



PRINCE GEORGE'S
COMMUNITY COLLEGE

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REQUEST FOR PROPOSAL #20-11

FOR

**On-Call Construction Management Agent/ Owner's
Representative Services (CMA)**

ISSUE DATE: FEBRUARY 10, 2020

NOTICE: Prospective Offerors who have received this document from a source other than the Issuing Office are advised to contact the Issuing Office and provide their name and email address in order to ensure that amendments to the Request for Proposal or other communications can be sent to them. This is a courtesy, not a requirement of the College, the College does not take responsibility if any Prospective Offeror is not informed of communication issued under this RFP. It is the sole responsibility of any Prospective Offeror to visit the College's website for all documents relating to this RFP.

PRINCE GEORGE'S COMMUNITY COLLEGE
301 Largo Road
Largo, Maryland 20774
www.pgcc.edu

SOLICITATION SCHEDULE

RFP #20-11

| | |
|--|--|
| Issue Date: | February 10, 2020 |
| Pre-Proposal Meeting: | February 21, 10:00 AM ET (location to be announced via Addendum) |
| Questions Period Last Day for Questions: | February 26, 2020, at 10:00 AM ET |
| Responses to Questions: | by February 28, 2020 |
| Proposal Due Date: | March 6, 2020, 10:00 AM ET |
| Oral Presentation/Discussion Session(s): For invited shortlisted firms only | March 24-25, 2020 (projected) |
| Contractor(s) Selection Anticipated to be finalized: | March 31, 2020 (projected) |
| Contract Commencement: | April 9, 2020 (projected) |

(Note: Board of Trustees approval may be required prior to the execution of the Contract)

PRINCE GEORGE'S COMMUNITY COLLEGE

RFP #20-11

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REQUEST FOR PROPOSALS

FOR

On-Call Construction Management Agent/Owner's Representative Services (CMA)

SECTION I. GENERAL INFORMATION

Summary.

1.1. Solicitation. The intent of this Request for Proposal (“RFP” or “Solicitation”) is to provide firms an opportunity to present their qualifications and experience, to providing the scope of services described in this RFP and in relation to the needs of Prince George’s Community College (“PGCC” or “College”). Proposals that concisely present the information requested in the order and manner requested will be considered more favorably than a Proposal (“Proposal” or “Offer”) from an Offeror of commensurate qualifications that displays a lack of organization, conciseness, or attention to detail.

The College is seeking proposals from qualified construction management agencies contractors that can provide comprehensive construction phase administration services for various campus projects.

The Contractors selected by Prince George’s Community College (PGCC) will have significant expertise in the areas necessary to meet the needs and requirements set forth in this RFP, including, without limitation, the ability to provide construction management services, serving as the College’s agent/owner’s representative to meet the needs of the College for any assigned project.

The College anticipates multiple awards with On Call Contracts in place around April 2020, or until Board approval. Although, services shall be provided on an on-call, as needed basis the College may require CMA services for the following projected projects:

Marlboro Hall, March 2020
Largo Student Center, April / May 2020
Track & Field Athletic Complex, June 2020
Bladen Hall Interior Renovations, 2022
Novak Health & Wellness Center, 2024
Parking Garage A, 2024
Parking Garage B, 2025

1.2 Contract Term.

The base contract will be for two (2) years and will be renewable for three (3) additional one-year periods at the sole discretion of the College. Award of Projects: Due to the nature of CMA work and the anticipated size of projects to be done under this contract, the College will be

competing each project among all available awarded CMA firms. Projects will be awarded as a CMA with Guaranteed Maximum Price (GMP) for all required services to complete the awarded/construction project. The College may choose to request only one or all of the following services: design, pre-construction, or construction. If additional or other services are required additional requirements shall be included in each task order.

Firms awarded a contract under this RFP 20-11, shall anticipate an invite from the College to provide a Proposal directly relating to the Marlboro Hall Project.

1.2. Procurement Regulations. This RFP shall be conducted in accordance with College's Policies and Procedures. The procurement method is Competitive Sealed Proposals.

