

Maryland Stadium Authority
Request for Qualifications
Construction Management Services
Procurement One
Baltimore City Public Schools Construction Program

Issue Date: June 20, 2014

NOTICE

Prospective Offerors who have received this document from the Maryland Stadium Authority's web site or eMarylandMarketplace.com, or who have received this document from a source other than the Procurement Officer, and who wish to assure receipt of any changes or additional materials related to this RFQ, should immediately register on MSA's website at www.mdstad.com/contracting and provide their name and contact information in order to receive information about amendments to the RFQ or other communications.

Joint Ventures, Minority Business Enterprises, and Small Business Reserves are encouraged to respond to this Solicitation.

KEY INFORMATION SUMMARY SHEET

MARYLAND STADIUM AUTHORITY

Request for Qualifications

Construction Management Services

Procurement One

Baltimore City Public Schools Construction Program

RFQ Issue Date: June 20, 2014

Procurement Officer: Eric P. Johnson
Maryland Stadium Authority
351 West Camden Street, Suite 500
Baltimore, Maryland 21201
Office Phone: (410) 223-4150
e-mail: ejohnson@mdstad.com

Procurement Method: Competitive Sealed Proposals

Pre-Proposal Conference: Friday July 11, 2014 @ 10:00 am

Proposals are to be sent to: Procurement Officer

Closing Date and Time: Friday August 8, 2014 no later than 2:00 pm
(Technical Qualifications Only)

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SECTION 1 - GENERAL INFORMATION

1.1 Summary Statement

The MSA is soliciting proposals from qualified Construction Managers to provide design review, value engineering input, cost analysis, estimating, and constructability reviews services related to The Baltimore City Public Schools Construction and Revitalization Act of 2013, which was approved by the Maryland General Assembly during the 2013 legislative session. The Program authorizes the MSA to finance up to \$1.1 billion for the renovation and/or the replacement of City Schools buildings, and will be implemented and administered through a combination of MSA and City Schools staff. The Program will also be supported by a program management firm, representing both entities, which will assist with program and project administration services. This RFQ will be the basis for selecting a pool of qualified Construction Managers that may ultimately bid on the projects set forth by the MSA and City Schools. The Construction Management firms within the pool will be eligible to submit proposals in response to project specific RFPs.

1.2 Terms and Conditions

For purposes of this Request for Qualifications, the following abbreviations and terms have the meanings indicated below:

- a. **21st Century School** – A generally accepted term for a school building that includes, but is not limited to, space adaptability for teaching, learning, and community usage, cutting-edge learning technology, and environmental sustainability.
- b. **A/E** – The qualified team of architects, engineers, and other professional consultants required and assembled to perform the feasibility studies and/or design and construction administration services associated with the Program
- c. **Act** – The Baltimore City Public Schools Construction and Revitalization Act of 2013
- d. **City Schools** – The Baltimore City Board of Schools Commissioners, or designated staff
- e. **City Schools Procurement Policy** – City Schools procurement policies and procedures. (available at www.baltimorecityschools.org/site/Default.aspx?PageID=626)
- f. **Contract** – The contract entered into between MSA and/or City Schools and the selected Offeror in response to a project specific Request for Proposal issued to the pool of prequalified construction managers. The Contract will include all general MSA terms and conditions, and will incorporate the entire RFP, including any amendments/addenda, and all or indicated portions of the selected Offeror’s proposal.
- g. **COMAR** - Code of Maryland Regulations (available at www.dsd.state.md.us)
- h. **Contract Manager**– The MSA representative for this Contract that is primarily

- responsible for Contract administration functions, including issuing written direction, compliance with terms and conditions, monitoring Contracts to ensure compliance with the terms and conditions of the Contract and to assist the completion of the Contract requirements. MSA may change the Contract manager at any time by written notice to the Contractor.
- i. **CM** – A qualified firm providing Construction Management Services including design review, value engineering input, cost analysis and constructability associated with the Program.
 - j. **eMM** – eMaryland Marketplace (www.ebidmarketplace.com)
 - k. **Feasibility Study** – A detailed investigation and analysis conducted to determine the financial, economic, technical, or other advisability of a proposed project.
 - l. **GMP- Guaranteed Maximum Price**
 - m. **IAC** – Interagency Committee on School Construction
 - n. **LEED** – A third-party certification program and the nationally accepted benchmark for the design, construction, and operation of high performance green buildings developed by the U.S. Green Building Council (USGBC).
 - o. **Local Time** – Time in the Eastern Time Zone as observed by the State
 - p. **City- The Mayor and City Council of Baltimore**
 - q. **MBE** – Minority Business Enterprise certified by the Maryland Department of Transportation.
 - r. **MSA** – Maryland Stadium Authority.
 - s. **MSA Business Hours** – 8:30 A.M. to 5:00 P.M., local time, Monday through Friday, excluding State holidays and closures.
 - t. **MSA Procurement Policies** – Maryland Stadium Authority Procurement Policies and Procedures (available at www.mdstad.com/contracting).
 - u. **Offeror** – An entity that submits a Proposal in response to this RFQ.
 - v. **Pool** – The group of prequalified Construction Management firms that will be eligible to submit proposals for Construction Management services on individual projects for Procurement One.
 - w. **Procurement Officer (PO)** – The MSA representative responsible for this Request For Qualifications. MSA may change the Procurement Officer at any time by written notice to the Offerors.

- x. **Procurement One-** The projects identified in Section 3.2 of this Request for Qualifications.
- y. **Project** – The specific preconstruction or construction services Request For Proposal issued to meet the Program requirements. A Project may consist of work on or in connection with one or more school buildings
- z. **Project Category** – A Project level categorized as either a renovation and/or addition within a certain Project value range, or a new or replacement school within a certain Project value range.
- aa. **Project Manager (PM)** – The MSA representative that is primarily responsible for monitoring the daily activities of a Contract and providing technical assistance to the Contractor. MSA may change the PM at any time by written notice to the Contractor.
- bb. **Proposal** - The technical qualifications response provide by Offerors in response to this Request for Qualifications.
- cc. **RFQ** – This Request for Qualification.
- dd. **Selection Committee** – The representatives of the MSA and City Schools selecting the Pool of CMs.
- ee. **State** – The State of Maryland.

1.3 Contract Type

Each project that results from a subsequent, project-specific RFP will be a professional services contract for Pre-Construction Services. If the project moves into the construction phase and a negotiated GMP can be achieved, an at-risk GMP contract will be issued for the construction of the project. The value of the original contract shall not be exceeded without the necessary contract modification.

1.4 Contract Duration

The term of each Contract resulting from a project-specific RFP will be for a period necessary to complete the scope of work and as agreed upon by both MSA and/or City Schools and the CM.

1.5 Procurement Officer

The sole point-of-contact for purposes of this RFQ is the Procurement Officer listed below:

Eric P. Johnson
 Maryland Stadium Authority
 351 West Camden Street, Suite 500
 Baltimore, Maryland 21201
 Telephone #: 410-223-4150

Email: ejohnson@mdstad.com

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

1.6 Pre-Proposal Conference

A Pre-Proposal Conference (Conference) will be held on Friday July 11, 2014 @ 10:00 am (Local Time), at the Camden Yards Warehouse. Attendance at the pre-proposal conference is not mandatory but strongly recommended. All Attendees should RSVP by registering at www.mdstad.com/bcpsep-rfq, no later than, Wednesday July 9, 2014, by 4:00 pm (Local Time), for location information.

1.7 “e-Maryland Marketplace”

In order to be eligible to participate in the Pool or receive a Contract , a vendor must be registered on eMM. Go here to register: <https://ebidmarketplace.com/>. Click on “Registration” to begin the process and follow the prompts. Registration is free.

1.8 Questions

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

Questions will also be accepted subsequent to the Pre-Proposal Conference. All post-Conference questions are to be submitted, in writing, preferably via email, no later than 12:00 pm (Local Time) on Wednesday July 30, 2014 to the Procurement Officer only. The Procurement Officer, based on the availability of time to research and communicate an answer, will decide whether an answer can be given before the proposal due date. Answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be distributed to all vendors who are known to have received a copy of this RFQ.

1.9 Proposals Due (Closing) Date

Proposals must be received by the Procurement Officer, at the address listed in Section 1.5 and the Key Information Summary Sheet, no later than **2:00 pm (Local Time) Friday August 8, 2014**, in order to be considered.

Requests for extension of this date or time will not be granted. Offerors should note that MSA’s offices have certain security protocols to gain entry and time should be allotted for this function. Offerors mailing proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Proposals received by the Procurement

Officer after the deadline will not be considered. Proposals may not be submitted by e-mail or facsimile. Proposals will not be opened publicly.

1.10 Duration of Offer

Proposals submitted in response to this RFQ are irrevocable for 180 days following the closing date for proposals. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

1.11 Revisions to the RFP

If it becomes necessary to revise this RFQ before the due date for proposals, amendments will be posted on the MSA website. Amendments made after the due date for proposals will be sent only to those Offerors who submitted a timely proposal.

Acknowledgment of the receipt of all amendments to this RFQ issued before the proposal due date must accompany the Offeror's Proposal in the Executive Summary accompanying the Proposal as identified in Section 4.3. Acknowledgement of the receipt of amendments to the RFQ issued after the proposal due date shall be made in the manner specified in the amendment notice. Failure to acknowledge receipt of amendments does not relieve the Offeror from complying with all terms of any such amendment.

1.12 Cancellations; Discussions

MSA reserves the right to cancel this RFQ, accept or reject any and all proposals, in whole or in part, received in response to this RFQ, to waive or permit cure of minor irregularities, and to conduct discussions with any or all qualified or potentially qualified Offerors in any manner necessary to serve the best interests of MSA and City Schools. This may be followed by submission of Offeror-revised proposals.

1.13 Incurred Expenses

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

1.14 Economy of Preparation

Proposals should be prepared simply and economically, providing a straightforward, concise description of how the Offeror proposes to meet the requirements of this RFQ.

1.15 Protests/Disputes

Any protest or dispute related to this RFQ or a resulting Contract will be subject to Section 10 of MSA's Procurement Policies and Procedures or the relevant provisions of the Contract. MSA's Procurement Policies are available for review on MSA's website at www.mdstad.com/contracting or may be obtained by contacting the Procurement Officer.

1.16 Access to Public Records Act Notice

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

Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information may be disclosed. (See COMAR 21.05.08.01).

