



**MARYLAND STATE TREASURER'S OFFICE**

**LOUIS L. GOLDSTEIN TREASURY BUILDING  
80 CALVERT STREET, ROOM 109  
ANNAPOLIS, MARYLAND 21401**

**REQUEST FOR PROPOSALS (RFP) FOR  
STATEWIDE ALTERNATIVE BANKING SERVICES**

**RFP #SABS-01262024**

**ISSUE DATE: JANUARY 26, 2024**

**STO strongly encourages MBE participation in all its solicitations, especially when there is/are no stated goal(s). To the extent that MBEs employed in this industry are interested but are not fully qualified to respond, please contact the Procurement Officer listed on the Key Information Summary Sheet for further information.**

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

**VENDOR FEEDBACK FORM**

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

**Title: STATEWIDE ALTERNATIVE BANKING SERVICES – RFP #SABS-01262024**

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

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

REMARKS:

\_\_\_\_\_  
\_\_\_\_\_

Vendor Name: \_\_\_\_\_ Date: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_

Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

## KEY INFORMATION SUMMARY SHEET

<b>Request for Proposals</b>	Statewide Alternative Banking Services
<b>Solicitation Number:</b>	RFP #SABS-01262024
<b>RFP Issue Date:</b>	January 26, 2024
<b>RFP Issuing Office:</b>	Maryland State Treasurer’s Office (“STO” or the “Office”)
<b>Procurement Officer:</b>	Kris Chewlin Maryland State Treasurer’s Office 80 Calvert Street, Room 109 Annapolis, MD 21401
<b>e-mail:</b>	<a href="mailto:kchewlin@treasurer.state.md.us">kchewlin@treasurer.state.md.us</a>
<b>Office Phone:</b>	(410) 260-7428
<b>Proposals are to be sent to:</b>	eMMA Portal or via Trackable Mail or Hand Delivery
<b>Questions Due Date and Time</b>	February 15, 2024 at 2:00 PM EST Offerors are to submit questions to the Procurement Officer via email at: <a href="mailto:kchewlin@treasurer.state.md.us">kchewlin@treasurer.state.md.us</a>
<b>Proposal Due (Closing) Date and Time:</b>	March 7, 2024 at 2:00 PM EST Offerors are reminded that a completed Feedback Form is requested if a no-bid decision is made (see <b>page ii</b> ).
<b>Oral Presentations (for short-listed offerors)</b>	Week of March 18 <sup>th</sup> -21 <sup>st</sup> , 2024 at the STO’s location in Annapolis MD.
<b>MBE Subcontracting Goal:</b>	There are no MBE goals related to this RFP.
<b>VSBE Subcontracting Goal:</b>	There are no VSBE goals related to this RFP
<b>Contract Type:</b>	Fixed Fee; Fees will not be adjusted during the first three years of the initial five-year term of the Contract. Price adjustments will be permitted to reflect the Consumer Price Index (CPI) based on the end of the third year of the initial Contract period and upon subsequent renewal option periods.
<b>Contract Duration:</b>	Five (5) Year base period with two (2) two-year renewal option periods

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## 1 Minimum Qualifications

### 1.1 Offeror Minimum Qualifications

As part of the determination to be considered reasonably susceptible of being selected for award, the Offeror shall specifically and clearly state in its proposal that it meets the requirements in this section.

- 1.1.1 The Offeror is a financial institution as defined in Section 6-201(e) of the State Finance and Procurement Article of the Annotated Code of Maryland (Appendix 1).
- 1.1.2 The Offeror must be certified by or a member in compliance with the Federal Deposit Insurance Corporation (“FDIC”).
- 1.1.3 The Offeror shall maintain its KBRA rating or similar financial strength rating from a nationally recognized statistical rating organization of at least a “B-” or IDC Financial Publishing, Inc. numerical performance rating/grade of at least a “158” for the duration of this contract (and/or) effective services rendered by the State Treasurer’s Office (STO). Should the Offeror’s rating drop below a “B-” or “158”, the STO at their discretion, may dismiss the Offeror, require additional collateral of the Offeror, or take other actions to protect the funds and interest of the State of Maryland, as necessary.
- 1.1.4 The Offeror must have the ability to clear transactions or cash through all major book entry or electronic securities depositories, such as the DTC/ID system and the Federal Reserve System.
- 1.1.5 The Offeror must have a plan for business continuity and recovery as a result of a disaster, cyber security data breach, internal embezzlement, etc.
- 1.1.6 The Offeror shall provide collateral for accounts in accordance with the requirements set forth in §§ 6-202 (1-10 & 13), 6-209, and 6-222 of the State Finance and Procurement Article. (See Appendices 2, 3, and 4 respectively). Except as required or permitted under § 6-202 with respect to letters of credit provided as collateral, the collateral shall be on deposit in the name of the Treasurer, State of Maryland, either (a) with the Federal Reserve Bank of Boston or (b) at the sole discretion of the Treasurer, on deposit with an independent financial institution acceptable to the Treasurer or the Treasurer’s Designee.
- 1.1.7 The Offeror must be a member of the National Automated Clearing House Association (NACHA) and follow the rules outlined in the latest published ACH manual and process Electronic Funds Transfers (“EFTs”) in the manner prescribed by NACHA.
- 1.1.8 The Offeror must be audited annually by an independent certified public accounting firm and an unqualified opinion must be issued by the auditor in connection with the audit. Include Offeror’s most recent audited financial statements. One copy of the financial report with all attachments is to be included in original volume only.
- 1.1.9 Offeror call centers providing customer service, and brick and mortar financial institutions for service, as indicated in this RFP, must be located within the geographical boundaries of the United States.
- 1.1.10 The Offeror must provide customer support in English and Spanish languages.
- 1.1.11 The Offeror must provide Information Technology (IT) services for customers with non-visual access in accordance with the requirements set forth in §3.5-311 of the State Finance and Procurement Article. It is vital that the respective IT solution does not require or rely on partnered software (plugin or 'overlay') to make the original IT

solution accessible. This applies to products being built from the ground up, Commercial off-the-shelf (COTS), Modifiable off-the-shelf (MOTS), and Government off-the-shelf (GOTS).

- 1.1.12** The Offeror will immediately notify the STO of any overdraft in any account created pursuant to this RFP that has not been fully funded within one business day.
- 1.1.13** The Offeror must be willing to complete any reporting forms associated with or necessary for compliance for each respective agency's state programs.
- 1.1.14** The Offeror will provide banking solutions as described within this RFP for all State funds and will offer alternative solutions should there be more cost effective or efficient options available.
- 1.1.15** The Offeror is required to review, analyze and evaluate the specific banking requirements and operations of each applicable agency and provide a comprehensive banking plan of action to accommodate each agency's unique needs. The Offeror must present customized business documents to the agency, with a copy of such documents to the Contract Monitor, outlining the responsibilities of both Offeror and agency prior to initiating tailored banking services.

## 2 Contractor Requirements: Scope of Work

### 2.1 Summary Statement

The Maryland State Treasurer's Office (the "Office") is requesting proposals to provide banking services for State agencies with a need for alternative banking services to include depository, payment processing and disbursement of funds.

- 2.1.1 It is the State's intention to obtain goods and services, as specified in this RFP, from a Contract between one selected Offeror and the State.
- 2.1.2 The STO intends to make a single award as a result of this RFP. See **RFP Section 4.9 Award Basis** for more Contract award information.
- 2.1.3 An Offeror, either directly or through its subcontractor(s), must be able to provide all goods and services and meet all of the requirements requested in this solicitation and the successful Offeror (the Contractor) shall remain responsible for Contract performance regardless of subcontractor participation in the work.

### 2.2 Order of Precedence

The Contract between the parties will be embodied in the Contract documents which will consist of the following, listed in their order of precedence:

- 1) the executed Contract;
- 2) the RFP; and
- 3) the Offeror's proposal.

The Office will not accept any modifications to the order of precedence provision of this solicitation.

### 2.3 Banking Services Requirements

In its proposal, each Offeror must clearly state that it meets the following requirements. (There may be additional detail found in other areas of the RFP that provide explanations regarding the need for many of the numbered requirements below). By stating "YES", and providing brief supporting comments related to the requirement, the Offeror acknowledges that they meet each requirement.

- 1. **Deposit ticket processing**
- 2. **Deposit item processing**
- 3. **ACH incoming/outgoing**
- 4. **Account maintenance**
- 5. **Daily FTP items**
- 6. **Online Image files of paid checks**
- 7. **Online stop payment system**
- 8. **Online Balance reporting**
- 9. **Online Positive Pay**

10. Controlled Disbursement
11. Sweep Services
12. Intra-day balance reporting
13. Automated account reconciliation

All services noted shall be performed in accordance with standards established by the Comptroller of the Currency and the Federal Reserve System.

The State reserves the right to advertise the name and location of Offeror facilities in all areas of the State at its sole discretion.

Offeror is required to maintain a technological infrastructure capable of segregating all banking operations, data, processes, reporting, online portal/treasury website access, and agency user online access, ensuring distinct handling for each agency separately.

This separation mandate extends to all other agencies, banking services, banking contracts or banking-related data, regardless of the tax identification number that is used for each agency.

- 2.3.1 **Check Cashing** - The Offeror must cash for an individual, without fee, any State of Maryland check drawn against its financial institution at any one of its branches. Subsequently, the Offeror must agree to cash for an individual, without fee, any State of Maryland check drawn on any financial institution under the amount of \$2,000 signed by the Maryland State Treasurer. Reasonable identification may be required at the time of presentment.
- 2.3.2 **Investments** - The Offeror must propose a system for safe investing of daily balances in the accounts subject to this RFP. Investment Services must meet the criteria of the Maryland State Treasurer's Office Investment Policy. Offeror must work in tandem with the State's contracted custodian for safekeeping of funds. Any direct investment of State funds must meet the requirements of Section 6-222 of the State Finance and Procurement Article (**Appendix 4**). Applicable investment earnings must be deposited into the appropriate accounts monthly (ICS & CDARS products/services shall not be used).
- 2.3.3 **Vault Service (Agency Courier-Vault Off-Site Deposit Processing)**- The Offeror must provide Vault Off-Site Depository Services upon request for each Agency. The Offeror is responsible for accepting, reviewing, and processing agency deposits delivered by the designated courier accurately, as initiated and coordinated by the Agency. All deposits received from the Agency's designated courier must be processed and deposited on the same business day by the Offeror's Vault processing Unit.
  - a. The Offeror must provide the agency with confirmation via secured email, notifying the agency of each processed item(s)/sealed deposit bag(s) dropped off by the agency courier daily.
  - b. Item(s)/sealed deposit bag(s) dropped off by the agency designated courier that visibly appear to be tampered with or not sealed must be returned to the designated agency that initiated and coordinated the courier drop-off by the Offeror's Vault Unit.

- c. The Offeror must promptly notify and provide documentation to each designated agency of any errors in processing, calculation, or missing items caused by the Offeror's Vault Unit within 48 business hours after the item(s)/sealed deposit bag(s) was processed.
- d. The Offeror is required to maintain a running customer service log, in excel format separately for each agency, detailing issues resolved or pending further review or investigation and providing a case number. All customer service issues, deposit investigations, or deposit discrepancies must be reviewed, investigated, and resolved within 30 business days by the Offeror from the agency incident report date.
- e. The Offeror must select, set up, and designate the Vault location(s) to be utilized for processing, based on the closest proximity to the Agency Office or Satellite Office location. The Agency must be given the choice and option by the Offeror to select the Vault Unit location(s) they prefer for processing their agency - courier dropped off deposits.
- f. The Offeror must not impose restrictions or limitations on item(s)/sealed deposit bag(s) dropped off by Agency designated courier based on quantity, volume, amount, or size.

#### 2.3.4 **Reporting** -

- Each morning the Offeror must make available to the Applicable Agency the actual ledger balance in each account and any pending debit or credit items via an automated account monitoring system. The Offeror must also provide an intra-day automated account monitoring system for each account. In the event that the automated account monitoring system is not available, the Offeror must present the same information, at the same time, to the applicable agency by hard copy or email.
- The Offeror must provide the following daily reports:
  - a. A report indicating the beginning daily balance, appropriate payment activity and daily ending balance;
  - b. A daily bank statement which includes all paid items; and
  - c. A daily listing of each total of the following: 1) manually issued items; 2) stop payments issued; 3) stop payments removed; 4) void or cancelled checks; 5) checks paid on issued items; 6) any checks paid on non-issued items; and 7) closing balance in the account. This report should also detail the debit memos issued and any other transactions affecting the account.
  - d. A summary of the transactions noted above (1-7) by category of item noting the volume of each type of transaction and the total dollar value of those items;
  - e. A daily numeric listing of checks paid and checks outstanding noting the paid or issued date, the check number and amount.

- The Offeror must provide the following monthly reports:
  - a. On a monthly basis the Offeror must provide reports for the Agency accounts detailing the daily account balance, the amount invested, the daily investment rate, and the interest earned. These reports must be made available to the applicable agency by the tenth day of the subsequent month.
  - b. The Offeror must provide detailed reporting related to account balances and investment earnings for all accounts by the tenth day of the subsequent month.
  - c. The Offeror must provide a monthly report on the market value of collateral pledged that must equal at least the highest daily account balance, less the deposit insurance for account balances up to the maximum allowable by FDIC. This report must be made available to the applicable agency by the tenth day of the subsequent month, listing the highest daily balance for each account and an itemized listing of collateral (pledged). Examples of preferred report format are available upon request.
  - d. A full monthly reconciliation service report of all accounts to include at a minimum: the items reported as issued electronically, a file of outstanding items, canceled items, paid items, and serial numbers of rejected items. Each file entry shall indicate by item the payee's name, item amount, item issue date and the item paid date;
  - e. A monthly listing of each total of the following: 1) manually issued items; 2) stop payments issued; 3) stop payments removed; 4) voided or cancelled checks; 5) checks paid on issued items; 6) checks paid on non-issued items; and 7) closing balance in the account.

This report should also detail the debit memos issued and any other transactions affecting the account;
  - f. A summary of the transactions noted above (1-7) by category of item noting the volume of each type of transaction and the total dollar value of those items;
  - g. A monthly numeric listing of checks paid and checks outstanding noting the paid or issued date, the check number and amount.
- **Additionally, the Offeror must periodically render adhoc reports as necessary for investigative purposes or as deemed necessary by applicable agencies.**
- **Any fees associated with the use of the account monitoring system to satisfy the reporting requirements under this RFP must be included in the Offeror's proposal.**

**2.3.5 Account Contact** - The Offeror must identify the team that will be the State's principal contact within the Offeror's organization who will respond to all questions and inquiries concerning the operation of the accounts. This team should be knowledgeable of the account operations and capable of solving issues and resolving problems. The

individuals on this team must also have sufficient authority to solve routine problems and command the resources necessary to address complex issues.

- 2.3.6** **Forgery** - The Offeror is required to establish an automated process for the request and submission of check forgery/fraudulent affidavits by each agency. Additionally, by the 7th business day of the subsequent month, the Offeror must furnish a 'Custom Report' in excel or adobe pdf format to each agency separately, providing a status update on each affidavit pending investigation. This report on check forgery/fraudulent affidavits should encompass all pertinent details, including information on the forged checks, the banking institution that processed the fraudulent item, the most recent contact with said financial institution, and an update on the ongoing investigation.

The State will transmit any information concerning forged items immediately to the bank; however, after the bank has made a valid attempt to recover the funds paid as a result of a forgery, the State will hold the bank harmless up to the amount the item was originally cashed as long as the original item was a valid item issued by the State, and a valid stop payment had not been obtained on the item.

- 2.3.7** The Offeror must provide the State the ability to offset service charges by having residual collected balances accrue earnings credits. The decision to implement this option will be at the State's sole discretion. **NOTE: Please do NOT cite proposed earnings credit rates in this section. Proposed rates should be included in the Price Proposal section.**
- 2.3.8** **Next Business Day - Deposited Check and Negotiable Instruments Availability -** The Offeror must provide next business day availability/clearing for all checks and negotiable instruments deposited into each Agency designated account from the prior business day.
- 2.3.9** All checks and negotiable instruments deposited the prior business day must be made available/cleared to the agency for next business day operations, including withdrawals, transfers, investing, and other operational requirements.
- 2.3.10** The Offeror must offer fully collateralized Certificates of Deposit (CD) to interested agencies as a means of safekeeping of funds without cost or penalties for early withdrawal.
- 2.3.11** Offeror must have the ability to create, format, and electronically transmit images (front/back) of cleared paid checks daily in designated file formats and systems parameters outlined by STO Information Technology. Offeror will archive images for 7 years). Each image file should be named after the corresponding check number. Offeror shall provide an online treasury banking portal that will allow three Global Administrators with independent authority to approve, sign, grant, and make changes to sub-online users and will not require dual approval authority. Copies of archived images shall be made available to the Agency within 48 business hours.
- 2.3.12** The Offeror shall render timely, monthly invoices identifying the volume and charges per category for the previous month for each applicable agency; as indicated in the price proposal. Accounts shall not be auto debited for bank service fees at any time. Invoices shall be forwarded to the applicable agency at the designated address.
- 2.3.13** The Offeror must provide domestic and foreign wire transfer services, with an option for stand-alone wire templates.