1.3. Prince George's Community College Profile and Background.

Prince George's Community College is the number one choice of Prince George's County residents for an undergraduate education and the leading institution in training and preparing employees for the county's workforce. Since 1958, the college has provided students, the county, and region with high quality and affordable education, cutting-edge workforce and development training and the opportunity to achieve their dreams and aspirations.

Prince George's Community College serves a diverse population of more than 44,000 students who represent 128 countries throughout the world. The College in partnership with County agencies, schools, and businesses provides two-year degree programs, transfer opportunities, career education, workforce training and continuing education. Students can earn associate degrees, certificates, letters of recognition, and licensures. At Prince George's Community College, student success is the highest priority. The college is committed to promoting opportunities for students to succeed inside and outside of the classroom.

1.4 Qualifying Proposals.

Only those firms who meet the minimum qualifications listed below shall be considered for a possible award.

Contractor must have ten (10) years of experience and proven expertise in providing CMA services for at least one project with a value of \$75M-\$100M.

It is the College's sole discretion to determine if the provided information meets this criteria.

2. Issuing Office.

1.1. Issuing Office:

Beth Vu Kirk, Director of Procurement
Prince George's Community College
Office of Procurement, Kent Hall 264
Largo, MD 20774-2199

Kirkbv@pgcc.edu
Telephone No.: 301-546-6000

and

Karen Kelly, Procurement Coordinator
Prince George's Community College
Office of Procurement, Kent Hall 264
Largo, MD 20774-2199
kkelly14380@pgcc.edu
Telephone No.: 301-546-0008

2.2. The Issuing Office shall be the sole point of contact with the College for purposes of the preparation and submittal of proposals in response to this solicitation.

3. Questions and Inquiries.

All questions and inquiries regarding this procurement must be directed to the individual(s) referenced with the Issuing Office above. Questions must be submitted in writing via email to the individuals listed above. Inquiries will receive a written reply/confirmation, submitted inquiries that are not confirmed by the College may not have been received. It is the sole responsibility of potential proposers to ensure inquiries/questions are received for response. Copies of replies will be sent to all other Offerors, but without identification of the inquirer. All such questions and inquiries must be received by the date and time as listed in the Solicitation Schedule of this RFP.

Potential proposers are advised that the College reserves the right to use its best judgment in choosing to respond or not to respond to any questions received before or after the above stated cut-off date for questions.

4. Minority Business Enterprises (MBE) and Local Businesses.

Minority participation is important to PGCC. Prince George's Community College strongly encourages qualified local minority businesses and local business to provide goods and services for the performance of College functions. Minority Business Enterprises (MBE) firms are strongly encouraged to respond to this solicitation. An MBE is defined by the College as follow: A Minority Business Enterprise (MBE) is any legal entity, other than a joint venture, organized to engage in commercial transactions which is at least 51% owned and controlled by one or more minority persons (African Americans, Hispanics, American Indians, Asians, women and the physically or mentally disabled), or a non-profit entity organized to promote the interest of the physically or mentally disabled.

Although State certification is not required, Offerors shall be required to provide adequate proof that each MBE proposed/used meets the College's requirement/status and be required to execute the College's MBE Affidavit or other execute/provide other required documents determined by the College, at a later date.

Potential proposers that are not certified by the Maryland Department of Transportation (MDOT), are encouraged to initiate certification as soon as possible. For more information on the State's MBE program or questions related to certification, please contact MDOT's Office of Minority Business Enterprise/Equal Opportunity, telephone 800-544-6056 or view the MDOT website: <http://www.mdot.state.md.us/mbe/index.html>.

MBE Contract Participation Goal/Commitment: 25%

The MBE goal is the minimum percentage the awarded vendor will retain for MBEs of the total overall contract(s) value that is established for this solicitation/awarded contract, unless waived by the College. This subcontracting goal will become part of the contract. The MBE goal may be fulfilled by an MBE prime, if awarded the contract.

Proposers are to provide within their proposal a completed and signed MBE Utilization Affidavit (see Appendix A) and include a completed MBE Participation Schedule. Proposers are strongly encouraged to include local (Prince George's County based company/ies) MBEs within your firm's proposal. The Procurement Officer may deem the proposal not susceptible of the award, if the MBE documents are not provided within the Proposal.