1.17 Patents, Copyrights, and Intellectual Property

- a) If the Offeror furnishes any design, device, material, process, or other item, that is covered by a patent or copyright or that is proprietary to or a trade secret of another, it shall obtain the necessary permission or license to permit MSA and/or City Schools to use such item.
- b) The Offeror will defend or settle, at its own expense, any claim or suit against MSA and/or City Schools alleging that any such item furnished by the Consultant infringes any patent, trademark, copyright, or trade secret. If a third party claims that a product infringes that party's patent, trademark, copyright, or trade secret, the Offeror will defend MSA and/or City Schools against that claim at the Offeror's expense and will pay all damages, costs, and attorneys fees that a court finally awards, provided MSA and/or City Schools: (i) promptly notifies the Offeror in writing of the claim; and (ii) allows the Offeror to control, and cooperates with the Offeror in, the defense and any related settlement negotiations. The obligations of this Section 1.17 are in addition to those stated in Sections 1.18-1.20 below.
- c) If any products furnished by the Offeror become, or in the Offeror's opinion are likely to become, the subject of a claim of infringement, the Offeror will, at its option and expense: a) procure for MSA and/or City Schools the right to continue using the applicable item; b) replace the product with a non-infringing product substantially complying with the item's specifications; or c) modify the item so that it becomes non-infringing and performs in a substantially similar manner to the original item.

1.18 Confidentiality

Subject to the Maryland Public Information Act and any other applicable laws, all confidential or proprietary information and documentation relating to either party to a Contract resulting from any subsequent RFPs (including without limitation any information or data stored within the CM's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents, and employees to the extent that such disclosure is necessary for the performance of their duties under any Contract, resulting from any RFP's issued to the Pool, provided that the data may be collected, used, disclosed, stored, and

disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) such party is required to disclose by law.

1.19 Loss of Data

In the event of loss of any MSA data or records where such loss is due to the intentional act or omission or negligence of the CM or any of its subcontractors, or agents, the CM shall be responsible for recreating such lost data in the manner and on the schedule set by the Procurement Officer. The CM shall ensure that all data is backed up and recoverable by the CM.

1.20 Offeror Responsibilities

The selected Offerors shall be responsible for all products and services required by this RFQ. Subconsultants must be identified, and a complete description of their roles relative to the Proposal must be included in the Proposal. The selected Offeror retains responsibility for all work to be performed by and any deliverable submitted by a subconsultant. If an Offeror that seeks to perform or provide the services required by this RFQ is the subsidiary of another entity, all information submitted by the Offeror such as, but not limited to, references and financial reports, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's Proposal must contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.

1.21 Proposal Affidavit

A completed Bid/Proposal Affidavit must accompany the Proposal submitted by an Offeror. A copy of this Affidavit is included as **Attachment A** of this RFQ.

1.22 Arrearages

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

1.23 Procurement Method

Each Contract resulting from subsequent RFPs and entered in to with MSA, will be awarded in accordance with the Competitive Sealed Proposals process under Section 3 (C) of MSA's Procurement Policies. MSA's Procurement Policies are available for review on MSA's website at www.mdstad.com/contracting or may be obtained by contacting the Procurement Officer.

Each Contract resulting from subsequent RFPs and entered in to with City Schools, will be awarded in accordance with the Competitive Sealed Proposals process under Section 3-104 Request for Proposals - Competitive Sealed Proposals of Baltimore City Public Schools Procurement Policies. City Schools' Procurement Policies are available for review at <http://www.baltimorecityschools.org/site/Default.aspx?PageID=631> or may be obtained by contacting the Procurement Officer.

1.24 Verification of Registration and Tax Payment

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

1.25 False Statements

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

(a) In connection with a procurement contract, a person may not willfully:

1. Falsify, conceal, or suppress a material fact by any scheme or device;
2. Make a false or fraudulent statement or representation of a material fact; or
3. Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.

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

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

1.26 Minority Business Enterprise

A minimum overall MBE subcontractor participation goal of twenty-nine percent (29%), is anticipated to be established for the Project RFPs that will be issued to the Pool for this Program. Additionally, the State of Maryland has established a process for identifying contract specific subgoals within various industry categories. The industry category identified for procurements to be conducted within this Pool is known as "Cons", which has a recommended subgoal participation of contracts over \$200,000 of 7% African American and 4% Asian American. This subgoal participation applies to total contract dollar amount to be awarded.

The Contractor shall structure its MBE participation plan in a manner that demonstrates a good faith effort to achieve the MBE goal/sub-goal anticipated to be established by MSA and/or City Schools for RFP's issued subsequent to this RFQ.

The required forms and instructions are attached hereto as **Attachment D**.

For information on certified MBE firms, the directory is available at <http://mdot.state.md.us>. Select the "MBE Program" label at the left side of the website. The most current and up-to-date information on MBEs is available at this website.

Offeror is to identify main point of contact for minority compliance as a part of the key personnel submission as required in the work plan. See Section 4.3 for additional requirements.

1.27 Maryland Law

This RFQ and any subsequent RFPs or Contracts shall be construed, interpreted, and enforced according to the laws of the State of Maryland.

1.28 Contingent Fee Prohibition

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

1.29 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 a Contract succeeding the first fiscal period, the 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 the rights of the successful Offeror, MSA and/or City Schools under any termination clause in the Contract. The effect of termination of the Contract hereunder will be to discharge the Offeror, MSA, and/or City Schools from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Offeror shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. MSA and/or City Schools shall notify the Offeror as soon they have knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

1.30 Financial Disclosure

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

1.31 Political Contribution Disclosure

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

1.32 Non-Exclusive Use

It is MSA and City Schools' intention to obtain the services described in this RFQ under the resulting Project RFPs. Neither this RFQ nor any resulting Contract shall be construed to require the MSA or City Schools to use any Offeror exclusively for the services described in this RFQ. MSA and City Schools reserve the right to obtain services of any nature from other sources when it is in the best interest of MSA and City Schools to do so and without notice to any Offeror. MSA and City Schools make no guarantees that they will purchase any products or services from any or all Offerors selected to the Pool resulting from this RFQ.

1.33 Sustainable Policies

The MSA and City Schools are committed to procuring all supplies, services, maintenance, and construction services in a manner consistent with the promotion of sound environmental practices. Moreover, MSA and City Schools have committed to certain environmental standards as more fully set forth in the Memorandum of Understanding, identified in Section 3.1 of this RFQ. All goods and services provided in response to this solicitation and subsequent RFPs shall conform to such environmental standards.

1.34 Prevailing Wage

All Replacements and Renovations shall comply with the prevailing wage rate

requirements that would apply to similar State-supported projects.

SECTION 2 **OFFEROR QUALIFICATIONS**

2.1 Qualifications

The Offeror shall meet the qualifications, at a minimum, as follows for consideration:

- a) Construction Management Firm licensed to operate in the State of Maryland.
- b) Urban experience related to renovations, renovations with additions, and/or new or replacement buildings. PK-12 school project experience preferred.
- c) Has ability to meet bonding requirements outlined in Section 3.2.3, along with insurance coverage requirements outlined in Section 3.2.4.
- d) Relevant experience engaging community, and project stakeholders during the planning and construction phases of a project.
- e) Proven experience with phased construction, and successfully working in an occupied building environment.
- f) Experience in the planning and/or construction LEED certified buildings.
- g) Experience with community workforce development and implementation of training programs, and:
- h) Knowledge of local trade contracting community.

SECTION 3 **SCOPE OF WORK, PROCESS, AND CONSTRUCTION MANAGER** **REQUIREMENTS**

3.1 Purpose

The MSA is soliciting RFQ Proposals from qualified CM firms to create a pool of firms to provide pre-construction services including but not limited to design review, value engineering input, cost analysis and constructability services related to The Baltimore City Public Schools Construction and Revitalization Act of 2013, which was approved by the Maryland General Assembly during the 2013 legislative session. The Program authorizes the MSA to finance up to \$1.1 billion for the renovation and/or replacement of City Schools' buildings, and will be implemented and administered through a combination of MSA and City Schools staff. The Program will also be supported by a program management firm representing both entities that will assist with program and project administration services. This RFQ solicitation will be the basis for selecting a Pool of qualified CM firms that will ultimately submit Proposals in response to project specific RFPs set forth by the MSA and City Schools. The Offerors subsequently selected from the Pool will work closely with the MSA, City Schools, and other firms contracted by MSA and City Schools in a cooperative and coordinated fashion in the preconstruction, planning, estimating, scheduling, and constructability reviews of the specific school Projects within the Program. As stipulated in the Act, the MSA, City Schools, Baltimore City, and the Interagency Committee on Schools Construction (the Parties) agreed to a Memorandum of Understanding (MOU), which was approved by all parties and the

Maryland Board of Public Works. The MOU addresses sixteen parameters identified in the Act and can be viewed at <http://mdstad.com/images/pdf/mou-final-2013.pdf>. It is strongly recommended that Offerors familiarize themselves with the requirements, goals, and aspirations identified in the MOU, as it outlines the Parties' roles, rights, responsibilities, and efforts to engage the local community with regards to apprenticeships, schools student training/internships, local employment, and contracting objectives

The MSA and City Schools anticipate delivering the school Projects via the Construction Manager at Risk (CMR) method. It is the intent of MSA and/or City Schools to enter into a GMP contract for the construction of the project, and be involved in the oversight of the bidding process for subcontractors. MSA and/ or City Schools may elect to continue or to not continue to work with the CM firm selected for the pre-construction phase. This decision will be based on in part, but not limited to, performance during the pre-construction phase and the ability to negotiate an acceptable GMP.

MSA has established a similar pool of Architect and Engineer Teams (A/Es) for design and construction administration services. Additionally, the MSA and City Schools will also be assembling a pool of Commissioning Agents that will work closely with the A/Es and CMs during the design and construction administration phases of the projects. All projects under this Program shall obtain, at a minimum, LEED Silver Certification.

3.2 Scope Overview

Currently, there are twelve schools in the feasibility study phase which will result in projects that City Schools is conducting, known as Plan Year 1. The results of the Plan Year 1 studies will identify whether the building revitalization effort will be a renovation, a renovation with addition, or a replacement. As generally outlined in the MOU, MSA will actively manage new/replacement school Projects, and City Schools will actively manage renovation Projects with MSA oversight. The Plan Year 1 school buildings being studied are:

<u>Building Name</u>	<u>School Name (if different)</u>	<u>Type</u>
- Arlington	n/a	PK-8
- Arundel	n/a	PK-2
- Cherry Hill	n/a	3-8
- Dr Carter Godwin Woodson	n/a	PK-8
- Forest Park	n/a	HS
- Ft. Worthington	n/a	1-8
- Frederick	n/a	PK-5
- John Eager Howard	n/a	PK-5
- Lake Clifton	Claremont/Reach	HS
- Lyndhurst	n/a	PK-8
- Patterson	n/a	HS
- Pimlico	n/a	PK-8
- Robert Pool	ACCE/Independence	HS

For purposes of responding to this RFQ, Offerors can assume that there will be four

new/replacement Projects and 8 renovation Projects as a result of the Plan Year 1 feasibility studies, with final determinations pending review and final approval of the Parties. Upon final completion and approvals of the Plan Year 1 studies, the Pool will be issued Project RFPs to submit proposals for preconstruction, planning, estimating, scheduling, and constructability reviews for the approved Plan Year 1 Projects. The successful Offerors awarded the preconstruction services contract of individual school Projects will be required to perform the aforementioned contract services through the Design Phase. It is expected that the Construction Manager will work closely with MSA, City Schools, and the design team to perform pre- construction services which should include, but are not limited to, the following,:

1. Design Phase Project Cost Estimating and Budgeting (i.e. Schematic Document, Design Development Document(s), Construction Document(s))
2. Scheduling
3. Project Phasing / Site Logistics
4. Constructability Reviews
5. Value Management / Engineering
6. Quality Assurance
7. Trade Contractor Capacity Analysis
8. Scope Definitions
9. Procurement Strategy, Bid Packaging, and Preparations

This RFQ, the proposals in response hereto, and the CM Pool selected and formed are only for Plan Year 1 CM Service RFPs categorized below and will be referred as CM Procurement One (1). The Pool will be re-formed on an annual basis to allow for competition by firms that may not be eligible at the time of this RFQ issuance.

