RFP K00R0400172. Certificates of such insurance acknowledging the Hold Harmless Clause contained in this document shall be filed with the Department.

ARTICLE VI - WARRANTIES AND DISCLOSURES

- A. Contingent Fee Prohibition - The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the Contractor 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, bona fide salesperson, or commercial selling agency, any fee or other consideration contingent on the making of this agreement. The Contractor further agrees that for breach of this warranty, the Department shall have the right to terminate this Contract without liability or, in its discretion, to deduct from the Contract price or consideration the full amount of such fee or other consideration.
- B. Non-Hiring of Employees - No employee of the State of Maryland whose duties as such employee includes matters relating to or affecting the subject matter of this contract, shall, during the pendency and term of this contract and while so employed, become or be an employee of the contractor or any entity that is a subcontractor on this contract.
- C. Political Contributions - The Contractor shall comply with Article 33, §§14-101 - 14-104, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$100,000 or more, shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general

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

- D. Financial Disclosure - The Contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more, shall, within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.
- E. Nondiscrimination in Employment - The Contractor agrees: (1) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or physical or mental disability unrelated in nature and extent so as reasonably to preclude the performance of such employment; (2) to include a provision similar to that contained in subsection (1), above, in any subcontract except a subcontract for standard commercial supplies or raw materials; and (3) 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.

F. Compliance with Laws - The Contractor 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 Contract;
3. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; 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 Contract.

ARTICLE VII - ACCOUNTING

- A. Retention of Records - Audit - The Contractor shall retain and maintain all records and documents relating to this Contract 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.

The Department shall have the right, during usual business hours, to examine and audit pertinent records of the Contractor to verify invoices submitted pursuant to this Contract.

- B. Cost and Price Certification

By submitting cost or price information, the Contractor certifies that, to the best of its knowledge, the information submitted is accurate, complete, and current as of a mutually determined specified date prior to the conclusion of any price discussions or negotiations for:

1. A negotiated contract, if the total contract price is expected to exceed \$100,000, or a smaller amount set by the procurement officer; or
2. A change order or contract modification, expected to exceed \$100,000, or a smaller amount set by the procurement officer.

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

- C. Payment of State Obligations - Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the State's receipt of a proper invoice from the Contractor. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable, are prohibited.

ARTICLE VIII - DURATION

- A. Effective Date - It is understood and agreed by the parties hereto that this Contract and any modification thereof shall not become effective or enforceable until executed by the Department.
- B. Termination for Convenience - The performance of work under this contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State will determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this contract that the Contractor has incurred up to the date of termination and all reasonable costs associated with termination of the Contract. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A(2).
- C. Termination for Default - If the Contractor fails to fulfill its obligation under this contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State will pay the contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.
- D. Termination Upon Unlawful Acts - In the event that the Contractor, or any of its officers, partners, principals or employees, is convicted of a crime arising out of

or in connection with the procurement, performance, or payment of this Contract, the Contract shall, in the discretion of the Department, be terminated without liability. Such sanction shall be applicable, as appropriate and in the discretion of the Department, to any such conviction during, or after the expiration of, the term of the Contract.

- E. Multi-Year Restriction - If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available. The Contractor may not recover anticipatory profits or costs incurred after termination.

ARTICLE IX - LEGAL

- A. Pre-Existing Regulations - In accordance with the provisions of Section 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR Title 21) in effect on the date of execution of this Contract are applicable to this Contract.
- B. Severability - If any of these provisions shall contravene, or be invalid under, the laws of the particular state, county or jurisdiction where used, such contravention or invalidity shall not invalidate the whole agreement, but the Contract shall be construed as if not containing the particular provision or provisions held to be invalid in the particular state, county, or jurisdiction, and the rights and obligations of the parties shall be construed and enforced accordingly.
- C. Law Applicable - Unless otherwise authorized by the Board of Public Works, this Contract shall be governed by the laws of the State of Maryland, and the parties hereby expressly agree that the courts of the State of Maryland shall have exclusive jurisdiction to decide any question arising hereunder.

APPROVED as to form and legal sufficiency
Office of the Attorney General
Department of Natural Resources
January 2002

ATTACHMENT B - BID/PROPOSAL AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

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

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

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

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in §16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business’s contracting activities including obtaining or performing contracts with public bodies, has been

convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, §6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

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

- (1) Been convicted under state or federal statute of:
 - (a) a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
 - (b) fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property;
- (2) Been convicted of any criminal violation of a state or federal antitrust statute;
- (3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §1961, et seq., or the Mail Fraud Act, 18 U.S.C. §1341, et seq., for acts in connection with the submission of bids or proposals for a public or private contract;
- (4) Been convicted of a violation of the State Minority Business Enterprise Law, §14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (5) Been convicted of a violation of the §11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;

- (6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsection (1) through (5) above;
- (7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract; or
- (8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract; or
- (9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B — C and subsections (1) through (8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

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

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

- (1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to §16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and
- (2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

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

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

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

- (1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;
- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or Offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

I. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

J. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

K. DRUG AND ALCOHOL FREE WORKPLACE

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

I CERTIFY THAT:

- (1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.
- (2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:
 - (a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;
 - (b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;
 - (c) Prohibit its employees from working under the influence of drugs or alcohol;

- (d) Not hire or assign to work on the contract anyone whom the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;
- (e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;
- (f) Establish drug and alcohol abuse awareness programs to inform its employees about:
 - (i) The dangers of drug and alcohol abuse in the workplace;
 - (ii) The business' policy of maintaining a drug and alcohol free workplace;
 - (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;
- (g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §K(2)(b), above;
- (h) Notify its employees in the statement required by §K(2)(b), above, that as a condition of continued employment on the contract, the employee shall:
 - (i) Abide by the terms of the statement; and
 - (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;
- (i) Notify the procurement officer within 10 days after receiving notice under §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;
- (j) Within 30 days after receiving notice under §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:
 - (i) Take appropriate personnel action against an employee, up to and including termination; or

- (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and
- (k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §K(2)(a)—(j), above.
- (3) If the business is an individual, the individual shall certify and agree as set forth in §K(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.
- (4) I acknowledge and agree that:
 - (a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;
 - (b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and
 - (c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

L. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

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

Address: _____

(If not applicable, so state).

