

Invitation For Bids (IFB)

Microsoft Select and Enterprise Products and Services Large Account Re-seller (LAR)



Solicitation No: 050B7800011

**Department of Budget and Management
Issue Date: January 9, 2007**

NOTICE

Prospective bidders who have received this document from the Department of Budget & Management's web site or eMarylandMarketplace.com, or who have received this document from a source other than the Procurement Officer, and who wish to assure receipt of any changes or additional materials related to this IFB, should immediately contact the Procurement Officer and provide their name and mailing address so that amendments to the IFB or other communications can be sent to them.

Minority Business Enterprises are Encouraged to Respond to this Solicitation

TABLE OF CONTENTS
Microsoft Select and Enterprise Products and Services
Large Account Re-seller (LAR)
050B7800011

<u>DESCRIPTION</u>	<u>BEGINS ON PAGE</u>
Key Information Summary Sheet	4
State of Maryland Notice To Bidders	5
SECTION 1 - GENERAL INFORMATION	6
1.1 SUMMARY STATEMENT.....	6
1.2 ABBREVIATIONS AND DEFINITIONS	6
1.3 CONTRACT TYPE.....	8
1.4 CONTRACT DURATION	8
1.5 CONTACTS	8
1.6 PRE-BID CONFERENCE	9
1.7 QUESTIONS.....	9
1.8 BIDS DUE (CLOSING) DATE.....	10
1.9 DURATION OF BID	10
1.10 REVISIONS TO THE IFB.....	10
1.11 CANCELLATIONS; DISCUSSIONS	11
1.12 INCURRED EXPENSES	11
1.13 ECONOMY OF PREPARATION	11
1.14 PROTESTS/DISPUTES	11
1.15 MULTIPLE OR ALTERNATE BIDS.....	11
1.16 PUBLIC INFORMATION ACT NOTICE	11
1.17 BIDDER RESPONSIBILITIES	11
1.18 MANDATORY CONTRACTUAL TERMS.....	12
1.19 BID AFFIDAVIT.....	12
1.20 CONTRACT AFFIDAVIT	12
1.21 ARREARAGES	12
1.22 PROCUREMENT METHOD.....	12
1.23 RECIPROCAL PREFERENCE	12
1.24 NO BID STATEMENT.....	13
1.25 AWARD BASIS.....	13
1.26 VERIFICATION OF REGISTRATION AND TAX PAYMENT.....	13
1.27 FALSE STATEMENTS.....	13
1.28 eMARYLANDMARKETPLACE FEE.....	14
1.29 NON-VISUAL ACCESS	14
1.30 ELECTRONIC FUNDS TRANSFER	15
1.31 CONTRACT EXTENDED TO - OTHER NON-STATE GOVERNMENTS OR AGENCIES	15
1.32 MINORITY BUSINESS ENTERPRISE SUBCONTRACT PARTICIPATION GOAL	15
SECTION 2 – DESCRIPTION OF REQUIRED SERVICES AND DELIVERABLES	16
2.1 PURPOSE AND SCOPE.....	16
2.2 CONTRACTOR MINIMUM QUALIFICATION REQUIREMENTS	16
2.3 BACKGROUND	16
2.4 AUTHORIZED USERS	17
2.5 TECHNICAL SPECIFICATIONS.....	17
2.6 SERVICE SPECIFICATIONS.....	19
2.7 INSURANCE:	22
SECTION 3 – BID FORMAT	24

3.1	GENERAL	24
3.2	PREPARATION/SUBMISSION OF BIDS	24
ATTACHMENTS.....		27
	ATTACHMENT A- CONTRACT	28
	ATTACHMENT B – BIDDER’S BID AFFIDAVIT	41
	ATTACHMENT C – CONTRACT AFFIDAVIT	49
	ATTACHMENT D- PRICE BID INSTRUCTIONS AND FORM	51
	ATTACHMENT E –STATE OF MARYLAND MICROSOFT SELECT AGREEMENT WITH ITS MICROSOFT SELECT ENROLLMENT-STATE AND LOCAL (FORM) (EXTENDS AGREEMENT FOR THIRTY-SIX MONTHS)	56
	ATTACHMENT F – STATE OF MARYLAND MICROSOFT ENTERPRISE AGREEMENT	57
	ATTACHMENT G-PRE-BID CONFERENCE RESPONSE FORM	58
	ATTACHMENT H- DIRECTIONS TO THE PRE-BID CONFERENCE	59
	ATTACHMENT I - ELECTRONIC FUNDS TRANSFER (EFT) FORM	60

KEY INFORMATION SUMMARY SHEET

STATE OF MARYLAND

Invitation For Bids (IFB)

Microsoft Select and Enterprise Products and Services Large Account Re-seller (LAR)

PROJECT NUMBER 050B7800011

IFB Issue Date: e-Maryland Marketplace: **January 9, 2007**

IFB Issuing Office: Department of Budget & Management

Procurement Officer: Kimmeria Hall
Phone: (410) 260-7414
Fax: (410) 974-3274
e-mail: khall@dbm.state.md.us

Bids are to be sent to: Department of Budget & Management
Division of Procurement Policy & Administration
Room 138
45 Calvert Street
Annapolis, MD 21401
Attention: Kimmeria Hall (410-260-7414)

Pre-Bid Conference: Tuesday January 23, 2007 at 10:00 AM (Local Time)
Department of Budget & Management
45 Calvert Street – Room 164 A
Annapolis, Maryland 21401
For directions see Attachment H

Closing Date/Time: **Tuesday, February 6, 2007, 2:00 PM (Local Time)**

Bid Opening Date/Time: **Tuesday, February 6, 2007, 2:30 PM (Local Time)**
Room 147

**STATE OF MARYLAND
NOTICE TO BIDDERS**

In order to help us improve the quality of State solicitations, and to make our procurement process more responsive and business friendly, we ask that you take a few minutes and provide comments and suggestions regarding the enclosed solicitation. Please return your comments with your bids. If you have chosen not to submit a bid on this contract, please email khall@dbm.state.md.us, or fax (410-974-3274) this completed form to the attention of Ms. Kimmeria Hall. Thank you for your assistance.

Title: **Microsoft Select and Enterprise Products and Services
Large Account Re-seller (LAR)**
Project No: **050B7800011**

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

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

2. If you have submitted a bid, but wish to offer suggestions or express concerns, please use the Remarks section below. (Use reverse or attach additional pages as needed.)

REMARKS: _____

Bidder Name: _____ Date _____

Contact Person: _____ Phone (_____) _____ - _____

Address: _____

SECTION 1 - GENERAL INFORMATION

1.1 Summary Statement

- 1.1.1 The Maryland Department of Budget & Management, Office of Information Technology (OIT) is responsible for providing technical leadership and guidance to all agencies in the Executive Branch of the State of Maryland (the State). The OIT assures that State agencies implement successful Information Technology (IT) development projects in accordance with the mission of the agency and establishes direction for the productive and efficient use of Information Technology at the statewide level.
- 1.1.2 DBM is issuing this Invitation for Bid (IFB) to procure a contractor to serve as a Microsoft Authorized North American Government Large Account Reseller (LAR) to provide products and services as established and related to the current State of Maryland Select and Enterprise Agreements at a firm fixed 'percentage discount off' of the applicable Select and Enterprise Level D Price Lists.
- 1.1.3 DBM intends to make a single contract award as a result of this IFB.

1.2 Abbreviations and Definitions

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

- a. Authorized User - State or local government entity that has received a Microsoft authorized Enrollment Number
- b. Bidder – An entity that submits a bid in response to this IFB
- c. BPW – Maryland Board of Public Works
- d. Contract Manager - The State representative that will serve as the technical manager for the Contract that results from this IFB. The Contract Manager monitors the daily activities of the contract and provides technical guidance to the contractor. DBM may change the Contract Manager at any time by written notice to the Contractor.
- e. COMAR - Code of Maryland Regulations
- f. Contract – The State's Contract attached to this IFB as Attachment A.
- g. Contractor – The selected Bidder, the business entity awarded the contract for the procured services identified in this IFB.
- h. DBM - Department of Budget and Management
- i. Discount Price – The actual total price to be paid for the purchase of products by an Authorized User. The Discount Price is calculated by 1) multiplying the Contractor's percentage discount off to the current applicable Microsoft Price List for the specified product to be purchased to determine the Discount Value, and 2) subtracting the Discount Value from the current applicable Microsoft Price List.