The Project Categories are identified as follows:

- **Project Category I** – Category not used for CM Procurement
- **Project Category II** – Preconstruction, planning, estimating, scheduling, constructability review services, and CM at-risk GMP projects for renovations and/or additions to an existing school building that are expected to cost \$10 - \$30 million.
- **Project Category III** – Preconstruction, planning, estimating, scheduling, constructability review services, and CM at- risk GMP projects for renovations and/or additions to an existing school building that are expected to cost more than \$30 million.
- **Project Category IV** – Preconstruction, planning, estimating, scheduling, constructability review services, and CM at-risk GMP projects for a new school building, or replacement of an existing school building, with new construction that is expected to cost \$20 -\$40 million.
- **Project Category V** – Preconstruction, planning, estimating, scheduling, constructability review services, and CM at-risk GMP projects for a new school

building, or replacement of an existing school building, with new construction that is expected to cost more than \$40 million.

3.2.1 Collaborative Efforts

As referenced in the MOU, the City, MSA, and City Schools have established a collaborative group (the Collaborative) to assess ways maximize opportunities for City Schools students, City residents, and State certified locally-based minority and women owned businesses as a result of the school construction program. Offerors that are selected to the Pool as a result of this RFQ and submitting proposals in response to subsequent RFP's will be expected to develop plans addressing ways to maximize local economic benefits, work-based learning, and contracting opportunities. Additionally, all entities selected to perform on-site work on a specific project as part of the Program will be required to document and report the number of City Residents employed on a project.

3.2.2 Process Overview

A) RFQ Proposals

Evaluation of Proposals shall be performed by a Selection Committee formed by and comprised of representatives from MSA and City Schools for that purpose. As a response to this RFQ, Offerors shall submit Proposals that shall contain, amongst other information, the name of the Offeror, the history of the firms, basic technical information, and other pertinent information responsive to this RFQ. The Selection Committee will then make determinations based on the criteria set forth in this RFQ to form the Pool of CMs that will be offered the opportunity to submit proposals on Projects within Procurement One. The overall participation in the Pool and the number of Offerors within the Pool will be determined by the number of qualified CMs responding to this RFQ. The MSA and City Schools anticipates that the Pool for Procurement One will include at least fifteen (15) firms. In preparing a Proposal, please refer to Section 1.26 regarding MBE goals. Networking and outreach sessions will be organized by the MSA and City Schools to assist Offerors with opportunities in assembling the CMs in support of these goals. Currently, there is a networking and outreach session planned for **Tuesday, July 15, 2014** at M&T Bank Stadium Club Level. More information about this event, including time, and location, will be provided at a later date.

At any time prior to award of a Contract pursuant to this RFQ, the Selection Committee may require any or all Offerors to submit such additional information that the Selection Committee deems appropriate to judge the Offeror's ability to perform the Contract or any Projects thereunder. The Selection Committee may also consider any information otherwise available concerning the financial, technical, and other qualifications or abilities of an Offeror.

Based on experience, financial strength, existing insurance coverage, and such other reasonable criteria as the Selection Committee may apply in their discretion, the Selection Committee will determine which qualified Offerors will be eligible to receive and respond to Project RFPs within each Project Category. A qualified Offeror may be eligible for more than one Project Category.

Upon completion of considering the aforementioned criteria, including all discussions, and reference checks (as applicable), the Procurement Officer will notify all qualified Offerors in which Project Categories they will be eligible to participate. This notice will only provide an Offeror the right to receive and respond to Project RFPs that are within the designated Project Category (or Categories), and as to which Project Category the Offeror(s) does not have an existing or potential conflict of interest. Designation to a Project Category (or Categories) does not guarantee that an Offeror will be awarded work on any particular Project, or on any Project at all.

B) Pool Process and Project RFPs

The Procurement Officer will send Project RFPs to the Pool. A CM that receives a Project RFP and determines that it may have an existing or potential conflict of interest if awarded the Project shall immediately advise the Procurement Officer with a written notification of the conflict and shall thereafter no longer be eligible with respect to that Project RFP. The Project RFP will specify the Project Category of the Project, the scope of work included in the Project, the requirements for the Project, and such other pertinent information as deemed necessary by the Procurement Officer. A Project will be awarded in accordance with the competitive sealed proposals process under MSA's and/or City Schools Procurement Policies. An eligible CM will not be obligated to submit a Project Proposal in response to a Project RFP.

A CM that desires to be considered for a particular Project shall respond to a Project RFP by submitting a Proposal in accordance with the Project RFP requirements. The Selection Committee reserves the right to request additional information from a CM to determine the appropriateness of the particular CM for a Project.

Projects set forth to the Pool by City Schools are subject to City Schools and/or MSA Board approvals. Project set forth to the Pool by the MSA are subject to MSA Board Approval, and the State Board of Public Works.

3.2.3 Bonding

The CM shall have bonding capacity (i.e. performance and payment), for each category, no less than:

- **Project Category I – (Not Used for CM Procurement)**
- **Project Category II – \$10 million minimum, up to \$30 million**
- **Project Category III – at least \$30 million**
- **Project Category IV – \$20 million minimum, up to \$40 million**
- **Project Category V – \$40 million minimum**

The CM shall provide, at the time of submitting a response to this RFQ, a letter from a surety identifying the CM’s free bonding capacity for assignment to the aforementioned project categories. Depending on the scope and nature of the project at the time of RFP issuance, additional categorical information related to bonding and/or financial ability may be evaluated.

3.2.4 Construction Management Services Requirements - Additional insurance coverages (upon Project award)

Insurance coverages shall include:

i) Commercial General Liability Insurance

The CM shall obtain and maintain, from and after the date of the Contract, insurance coverage for general liability claims (including, but not limited to, claims for bodily injury and property damage, including loss of use) arising from the operations of the CM, subcontractors, and suppliers that satisfies the following requirements:

- A) Commercial General Liability (“CGL”) insurance to be provided through the use of ISO Coverage Form CG-00-01-1001 or its equivalent.
- B) Minimum coverage limits of: \$2,000,000 as a per occurrence limit; \$4,000,000 as a general aggregate limit (applied separately to claims arising from the CM’s performance under the Contract); and \$4,000,000 as a products/completed operations limit.
- C) Both MSA and City Schools shall be added as Additional Insureds by additional insured endorsements ISO CG-20-10 and CG-20-37 or their equivalents. As Additional Insureds, MSA and City Schools shall have coverage for liability arising out of the CM’s ongoing and completed operations performed for either or both of MSA and City Schools.
- D) The CGL insurance policy shall include waivers of subrogation in favor of MSA and City Schools.
- E) The CGL insurance policy shall be primary and noncontributory with respect to the coverage afforded to MSA and City Schools.

- F) The CGL insurance policy shall not contain any exclusion for: X, C and/or U hazards; third party actions over claims; or punitive damages.
- G) The CGL insurance policy shall include Blanket Written Contractual Liability covering all contractual liabilities and indemnities assumed by the CM pursuant to the Contract.
- H) The CGL insurance policy shall also include the following extensions:
 - 1). The general aggregate limit shall apply separately to the Contract;
 - 2). Premises/Operations;
 - 3). Actions of Independent Subcontractors;
 - 4). Products/Completed Operations to be maintained for at least two (2) years after the expiration or termination of the Contract;
 - 5). Personal injury liability including coverage for offenses related to employment and for offenses assumed under the Contract (including deletion of any standard employment and/or contractual exclusions if contained in the personal injury coverage section); and
 - 6). If a Project encroaches within fifty (50) feet of the centerline of a railroad, the CGL insurance policy shall include ISO Endorsement CG-24-17 or its equivalent prior to the CM beginning any work on such Project.

ii) Automobile Liability Insurance

The CM shall obtain and maintain, from and after the date of the Contract, insurance coverage for third party legal liability claims arising from bodily injury and/or damage to property of others resulting from the ownership, maintenance, or use of any motor vehicle (whether owned, hired, or not owned), both on-site and off-site. Such Business Automobile Liability (“BAL”) insurance shall also include coverage against uninsured motorists and automobile contractual liability. The BAL insurance shall satisfy the following requirements:

- A). Minimum \$1,000,000 combined single limit on coverage
- B). The BAL insurance policy shall include waivers of subrogation in favor of MSA and City Schools.
- C). The BAL insurance policy shall name both MSA and City Schools as Additional Insureds.

D). If a Project encroaches within fifty (50) feet of the centerline of a railroad, the BAL insurance policy shall include ISO Endorsement CA-20-70 or its equivalent prior to the CM beginning any work on such Project.

iii) Workers Compensation and Employers Liability

The CM shall obtain and maintain, from and after the date of the Contract, insurance coverage for claims arising from Workers Compensation statutes and from Employer's Liability or other third party legal liability claims arising from bodily injury, disease, or death of the CM's employees. Such insurance shall satisfy the following requirements:

- A) The CM shall provide Workers Compensation coverage for all their employees and require that their subcontractors provide Workers Compensation coverage for all their employees in accordance with the statutory requirements of the jurisdiction in which the work is being performed.
- B) The policy shall provide for both Workers Compensation coverage ("Part A") and Employers Liability coverage ("Part B").
- C) The minimum limits of coverage for Part A (Workers Compensation) shall be in accordance with the statutory requirements of the jurisdiction in which the work is being performed. The minimum limits of coverage for Part B (Employers Liability) shall be \$1,000,000 for each accident, \$1,000,000 for each employee, and a \$1,000,000 aggregate policy limit for disease.
- D) Part B (Employers Liability) of such insurance policy shall include waivers of subrogation in favor of MSA and City Schools. Both MSA and City Schools shall be named as Additional Insured with respect to Part B (Employers Liability).

iv) Excess Liability / Umbrella Liability

The CM shall obtain and maintain, from and after the date of the Contract, insurance coverage for third party legal liability claims against the CM that exceed the per occurrence or general aggregate limits of the CGL insurance policy, the BAL insurance policy, and Part B (Employer's Liability) of the Workers' Compensation and Employer's Liability insurance policy. Such excess/umbrella insurance shall satisfy the following requirements:

- A). Unless otherwise specified by the Procurement Officer, the required minimum coverage limits for such insurance are as follows:

<u>Project Category</u> <u>Under Section 3.2</u>	<u>Coverage Required</u> <u>Per Occurrence</u>
Project Category I	-n/a-
Project Category II	\$3,000,000
Project Category III	\$5,000,000
Project Category IV	\$3,000,000
Project Category V	\$5,000,000

B). Both MSA and City Schools shall be named as Additional Insured with respect to such excess/umbrella liability insurance.