- 2.3.14** The Offeror must offer customized Commercial Escrow Account setup with the following options:
- a. Master Account with Sub Escrow Accounts linked to the Master Account; and
  - b. Individual escrow accounts not connected to a Master Account.
- 2.3.15** The Offeror must accept and process foreign check items and deposit them into designated Agency accounts without requiring additional approval from State representatives.
- 2.3.16** The Offeror must provide Letters of Credit or Bank Credit Letter requests by the designated State Agency and must:
- a. Be issued to the applicable State Agency;
  - b. Be held in the name of the applicable State Agency; and
  - c. Be completed and issued by the Offeror within five (5) business days of request.
- 2.3.17** The Offeror must receive and process all types of standard deposit activity, including but not limited to pre-encoded check deposits as well as un-encoded check deposits, over-the-counter deposits, secure night-drop deposits, wire transfers, and ACH credits and debits. The accounts must be zero-balance accounts (ZBA), when applicable, with the ability to collect and provide availability of funds to overnight investment accounts (ICS and CDARS products/services shall not be used), designated State Agency Commercial Demand Deposit Accounts or to Commercial Money Market or Commercial Savings Accounts at the end of each business day.
- 2.3.18** Image cash letter deposits and pre-encoded check deposits will be presented daily to the Depository Account. The timing and location for receipt of these deposits as well as the availability schedule for deposited items must be included with the response. Copies of receipted deposit tickets must be provided to the applicable Agency electronically or via US Mail.
- 2.3.19** The Offeror shall promptly deliver Returned Deposited items to the applicable Agency.
- 2.3.20** The Offeror must agree to provide High-Volume check printing for use by the agencies which must meet the following requirements:
- a. High-Volume check printing must contain payee positive pay with review and confirmation of every check.
  - b. The Offeror must accept and process an electronic bank file transmittal with specified information included in each file.
  - c. The Offeror must agree to print checks within 48 business hours of requests.

- d. The Offeror must be equipped to pull, hold or void a single check or multiple checks via email or phone.
- f. The Offeror must provide options for mailing printed checks to include timing of mailings and service providers.
- g. The Offeror must be able to accommodate custom check printing for each agency that chooses to utilize the High-Volume check printing service.
- h. The Offeror must be equipped to issue checks in U.S. Dollars and distribute to foreign addresses.
- i. Expiration date of 180 days shall be reflected on the front of each check.
- j. The Offeror will distribute all returned checks back to the applicable agency, daily.

## 2.4 Security and Anti-Fraud Requirements

**2.4.1** Account Validation Services (AVS) - The Offeror **must** provide an automated account verification service to confirm account information in order to mitigate and reduce fraudulent account activity. AVS requirements are as such:

- a. The Offeror must provide a validation capability for 1) Account validity and 2) Account ownership for specified bank account information.
- b. The Offeror must provide the option to submit bank account information electronically and must work with the agency to customize upload formats and requirements as necessary.
- c. The Offeror must provide a confirmation receipt within 45 minutes of submission.
- d. The Offeror must provide reporting of validation decisions to fit the agency's needs.

The Offeror shall not rely on manual branch check verifications and may perform internal branch check verification in combination or in lieu of the following check security services.

**2.4.2** Payee Positive Pay – The Offeror must provide Payee Positive Pay service for all State Accounts to reduce and mitigate check fraud. Requirements are as such:

- a. All checks must be reviewed and electronically transmitted for further review by the applicable agency. Should the presented check not meet the accurate payee positive paycheck file information. The Offeror must allow a decision deadline of 3:30pm EST.
- b. The Agency shall compile and maintain a valid issued items file and shall transmit an updated file to the Offeror every business day. The Offer must review all incoming items presented against the issued file, and the Offeror shall electronically report suspect items presented for payment for payment acceptance or rejection.

- c. The Offeror must possess the systematic infrastructure and software capability to customize the payee positive pay return/reject decision names/parameters per the needs of the applicable agency.

**2.4.3** Check Presentment Controlled Disbursement – The Offeror must allow for in-branch check presentment as well as night drop deposits. The Offeror **must** provide check-controlled disbursement to analyze, examine and enhance cash management controls. Controlled Disbursement requirements are as such:

- a. The Offeror must manage two check total presentments each morning by an agreed upon time by the Agency and the Offeror.
- b. The check presentment totals must be sent via email twice daily to all applicable representatives of each designated agency.
- c. The Offeror must have the capability to execute controlled disbursement check clearing and electronic ACH credit and debits from the same Agency bank account or two or more separate agency bank accounts. The Offeror must have the ability to customize bank account setup for each agency.

**2.4.4** Image Cash Letter – The Offeror **may** use an image cash letter (ICL) to securely transmit daily collected deposit data image files for processing and credit to applicable agencies with next-day availability. Requirements for ICL are as such:

- a. The Offeror may use ICL as a secondary main depository depositing method with written approval by the STO to securely transmit daily files for processing.
- b. The Offeror must be able to execute the primary depositing method without reliance on ICL automated processes.
- c. The Offeror must fully test, provide a visual demo, and implement all technical requirements before any ICL implementation execution. This must be completely automated and independently executed by the Offeror and approved by the STO prior to implementation. The ICL file format may require customization by each applicable agency.
- d. ICL must be implemented and executed in accordance with Federal, State, and industry compliance regulations. (Check 21 Act)
- e. The Offeror is responsible for the inspection and verification of check scanners to ensure the check images are in high quality and high resolution and must make improvements to quality, as necessary.
- f. The Offeror must have the ability to generate a unique 10-digit deposit ticket number and auxiliary number that will be permanently encoded into the ICL file. This number will be posted on the State main depository bank BAI file for the STO to complete daily reconciliation. This must be completely automated and independently executed by the Offeror and approved by the STO prior to implementation. The ICL file format may require customization by each applicable agency.

**2.4.5** Prenote Verification – The Offeror must have the ability to initiate, send, receive, and execute bank prenote verification, including verification of the account name(s) and preferably account address. Prenote verification must accurately match and confirm the following information:

- a. Account Routing Number
- b. Bank Account Number

The Offeror must acknowledge, recognize, and implement alternative systems or methods that comply with Federal and State Holiday schedules. Unless specifically instructed by an Agency, there shall be no banking processes including internal branch check verification, payee positive pay, and bank file transmittals executed on recognized State Holidays. These bank operations will resume on the subsequent business day.

## 2.5 Disbursement Services

- 2.5.1 The Offeror should have a systematic infrastructure and current technological capability to receive and transmit agency-specific payment files to designated recipient banks electronically, processed through the automatic clearing house to credit each specified bank account.
  - a. This includes providing and sending confirmation bank file transmittals to each specific agency for all cleared debit/payment transactions, processed payments, electronic payments rejected or returned (ensuring required funds are credited back to each agency-specific account), as well as processing presentments and recording cleared automated and manually written checks issued by each specific agency, aligning with the outlined services within this contract.
- 2.5.2 The Offeror must have the technological infrastructure to receive and transmit bank files using all the referenced different platforms specific to each agency such as FTP, SFTP, HTTPS, APIs, or MFT externally to the Offerors online portal or treasury website.
- 2.5.3 Each Agency will outline their specific technical banking requirements for transmitting bank files, receiving bank files, and required custom data and the Offeror is responsible for implementation and execution.
- 2.5.4 Upon receipt of each bank file transmittal, the Offeror must confirm acceptance of the bank file within 30 minutes, validate the transmitted file within 2 hours, provide confirmation of the file successfully processed within 2hours and 30minutes. The Offeror must advise each agency of any corrupt, invalid or out-of-balance file within 45 minutes to allow sufficient time to re-create the file or correct control total entries in order to ensure that the transactions are made on schedule.

- 2.5.5** The Offeror must be able to accommodate the use of application programming interfaces (API) for use in exchange and validation of data.<sup>1</sup>
- 2.5.6** Offeror must automatically transmit and receive prior day transaction activities/daily processed items via BAI2 file format no later than 5:30 am to the designated file name, folder, systems, and platform outlined by each Agency IT Department. The Offeror must have the capability to change or alter bank file transmittal names per the request of each Agency.
- 2.5.7** Offeror must accept, receive, and transmit high-volume, high-capacity gigabyte bank file transmittals without any system limitations.
- 2.5.8** The Offeror will create, format, and electronically transmit clear paid check files daily in the designated file formats within system parameters outlined and instructed by each Agency. Offeror will retain transmitted bank files, BAI Files, Paid Check files, and other "bank reconciliations files designated by each Agency for up to two weeks after file posting date and, upon request by each Agency, the Offeror will make every attempt to resend the "requested bank file or reporting file by end of the business day but within 8 business hours at least.
- 2.5.9** The Offeror must have the ability to transmit and receive bank files within a Managed File Transfer (MFT) platform; accept, process, transmit, and confirm bank files with addendum records to financial institutions nationwide. Bank file transmittals will include addendum records ("advices") in the following formats, which must be transferred with the payment transactions to the receiving financial institution.
- a. CCD (Cash Concentration or Disbursement) CCD addenda are used for corporate payment sand include additional payment-related information such as invoice numbers or payment notes.
  - b. CTX (Corporate Trade Exchange): Like CCD, CTX addenda are used for corporate payments, allowing for more extensive remittance information to be included with the transaction.
  - c. PPD or PPD+ (Prearranged Payment and Deposit Entry): PPD addenda are commonly used for direct deposits, recurring payments, or other types of consumer payments, providing additional details related to the transaction.
  - d. BOC (Back Office Conversion): BOC addenda are used for converting paper checks received by a merchant or biller into ACH payments, providing related information about the original check.
  - e. ARC (Accounts Receivable Entry): ARC addenda are used for converting checks received via the mail into ACH transactions.
  - f. Service Message (SVC): SVC addenda are used to provide service-related messages or instructions regarding the ACH transaction.

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<sup>1</sup> An API, stands for application programming interface, is a set of protocols that enable different software components to communicate and transfer data. APIs work by sharing data between applications, systems, and devices. This happens through a request and response cycle. A user initiates a request for data by interacting with an application. The request is sent to the API, which retrieves the data and returns it to the user.

- g. Payment Related Information (PRD): PRD addenda are used to include additional information related to a payment, such as invoice numbers, payment details, or other pertinent information.
- h. WEB (Internet-Initiated Entries): WEB addenda are associated with consumer-initiated online payments, providing context or additional details related to these transactions.
- i. TEL (Telephone-Initiated Entries): TEL addenda are used for telephone-initiated payments, allowing additional information to accompany the transaction.
- j. Tax Payment (TXP) addendum is utilized within the ACH system to provide additional details and tax-related information along with the payment transaction. It specifically serves as a structured format for transmitting tax payment-related data.
- k. Tax Payment Plus (TXP+) addendum is an extension or an enhanced version of the TXP (Tax Payment) addendum used in the ACH system. It is specifically designed to provide even more comprehensive and detailed tax-related information along with the payment transaction.

**2.5.10** The Offeror must provide two senior technical representative contacts that each Agency IT Department can contact directly for technology, transmittal, testing, configuration issues, and new technology implementations.

- a. The Offeror's two senior technical representatives must possess the technical knowledge and scope to implement technology resolution, troubleshooting, testing, and configurations related to the bank file transmittals.
- b. The Offeror's two senior technical representatives will also create and submit any technology tickets for the offeror tracking purposes and coordinate meetings with the Offeror's other internal technology departments.

### **2.5.11 ACH Transactions**

- a. Online ACH Origination - International and Domestic

The Offeror is required to furnish an online website or treasury portal for use by all applicable State agencies facilitating the submission, processing, currency conversion, and transmission of ACH payments domestically and internationally. The system must possess the necessary capabilities to trace, research and initiate the reversal/recall of domestic and international ACH transactions within five (5) business days after the settlement date.

- b. All ACH failures/returns must be accessible through the Offeror's online platform/system by 6:00 a.m. Est local time on the subsequent business day after receiving the failure notification from the receiving bank. The Offeror is required to generate a distinct 'Custom Report' exclusively for ACH failures/returns for each Agency separately. This segregated 'Custom Report' should be readily available on the Offeror's online banking platform/system every business day.
  - Each Agency's online portal must possess the capability to search, view, print, and download/save all ACH failures/returns in Microsoft Excel and Adobe .pdf formats. Users should be able to search for ACH failed items by selecting an account number and return date within the Offeror's online portal/treasury website.

- The Offeror's acknowledgment of ACH failure/return notifications guarantees the return of ACH funds to the initiating agency's designated bank account.
- c. The Offeror is required to provide a wire transfer system accessible via the Offeror's online portal/treasury website for each agency separately. This system must facilitate the initiation and transfer of funds both domestically and internationally.
  - The online wire transfer system must include FX conversion rate functionality, enabling the conversion and calculation of USD currency to the designated foreign monetary rate, all within the Offeror's online portal/treasury website.
  - For Domestic wire transfers, the Offeror must allow submissions every business day until 4:30 pm. For Foreign wire transfers, submissions should be accepted until 4:00 pm each business day. All Domestic and Foreign wire transfer requests must be confirmed, processed, and settled within a guaranteed 30-minute window after submission.
  - Furthermore, the Offeror's online wire transfer system must possess systematic infrastructure and capabilities allowing real-time visibility for other agency specific users to identify which agency user submitted the wire transfer request and the agency user who approved it; all within the Offeror's online portal/treasury website.

#### **2.5.12 Stop Payments**

The Offeror must provide an online portal for agencies to use for the investigation of check status; this portal must provide the ability for State agencies to request stop payments for single or multiple checks in one sequence with confirmation of stops delivered to the applicable agency. Stop payments shall remain in effect for a period of (3) two years and may then be cancelled. These cancellations must be reported separately.

- a. All stop payments requested by 5:00 EST will be effective the same day. The Offeror must provide email confirmation and identifying numbers for all stop payments, daily.
- b. The Offeror must accept, receive, and process Stop Payment requests in the form of a bank file transmittal from each agency. The Offeror must also provide confirmation of the transmitted stop payment request via the bank file transmittal to each specific agency before the end of each submission business day.

#### **2.5.12 Stop Payment Custom Reporting**

- a. Automated Checks and original hand-written checks subject to stop payments placed manually or by online agency users must be distinctly marked on the Offeror's online banking platform/system and on bank statements with a clear 'stop payment' indicator. Stop payments should not be utilized to reduce the outstanding check totals.
- b. The Offeror must provide report verification of stop payments within 24 hours of a request and provide an identifying number for all stop payments placed.

## 2.6 Depository Services

### 2.6.1 Remote Depository Service/Desktop Deposit

The Offeror must provide industry standard deposit scanning devices for remote check deposits to be used for requests from each applicable State agency. The Offeror must provide device lease and purchase options, enabling agencies to select their preference.

- a. The Offeror must provide a minimum of two types of remote deposit devices: One designed for Single-check deposits and one for multiple-check depositing.
- b. Checks must be credited to an agency account for same-day processing, ensuring availability of funds for next business day if deposited by 5:00pm.
- c. Checks deposited via remote desktop must adhere to a daily deposit limit of up to \$2 million per user, per device.

### 2.6.2 Foreign/International Currency Check Deposit

The Offeror is required to collect, process, and deposit foreign/international checks. This includes receiving and accepting such checks through over-the-counter services, night drop, or mailing to designated retail branches. The Offeror must not require the presence of an agency account authorized signer or require wet signatures from account signers for the depositing of foreign/international checks.

### 2.6.3 Secure Retail Branch Night Drop

The Offeror is required to provide secure night drop depository services for each agency. These services will be available at each retail branch. Upon each agency's request, the Offeror shall set up and implement a secure night drop services within five (5) business days and will not restrict agency request for night drop key quantity.

Each agency can choose and designate multiple branch locations to access secure night drop services.

The Offeror must not restrict retail night drop services based on volume, quantity or dollar amount for any agency.

### **Background, Purpose and Goals – CSA**

The Annotated Code of Maryland, Family Law Article, Sections 10-106, 10-107 and 10-108 provide for the establishment of a CSA within the Department of Human Services ("DHS"). The child support program is State administered and operated locally with offices located in each of the 23 Maryland counties and Baltimore City. The child support program collects child support payments from non-custodial parents and distributes it to custodial parents. The centralization of disbursement of child support payments was implemented in April 1996.

Child support payments are remitted centrally to the front-end receipting vendor for the State and are deposited into a central depository account for CSA. Other funds deposited

into the account are from employers by electronic funds transfer (“EFT”), and federal and state tax intercept collections.

Effective November 1, 2002, the State implemented direct deposit and debit card services. In Fiscal Year 2023 (July 1, 2022 to June 30, 2023), the percentage of child support payments made by paper checks was approximately 14% of total payments, whereas 86% of payments were made by electronic payment processing.

In the Fiscal Year 2023, an estimated 2.0 million disbursements were made by CSA. These disbursements consisted of 135,000 checks printed at the STO; and 1.9 million electronic disbursements issued through the current financial institution.

In Federal Fiscal Year 2022 (October 1, 2021 to September 30, 2022), CSA collected and disbursed \$511 million in child support payments. Child support checks are printed by the STO are payable from a central disbursement account. The central office issues emergency checks manually from a manual checking account.

## 2.7 Banking Information - CSA

CSA provides a check file and a local ACH file to STO daily. The printed checks and all electronic payments are currently drawn against an account called the State of Maryland, Child Support Central Disbursement Account (the “Central Disbursement Account”). All money deposited into the State of Maryland Child Support Central Depository Account (the “Central Depository Account”) is swept into the Central Disbursement Account daily. CSA manages its operations by generating three daily electronic ACH files for disbursements. One file facilitates direct deposit transactions, the second file distributes EFT payments sent to other states for their Child Support Cases and the third file funds the Electronic Payment Cards utilized by a large percentage of Child Support customers. These files are generated between 8PM and midnight every business day. CSA will continue the current check printing process through STO’s Check Operations.