For example:

For a specified product, if the applicable Microsoft Price List shows \$100.00 and the LAR's percentage discount off is 15%, the Discount Value is (100.00×0.15) \$15.00, and the total Discount Price is $(\$100.00 - \$15.00)$ \$85.00.

- j. Discount Value – The dollar value resulting from multiplying the Contractor's fixed percentage discount off by the current applicable Microsoft Price List within the Microsoft Select or and/or Enterprise Programs for the specified product to be purchased.
- k. Enterprise – The enrolled affiliate and the affiliates it chooses to include in its enterprise enrollment with Microsoft under the Enterprise Agreement, (e.g., a department within local government, a department within a State agency, an entire State agency, or the entire State) with a minimum purchase of 25 licensed products.
- l. Enterprise Agreement – The SLG Microsoft Enterprise Agreement, Version 6.1, Contract No. OIE66284, dated August 1, 2006 and effective September 8, 2006, between DBM and Microsoft Licensing, GP. See Attachment F, attached and incorporated by reference herein.
- m. Enterprise Reference Price List – The price list referenced by the Enterprise Agreement (against which the LAR's fixed percentage discount is calculated) and used by the Contractor to, in accordance with the terms of the Enterprise Agreement, fulfill Enterprise Agreement orders: (1) Custom Level D Enterprise Reference Price List for Enterprise products; and (2) Level D Enterprise Reference Price List for additional products for software licenses and Software Assurance.
- n. IFB – Invitation For Bid
- o. LAR - Microsoft Authorized North American Government Large Account Reseller
- p. Local Time – Time in the Eastern Time Zone as observed by the State.
- q. MBE – A Minority Business Enterprise certified by the Maryland Department of Transportation under COMAR 21.11.03.
- r. Microsoft Select Agreement Estimated Retail Price (ERP) List - The price list referenced by the Select Agreement (against which the LAR's fixed percentage discount is calculated) and used by the Contractor in accordance with the terms of the Select Agreement to fulfill Select Agreement orders.
- s. The price list referenced by the Select Agreement [against which the LAR's fixed percentage discount is calculated].
- t. Notice To Proceed (NTP)- A formal notification issued by the Contract Manager that directs the Contractor to immediately, or as of a date contained in the notice, begin performance of work.
- u. Procurement Officer – The State representative responsible for this IFB, for the determination of contract scope issues, and the only State representative that can authorize changes to the Contract. DBM may change the Procurement Officer at any time by written notice to the Contractor.
- v. Select Agreement – the SLG Microsoft Select Agreement, Version 6.1, Contract No. 01S64680, signed by DBM on October 26, 2006 with an effective date of

November 1, 2006 between the State of Maryland and Microsoft Licensing, GP. See Attachment E, attached and incorporated by reference herein. (The Select Agreement and the Enterprise Agreement are sometimes collectively referred to as the “Microsoft Agreements”).

- w. SLG-State and Local Governments
- x. Software Assurance (Microsoft Software Assurance)- for any underlying licensed product for which it is ordered, the right to upgrade to, and run, the latest version of that product that Microsoft makes commercially available during the covered period. For the purposes of the preceding sentence, a version of a product becomes commercially available as of the month it is first made available for sale under the Select or Enterprise Agreement.
- y. State of Maryland business hours- 8:00 am- 5:00 pm Local Time; Monday-Friday.

1.3 Contract Type

The contract that results from this IFB shall be a Firm Fixed Price - Indefinite Quantity Contract (represented by a percentage to two decimal places that demonstrates a ‘percentage discount off’ the MS Select and/or Enterprise applicable Price Lists), in accordance with COMAR 21.06.03.02 and 21.06.03.06.

1.4 Contract Duration

The contract term shall be for a period of five years. The services to be provided hereunder shall begin on the date the Contract Manager issues the Notice to Proceed and shall terminate, and the Contract shall expire five years thereafter. It is anticipated that the Contract term shall be from March 1, 2007 until October 31, 2012.

1.5 Contacts

- A. The sole point of contact in the State for purposes of this IFB is the Procurement Officer at the Issuing Office address listed below:

Ms. Kimmeria Hall
Department of Budget and Management
Office of Procurement Policy and Administration
45 Calvert Street, Room No. 138
Annapolis, MD 21401
Telephone No: 410-260-7414
Fax No.: 410-974-3274
Email: khall@dbm.state.md.us

- B. The State Contract Manager: The contact in the State for purposes of the follow-on contract is the contract/technical manager at the address listed below:

Mr. Michael Balderson
Department of Budget and Management
Office of Information Technology
45 Calvert Street, Room 444A
Annapolis, MD 21401
Telephone: 410-260-7549

Fax No.: 410.974-5615
Email: mbalders@dbm.state.md.us

1.6 Pre-Bid Conference

A Pre-Bid Conference (Conference) will be held on Tuesday, January 23, 2007 beginning at 10:00 A.M. (Local Time), at 45 Calvert Street, Room 164A, Annapolis, MD 21401. Attendance at the Pre-Bid Conference is not mandatory, but all interested Bidders are encouraged to attend in order to facilitate better preparation of their bids. In addition, attendance may facilitate the Bidder's understanding of the IFB requirements.

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

In order to assure adequate seating and other accommodations at the Pre-Bid Conference, it is requested that by Friday, January 19, 2007, all potential Bidders planning to attend, return the Pre-Bid Conference Response Form or call the Procurement Officer noted in Section 1.5-A with such notice. The Pre-Bid Conference Response Form is included as Attachment G to this IFB. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, it is requested that at least five days advance notice be provided. DBM will make reasonable efforts to provide such special accommodation.

1.7 Questions

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

Written questions will also be accepted subsequent to the Pre-Bid Conference. All post-Conference questions shall be submitted in a timely manner to the Procurement Officer only. The Procurement Officer will, based on the availability of time to research and

communicate an answer, decide whether an answer can be provided before the bid 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 prospective Bidders who are known to have received a copy of the IFB.

1.8 Bids Due (Closing) Date

An unbound original, plus two (2) copies, and electronic versions of the paper submission copy on CD of the bid must be received by the Procurement Officer, at the address listed in Section 1.5A, no later than **Tuesday, February 6, 2007, 2:00 PM (Local Time)** in order to be considered. Requests for extension of this date or time shall not be granted. Bidders mailing bids should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.02.10, bids received by the Procurement Officer after the closing time and date will not be considered. Bids delivered by email or facsimile shall not be considered.

Bids will be opened, **Tuesday, February 6, 2007, at 2:30 PM (Local Time)**, in Room 147, 45 Calvert Street, Annapolis Maryland in accordance with the provisions of COMAR 21.05.02.11B. Bids will be made available for public inspection at or within a reasonable time after bid opening. Any material deemed confidential or proprietary by the bidder must be clearly marked and shall be readily separable from the bid in order to facilitate public inspection of the non-confidential portion of the bid.

1.9 Duration of Bid

Bids submitted in response to this IFB are irrevocable for 120 days following the closing date. This period may be extended at the Procurement Officer's request only by a bidder's written agreement.

1.10 Revisions to the IFB

If it becomes necessary to revise this IFB before the due date for bids, amendments will be provided to all prospective Bidders who were sent this IFB or otherwise are known by the Procurement Officer to have obtained this IFB. In addition, amendments to the IFB will be posted on the DBM Procurement web page and through eMarylandMarketplace. Amendments made after the due date for bids will be sent only to those Bidders who submitted a timely bid.

Acknowledgment of the receipt of all amendments to this IFB issued before the bid due date shall accompany the Bidder's bid in the Transmittal Letter accompanying their Bid submittal. Acknowledgement of the receipt of amendments to the IFB issued after the bid due date shall be in the manner specified in the amendment notice. Failure to acknowledge receipt of amendments does not relieve the Bidder from complying with all terms of any such amendment.

1.11 Cancellations; Discussions

The State reserves the right to cancel this IFB and to accept or reject any and all bids, in whole or in part, received in response to this IFB.

1.12 Incurred Expenses

The State shall not be responsible for any costs incurred by a bidder in preparing and submitting a Bid, or in performing any other activities relative to this solicitation.

1.13 Economy of Preparation

Bids should be prepared simply and economically, providing a straightforward, concise description of the Bidder's bid in meeting the requirements of this IFB.

1.14 Protests/Disputes

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

1.15 Multiple or Alternate Bids

A Bidder may not submit more than one Bid. Multiple or alternate Bids shall not be accepted.