C). The excess/umbrella liability insurance policy shall include waivers of subrogation in favor of MSA and City Schools.

D). The excess/umbrella liability insurance shall be primary and noncontributory with respect to the coverage afforded to both MSA and City Schools.

vi) Optional Additional Insurance Coverage

As of the date of this RFQ, MSA does not anticipate that any other insurance coverage will be required with respect to any particular Project. MSA maintains the option, however, to require the CM to purchase and provide additional insurance coverage (e.g., Pollution or Environmental Liability Insurance) if MSA determines that such additional coverage is necessary for a specific Project. Such determination shall be specified in the RFP for a specific Project.

3.2.5 Additional insurance requirements (upon Project award)

A) General Requirements

i) The amount of insurance coverage specified herein shall be the minimum amount of insurance available to satisfy claims. The CM shall purchase and maintain such insurance with a minimum of the limits of liability as specified herein, as otherwise specified by the Procurement Officer with respect to a particular Project, or as required by law, whichever is greatest

ii) A policy is not acceptable if it allows the costs associated with investigating, managing, or defending against any claim or any other costs incurred by the insured or the insurer to be deducted from the policy limits

iii) Required insurance shall be purchased from and maintained with a company or companies lawfully authorized to do business in the State of Maryland. Insurance companies providing coverage as required herein shall have an AM Best rating of A-VII or better. All policies must be on a

primary basis. All policies, except Professional Liability and Workers' Compensation, shall name MSA and City Schools as "Additional Insured."

- iv) CM shall be responsible for the maintenance of this insurance regardless of whether the work is performed directly by CM, by any subcontractor, by any person employed by the CM or any subcontractor, or by anyone for whose acts the CM may be liable.
- v) Liability insurance policies (whether for professional liability, commercial general liability, business automobile liability, excess and/or umbrella liability, employer liability, or otherwise) be written on an "occurrence basis."
- vi) No acceptance and/or approval of any insurance by MSA shall be construed as relieving the CM, or the surety or bond, if any, from any liability or obligation imposed upon any of them by the Contract.

3.2.6 Schedule

A schedule outlining the current project timeline is attached as **Attachment C**.

SECTION 4 PROPOSALS, SUBMISSIONS, FORMATS & REQUIREMENTS

4.1 Proposal Submissions

- a). Offerors must respond to all requirements identified in the RFQ. Offerors who fail to do so will be deemed not reasonably susceptible of being selected to the pool for a potential award of a Contract for a Project under Procurement One.
- b). Proposals shall be submitted and identified as "**Baltimore City Public Schools-Construction Manager Procurement One Qualifications**". Proposals, must be sealed and tendered to the attention of the Procurement Officer at the address listed in Section 1.5 of this RFQ.
- c). On the outside of each sealed package, the Offeror must also include the name and address of the Offeror, and the closing date and time for receipt of Proposals. All pages of each Proposal must be consecutively numbered from beginning (Page 1) to end (Page "x"). The final page of the Proposal shall state "Final Page".
- d). **One (1) unbound original and five (5) bound paper copies of the Proposal, plus an electronic copy (formatted as .pdf or .jpg file, either on CD or, preferably, flash drive), shall be submitted.**

4.2 Transmittal Letter

A transmittal letter must accompany the Proposal. The purpose of this letter is to transmit

the Proposal to the Procurement Officer. The transmittal letter should be brief, and signed by an individual who is authorized to commit the Offeror to the services and requirements as stated in this RFQ. Only one transmittal letter is needed, and it does not need to be bound with the Proposal.

4.3 Proposal Format

The Proposal shall be formatted as follows:

- Title and Table of Contents.

The Proposal should begin with a title page bearing the name and address of the Offeror, point of contact information (including e-mail address), and the name of this RFQ. A table of contents for the Proposal should follow the title page. Information that is claimed to be confidential is to be placed after the Title Page and before the Table of Contents in the Offeror's Proposal. **Unless there is a compelling case, an entire Proposal should not be labeled confidential** but just those portions that can reasonably be shown to be proprietary or confidential.

- Executive Summary

The Offeror shall condense and highlight the contents of the Proposal in a separate section titled "Executive Summary." The summary shall identify any exceptions the Offeror has taken to the requirements of this RFQ and attachments, as well as **acknowledge the receipt of any amendments/addenda associated with this RFQ.** The summary should also include the Project Categories for Which the Offeror is applying, Offeror's Tax Identification Number for the purpose of establishing that the Offeror is established to do business with, and not in arrears to, the State of Maryland. The summary should not exceed 2 (two) pages.

(Warning: Exceptions to terms and conditions may result in having the Proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award of a Contract under Procurement One. If an Offeror takes no exception to MSA terms and conditions, the Executive Summary should so state.)

- Work Plan

The Scope of Work, Section 3 of this RFQ provides Offerors with information on the desired outcome of this solicitation. At a minimum, Offerors shall address the following in their Work Plan:

- a). The Offeror's organization and how it intends to complete the scope(s) outlined in this RFQ for both preconstruction and construction activities..
- b). The names, titles, resumes, roles, and current workload of the key management and other personnel (staffing plan) directly involved with managing the work that will be required under the Contract to be awarded for Projects under Procurement One.

- c). Identification of a Collaborative development coordinator(s), with roles and responsibilities such as managing and tracking the CM's MBE prime and/or subcontractor engagement plan to ensure quantifiable goals and objectives are being met; networking with various work source centers, community and faith-based organizations, and other non-profit entities that provide qualified workers, conducting orientations, job fairs and community outreach meetings in the local community; establishing a referral and retention tracking mechanism, along with assisting the respective contractors with their documentation effort and other reports as it relates to workforce development/compliance requirements
- Offeror Experience and Capabilities

Offerors shall describe prior experience and capabilities on the following:

- 1) Experience providing preconstruction services similar in size, scope, and setting to the Projects identified in this RFQ.
 - a) The number of years the Offeror has provided preconstruction services on urban projects, distinguishing between renovations, additions, and new and/or building replacement construction. Include in list form the project type. including the year the project(s) were completed, the project cost, the type of project (distinguishing between renovations, additions, new construction), the project scope performed, and LEED certification obtained (if applicable). K-12 experience is preferred.
 - b) If applicable, a list of PK-12 school building projects the Offeror has experience with,. The list shall include the year the project(s) were completed, the project cost, the type of project (distinguishing between renovations, additions, new construction), the project scope performed, and LEED certification obtained (if applicable). The Offeror should note that projects should be identified in such a way that matches the category(s) for which the Offeror is submitting proposals as part of the Pool.
 - c) A list of at least 3 (three) references for current or previous similar projects. Provide the name of the organization and the name, title, and telephone number of the point of contact for the organization.
- 2) Experience providing construction services similar in size, scope, and scale to the Projects identified in this RFQ.
 - a) The number of years the Offeror has provided construction services on urban projects, distinguishing between renovations, additions, new construction, and occupied buildings during construction. Include in list form the project type including the year the project(s) were completed, the project cost, the type of project (distinguishing between renovations, additions, new construction), the

project scope performed, and LEED certification obtained (if applicable). K-12 experience is preferred.

- b) If applicable, a list of PK-12 school building projects the Offeror has experience with,. The list shall include the year the project(s) were completed, the project cost, the type of project (distinguishing between renovations, additions, new construction), the project scope performed, and LEED certification obtained (if applicable). The Offeror should note that projects should be identified in such a way that matches the category(s) for which the Offeror is submitting proposals as part of the Pool.
- c) A list of at least 3 (three) references for current or previous similar projects. Provide the name of the organization and the name, title, and telephone number of the point of contact for the organization.

Note: The MSA reserves the right to require, during proposal evaluation, that the Offeror provide a copy of its most current Annual Report or audited Statement of Financial Condition to include a Balance Sheet, Income Statement and Cash Flow Statement or other acceptable financial information. These documents may be relied upon in any determination regarding the Offeror's financial responsibility.

- 3) Current firm workload(s) projected over the next two years.
- 4) Provide a list of any contract held by the Offeror where the contract was terminated (either for default or convenience). This list should also identify any contracts that resulted in litigation or arbitration between the Owner and the Offeror. If the Offeror has multiple regional offices, only contracts held by the office submitting this proposal need be listed.
- 5) Offeror's familiarity and knowledge of local standards, laws, building codes, and conditions applicable to the Projects.

4.4 Subcontractors/Joint Ventures

Offerors shall identify any known subcontractors and/or joint ventures at the time of submission, if any, and the roles these relationships will have in the performance of the Contract(s) to be awarded. Upon MSA's request, Offerors shall make available within 24 hours all subcontractors/joint venture scope of work documents and proposals.

4.5 Project Experience Worksheet

Project Experience should be included per the format detailed in **Attachment XX** of this RFQ.

4.6 Required Submissions

Offerors must submit the following items as part of their Proposal:

1. A completed Bid/Proposal Affidavit (**Attachment A**);
2. Conflict of Interest Information/Affidavit and Disclosure (**Attachment B**);
3. Statement of insurability from the Offeror's carrier, including bonding capacities (free/encumbered), and coverage limits currently carried as outlined in Sections 3.2.2 and 3.2.4.

SECTION 5 EVALUATION CRITERIA AND SELECTION PROCEDURE

5.1 Evaluation Procedures

A) Evaluation Criteria

Evaluation of the Proposals will be performed by a committee and will be based on the criteria and responsiveness of the Offeror as set forth in the RFQ.

B) Technical Criteria

The criteria to be applied to each Technical Proposal are as follows:

1. Description and experience of the offeror, current workload, and; ability to accomplish proposed work in required timeframe;
2. Description and experience of key personnel, including key staff commitment
3. Work plan and schedule;
4. Collaborative Experience
6. References

5.2 Reciprocal Preference

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

5.3 General Selection Procedures

- Proposals will be reviewed by the Selection Committee comprised of representatives of the MSA and City Schools.
- The selections will be made in accordance with the competitive sealed proposals process under Section 3(C) of MSA's Procurement Policies.
- Prior to a Offeror's selection pursuant to this RFQ, MSA and City Schools may require

any or all Offerors to submit such additional information bearing upon the Offeror's ability to perform the services as MSA and City Schools may deem appropriate. MSA and City Schools may also consider any information otherwise available concerning the financial, technical, and other qualifications or abilities of the Offeror.

- Selections will be made to the Offerors whose proposals are deemed to be the most advantageous to MSA.

5.4 Contracts

Contracts awarded through the subsequent RFPs will be held by either MSA or City Schools.

ATTACHMENTS

- A. BID/PROPOSAL AFFIDAVIT**
- B. CONFLICT OF INTEREST INFORMATION/ AFFIDAVIT &
DISCLOSURE**
- C. PROJECT SCHEDULE**
- D. MBE INSTRUCTIONS AND FORMS**
- E. ELECTRONIC FUND TRANSFER (EFT) FORM**
- F. CONSTRUCTION MANAGER EXPERIENCE FORM**

ATTACHMENT A

BID/PROPOSAL AFFIDAVIT

See attached.