### 2.7.1 The Offeror must provide and execute the following for CSA:

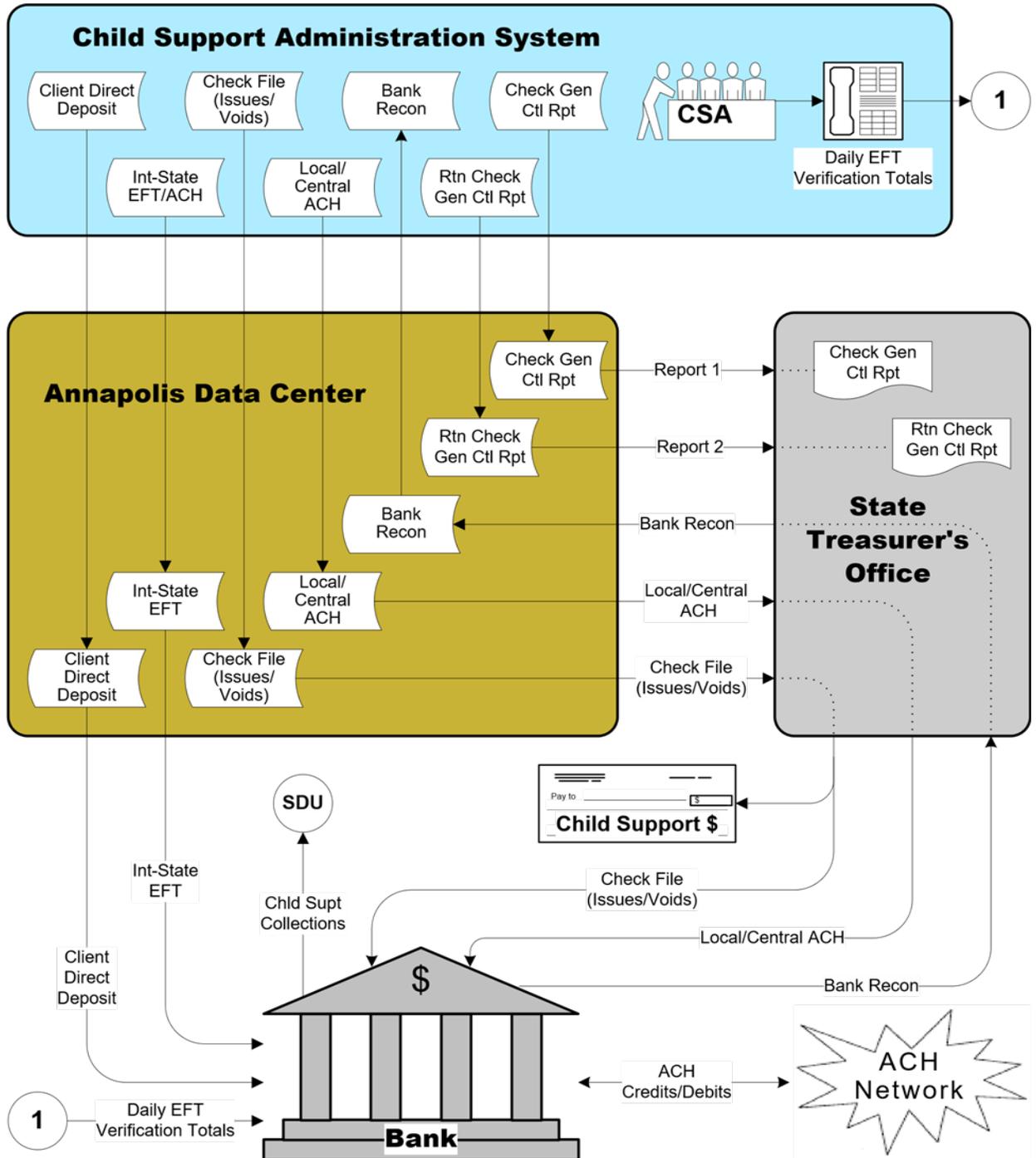
- a. Collection of funds, comprehensive clearing and reconciliation services for approximately 14,000 paper checks and 169,000 electronic payment transactions each month.
- b. Online daily reports and intraday reports covering all banking activities conducted by CSA.
- c. Detailed monthly reconciliation statements along with a comprehensive report detailing all outstanding issuances.
- d. Perform daily and monthly settlement reconciliation, specifically for the payee positive pay process.
- e. Provide monthly bank statements, reconciliation reports, and bank analysis statements electronically.
- f. Bank reports and requested ADHOC reports will be provided in designated formats with customized as necessary to meet the needs determined by CSA.

- 2.7.2** General Banking Services for CSA shall include:
- a. a central depository account for the collection of incoming child support;
  - b. a central disbursement account for child support payments;
  - c. a manual checking account;
  - d. processing of checks drawn for child support payments;
  - e. processing of child support payments by electronic funds transfer; and
  - f. all other banking and accounting functions necessary for payment transactions against these accounts.
- 2.7.3** Child support collections are processed for bank deposit by a State Disbursement Unit (SDU), the front-end receipting vendor for the State of Maryland.
- 2.7.4** Incoming payment files include employer payroll deductions, collections, unemployment intercepts from the Department of Labor, and direct pay transactions. These funds are remitted to the agency's bank via ACH.
- 2.7.5** Additional monies are collected via the State Tax Refund Intercept Program ("TRIP") and the Federal Treasury Offset Program ("TOP").
- 2.7.6** STO prints checks daily and sends a corresponding electronic file to the bank.
- 2.7.7** Offeror must agree that any material available to the public be approved by CSA prior to release.
- 2.7.8** Offeror must agree that the State of Maryland shall own the Uniform Resource Locator ("URL") for retrieving CSA's web address.
- 2.7.9** Establish three (3) bank accounts during the transition period, titled:
- State of Maryland, Child Support Central Disbursement Account,"
  - "State of Maryland, Child Support Central Depository Account", and
  - "State of Maryland CSA Manual Checking Account.
- Together referred to as "the Accounts".

The Offeror must accept all e-processing payments per NACHA guidelines including DED Child Support Addendum Records for Financial Institution Data Match payments.

### Overview of Banking Services - CSA

The below flowchart displays a general overview of CSA's interaction with STO and the current Contracted Bank.



The Offeror must implement and offer child support obligors the option to fulfill their child support obligations through major credit and/or debit cards. The implementation and execution of this payment method must adhere to and utilize the specified card processor with the State's Merchant Service Contract.

The Offeror must accept a credit card remit type and convert it accordingly in the daily payment file for submission to the State's automated credit card system. Fees and charges associated with credit/debit card processing are responsible for any fees assessed.

- 2.7.10** STO Information Technology will securely transmit/transfer the various bank file transmittals via a Managed File Transfer MFT system. Managed file transfer (MFT) is a technology platform that allows organizations to reliably exchange electronic data between systems and people in a secure way to meet compliance needs. These data movements can be both internal and external to an enterprise and include various types, including sensitive, compliance-protected or high-volume data. It can be offered as software or as a service and may include a single pane for visibility and governance. MFT is a more reliable and efficient means for secure data and file transfer, outpacing and outperforming applications such as file transfer protocol (FTP), hypertext transfer protocol (HTTP), secure file transfer protocol (SFTP) and other methods.
- 2.7.11** The Offeror must provide an electronic method or bank online portal for STO Information Technology personnel to enter and transmit ACH controls for bank files via the MFT platform.
- 2.7.12** Upon receipt of each bank file transmittal, the Offeror must confirm acceptance of the file within 30 minutes, validate the transmitted file within 2 hours, provide confirmation of the file successfully processed within 2h30m, and advise the State of a corrupt, invalid file or out-of-balance file within 45 minutes to provide sufficient time to permit the re-creation of the file, or correction of control total entries, to ensure that the transactions are made on schedule. Offeror must be able to accommodate the use of API's for use in exchange and validation of data. An API, stands for application programming interface, is a set of protocols that enable different software components to communicate and transfer data. APIs work by sharing data between applications, systems, and devices. This happens through a request and response cycle. A user initiates a request for data by interacting with an application. The request is sent to the API, which retrieves the data and returns it to the user.
- 2.7.13** The Offeror must provide two senior technical representative contacts that STO Information Technology can contact directly for technology, transmittal, testing, configuration issues, and new technology implementations. The Offeror's two senior technical representatives will possess the technical knowledge and scope to implement technology resolution, troubleshooting, testing, and configurations related to the bank file transmittals. The Offeror's two senior technical representatives will also create and submit any technology tickets for the offeror tracking purposes and coordinate meetings with the Offeror's other internal technology departments.
- 2.7.14** The Offeror must provide a disaster recovery plan that enables the Offeror to electronically receive and transmit banking files to STO Information Technology if the primary MFT platform is down. Offeror shall test with STO annually.

- 2.7.15 Offeror must automatically transmit and receive prior day transaction activities/daily processed items via BAI2 file format no later than 5 am to the designated file name, folder, systems, and platform outlined by STO Information Technology.
- 2.7.16 Offeror must possess the software and systems infrastructure to create interim day files, custom BAI reporting files, cleared check files, and ARP files and transmit the various requested files in the designated file formats outlined by STO Information Technology.
- 2.7.17 Offeror must accept, receive, and transmit high-volume, high-capacity gigabyte bank file transmittal without any systems limitations or overloading the Offeror systems.
- 2.7.18 Offeror will create, format, and electronically transmit cleared paid check files daily in designated file formats and systems parameters outlined by STO Information Technology.
- 2.7.19 Offeror shall provide STO Global Administrator with ability to approve implementation of technology changes or updates and will not require dual approval authority.
- 2.7.20 Offeror will retain transmitted bank files, BAI Files, Paid Check files, and other "bank reconciliations files designated by STO Information Technology for up to two weeks and, upon request by STO Information Technology, resend the "requested bank file or reporting file; Offeror will resend the "file" the same day before EOD.
- 2.7.21 The Offeror must and will transmit payment bank file transmittals with a Risk Threshold limit of \$3 billion per day without requiring additional risk review or executive senior management approvals.

## 2.8 STO/Agency Testing Environment:

- a. The Offeror must provide a separate, secure testing environment that mirrors production environment to conduct integration tests, validate file formats, bank file transmittals, and simulate file transfers without affective live operations.
- b. The Offeror must provide a set of test data that closely mirrors actual production data in structure, complexity, and volume. All PII shall be redacted but files should still retain the necessary characteristics for comprehensive testing.
- c. The Offeror is required to provide direct assistance to each state agency, offering demonstrations for the creation, composition, outlining, and testing of all agency-required or customized information. This includes, but is not limited to, file format specifications, ACH addendum preparation, encryption and security protocol implementation, transaction detail clarification, and comprehensive guidance on account information.
- d. The specific content within the bank file transmittal must be customized according to the unique business operation requirements of each agency.

## 2.9 Other Services for Consideration

Describe any other services beyond those requested in this RFP that the Offeror believes could offer additional benefits to the STO. Detailed descriptions of the services/processes should be provided in the submitted proposal. Any associated costs are to be stated in the Offeror's price proposal only.

## 2.10 Term

The term for the Contract for Statewide Alternative Banking Services shall be for a period of Five (5) years from the date of Contract execution. In addition, the Contract will also contain an option to renew, upon the same terms and conditions, for two (2) additional two-year options, which may be exercised at the sole discretion of the Treasurer or the Treasurer's designee.

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## 3 Contractor Requirements: General

### 3.1 Contract Initiation Requirements

Within ten (10) days of the start of the Contract, the State Project Manager, Procurement Officer, the Contractor, the Contractor's Project Manager and any other personnel deemed appropriate, shall attend a Kick-off meeting led by the State. The objectives of the meeting are to:

- a) Introduce the State representatives and establish the working relationship between the Contractor and the State;
- b) Provide the State the opportunity to familiarize the Contractor with State agency and STO Treasury Management processes and reports;
- c) Provide Contractor with all the information and materials relevant to the project;
- d) Communicate timeliness and known requirements relative to the transition plans;
- e) Discuss service delivery, invoice processing, monitoring; and
- f) Other Contract terms and conditions.

### 3.2 End of Contract Transition

At the end of the Contract term, the Contractor shall continue to perform any contract services that were in process on the expiration date of the Contract and shall receive the payment specified in the Contract for such services. The Contractor shall also assist the Office during any transition period to a new contractor and provide all necessary information and data to any subsequent contractor engaged to perform the services described in this RFP.

### 3.3 Invoicing

#### 3.3.1 General

- A. Each Agency will be responsible for the payment of their respective Banking Services.
- B. All invoices for services shall be sent to each Agency separately and shall be verified by the Contractor as accurate at the time of submission. There will be no automatic debits to any Agency accounts without prior approval from the STO.
- C. An invoice not satisfying the requirements of a Proper Invoice (as defined at COMAR 21.06.09.01 and .02) cannot be processed for payment. To be considered a Proper Invoice, invoices must include the following information, without error:
  - a) Contractor name and address;
  - b) Remittance address;
  - c) Federal taxpayer identification (FEIN) number, or social security number, as appropriate;
  - d) Invoice period (i.e. time period during which services covered by invoice were performed);
  - e) Invoice date;
  - f) Invoice number;
  - g) State assigned Contract number;

- h) Services provided;
  - i) Amount due; and
  - j) Any additional documentation required by regulation or the Contract.
- D. The State reserves the right to reduce or withhold Contract payment in the event the Contractor does not provide all required deliverables within the time frame specified in the Contract or otherwise breaches the terms and conditions of the Contract until such time as the Contractor brings itself into full compliance with the Contract.
- E. Any action on the part of the State or dispute of action by the Contractor, shall be in accordance with the provisions of Md. Code Ann., State Finance and Procurement Article §§ 15-215 through 15-223 and with COMAR 21.10.04.
- F. The State is generally exempt from federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. The Contractor, however, is not exempt from such sales and use taxes and may be liable for the same.
- G. Invoices for final payment shall be clearly marked as “FINAL” and submitted when all work requirements have been completed and no further charges are to be incurred under the Contract. In no event shall any invoice be submitted later than 60 calendar days from the Contract termination date.

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

- A. The amount invoiced is inconsistent with the Contract;
- B. The proper invoice has not been received by the party or office specified in the Contract;
- C. The invoice or performance is in dispute or the Contractor has failed to otherwise comply with the provisions of the Contract;
- D. The item or services have not been accepted.

**3.3.3 Travel Reimbursement**

Travel will not be reimbursed under this RFP.

**3.4 Disaster Recovery and Data**

The following requirements apply to the Contract:

**3.4.1 Redundancy, Data Backup and Disaster Recovery**

- 3.4.1.1 Unless specified otherwise in the RFP, Contractor shall maintain or cause to be maintained disaster avoidance procedures designed to safeguard State data and other confidential information, Contractor’s processing capability and the availability of hosted services, in each case throughout the Contract term. Any force majeure provisions of the Contract do not limit the Contractor’s obligations under this provision.

- 3.4.1.2 The Contractor shall have robust contingency and disaster recovery (DR) plans in place to ensure that the services provided under the Contract will be maintained in the event of disruption to the Contractor/subcontractor's operations (including, but not limited to, disruption to information technology systems), however caused.
- 3.4.1.3 Notify the appropriate State-identified contact immediately of an event.
- 3.4.1.4 The DR site shall be at least 100 miles from the primary operations site and have the capacity to take over complete production volume in case the primary site becomes unresponsive.

### **3.4.2 Data Ownership and Access**

- 3.4.2.1 Data, databases and derived data products created, collected, manipulated, or directly purchased as part of a RFP are the property of the State. The purchasing State agency is considered the custodian of the data and shall determine the use, access, distribution and other conditions based on appropriate State statutes and regulations.
  - 3.4.2.2 At no time shall any data or processes – that either belong to or are intended for the use of the State or its officers, agents or employees – be copied, disclosed or retained by the Contractor or any party related to the Contractor for subsequent use in any transaction that does not include the State.
  - 3.4.2.3 The Contractor shall not use any information collected in connection with the services furnished under the Contract for any purpose other than fulfilling such services.
- 3.4.3** Provisions in Sections 3.4.1-3.4.2 shall survive expiration or termination of the Contract. Additionally, the Contractor shall flow down the provisions of Sections 3.4.1-3.4.2 (or the substance thereof) in all subcontracts.

## **3.5 Insurance Requirements**

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

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

- 3.5.1.1 Commercial General Liability - of \$2,000,000 combined single limit per occurrence for bodily injury, property damage, and personal and advertising injury and \$5,000,000 annual aggregate. The minimum limits required herein may be satisfied through any combination of primary and umbrella/excess liability policies.
- 3.5.1.2 Errors and Omissions/Professional Liability - \$1,000,000 per combined single limit per claim and \$3,000,000 annual aggregate.
- 3.5.1.3 Crime Insurance/Employee Theft Insurance - to cover employee theft with a minimum single loss limit of \$1,000,000 per loss, and a minimum single loss

retention not to exceed \$10,000. The State of Maryland and the CSA should be added as a “loss payee.”

3.5.1.4 Cyber Security / Data Breach Insurance – (For any service provided by the Contractor) ten million dollars (\$10,000,000) per occurrence. The coverage must be valid at all locations where work is performed or data or other information concerning the State’s claimants or employers is processed or stored.

3.5.2 The State shall be listed as an additional insured on the faces of the certificates associated with the coverages listed above, including umbrella policies, excluding Workers’ Compensation Insurance and professional liability.

3.5.3 All insurance policies shall be endorsed to include a clause requiring the insurance carrier provide the Procurement Officer, by certified mail, not less than 30 days’ advance notice of any non-renewal, cancellation, or expiration. The Contractor shall notify the Procurement Officer in writing if policies are cancelled or not renewed within five (5) days of learning of such cancellation or nonrenewal. The Contractor shall provide evidence of replacement insurance coverage to the Procurement Officer at least 15 days prior to the expiration of the insurance policy then in effect.

3.5.4 Any insurance furnished as a condition of the Contract shall be issued by a company authorized to do business in the State.

3.5.5 The recommended awardee must provide current certificate(s) of insurance with the prescribed coverages, limits and requirements set forth in this section within five (5) Business Days from notice of recommended award. During the period of performance for multi-year contracts, the Contractor shall provide certificates of insurance annually, or as otherwise directed by the Contract Monitor.