1.16 Public Information Act Notice

A Bidder should identify those portions of its bid that it considers confidential, proprietary commercial information or trade secrets, and provide, upon request, justification why such materials, if requested, should not be disclosed by the State under the Public Information Act, Title 10, Subtitle 6, of the State Government Article of the Annotated Code of Maryland. Bidders are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information must be disclosed (see COMAR 21.05.08.01).

1.17 Bidder Responsibilities

The contract will be awarded to the responsible and responsive bidder whose bid meets the requirements and evaluation criteria set forth in the invitation for bids, and is the most

favorable evaluated Bid price. The State shall enter into a contract only with the selected Bidder. The selected Bidder shall be responsible for all products and services required by this IFB.

If a bidder that seeks to perform or provide the services required by this IFB is a subsidiary of another entity, all information submitted by the Bidder, such as, but not limited to, references and financial reports, must pertain exclusively to the Bidder, unless the parent organization will provide guarantees for the performance of the subsidiary. In that case, if so applicable, the Bidder's bid must contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.

1.18 Mandatory Contractual Terms

By submitting a Bid in response to this IFB, a Bidder, if selected for award, agrees to the terms of this IFB and the provisions in Attachment A.

1.19 Bid Affidavit

A completed Bid Affidavit must accompany the Bid submitted by a Bidder. A copy of this Affidavit is included as Attachment B of this IFB.

1.20 Contract Affidavit

All Bidders are advised that if a contract is awarded as a result of this solicitation, the successful Bidder shall be required to complete a Contract Affidavit. A copy of this Affidavit is included for informational purposes as Attachment C of this IFB. This Affidavit need not be submitted with a Bidder's Bid but must be provided within five working days upon notice of Contract award.

1.21 Arrearages

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

1.22 Procurement Method

This contract shall be awarded in accordance with the competitive sealed bidding process under Maryland Code of Regulations (COMAR) 21.05.02.

1.23 Reciprocal Preference

Although Maryland law does not authorize procuring agencies to favor resident Bidders in awarding procurement contracts, many other states do grant their resident businesses

preferences over Maryland contractors. Therefore, according to COMAR 21.05.01.04, DBM may apply, where applicable, the same preference against an out-of-state business that the business's home state would apply against a vendor whose principal office or place of business is located in Maryland.

1.24 No Bid Statement

Vendors not responding to this solicitation are requested to submit the Notice to Vendors/Contractors form that includes the company information and the reason for not responding (i.e. too busy, can not meet mandatory requirements, etc). This form is located in the IFB immediately following the Title Page.

1.25 Award Basis

The State will award the contract to the responsive and responsible bidder submitting the most favorable evaluated bid price (as referenced in COMAR 21.05.02.13) for providing the products and services, as specified in this IFB. The most favorable evaluated bid price will be determined by the highest 'percentage discount off' as bid in Attachment D – Price Bid Price Forms D-1 and D-2. In the event of a tie bid, the process documented in COMAR 21.05.02.14 shall apply.

1.26 Verification of Registration and Tax Payment

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

1.27 False Statements

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

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

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

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

1.28 eMarylandMarketplace Fee

eMarylandMarketplace (eMM) is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the DBM web site (www.dbm.maryland.gov) and other means for transmitting the IFB and associated materials, the solicitation and summary of the pre-bid conference, Bidders' questions and the Procurement Officer's responses, addenda, and other solicitation related information will be provided via e-Maryland Marketplace.

COMAR 21.02.03.06 requires that the successful bidder under this solicitation pay a fee to support the operation of eMM. A copy of COMAR 21.02.03.06 can be found on the eMM website at www.eMarylandMarketplace.com.

COMAR 21.02.03.06 includes a fee schedule which bidders should build into their bid prices. The eMarylandMarketplace fee that will be imposed on the contract awarded under this solicitation corresponds to Level '4' (\$1,000.00) on the COMAR 21.02.06.03 fee schedule. The 'percentage discount off' provided by the bidder should be sufficient to accommodate the payment of the eMM fee and must be included within the rate or price of the bid. The eMM fee may not be quoted as a separate add-on price.

In order to receive a Contract award, a vendor must be registered on eMM.

Contractors shall pay the fee as provided by COMAR 21.02.03.06 and in accordance with guidelines issued by the Maryland Department of General Services. These guidelines can be found on the eMaryland Marketplace website at www.eMarylandMarketplace.com.

1.29 Non-Visual Access

By submitting a bid, the Bidder warrants that the information technology offered under the bid (1) provides equivalent access for effective use by both visual and non-visual means; (2) will present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use; (3) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and (4) is available, whenever possible, without modification for compatibility with software and hardware for non-visual access. The Bidder further warrants that the cost, if any, of modifying the information technology for compatibility with software and hardware used for non-visual access will not increase the cost of the information technology by more than five percent. For purposes of this Regulation, the phrase "equivalent access" means the ability to receive, use and manipulate information and operate controls necessary to access and use information technology by non-visual

means. Examples of equivalent access include keyboard controls used for input and synthesized speech, Braille, or other audible or tactile means used for output.

The Non-visual Access Clause noted in COMAR 21.05.08.05 and referenced in this solicitation is the basis for the standards that have been incorporated into the Maryland regulations, which can be found at: www.dbm.maryland.gov - using keyword 'nva.'

1.30 Electronic Funds Transfer

By submitting a response to this IFB, the bidder agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. The selected bidder/Contractor must register using the form COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption. See Attachment 'I'. The COT/GAD X-10 form can be also downloaded at:

http://compnet.comp.state.md.us/General_Accounting_Division/Vendors/Electronic_Funds_Transfer/

1.31 Contract Extended to - Other Non-State Governments or Agencies

Maryland counties, municipalities, and other non-state governments or agencies may purchase from the Contractor products or services covered by this Contract at the same prices chargeable to the State. All such purchases by non-State governments or agencies: (1) shall constitute Contracts between the Contractor and that government or agency; (2) shall not constitute purchases by the State or State agencies under this contract; (3) shall not be binding or enforceable against the State, and (5) may be subject to other terms and conditions agreed to by the Contractor and the purchaser. The Contractor bears the risk of determining whether or not a government or agency with which the Contractor is dealing is a State agency. The State has the sole and exclusive authority to negotiate changes to the terms and conditions of the Select and Enterprise Agreements with Microsoft.

1.32 Minority Business Enterprise Subcontract Participation Goal

No Minority Business Enterprise (MBE) subcontractor participation goal has been established for this solicitation.

SECTION 2 – DESCRIPTION OF REQUIRED SERVICES AND DELIVERABLES

2.1 Purpose and Scope

The purpose of this solicitation is to competitively procure a Contractor that is authorized to sell Microsoft Select and Enterprise products to serve as the LAR for the Select and Enterprise Agreements.

The selected Contractor will be required to provide all Microsoft Select software products at a firm fixed ‘percentage discount off’ (a percentage to two decimal places) of the Microsoft Select Agreement Estimated Retail Price (ERP) List.

The selected Contractor will also be required to provide all Microsoft Enterprise software products at a firm fixed ‘percentage discount off’ (a percentage to two decimal places) of each of the following: (1) Custom Level D Enterprise Reference Price List for Enterprise products; and (2) Level D Enterprise Reference Price List for additional products for software licenses and Software Assurance.

The selected LAR shall provide all Microsoft Select and Enterprise software products at the respective bid’s ‘percentage discount off’ rate directly to the Authorized Users.

2.2 Contractor Minimum Qualification Requirements

2.2.1 The Bidder must be a current Microsoft Authorized North American Government Large Account Reseller (LAR) authorized by Microsoft to provide and administer Microsoft Select and Enterprise software products and services, and to request and direct certified Microsoft services in the State of Maryland.

2.2.2 It is required that the Bidder be able to provide the entire product line and services available in both the Maryland Microsoft Select Agreement and Enterprise Agreement programs.

2.3 Background

The purpose of this solicitation is to competitively procure a Contractor to serve as the Microsoft LAR for both of the State of Maryland’s Microsoft Select and the Enterprise Agreements. The selected Contractor will be required to provide Authorized Users with Microsoft Select and Enterprise software products and services at a firm fixed ‘percentage discount off’ of the Microsoft ‘Select’ and ‘Enterprise’ applicable price lists.

2.4 Authorized Users

Each Authorized User requesting to purchase any Microsoft products or services via the State of Maryland's Master Microsoft Select and Enterprise Agreements must complete the applicable Microsoft enrollment form.

When an Authorized User issues a purchase order to the Contractor, the Contractor places an order and purchases the product and/or service from Microsoft. (As an example, the purchase of a license.) The Contractor then re-sells the license (as an example) and transfers the license and all rights and obligations to the Authorized User.