ATTACHMENT A- Bid/Proposal Affidavit

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

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

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

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

B-1. Certification Regarding Minority Business Enterprises.

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

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

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

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

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

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

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

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

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

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

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

(9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B and C and subsections D(1)—(8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

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

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

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

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

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

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

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

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

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

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

I. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

J. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, §§14-101—14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other

agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

K. DRUG AND ALCOHOL FREE WORKPLACE

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

I CERTIFY THAT:

- (1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.
- (2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:
 - (a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;
 - (b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;
 - (c) Prohibit its employees from working under the influence of drugs or alcohol;
 - (d) Not hire or assign to work on the contract anyone whom the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;
 - (e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;
 - (f) Establish drug and alcohol abuse awareness programs to inform its employees about:
 - (i) The dangers of drug and alcohol abuse in the workplace;
 - (ii) The business' policy of maintaining a drug and alcohol free workplace;
 - (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;
 - (g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §K(2)(b), above;
 - (h) Notify its employees in the statement required by §K(2)(b), above, that as a condition of continued employment on the contract, the employee shall:
 - (i) Abide by the terms of the statement; and

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

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

(j) Within 30 days after receiving notice under §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:

(i) Take appropriate personnel action against an employee, up to and including termination; or

(ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

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

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

(4) I acknowledge and agree that:

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

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

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

L. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

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

Name: _____ Address: _____
(If not applicable, so state). _____

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

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

M. CONTINGENT FEES

I FURTHER AFFIRM THAT:

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

N. Repealed.

O. ACKNOWLEDGEMENT

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

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

Date: _____

By: _____

(Authorized Representative and Affiant)

ATTACHMENT B

CONFLICT OF INTEREST INFORMATION/AFFIDAVIT AND DISCLOSURE

See attached.

CONFLICT OF INTEREST AFFIDAVIT/DISCLOSURE

- A. "Conflict of Interest" means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage."
- B. "Person" has the meaning stated in COMAR 21.01.02.01B (64) and includes a Bidder, Contractor, consultant, or subcontractor or subconsultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a bid or offer is made.
- C. The Bidder warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.
- D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain in detail—attach additional sheets if necessary).

- E. The Bidder agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the Bidder shall immediately make a full disclosure in writing to the Procurement Officer of all relevant facts and circumstances. This disclosure shall include a description of actions, which the Bidder 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)

ATTACHMENT C

ANTICIPATED SCHEDULE

Pool Selection and CM Services RFP's – Late August/Early September 2014

ATTACHMENT D

MBE INSTRUCTIONS AND FORMS

See attached for reference purposes.

**MBE ATTACHMENT D-1A:
MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT
& MBE PARTICIPATION SCHEDULE**

INSTRUCTIONS

PLEASE READ BEFORE COMPLETING THIS DOCUMENT

This form includes Instructions and the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule which must be submitted with the bid/proposal. If the bidder/offeror fails to accurately complete and submit this Affidavit and Schedule with the bid or proposal as required, the Procurement Officer shall deem the bid non-responsive or shall determine that the proposal is not reasonably susceptible of being selected for award.

1. Contractor shall structure its procedures for the performance of the work required in this Contract to attempt to achieve the minority business enterprise (MBE) subcontractor participation goal stated in the Invitation for Bids or Request for Proposals. Contractor agrees to exercise good faith efforts to carry out the requirements set forth in these Instructions, as authorized by the Code of Maryland Regulations (COMAR) 21.11.03.
2. MBE Goals and Subgoals: Please review the solicitation for information regarding the Contract's MBE overall participation goals and subgoals. After satisfying the requirements for any established subgoals, the Contractor is encouraged to use a diverse group of subcontractors and suppliers from any/all of the various MBE classifications to meet the remainder of the overall MBE participation goal.
3. MBE means a minority business enterprise that is certified by the Maryland Department of Transportation ("MDOT"). Only entities certified by MDOT may be counted for purposes of achieving the MBE participation goals. In order to be counted for purposes of achieving the MBE participation goals, the MBE firm, including a MBE prime, must be MDOT-certified for the services, materials or supplies that it is committed to perform on the MBE Participation Schedule.
4. Please refer to the MDOT MBE Directory at www.mdot.state.md.us to determine if a firm is certified with the appropriate North American Industry Classification System ("NAICS") Code **and** the product/services description (specific product that a firm is certified to provide or specific areas of work that a firm is certified to perform). For more general information about NAICS, please visit www.naics.com. Only those specific products and/or services for which a firm is certified in the MDOT Directory can be used for purposes of achieving the MBE participation goals. **WARNING:** If the firm's NAICS Code is in **graduated status**, such services/products **may not be counted** for purposes of achieving the MBE participation goals. A NAICS Code is in the graduated status if the term "Graduated" follows the Code in the MDOT MBE Directory.
5. **NOTE: New Guidelines Regarding MBE Prime Self-Performance.** Please note that when a certified MBE firm participates as a prime contractor on a contract, a procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own forces toward fulfilling up to fifty-percent (50%) of the MBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the contract. In order to receive credit for self-performance, an MBE prime must list its firm in Section 4A of the MBE Participation Schedule, including the certification category under which the MBE prime is self-performing and include information regarding the work it will self-perform. For the remaining portion of the overall goal and the subgoals, the MBE prime must also identify other certified MBE subcontractors

(see Section 4B of the MBE Participation Schedule) used to meet those goals or request a waiver. For example, for a construction contract that has a 27% MBE overall participation goal and subgoals of 7% for African American firms and 4% for Asian American firms, subject to Section 4 above and this Section 5, a certified African American MBE prime can self-perform (a) up to 13.5 % of the overall goal and (b) up to 7% of the African American subgoal. The remainder of the overall goal and subgoals would have to be met with other certified MBE firms or a waiver request.

For a services contract with a 30% percent MBE participation goal (overall) and subgoals of 7% for African-American firms, 4% for Asian American firms and 12% for women-owned firms, subject to Sections 4 above and this Section 5, a dually-certified Asian American/Woman MBE prime can self-perform (a) up to 15% of the overall goal and (b) up to four percent (4%) of the Asian American subgoal OR up to twelve percent (12%) of the women subgoal. Because it is dually-certified, the company can be designated as only ONE of the MBE classifications (Asian American or women) but can self-perform up to one hundred percent (100%) of the stated subgoal for the single classification it selects.

- 6. Subject to the restrictions stated in Section 5 above, when a certified MBE that performs as a participant in a joint venture, a procurement agency may count a portion of the total dollar value of the contract equal to the distinct, clearly-defined portion of the work of the contract that the certified MBE performs with its own forces toward fulfilling the contract goal, and not more than one of the contract subgoals, if any. For example, if a MBE firm is a joint venture partner and the State determines that it is performing with its own forces 35 percent of the work in the contract, it can use this portion of the work towards fulfilling up to fifty percent (50%) of the overall goal and up to one hundred percent (100%) of one of the stated subgoals, if applicable.
- 7. As set forth in COMAR 21.11.03.12-1, once the Contract work begins, the work performed by a certified MBE firm, including an MBE prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract. Please refer to COMAR 21.11.03.12-1 for more information regarding these requirements.
- 8. If you have any questions as to whether a firm is certified to perform the specific services or provide specific products, please contact MDOT’s Office of Minority Business Enterprise at 1-800-544-6056 or via email to mbe@mdot.state.md.us sufficiently prior to the submission due date.
- 9. Worksheet: The percentage of MBE participation, calculated using the percentage amounts for all of the MBE firms listed on the Participation Schedule **MUST** at least equal the MBE participation goal **and** subgoals (if applicable) set forth in the solicitation. If a bidder/offeror is unable to achieve the MBE participation goal and/or any subgoals (if applicable), the bidder/offeror must request a waiver in Item 1 of the MBE Utilization and Fair Solicitation Affidavit (Attachment ___-1A) or the bid will be deemed not responsive, or the proposal determined to be not susceptible of being selected for award. You may wish to use the Subgoal summary below to assist in calculating the percentages and confirm that you have met the applicable MBE participation goal and subgoals, if any.

Subgoals (if applicable)

Total African American MBE Participation:	_____	%
Total Asian American MBE Participation:	_____	%
Total Hispanic American MBE Participation:	_____	%
Total Women-Owned MBE Participation:	_____	%

Overall Goal

Total MBE Participation (include all categories):	_____	%
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**MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT &
MBE PARTICIPATION SCHEDULE**

This MBE Utilization and Fair Solicitation Affidavit and MBE Participation Schedule must be included with the bid/proposal. If the bidder/offeror fails to accurately complete and submit this Affidavit and Schedule with the bid or proposal as required, the Procurement Officer shall deem the bid non-responsive or shall determine that the proposal is not reasonably susceptible of being selected for award.

In connection with the bid/proposal submitted in response to Solicitation No. _____, I affirm the following:

1. MBE Participation (PLEASE CHECK ONLY ONE) [Agency should insert the participation goal and subgoal amounts from the PRG and Subgoal Worksheet in the blanks below and delete any of the subgoals that do not apply to this solicitation and then delete this sentence of instruction.]

I acknowledge and intend to meet the overall certified Minority Business Enterprise (MBE) participation goal of _____ percent and, if specified in the solicitation, the following subgoals (complete for only those subgoals that apply):

- _____ percent for African American-owned MBE firms
- _____ percent for Hispanic American-owned MBE firms
- _____ percent for Asian American-owned MBE firms
- _____ percent for Women-owned MBE firms

Therefore, I am not seeking a waiver pursuant to COMAR 21.11.03.11.

OR

I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. Within 10 Working days of receiving notice that our firm is the apparent awardee or as requested by the Procurement Officer, I will submit the completed Good Faith Efforts Documentation to Support Waiver Request (Attachment ___-1C) and all required waiver documentation in accordance with COMAR 21.11.03.

2. Additional MBE Documentation

I understand that if I am notified that I am the apparent awardee or as requested by the Procurement Officer, I must submit the following documentation within 10 business days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier:

- (a) Outreach Efforts Compliance Statement (Attachment ___-2);
- (b) MBE Subcontractor/MBE Prime Project Participation Statement (Attachments ___-3A and 3B);
- (c) Any other documentation, including waiver documentation if applicable, required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal and subgoals, if any.

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

3. Information Provided to MBE firms

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

[CONTINUED ON NEXT PAGE]

4. MBE Participation Schedule

Set forth below are the (i) certified MBEs I intend to use, (ii) the percentage of the total Contract amount allocated to each MBE for this project and, (iii) the items of work each MBE will provide under the Contract. I have confirmed with the MDOT database that the MBE firms identified below are performing work activities for which they are MDOT certified.

Prime Contractor	Project Description	Project/Contract Number

LIST INFORMATION FOR EACH CERTIFIED MBE FIRM YOU AGREE TO USE TO ACHIEVE THE MBE PARTICIPATION GOAL AND SUBGOALS, IF ANY. **MBE PRIMES:** PLEASE COMPLETE BOTH SECTIONS A AND B BELOW.