- (2) Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable,

and will have paid all withholding taxes due the State of Maryland prior to final settlement.

M. CONTINGENT FEES

I FURTHER AFFIRM THAT:

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

N. Repealed.

O. ACKNOWLEDGEMENT

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

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

Date: _____ By: _____

(Authorized Representative and Affiant)

ATTACHMENT C - CONTRACT AFFIDAVIT

CONTRACT AFFIDAVIT

Rev 11/06

COMAR 21.07.01.25

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the

(title)

and the duly authorized representative of

(business)

and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

B. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

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

Name: _____

Address: _____

(2) Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor Licensing and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

C. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

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

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

DATE: _____

BY: _____
(Signature)

(Authorized Representative and Affiant)

ATTACHMENT D - MINORITY BUSINESS ENTERPRISE PARTICIPATION

State of Maryland
DEPARTMENT OF NATURAL RESOURCES

PURPOSE

COMAR 21.11.03 Provide maximum contracting opportunities be extended to certified minority business enterprises, and establishes.

The Prime Contractor shall structure its procedures for the performance of the work required in this contract to attempt to achieve the Minority Business Enterprise (MBE) goal stated in the Invitation for Bids (IFB) or Request for Proposals (RFP). MBE performance must be in accordance with this Exhibit, as authorized by Minority Business Enterprise Policies as set forth by 21.11.03 of the Code of Maryland Regulations (COMAR). Accordingly, the Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this Exhibit.

To meet the goal using MBE subcontractors, all Prime Contractors must:

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

MBE GOALS AND SUB GOALS



An MBE subcontract **participation goal of 10%** percent of the total contract dollar amount has been established for this procurement. By submitting a response to this solicitation, the bidder or Offeror agrees that this dollar amount of the contract will be performed by certified minority business enterprises

OR



An overall MBE subcontract **participation goal of ___%** percent of the total contract dollar amount has been established for this procurement. This dollar amount includes:

- A sub-goal of ___ percent of the total contract dollar amount to be allocated to certified minority business enterprises classified as women-owned businesses.
- A sub-goal of ___ percent of the total contract dollar amount to be allocated to certified minority business enterprises classified as African American-owned businesses.

By submitting a response to this solicitation, the bidder or Offeror agrees that these dollar amounts of the contract will be performed by certified minority business enterprises as specified.

- ◆ A prime contractor — including an MBE prime contractor — must accomplish an amount of work not less than the MBE subcontract goal with certified MBE subcontractors. (COMARS 21.11.03.09B(2))

- ◆ A prime contractor comprising a joint venture that includes MBE partner(s) must accomplish the MBE subcontract goal with certified MBE subcontractors.

SOLICITATION AND CONTRACT FORMATION

- ◆ A bidder or Offeror must include with its bid or offer:
 - (1) A completed Certified MBE Utilization and Fair Solicitation Affidavit (Attachment D-1) whereby the bidder or Offeror acknowledges the certified MBE participation goal or requests a waiver, commits to make a good faith effort to achieve the goal, and affirms that MBE subcontractors were treated fairly in the solicitation process.
 - (2) A completed MBE Participation Schedule (Attachment D-2) whereby the bidder or Offeror responds to the expected degree of Minority Business Enterprise participation as stated in the solicitation, by identifying the specific commitment of certified Minority Business Enterprises at the time of submission. The bidder or Offeror shall specify the percentage of contract value associated with each MBE subcontractor identified on the MBE Participation Schedule.
 - a. **COMAR 21.11.03.09C(5). The failure of a bidder to complete and submit the MBE utilization affidavit and the MBE participation schedule shall result in a determination that the bid is not responsive.**
 - b. **COMAR 21.11.03.09C(6). The failure of an Offeror to complete and submit the MBE utilization affidavit and the MBE participation schedule shall result in a determination that the proposal is not susceptible of being selected for award.**
 - ◆ Within 10 working days from notification that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee must provide the following documentation to the Procurement Officer.
 - (1) Outreach Efforts Compliance Statement (Attachment D-3)
 - (2) Subcontractor Project Participation Statement (Attachment D-4)
 - (3) If the apparent awardee has requested a waiver (in whole or in part) of the overall MBE goal or of any sub-goal as part of the previously submitted Attachment D-1, it must submit documentation supporting the waiver request that complies with COMAR 21.11.03.11.
 - (4) Any other documentation required by the Procurement Officer to ascertain bidder or Offeror responsibility in connection with the certified MBE participation goal.
- NOTE: If the apparent awardee fails to return each completed document within the required time, the Procurement Officer may determine that the apparent awardee is not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.**

MBE REPORTING INSTRUCTIONS

Prime Contractor shall:

1. Submit by the 10th of each month to the Department a separate report for each (Attachment D-5) Subcontractor. The report shall lists:
 - a) all payments made to the MBE subcontractor during the previous 30 days
 - b) **any unpaid invoices over 30 days old received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made.**
2. Include in its written agreements with the MBE subcontractors as listed on the MBE Participation Schedule a requirement that those subcontractors submit monthly to the Department a report (**Attachment D-6**) that identifies the prime contract. The D-6 report shall lists:
 - a) all payments received from the Prime Contractor during the previous 30 days
 - b) any outstanding invoices to include number and date, and the invoice amount
3. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed. **Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.**
4. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. **Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the contract.**
5. At the option of the Procurement Agency, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