2.5 Technical Specifications

- 2.5.1 The Contractor must maintain Microsoft Select- and Enterprise-sales representatives dedicated to and knowledgeable in the management and administration of the Select and Enterprise programs. The Contractor shall adhere to any certification required by Microsoft for such representatives. The name, address, telephone & fax numbers and email address of these individuals shall be provided to the State Contract Manager at the time of Contract award. Any change to the designated representative(s) must be provided to the State Contract Manager at least five (-5-) business days before the effective date of the change.
- 2.5.2 The Contractor shall be responsible for adhering to all terms and conditions of the State of Maryland's Microsoft Select and Enterprise Agreements.
- 2.5.3 The Contractor shall provide all sales, support, management and reporting services required to process and account for requests for and sales of Microsoft Select and Enterprise software products, services, and licenses via the Microsoft Agreements.
- 2.5.4 The Contractor shall ensure that all orders submitted to Microsoft contain all Microsoft required data in accordance with the Microsoft Select and Enterprise Agreements.
- 2.5.5 The Contractor shall provide an 800 or toll free telephone number for use by DBM and Authorized Users for order tracking/delivery schedule information, contract administration issues, as well as other questions related to the day-to-day operation and use of the Contract other than product support. The number must be available Monday through Friday on State business days between the hours of 8 a.m. to 5 p.m. Local Time.
- 2.5.6 The Contractor shall maintain during the life of the Contract a dedicated Internet Web page to provide DBM and Authorized Users access to product and Contract information to include:
 - A) Product Number;
 - B) Product Name;

- C) Applicable Select and/or Enterprise Level D price lists;
 - D) Percentage Discount Off;
 - E) Total Discount Price;
 - F) Enrollment Forms and Procedures;
 - G) Contact Information;
 - H) An “Announcement & Information Page” to include the most recent Contractor announcements and any information requested by DBM. This page shall include a formatted information form developed by the Contractor that identifies the specific information needed by the Contractor to respond to a specific request with accurate contract and price information; and
 - I) A product number or a keyword search engine.
- 2.5.7 The Contractor shall be responsible for processing all enrollment forms within one (-1-) business day after receipt and providing assistance in the enrollment process.
- 2.5.8 The Contractor shall provide a response to requests for information or price quotes within one (-1-) business day after receipt of the request. All price quotes shall be in writing and include the applicable Microsoft Select and/or Enterprise current applicable product and/or service price in effect as of the order date, percentage discount off (no less than the approved percentage discount off allowed in the contract), and the total discount price for each product requested.
- 2.5.9 The Contractor shall provide an acknowledgement of each product order to the applicable Authorized User within one (-1-) business day after receipt of the order.
- 2.5.10 The Contractor shall complete each order and ship or provide the requested product and/or service within five (5) business days after receipt of the order. For any product or service that cannot be completed within this timeframe, the Contractor shall notify the Authorized User of the reason and expected order fulfillment date.
- 2.5.11 The Contractor shall apply the Contracted fixed percentage discount off to the current Microsoft Select and/or Enterprise Level D price lists for all sales.
- 2.5.12 The Contractor shall apply Most Favored Customer Pricing in effect at the time of each product and/or service order or the Contracted fixed percentage discount off to each product and/or service ordered, whichever results in the lowest total discount price to the State for the product/service. The Contractor may apply an additional discount to the Authorized Users over and above what has been agreed to pursuant to the Contract in its pricing; however, a discount less than the Contracted discount is not permitted.

2.5.13 The Contractor shall provide an electronic “Activity Report” on a quarterly basis to the State Contract Manager in MS Excel format, or other format acceptable to the State, by the 15th of the following month that includes:

- A) Microsoft Select/Enterprise Master Agreement Number
- B) Applicable Reporting Period
- C) Authorized User’s Name
- D) Authorized User’s Enrollment Number
- E) Authorized User’s Purchase Order Number
- F) Authorized User’s Contact Name, Address, Telephone/Fax Numbers & email address
- G) Microsoft Product Number
- H) Microsoft Product Name/Description
- I) Select and/or Enterprise price from its applicable price list
- J) Percentage Discount Off
- K) Total Discount Price
- L) Quantity

2.5.14 The Contractor shall provide guidance and information through expeditious customer service that shall include but not be limited to the following:

- a) Authorized Users’ or Potential Users’ responsibilities under the Microsoft Agreements;
- b) Responses to inquiries concerning such topics as the terms of the Agreements, services or products provided, how to complete the enrollment process, etc.;
- c) Cost benefits and practicable ramifications of the Microsoft Select and Enterprise Agreements, and the difference between the two; and
- d) The identification of which version for the customer’s operation, and the most cost effective approach to securing site licenses, media, and documentation.

2.5.15 The Contractor shall manage DBM’s and Authorized Users’ access of the Microsoft Volume Licensing Agreement on the Microsoft Volume Licensing Service (MVLS) Website. See: <https://licensing.microsoft.com>

2.6 Service Specifications

2.6.1 The Contractor shall provide product/service acknowledgment and the actual product/service to the Authorized User as noted in Sections 2.5.9 and 2.5.10 above.

2.6.2 The Contractor shall provide warranties as provided by Microsoft for Microsoft’s products, services, and on-site support as a ‘pass through’ to the Authorized User.

The Contractor shall provide additional warranty periods if available and administered as product and/or service through the Microsoft product/service line.

- 2.6.3 All reports and information required under the Microsoft Select and Enterprise Agreements shall be submitted to the State in the format specified by Microsoft. It is the responsibility of the Contractor to use the correct Microsoft format.
- 2.6.4 The Contractor shall provide an electronic “Reconciliation Report,” via email in Microsoft Excel format, or other format acceptable to the State, and any required reconciliation assistance, to the DBM Contract Manager and the Authorized Users’ contact within ten (-10-) business days after receipt of the Microsoft License Confirmation List. The Reconciliation Report shall include:
 - A) Authorized User’s Purchase Order Number
 - B) Corresponding Microsoft License Number
- 2.6.4.1 The Reconciliation Report for the DBM Contract Manager shall be a single report itemizing the number of additional Microsoft licenses purchased by the State during the reporting period. The report shall be broken down by the Authorized User’s State agency or Department, or other cooperating purchase entity, and referencing all changes to the listing for each State agency /Department / cooperative purchase entity. For any month the State’s use does not increase, the Contractor shall provide to Microsoft and the State a single certified report confirming the total number of copies of software in use by the State during the month.
- 2.6.4.2 For the most recent reporting period, the individual purchases shall be reported by State agency and/or Department, which would include the Purchase Order Number, Quantity, Price, and Product Number and Product Description.
- 2.6.5 The Contractor shall accept all returned opened software products that are damaged, defective, or sent in error, as well as unwanted unopened products. The Contractor shall give the Authorized User full credit or refund for such products, including all costs referenced in the warranty section of the respective Microsoft Agreements, and pay for, or give full credit for, all shipping and handling costs associated with the return of the products.
 - A. Unopened software products may be returned as provided in this section when they are returned in their original packaging including shrink-wrap, diskettes, and CDs with intact seals, as applicable.
 - B. The choice of remedy of full credit, payment or refund as referenced in the preceding paragraphs of this section 2.6.5, shall be at the Authorized User’s sole option.