SECTION A: For MBE Prime Contractors ONLY (including MBE Primes in a Joint Venture)

<p>MBE Prime Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned</p> <p><input type="checkbox"/> Hispanic American- Owned</p> <p><input type="checkbox"/> Asian American-Owned</p> <p><input type="checkbox"/> Women-Owned</p> <p><input type="checkbox"/> Other MBE Classification</p>	<p>Percentage of total Contract Value to be performed with own forces and counted towards the MBE overall participation goal (up to 50% of the overall goal): _____%</p> <p>Percentage of total Contract Value to be performed with own forces and counted towards the subgoal, if any, for my MBE classification (up to 100% of not more than one subgoal): _____%</p> <p>Description of the Work to be performed with MBE prime's own forces: _____</p> <p>_____</p>
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SECTION B: For all Contractors (including MBE Primes in a Joint Venture)

<p>MBE Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American- Owned</p> <p><input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned</p> <p><input type="checkbox"/> Other MBE Classification</p>	<p>Percentage of Total Contract to be performed by this MBE: _____%</p> <p>Description of the Work to be Performed:</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>MBE Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American- Owned</p> <p><input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned</p> <p><input type="checkbox"/> Other MBE Classification</p>	<p>Percentage of Total Contract to be performed by this MBE: _____%</p> <p>Description of the Work to be Performed:</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>MBE Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American- Owned</p> <p><input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned</p> <p><input type="checkbox"/> Other MBE Classification</p>	<p>Percentage of Total Contract to be provided by this MBE: _____%</p> <p>Description of the Work to be Performed:</p> <p>_____</p> <p>_____</p> <p>_____</p>

CONTINUE ON SEPARATE PAGE IF NEEDED

I solemnly affirm under the penalties of perjury that I have reviewed the instructions for the MBE MBE Utilization & Fair Solicitation Affidavit and MBE Schedule and that the information included in the Schedule is true to the best of my knowledge, information and belief.

Bidder/Offeror Name
(PLEASE PRINT OR TYPE)

Signature of Authorized Representative

Address

Printed Name and Title

City, State and Zip Code

Date

SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL

MBE ATTACHMENT D-1B WAIVER GUIDANCE

GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET MBE PARTICIPATION GOALS

In order to show that it has made good faith efforts to meet the Minority Business Enterprise (MBE) participation goal (including any MBE subgoals) on a contract, the bidder/offeror must either (1) meet the MBE Goal(s) and document its commitments for participation of MBE Firms, or (2) when it does not meet the MBE Goal(s), document its Good Faith Efforts to meet the goal(s).

I. Definitions

MBE Goal(s) – “MBE Goal(s)” refers to the MBE participation goal and MBE participation subgoal(s).

Good Faith Efforts – The “Good Faith Efforts” requirement means that when requesting a waiver, the bidder/offeror must demonstrate that it took all necessary and reasonable steps to achieve the MBE Goal(s), which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient MBE participation, even if those steps were not fully successful. Whether a bidder/offeror that requests a waiver made adequate good faith efforts will be determined by considering the quality, quantity, and intensity of the different kinds of efforts that the bidder/offeror has made. The efforts employed by the bidder/offeror should be those that one could reasonably expect a bidder/offeror to take if the bidder/offeror were actively and aggressively trying to obtain MBE participation sufficient to meet the MBE contract goal and subgoals. Mere *pro forma* efforts are not good faith efforts to meet the MBE contract requirements. The determination concerning the sufficiency of the bidder's/offeror's good faith efforts is a judgment call; meeting quantitative formulas is not required.

Identified Firms – “Identified Firms” means a list of the MBEs identified by the procuring agency during the goal setting process and listed in the procurement as available to perform the Identified Items of Work. It also may include additional MBEs identified by the bidder/offeror as available to perform the Identified Items of Work, such as MBEs certified or granted an expansion of services after the procurement was issued. If the procurement does not include a list of Identified Firms, this term refers to all of the MBE Firms (if State-funded) the bidder/offeror identified as available to perform the Identified Items of Work and should include all appropriately certified firms that are reasonably identifiable.

Identified Items of Work – “Identified Items of Work” means the bid items identified by the procuring agency during the goal setting process and listed in the procurement as possible items of work for performance by MBE Firms. It also may include additional portions of items of work the bidder/offeror identified for performance by MBE Firms to increase the likelihood that the MBE Goal(s) will be achieved. If the procurement does not include a list of Identified Items of Work, this term refers to all of the items of work the bidder/offeror identified as possible items of work for performance by MBE Firms and should include all reasonably identifiable work opportunities.

MBE Firms – “MBE Firms” refers to a firm certified by the Maryland Department of Transportation (“MDOT”) under COMAR 21.11.03. Only MDOT-certified MBE Firms can participate in the State's MBE Program.

II. Types of Actions Agency will Consider

The bidder/offeror is responsible for making relevant portions of the work available to MBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available MBE subcontractors and suppliers, so as to facilitate MBE participation. The following is a list of types of actions the procuring agency will consider as part of the bidder's/offeror's Good Faith Efforts when the bidder/offeror fails to meet the MBE Goal(s). This list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A. Identify Bid Items as Work for MBE Firms

1. Identified Items of Work in Procurements

(a) Certain procurements will include a list of bid items identified during the goal setting process as possible work for performance by MBE Firms. If the procurement provides a list of Identified Items of Work, the bidder/offeror shall make all reasonable efforts to solicit quotes from MBE Firms to perform that work.

(b) Bidders/Offerors may, and are encouraged to, select additional items of work to be performed by MBE Firms to increase the likelihood that the MBE Goal(s) will be achieved.

2. Identified Items of Work by Bidders/Offerors

(a) When the procurement does not include a list of Identified Items of Work or for additional Identified Items of Work, bidders/offerors should reasonably identify sufficient items of work to be performed by MBE Firms.

(b) Where appropriate, bidders/offerors should break out contract work items into economically feasible units to facilitate MBE participation, rather than perform these work items with their own forces. The ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder/offeror of the responsibility to make Good Faith Efforts.

B. Identify MBE Firms to Solicit

1. MBE Firms Identified in Procurements

(a) Certain procurements will include a list of the MBE Firms identified during the goal setting process as available to perform the items of work. If the procurement provides a list of Identified MBE Firms, the bidder/offeror shall make all reasonable efforts to solicit those MBE firms.

(b) Bidders/offerors may, and are encouraged to, search the MBE Directory to identify additional MBEs who may be available to perform the items of work, such as MBEs certified or granted an expansion of services after the solicitation was issued.

2. MBE Firms Identified by Bidders/Offerors

(a) When the procurement does not include a list of Identified MBE Firms, bidders/offerors should reasonably identify the MBE Firms that are available to perform the Identified Items of Work.

(b) Any MBE Firms identified as available by the bidder/offeror should be certified to perform the Identified Items of Work.

C. Solicit MBEs

1. Solicit all Identified Firms for all Identified Items of Work by providing written notice. The bidder/offeror should:

(a) provide the written solicitation at least 10 days prior to bid opening to allow sufficient time for the MBE Firms to respond;

(b) send the written solicitation by first-class mail, facsimile, or email using contact information in the MBE Directory, unless the bidder/offeror has a valid basis for using different contact information; and

(c) provide adequate information about the plans, specifications, anticipated time schedule for portions of the work to be performed by the MBE, and other requirements of the contract to assist MBE Firms in responding. (This information may be provided by including hard copies in the written solicitation or by electronic means as described in C.3 below.)

2. "All" Identified Firms includes the MBEs listed in the procurement and any MBE Firms you identify as potentially available to perform the Identified Items of Work, but it does not include MBE Firms who are no longer certified to perform the work as of the date the bidder/offeror provides written solicitations.

3. "Electronic Means" includes, for example, information provided *via* a website or file transfer protocol (FTP) site containing the plans, specifications, and other requirements of the contract. If an interested MBE cannot access the information provided by electronic means, the bidder/offeror must make the information available in a manner that is accessible to the interested MBE.

4. Follow up on initial written solicitations by contacting MBEs to determine if they are interested. The follow up contact may be made:

(a) by telephone using the contact information in the MBE Directory, unless the bidder/offeror has a valid basis for using different contact information; or

(b) in writing *via* a method that differs from the method used for the initial written solicitation.

5. In addition to the written solicitation set forth in C.1 and the follow up required in C.4, use all other reasonable and available means to solicit the interest of MBE Firms certified to perform the work of the contract. Examples of other means include:

(a) attending any pre-bid meetings at which MBE Firms could be informed of contracting and subcontracting opportunities; and

(b) if recommended by the procurement, advertising with or effectively using the services of at least two minority focused entities or media, including trade associations, minority/women community organizations, minority/women contractors' groups, and local, state, and federal minority/women business assistance offices listed on the MDOT Office of Minority Business Enterprise website.

D. Negotiate With Interested MBE Firms

Bidders/Offerors must negotiate in good faith with interested MBE Firms.

1. Evidence of negotiation includes, without limitation, the following:

(a) the names, addresses, and telephone numbers of MBE Firms that were considered;

(b) a description of the information provided regarding the plans and specifications for the work selected for subcontracting and the means used to provide that information; and

(c) evidence as to why additional agreements could not be reached for MBE Firms to perform the work.

2. A bidder/offeror using good business judgment would consider a number of factors in negotiating with subcontractors, including MBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration.

3. The fact that there may be some additional costs involved in finding and using MBE Firms is not in itself sufficient reason for a bidder's/offeror's failure to meet the contract MBE goal(s), as long as such costs are reasonable. Factors to take into consideration when determining whether a MBE Firm's quote is excessive or unreasonable include, without limitation, the following:

(a) the dollar difference between the MBE subcontractor's quote and the average of the other subcontractors' quotes received by the bidder/offeror;

(b) the percentage difference between the MBE subcontractor's quote and the average of the other subcontractors' quotes received by the bidder/offeror;

(c) the percentage that the MBE subcontractor's quote represents of the overall contract amount;

(d) the number of MBE firms that the bidder/offeror solicited for that portion of the work;

(e) whether the work described in the MBE and Non-MBE subcontractor quotes (or portions thereof) submitted for review is the same or comparable; and

(f) the number of quotes received by the bidder/offeror for that portion of the work.

4. The above factors are not intended to be mandatory, exclusive, or exhaustive, and other evidence of an excessive or unreasonable price may be relevant.

5. The bidder/offeror may not use its price for self-performing work as a basis for rejecting a MBE Firm's quote as excessive or unreasonable.

6. The "average of the other subcontractors' quotes received" by the bidder/offeror refers to the average of the quotes received from all subcontractors. Bidder/offeror should attempt to receive quotes from at least three subcontractors, including one quote from a MBE and one quote from a Non-MBE.