3.5.6 Subcontractor Insurance - The Contractor shall require any subcontractors to obtain and maintain comparable levels of coverage and shall provide the Contract Monitor with the same documentation as is required of the Contractor.

### 3.6 Security Requirements

#### 3.6.1 Data Protection and Controls

Contractor shall ensure a secure environment for all State data and any hardware and software (including but not limited to servers, network and data components) provided or used in connection with the performance of the Contract and shall apply or cause application of appropriate controls so as to maintain such a secure environment (“Security Best Practices”). Such Security Best Practices shall comply with an accepted industry standard, such as the NIST cybersecurity framework, SOC, ISO 27001 and applicable Standards/Framework/Manuals such as the latest version of Maryland IT Security Manual.

- 1) Ensure that all State data is classified appropriately and implement appropriate protection mechanisms.
- 2) Ensure that State data is not comingled with non-State data through the proper application of compartmentalization Security Measures.
- 3) Apply data encryption to protect Sensitive Data at all times, including data in use, transit, at rest. Unless otherwise directed, the Contractor is responsible for the encryption of all Sensitive Data.

- 4) For all State data that the Contractor manages or controls in transit, data encryption shall be applied. Should data need to be transmitted over untrusted networks, the State shall be immediately informed, and the Contractor shall take heightened security precautions.
- 5) Enable appropriate login parameters to monitor user access activities, authorized and failed access attempts, system exceptions, and critical information security events as recommended by the operating system and application manufacturers and information security standards.
- 6) Ensure system and network environments are separated by properly configured and updated firewalls.
- 7) Ensure all applications that hold State data are controlled with Multi-factor Authentication (MFA). Restrict network connections between trusted and untrusted networks by physically or logically isolating systems from unsolicited and unauthenticated network traffic.
- 8) Ensure that all legacy applications that hold State data are isolated and not exposed to external environments.
- 9) Ensure that all applications/Operation Systems that hold State data are configured with Antivirus/Endpoint Protection mechanisms and regularly conduct Vulnerability Scans and Penetration Tests to identify and mitigate any open vulnerability.
- 10) Ensure State data is not processed, transferred, or stored outside of the United States ("U.S."). The Contractor shall provide its services to the State and the State's end users solely from data centers in the U.S. Unless granted an exception in writing by the State, the Contractor shall not allow Contractor Personnel to store State data on portable devices, including personal computers (BYOD), except for devices that are used and kept only at its U.S. data centers. The Contractor shall permit its Contractor Personnel to access State data remotely only as required to provide technical support.

### **3.6.2 Security Incident Response**

The Contractor shall comply with all applicable laws that require the notification of individuals in the event of unauthorized release of State data or other event requiring notification, and, where notification is required, assume responsibility for informing all such individuals in accordance with applicable law and to indemnify and hold harmless the State and its officials and employees from and against any claims, damages, and actions related to the event requiring notification.

### **3.6.3 Data Breach Responsibilities**

- A. If the Contractor reasonably believes or has actual knowledge of a Data Breach, the Contractor shall, unless otherwise directed:
  - 1) Notify the appropriate State-identified contact immediately of an event;
  - 2) Cooperate with the State to investigate and resolve the data breach;
  - 3) Promptly implement commercially reasonable remedial measures to remedy/contain the Data Breach; and
  - 4) Document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services.
- B. If a Data Breach is a direct result of the Contractor's breach of its Contract obligation to encrypt State data or otherwise prevent its release, the Contractor

shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifications to individuals, regulators or others required by State law; (3) a credit monitoring service required by State or federal law; (4) a website or a toll-free number and call center for affected individuals required by State law; and (5) complete all corrective actions as reasonably determined by Contractor based on root cause.

- 3.6.4 The State shall, at its discretion, have the right to review and assess the Contractor's compliance to the security requirements and standards defined in the Contract (right to audit).**

### **3.7 SOC 2 Type 2 Audit Report**

- 3.7.1** A SOC 2 Type 2 Audit applies to the Contract. The applicable trust services criteria are: Security, Availability, Processing Integrity, Confidentiality, or Privacy as defined in the Guidance document identified in Section 3.7.2.

- 3.7.2** In the event the Contractor provides services for identified critical functions, handles Sensitive Data, or hosts any related implemented system for the State under the Contract, the Contractor shall have an annual audit performed by an independent audit firm of the Contractor's handling of Sensitive Data or the State's critical functions. Critical functions are identified as all aspects and functionality of the Solution including any add-on modules and shall address all areas relating to Information Technology security and operational processes. These services provided by the Contractor that shall be covered by the audit will collectively be referred to as the "Information Functions and Processes." Such audits shall be performed in accordance with audit guidance: Reporting on an Examination of Controls at a Service Organization Relevant to Security, Availability, Processing Integrity, Confidentiality, or Privacy (SOC 2) as published by the American Institute of Certified Public Accountants (AICPA) and as updated from time to time, or according to the most current audit guidance promulgated by the AICPA or similarly-recognized professional organization, as agreed to by the STO to assess the security of outsourced client functions or data (collectively, the "Guidance") as follows:

- A. The type of audit to be performed in accordance with the Guidance is a SOC 2 Type 2 Audit (referred to as the "SOC 2 Audit" or "SOC 2 Report"). All SOC2 Audit Reports shall be submitted to the Contract Monitor. The Contractor shall ensure the audit includes all such subcontractors operating in performance of the Contract.
- B. All SOC 2 Audits, including those of the Contractor, shall be performed at no additional expense to the State.
- C. If the Contractor currently has an annual, independent information security assessment performed that includes the operations, systems, and repositories of the Information Functions and Processes being provided to the STO under the Contract, and if that assessment generally conforms to the content and objective of the Guidance, the STO will determine in consultation with appropriate State government technology and audit authorities whether the Contractor's current information security assessments are acceptable in lieu of the SOC 2 Report(s).
- D. The Contractor shall provide annually at no cost to the Contract Officer, evidence of compliant and ongoing internal control of sensitive data and processes through a standard methodology, such as but without limitation the American Institute of

Certified Public Accountant (AICPA) Service Organization Control (SOC) Reports. The scope of the audit shall cover a one (1) year period. The evidence of compliance shall be contained in a report describing the effectiveness of the Contractor's internal controls.

- E. If deficiencies in the Contractor's internal control processes and procedures are described in the most recent version of the report, the Contractor shall automatically submit the report to the Contract Officer within a timely manner and shall describe the corrective actions to be put into place by the Contractor to remedy the deficiencies. Failure to report and/or repair deficiencies in a timely manner shall be cause for the STO to make a determination of breach of contract.

### **3.8 Experience and Personnel**

#### **3.8.1 Key Personnel**

Please identify the Key Personnel identified for the Contract. The following applies:

- A. Key Personnel shall be available to perform Contract requirements. Unless explicitly authorized by the Contract Monitor or specified in the Contract, Key Personnel shall be assigned to the State of Maryland as a dedicated resource.
- B. Key Personnel shall perform continuously for the duration of the Contract, or such lesser duration as specified in the Technical Proposal. The Offeror must notify the State of any changes in personnel.
- C. The Offeror must provide two Customer Service Representatives dedicated to this Contract who can assist agency personnel with account management and offer aide when problems occur.
- D. Please describe what type of background investigations are performed prior to onboarding of new employees that are considered a dedicated resource.

### **3.9 Substitution of Personnel**

The following provisions apply to Contractor Personnel substitutions.

- A. The Contractor shall demonstrate to the Contract Monitor's satisfaction that the proposed substitute has qualifications at least equal to those of the Contractor Personnel proposed to be replaced.
- B. Upon request by the Contract Monitor, the Contractor shall provide a substitution request that shall include:
  - 1) The official resume of the current personnel.
  - 2) Evidence of any required credentials.
  - 3) Additional information concerning the proposed substitution.

## 4 Procurement Instructions

### 4.1 Pre-Proposal Conference

A Pre-Proposal Conference will not be held.

### 4.2 eMaryland Marketplace Advantage (eMMA)

4.2.1 eMMA is the electronic commerce system for the State of Maryland. The RFP, Offerors' questions and the Procurement Officer's responses, addenda, and other solicitation-related information will be made available via eMMA.

4.2.2 In order to receive a contract award, a vendor must be registered on eMMA. Registration is free. Go to [emma.maryland.gov](http://emma.maryland.gov), click on "New Vendor? Register Now" to begin the process, and then follow the prompts.

### 4.3 Questions

4.3.1 All questions shall be identified by the Title: QUESTIONS - RFP #SABS-01262024 – Statewide Alternative Banking Services and shall be submitted in writing via e-mail to the Procurement Officer at [kchewlin@treasurer.state.md.us](mailto:kchewlin@treasurer.state.md.us) no later than the date and time specified on the Key Information Summary Sheet. PLEASE IDENTIFY THE PARTICULAR RFP SECTION AND RFP PAGE NUMBER IN THE QUESTION (if applicable).

4.3.2 Answers to all questions that are not clearly specific to only the requestor will be distributed via the same mechanism as for RFP amendments and posted on eMMA.

### 4.4 Procurement Method

A Contract will be awarded in accordance with the Competitive Sealed Proposals method under COMAR 21.05.03.

### 4.5 Proposal Due (Closing) Date and Time

4.5.1 Proposals must be received by the Procurement Officer no later than the Proposal due date and time indicated on the Key Information Summary Sheet in order to be considered.

4.5.2 Requests for extension of this date or time shall not be granted.

4.5.3 Offerors submitting Proposals should allow sufficient delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02.F and 21.05.02.10, Proposals received after the due date and time listed in the Key Information Summary Sheet will not be considered.

4.5.4 Proposals may be modified or withdrawn by written notice received by the Procurement Officer before the time and date set forth in the Key Information Summary Sheet for receipt of Proposals.

4.5.5 Proposals may not be submitted by e-mail or facsimile. Proposals will not be opened publicly.

4.5.6 Potential Offerors not responding to this solicitation are requested to submit the "Notice to Vendors" form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements).

## 4.6 Multiple or Alternate Proposals

Multiple Proposals or alternative proposals will not accepted for this solicitation.

## 4.7 Economy of Preparation

Offerors should prepare proposals simply and economically, providing a straightforward, concise description of the Offeror's proposal for meeting the requirements of this procurement.

## 4.8 Public Information Act Notice

**4.8.1** The Offeror should give specific attention to the clear identification of those portions of its Proposal that it considers confidential and/or proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Md. Code Ann., General Provisions Article, Title 4 (See also RFP Section 5.3.1.2 "Claim of Confidentiality"). This information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical Proposal and if applicable, separately in the Financial Proposal.

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

## 4.9 Award Basis

A Contract shall be awarded to the responsible Offeror(s) submitting the Proposal that has been determined to be the most advantageous to the State, considering evaluation factors and price set forth in this RFP (see COMAR 21.05.03.03F), for providing the goods and services as specified in this RFP. See **RFP Section 6** for further award information.

## 4.10 Oral Presentation

In support of their proposals, Offerors may be required to make an oral presentation, or conduct a demonstration, or both, not more than two calendar weeks after the STO has requested an Offeror to do so. Failure to be prepared to make an oral presentation or conduct a demonstration within this time period may prevent the Offeror's proposal from receiving further consideration. All written representations will become part of the Offeror's proposal and are binding if the Contract is awarded to the Offeror.

## 4.11 Duration of Proposal

Proposals submitted in response to this solicitation are irrevocable for **180** days following the later of the proposal due date or the date the Procurement Officer receives final best and final offers, if any. At the request of the Procurement Officer, the Offeror may agree in writing to extend this period.

## 4.12 Revisions to the RFP

**4.12.1** If the RFP is revised before the due date for Proposals, the STO shall post any addenda to the RFP on eMMA and shall endeavor to provide such addenda to all prospective Offerors that were sent this RFP or are otherwise known by the Procurement Officer to have obtained this RFP. It remains the responsibility of all prospective Offerors to check eMMA for any addenda issued prior to the submission of Proposals.

- 4.12.2 Acknowledgment of the receipt of all addenda to this RFP issued before the Proposal due date shall be included in the Transmittal Letter accompanying the Offeror's Technical Proposal.
- 4.12.3 Addenda made after the due date for Proposals will be sent only to those Offerors that remain under award consideration as of the issuance date of the addenda.
- 4.12.4 Acknowledgement of the receipt of addenda to the RFP issued after the Proposal due date shall be in the manner specified in the addendum notice.
- 4.12.5 Failure to acknowledge receipt of an addendum does not relieve the Offeror from complying with the terms, additions, deletions, or corrections set forth in the addendum, and may cause the Proposal to be deemed not reasonably susceptible of being selected for award.

#### 4.13 Cancellations

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

#### 4.14 Incurred Expenses

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

#### 4.15 Protest/Disputes

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

#### 4.16 Offeror Responsibilities

- 4.16.1 Offerors must be able to provide all goods and services and meet all of the requirements requested in this solicitation and the successful Offeror shall be responsible for Contract performance including any subcontractor participation.
- 4.16.2 All subcontractors, if applicable, shall be identified and a complete description of their role relative to the Proposal shall be included in the Offeror's Proposal.

#### 4.17 Acceptance of Terms and Conditions

By submitting a Proposal in response to this RFP, the Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached hereto as **Attachment E**. Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary Technical Proposal. All exceptions will be taken into consideration when evaluating the Offeror's Proposal. The STO reserves the right to accept or reject any exceptions.

#### **4.18 Proposal Affidavit**

All proposals submitted by an Offeror must be accompanied by a completed Bid/Proposal Affidavit. A copy of this Affidavit is included as **Attachment B** to this RFP.

#### **4.19 Contract Affidavit**

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete a Contract Affidavit. A copy of this Affidavit is included for informational purposes as **Attachment H** of this RFP. For purposes of completing Section “B” of this Affidavit (Certification of Registration or Qualification with the State Department of Assessments and Taxation), a business entity that is organized outside of the State of Maryland is considered a “foreign” business.

#### **4.20 Compliance with Laws/Arrearages**

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

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

#### **4.21 Verification of Registration and Tax Payment**

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

In the case that the Offeror is partnered with a financial institution, both the contractor and the financial institution must be registered with SDAT. It is strongly recommended that any potential Offeror complete registration prior to the Proposal due date and time. The Offeror’s failure to complete registration with SDAT may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

#### **4.22 False Statements**

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

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

#### 4.23 Payments by Electronic Funds Transfer

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

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

#### 4.24 Electronic Procurements Authorized

- 4.24.1 Under COMAR 21.03.05, unless otherwise prohibited by law, the STO may conduct procurement transactions by electronic means, including the solicitation, proposing, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.
- 4.24.2 Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or Contract. In the case of electronic transactions authorized by this RFP, electronic records and signatures by an authorized representative satisfy a requirement for written submission and signatures.
- 4.24.3 "Electronic means" refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://procurement.maryland.gov>), and electronic data interchange.
- 4.24.4 In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., RFP § 4.23 describing payments by Electronic Funds Transfer), the following transactions are authorized to be conducted by electronic means on the terms as authorized in COMAR 21.03.05:
  - A. The Procurement Officer may conduct the procurement using eMMA or e-mail to issue:
    - a) The RFP;
    - b) Any amendments and requests for best and final offers;
    - c) Questions and responses;
    - d) Communications regarding the solicitation or Proposal to any Offeror or potential Offeror;

- e) Notices of award selection or non-selection; and
  - f) The Procurement Officer's decision on any Proposal protest or Contract claim.
- B. The Offeror or potential Offeror may use eMMA or e-mail (only) to:
- a) Ask questions regarding the solicitation;
  - b) Reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer's request or direction to reply by e-mail or through eMMA, but only on the terms specifically approved and directed by the Procurement Officer and;
  - c) Submit a "No Proposal Response" to the RFP.
- C. The Offeror or potential Offeror may use eMMA to:
- a) Submit Proposals.
- D. The Procurement Officer, the Contract Monitor, and the Contractor may conduct day-to-day Contract administration, except as outlined in **Section 4.24.5** of this subsection, utilizing e-mail or other electronic means if authorized by the Procurement Officer or Contract Monitor.

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

- A. Submission of initial Proposals, except through eMMA;
- B. Filing of protests;
- C. Filing of Contract claims;
- D. Submission of documents determined by the STO to require original signatures (e.g., Contract execution, Contract modifications); or
- E. Any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Offeror be provided in writing or hard copy.

**4.24.6 Any e-mail transmission is only authorized to the e-mail addresses for the identified person as provided in the solicitation, the Contract, or in the direction from the Procurement Officer or Contract Monitor.**

**4.25 Living Wage Requirements**

- A. Maryland law requires that contractors meeting certain conditions pay a living wage to covered employees on State service contracts over \$100,000. Maryland Code Ann., State Finance and Procurement Article, § 18-101 et al. The Commissioner of Labor and Industry at the Maryland Department of Labor requires that a contractor subject to the Living Wage law submit payroll records for covered employees and a signed statement indicating that it paid a living wage to covered employees; or receive a waiver from Living Wage reporting requirements. See COMAR 21.11.10.05.
- B. If subject to the Living Wage law, Contractor agrees that it will abide by all Living Wage law requirements, including but not limited to reporting requirements in COMAR 21.11.10.05. Contractor understands that failure of Contractor to provide such documents is a material breach of the terms and conditions and may result in

Contract termination, disqualification by the State from participating in State contracts, and other sanctions. Information pertaining to reporting obligations may be found by going to the Maryland Department of Labor website <http://www.dllr.state.md.us/labor/prev/livingwage.shtml>.