- C. The Contractor shall not charge, nor will the State pay, restocking fees for any return.
- 2.6.6 All shipments must be accompanied by a packing list that includes the identification of the items shipped, quantities, Purchase Order number and the contract number. Drop shipments must contain packing lists with the same information. All packages must have the Purchase Order number clearly marked on the outside. Shipments received without a packing list and/or Purchase Order number shown on the outside of the package may be refused and returned at the Contractor's expense.
- 2.6.7 All items are to be delivered F.O.B. destination. Contractor will be responsible for any loss and/or damages before receipt of shipment by the State. All delivery instructions shall be designated on Purchase Orders, which may call for delivery to either a loading dock or a designated inside location. If delivery instructions are not included on a Purchase Order prior to shipping, the contractor must contact the Authorized User's point-of-contact for delivery instructions.
- 2.6.8 The Contractor must also provide return authorization/asset recovery/exchange procedures in the event that a product has been damaged, deemed defective during shipment or incorrectly ordered.
- 2.6.9 Invoicing: The Contractor shall provide for invoicing for each product and/or service ordered at the time of delivery to the end Authorized User within the following guidelines:
- 2.6.9.1 Invoices shall be in accordance with the attached contract and itemized to separate the cost of the individual Microsoft products/service;
- 2.6.9.2 Invoices submitted without clear, concise, readable, definitive information shall be returned for clarification, and may delay payment;
- 2.6.9.3 Invoices are to be submitted to the originating Authorized User contact;
- 2.6.9.4 Invoices must include the Contractor's Federal Employer Identification Number (FEIN) and the Authorized User's Purchase Order Number; and,
- 2.6.9.5 Invoices shall only be issued upon complete delivery of Authorized User's order, or for services, at the completion of satisfactory service requested by Authorized User as described in this IFB; therefore, partial invoicing is not permitted. This does not apply to Software Assurance invoicing.
- 2.6.9.6 Products and services are viewed as accepted by the State upon delivery (by carrier shipments(s), electronic delivery or otherwise) to the Authorized User, and upon completion of services, respectively; provided, however, that in the event an Authorized User returns a software product or denies satisfaction of service in

writing to the Contractor, the Contractor shall provide the State with full credit on applicable Authorized User's invoice(s) and account(s) as noted in Section 2.6.5 no later than sixty (-60-) days from the return date of the product(s) or the date of written notification of denial of satisfaction of service by the Authorized User as the case may be.

2.7 Insurance:

- 2.7.1 The Contractor shall maintain property and casualty insurance with minimum limits sufficient to cover losses resulting from or arising out of Contractor action or inaction in the performance of the contract by the Contractor, its agents, servants, employees or subcontractors.
- 2.7.2 The Contractor shall maintain a policy of general liability insurance that is of the proper type and limits specified below.
- 2.7.3 The Contractor shall provide a copy of the Contractor's current certificate of insurance, which, at a minimum, must contain the following:
- A) Worker's Compensation - The Contractor shall maintain such insurance as necessary and/or as required under Worker's Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act.
 - B) General Liability - The Contractor shall purchase and maintain the following insurance protection on an occurrence and/or aggregate basis as applicable for liability claims arising as a result of the Contractor's operations under this IFB and follow-on contract. The following amounts shall be deemed the minimum acceptable coverages:
 - \$1,000,000 - General Aggregate Limit (other than products/completed operations)
 - \$1,000,000 - Products/completed operations aggregate limit
 - \$ 500,000 - Each Occurrence Limit
 - \$ 500,000 - Personal and Accidental Injury Limits
 - \$ 50,000 - Fire Damage Limit
 - \$ 5,000 - Medical Expense
- 2.7.4 Upon execution of a Contract with the State, Contractor shall provide the State with current certificates of insurance, and shall update such certificates from time to time, as directed by the State.
- 2.7.5 The State shall be named as an additional insured on the policies of all property, casualty, liability, and other types of insurance evidencing this coverage (Workers' Compensation excepted). Certificates of insurance evidencing this

coverage shall be provided prior to the commencement of any activities in the Contract. All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Procurement Officer, by certified mail, not less than 60 days advance notice of any non-renewal, cancellation, or expiration. In the event the State receives a notice of non-renewal, the Contractor must provide the State with an insurance policy from another carrier at least 60 days prior to the expiration of the insurance policy then in effect. All insurance policies must be with a company licensed to do business in Maryland and having a "Best" FSR rating of no less than A- and a FSC rating of no less than 'X.' In the event that the Contractor fails to procure and keep in force at all relevant times hereunder such insurance, the State shall have the right, but not the obligation, to obtain such insurance on behalf of the Contractor and the State shall have the right to withhold the cost of such insurance from any amounts otherwise due to the Contractor. If there are no amounts otherwise due to the Contractor hereunder, the cost of such insurance shall become immediately payable by the Contractor to the State.

- 2.7.6 The Contractor shall require that any subcontractors obtain and maintain similar levels of insurance and shall provide the State with the same documentation as is required of the Contractor.

SECTION 3 – BID FORMAT

3.1 General

- 3.1.1 **Bidders must use Attachment D that includes D-1 and D-2. Do not change or alter this Attachment or alter any other State Attachments or your bid will be rejected.**
- 3.1.2 Bidders agree to comply with each and every section, subsection and addendum of this solicitation. Failure to comply will result in the rejection of the bid.

3.2 Preparation/Submission of Bids

- 3.2.1 Bids must be submitted to the Procurement Officer at the address identified in IFB Section 1.5A.
- 3.2.3 Bids must be delivered on time, on or before the due date and time specified in Section 1.8.
- 3.2.4 Bids must be submitted in a sealed envelope clearly labeled as follows:
 - a. “Sealed Bid - Maryland Department of Budget & Management, Microsoft Select and Enterprise Software Reseller, Project No. 050B7800011”
 - b. The Bid Due Date and Time; and
 - c. The Name of the bidder.
- 3.2.5 Prepare and submit an unbound original and two (2) paper copies. The original must be noted that it is the original and copies must be marked accordingly. An electronic version of the paper submission copy on CD (See Section 1.8-Bids Due (Closing) Date) of the Bidder’s bid shall be submitted. The CD shall be clearly labeled with the Bid Date, Bid Title and bidder’s name. This version may consist of a variety of software files (i.e., pdf, doc, xlc, etc.) as determined by the bidder. The Bidder must include:
 - a. **Attachment D – Price Bid Form-1 and Price Bid Form-2.** Complete per the instructions on the Price Bid Forms. Complete and sign by an individual who is authorized to bind the Bidder to the services and prices (prices are noted as ‘percentage discount off’) contained in the bid. Be sure to note the Bidder’s Federal Identification Number and their eMaryland Marketplace Number;
 - b. Acknowledgement of the receipt of all addenda to the IFB, if any;
 - c. A detailed return procedure for products;

d. Proof of Bidder's Microsoft authorization to perform and fulfill the Large Account Re-seller requirements of this IFB as noted in Section 2.2, which is copied below:

2.2.1 The Bidder must be a current Microsoft Authorized North American Government Large Account Reseller (LAR) authorized by Microsoft to provide and administer Microsoft Select and Enterprise software products, and to request and direct certified Microsoft services in the State of Maryland.

2.2.2 It is required that the Bidder be able to provide the entire product line and services available in both the Microsoft Select Agreement and Enterprise Agreement programs.

e. Acknowledgement and acceptance of the terms, conditions, and procedures of the State of Maryland's Microsoft Select and Enterprise Agreements;

f. Bid Affidavit - Attachment B. (Note: The Contract Affidavit shown in Attachment C is only completed at time of notification of award to the winning Bidder.)

g. Statement of Fiscal Integrity. Bidders shall provide documentation that addresses the bidder's financial solvency that may include, but not be limited to, one or all of the following:

1. A current balance sheet
2. A certified financial statement
3. Dunn and Bradstreet rating;
4. Line of credit;
5. Successful financial track record;
6. Evidence of adequate working capital.

h. Legal Action Summary. A statement as to whether there are any outstanding legal actions, or potential claims against the bidder and a brief description of any such action, including:

1. A brief description of any settled or closed legal actions or claims against the bidder over the past five (5) years.
2. A description of any judgments against the bidder within the past five (5) years, including the case name, number, court, and what the final ruling or determination was from the court.
3. In instances where litigation is ongoing and the bidder has been directed by the court not to disclose information, the name of the judge and location of the court.

i. Certificate of Insurance

Bidder shall provide a copy of the Bidder's current certificate of insurance to meet the conditions of Section 2.7.

j. References

Bidders shall provide **three** references from current and/or previous customers within the immediate past three years who are capable of documenting experience in providing the same or similar Product and Support. **DBM reserves the right to request additional references.** Each reference shall include:

- 1) Name of client organization;
- 2) Name, title, and telephone number of point of contact for client organization;
- 3) Contract Value, type of contract, and duration of contract(s) (Period of Performance), the products and/or services provided, scope of the contract, geographic area supported, etc.; and
- 4) An explanation of why the bidder is no longer providing the services to the client organization, if the bidder is no longer serving this client.;

ATTACHMENTS

- A. Contract
- B. Bid Affidavit
- C. Contract Affidavit
- D. Price Bid Instructions and Forms
- E. State of Maryland Microsoft Select Agreement with its
Microsoft Select Enrollment -State and Local (Form) (Extends Agreement
For thirty-six months)
- F. State of Maryland Microsoft Enterprise Agreement
- G. Pre-Bid Conference Response Form
- H. Directions to the Pre-Bid Conference
- I. COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form.