7. A bidder/offeror shall not reject a MBE Firm as unqualified without sound reasons based on a thorough investigation of the firm's capabilities. For each certified MBE that is rejected as unqualified or that placed a subcontract quotation or offer that the bidder/offeror concludes is not acceptable, the bidder/offeror must provide a written detailed statement listing the reasons for this conclusion. The bidder/offeror also must document the steps taken to verify the capabilities of the MBE and Non-MBE Firms quoting similar work.

(a) The factors to take into consideration when assessing the capabilities of a MBE Firm, include, but are not limited to the following: financial capability, physical capacity to perform, available personnel and equipment, existing workload, experience performing the type of work, conduct and performance in previous contracts, and ability to meet reasonable contract requirements.

(b) The MBE Firm's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the efforts to meet the project goal.

E. Assisting Interested MBE Firms

When appropriate under the circumstances, the decision-maker will consider whether the bidder/offeror:

1. made reasonable efforts to assist interested MBE Firms in obtaining the bonding, lines of credit, or insurance required by the procuring agency or the bidder/offeror; and
2. made reasonable efforts to assist interested MBE Firms in obtaining necessary equipment, supplies, materials, or related assistance or services.

III. Other Considerations

In making a determination of Good Faith Efforts the decision-maker may consider engineering estimates, catalogue prices, general market availability and availability of certified MBE Firms in the area in which the work is to be performed, other bids or offers and subcontract bids or offers substantiating significant variances between certified MBE and Non-MBE costs of participation, and their impact on the overall cost of the contract to the State and any other relevant factors.

The decision-maker may take into account whether a bidder/offeror decided to self-perform subcontract work with its own forces, especially where the self-performed work is Identified Items of Work in the procurement. The decision-maker also may take into account the performance of other bidders/offerors in meeting the contract. For example, when the apparent successful bidder/offeror fails to meet the contract goal, but others meet it, this reasonably raises the question of whether, with additional reasonable efforts, the apparent successful bidder/offeror could have met the goal. If the apparent successful bidder/offeror fails to meet the goal, but meets or exceeds the average MBE participation obtained by other bidders/offerors, this, when viewed in conjunction with other factors, could be evidence of the apparent successful bidder/offeror having made Good Faith Efforts.

IV. Documenting Good Faith Efforts

At a minimum, a bidder/offeror seeking a waiver of the MBE Goal(s) or a portion thereof must provide written documentation of its Good Faith Efforts, in accordance with COMAR 21.11.03.11, within 10 business days after receiving notice that it is the apparent awardee. The written documentation shall include the following:

A. Items of Work (Complete Good Faith Efforts Documentation Attachment 1-C, Part 1)

A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBE Firms in order to increase the likelihood of achieving the stated MBE Goal(s).

B. Outreach/Solicitation/Negotiation

1. The record of the bidder's/offeror's compliance with the outreach efforts prescribed by COMAR 21.11.03.09C(2)(a). **(Complete Outreach Efforts Compliance Statement – Attachment 2).**

2. A detailed statement of the efforts made to contact and negotiate with MBE Firms including:

- (a) the names, addresses, and telephone numbers of the MBE Firms who were contacted, with the dates and manner of contacts (letter, fax, email, telephone, etc.) **(Complete Good Faith Efforts Attachment 1-C- Part 2, and submit letters, fax cover sheets, emails, etc. documenting solicitations);** and

- (b) a description of the information provided to MBE Firms regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed and the means used to provide that information.

C. Rejected MBE Firms (Complete Good Faith Efforts Attachment 1-C, Part 3)

1. For each MBE Firm that the bidder/offeror concludes is not acceptable or qualified, a detailed statement of the reasons for the bidder's/offeror's conclusion, including the steps taken to verify the capabilities of the MBE and Non-MBE Firms quoting similar work.

2. For each certified MBE Firm that the bidder/offeror concludes has provided an excessive or unreasonable price, a detailed statement of the reasons for the bidder's/offeror's conclusion, including the quotes received from all MBE and Non-MBE firms bidding on the same or comparable work. **(Include copies of all quotes received.)**

3. A list of MBE Firms contacted but found to be unavailable. This list should be accompanied by a MBE Unavailability Certificate (see Exhibit A to this Part 1) signed by the MBE contractor or a statement from the bidder/offeror that the MBE contractor refused to sign the MBE Unavailability Certificate.

D. Other Documentation

1. Submit any other documentation requested by the Procurement Officer to ascertain the bidder's/offeror's Good Faith Efforts.

2. Submit any other documentation the bidder/offeror believes will help the Procurement Officer ascertain its Good Faith Efforts.

Exhibit A

MBE Subcontractor Unavailability Certificate

1. It is hereby certified that the firm of _____
(Name of Minority firm)
located at _____
(Number) (Street)

(City) (State) (Zip)

was offered an opportunity to bid on Solicitation No. _____
in _____ County by _____
(Name of Prime Contractor's Firm)

2. _____ (Minority Firm), is either unavailable for the
work/service or unable to prepare a bid for this project for the following reason(s):

Signature of Minority Firm's MBE Representative **Title** **Date**

MDOT Certification # _____ Telephone # _____

3. To be completed by the prime contractor if Section 2 of this form is not completed by the minority firm.
To the best of my knowledge and belief, said Certified Minority Business Enterprise is either unavailable
for the work/service for this project, is unable to prepare a bid, or did not respond to a request for a price
proposal and has not completed the above portion of this submittal.

Signature of Prime Contractor Title Date _____

MBE ATTACHMENT D-1C
GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST

PAGE ___ OF ___

Prime Contractor	Project Description	Solicitation Number

PARTS 1, 2, AND 3 MUST BE INCLUDED WITH THIS CERTIFICATE ALONG WITH ALL DOCUMENTS SUPPORTING YOUR WAIVER REQUEST.

I affirm that I have reviewed Attachment D-1B, Waiver Guidance. I further affirm under penalties of perjury that the contents of Parts 1, 2, and 3 of this Attachment D-1C Good Faith Efforts Documentation Form are true to the best of my knowledge, information, and belief.

Company Name

Signature of Representative

Address

Printed Name and Title

City, State and Zip Code

Date

**GOOD FAITH EFFORTS DOCUMENTATION
TO SUPPORT WAIVER REQUEST**

**PART 1 – IDENTIFIED ITEMS OF WORK BIDDER/OFFEROR MADE AVAILABLE TO
MBE FIRMS**

PAGE ___ OF ____

Prime Contractor	Project Description	Solicitation Number

Identify those items of work that the bidder/offeror made available to MBE Firms. This includes, where appropriate, those items the bidder/offeror identified and determined to subdivide into economically feasible units to facilitate the MBE participation. For each item listed, show the anticipated percentage of the total contract amount. It is the bidder's/offeror's responsibility to demonstrate that sufficient work to meet the goal was made available to MBE Firms, and the total percentage of the items of work identified for MBE participation equals or exceeds the percentage MBE goal set for the procurement. Note: If the procurement includes a list of bid items identified during the goal setting process as possible items of work for performance by MBE Firms, the bidder/offeror should make all of those items of work available to MBE Firms or explain why that item was not made available. If the bidder/offeror selects additional items of work to make available to MBE Firms, those additional items should also be included below.

Identified Items of Work	Was this work listed in the procurement?	Does bidder/offeror normally self-perform this work?	Was this work made available to MBE Firms? If no, explain why?
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
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	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Please check if Additional Sheets are attached.

GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST

PART 2 – IDENTIFIED MBE FIRMS AND RECORD OF SOLICITATIONS

PAGE ___ OF ___

Prime Contractor	Project Description	Solicitation Number

Identify the MBE Firms solicited to provide quotes for the Identified Items of Work made available for MBE participation. Include the name of the MBE Firm solicited, items of work for which bids/quotes were solicited, date and manner of initial and follow-up solicitations, whether the MBE provided a quote, and whether the MBE is being used to meet the MBE participation goal. MBE Firms used to meet the participation goal must be included on the MBE Participation Schedule. Note: If the procurement includes a list of the MBE Firms identified during the goal setting process as potentially available to perform the items of work, the bidder/offeror should solicit all of those MBE Firms or explain why a specific MBE was not solicited. If the bidder/offeror identifies additional MBE Firms who may be available to perform Identified Items of Work, those additional MBE Firms should also be included below. Copies of all written solicitations and documentation of follow-up calls to MBE Firms must be attached to this form. This list should be accompanied by a Minority Contractor Unavailability Certificate signed by the MBE contractor or a statement from the bidder/offeror that the MBE contractor refused to sign the Minority Contractor Unavailability Certificate (see Exhibit A to MBE Attachment 1-B). If the bidder/offeror used a Non-MBE or is self-performing the identified items of work, Part 4 must be completed.

Name of Identified MBE Firm & MBE Classification	Describe Item of Work Solicited	Initial Solicitation Date & Method	Follow-up Solicitation Date & Method	Details for Follow-up Calls	Quote Rec'd	Quote Used	Reason Quote Rejected
Firm Name: <hr/> MBE Classification (Check only if requesting waiver of MBE subgoal.) <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American-Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification <hr/>		Date: <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email	Date: <input type="checkbox"/> Phone <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email	Time of Call: Spoke With: <input type="checkbox"/> Left Message	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Used Other MBE <input type="checkbox"/> Used Non-MBE <input type="checkbox"/> Self-performing
Firm Name: <hr/> MBE Classification (Check only if requesting waiver of MBE subgoal.) <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American-Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification <hr/>		Date: <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email	Date: <input type="checkbox"/> Phone <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email	Time of Call: Spoke With: <input type="checkbox"/> Left Message	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Used Other MBE <input type="checkbox"/> Used Non-MBE <input type="checkbox"/> Self-performing

Please check if Additional Sheets are attached.

**GOOD FAITH EFFORTS DOCUMENTATION
TO SUPPORT WAIVER REQUEST**

PART 3 – ADDITIONAL INFORMATION REGARDING REJECTED MBE QUOTES

PAGE ___ OF ___

Prime Contractor	Project Description	Solicitation Number

This form must be completed if Part 1 indicates that a MBE quote was rejected because the bidder/offeror is using a Non-MBE or is self-performing the Identified Items of Work. Provide the Identified Items Work, indicate whether the work will be self-performed or performed by a Non-MBE, and if applicable, state the name of the Non-MBE. Also include the names of all MBE and Non-MBE Firms that provided a quote and the amount of each quote.

Describe Identified Items of Work Not Being Performed by MBE (Include spec/section number from bid)	Self-performing or Using Non-MBE (Provide name)	Amount of Non-MBE Quote	Name of Other Firms who Provided Quotes & Whether MBE or Non-MBE	Amount Quoted	Indicate Reason Why MBE Quote Rejected & Briefly Explain
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE _____	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE _____	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE _____	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE _____	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE _____	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE _____	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other

Please check if Additional Sheets are attached.

MBE Attachment D-2
OUTREACH EFFORTS COMPLIANCE STATEMENT

Complete and submit this form within 10 working days of notification of apparent award or actual award, whichever is earlier.