5. Acceptance of Terms and Conditions.

By submitting a Proposal, an Offeror shall be deemed to have accepted the terms, conditions, and requirements set forth in this RFP. The RFP including all addenda in total shall be incorporated into the Contract by reference. Any exceptions to the terms and conditions shall be submitted as specified in the Response Requirements section of this Solicitation. Contract exceptions not provided in the format required under this RFP shall not be accepted nor be made part of any Contract, if awarded.

7. Confidentiality of PGCC's and Offeror's Information.

Refer to Appendix S for the terms of confidentiality of PGCC's and Offeror's information.

8. Post-Award Confidentiality.

Refer to Appendix C for the confidentiality obligations of awardees and PGCC.

SECTION II. SCOPE OF WORK

1. Overview of Services

Prince George's Community College (PGCC or the "College") is seeking On-Call Construction Management Agent/Agency of the Owner (CM or CM) for the construction of various campus projects, on an as needed basis. The CMA shall serve as extension of the College's staff, ensuring that the project proceeds in accordance with contract documents, on-time, and within budget.

CMA shall provide guidance through the entire lifecycle of the construction project, including architectural design phases, if required by the College.

The Contractor shall have significant expertise in the areas necessary to meet the needs and requirements set forth in this RFP, including, without limitation, the ability to provide innovative construction management solutions to meet the needs of the College.

General Description of Services.

Services may include but are not limited to:

Provide comprehensive construction phase administration with supporting pre-construction phase administration which would include on-going full-time supervision, project management and inspection of work, review shop drawings, preparation of all change orders (CORs), and contractor payment estimates, final inspections, and submitting project completion reports for acceptance and approval by the College. Services described in this Project Overview and Scope of Work relate to and are associated with work performed or to be performed by the General Contractor (GC) or Construction Management at Risk Contractor (CMAR).

The CMA shall not "self-perform" or bid on any divisions of the work. However, the CMA shall be required to participate and provide guidance and support in the bidding/soliciting of work/subcontractors/contractors for any given project.

Pre-Construction Phase Services.

The CMA shall assist the College during the pre-construction phase activities/responsibilities of the Project by providing services including, but not limited to:

- CMA shall provide Architectural and Engineering project management services during any given phases during the design phase (pre-design, schematics, etc.).
- CMA shall provide cost analysis review of CMAR cost estimates and A/E cost estimates to validate project is within the budget cost requirements set forth by the College.

- CMA shall provide project schedule review of CMAR construction schedule and A/E design schedule to validate project is within the timeline for various milestone completions and occupancy set forth by the College.
- CMA shall assist the College in completing all documentation necessary for permitting and agency approvals including complete review of the construction documents prior to each issuance for construction activities commencement.
- Contractor/CMA shall have the ability to utilize Building Information Modeling software systems at all required levels and project file management software, as specified by the College.
- Perform all other related work as required by the College.

Construction Phase Services.

The CMA shall manage the construction phase activities/responsibilities of the Project by providing services including, but not limited to:

- Maintaining competent supervisory staff to coordinate and provide general direction of the work and progress of the contractors on the Project
- Observing the work as it is being performed for general conformance with working drawings and specifications; establishing procedures for coordinating among the College, A/E Design Consultant Team, Contractor, and CMAR with respect to all aspects of the Project and implementing such procedures
- Maintaining job site records and making appropriate progress reports; implementing labor policy in conformance with the requirements of the County and State laws
- Reviewing the safety programs of each contractor for conformance with the County's and State policies/regulations/laws and making recommendations
- Reviewing all claims and provide the College with a determination with supporting documentation
- Reviewing and processing all applications for payment by involved contractors and material supplies in accordance with the terms of the contract
- Making recommendations for all CORs issued to the College. CMA shall process requests for changes and maintain records of change orders; Time Impact Analysis (TIA) for critical path and project scheduling, and conducting job meetings to ensure orderly progress of the work.