**ATTACHMENT A
CONTRACT**

THIS CONTRACT is made as of this _____ day of _____, 2007 by and between _____ and the **STATE OF MARYLAND**, acting through the **DEPARTMENT OF BUDGET AND MANAGEMENT, OFFICE OF POLICY ANALYSIS**.

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

1. Definitions

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

1.1 “Contract Manager” means the manager designated by the Department. The Department may change the Contract Manager at any time by written notice.

1.2 “Contractor” means _____ whose principal business address is _____ and whose principal office in Maryland is _____.

1.3 “Department” means the Department of Budget and Management.

1.4 “Procurement Officer” means the officer designated by the Department. The Department may change the Procurement Officer at any time by written notice.

1.5 “IFB” means the Invitation for Bids for Microsoft Select and Enterprise Software, No. 050B7800011 dated _____.

1.6 “Notice To Proceed (NTP)” means the formal notification issued by the Contract Manager that direct the Contractor to immediately, or as of a date contained in the notice, begin performance of work.

1.7 “State” means the State of Maryland.

2. Scope of Work

2.1 The Contractor shall provide Microsoft Select and Enterprise software, Software Assurance, and other services to Authorized Users as described in the IFB (the “Services”). These Services shall be provided in accordance with this Contract and the following Exhibits, which are attached and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

- a) Exhibit A – Invitation for Bids –Project No. 050B7800011, dated _____
_____;
 - b) Exhibit B – Contractor’s Bid –Project No. 050B7800011, dated _____;
- and

c) Exhibit C – Contractor’s Contract Affidavit - Project No. 050B7800011, dated _____;

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

3. Time for Performance.

Unless terminated earlier as provided in this Contract, the term of this Contract shall be for a period of approximately five years. The Services shall begin on the date the Contract Manager issues the Notice to Proceed and shall terminate, and the Contract shall expire five years thereafter. It is anticipated that the Contract term shall be from about March 1, 2007 until October 31, 2012.

4. Consideration and Payment

4.1 Select Agreement. The consideration for Microsoft Select software products provided by the Contractor shall be payment at a ____% discount (a percentage to two decimal places) off of the applicable Microsoft Select Agreement Estimated Retail Price List established in the current Microsoft Select Agreement with the State as provided by the IFB. The Contractor may apply an additional discount to the Authorized User’s purchase; however, a discount less than the Contracted discount is not permitted. The Contractor shall apply not less than Most Favored Customer Pricing or the Contracted fixed percentage discount off to each product ordered, whichever results in the lowest total discount price to the State for the product. The Contractor shall deliver all software licenses and products within five (-5-) business days after the State places an order.

4.2 Enterprise Agreement. The consideration for Microsoft Enterprise software products provided by the Contractor shall be payment at a ____% discount off of the Microsoft Enterprise Reference Price List for the current Microsoft Enterprise Agreement with the State as provided by the IFB. The firm fixed ‘percentage discount off’ (a percentage to two decimal places) applies for each of the following: (1) Custom Level D Enterprise Reference Price List for Enterprise products; and (2) Level D Enterprise Reference Price List for additional products for software licenses and Software Assurance. The Contractor may apply an additional percentage discount off to the Authorized User’s purchase; however, a discount less than the Contracted discount is not

permitted. The Contractor shall apply not less than Most Favored Customer Pricing or the Contracted fixed percentage discount off to each product ordered, whichever results in the lowest total discount price to the State for the product. The Contractor shall deliver all software licenses and products within five (-5-) business days after the State places an order.

4.3 Payments for the software shall be made no later than thirty (-30-) days after Acceptance of the Software as described in the IFB. Each invoice for Services rendered must include the Contractor's Federal Tax Identification Number which is_____. Charges for late payment of invoices other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, as from time to time amended, are prohibited. Invoices should be submitted to the individual or office designated on the respective purchase order. The Contractor shall deliver software licenses within five (-5-) business days after the State places an order.

4.4 In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer.

4.5 Contractor's eMarylandMarketplace (eMM) vendor ID number is _____.

5. Rights to Records

The Contractor agrees that all documents and materials including but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations and data prepared by the Contractor, solely for purposes of this Contract with the State of Maryland shall be the sole property of the Department and shall be available to the Department at any time. The Department shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract. Notwithstanding the foregoing, the parties acknowledge and agree that Contractor shall pass through or otherwise transfer and/or assign licenses to any and all Microsoft software products provided by Contractor to the State hereunder, subject to the terms of the respective Select and Enterprise Agreements.

6. Patents, Copyrights, Intellectual Property

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

6.2 The Contractor will defend or settle, at its own expense, any claim or suit against the State alleging that any such item furnished by the Contractor infringes any patent, trademark, copyright, or trade secret. If a third party claims that a Product infringes that

party's patent or copyright, the Contractor will defend the Agency against that claim at Contractor's expense and will pay all damages, costs and attorney fees that a Court finally awards, provided the Agency (i) promptly notifies the Contractor in writing of the claim; and (ii) allows Contractor to control and cooperates with Contractor in, the defense and any related settlement negotiations.

6.3 If any products furnished by the Contractor become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement, the Contractor will, at its option and expense: a) procure for the State the right to continue using the applicable item, b) replace the product with a non-infringing product substantially complying with the item's specifications, or c) modify the item so that it becomes non-infringing and performs in a substantially similar manner to the original item. Contractor shall immediately notify the State's Procurement Officer and the State's Contract Manager, in writing, of the possibility of any claim of infringement arising hereunder.

6.4 The provisions of this Section 6 shall be applicable to Contractor only in the event:

- a) Microsoft has not agreed to undertake each and every obligation specified in Subsections 6.1 through 6.3; or
- b) A claim, suit, or action under this Section 6, or the need to undertake action on behalf of the State and the Department under this Section 6 is attributable, in whole or in part, to Contractor.

7. Confidentiality

Subject to the Maryland Public Information Act and any other applicable laws, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided that the data may be collected, used, disclosed, stored and disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party, (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information or (e) which such party is required to disclose by law.

8. Loss of Data

In the event of loss of any State data or records where such loss is due to the intentional act or omission or negligence of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for recreating such lost data in the manner and on the schedule set by the Contract Manager. To the extent the Contractor is or becomes actively involved with the installation of any Microsoft software, the Contractor shall ensure that all data is backed up and is recoverable by the Contractor.

9. Liability

For breach of this Contract, negligence, misrepresentation or any other contract or tort claim, Contractor shall be liable as follows:

- A. For infringement of patents, trademarks, trade secrets and copyrights as provided in Section 6 ("Patents, Copyrights, Intellectual Property") of this Contract;
- B. Without limitation for damages for bodily injury (including death), damage to real property and tangible personal property, and for damages and/or charges claimed by Microsoft against the State which are attributable, in whole or in part, to Contractor's failure to undertake and complete its duties, obligations and responsibilities hereunder;
- C. For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract, regardless of the form, Contractor's liability per claim shall not exceed the total of each individual Authorized User's purchase order out of which the claim arises; provided however, the State may, in its sole discretion, decrease the ceiling established hereunder in any purchase order issued pursuant to this IFB. Third party claims arising under Section 28 ("Indemnification"), of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor's liability for third party claims arising under Section 28 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 28.

10. Non-Hiring of Employees

No official or employee of the State of Maryland, as defined under State Government Article, 15-102, Annotated Code of Maryland, whose duties as such official or employee includes matters relating to or affecting the subject matter of this Contract, shall, during the pendency and term of this Contract and while serving as an official or employee of the State become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

11. Disputes

This Contract shall be subject to the provisions of Title 15, Subtitle 2, of the State Finance and Procurement Article of the Annotated Code of Maryland and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision. Unless a lesser period is provided by applicable statute or regulation, the Contractor must file a written notice of claim with the Procurement Officer within thirty (30) days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within thirty (30) days of the filing of a notice of claim, but no later than the date of final payment under the Contract,

the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

12. Maryland Law

This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland. The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland) does not apply to this Contract or the software licenses acquired hereunder. Any and all references to the Annotated Code of Maryland contained in this Contract shall be construed to refer to such Code sections as from time to time amended.

13. Nondiscrimination in Employment

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

14. Contingent Fee Prohibition

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

15. Non-availability of Funding

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

16. Termination for Cause

If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by

written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State of Maryland shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

17. Termination for Convenience

The performance of work under this Contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract; provided, however, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12 (A)(2).