Attachments

- D-1 Certified MBE Utilization and Fair Solicitation Affidavit (must be submitted with bid or offer)
- D-2 MBE Participation Schedule (must be submitted with bid or offer)
- D-3 Outreach Efforts Compliance Statement (must be submitted within 10 working days of notification of apparent award or actual award, whichever is earlier)
- D-4 Subcontractor Project Participation Statement (must be submitted within 10 working days of notification of apparent award or actual award, whichever is earlier)
- D-5 Prime Contractor Paid/Unpaid MBE Invoice Report (must be submitted monthly by the Prime Contractor)
- D-6 Subcontractor Paid/Unpaid MBE Invoice Report (must be submitted monthly by the MBE subcontractor)

Attachment D-1
Certified MBE Utilization and Fair Solicitation
Affidavit

This document shall be included with the submittal of the bid or offer. If the bidder or Offeror fails to submit this form with the bid or offer, the Procurement Officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award. (COMAR 21.11.03.09C(5) and 21.11.03.09C(6))

In conjunction with the bid or offer submitted in response to Solicitation No. RFP-K00R0400172, I affirm the following:

1. I acknowledge the overall certified Minority Business Enterprise (MBE) **participation goal of 10%** percent and, if specified in the solicitation, sub-goals of 0 percent for MBEs classified as African American-owned and 0 percent for MBEs classified as women-owned. I have made a good faith effort to achieve this goal.

OR

After having made a good faith effort to achieve the MBE participation goal, I conclude I am unable to achieve it. Instead, I intend to achieve an MBE goal of ___% and request a waiver of the remainder of the goal. If I submit the apparent low bid or am selected as the apparent awardee (competitive sealed proposals), I will submit written waiver documentation that complies with COMAR 21.11.03.11 within 10 business days of receiving notification that our firm is the apparent low bidder or the apparent awardee.

2. I have identified the specific commitment of certified Minority Business Enterprises by completing and submitting an MBE Participation Schedule (Attachment D-2) with the bid or proposal.
3. I acknowledge that the MBE subcontractors/suppliers listed in the MBE Participation Schedule will be used to accomplish the percentage of MBE participation that I intend to achieve.
4. I understand that if I am notified that I am the apparent awardee, I must submit the following documentation within 10 working days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier.
 - (a) Outreach Efforts Compliance Statement (Attachment D-3)
 - (b) Subcontractor Project Participation Statement (Attachment D-4)
 - (c) MBE Waiver Documentation per COMAR 21.11.03.11 (if applicable)
 - (d) Any other documentation required by the Procurement Officer to ascertain bidder or Offeror responsibility in connection with the certified MBE participation goal.

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

voidable.

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

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

Bidder/Offeror Name

Signature of Affiant

Address

Printed Name, Title

Date

SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL

Attachment D-2
MBE Participation Schedule
(for submission with bid or proposal)

This document shall be included with the submittal of the bid or offer. If the bidder or Offeror fails to submit this form with the bid or offer, the procurement officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

Prime Contractor (Firm Name, Address, Phone)	Project Description
Project Number	
List Information For Each Certified MBE Subcontractor On This Project	
Minority Firm Name	MBE Certification Number
Work To Be Performed/NAICS	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/NAICS	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/NAICS	
Percentage of Total Contract	

USE ATTACHMENT D-2 CONTINUATION PAGE AS NEEDED

SUMMARY

TOTAL MBE PARTICIPATION:	%
TOTAL WOMAN-OWNED MBE PARTICIPATION:	%
TOTAL AFRICAN AMERICAN-OWNED MBE PARTICIPATION:	%

Document Prepared By: (please print or type)

Name: _____ Title: _____

ATTACHMENT D-2
 MBE Participation Schedule (continued)

List Information For Each Certified MBE Subcontractor On This Project	
Minority Firm Name	MBE Certification Number
Work To Be Performed/NAICS	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/NAICS	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/NAICS	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/NAICS	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/NAICS	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/NAICS	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/NAICS	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Work To Be Performed/NAICS	
Percentage of Total Contract	

Attachment D-3
Outreach Efforts Compliance
Statement

In conjunction with the bid or offer submitted in response to Solicitation No. RFP-K00R0400172, I state the following:

1. Bidder/ Offeror took the following efforts to identify subcontracting opportunities in these specific work categories:

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

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

4. Bidder/Offeror assisted MBEs to fulfill or to seek waiver of bonding requirements.
(DESCRIBE EFFORTS)

- This project does not involve bonding requirements.

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

Bidder/Offeror Name

By: _____
Name

Address

Title

Date

**ATTACHMENT D-4
Subcontractor Project Participation
Statement**

**Submit one form for each MBE
listed on the MBE Participation Schedule**

Provided that _____ is awarded the State contract in conjunction with
(Prime Contractor Name)
Solicitation No. RFP- K00R0400172, it and _____,
(Subcontractor Name)

MDOT Certification No. _____, intend to enter into a contract by which subcontractor shall:

(describe work) _____

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

By: _____

Prime Contractor Signature

Name

Title

Date

By: _____

Subcontractor Signature

Name

Title

Date

This form is to be completed monthly by the prime contractor.

ATTACHMENT D-5

**Maryland Department of Natural Resources
Minority Business Enterprise Participation
Prime Contractor Paid/Unpaid MBE Invoice Report**

Report #: _____	Contract #:
Reporting Period (Month/Year): _____	Contracting Unit:
Report is due by the 10th of the month following the month the services were provided.	Contract Amount:
	MBE Subcontract Amt:
	Project Begin Date:
	Project End Date:
	Services Provided:

Prime Contractor:		Contact Person:	
Address:			
City:		State:	ZIP:
Phone:	FAX:		
Subcontractor Name:		Contact Person:	
Phone:	FAX:		
Subcontractor Services Provided:			
List all payments made to MBE subcontractor named above during this reporting period:		List dates and amounts of any outstanding invoices:	
	<u>Invoice#</u>	<u>Amount</u>	
1.			1. <u>Invoice #</u>
2.			2. <u>Amount</u>
3.			3. <u>Amount</u>
Total Dollars Paid: \$ _____		Total Dollars Unpaid: \$ _____	

**If more than one MBE subcontractor is used for this contract, you must use separate D-5 forms.

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

MBE Officer Department of Natural Resources Procurement Unit 580 Taylor Ave, B-4 Annapolis, MD 21401
--

Signature: _____ Date: _____

This form is to be completed monthly by the subcontractor.