- Developing and monitoring an independent project progress schedule, coordinating and expediting the work of all contractors and providing periodic status reports to the College and the A/E Design Consultant Team; and establishing and maintaining a cost control system and conducting meetings to review costs.
- The CMA shall prepare and update the construction schedule so that it incorporates all parties' responsibilities, which will be used for monitoring and enforcing the progress of the Project, which will be updated monthly for review by the College and A/E Design Consultant Team.
- The CMA shall schedule and conduct weekly construction team meetings to be attended by the College's representatives, A/E Design Consultant Team, all contractors who are working on-site or starting in the near future to review construction progress, scheduling, problems, etc. The CM shall prepare and distribute minutes to all parties involved.
- The CMA shall review each contractor's application for payment based on observation and evaluation of performance and coordinate with each contractor as needed for modifications prior to submitting to the College for approval and certification.
- The CMA shall determine in general that the work of each contractor is being performed in accordance with the requirements of the contract documents, endeavoring to guard the College against defects and deficiencies in the work. The CM in consultation with the A/E Design Consultant Team may reject work that does not conform to the requirements of the contract documents.
- The CMA shall review all proposal request changes/CORs, assist in negotiating contractor's proposals/CORs, submit recommendations to the A/E Design Consultant Team and College, and if the requests are accepted, prepare change orders.
- The CMA shall review the contractor's payroll to ensure the contractor is paying prevailing wage, as required by the statutes of the state of Maryland.
- In collaboration with the A/E Design Consultant Team, the CMA shall establish and implement the procedures for the expediting, the processing and approval of requests for information, shop drawings, product data, samples and other submittals with the information in the specifications and contract drawings.
- The CMA shall maintain one set of construction documents at the Project site for the College. This will include all contract drawings, specifications, addenda, change orders and other modifications, in good order and clearly marked for all changes to submit to the A/E Design Consultant Team to create a set of "as-built drawings" for the College.

- The CMA shall coordinate and schedule the contractor's final testing and start up utilities, operational systems and equipment and coordinate training of College personnel.
- The CMA shall assist the A/E Design Consultant Team in determining when each contractor's work or a designated portion of that work is substantially complete. The CMA shall prepare a list of items that are not complete or do not meet the design standards and a schedule for their completion for the architect. The CMA shall assist the A/E Design Consultant Team in conducting inspections to determine whether the work is complete and/or has been corrected, as well as conducting the final punch list and specifications.
- The CMA shall monitor, coordinate and resolve all warranty complaints to the satisfaction of the College during the general warranty period or any longer special warranty period, as well as conduct a post-occupancy walkthrough with the College no later than one (1) month after the date of substantial completion.
- CMA shall be well versed in the College's contract terms and conditions, including but not limited General Conditions, General Requirements, Change Order approval process, Pay Application process, and Reporting, etc. to provide support and guidance and to ensure the GC/CMAR is performing per the contract terms and conditions. CMA shall also inform the College if any contract terms are in breach or require modification to meet industry standards.
- Contractor/CMA shall have the ability to utilize Building Information Modeling software systems at all required levels and project file management software, as specified by the College.
- Perform all other related work as required by the College.

CMA Onsite Location.

The College will provide;

- office space for 2-3 CMA staff located onsite located in the Facilities Management building
- furniture associated with the individual staff needs and landline phones only.
- access to the College's copier, printer, and plotter as needed by the CMA.
- limited access to the projects digital filing system for document sharing between the College and the CMA.

CMA shall provide all office equipment necessary to support the CMA's staff including, but not limited to, computers, monitors, personal office printers, cell phones and handheld electronic devices, travel fees to Largo, campus. Any additional costs incurred by the CMA during the performance of services shall not be reimbursed unless prior written approval is obtained from the College.

CMA shall perform its duties in accordance to the College's policies and procedures, or as directed by the College at a later date.

Background Checks.

The Contractor shall perform background checks listed below for all personnel assigned to perform work/services at any MEEC facility/ies. The Contractor shall only assign personnel with successful reports and shall provide the College all success reports upon request. Contractor shall immediately remove any assigned personnel found to not have a successful background report.