18. Delays and Extensions of Time

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

19. Suspension of Work

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

20. Pre-Existing Regulations

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

21. Financial Disclosure

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

22. Political Contribution Disclosure

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

23. Retention of Records.

The Contractor shall retain and maintain all records and documents in any way relating to this Contract for three (3) years after final payment by the State of Maryland under this Contract or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or the Procurement Officer’s designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section. The Contractor agrees to cooperate fully in any audit conducted by or on behalf of the State, including, by way of example only, making records and employees available as, where, and to the extent requested by the State and by assisting the auditors in reconciling any audit variances. Contractor shall not be compensated for providing any such cooperation and assistance.

24. Warranties.

The Contractor hereby represents and warrants that:

- A. It is a LAR certified by Microsoft to sell Microsoft Select and Enterprise products and licenses in Maryland under the respective Select and Enterprise programs and as such, has full authority to pass through or otherwise transfer and assign the Microsoft licenses to the Microsoft software products obtained through Contractor hereunder, subject to the terms of the Select and Enterprise Agreements, and that it has made such contractual agreements with Microsoft that are required for Contractor to fully discharge each and every obligation of Contractor under the IFB and this Contract. It has all right, title and interest to the Select and Enterprise software. Nothing for which the Contractor is responsible under this Contract will cause the State's use of the Select and Enterprise software to infringe on the intellectual property rights of any person or entity.
- B. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- C. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- D. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and,
- E. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.
- F. It will at no time during the term of this Contract do anything that will place the State in actual or prospective breach of its obligations to Microsoft under the Select or Enterprise Agreements.

25. Cost and Price Certification

By submitting cost or price information, the Contractor certifies to the best of its knowledge that the information submitted is accurate, complete, and current as of the date of its bid.

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

26. Subcontracting; Assignment

The Contractor may not subcontract any portion of the Services provided under this Contract without obtaining the prior written approval of the Procurement Officer, which approval the State may withhold or condition in its sole and absolute subjective discretion. Contractor may not assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Procurement Officer, which approval the State may withhold or condition in its sole and absolute subjective discretion. Any such subcontract or assignment shall include the terms of Sections 5 through 25 of this Contract and any other terms and conditions that the State deems necessary to protect its interests. The State shall not be responsible for the fulfillment of the Contractor’s obligations to the subcontractors.

27. Administrative

A. Procurement Officer. The work to be accomplished under this Contract shall be performed under the direction of the Procurement Officer. All matters relating to the interpretation of this Contract shall be referred to the Procurement Officer for determination.

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

If to the State: Department of Budget and Management
Division of Procurement Policy & Administration
Room 138
45 Calvert Street
Annapolis, Maryland 21401
Attention: Kimmeria Hall

If to the Contractor: _____

28. Indemnification

28.1 The Contractor shall indemnify the State from and against liability for any costs, expenses, loss, suits, actions, or claims of any character arising from or relating to the performance of the Contractor or its subcontractors under this Contract.

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

28.3 The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor’s obligations under this Contract.

28.4 The Contractor shall immediately notify the Procurement Officer of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from or relating to the Contractor's obligations under the Contract, and will cooperate, assist, and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of or relating to the Contractor's performance under this Contract.

29. Orderly Termination

Contractor agrees that, except as expressly provided otherwise in the IFB, at the commencement of this Contract it shall have ready and available such systems, processes, and sufficient levels of qualified personnel to be able to promptly, diligently, efficiently and completely prosecute the requirements of this Contract.

Upon the expiration or earlier termination of this Contract, Contractor shall:

- A. promptly, diligently, efficiently and in good faith work with any successor contractor and the State to transition Services over to the successor contractor;
- B. during the transition period, continue to be subject to all of the terms and conditions of the Contract, including, by way of example only, those that govern the rates, fees and other charges that Contractor may be permitted to charge the State under the Contract, and under no circumstances shall the Contractor be entitled to raise any such rates, fees and/or other charges during the transition period; and,
- C. at the end of the transition period, provide the State with a summary report of the transition that, among other things, contains a certification signed by an officer of the Contractor who is authorized to legally bind Contractor, that states that all actions necessary to successfully transition the Services to the successor contractor have been completed, or if they have not been completed, why they have not been completed. The State shall be entitled to withhold any final payment(s) otherwise due Contractor until it receives the summary report and certification specified in this subsection.

30. Guarantee of Performance by _____ . (If determined to be applicable by the State)

[corporate name of parent corporation] hereby guarantees absolutely the full, prompt and complete performance by " [subsidiary/the Contractor]" of all the terms, conditions and obligations contained in this Contract, as it may be amended from time to time, including any and all exhibits that are now or may become incorporated hereunto, and other obligations of every nature and kind that now or may in the future arise out of or in connection with this Contract, including any and all financial commitments, obligations

and liabilities. "[corporate name of parent]" may not transfer this absolute guaranty to any other person or entity without the prior express written approval of the State, which the State may withhold or condition in its sole and absolute subjective discretion. "[corporate name of parent]" further agrees that if the State brings any claim, action, suit or proceeding against "[subsidiary/the Contractor]", "[corporate name of parent]" may be named as a party, in its capacity as Absolute Guarantor.

31. Commercial Nondiscrimination

- A. As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

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

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

CONTRACTOR

**MARYLAND DEPARTMENT OF
BUDGET AND MANAGEMENT**

By: _____ Date: _____

By: _____ Date: _____

Witness: _____

Witness: _____

Approved for form and legal sufficiency this _____ day of _____,
2006.

Assistant Attorney General

Approved by the
Board of Public Works If Applicable:

Date _____ BPW Item No. _____

ATTACHMENT B – BIDDER’S BID AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

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

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder hereby certifies and agrees that the following information is correct:

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

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in 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, 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, has:

(1) Been convicted under state or federal statute of:

- 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 arising out of 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, Section 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(5) Been convicted of a violation of Section 11.205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;

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

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

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

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

(10) 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 Section B and subsections (1) through (7) 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, 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 that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or financial proposal of the bidder 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 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 Administrative Board of Election Laws 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, 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 §J(2)(b), above;

(h) Notify its employees in the statement required by §J(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 five days after a conviction;

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

(j) Within 30 days after receiving notice under §J(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 §J(2)(a)—(j), above.

(3) If the business is an individual, the individual shall certify and agree as set forth in §J(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: **(IF NOT APPLICABLE, SO STATE).**

Name: _____

Address: _____

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

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 shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

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

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

ATTACHMENT C – CONTRACT AFFIDAVIT

COMAR 21.07.01.25

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the

(title)

and the duly authorized representative of

(business)

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

B. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

(1) The business named above is a (domestic _____) (foreign _____) corporation registered in accordance with 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 Assessment and Taxation is:

Name: _____

Address: _____

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

C. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

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

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

DATE: _____

BY: _____
(Signature)

(Authorized Representative and Affidavit)

ATTACHMENT D

PRICE BID INSTRUCTIONS for Attachments D-1 and D-2

Bidders are required to record the respective ‘percentage discount off’ as a percentage to two decimal places (Example: 45.00%) that is to be applied to the applicable Microsoft Select Agreement or Microsoft Enterprise Agreement products and/or services.

- 1. See the instructions on Attachments D-1 and D-2 and complete the sheets accordingly.** Submit the completed sheets D-1 and D-2 as the Price Bid per the Section 3-Bid Format requirement in Sub-section 3.2.5.a.
- 2. The Bidder must complete Attachment D’s Price Bid Form – 1 and Price Bid Form -2 in their entirety. Put an N/A in any block or line you do not think is applicable, but do not leave a block or line blank.**

The authorized signature block at the end of this Attachment D (at the end of Price Bid Form –2) must be signed and dated by an individual who is authorized to bind their company to all statements, including products, services and prices, contained in the bid.

3. Then, record the number from Line 2 on Line 6. Also, record the number from Line 5 on Line 7. Add the numbers from Line 6 and 7 together and record that number on Line 8.
4. The number recorded as a Percentage to two decimal places on Line 8 will be the number that is used to determine the most favorable evaluated bid price as noted in Section 1.17-Bidder’s Responsibilities.

However, the numbers recorded as a percentage to two decimal places for the specific Select Agreement and Enterprise Agreement products and services on Lines 1, 3, and 4 in Column B are the ‘percentage discount off’ that shall be applied by the LAR Contractor to the applicable Select and/or Enterprise Agreement products and services during the term of the contract. During the contract, a ‘percentage discount off’ at or higher than noted is acceptable for use on the contract, but not less than the ‘percentage discount off’ quoted by the Bidder.