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

Report#: _____ Reporting Period (Month/Year): _____ Report is due by the 10th of the month following the month the services were performed.	Contract # _____ Contracting Unit: _____ MBE Subcontract Amount: _____ Project Begin Date: _____ Project End Date: _____ Services Provided: _____
--	--

MBE Subcontractor Name:																															
MDOT Certification #:																															
Contact Person:																															
Address:																															
City:	State: Maryland	ZIP:																													
Phone:	FAX:																														
Subcontractor Services Provided:																															
List all payments received from Prime Contractor during reporting period indicated above. <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:5%;"></th> <th style="width:40%; text-align: center;"><u>Invoice Amt</u></th> <th style="width:15%; text-align: center;"><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td>Total Dollars Paid: \$</td> <td colspan="2">_____</td> </tr> </tbody> </table>		<u>Invoice Amt</u>	<u>Date</u>	1.			2.			3.			Total Dollars Paid: \$	_____		List dates and amounts of any unpaid invoices over 30 days old. <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:5%;"></th> <th style="width:40%; text-align: center;"><u>Invoice Amt</u></th> <th style="width:15%; text-align: center;"><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td>Total Dollars Unpaid: \$</td> <td colspan="2">_____</td> </tr> </tbody> </table>		<u>Invoice Amt</u>	<u>Date</u>	1.			2.			3.			Total Dollars Unpaid: \$	_____	
	<u>Invoice Amt</u>	<u>Date</u>																													
1.																															
2.																															
3.																															
Total Dollars Paid: \$	_____																														
	<u>Invoice Amt</u>	<u>Date</u>																													
1.																															
2.																															
3.																															
Total Dollars Unpaid: \$	_____																														
Prime Contractor: _____ Contact Person _____																															

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

MBE Officer Department of Natural Resources Procurement Unit 580 Taylor Ave, B-4 Annapolis, MD 21401
--

Signature: _____ Date: _____

ATTACHMENT E - PRE-PROPOSAL CONFERENCE RESPONSE FORM

Project No. RFP-K00R0400172

Project Title: Technical Assistance - Biological Sciences

A Pre-proposal Conference will be held on March 18, 2010 at 2:00 PM local time at:

Department of Natural Resources
580 Taylor Avenue
Tawes State Office Building, Conference Room C-1
Annapolis, MD 21401

Directions to the Pre-proposal meeting site See information below.

Please e-mail, Fax or return this form by March 11, 2010, 2:00 PM advising whether or not you plan to attend this Conference.

E-mail or fax this form to the Procurement Officer:

Ms. Shiela Harrison
Office Phone: (410) 260-8500
Fax: (410) 260-8670
E-mail: sharrison@dnr.state.md.us

Please indicate:

_____ Yes, the following representatives will be in attendance. Include e-mail or phone in the event we need to tell you about a last minute change:

- 1.
- 2.
- 3.

_____ No, we will not be in attendance.

Company/Firm/Vendor Name

Telephone

Contact Name

Directions to Tawes State Office Building



Directions from the DC Metro Area:

Take Rt. 50 east towards Annapolis/Bay Bridge. Take exit 24 Rowe Blvd/Route 70 exit and follow Rowe Blvd. over a bridge until you reach your second light at the corner of Rowe and Taylor Ave. Make a right at the light. Parking is available on the right. Turn at the sign that reads "Gold Parking" if you plan on staying for more than a half hour, there is a \$4/day fee in the Gold Lot. If you are visiting for less time than 30 minutes then there is a parking area in front of the Tawes complex. Turn left at the DNR sign and then make the next right. **This is a short term parking area only and you will be towed if you are parked there longer than 30 minutes.**

Directions from Baltimore:

Take 97 Southbound and follow the signs to Rt. 50 east/Bay Bridge. Take exit 24 Rowe Blvd/Route 70 exit and follow Rowe Blvd. over a bridge until you reach your second light at the corner of Rowe and Taylor Ave. Make a right at the light. Turn at the sign that reads "Gold Parking" if you plan on staying for more than a half hour, there is a \$4/day fee in the Gold Lot. If you are visiting for less time than 30 minutes then there is a parking area in front of the Tawes complex. Turn left at the DNR sign and then make the next right. **This is a short term parking area only and you will be towed if you are parked there longer than 30 minutes.**

From the Eastern Shore of Maryland:

Take Rt. 50 west toward Washington. After passing over the Severn River Bridge take exit 24 Rowe Blvd/Route 70 exit and follow Rowe Blvd. over a bridge until you reach your second light at the corner of Rowe and Taylor Ave. Make a right at the light. Turn at the sign that reads "Gold Parking" if you plan on staying for more than a half hour, there is a \$4/day fee in the Gold Lot. If you are visiting for less time than 30 minutes then there is a parking area in front of the Tawes complex. Turn left at the DNR sign and then make the next right. **This is a short term parking area only and you will be towed if you are parked there longer than 30 minutes.**

ATTACHMENT F - FINANCIAL PROPOSAL INSTRUCTIONS AND FORM/AFFIDAVIT

ATTACHMENT F-1

Instructions

In order to assist Offerors in the preparation of their Financial Proposal and to comply with the requirements of this solicitation, instructions (Attachment F-1), an example (Attachment F-2), and the Financial Proposal Form/Affidavit (Attachment F-3) are enclosed.