- C. Additional information regarding the State's living wage requirement is contained in **Attachment C**. Offerors must complete and submit the Maryland Living Wage Requirements Affidavit of Agreement (**Attachment C-1**) with their Proposals. If the Offeror fails to complete and submit the required documentation, the State may determine the Offeror to not be responsible under State law.
- D. Contractors and subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier area. The specific living wage rate is determined by whether a majority of services take place in a Tier 1 Area or a Tier 2 Area of the State. 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.
  - 1. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State Contract pursuant to §18-102(d) of the State Finance and Procurement Article shall assign the tier based upon where the recipients of the services are located. If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located. In this circumstance, the Contract will be determined to be a Tier 1 Contract.
  - 2. The Contract will be determined to be a Tier 1 Contract or a Tier 2 Contract depending on the location(s) from which the Contractor provides 50% or more of the services. The Offeror must identify in its Proposal the location(s) from which services will be provided, including the location(s) from which 50% or more of the Contract services will be provided.
  - 3. If the Contractor provides 50% or more of the services from a location(s) in a Tier 1 jurisdiction(s) the Contract will be a Tier 1 Contract.
  - 4. If the Contractor provides 50% or more of the services from a location(s) in a Tier 2 jurisdiction(s), the Contract will be a Tier 2 Contract.
- E. If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located. See COMAR 21.11.10.07.
- F. The Offeror shall identify in the Proposal the location from which services will be provided.

**NOTE:** Whereas the Living Wage may change annually, the Contract price will not change because of a Living Wage change or a change in the State minimum wage.

## 4.26 Conflict of Interest Affidavit and Disclosure

- 4.26.1 The Offeror shall complete and sign the Conflict of Interest Affidavit and Disclosure (Attachment D) and submit it with its Proposal.

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

#### **4.27 Maryland Healthy Working Families Act Requirements**

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

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## 5 Proposal Format

### 5.1 Two Part Submission

Offerors shall submit Proposals in separate volumes (or envelopes):

- Volume I – Technical Proposal
- Volume II – Financial Proposal

### 5.2 Proposal Delivery and Packaging

**5.2.1** Proposals delivered by facsimile or e-mail shall not be considered.

**5.2.2** Provide no pricing information in the Technical Proposal. Provide no pricing information on the media submitted in the Technical Proposal.

**5.2.3** The Procurement Officer must receive all Proposal material by the RFP due date and time specified in the Key Information Summary Sheet. Requests for extension of this date or time will not be granted. Except as provided in COMAR 21.05.03.02F, Proposals received by the Procurement Officer after the due date will not be considered.

**5.2.4** Offerors may submit Proposals through eMMA, by hand-carry or trackable mail such as UPS or Federal Express as described below to the address provided in the Key Information Summary Sheet.

- A. Any Proposal received at the appropriate mailroom, or typical place of mail receipt, for the respective procuring unit by the time and date listed in the RFP will be deemed to be timely. The State recommends a delivery method for which both the date and time of receipt can be verified.
- B. For hand-delivery, Offerors are advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery. Hand-delivery includes delivery by commercial carrier acting as agent for the Offeror and employs such carrier at the Offeror's own risk and expense.

#### **5.2.5 Submitting Proposals through eMMA.**

Offerors shall provide their Proposals in two separate envelopes through eMMA following the [Quick Reference Guides](#) (QRG) labelled "5 - eMMA QRG Responding to Solicitations (RFP)" for double envelope submissions.

Two Part (Double Envelope) Submission:

5.2.5.1 Technical Proposal consisting of:

- a) Technical Proposal in searchable Adobe PDF format,
- b) a second searchable Adobe copy of the Technical Proposal, with confidential and proprietary information redacted (see **Section 4.8**). **PLEASE NOTE THAT IF A REDACTED COPY IS BEING PROVIDED, PLEASE SUBMIT IT AT THE SAME TIME AS THE FULL PROPOSAL. ALTERNATIVELY, IF A REDACTED PROPOSAL IS NOT SUBMITTED, PLEASE INDICATE THAT STO HAS PERMISSION TO RELEASE THE PROPOSAL RECEIVED FOR PIA REQUESTS.**

5.2.5.2 Financial Proposal consisting of:

- a) Financial Proposal in searchable Adobe PDF format,
- b) an electronic version of the Financial Proposal in Microsoft Excel
- c) a second searchable Adobe copy of the Financial Proposal, with confidential and proprietary information removed (see **Section 4.8**). **PLEASE NOTE THAT IF A REDACTED COPY IS BEING PROVIDED, PLEASE SUBMIT IT AT THE SAME TIME AS THE FULL PROPOSAL. ALTERNATIVELY, IF A REDACTED PROPOSAL IS NOT SUBMITTED, PLEASE INDICATE THAT STO HAS PERMISSION TO RELEASE THE PROPOSAL RECEIVED FOR PIA REQUESTS.**

#### 5.2.6 Submitting Proposals by Mail or Hand-Delivery

Offerors may submit Proposals by mail or hand-delivery as described below to the Procurement Officer at the address provided in the Key Information Summary Sheet.

##### 5.2.6.1 Submitting Proposals by mail, or hand-delivery.

- 5.2.6.1.1 Any Proposal received at the appropriate mailroom, or typical place of mail receipt, for the respective procuring unit by the time and date listed in the RFP will be deemed to be timely. The State recommends a delivery method for which both the date and time of receipt can be verified.
- 5.2.6.1.2 For hand-delivery, Offerors are advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery. Hand-delivery includes delivery by commercial carrier acting as agent for the Offeror and employs such carrier at the Offeror's own risk and expense.
- 5.2.6.1.3 Offerors shall provide their Proposals in two separately sealed and labeled packages as follows:
  - A. Volume I - Technical Proposal consisting of:
    - a) One (1) original executed Technical Proposal and all supporting material marked and sealed,
    - b) five (5) duplicate copies of the above separately marked and sealed,
    - c) the Technical Proposal in searchable Adobe PDF format, and
    - d) a second searchable Adobe PDF copy of the Technical Proposal with confidential and proprietary information redacted (see **Section 4.8**).
  - B. Volume II - Financial Proposal consisting of:
    - 1) One (1) original executed Financial Proposal and all supporting material marked and sealed,
    - 2) five (5) duplicate copies of the above separately marked and sealed,
    - 3) an electronic version of the Financial Proposal in Microsoft Excel.

- 4) a searchable Adobe PDF copy of the Financial Proposal with confidential and proprietary information redacted (see **Section 4.8**),
- 5) include the name, email address, and telephone number of a contact person for the Offeror be included on the outside of the packaging for each volume.

### 5.3 Volume I - Technical Proposal

The Technical Proposal should be prepared in a clear and concise manner and address all requirements and services set forth in this solicitation. The idea response would reiterate each subsection and then list the Offeror's response, item by item so that an evaluator can read the requirement followed by the response.

NOTE: Include pricing information only in the Financial Proposal (Volume II).

**5.3.1** The Technical Proposal is to include the following documents in the order specified, and separated by a tab divider as follows:

1. **Title Page and Table of Contents**
2. **Claim of Confidentiality** - Any information which is claimed to be confidential and/or proprietary information should be identified by page and section number and placed after the Title Page. An explanation for each claim of confidentiality shall be included (see **Section 4.8 "Public Information Act Notice"**). The entire Proposal cannot be given a blanket confidentiality designation - any confidentiality designation must apply to specific sections, pages, or portions of pages of the Proposal and an explanation for each claim shall be included.
3. **Transmittal Letter** - The Offeror must include a brief transmittal letter prepared on the Offeror's business stationery to accompany the original and required copies of the two-volume proposal. The transmittal letter must be signed by an individual authorized to bind the selected Offeror to all statements, including services and prices, contained within the proposals. This transmittal letter should acknowledge the receipt of addenda to the RFP and to also indicate that, if selected, the Offeror will execute a contract materially the same as the form of Contract included as **Attachment E** and the Collateral Security Agreement materially the same as **Attachment F**.
4. **Executive Summary** - The Executive Summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (**Attachment E**), or any other exhibits or attachments. Acceptance or rejection of exceptions is within the sole discretion of the State. **Exceptions to terms and conditions, including requirements, may result in having the Proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award.**
5. **Minimum Qualifications and Documentation**
  1. The Offeror shall specifically and clearly state in its proposal that it meets each Minimum Qualification in Section 1.1 as set forth in **RFP Section 1**.
  2. The Offeror shall provide evidence of certification and/or membership and compliance with Federal Deposit Insurance Corporation ("FDIC").

3. The Offeror shall include one and only one copy of the Offeror's most recent audited financial statements with all attachments, including the unqualified audit opinion, in the original volume of its Technical Proposal.

6. **Offeror Capabilities**

1. The Offeror shall provide in its proposal detailed descriptions of the services described in **Sections 2.3 to 2.8** and how its organization can meet the requirements of this RFP.
2. The Offeror shall include a brief description of its plan for business continuity and recovery as a result of disaster.
3. Include a brief description of any other value-added services as indicated in **Section 2.9 Other Services for Consideration**.
4. The Offer shall acknowledge its compliance of **Section 3 Contractor Requirements** and may provide brief supporting statements.

7. **Personnel**

The Offeror shall provide a list of the key personnel who are to be assigned to this project if the Offeror is selected for award of a contract. Indicate the proposed project role or assignment and provide their resumes.

8. **References**

Identify a minimum of three (3) current references that you provide services for similar to the services described in the RFP. References shall include the name of each organization, point of contact, telephone number and mailing and street address. Include a brief description of the services rendered for each referenced organization. The Procurement and Evaluation Committee Chair may contact one or more of these references. The STO reserves the right to request additional references or utilize references not provided by the Offeror. Points of contact must be accessible and knowledgeable regarding Offeror performance.

9. **Community Benefits**

- 1) The Offeror shall provide its rating on its most recent examination under the Federal Community Reinvestment Act of 1977, P. L. Number 95-128, as required under Section 6-203(b) of the State Finance and Procurement Article of the Maryland Annotated Code. If the Offeror operates in a state other than Maryland, the Offeror shall provide Maryland-specific information within the assessment area section of its Community Reinvestment Act report. (See Appendix 5).
- 2) The Offeror shall state whether, during the previous 5 years, a court in the State of Maryland or in another state has found, in a final adjudication, that the Offeror, its affiliate or an entity acquired by the Offeror has violated any antidiscrimination statute or regulation.
- 3) Pursuant to Section 6-203(d) of the State Finance and Procurement Article of the Annotated Code of Maryland, the Offeror shall provide information to demonstrate whether during the past 5 years, the financial institution has:

- a) successfully made loans in Maryland through State or federal lending programs designed to assist small and minority-owned businesses;
- b) had an active outreach program to assist small and minority-owned businesses through which the Offeror has made efforts in Maryland; and
- c) established strategic partnerships in Maryland with entities whose mission is to provide technical assistance to small and minority-owned businesses.

10. **Economic Benefit Factors**

The Offeror shall submit with its Proposal a narrative describing benefits that will accrue to the Maryland economy as a direct or indirect result of its performance of the Contract. Examples of economic benefits to be derived from a contract may include any of the following. For each factor identified below, identify the specific benefit and contractual commitments and provide a breakdown of expenditures in that category:

- a) The 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. **Do not include actual fees or rates paid to subcontractors or information from your Financial Proposal;**
- b) The number and types of jobs for Maryland residents resulting from the Contract. Indicate job classifications, number of employees in each classification and the aggregate payroll to which the Offeror has committed, including contractual commitments at both prime and, if applicable, subcontract levels; and whether Maryland employees working at least 30 hours per week and are employed at least 120 days during a 12-month period will receive paid leave. If no new positions or subcontracts are anticipated as a result of the Contract, so state explicitly;
- c) Tax revenues to be generated for Maryland and its political subdivisions as a result of the Contract. Indicate tax category (sales taxes, payroll taxes, inventory taxes and estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from the Contract;
- d) Subcontract dollars committed to Maryland small businesses and MBEs; and
- e) Other benefits to the Maryland economy which will result from awarding the Contract to the Offeror, including contractual commitments. Describe the benefit, its value to the Maryland economy, and how it will result from, or because of the Contract award. Offerors may commit to benefits that are not directly attributable to the Contract, but for which the Contract award may serve as a catalyst or impetus.

11. **Certificate of Insurance**

The Offeror shall provide a copy of its current certificate of insurance showing the types and limits of insurance in effect as of the Proposal submission date. The current insurance types and limits do not have to be the same as described in **Section 3.5**.

12. **Legal Action Summary**

This summary shall include:

- 1) A statement as to whether there are any outstanding legal actions or potential claims against the Offeror and a brief description of any action;
- 2) A brief description of any settled or closed legal actions or claims against the Offeror over the past five (5) years;
- 3) A description of any judgments against the Offeror within the past five (5) years, including the court, case name, complaint number, and a brief description of the final ruling or determination; and

In instances where litigation is ongoing and the Offeror has been directed not to disclose information by the court, provide the name of the judge and location of the court.

**5.3.2 Technical Proposal - Required Forms and Certifications**

Unless directed otherwise by instructions within an individual form, complete, sign, and include all required forms in the Technical Proposal.

- A. Bid/Proposal Affidavit;
- B. Maryland Living Wage Requirements for Service Contracts and Affidavit of Agreement;
- C. Conflict of Interest Affidavit and Disclosure;
- D. Offerors shall furnish any and all agreements and terms and conditions the Offeror expects the State to sign or to be subject to in connection with or in order to use the Offeror's services under this Contract. This includes physical copies of all agreements referenced and incorporated in primary documents.

**5.4 Volume II – Financial Proposal**

The Financial Proposal shall contain all price information in the format specified in **Attachment A**. The Offeror shall complete the Financial Proposal Form only as provided in the Financial Proposal Instructions and the Financial Proposal Form itself. Do not amend, alter, or leave blank any items on the Financial Proposal Form. Failure to adhere to any of these instructions may result in the Proposal being determined to be not reasonably susceptible of being selected for award and rejected by the STO.

## 6 Evaluation and Selection Process

### 6.1 Evaluation Committee

Evaluation of Proposals will be performed in accordance with COMAR 21.05.03 by a committee established for that purpose and based on the evaluation criteria set forth below. The Evaluation Committee will review Proposals, participate in Offeror oral presentations and discussions, and provide input to the Procurement Officer.

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

### 6.2 Technical Proposal Evaluation Criteria

The Evaluation Committee will conduct an initial evaluation of the technical merit of each qualifying proposal based on the information provided in the proposal in response to **Section 5.3 Technical Proposal – Volume 1**. The Evaluation Committee’s final technical evaluation may include information obtained during oral presentations, if any.

For the technical evaluation, the Evaluation Committee will take into consideration the following factors listed in the order of relative importance (greatest first):

- a) Minimum Qualifications (See RFP § 5.3.1.5)
- b) Offeror’s Capabilities, including proposed subcontractors (See RFP § 5.3.1.6)
- c) Experience and Qualifications of Proposed Personnel (See RFP § 5.3.1.7) and References (See RFP § 5.3.1.8)
- d) Community Benefits (See RFP § 5.3.1.9)
- e) Economic Benefit to State of Maryland (See RFP § 5.3.1.10)

### 6.3 Financial Proposal Evaluation Criteria

All Qualified Offerors will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on the Total Proposal Price within the stated guidelines set forth in this RFP and as submitted on **Attachment A - Financial Proposal Instructions & Form**.

### 6.4 Selection Procedures

#### A. General

The Contract will be awarded in accordance with the Competitive Sealed Proposals (CSP) method found at COMAR 21.05.03. The State may conduct discussions with all Offerors that have submitted Proposals that are determined to be reasonably susceptible of being selected for contract award or potentially so. However, the State reserves the right to make an award without holding discussions.

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

#### B. Selection Process Sequence

- A. Technical Proposals are evaluated for technical merit and ranked. During this review, oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the State’s requirements and the Offeror’s ability

to perform the services, as well as to facilitate arrival at a Contract that is most advantageous to the State. Offerors will be contacted by the State as soon as any discussions are scheduled.

- B. The Financial Proposal will be evaluated and ranked separately from the Technical evaluation. After a review of the Financial Proposals, the Procurement Officer may again conduct discussions to further evaluate the Offeror's entire Proposal.
- C. When in the best interest of the State, the Procurement Officer may permit Qualified Offerors to revise their initial Proposals and submit, in writing, Best and Final Offers (BAFOs). The State may make an award without issuing a request for a BAFO.

#### **Award Determination**

Upon completion of the Technical Proposal and Financial Proposal evaluations and rankings, each Offeror will receive an overall ranking. The Procurement Officer will recommend award of the Contract to the responsible Offeror that submitted the Proposal determined to be the most advantageous to the State. In making this most advantageous Proposal determination, technical factors will receive greater weight than financial factors. Contract award, if any, is subject to the approval of the Treasurer or the Treasurer's designee upon the recommendation of the Procurement Officer.

### **6.5 Documents Required upon Notice of Recommendation for Contract Award**

Upon receipt of a Notification of Recommendation for Contract award, the apparent awardee shall complete and furnish the documents and attestations as directed.

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## Attachment A. Financial Proposal Instructions & Form

### A-1 Financial Proposal Instructions

Offerors shall submit their Financial Proposal on the Financial Proposal Form in accordance with the instructions on the Financial Proposal Form and as specified herein. Do not alter the Financial Proposal Form or the Proposal may be determined to be not reasonably susceptible of being selected for award. The Financial Proposal Form is to be signed and dated, where requested, by an individual who is authorized to bind the Offeror to the prices entered on the Financial Proposal Form.

In addition to the hard copy, the electronic copy of the Price Proposal identified as Appendix A is to be provided in an Excel file format. A copy of Appendix A in Excel format is provided as an attachment to the solicitation.

- A. Price Proposal sections are as follows:

**Existing Services** – Offerors are to provide the following:

- Proposed AFP/Service Code;
- Unit Pricing; and
- Total amount.