- Federal Criminal Search
- State Criminal Search (specifically, MD, DC, VA)
- Sex Offender Search

SECTION III. PROCUREMENT PHASES AND EVALUATION PROCESS

ARTICLE 1. PROPOSAL REQUIREMENTS

1. General Requirements

1.1 Submission.

An original plus three (3) copies (for a total of 4), as well as a CD or a flash drive, of the Proposal must be received at the Issuing Office by the time and date per the Solicitation Schedule, as well as listed on the cover of this RFP, in order to be considered. Proposals must be in a sealed envelope or container. Offerors should clearly mark the original hard copy of the Technical Proposal, as this is considered by PGCC to be the official Offer from the Proposer. No pricing information is to be provided in the Technical Proposal; if any pricing information is included, the Proposal may be deemed non-responsive by the Procurement Officer. Pricing shall be provided under a separate cover and as a separate electronic file if sent within the same CD/Flash drive. The Pricing Proposal shall include one clearly marked as “Original”.

By providing a CD or flash drive, Offeror grants PGCC the right to reproduce and distribute copies of the Proposal internally for evaluation purposes. The Proposal on the CD/flash drive must be compiled as one document and provided in pdf and WORD/Excel for ease of use by PGCC.

1.2 Transmittal Letter: A transmittal letter prepared on the Offeror's business stationery must accompany the Proposal. The letter should be an executive summary that clearly and concisely summarizes the content of the Proposal. The letter must be signed by an individual who is authorized to bind the firm to all statements, including services and financial statements, contained in the Proposal. (See 1.2 below.) Include the Offeror's official business address and state in which it is incorporated or organized (if Offeror is not an individual). An appropriate contact name, title, phone number, and email address should also be provided for PGCC's use during the procurement process. Do not include price information in the transmittal letter.

1.3 Signing of Forms: A Proposal, if submitted by an individual, shall be signed by the individual. If submitted by a partnership, a Proposal shall be signed by such member(s) of the partnership with authority to bind the partnership. If submitted by a corporation, a

Proposal shall be signed by an officer, and attested by the corporate secretary or an assistant corporate secretary; if not signed by an officer, there must be attached a copy of a board resolution or that portion of the by-laws, duly certified by the corporate secretary, showing the authority of the person so signing on behalf of the corporation.

2. Initial Technical Criteria

Clear, concise, yet detailed responses to the technical criteria below are to be provided in the Proposal. In addition, the Bid/Proposal Affidavit and Acknowledgement of Receipt of Addenda (if applicable) must be included. Standard sales material may be provided, but must be attached as an appendix rather than included within the body of the Proposal. *Offerors must paginate the Proposal and are requested to provide tabs to separate responses to each of the technical criteria.*

The following information must be furnished in the Proposal per this solicitation, as more fully described within this RFP. Failure to include any of the items listed below may disqualify your firm's response. Offerors are requested to compile their Proposals in the same order. It is the Offeror's responsibility to tailor its response to demonstrate its qualifications to perform the scope of work specifically for PGCC.

1. Technical Response Requirements:

Statement of Qualifications to the RFP should be in the same order as requested. Responses should be specific and precise with adequate detail to accurately define your qualifications for performing the services required. Any additional information that you wish to submit should be included in a separate section marked "Supplemental Information."

The proposal should be divided by tabs referencing the sections provided below:

Tab 1: Table of Contents

Include a Table of Contents displaying the organization of the proposal being submitted.

Tab 2: Transmittal Letter This letter will summarize in a brief and concise manner, the proposer's understanding and interest of the Scope of Work and make a positive commitment to provide the services during the contract term. The letter must be signed by an official authorized to make such commitments and enter into a contract with the College. The letter must indicate the official's title or authority. The letter should not exceed two pages in length.

**Tab 3:
Firm Information and History**

a. Section I: Firm Information and Stability

1. List Name of Firm
2. Year Firm was established

3. Type of Ownership; Name of Parent Company (if any)
4. Name and contact information of not more than Two principals to contact; Present Offices;
5. Total Personnel; Personnel by Discipline, principal stakeholders
6. History and Information about the Firm;
8. Proof that the Contractor has resources for operating expenses.
9. Company revenue history, including total revenue and revenue from CM Agency work, for the last five (5) years;
10. References for the Company's bank, surety, and bonding agent;
11. List any pending judgments, claims, arbitrations or lawsuits against the Company or its officers.