In conjunction with the bid/proposal submitted in response to Solicitation No. _____, I state the following:

1. Bidder/Offeror identified subcontracting opportunities in these specific work categories:

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

3. Bidder/Offeror made the following attempts to personally contact the solicited MDOT-certified MBE firms: _____

4. **Please Check One:**

- This project does not involve bonding requirements.
- Bidder/Offeror assisted MDOT-certified MBE firms to fulfill or seek waiver of bonding requirements. (DESCRIBE EFFORTS): _____

5. **Please Check One:**

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

Company Name

Signature of Representative

Address

Printed Name and Title

City, State and Zip Code

Date

**MBE Attachment D-3A
MBE SUBCONTRACTOR PROJECT PARTICIPATION CERTIFICATION**

PLEASE COMPLETE AND SUBMIT ONE FORM FOR EACH CERTIFIED MBE FIRM LISTED ON THE MBE PARTICIPATION SCHEDULE (ATTACHMENT __-1A) WITHIN 10 WORKING DAYS OF NOTIFICATION OF APPARENT AWARD. IF THE BIDDER/OFFEROR FAILS TO RETURN THIS AFFIDAVIT WITHIN THE REQUIRED TIME, THE PROCUREMENT OFFICER MAY DETERMINE THAT THE BIDDER/OFFEROR IS NOT RESPONSIBLE AND THEREFORE NOT ELIGIBLE FOR CONTRACT AWARD.

Provided that _____ (Prime Contractor's Name) is awarded the State contract in conjunction with Solicitation No. _____, such Prime Contractor intends to enter into a subcontract with _____ (Subcontractor's Name) committing to participation by the MBE firm _____ (MBE Name) with MDOT Certification Number _____ which will receive at least \$ _____ which equals to ____% of the Total Contract Amount for performing the following products/services for the Contract:

NAICS CODE	WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE)	DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES

Each of the Contractor and Subcontractor acknowledges that, for purposes of determining the accuracy of the information provided herein, the Procurement Officer may request additional information, including, without limitation, copies of the subcontract agreements and quotes. Each of the Contractor and Subcontractor solemnly affirms under the penalties of perjury that: (i) the information provided in this MBE Subcontractor Project Participation Affidavit is true to the best of its knowledge, information and belief, and (ii) 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 Business Enterprise in its Bid/Proposal;
- (2) fail to notify the certified Minority Business Enterprise before execution of the Contract of its inclusion of 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.

PRIME CONTRACTOR	SUBCONTRACTOR
Signature of Representative: _____	Signature of Representative: _____
Printed Name and Title: _____ _____	Printed Name and Title: _____ _____
Firm's Name: _____	Firm's Name: _____
Federal Identification Number: _____	Federal Identification Number: _____
Address: _____ _____	Address: _____ _____
Telephone: _____	Telephone: _____
Date: _____	Date: _____

**MBE Attachment D-3B
MBE PRIME - PROJECT PARTICIPATION CERTIFICATION**

PLEASE COMPLETE AND SUBMIT THIS FORM TO ATTEST EACH SPECIFIC ITEM OF WORK THAT YOUR MBE FIRM HAS LISTED ON THE MBE PARTICIPATION SCHEDULE (ATTACHMENT __-1A) FOR PURPOSES OF MEETING THE MBE PARTICIPATION GOALS. THIS FORM MUST BE SUBMITTED WITHIN 10 WORKING DAYS OF NOTIFICATION OF APPARENT AWARD. IF THE BIDDER/OFFEROR FAILS TO RETURN THIS AFFIDAVIT WITHIN THE REQUIRED TIME, THE PROCUREMENT OFFICER MAY DETERMINE THAT THE BIDDER/OFFEROR IS NOT RESPONSIBLE AND THEREFORE NOT ELIGIBLE FOR CONTRACT AWARD.

Provided that _____ (Prime Contractor's Name) with Certification Number _____ is awarded the State contract in conjunction with Solicitation No. _____, such MBE Prime Contractor intends to perform with its own forces at least \$_____ which equals to ___% of the Total Contract Amount for performing the following products/services for the Contract:

NAICS CODE	WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE). FOR CONSTRUCTION PROJECTS, GENERAL CONDITIONS MUST BE LISTED SEPARATELY.	DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES	VALUE OF THE WORK

<p>MBE PRIME CONTRACTOR</p> <p>Signature of Representative: _____</p> <p>Printed Name and Title: _____ _____</p> <p>Firm's Name: _____</p> <p>Federal Identification Number: _____</p> <p>Address: _____ _____</p> <p>Telephone: _____</p> <p>Date: _____</p>
--

MBE Attachment D-4A
Minority Business Enterprise Participation
Prime Contractor Paid/Unpaid MBE Invoice Report

Report #: _____ Reporting Period (Month/Year): _____ Prime Contractor: Report is due to the MBE Liaison by the 10th of the month following the month the services were provided. Note: Please number reports in sequence	Contract #: _____ Contracting Unit: _____ Contract Amount: _____ MBE Subcontract Amt: _____ Project Begin Date: _____ Project End Date: _____ Services Provided: _____
--	--

Prime Contractor:		Contact Person:																																					
Address:																																							
City:		State:	ZIP:																																				
Phone:	Fax:	E-mail:																																					
MBE Subcontractor Name:		Contact Person:																																					
Phone:	Fax:																																						
Subcontractor Services Provided:																																							
List all payments made to MBE subcontractor named above during this reporting period: <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 30%; text-align: center;"><u>Invoice#</u></th> <th style="width: 25%; text-align: center;"><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> <tr> <td colspan="2">Total Dollars Paid: \$</td> <td>_____</td> </tr> </tbody> </table>			<u>Invoice#</u>	<u>Amount</u>	1.			2.			3.			4.			Total Dollars Paid: \$		_____	List dates and amounts of any outstanding invoices: <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 30%; text-align: center;"><u>Invoice #</u></th> <th style="width: 25%; text-align: center;"><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> <tr> <td colspan="2">Total Dollars Unpaid: \$</td> <td>_____</td> </tr> </tbody> </table>			<u>Invoice #</u>	<u>Amount</u>	1.			2.			3.			4.			Total Dollars Unpaid: \$		_____
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3.																																							
4.																																							
Total Dollars Unpaid: \$		_____																																					

- If more than one MBE subcontractor is used for this contract, you must use separate D-4A forms for each subcontractor.
- Information regarding payments that the MBE prime will use for purposes of meeting the MBE participation goals must be reported separately in Attachment D-4B
- **Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):**

Signature: _____ Date: _____
 (Required)

_____ Contract Monitor
_____ Contracting Unit
(Department)

Signature: _____ Date: _____
(Required)

MBE Attachment D-4B
Minority Business Enterprise Participation
MBE Prime Contractor Report

MBE Prime Contractor: Certification Number: Report #: _____ Reporting Period (Month/Year): _____ MBE Prime Contractor: Report is due to the MBE Liaison by the __ of the month following the month the services were provided. Note: Please number reports in sequence	Contract #: _____ Contracting Unit: _____ Contract Amount: _____ Total Value of the Work to the Self-Performed for purposes of Meeting the MBE participation goal/subgoals: _____ Project Begin Date: _____ Project End Date: _____
---	--

Contact Person: _____		
Address: _____		
City: _____	State: _____	ZIP: _____
Phone: _____	Fax: _____	E-mail: _____

Invoice Number	Value of the Work	NAICS Code	Description of the Work

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

Signature: _____ Date: _____

_____ Contract Monitor _____ Contracting Unit Capital Projects Development Group _____ _____ _____

Signature: _____ Date: _____

(Required)

Sample MBE ATTACHMENT D-5

Minority Business Enterprise Participation Subcontractor Paid/Unpaid MBE Invoice Report

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

MBE Subcontractor Name: _____																															
MDOT Certification #: _____																															
Contact Person: _____	E-mail: _____																														
Address: _____																															
City: _____	State: _____	ZIP: _____																													
Phone: _____	Fax: _____																														
Subcontractor Services Provided:																															
List all payments received from Prime Contractor during reporting period indicated above. <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 40%; text-align: center;"><u>Invoice Amt</u></th> <th style="width: 55%; text-align: center;"><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td colspan="3">Total Dollars Paid: \$ _____</td> </tr> </tbody> </table>		<u>Invoice Amt</u>	<u>Date</u>	1.			2.			3.			Total Dollars Paid: \$ _____			List dates and amounts of any unpaid invoices over 30 days old. <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 40%; text-align: center;"><u>Invoice Amt</u></th> <th style="width: 55%; text-align: center;"><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td colspan="3">Total Dollars Unpaid: \$ _____</td> </tr> </tbody> </table>		<u>Invoice Amt</u>	<u>Date</u>	1.			2.			3.			Total Dollars Unpaid: \$ _____		
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3.																															
Total Dollars Paid: \$ _____																															
	<u>Invoice Amt</u>	<u>Date</u>																													
1.																															
2.																															
3.																															
Total Dollars Unpaid: \$ _____																															
Prime Contractor: _____		Contact Person: _____																													

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

_____ Contract Monitor _____ Contracting Unit (Department) _____ _____ _____ _____

Signature: _____ Date: _____
(Required)

ATTACHMENT E

ELECTRONIC FUND TRANSFER (EFT) FORM

See attached.

**State of Maryland
Comptroller of Maryland**

Vendor Electronic Funds Transfer (EFT) Registration Request Form

Date of request _____

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

Business/Individual name _____

Address line 1 _____

Address line 2 _____

City _____ State _____ Zip code

Taxpayer identification number:

Federal Employer Identification Number:

(or) Social Security Number:

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

Bank or credit union information:

Name and address _____

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

ABA number

Account number

Account type Checking Money Market Savings

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

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

A VOIDED CHECK from the bank account must be attached or letter from the bank confirming the account number. Starter checks are not acceptable.

Transaction requested:

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

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

*Name of registering business entity

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

Completed by GAD/STO

Date Received _____

GAD registration information verified _____ Date to STO _____

STO registration information verified _____ Date to GAD _____

R*STARS Vendor No. and Mail Code Assigned:

State Treasurer’s Office approval date

General Accounting Division approval date

To Requestor:

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

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

(or) Fax: 410-974-2309

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

ATTACHMENT E

CONSTRUCTION MANAGER EXPERIENCE FORM

See attached.

ATTACHMENT F
Baltimore City Public Schools Construction Program
Construction Manager Experience
Procurement One

Offering Firm: _____

*** PRECONSTRUCTION SERVICES ***

Project Name:	Urban (Y/N)	PK-12 School (Y/N)	Renovation (Y/N)	Renovation w/ Addition (Y/N)	New/ Replacement (Y/N)	Project Value	Project Location (City/County, State)	LEED Certification (Level Achieved)	Year Completed (2004-Present)

ATTACHMENT F
Baltimore City Public Schools Construction Program
Construction Manager Experience
Procurement One

Offering Firm: _____

CONSTRUCTION SERVICES									
Project Name:	Urban (Y/N)	PK-12 School (Y/N)	Renovation (Y/N)	Renovation w/ Addition (Y/N)	New/ Replacement (Y/N)	Project Value	Project Location (City/County, State)	LEED Certification (Level Achieved)	Year Completed (2004-Present)