**ATTACHMENT D
PRICE BID FORM D-1**

Instructions For Columns A, B, C, and D (for Microsoft Select Agreement):

- a. On Line 1, Column B, record a ‘percentage discount off’ to two decimal places to be applied to all Microsoft Select Products for Authorized Users (Examples: 41.25%; 36.00%) per the State of Maryland’s DBM Microsoft Select Agreement;
- b. For bid evaluation purposes only, in Line 2, Column B, record the number (percentage to two decimal places) recorded in Line 1, Column B. Record the number as a percentage to two decimal places.
- c. For bid evaluation purposes only, multiply the number recorded in Line 2, Column B, by the .80 in Line 2, Column C, and record the resulting percentage in Line 2, Column D to two decimal places.

Column A	Column B	Column C	Column D
Line No. and Agreement	*Percentage Discount Off	Weight Assigned for Evaluation Purposes	Evaluated Percentage
1. DBM’s Microsoft Select Agreement’s Microsoft Select Products	* %		
2. Percentage for evaluation (as a percentage to two decimal places) for DBM’s Microsoft Select Agreement’s Microsoft Select Products	%	X .80 =	__ __. __ __%

***This is the minimum ‘Percentage Discount Off’ percent that must be applied to applicable purchases by an Authorized User with the LAR Contractor in conjunction with the State of Maryland Microsoft Select Agreement.**

ATTACHMENT D
PRICE BID FORM D-2

Instructions For Columns A, B, C, and D (for Microsoft Enterprise Agreement):

- a. On Line 3, Column B, record a ‘percentage discount off’ to two decimal places to be applied to all Microsoft Custom Level D Enterprise Reference Price List’s products by Authorized Users per the State of Maryland’s DBM Microsoft Enterprise Agreement (Examples: 41.25%; 36.00%);
- b. On Line 4, Column B, record a ‘percentage discount off’ to two decimal places to be applied to all Microsoft Level D Enterprise Reference Price List’s for additional products for software licenses and Software Assurance by Authorized Users per the State of Maryland’s DBM Microsoft Enterprise Agreement (Examples: 41.25%; 36.00%);
- c. For Line 5, Column B, add the number (percentage to two decimal places) recorded in Line 3, Column B, to the number recorded in Line 4, Column B, and record the number as a percentage to two decimal places for the Line 5, Column B.
- d. For bid evaluation purposes only, multiple the number recorded in Line 5, Column B, by the .20 in Line 5, Column C, and record the resulting percentage in Line 5, Column D to two decimal places.

Column A	Column B	Column C	Column D
Line No. and Agreement	*Percentage Discount Off	Weight Assigned for Evaluation Purposes	Evaluated Percentage
3. DBM’s Microsoft Enterprise Agreement per Microsoft’s <u>Custom Level D Enterprise Reference Price List’s</u> products	* %		
4. DBM’s Microsoft Enterprise Agreement per Microsoft’s <u>Level D Enterprise Reference Price List’s</u> for additional products/services	* %		
5. Percentage for Evaluation (as a percentage to two decimal places) for DBM’s Microsoft Enterprise Agreement	%	X .20 =	_____ . _____ %

***These are the minimum ‘Percentage Discount Off’ percents that must be applied to applicable purchases by an Authorized User with the LAR Contractor in conjunction with the State of Maryland Microsoft Enterprise Agreement.**

ATTACHMENT D (Price Form – 2 Continued)

For the Bidder's Total Evaluated Price (demonstrated as a percentage and recorded to two decimal places (Example: 45.00%)), the Bidder must add the number in Line 2, Column D (recorded also on Line 6 below) to Line 5, Column D (recorded also on Line 7 below) and record that number as a percentage to two decimal places on Line 8.

6. Record the percentage from Line 2, Column D to two decimal places: ___ __. ___ __ %

7. Record the percentage from Line 5, Column D to two decimal places: ___ __. ___ __ %

8. Total Evaluated Price as demonstrated as a percentage to two decimal places (The sum of the number in Line 6 and Line 7): ___ __. ___ __ %

SUBMITTED BY: _____

AUTHORIZED SIGNATURE TITLE

TYPED NAME OF AUTHORIZED SIGNATURE

NAME OF VENDOR (COMPANY)

ADDRESS

TELEPHONE NO. FAX NO.

FEDERAL EMPLOYER IDENTIFICATION NUMBER

eMARYLAND MARKETPLACE VENDOR NUMBER

DATE _____

ATTACHMENT E -

CURRENT STATE OF MARYLAND MICROSOFT SELECT AGREEMENT
(See the separate PDF document)

ATTACHMENT F -

CURRENT STATE OF MARYLAND MICROSOFT ENTERPRISE AGREEMENT

(See the separate PDF document)

**ATTACHMENT G
Pre-Bid Conference Response Form**

Project No. 050B7800011

STATE OF MARYLAND

Microsoft Select and Enterprise Products and Services Large Account Re-seller

A Pre-Bid Conference will be held at 10:00 AM Local Time, on Tuesday, January 23, 2007, 45 Calvert Street, Annapolis, MD, Room 164A. Please return this form by Friday, January 19, 2007 advising whether or not you plan to attend.

For directions to the meeting site, See Attachment H-Directions to the Pre-Bid Conference or you may contact Ms. Kimmeria Hall via e-mail at khall@dbm.state.md.us or phone 410-260-7414.

Return or fax this form to the Procurement Officer:

Kimmeria Hall
Department of Budget & Management
Division of Procurement Policy & Administration
Room 138
45 Calvert Street
Annapolis, MD 21401
Telephone: 410.260.7414
Fax: 410-974-3274

Please indicate:

Yes, the following _____ (Company Name) representatives
will be in attendance:

- 1.
- 2.
- 3.

No, we will not be in attendance.

Signature

Title

CONTACT NAME

CONTACT PHONE NUMBER

ATTACHMENT H- DIRECTIONS TO THE PRE-BID CONFERENCE

For

**Microsoft Select and Enterprise Products and Services
Large Account Re-seller (LAR) IFB**

**DEPARTMENT OF BUDGET & MANAGEMENT
Room 164A
45 Calvert Street
Annapolis, MD 21401**

Tuesday, January 23, 2007 at 10:00 AM (Local Time)

From points North of Annapolis: Take I-97 South towards Annapolis/Bay Bridge. Take the US-50 East/US-301 North exit towards Annapolis/Bay Bridge. Take Exit #24 (MD-70 Rowe Blvd/Bestgate South) towards Annapolis/State Offices. Bear Right on the exit ramp toward “South/Annapolis”. Continue on Rowe Blvd through two (2) lights. After crossing the College Creek Bridge, turn Right at the third (3rd) light onto Calvert Street. The first building on the right is 45 Calvert Street.

From points South and West of Annapolis: Take US-50 East/US-301 North towards Annapolis/Bay Bridge. Take Exit #24 (MD-70 Rowe Blvd/Bestgate South) towards Annapolis/State Offices. Bear Right on the exit ramp toward “South/Annapolis”. Continue on Rowe Blvd through two (2) lights. After crossing the College Creek Bridge, turn Right at the third (3rd) light onto Calvert Street. The first building on the right is 45 Calvert Street.

From points East of Annapolis: Take US-50 West towards Annapolis. Take Exit #24A (Rowe Blvd/MD-70 South) towards Annapolis/State Offices. Continue on Rowe Blvd through three (3) lights. After crossing the College Creek Bridge, turn Right at the fourth (4th) light onto Calvert Street. The first building on the right is 45 Calvert Street.

PARKING: There is on-street metered parking along Calvert Street. There is a parking garage on Clay Street, which is the first street on the right immediately past the 45 Calvert Street State Office Building. There is also a parking garage on the left side of Calvert Street just past the 45 Calvert Street State Office Building. **Parking is limited so allow adequate time to find parking.**

ATTACHMENT I - ELECTRONIC FUNDS TRANSFER (EFT) FORM

(See the following pages.)

**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 name _____

Address line 1 _____

Address line 2 _____

City _____ State _____

Zip code

--	--	--	--	--

--	--	--	--	--

Business taxpayer identification number:

Federal Employer Identification Number:

--	--

--	--	--	--	--	--	--	--

(or) Social Security Number:

--	--	--

--	--

--	--	--	--

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

Financial institution information:

Name and address _____

Contact name and phone number (include area code)

ABA number

--	--	--	--	--	--	--	--	--	--

Account number

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Account type Checking Money Market

A voided check from the bank account must be attached.

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.

(OVER)

(See form that follows)

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 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

COT/GAD X-10