**Tab 4:
Project Experience**

List four (4) projects the company has completed in the last five years, or is currently working on as a Construction Management Agent/Owners Representative preferably for a municipality, county, school district, or other public entity, specifically, experience related to new construction or renovations in similar scope to Projects anticipated to be completed by the College, as provided on page four of this RFP. At minimum, one project must have a project cost/value of \$75M-\$100M

In addition, Proposers are to include project name, your firm's role/position/s and personnel assigned and their duties, location, brief description of the project, year completed, project contacts (A/E Design Consultant Team, Public Entity, and General Contractor); and construction costs.

**Tab 5:
Account Manager and Team Members**

- a. Provide the name of the name and contact information for person the College shall contact when projects arise.
- b. Provide resumes of the Company's key professional staff, including pre-construction and construction phase personnel, and descriptions of the roles and responsibilities

List ONLY the individuals who will directly contribute to the Services and have a defined role and ongoing support services provided in the SOW. Additionally, include on the Resume: Name & title; Project assignment; Name of firm associated with; Year's experience with firm; Total year's experience; Education; Degrees, Active Registrations, and experience and qualifications relevant to the proposed project. (The College shall require the assignment of these same participants to any given project. No substitutions will be permitted unless approved by the college. The college's approval will not be unreasonable withheld.)

- c. Provide an organizational chart of the Company's key professional staff that would be directly involved in the design, preconstruction and construction phases of any given Project.
- d. Describe the escalation procedure and a chart that details the individuals and their position within your organization.

Tab 6:
Project Management Plan

Provide a written description of the Company's management plan that defines the proposed management approach to any given Project. Those individuals would be responsible for on the Project.

Tab 7:
Construction Services and Systems.

- a. Describe the company's cost estimating capabilities, techniques and reporting methods during the design, pre-construction and construction phase.
- b. Describe the company's cost control capabilities, techniques and reporting methods during the construction phase.
- c. Describe the company's scheduling capabilities, techniques and reporting methods throughout the Project, include your team's BIM, Project Management software experience
- d. Describe the company's approach to value engineering analysis
- e. Describe the company's capabilities for reviewing documents for completeness, clarity and constructability.
- f. Describe the company's approach for resolving issues with the A/E Design Consultant Team and GC/CMAR.
- g. Submit a plan description for Quality Assurance and Control for the Project during the pre-construction and construction phases.
- h. Describe the company's bidding procedures and techniques for maximizing trade contractor's response to bid opportunities for the Project.
- i. Describe the company's procedures for processing change orders, including review and auditing of trade contractor pricing.
- j. Describe the company's approach to resolving issues with trade contractors including claims.
- k. Describe the company's safety program and procedures for the Project.
- l. Describe the company's close-out procedures.

Tab 8:
Three (3) Client References (see form, page 34) and Three (3) Letter of Recommendation

Submit three Client References *and* three Client Letters of Recommendation. References should include contact name and phone number, project associated with, and a brief description of the project/s associated with the submitting firm.

**Tab 9:
Hiring Practice and Subcontracting**

- a. Describe your firm's hiring/vetting practices and procedures. Include background checks.
- b. Describe how your firm can provide The required personnel to perform the SOW. Include if any personnel shall be performed by subcontractors. Provide position, the names/firms of personnel that will be subcontracted.

Tab 10: Additional Information.

Include in this section any additional information not requested. This section can also be used to include additional information/services as deemed appropriate by the firm.

The College may elect to request Best and Final Technical Proposals (BAFO's).

Tab 11: Proposed Compensation by Position: Pricing shall be provided under a separate cover/envelope from the Technical Proposal submission

Complete and submit the Pricing Form/Affidavit and include by position the hourly rate. This rate shall be fully loaded inclusive of all costs, travel, equipment reimbursables, etc.