- B. All Prices must be clearly entered in dollars and cents. Make your decimal points clear and distinct.
- C. All Unit Prices must be the actual price per unit the State will pay for the specific item or service identified in this RFP and may not be contingent on any other factor or condition in any manner.
- D. It is imperative that the prices included on the Financial Proposal Form have been entered correctly and calculated accurately by the Offeror and that the respective total prices agree with the entries on the Financial Proposal Form. Any incorrect entries or inaccurate calculations by the Offeror will be treated as provided in COMAR 21.05.03.03.F and may cause the Proposal to be rejected.
- E. Unless indicated elsewhere in the RFP, sample units used for calculations on the Financial Proposal Form are typically estimates for evaluation purposes only. Unless stated otherwise in the RFP, the Agency does not guarantee a minimum or maximum number of units or usage in the performance of the Contract.

### A-1 Financial Proposal Form

The Financial Proposal Form shall contain all price information in the format specified on these pages. Complete the Financial Proposal Form only as provided in the Financial Proposal Instructions (**section 5.2.5**). Do not amend, alter or leave blank any items on the Financial Proposal Form.

**See separate Excel Financial Proposal Form labeled “Appendix A – Price Proposal”. When completed, please also provide a signed PDF copy of the Excel document.**

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**

**Attachment B. Proposal Affidavit**

**A. AUTHORITY**

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

**B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION**

The undersigned Bidder/Offeror hereby certifies and agrees that the following information is correct: In preparing its Bid/proposal on this project, the Bidder/Offeror has considered all Bid/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, sexual identity, genetic information or an individual’s refusal to submit to a genetic test or make available the results of a genetic test, disability, or any otherwise unlawful use of characteristics regarding the vendor’s, supplier’s, or commercial customer’s employees or owners. “Discrimination” also includes retaliating against any person or other entity for reporting any incident of “discrimination”. Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the Bid/proposal submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the Bid/proposal. As part of its Bid/proposal, the Bidder/Offeror herewith submits a list of all instances within the past four (4) years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the Bidder/Offeror discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder/Offeror agrees to comply in all respects with the State’s Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

**B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.**

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

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

(4) Pay the certified minority business enterprise solely for the use of its name in the Bid/proposal.

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

**B-2 CERTIFICATION REGARDING VETERAN-OWNED SMALL BUSINESS ENTERPRISES.**

The undersigned Bidder/Offeror hereby certifies and agrees that it has fully complied with the State veteran-owned small business enterprise law, State Finance and Procurement Article, § 14-605, Annotated Code of Maryland, which provides that a person may not:

- (1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;
- (2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran-owned small business enterprise in order to obtain or retain a Bid/proposal preference or a procurement contract;
- (3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.13; or
- (6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of § B-2(1) -(5) of this regulation.

**C. AFFIRMATION REGARDING BRIBERY CONVICTIONS**

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, § 6-220, Annotated Code of

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

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#### **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/Proposals for a public or private contract;
- (4) Been convicted of a violation of the State Minority Business Enterprise Law, § 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (5) Been convicted of a violation of § 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)—(5) above;
- (7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of Bids/Proposals for a public or private contract;
- (8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement

Article of the Annotated Code of Maryland with regard to a public or private contract;

- (9) Been convicted of a violation of one or more of the following provisions of the Internal Revenue Code:
  - (a) §7201, Attempt to Evade or Defeat Tax;
  - (b) §7203, Willful Failure to File Return, Supply Information, or Pay Tax,
  - (c) §7205, Fraudulent Withholding Exemption Certificate or Failure to Supply Information;
  - (d) §7206, Fraud and False Statements, or
  - (e) §7207 Fraudulent Returns, Statements, or Other Documents;
- (10) Been convicted of a violation of 18 U.S.C. §286 Conspiracy to Defraud the Government with Respect to Claims, 18 U.S.C. §287, False, Fictitious, or Fraudulent Claims, or 18 U.S.C. §371, Conspiracy to Defraud the United States;
- (11) Been convicted of a violation of the Tax-General Article, Title 13, Subtitle 7 or Subtitle 10, Annotated Code of Maryland;
- (12) Been found to have willfully or knowingly violated State Prevailing Wage Laws as provided in the State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland, if:
  - (a) A court:
    - (i) Made the finding; and
    - (ii) Decision became final; or
  - (b) The finding was:
    - (i) Made in a contested case under the Maryland Administrative Procedure act;and
    - (ii) Not overturned on judicial review;
- (13) Been found to have willfully or knowingly violated State Living Wage Laws as provided in the State Finance and Procurement Article, Title 18, Annotated Code of Maryland, if:
  - (a) A court:
    - (i) Made the finding; and
    - (ii) Decision became final; or
  - (b) The finding was:
    - (i) Made in a contested case under the Maryland Administrative Procedure act;and
    - (ii) Not overturned on judicial review;
- (14) Been found to have willfully or knowingly violated the Labor and Employment Article, Title 3, Subtitles 3, 4, or 5, or Title 5, Annotated Code of Maryland, if:
  - (a) A court:
    - (i) Made the finding; and
    - (ii) Decision became final; or

- (b) The finding was:
  - (i) Made in a contested case under the Maryland Administrative Procedure act; and
  - (ii) Not overturned on judicial review; or

(15) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§ B and C and subsections D(1)—(14) 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):

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**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).

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**F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES**

I FURTHER AFFIRM THAT:

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

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

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**G. SUBCONTRACT 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/proposal that is being submitted; or
- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the Bid/proposal price of the Bidder/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/proposal is submitted.

**I. CERTIFICATION OF TAX PAYMENT**

I FURTHER AFFIRM THAT:

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

**J. CONTINGENT FEES**

I FURTHER AFFIRM THAT:

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

**K. CERTIFICATION REGARDING INVESTMENTS IN IRAN**

- (1) The undersigned certifies that, in accordance with State Finance and Procurement Article, §17- 705, Annotated Code of Maryland:

(a) It is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland; and

(b) It is not engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland.

(2) The undersigned is unable to make the above certification regarding its investment activities in Iran due to the following activities:

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**L. CONFLICT MINERALS ORIGINATED IN THE DEMOCRATIC REPUBLIC OF CONGO (FOR SUPPLIES AND SERVICES CONTRACTS)**

I FURTHER AFFIRM THAT:

The business has complied with the provisions of State Finance and Procurement Article, §14-413, Annotated Code of Maryland governing proper disclosure of certain information regarding conflict minerals originating in the Democratic Republic of Congo or its neighboring countries as required by federal law.

**M. PROHIBITING DISCRIMINATORY BOYCOTTS OF ISRAEL**

I FURTHER AFFIRM THAT:

In preparing its bid/proposal on this project, the Bidder/Offeror has considered all bid/proposals submitted from qualified, potential subcontractors and suppliers, and has not, in the solicitation, selection, or commercial treatment of any subcontractor, vendor, or supplier, refused to transact or terminated business activities, or taken other actions intended to limit commercial relations, with a person or entity on the basis of Israeli national origin, or residence or incorporation in Israel and its territories. The Bidder/Offeror also has not retaliated against any person or other entity for reporting such refusal, termination, or commercially limiting actions. Without limiting any other provision of the solicitation for bid/proposals for this project, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to reject the bid/proposal submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the bid/proposal.

**N. I FURTHER AFFIRM THAT:**

Any claims of environmental attributes made relating to a product or service included in the bid or bid/proposal are consistent with the Federal Trade Commission's Guides for the Use of Environmental Marketing Claims as provided in 16 C.F.R. §260, that apply to claims about the environmental attributes of a product, package or service in connection with the marketing, offering for sale, or sale of such item or service.

**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/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.

By: \_\_\_\_\_  
*Signature of Authorized Representative and Affiant*

Printed Name: \_\_\_\_\_  
*Printed Name of Authorized Representative and Affiant*

Title: \_\_\_\_\_  
*Title*

Date: \_\_\_\_\_  
*Date*

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

- A. This contract is subject to the Living Wage requirements under Md. Code Ann., State Finance and Procurement Article, Title 18, and the regulations proposed by the Commissioner of Labor and Industry (Commissioner). 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 Md. Code Ann., State Finance and Procurement Article, Title 18.
- 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 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 Md. Code Ann., State Finance and Procurement Article, §18-103(c), shall not lower an employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413. 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.
- H. A Contractor/subcontractor may reduce the wage rates paid under Md. Code Ann., State Finance and Procurement Article, §18-103(a), 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 Md. Code Ann., Labor and Employment Article, §3-413.
- I. Under Md. Code Ann., State Finance and Procurement Article, Title 18, 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 Division of Labor and Industry website <http://www.dlir.state.md.us/labor/prev/livingwage.shtml> and clicking on Living Wage for State Service Contracts.

**C-1 Maryland Living Wage Affidavit of Agreement for Service Contracts**

Contract No. \_\_\_\_\_

Name of Contractor: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

**If the Contract Is Exempt from the Living Wage Law**

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

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

**If the Contract Is a Living Wage Contract**

A. The Undersigned, being an authorized representative of the above-named Contractor, hereby affirms its commitment to comply with Title 18, State Finance and Procurement Article, Annotated Code of Maryland and, if required, submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Offeror agrees to pay covered employees who are subject to living wage at least the living wage rate in effect at the time service is provided for hours spent on State contract activities, and 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.

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

- The employee(s) proposed to work on the contract will spend less than one-half of the employee's time during any work week on the contract
- The employee(s) proposed to work on the contract is 17 years of age or younger during the duration of the contract; or
- The 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: \_\_\_\_\_

**SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL**

**Attachment D. Conflict of Interest Affidavit and Disclosure**

**Reference COMAR 21.05.08.08**

- A. “Conflict of interest” means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person’s objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.
- B. “Person” has the meaning stated in COMAR 21.01.02.01B (64) and includes a Offeror, Contractor, consultant, or subcontractor or sub-consultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a Proposal is made.
- C. The 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 Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the Offeror shall immediately make a full disclosure in writing to the procurement officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the Offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the Contractor shall continue performance until notified by the procurement officer of any contrary action to be taken.

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

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(Authorized Representative and Affiant)

**SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL**

**Attachment E. Contract**

**CONTRACT FOR  
STATEWIDE ALTERNATIVE BANKING SERVICES  
RFP #SABS-01262024**

THIS CONTRACT (the “Contract”) is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_ (the “Contractor”) ), and the **MARYLAND STATE TREASURER’S OFFICE**, 80 Calvert Street, Annapolis, Maryland 21401 (“STO” or the “Office”), offices of the **STATE OF MARYLAND** (the “State”).

In consideration of the promises and the covenants herein contained, the adequacy and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

**1. Scope of Contract**

The Office hereby engages the Contractor to perform the services set forth below:

- 1.1. General Services. The Contractor shall provide \_\_\_\_\_ Services as described in this Contract, which includes the following exhibits:

Exhibit A: The RFP for \_\_\_\_\_, RFP # \_\_\_\_\_, dated \_\_\_\_\_;  
Exhibit B: The Office’s Pre-proposal Summary dated \_\_\_\_\_;  
Exhibit C: The Office’s Questions and Answers dated \_\_\_\_\_;  
Exhibit D: The Contractor’s Technical Proposal dated \_\_\_\_\_;  
Exhibit E: Contractor’s Presentation dated \_\_\_\_\_;  
Exhibit F: Contractor’s Financial Proposal dated \_\_\_\_\_;  
Exhibit G: Collateral Security Agreement dated \_\_\_\_\_;  
Exhibit H: Contract Affidavit, executed by the Contractor and dated \_\_\_\_\_;  
and

Exhibit I: Contractor’s “Bank Operating Documents” as negotiated, all dated as of the date of this Contract, which consist of and incorporated by reference the following documents: [list documents].

- 1.2 If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall control. If there is any conflict among the Exhibits, Exhibit A shall control.
- 1.3 The Procurement Officer may, at any time, by written order, make unilateral 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.

- 1.4 Without limiting the rights of the Procurement Officer under Section 1.2 above, the Contract may be modified by mutual agreement of the parties, provided: (a) the modification is made in writing; (b) all parties sign the modification; and (c) all approvals by the required agencies as described in COMAR Title 21, are obtained.

## 2. Period of Performance

- 2.1 The initial term of this Contract shall be for the period beginning April 1, 2024 and ending March 31, 2029.
- 2.2 In its sole discretion, STO shall have the unilateral right to extend the Contract for two (2) successive two (2) year renewal options (each a “Renewal Term”) at the prices established in the Contract. “Term” means the Initial Term and any Renewal Term(s).
- 2.3 The Contractor’s performance under the Contract shall commence as of the date provided in a written NTP.
- 2.4 After the end of the Contract term, should a new contract be awarded to a contractor other than the incumbent, the Contract shall be deemed to be extended, Contractor shall continue to perform Contract services, and Contractor shall continue to receive the compensation specified in the Contract for such services, until such time as the transition to the new contractor is complete. Contractor shall cooperate and the Office during any transition period to a new contractor and provide all necessary information and data to any subsequent contractor.
- 2.5 The Contractor’s obligation to pay invoices to subcontractors providing products/services in connection with this Contract, as well as the audit; confidentiality; document retention; patents, copyrights & intellectual property; warranty; indemnification obligations; and limitations of liability under this Contract; and any other obligations specifically identified, shall survive expiration or termination of the Contract.
- 2.6 The provisions of Sections 4 (Ownership of Documents and Materials), 6 (Patents, Copyrights and Trade Secrets), 9 (Indemnification and Limitations of Liability), 11 (Disputes), 12 (Maryland Law Prevails), and 23 (Retention of Records/Audit) of this Contract shall survive termination of this Contract for any reason.

## 3. Consideration and Payment

- 3.1 Contractor shall charge only the fees as set forth in Contractor’s Price Proposal [Best and Final Offer] as attached hereto as Exhibit \_\_. These fees shall not be adjusted during the initial term of this Contract. Price adjustments will be permitted Not-to-Exceed the Consumer Price Index (“CPI”) based on the end of the second year of the initial contract period, and at the end of each subsequent renewal option period if exercised. The CPI adjustment is not cumulative.
- 3.2 Maryland State and local entities, and not-for-profit entities within the State of Maryland, as defined in State Finance and Procurement 13-110(a)(5) - (7), may purchase from the Contractor goods or services covered by the Contract at the same prices chargeable to the State. All such purchases by non-executive branch entities, non-State governments, government agencies or not-for-profit entities:
  - A. Shall constitute Contracts between the Contractor and that government, agency or not-for-profit entity;
  - B. Shall not constitute purchases by the State or State agencies under the Contract;
  - C. Shall not be binding or enforceable against the State; and

- D. May be subject to other terms and conditions agreed to by the Contractor and the purchaser with the express written approval of STO.
- 3.3 All Contract prices, terms, and conditions must be honored and provided to any Maryland local government or not-for-profit entity requesting services under the Contract. The Contractor bears the risk of determining whether or not a government, agency or organization with which the Contractor is dealing is a State entity.
- 3.4 Payments to the Contractor may be withheld, without interest or penalty, when in the sole discretion of the State Treasurer, the Contractor's performance of any of the services under this Contract is unsatisfactory or does not meet generally accepted industry standards. Notice of such withholding of payment and the reasons therefore shall be promptly provided to the Contractor, who shall be afforded an opportunity to cure any performance deficiencies.
- 3.5 All invoices for goods and services shall be submitted to:
- Maryland State Treasurer's Office  
Attn: Accounts Payable  
Louis L. Goldstein Treasury Building  
80 Calvert Street, Room 109  
Annapolis, Maryland 21401  
E-mail: [stoaccountspayable@treasurer.state.md.us](mailto:stoaccountspayable@treasurer.state.md.us)
- 3.6 Invoices must be submitted either:
- (a) For ongoing services, on a monthly basis for goods or services rendered in the preceding month; or
- (b) For one-time or periodic services, with 30 days of delivery or completion of the goods or services.
- 3.7 Except as provided in Section 3.2 above, payments to the Contractor pursuant to this Contract will be made no later than 30 days after receipt by the Office of a proper invoice from the Contractor. Each invoice for services rendered must reflect the Contractor's federal tax identification number, which is \_\_\_\_\_ and shall clearly indicate the specific type of service provided. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1 of the State Finance and Procurement Article, Annotated Code of Maryland, as from time to time amended, are prohibited.

#### 4. Ownership of Documents and Materials

The Contractor agrees that all documents and materials including, but not limited to, reports, drawings, studies, specifications, estimates, maps, photographs, designs, graphics, mechanical, artwork, and computations prepared by or for it under the terms of this Contract shall at any time during the performance of the services be made available to the State upon request by the State and shall become and remain the exclusive property of the State upon termination or completion of the services. The State shall have the right to use same without restriction or limitation and without compensation to the Contractor other than that provided by this Contract. The State shall be the owner for purposes or copyright, patent or trademark registration.

#### 5. Exclusive Use

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

shall be the copyright owner and Contractor may copyright material connected with this project only with the express written approval of the State.

- 5.2 Except as may otherwise be set forth in this Contract, Contractor shall not use, sell, sub-lease, assign, give, or otherwise transfer to any third party any other information or material provided to Contractor by STO or developed by Contractor relating to the Contract, except as provided for in Section 7 (Confidential or Proprietary Information and Documentation).

## 6. Patents, Copyrights, and Trade Secrets

- 6.1 If the Contractor furnishes any design, device, material, process or other item, which is covered by a patent, or copyright or which is proprietary to or a trade secret of another, Contractor shall obtain the necessary permission or license to use such item.
- 6.2 Contractor will defend or settle, at its own expense, any claim or suit against the State alleging that any such item furnished by Contractor infringes any patent, trademark, copyright, or trade secret. Contractor also will pay all damages and costs that by final judgment may be assessed against the State due to such infringement and all attorney fees and litigation expenses reasonably incurred by the State to defend against such a claim or suit. The obligations of this paragraph are in addition to those stated in paragraph 6.3. below.
- 6.3. If any product(s) furnished by Contractor become, or in Contractor's opinion are likely to become, the subject of a claim of infringement, Contractor will, at its option: (1) procure for the State the right to continue using the applicable item; (2) replace the product with a non-infringing product substantially complying with the item's specifications; or (3) modify the item so it becomes non-infringing and performs in a substantially similar manner to the original item.