Offerors shall submit a fully completed, signed and dated Attachment F-3 in accordance with this Request for Proposal, Section 3.5.

The Financial Proposal Form/Affidavit (Attachment F-3) must be signed and dated by an individual who is authorized to bind the Offeror to its financial offer.

The Total Evaluated Price on the Offeror's Attachment F-3, Financial Proposal Form/Affidavit, will be used to evaluate the Offeror's Financial Proposal. If selected for Contract award, the Offeror's proposed Labor Category Hourly Rates provided in Attachment F-3 will be the actual rates the State pays for services rendered by each Labor Category up to its Not to Exceed Labor Category Hourly Rate(s).

Every blank in the Financial Proposal Form/Affidavit (Attachment F-3), which consists of all non-shaded areas in the table, shall be filled in to be considered complete. The form shall not be altered.

Except as instructed, nothing shall be entered on Financial Proposal Form/Affidavit (Attachment F-3) that alters or proposes conditions or contingencies on the Offeror's financial offer.

All calculation results shall be rounded to the nearest cent (i.e. \$24.344 shall be entered as \$24.34 and \$24.345 shall be entered as \$24.35).

The Labor Category Hourly Rates proposed by the Offeror in the Financial Proposal Form/Affidavit (Attachment F-3) shall be fully-loaded rates.

Instructions for Filling Out Financial Proposal Form/Affidavit (Attachment F-3)

1. Complete all non-shaded sections of the Financial Proposal Form (Attachment F-3) in accordance with this Request for Proposal (RFP) and the Instructions above.
2. Based on the personnel classification requirements defined in Section 2.5.1.1 through Section 2.5.1.5 of this RFP, insert the Offeror's proposed Labor Category Hourly Rates in Column A (A1, A2, etc.) for each corresponding Labor Category (1 through 5).
3. Multiply each entry in Column A by the corresponding line item in Column B and then Column C (i.e., $A1 \times B1 \times C1$).
4. Enter the result in Column D (i.e., the total for line item D1 is a result of multiplying $A1 \times B1 \times C1$).
5. Add each line item in Column D (i.e. $D1 + D2 + D3 + D4 + D5$). Enter the result to 2 decimal places in line item 6 for the Offeror's Total Evaluated Price. This is the Total Evaluated Price that will be used to establish the financial ranking of each Offeror.
6. This price does not represent the total estimated annual authorization for the Contract. It is simply the Total Evaluated Price that will be utilized based on this model for the Offeror's financial offer.
7. Complete all other information on this form (i.e. Company Name, Printed Name and Title, etc.). The Financial Proposal Form/Affidavit must be signed by an individual who is authorized to bind the Offeror to its technical and financial offers.
8. Line item 7, Subject Matter Expert, represents a Not-to-Exceed (NTE) value of \$500.00/hour for the course of the Contract. The addition of Subject Matter Experts will be considered on a case by case basis and must be individually preapproved in writing by the State Contract Manager. Approved labor rates for Subject Matter Experts may be lower than or equal to, but cannot exceed, the NTE value of \$500.00/hour.

REMAINDER OF PAGE LEFT INTENTIONALLY BLANK

**ATTACHMENT F-2 – EXAMPLE FINANCIAL PROPOSAL
FORM/AFFIDAVIT**

for RFP- K00R0400172

By submitting a Technical Proposal and Financial Proposal (including this completed form), the undersigned hereby declares to have carefully examined all documents, attachments and reference materials described within the RFP and Contract document. The undersigned further proposes and agrees to furnish all services necessary for the performance of the above referenced Contract for PPRP in accordance with the RFP and all other documents referenced by the RFP including all attachments and Addenda issued by DNR. The Financial Proposal Form /Affidavit must be signed by an individual who is authorized to bind the Offeror to its technical and financial offer. All non-shaded areas of this table must be filled in. No exceptions are allowed to be noted in the Offeror’s Financial submission (see Section 3.5).

Labor Categories	A	B	C	D
	Fully-loaded Labor Category Hourly Rate (\$/hour)	Estimated Hours	Evaluation Factor	Total (\$) (Note 2)
1. Senior Manager	\$150.00/hr	1,000	0.36	\$54,000.00
2. Project Manager	\$100.00/hr	1,000	0.22	\$22,000.00
3. Senior Scientist	\$125.00/hr	1,000	0.29	\$36,250.00
4. Scientist	\$50.00/hr	1,000	0.10	\$5,000.00
5. Technician	\$20.00/hr	1,000	0.03	\$600.00
6. TOTAL EVALUATED PRICE (Note 3):				\$117,850.00
7. Subject Matter Expert (Note 1)	NTE \$500.00/hr			

Note 1: Line item 7, Subject Matter Expert, represents a Not-to-Exceed (NTE) value of \$500.00/hour during the course of the Contract. The addition of Subject Matter Experts will be considered on a case by case basis and must be individually preapproved by the State Contract Manager. Approved labor rates for Subject Matter Experts may be lower than or equal to, but cannot exceed, the NTE value of \$500.00/hour.

Note 2: The hours presented in Column B are used as a model only for evaluation purposes and do not represent an estimated amount of hours to be expended on the Contract.

Note 3: The Total Evaluated Price is used for evaluation purposes only and does not represent the total estimated amount to be awarded per the Contract, Article V, Compensation and Method of Payment. (See Attachment A.)

Note 4: The fully loaded Labor Category Hourly Rates are the NTE rates that the successful Offeror (as “Contractor”) will utilize during the course of the contract.

Authorized Signature

Company Name

Printed Name and Title

Company Address

Phone No. & Fax No.