Proposers are to list any and all other fees required by the Proposer to provide the required services, if applicable.

Hourly rates are to be provided for the following positions:

- Sr.Project Manager
- Project Manager
- Scheduler
- BIM Coordinator
- Estimator
- Project Engineer

Proposer are to include other positions not listed but may be required at any given time for any project to complete the required services.

The College may elect to request Best and Final Price Proposals (BAFO's).

Tab 12: Other Documents

- **Proposal Affidavit:** Complete and sign the Proposal Affidavit enclosed in Appendix A and enclose with the Proposal.
- **Insurance:** Provide a copy of a Certificate of Insurance verifying your firm's Coverage for Professional Liability, Commercial General Liability, Workmen's Compensation, Automobile Liability Insurance, and Professional Liability, as applicable.
- **Acknowledgement of Receipt of Addenda Form:** If any addenda to the RFP documents are issued prior to the due date and time for Proposals, this form (found in Appendix A) must be completed, signed, and included in the Offeror's Proposal.
- **Acknowledgement of Review of Contract:** The PGCC Contract for this Procurement will contain the provisions in Appendix C as well as any additional terms required by the College. By submitting a Proposal, the Offeror warrants that they have reviewed Appendix C and will execute a contract: a) in substantially the same form; and b) with these terms and conditions upon request by PGCC. For accounting purposes only, PGCC will also issue a purchase order to the awarded Contractor.

Any exceptions to the Contract or terms and conditions are to be addressed and provided in this section of the Proposer's proposal/submission.

- **Minority Business Enterprise Documents**
 - MBE Utilization Affidavit
 - MBE Participation Schedule
- **Other Required Documents**
 - Mercury Affidavit
 - Conflict of Interest Affidavit and Disclosure

4. **Modifications of Proposal.**

Offerors may modify their Proposals by e-mail or as approved by the Procurement Officer at any time prior to the due date and time, provided that the Issuing Office is satisfied that a written confirmation of the modification with the signature of the Offeror was mailed prior to the Proposal due date and time. Proposals may not be modified, supplemented, cured, or changed in any way after the due date and time, unless specifically requested by the College.

SECTION III
ARTICLE 2. TECHNICAL PROPOSAL EVALUATION PROCESS

1. Qualifying Proposals.

1.1 Procurement Officer Review: The Procurement Officer shall first review each Proposal for compliance with the mandatory requirements of this RFP (i.e., susceptibility of award). Failure to comply with any mandatory requirement will normally disqualify a Proposal. The College reserves the right to waive a mandatory requirement when it is in its best interest to do so.

1.2 Evaluation and Selection Committee: All Qualifying Proposals will be reviewed by a PGCC Evaluation and Selection Committee (the “Committee”) established by the Procurement Officer. As the procurement progresses, the Committee may seek input from other appropriate College staff or request additional technical assistance from any other source.

2. Evaluation of Qualifying Proposals.

2.1 Initial Evaluation: Following the Procurement Officer’s qualifying review, the Committee shall conduct its evaluation of the technical merit of the Proposals in accordance with the Evaluation Criteria. Minor irregularities contained in Proposals, which are immaterial or inconsequential in nature, may be waived wherever it is determined to be in the College’s best interest. The decision for progressing in the procurement process will be made based on the strengths, weaknesses, advantages, and deficiencies that the Proposals represent. Pricing and MBE participation shall also be considered and rated and be incorporated in the overall rating/ranking.

The College’s Proposal Evaluation team will rate and score the proposals based the Offeror’s submission to each response criteria listed in Section III, Article 1.

2.2 Shortlisting: In accordance with the Evaluation Criteria set forth in Article 1, § 2, a shortlist may be developed based on the Initial Evaluation results. All Offerors will be notified of the results as they pertain to their respective Proposal.