## 7. Confidential or Proprietary Information and Documentation

- 7.1 Subject to the Maryland Public Information Act and any other applicable laws, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems or cloud infrastructure, if applicable) shall be held in confidence by the other party. Each party shall, however, be permitted to disclose, as provided by and consistent with applicable law, relevant confidential information to its officers, agents, and Contractor Personnel to the extent that such disclosure is necessary for the performance of their duties under this Contract. Each officer, agent, and Contractor Personnel to whom any of the State's confidential information is to be disclosed shall be advised by Contractor provided that each officer, agent, and Contractor Personnel to whom any of the State's confidential information is to be disclosed shall be advised by Contractor of the obligations hereunder, and bound by, confidentiality at least as restrictive as those of set forth in this Contract.
- 7.2 The provisions of this section shall not apply to information that: (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already rightfully in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

## 8. Loss of Data

In the event of loss of any data or records necessary for the performance of this Contract where such loss is due to the error, negligence, or willful act or omission of the Contractor, the Contractor shall be

responsible, irrespective of cost to the Contractor, for restoring or recreating such lost data or records in the manner and on the schedule set by the Contract Monitor.

## 9. Limitations of Liability

9.1. Contractor shall be liable for any loss or damage to the State occasioned by the acts or omissions of Contractor, its subcontractors, agents or employees as follows:

(a) Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and

(b) Without limitation for any claims brought under the Collateral Security Agreement between the Contractor and the State;

(c) For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract, including but not limited to Contractor's breach, negligence and/or willful actions or omissions, Contractor's liability shall be limited to actual damages, including direct and indirect damages, not to exceed 50% of the average monthly balance of all monies in State accounts. In the event that the actual direct damages exceed 50% of the average monthly balance of all monies in State accounts, the Contractor shall be liable for all direct damages. In any event, the Contractor and State agree that neither party shall be liable for punitive damages or attorney's fees.

(d) In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that all subcontractors shall be held to be agents of Contractor.

9.2. Contractor shall defend, indemnify and hold harmless the State and its agents and employees, from and against any and all claims, costs, losses, damages, liabilities, judgments and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with any third-party claim that the Contractor-provided products/services infringe, misappropriate or otherwise violate any third-party intellectual property rights. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent.

a) If an infringement claim occurs, or if the State or the Contractor believes such a claim is likely to occur, Contractor (after consultation with the State and at no cost to the State): (a) shall procure for the State the right to continue using the allegedly infringing component or service in accordance with its rights under this Contract; or (b) replace or modify the allegedly infringing component or service so that it becomes non-infringing and remains compliant with all applicable specifications.

b) Except as otherwise provided herein, Contractor shall not acquire any right, title or interest (including any intellectual property rights subsisting therein) in or to any goods, Software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the State to the Contractor. Notwithstanding anything to the contrary herein, the State may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a separate writing executed by the Contractor and an authorized representative of the State as well as all required State approvals.

- c) Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall use any Software or technology in a manner that will cause any patents, copyrights or other intellectual property which are owned or controlled by the State or any of its affiliates (or for which the State or any of its subcontractors has received license rights) to become subject to any encumbrance or terms and conditions of any third party or open source license (including, without limitation, any open source license listed on <http://www.opensource.org/licenses/alphabetical>) (each an “Open Source License”). These restrictions, limitations, exclusions and conditions shall apply even if the State or any of its subcontractors becomes aware of or fails to act in a manner to address any violation or failure to comply therewith. No act by the State or any of its subcontractors that is undertaken under this Contract as to any Software or technology shall be construed as intending to cause any patents, copyrights or other intellectual property that are owned or controlled by the State (or for which the State has received license rights) to become subject to any encumbrance or terms and conditions of any open-source license.
  - d) The Contractor shall report to the Office, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Deliverables delivered under this Contract.
  - e) The Contractor shall not affix (or permit any third party to affix), without the Office’s consent, any restrictive markings upon any Deliverables that are owned by the State, and if such markings are affixed, the Office shall have the right at any time to modify, remove, obliterate, or ignore such warnings.
  - f) Contractor’s indemnification obligations for Third party claims arising under this Contract are included in this limitation of liability only if the State is immune from liability. Contractor’s indemnification liability for third party claims of this Contract shall be unlimited if the State is not immune from liability for claims.
- 9.3. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that it is responsible for performance of the services and compliance with the relevant obligations hereunder by its subcontractors.

## 10. Indemnification

- 10.1 The Contractor shall hold harmless and indemnify the State from and against any and all losses, damages, claims, suits, actions, liabilities, and/or expenses, including, without limitation, attorneys' fees and disbursements of any character that arise from, are in connection with or are attributable to the performance or nonperformance of the Contractor or its subcontractors under this Contract.
- 10.2 This indemnification clause shall not be construed to mean that the Contractor shall indemnify the State against liability for any losses, damages, claims, suits, actions, liabilities, and/or expenses that are attributable to the sole negligence of the State or the State's employees.
- 10.3 The State of Maryland has no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim, or action of any character is

brought by any person not party to this Contract against the Contractor or its subcontractors as a result of or relating to the Contractor's performance under this Contract.

- 10.4 The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of/or relating to the Contractor's performance under this Contract.
- 10.5 The Contractor shall immediately notify the Procurement Officer of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from, or relating to, the Contractor's obligations under the Contract, and will cooperate, assist, and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of, or relating to, the Contractor's performance under this Contract.
- 10.6 This Section 10 shall survive termination of this Contract.

## **11. Non-Hiring of Employees**

No official or employee of the State, as defined under Md. Code Ann., General Provisions Article, § 5-101, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall, during the pendency and term of this Contract and while serving as an official or employee of the State, become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

## **12. Disputes**

This Contract shall be subject to the provisions of Md. Code Ann., State Finance and Procurement Article, Title 15, Subtitle 2, 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.

## **13. Maryland Law Prevails**

This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.

## **14. Nondiscrimination in Employment**

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry, genetic information, or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

## **15. Contingent Fee Prohibition**

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

## **16. Non-Availability of Funding**

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

#### **17. Termination for Default**

If the Contractor fails to fulfill its obligations under this Contract properly and on time, fails to provide any required annual and renewable bond 30 days prior to expiration of the current bond then in effect, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

#### **18. Termination for Convenience**

The performance of work under this Contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract. 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).

#### **19. Delays and Extensions of Time**

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

#### **20. Suspension of Work**

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

## 21. Pre-Existing Regulations

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

## 22. Financial Disclosure

The Contractor shall comply with the provisions of the State Finance and Procurement Article Section 13-221, Annotated Code of Maryland. That section requires a business to file with the Secretary of State of Maryland certain specified information, including disclosure of beneficial ownership of the business, within 30 days of the date the aggregate value of any contracts, leases or other agreements that the business enters into with the State of Maryland or its agencies during a calendar year reaches \$200,000.

## 23. Political Contribution Disclosure

The Contractor shall comply with Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31. Additional information is available on the State Board of Elections website: [http://www.elections.state.md.us/campaign\\_finance/index.html](http://www.elections.state.md.us/campaign_finance/index.html).

## 24. Retention of Records/Audit

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

## 25. Compliance with Laws

The Contractor hereby represents and warrants that:

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

## 26. Cost and Price Certification

- 26.1 The Contractor by submitting cost or price information certifies that, to the best of its knowledge, the information submitted is accurate, complete, and current as 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.
- 26.2 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.

## **27. Subcontracting; Assignment**

The Contractor may not subcontract any of its obligations under this Contract without obtaining the prior written approval of the Procurement Officer, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Procurement Officer, each at the State's sole and absolute discretion; provided, however, that a Contractor may assign monies receivable under a contract after written notice to the State. Any subcontracts shall include such language as may be required in various clauses contained within this Contract, exhibits, and attachments. The Contract shall not be assigned until all approvals, documents, and affidavits are completed and properly registered. The State shall not be responsible for fulfillment of the Contractor's obligations to its subcontractors.

## **28. Commercial Nondiscrimination**

- 28.1 As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry, national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual's refusal to submit to a genetic test or make available the results of a genetic test or on the basis of disability, or otherwise unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.
- 28.2 As a condition of entering into this Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or

supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions.

## 29. Living Wage

If a Contractor subject to the Living Wage law fails to submit all records required under COMAR 21.11.10.05 to the Commissioner of Labor and Industry at the Department of Labor, Licensing and Regulation, STO may withhold payment of any invoice or retainage. The STO may require certification from the Commissioner on a quarterly basis that such records were properly submitted.

## 30. Use of Estimated Quantities

Unless specifically indicated otherwise in the State's solicitation or other controlling documents related to the Scope of Work, any sample amounts provided are estimates only and STO does not guarantee a minimum or maximum number of units or usage in the performance of this Contract.

## 31. Contract Monitor and Procurement Officer

- 31.1 The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor's responsibilities. The STO may change the Contract Monitor at any time by written notice to the Contractor.
- 31.2 The Procurement Officer has responsibilities as detailed in the Contract and is the only State representative who can authorize changes to the Contract. The STO may change the Procurement Officer at any time by written notice to the Contractor.

## 32. Notices

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

If to the State:

Kimlloy Broughton  
Director, Treasury Management Services  
Maryland State Treasurer's Office  
80 Calvert Street, Room 103  
Annapolis, MD 21401  
Phone Number: 410-260-7129  
E-Mail: kbroughton@treasurer.state.md.us

With a copy to:

Kris Chewlin  
Procurement Officer  
Maryland State Treasurer's Office  
80 Calvert Street, Room 109  
Annapolis, Maryland 21401  
Phone Number: 410-260-7428

E-Mail: [kcwelin@treasurer.state.md.us](mailto:kcwelin@treasurer.state.md.us)

If to the Contractor:

(Contractor's Name)  
(Contractor's primary address)  
Attn: \_\_\_\_\_

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

**ATTEST:**

**[Contractor]**

\_\_\_\_\_

By: \_\_\_\_\_

**WITNESS:**

**MARYLAND STATE TREASURER'S OFFICE**

\_\_\_\_\_

By: \_\_\_\_\_  
Derek E. Davis  
State Treasurer

**WITNESS:**

\_\_\_\_\_

By: \_\_\_\_\_  
Jonathan D. Martin  
Chief Deputy Treasurer

Approved for form and legal sufficiency  
for the Maryland State Treasurer's Office:

\_\_\_\_\_  
David P. Chaisson  
Assistant Attorney General



**Attachment F. Collateral Security Agreement**

**COLLATERAL SECURITY AGREEMENT**

**THIS COLLATERAL SECURITY AGREEMENT** (the “Agreement”) is made and entered into as of \_\_\_\_\_ by and between the Maryland State Treasurer’s Office, on behalf of the \_\_\_\_\_ (the “\_\_\_\_\_”) hereinafter called the “Depositor”, and \_\_\_\_\_ [a national banking association, organized under the laws of the United States] or [organized under the laws of Maryland] and authorized by law to do banking business in the State of Maryland, hereinafter called the “bank.”

**Background**

The Depositor, in accordance with Maryland State law, has designated the Bank as a depository for public funds of the Depositor under the Banking Services for the \_\_\_\_\_ Contract dated \_\_\_\_\_, 20\_\_ . During the term of this Agreement, the Depositor will designate the officer, or officers, who singly or jointly will be authorized to represent and act on behalf of the Depositor in any and all matters of every kind arising under this Agreement. This Agreement incorporates the terms of the Contract by reference for all purposes; however, to the extent that any provision in the Contract conflicts with any provision in this Agreement, this Agreement will control. All funds on deposit with the Bank to the credit of the Depositor are required to be secured by collateral of the kind and character permitted by §6-202 of the State Finance and Procurement Article of the Annotated Code of Maryland, as may be amended from time to time (“SFP §6-202”).

Under §6-209 of the State Finance and Procurement Article of the Annotated Code of Maryland, as may be amended from time to time (“SFP §6-209”), only certain collateral pledged by the Bank is required to be held by a custodian. For purposes of this Agreement, permissible collateral under SFP §6-202 shall be referred to as “Collateral” and any Collateral that is required to be held by a custodian under SFP §6-209 shall be referred to as “Securities Collateral.”

To perfect the security interest of the Depositor in Securities Collateral pledged by the Bank, a Federal Reserve Bank or a third-party financial institution, acceptable to the Depositor, will hold the Securities Collateral in a custody account for the benefit of the Depositor. For purposes of this Agreement, such Federal Reserve Bank or third-party financial institution shall be referred to as the “Trustee.”

In consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, it is agreed as follows:

1. Under the terms of this Agreement, the Bank pledges to the Depositor, and grants to the Depositor a security interest in, the Securities Collateral owned by the Bank and held by the Trustee for the benefit of the Depositor, to secure the deposits held by the Bank for the Depositor as provided in SFP §6-209.
2. The total market value of the Securities Collateral held by the Trustee (which includes accrued interest or income to the extent it is not included in the market price) will be in an amount at least equal to such amount as is required under SFP §6-209, taking into account any other acceptable Collateral properly delivered to the Depositor. The market value of any security held as Securities Collateral will be obtained from a primary dealer. The Bank will provide a monthly collateral report to the Depositor at no charge. The report includes the market value and description of each item of Collateral pledged as of the last business day of the month.

3. The Bank has previously or will immediately deliver to the Trustee Securities Collateral of the kind and character permitted by SFP §6-202 of sufficient amount and market value to provide adequate collateral under SFP §6-209, taking into consideration any other acceptable Collateral properly delivered to the Depositor, for the funds of the Depositor deposited with the Bank. For so long as the depository relationship between the Depositor and the Bank shall exist hereunder, the Securities Collateral or substitute Securities Collateral, as provided for below, in an amount and market value sufficient to provide adequate Collateral, taking into consideration any other acceptable Collateral properly delivered to the Depositor, shall be kept and retained by the Trustee in trust.
4. The Bank shall cause the Trustee to accept the Securities Collateral and hold the same in trust for the purpose stated in this Agreement.
5. Should the Bank fail at any time to pay and satisfy, when due, any check, draft, voucher or electronic fund transfer lawfully drawn against any deposit, or in any manner breaches its contract with the Depositor, Depositor shall give written notice of such failure or breach to the Bank, and the Bank shall have forty-eight (48) hours to cure such failure or breach. In the event the Bank shall fail to cure such failure or breach within forty-eight (48) hours, it shall be the duty of the Trustee, upon demand of the Depositor (supported by proper evidence of any of the above-listed circumstances), to surrender the Securities Collateral to the Depositor. In the event that bank is deemed insolvent or is in receivership, , it shall be the duty of the Trustee, upon demand of the Depositor to surrender the Securities Collateral to the Depositor. The Depositor may sell all or any part of the Securities Collateral and out of the proceeds of such sale pay the Depositor all damages and losses sustained by it, together with all expenses of any and every kind incurred by it on account of such failure or insolvency, or sale. Following any sale, the Depositor shall provide an accounting to the Bank for the remainder, if any, of the proceeds or Collateral remaining unsold.
6. Any sale of all or part of the Securities Collateral, made by the Depositor under this Agreement may be either at public or private sale.
7. If the Bank shall desire to sell or otherwise dispose of all or part of the Securities Collateral deposited with the Trustee, it may substitute other Securities Collateral of at least the same market value. Alternatively, the Bank may substitute other acceptable Collateral properly delivered to the Depositor in an amount equal to the market value of the Securities Collateral to be sold or otherwise disposed of. Such rights of substitution shall remain in full force and may be exercised by the Bank as often as it may desire; provided, however, that the aggregate market value of all Collateral pledged to the Depositor, shall be at least equal to the amount of Collateral required under SFP §6-209. If at any time, the aggregate market value of Securities Collateral deposited with the Trustee, taken together with any other acceptable Collateral properly delivered to the Depositor, is less than the total amount required under SFP §6-209, the Bank shall, upon request of the Depositor, deposit with the Trustee such additional Securities Collateral as may be necessary to cause the market value of such Securities Collateral, taken together with any other acceptable Collateral properly delivered to the Depositor, to equal the total amount of required Collateral. The Bank shall be entitled to income on securities held by the Trustee, and the Trustee may dispose of such income as directed by the Bank without approval of the Depositor.

8. The Bank shall cause the Trustee promptly to forward to the Depositor copies of safekeeping or trust receipts and/or activity reports covering all of the Collateral, including substitute Collateral as provided for herein.
9. If at any time the Securities Collateral in the hands of the Trustee shall have a market value, taking into account any other acceptable Collateral properly delivered to the Depositor, that exceeds the required amount of Securities Collateral, the Depositor shall authorize the withdrawal of a specified amount of Securities Collateral, and the Trustee may deliver this amount of Securities Collateral (and no more) to the Bank. Once the Bank receives the redelivered Securities Collateral, the Trustee shall have no further liability for such Securities Collateral.
10. The Depositor shall have the right to terminate this Agreement by advance written notice to the Bank of its election to do so. Termination of this Agreement shall be effective sixty days after the receipt of such notice, provided all provisions of this Agreement have been fulfilled, or upon the date of the last act required by this Agreement, whichever is later.
11. When the depositor-bank relationship ceases to exist between the Depositor and the Bank, and when the Bank has properly paid out all deposits of the Depositor, the Depositor shall give the Trustee written notice to that effect and the Trustee shall, with the approval of the Depositor, redeliver to the Bank all Securities Collateral then in its possession belonging to the Bank.
12. A. Any notice required to be given to the Bank in writing shall be sufficient if delivered to the following address:

\_\_\_\_\_  
\_\_\_\_\_

The Bank may change the above address by notifying the Depositor by facsimile or by such other means as is consistent with the Bank's usual means of notification to the Depositor.