Company Tax ID #

ATTACHMENT F-3 – FINANCIAL PROPOSAL FORM/AFFIDAVIT

for RFP-K00R0400172

By submitting a Technical Proposal and Financial Proposal (including this completed form), the undersigned hereby declares to have carefully examined all documents, attachments and reference materials described within the RFP and Contract document. The undersigned further proposes and agrees to furnish all services necessary for the performance of the above referenced Contract for PPRP in accordance with the RFP and all other documents referenced by the RFP including all attachments and Addenda issued by DNR. The Financial Proposal Form /Affidavit must be signed by an individual who is authorized to bind the Offeror to its technical and financial offer. All non-shaded areas of this table must be filled in. No exceptions are allowed to be noted in the Offeror’s Financial submission (see Section 3.5).

Labor Categories	A	B	C	D
	Fully-loaded Labor Category Hourly Rate (\$/hour)	Estimated Hours	Evaluation Factor	Total (\$) (Note 2)
1. Senior Manager		1,000	0.36	
2. Project Manager		1,000	0.22	
3. Senior Scientist		1,000	0.29	
4. Scientist		1,000	0.10	
5. Technician		1,000	0.03	
6. TOTAL EVALUATED PRICE (Note 3):				
7. Subject Matter Expert (Note 1)	NTE \$500.00/hr			

Note 1: Line item 7, Subject Matter Expert, represents a Not-to-Exceed (NTE) value of \$500.00/hour during the course of the Contract. The addition of Subject Matter Experts will be considered on a case by case basis and must be individually preapproved by the State Contract Manager. Approved labor rates for Subject Matter Experts may be lower than or equal to, but cannot exceed, the NTE value of \$500.00/hour.

Note 2: The hours presented in Column B are used as a model only for evaluation purposes and do not represent an estimated amount of hours to be expended on the Contract.

Note 3: The Total Evaluated Price is used for evaluation purposes only and does not represent the total estimated amount to be awarded per the Contract, Article V, Compensation and Method of Payment. (See Attachment A.)

Note 4: The fully loaded Labor Category Hourly Rates are the NTE rates that the successful Offeror (as “Contractor”) will utilize during the course of the contract.

Authorized Signature

Company Name

Printed Name and Title

Company Address

Phone No. & Fax No.

Company Tax ID #

ATTACHMENT G – Non-Disclosure Agreement

THIS AGREEMENT (“Agreement”) is made this ___ day of _____, 200__, by and between the State of Maryland (hereinafter referred to as "the State"), acting by and through its Maryland Department of Natural Resources (hereinafter referred to as the “Department”), and _____, a corporation with its principal business offices located at _____ (hereinafter referred to as “Offeror”).

RECITALS

WHEREAS, Offeror intends to submit a proposal in response to RFP-RFP- K00R0400172 for Technical Assistance Biological Sciences (the “RFP”) for the Department; and

WHEREAS, in order for the Offeror to submit such a proposal, it will be necessary for the State to provide the Offeror with access to certain confidential information (collectively, the “Confidential Information”).

NOW, THEREFORE, in consideration of being given access to the Confidential Information in connection with the Offeror’s proposal to the RFP (hereinafter referred to as the “Proposal”), and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties do hereby agree as follows:

1. Recitals. The Recitals are not merely prefatory but are an integral part hereof.
2. Offeror’s qualifications. Offeror represents and warrants that:
 - A. It is qualified to do business in the State and that it will take such actions, from time to time hereafter, as may be necessary to remain so qualified during the period covered by this Agreement;
 - B. It is not in arrears with respect to the payment of any monies due and owing the State, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the period covered by this Agreement;
 - C. It is in compliance with all federal, State and local laws, regulations, and ordinances applicable to its business and it is not aware of any actual or threatened actions, claims, suits, orders, or other matters that would prevent or limit its ability to satisfactorily and fully perform its obligations under this Agreement or under any subsequent agreement that it may enter into with the State in connection with its Proposal; and
 - D. It is the correctly named and identified entity that intends to submit the Proposal and it is not controlling, controlled by, or under common control with the entity that intends to submit the Proposal. If the Proposal will be submitted by a joint venture or any other group of separate business entities, each entity comprising such group has been clearly identified in and has executed this Agreement.

3. Term of Agreement. The term of this Agreement shall commence on the date it is fully signed by both parties and shall continue thereafter until the earlier to occur of: (i) five (5) years following the return of the Confidential Information in accordance with Section 6 of this Agreement; (ii) receipt of written notice given by the State to Offeror terminating this Agreement; or (iii) the date upon which the terms of this Agreement are expressly superseded by the confidentiality provisions of any subsequent agreement which the parties may enter into in connection with the Proposal. If all Confidential Information is not returned to the State in accordance with Section 6 of this Agreement, then this Agreement shall continue in full force and effect until such time as all Confidential Information is returned to the State and the State acknowledges its receipt in writing.
4. What constitutes “Confidential Information”. Confidential Information means any and all information provided by or made available by the State to Offeror in connection with the Proposal, regardless of the form, format, or media on or in which the Confidential Information is provided and regardless of whether any such Confidential Information is marked as such. Confidential Information includes, by way of example only, information that Offeror views, takes notes from, copies (if the State agrees in writing to permit copying), possesses or is otherwise provided access to and use of by the State for Offeror to prepare and submit its Proposal.
5. Use of Confidential Information. In consideration of the State’s allowing Offeror access to the Confidential Information:
 - A. Offeror hereby agrees to hold the Confidential Information in trust and in strictest confidence, and to take all measures necessary to prevent all or any portion of the Confidential Information from falling into the public domain or into the possession of persons not bound to maintain the confidentiality of the Confidential Information.
 - B. Offeror shall not, without the State’s prior written consent, copy, disclose, publish, release, transfer, disseminate, use, or allow access for any purpose or in any form, any Confidential Information provided by the State except for the sole and exclusive purpose of preparing its Proposal. Offeror shall limit access to Confidential Information to its employees and agents (“Offeror’s Personnel”) who have a demonstrable need to know such Confidential Information in order to prepare the Proposal and who have agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information. The names of Offeror’s Personnel are attached hereto and made a part hereof as Exhibit A. Each individual whose name appears on Exhibit A shall execute and date Exhibit A next to their name and by doing so agrees to be subject to the terms and conditions of this Agreement to the same extent as Offeror. If Offeror intends to disseminate any portion of the Confidential Information to non-employee agents who are assisting in the preparation of the Proposal or who will otherwise have a role in performing any aspect of the Proposal, Offeror shall first obtain the written consent of the State to any such dissemination. The State may grant, deny, or condition any such consent as it may deem appropriate in its sole and absolute subjective discretion.

6. Return of Confidential Information. Offeror shall return all Confidential Information to the Department within five (5) business days of the State's acceptance of Offeror's Proposal. If Offeror does not submit a Proposal, Offeror shall return the Confidential Information to the Department within 30 days of receiving the material. All Confidential Information returned to the State will be accompanied by the Certification that is attached hereto and made a part hereof as Exhibit B and shall be signed by an officer of Offeror authorized to bind the Offeror.
7. Liability for Confidential Information. Offeror acknowledges that any failure by Offeror or Offeror's Personnel to abide by the terms and conditions of use of the Confidential Information may cause irreparable harm to the State and that monetary damages may be inadequate to compensate the State for such breach. Accordingly, Offeror and each of Offeror's Personnel agree that the State may obtain an injunction to prevent the disclosure, copying or improper use of the Confidential Information. The Offeror and each of Offeror's Personnel consent to personal jurisdiction in the Maryland State Courts. The State's rights and remedies hereunder are cumulative and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and/or to seek damages from Offeror and/or each of Offeror's Personnel, as applicable, for a failure to comply with the requirements of this Agreement. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys' fees and disbursements) that are attributable, in whole or in part to any failure by Offeror or any of Offeror's Personnel to comply with the requirements of this Agreement, Offeror and such Offeror's Personnel shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and/or costs.
8. Unauthorized Use. Offeror shall promptly advise the State in writing if it learns of any unauthorized use, misappropriation, or disclosure of Confidential Information by any of Offeror's Personnel or Offeror's former Personnel. Offeror shall, at Offeror's expense, cooperate with the State in seeking injunctive or other equitable relief against any such person.
9. Governing law. This Agreement shall be governed by the laws of the State of Maryland.
10. False and fraudulent statements. Offeror acknowledges that pursuant to Section 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland a person may not willfully make a false or fraudulent statement or representation of a material fact in connection with a procurement contract. Persons making such statements are guilty of a felony and on conviction subject to a fine of not more than \$20,000 and/or imprisonment not exceeding 5 years or both. Offeror further acknowledges that this Agreement is a statement made in connection with a procurement contract.
11. Signing authority for Offeror. The individual signing below on behalf of Offeror warrants and represents that s/he is fully authorized to bind Offeror to the terms and

conditions specified in this Agreement. The individual signing below acknowledges that a breach of this warranty and representation may result in personal liability.

12. Other obligations. The parties further agree that, unless otherwise agreed in writing: (a) this Agreement sets forth the entire agreement and understanding between the parties with respect to the subject matter hereof, and none of the terms of this Agreement may be amended or modified except by a written instrument signed by both parties; (b) the State may waive any rights under this Agreement only by written waiver duly signed by the State, and no failure by the State to exercise or delay in exercising a right under this Agreement shall constitute a waiver of such right; (c) the rights and obligations of Offeror may not be assigned or delegated, by operation of law or otherwise, without the prior written consent of the State; (d) the State makes no representations or warranties as to the accuracy or completeness of any Confidential Information; (e) the invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement; (f) all notices under this Agreement must be in writing and shall be deemed to have been delivered to and received by a party, and will otherwise become effective, on the date of actual delivery thereof (by personal delivery, express delivery service or certified mail) to the Notice Address of such party set forth below; and (g) signatures exchanged by facsimile are effective for all purposes hereunder to the same extent as original signatures.

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

If to the State:
Department of Natural Resources
Power Plant Research Program
Tawes State Office Building
580 Taylor Avenue B-3
Annapolis, Maryland 21401
Attention: Sandra Patty

If to the Offeror: _____

IN WITNESS WHEREOF, the parties have, by their duly authorized representatives, executed this Agreement as of the day and year first above written.

STATE OF MARYLAND

OFFEROR

By: MARYLAND DEPARTMENT
OF NATURAL RESOURCES

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

**LIST OF OFFEROR'S EMPLOYEES AND AGENTS WHO WILL BE GIVEN ACCESS
TO THE CONFIDENTIAL INFORMATION**

Printed Name and Address of Individual/Agent	Employee (E) or Agent (A)	Signature	Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

EXHIBIT B

CERTIFICATION TO ACCOMPANY RETURN OF CONFIDENTIAL INFORMATION

I AFFIRM THAT:

To the best of my knowledge, information, and belief, and upon due inquiry, I hereby certify that: (i) all Confidential Information which is the subject matter of that certain Agreement by and between the State of Maryland and _____ (“Offeror”) dated _____, 20__ (“Agreement”) is attached hereto and is hereby returned to the State in accordance with the terms and conditions of the Agreement; and (ii) I am legally authorized to bind the Contractor to this affirmation.