- B. Any notice to be given to the Depositor shall be sufficient if delivered to the following address:

Maryland State Treasurer's Office  
Attn: Director of Treasury Management  
80 Calvert Street  
Annapolis, Maryland 21401  
Tel: (410)260-7129

The Depositor may change the above address by notifying the Bank by facsimile or by such other means as is consistent with the Depositor's usual means of notification to the Bank.

13. This Agreement shall be binding upon, and shall insure to the benefit of, the parties hereto and their respective corporate successors.
14. No amendments or modification of this Agreement or waiver of any right under this Agreement shall be binding on any party unless it is in writing and is signed by all of the parties.

Executed by the undersigned duly authorized officers of the parties as of the date of this Agreement.

**ATTEST**

**[BANK NAME]**

\_\_\_\_\_

By: \_\_\_\_\_  
[Signatory]  
[Title]

**WITNESS:**

**MARYLAND STATE TREASURER'S  
OFFICE**

\_\_\_\_\_

By: \_\_\_\_\_  
Dereck E. Davis  
State Treasurer

**WITNESS:**

\_\_\_\_\_

By: \_\_\_\_\_  
Jonathan D. Martin  
Chief Deputy Treasurer

Approved as to form and legal sufficiency  
for the Maryland State Treasurer's Office:

\_\_\_\_\_  
Assistant Attorney General

**Attachment G. Designation of Depository**

**DESIGNATION OF DEPOSITORY**

I, THE UNDERSIGNED, TREASURER OF THE STATE OF MARYLAND, DO HEREBY CERTIFY that, by my action duly taken, the following Designation has been duly made, has not been amended or modified, is not inconsistent with the Constitution and laws of the State of Maryland (the “State”), and is now in full force and effect:

IN ACCORDANCE with Section 6-205 of the State Finance and Procurement Article of the Annotated Code of Maryland, \_\_\_\_\_, (the “Bank”) is hereby designated as a depository for funds of the State for the term of its [Contract Title], dated \_\_\_\_\_, as it may be amended, and that deposit accounts, whether demand, time, savings, disbursement, or like accounts may be opened and/or maintained from time to time in the name of the State with the Bank. The Bank, as a designated depository for funds of the State, is hereby authorized and directed to honor checks, drafts, or other orders for the payment of money drawn in the name of the State or its agencies, when bearing or purporting to bear the facsimile signature of one of the following: the Treasurer or the Chief Deputy Treasurer; and the countersignature of one of the following: the Comptroller or Deputy Comptroller, or the actual signatures of the certified officers or employees of each agency approved by the Treasurer and the Comptroller to establish an account with the Bank, as indicated on the Bank’s standard account signature cards; and the Bank shall be entitled to honor and charge the State for all such checks, drafts and other orders, regardless of by whom or what means the facsimile signatures thereon may have been affixed thereto from time to time by the Treasurer or other duly authorized officer of the State, and it is

FURTHER CERTIFIED, that the Treasurer or duly authorized agency representative shall certify to the Bank the names of the officers or employees of the State authorized to act with respect to each and every account, and shall from time to time hereafter as changes in such personnel may be made, immediately certify such changes to the Bank, and the Bank shall be fully protected in relying on such certifications of the Treasurer or duly authorized agency representative, and to the extent permitted by law shall be indemnified and saved harmless from any claims, demands, expenses, losses, or damages resulting from, or growing out of honoring the signature of an officer or employee so certified or refusing to honor any signature not so certified; and it is

FURTHER CERTIFIED, that the foregoing Designation shall remain in full force and effect until written notice of its amendment or rescission shall have been received by the Bank, and that receipt of such notice shall not affect any action taken by the Bank prior thereto.

I HEREBY CERTIFY that the following is the title, name, and official signature of the officer, in addition to myself, authorized herein to act on behalf of the State:

<u>Title</u>	<u>Name</u>	<u>Official Signature</u>
Chief Deputy Treasurer	Jonathan D. Martin	_____

IN WITNESS WHEREOF, I have executed this Designation as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

STATE OF MARYLAND

By: \_\_\_\_\_  
Dereck E. Davis  
State Treasurer

Approved for form and legal sufficiency  
For the Maryland State Treasurer's Office

\_\_\_\_\_  
Assistant Attorney General

**Attachment H. Contract Affidavit**

A. AUTHORITY

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

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

I FURTHER AFFIRM THAT:

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

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

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

Name and Department ID Number: \_\_\_\_\_

Address: \_\_\_\_\_

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

Name and Department ID Number: \_\_\_\_\_

Address: \_\_\_\_\_

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$200,000 or more

shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$200,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31.

E. DRUG AND ALCOHOL-FREE WORKPLACE

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

I CERTIFY THAT:

- (1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.
- (2) By submission of its Proposal, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:
  - (a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;
  - (b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;
  - (c) Prohibit its employees from working under the influence of drugs or alcohol;
  - (d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and

- is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;
- (e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;
  - (f) Establish drug and alcohol abuse awareness programs to inform its employees about:
    - (i) The dangers of drug and alcohol abuse in the workplace;
    - (ii) The business's policy of maintaining a drug and alcohol free workplace;
    - (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
    - (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;
  - (g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §E(2)(b), above;
  - (h) Notify its employees in the statement required by §E(2)(b), above, that as a condition of continued employment on the contract, the employee shall:
    - (i) Abide by the terms of the statement; and
    - (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;
  - (i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;
  - (j) Within 30 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:
    - (i) Take appropriate personnel action against an employee, up to and including termination; or
    - (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and
  - (k) Make a good faith effort to maintain a drug and alcohol-free workplace through implementation of §E(2)(a)—(j), above.
- (3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.
- (4) I acknowledge and agree that:

- (a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;
- (b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and
- (c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

**J. CERTAIN AFFIRMATIONS VALID**

I FURTHER AFFIRM THAT:

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

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

Date: \_\_\_\_\_

By: \_\_\_\_\_  
*(print name of Authorized Representative and Affiant)*

\_\_\_\_\_  
*(signature of Authorized Representative and Affiant)*

**Appendix 1. – Section 6-201(e) of the State Finance and Procurement Article of the Annotated Code of Maryland**

§6-201.

(a) In this subtitle the following words have the meanings indicated.

(b) “Banking institution” means an institution that is incorporated under the laws of the State as a State bank, trust company, or savings bank.

(c) “Collateral” means collateral that is listed under § 6-202 of this subtitle.

(d) “Deposit insurance” means insurance by:

(1) the Federal Deposit Insurance Corporation; or

(2) the Resolution Trust Corporation created under § 21A of the Federal Home Loan Bank Act (12 U.S.C. § 1441a).

(e) “Financial institution” means:

(1) any banking institution;

(2) any national banking association;

(3) an institution that is incorporated under the laws of any other state as a bank; and

(4) an institution that is incorporated under the laws of this State or of the United States as a savings and loan association.

(f) “National banking association” means an institution that is incorporated under federal law as a bank.

(g) “State money” for purposes of §§ 6-209 and 6-210 of this subtitle includes money in a bank account maintained under the control of an employee or official of the clerk of the court or register of wills.

**Appendix 2. – Section 6-202 of the State Finance and Procurement Article of the Annotated Code of Maryland**

§6-202.

Collateral that may be used under this subtitle shall be:

- (1) an obligation of the United States or any of its agencies;
- (2) an obligation guaranteed by the United States or by any of its agencies;
- (3) an obligation insured by the United States;
- (4) an obligation of the State or any of its units or instrumentalities;
- (5) an obligation of a county of the State or any of its agencies;
- (6) an obligation of a municipal corporation in the State or any of its agencies;
- (7) an obligation of any other governmental authority in the State;
- (8) an obligation of the Inter–America Development Bank;
- (9) an obligation of the World Bank;
- (10) an obligation of the following government–sponsored enterprises:
  - (i) the Federal Home Loan Banks;
  - (ii) the Federal Home Loan Mortgage Corporation;
  - (iii) the Federal National Mortgage Association;
  - (iv) the Farm Credit System;
  - (v) the Federal Agricultural Mortgage Corporation; and
  - (vi) the Student Loan Marketing Association;
- (11) a surety bond if:
  - (i) subject to the terms and conditions of the bond, it is irrevocable and absolute;
  - (ii) the surety bond is issued by an insurance company authorized to do business in this State;
  - (iii) the issuer of the surety bonds does not provide surety bonds for any one financial institution in an amount that exceeds 10% of the surety bond insurer’s policyholders’ surplus and contingency reserve, net of reinsurance; and

(iv) the claims-paying ability of the authorized insurance company is rated, at all relevant times, in the highest category by at least two nationally recognized rating agencies acceptable to the Treasurer;

(12) an obligation or security of, or other interest in, any open-end or closed-end management type investment company or investment trust registered under the provisions of the federal Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq., if:

(i) the portfolio of the open-end or closed-end management type investment company or investment trust is limited to direct obligations of the United States government and to repurchase agreements fully collateralized by United States government obligations; and

(ii) the open-end or closed-end management type investment company or investment trust takes delivery of that collateral, either directly or through an authorized custodian; or

(13) a letter of credit issued by a Federal Home Loan Bank if the letter of credit meets the conditions under the guidelines issued by the State Treasurer's office.

**Appendix 3. – Section 6-209 of the State Finance and Procurement Article of the Annotated Code of Maryland**

§6-209.

(a) State money on deposit with a financial institution shall be secured by:

- (1) deposit insurance; or
- (2) collateral as required by this section.

(b) (1) The collateral for State money on deposit with a financial institution:

(i) must have, at all times, a market value that equals or exceeds the State money that is on deposit with the financial institution and is not covered by deposit insurance; and

(ii) must be approved by the Treasurer.

(2) If the collateral is a surety bond under § 6-202 of this subtitle:

(i) the surety bond shall be in a form and amount acceptable to the Treasurer as determined by the Treasurer from time to time; and

(ii) the financial institution that provides the surety bond as collateral shall immediately notify the Treasurer if the rating assigned to the issuing insurance company by any rating agency, found acceptable to the Treasurer under § 6-202 of this subtitle, is withdrawn or downgraded, in which event the financial institution shall immediately provide the Treasurer with substitute collateral permitted under § 6-202 of this subtitle.

(3) Subject to the requirements of this subsection, a financial institution may change its collateral from time to time.

(c) (1) A custodian shall hold the collateral under this section for the benefit of the State.

(2) A financial institution may use as a custodian:

(i) any banking institution that is approved by the Commissioner of Financial Regulation to conduct commercial banking business in the State;

(ii) a federal reserve bank; or

(iii) any national banking association that is approved by the Comptroller of the Currency to conduct banking business in the State.

(3) A financial institution may not be approved as custodian for the collateral of a depository unless the assets of the financial institution equal or exceed 200% of the value of the collateral to be held for the depository.

**Appendix 4. – Section 6-222 of the State Finance and Procurement Article of the Annotated Code of Maryland**

§6-222.

(a) (1) In this section, “supranational issuer” means an international development institution that:

(i) provides financing, advisory services, or other financial services to the institution’s member countries to achieve the overall goal of improving living standards through sustainable economic growth; and

(ii) is rated in the highest credit rating category by a nationally recognized statistical rating organization.

(2) “Supranational issuer” includes:

(i) the World Bank;

(ii) the International Finance Corporation;

(iii) the Inter-American Development Bank;

(iv) the African Development Bank; and

(v) the Asian Development Bank.

(b) The Treasurer may invest or reinvest unexpended or surplus money over which the Treasurer has custody in:

(1) an obligation for which the United States has pledged its faith and credit for the payment of the principal and interest;

(2) an obligation that a federal agency or a federal instrumentality has issued in accordance with an act of Congress;

(3) an obligation issued and unconditionally guaranteed by a supranational issuer denominated in United States dollars and eligible to be sold in the United States;

(4) a repurchase agreement collateralized in an amount not less than 102% of the principal amount by an obligation of the United States, its agencies or instrumentalities, provided the collateral is held by a custodian other than the seller designated by the buyer;

(5) bankers’ acceptances guaranteed by a financial institution with a short-term debt rating in the highest letter and numerical rating by at least one nationally recognized statistical rating organization as designated by either the United States Securities and Exchange Commission or the Treasurer;

(6) with respect to amounts treated by the Internal Revenue Service as bond sale proceeds only, bonds, notes, or other obligations of investment grade in the highest quality letter and numerical rating by at least one nationally recognized statistical rating organization as designated by the United States

Securities and Exchange Commission issued by or on behalf of this or any other state or any agency, department, county, municipal or public corporation, special district, authority, or political subdivision thereof, or in any fund or trust that invests only in securities of the type described in this item;

(7) commercial paper that has received the highest letter and numerical rating by at least two nationally recognized statistical rating organizations as designated by the United States Securities and Exchange Commission, provided that such commercial paper may not exceed 10% of the total investments made by the Treasurer under this subsection;

(8) money market mutual funds that:

(i) are registered with the Securities and Exchange Commission under the Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq., as amended;

(ii) are operated in accordance with Rule 2A-7 of the Investment Company Act of 1940, 17 C.F.R. § 270.2A-7, as amended; and

(iii) have received the highest possible rating from at least one nationally recognized statistical rating organization as designated by the United States Securities and Exchange Commission; and

(9) any investment portfolio created under the Maryland Local Government Investment Pool defined under §§ 17-301 through 17-309 of the Local Government Article of the Code that is administered by the Office of the State Treasurer.

(c) The Treasurer may sell, redeem, or exchange an investment or reinvestment made under this section in accordance with the limitations of this section.

(d) Subject to § 2-1257 of the State Government Article, the Treasurer shall report by January 3 of each year to the General Assembly on investment activities for unexpended or surplus money over which the Treasurer has custody which have been conducted during the previous fiscal year. At a minimum, the report shall specify for General Fund investments and all other investments:

(1) the inventory of investments with maturity dates and the book and market value as of June 30;

(2) the net income earned;

(3) the percentage share of each category of investment in the portfolio; and

(4) any sale of investments prior to the maturity date.

(e) An investment made pursuant to this section shall be made:

(1) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(2) in a manner designed to reasonably match the anticipated cash flow of the State so that sufficient funds are available to pay obligations upon proper presentation for payment;

(3) so that a reasonable amount of cash or cash equivalents is available for unanticipated cash needs;

- (4) with due regard for minimizing risk while maximizing return;
- (5) using competitive purchasing practices except when impractical;
- (6) in accordance with a written investment policy;
- (7) so that the securities and collateral may continue to be priced on a market to market basis; and
- (8) to avoid the enhancement of the personal financial position of the Treasurer or any employee of the Treasurer who has responsibilities for such investments.

(f) (1) (i) Consistent with minority business purchasing standards applicable to units of State government under this article and consistent with the fiduciary duties of the Treasurer, the Treasurer shall attempt to use to the greatest extent feasible minority business enterprises for brokerage and investment management services under this section.

(ii) For purposes of this subsection, brokerage and investment management services shall include services relating to all allocated asset classes as described in subsection (b) of this section.

(2) (i) To assist the Treasurer in achieving the goal described under paragraph (1) of this subsection, the Treasurer shall undertake measures to remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded under this section.

(ii) The measures undertaken by the Treasurer shall include the use of a wide variety of media, including the Treasurer's website, to provide notice to a broad and varied range of potential providers about the brokerage and investment management services opportunities afforded by the Treasurer.

(3) In conjunction with the Governor's Office of Small, Minority, and Women Business Affairs, the Treasurer shall develop guidelines to assist in identifying and evaluating qualified minority business enterprises in order to help the Treasurer achieve the objective for greater use of minority business enterprises for brokerage and investment management services under this section.

(4) On or before September 1 each year, the Treasurer shall submit a report to the Governor's Office of Small, Minority, and Women Business Affairs and, subject to § 2-1257 of the State Government Article, the General Assembly on:

(i) the identity of the minority business enterprise brokerage and investment management services firms used by the Treasurer in the immediately preceding fiscal year;

(ii) the percentage and dollar value of the assets under the custody of the Treasurer that are under the investment control of minority business enterprise brokerage and investment management services firms for each allocated asset class; and

(iii) the measures the Treasurer undertook in the immediately preceding fiscal year in accordance with paragraph (2)(ii) of this subsection.

**Appendix 5. – Section 6-203 of the State Finance and Procurement Article of the Annotated Code of Maryland**

§6-203.

(a) The Treasurer shall give 15% of the weight of the decision to the standards established in this section in deciding whether to:

(1) designate a financial institution as a depository for State money under § 6-205 of this subtitle; and

(2) make an agreement with a financial institution for a banking service under § 6-229 of this subtitle.

(b) (1) The Treasurer shall consider whether the financial institution received a rating of “needs improvement” or “substantial noncompliance” in its most recent examination under the federal Community Reinvestment Act of 1977, P.L. Number 95-128.

(2) If a financial institution operates in a state other than Maryland, the Treasurer shall consider Maryland-specific information that is provided within the assessment area section of the Community Reinvestment Act report.

(c) (1) The Treasurer shall consider whether, during the previous 5 years, a court in Maryland has found, in a final adjudication, that a financial institution has violated any antidiscrimination statute or regulation.

(2) The Treasurer may consider whether, during the previous 5 years, a court outside Maryland has found, in a final adjudication, that a financial institution has violated any antidiscrimination statute or regulation.

(3) The Treasurer may determine how to assess a violation under paragraph (1) or (2) of this subsection if the violation was committed by:

(i) an affiliate of the financial institution; or

(ii) an entity acquired by the financial institution.

(d) The Treasurer shall consider whether the financial institution has demonstrated that during the previous 5 years, the financial institution has:

(1) successfully made loans in Maryland through State or federal lending programs designed to assist small and minority-owned businesses;

(2) had an active outreach program to assist small and minority-owned businesses through which the financial institution has made efforts in Maryland; and

(3) established strategic partnerships in Maryland with entities whose mission is to provide technical assistance to small and minority-owned businesses.