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

DATE: _____

NAME OF OFFEROR: _____

BY: _____
(Signature)

TITLE: _____
(Authorized Representative and Affiant)

ATTACHMENT H - PROCUREMENT OFFICER'S CHECKLIST

RFP	Requirement	Y/N	Remarks
3.2	Was Vol I sealed separately from Vol II but submitted simultaneously?		
3.2	Was an electronic version submitted in MS Word format for Vol I enclosed in the original copy of the Tech Proposal?		
3.2	Was the electronic media labeled with the RFP title/number, Offeror name and Vol I?		
3.3	Were separate volumes labeled Vol I—Technical Proposal and Vol II—Financial Proposal, in sealed packages bearing RFP title & number, name/address of Offeror, and closing date/time on outside of the packages? Were tech proposal pages numbered consecutively?		
3.4.1	Was there a letter, which transmitted the technical proposal, acknowledged the receipt of addenda, and did an individual authorized to commit the Offeror to the services and requirements of the RFP sign the letter?		
3.4.2	Were an unbound original and eight (8) copies in the envelope containing the tech proposals? Were tech proposals organized and numbered to match numbering in RFP?		
3.4.2.1	Did the technical proposal begin with a title page bearing the name and address of the Offeror and the name and number of the RFP followed by a table of contents for the tech proposal? Was confidential info identified after title page?		
3.4.2.2	Is there a separate executive summary, which condenses and highlights the contents of the technical proposal?		
3.4.2.2	Does the executive summary identify any exceptions the Offeror has taken to the requirements of the RFP, the contract (Atch A) or any other attachments? And if not, does the Executive Summary so state?		
3.4.2.3	Did Offeror address applicable Scope of Work requirements in the RFP?		
3.4.2.4	Does Experience/Capabilities/Past Performance info include company description, recent exp., org chart, resumes, MD contract history, and 3 references?		
3.4.2.5-.7	Did the Offeror submit personnel info (team/resumes, conflict of interest affidavit, economic benefit factors, financial statements, and subcontractor info)?		
3.4.2.8	Did Offeror submit evidence of Insurance?		
3.4.2.9	Did the Offeror provide a completed Bid/Proposal Affidavit and MBE Forms D-1 and D-2? Were all the blocks filled in and were the Affidavits/Forms signed? Were MBEs MDOT certified and certification numbers on the D-2?		
3.4.2.10	Did Offeror submit evidence of Verification of Registration and Tax Payment?		
3.4.2.10	Did Offeror submit evidence of Living Wage requirement (Attachment I-1)?		

ATTACHMENT I – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS

Living Wage Requirements for Service Contracts

- A. This contract is subject to the Living Wage requirements under Title 18, State Finance and Procurement Article, Annotated Code of Maryland and the regulations proposed by the Commissioner of Labor and Industry. The Living Wage generally applies to a Contractor or Subcontractor who performs work on a State contract for services that is valued at \$100,000 or more. An employee is subject to the Living Wage if he/she is at least 18 years old or will turn 18 during the duration of the contract; works at least 13 consecutive weeks on the State Contract and spends at least one-half of the employee’s time during any work week on the State Contract.
- B. The Living Wage Law does not apply to:
- (1) A Contractor who:
 - (A) has a State contract for services valued at less than \$100,000, or
 - (B) employs 10 or fewer employees and has a State contract for services valued at less than \$500,000.
 - (2) A Subcontractor who:
 - (A) performs work on a State contract for services valued at less than \$100,000,
 - (B) employs 10 or fewer employees and performs work on a State contract for services valued at less than \$500,000, or
 - (C) performs work for a contractor not covered by the Living Wage Law as defined in B(1)(B) above, or B (3) or C below.
 - (3) Service contracts for the following:
 - (A) services with a Public Service Company;
 - (B) services with a nonprofit organization;
 - (C) services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement (“Unit”); or
 - (D) services between a Unit and a County or Baltimore City.

- C. If the Unit responsible for the State contract for services determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.
- D. A Contractor must not split or subdivide a State contract for services, pay an employee through a third party, or treat an employee as an independent contractor or assign work to employees to avoid the imposition of any of the requirements of Title 18, State Finance and Procurement, Annotated Code of Maryland.
- E. Each Contractor/Subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.
- F. The Commissioner of Labor and Industry shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's Website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.
- G. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of the health insurance premium, as provided in §18-103(c), State Finance and Procurement Article, Annotated Code of Maryland, shall not lower an employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of health insurance premium shall comply with any record reporting requirements established by the Commissioner of Labor and Industry.
- H. A Contractor/Subcontractor may reduce the wage rates paid under §18-103(a), State Finance and Procurement, Annotated Code of Maryland, by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland.
- I. Under Title 18, State and Finance Procurement Article, Annotated Code of Maryland, if the Commissioner determines that the Contractor/Subcontractor violated a provision of this title or regulations of the Commissioner, the

Contractor/Subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of \$20 per day for each employee paid less than the Living Wage.

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

**ATTACHMENT I-1 AFFIDAVIT, MARYLAND LIVING WAGE REQUIREMENT
Affidavit of Agreement**

Maryland Living Wage Requirements-Service Contracts

Contract No. _____

Name of Contractor _____

Address _____

City _____ State _____ Zip Code _____

If the Contract is Exempt from the Living Wage Law

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

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

If the Contract is a Living Wage Contract

- A. The Undersigned, being an authorized representative of the above named Contractor, hereby affirms our commitment to comply with Title 18, State Finance and Procurement Article, Annotated Code of Maryland and, if required, to submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Bidder/Offeror agrees to pay covered employees who are subject to living wage at least the living rate in effect at the time service is provided for hours spent on State contract activities, and to ensure that its Subcontractors who are not exempt also pay the required living wage rate to their covered employees who are subject to the living wage for hours spent on a State contract for services. The Contractor agrees to comply with, and ensure its Subcontractors comply with, the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate established by the Commissioner of Labor and Industry, automatically upon the effective date of the revised wage rate.

Affidavit of Agreement
Maryland Living Wage Requirements-Service Contracts

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

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

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

Name of Authorized Representative: _____

Signature of Authorized Representative

Date

Title

Witness Name (Typed or Printed)

Witness Signature

Date

ATTACHMENT J – CONFLICT OF INTEREST AFFIDAVIT/DISCLOSURE

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

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

C. The bidder or Offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.

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

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

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

Date: _____ By: _____

(Authorized Representative and Affiant)