3. Interviews/Oral Presentations/Discussion Sessions (if required and invited).

3.1 Purpose: Based on the Evaluation Committee’s Initial Evaluation, the College may invite, without cost to itself, the shortlisted Offerors to an oral presentation/discussion session (“Discussion Session”). The purposes of the Discussion Session are as follows:

- (i) To provide the Offeror the opportunity to demonstrate its experience;
- (ii) To discuss/clarify any and all aspects of the Proposal, in particular the proposed options, approach/methodologies, implementation process, schedule, staffing of the contract, and ongoing support of the services and other applicable professional services;
- (iii) To allow the College to meet the Offeror's key personnel and for these personnel to convey directly their experience and expertise in the proposed product and its implementation; and
- (iv) To provide an opportunity to clarify the scope of services for the intended contract and discuss any items addressed in the Proposal that may require additional clarification.

3.2 Format: The Discussion Session will be informal, as the College is not interested in a sales presentation by executives and business development staff; rather, the College is requesting evidence of the Offerors ability to meet the College’s requirements and an interactive discussion with each of the shortlisted Offerors. It is important that those key personnel who are proposed to be assigned to the College fully participate in the presentation and discussion. Ample time will be available for the College and the Offeror to ask questions and discuss issues and concerns related to the services, the scope of the services, and the Offeror’s capabilities and qualifications. We anticipate that the Discussion Session will be approximately 90 minutes in length.

Each shortlisted Offeror will be required to have the key personnel team proposed in the firm’s proposal attend the session in Largo, Maryland: Principal in Charge, PGCC’s Following the Discussion Session, additional follow-up, clarification documentation may be requested of each Offeror.

3.3 Date: The times and dates for the Discussion Session(s) will be set upon completion of the Initial Evaluation; however, it is anticipated that the Discussion Session(s) will be conducted on the times and dates listed per the Solicitation Schedule, as well as on the cover of this RFP. Offerors are therefore advised to set this(ese) date(s) aside in its (their) entirety on the calendars of the appropriate key personnel.

4. Second Phase Evaluation (if applicable).

4.1 Criteria: Following the Discussion Session held with shortlisted Offerors, a Second Phase Evaluation will be conducted. The Evaluation Committee will re-evaluate all criteria of the Proposals of shortlisted Offerors, incorporating assessments of the Discussion Session and outcomes of reference checks, if performed. The College reserves the right to make a determination that an Offeror is not shortlisted prior to completing reference checks. The order of Evaluation Criteria remains the same.

4.2 Process: Further shortlists may result as the procurement progresses. At each phase of the process, those firms that do not remain shortlisted will not progress in the procurement. All Offerors will be notified of the results of the T Evaluation as they pertain to their respective Proposals. It is PGCC's intent to incorporate references prior to establishing the final shortlist of proposals. However, the College reserves the right to modify scoring if pertinent information regarding a Proposer's capability is obtain prior to an award. Once a final shortlist of proposals is established, the Committee will rank the remaining Proposals from highest to lowest.

SECTION III

ARTICLE 4. FINAL EVALUATION, RANKING AND SELECTION

1. Recommendation of Award or Further Discussions.

The Committee may recommend an Offeror for contract award(s) based upon the Offeror's Proposal without further discussion. However, should the Committee find that further discussion would benefit the College, the Committee may recommend such discussions to the Procurement Officer. Should the Procurement Officer determine that further discussion would be in the best interest of the College, the Procurement Officer shall establish procedures and schedules for conducting discussions and will notify responsible Offerors.

2. Final Ranking and Selection.

2.1 Process: Following evaluation of the Proposals (and Best and Final Offers, if applicable), the Evaluation and Selection Committee will make an initial overall ranking of the Proposals and recommend to the Procurement Officer the award of the contract(s) to the Offeror whose Proposal(s) is (are) determined to be the most advantageous to the College. The decision of the award(s) of the Contract will be made at the discretion of the Procurement Officer and will depend on the facts and circumstances of the procurement. All Offerors will be notified of the award(s) selection.

2.2 Basis for Award: Technical merit may have a greater weight than financial and price in the final ranking. Award may be made to the Offerors with a higher technical capability and Price/Fees are not the lowest. The Procurement Officer retains the discretion to examine all factors to determine the award of the contract. The goal is to contract with the Offeror(s) that would best meet the needs of the College as set forth in the RFP. This RFP may be subject to the Board of Trustee's final approval prior to the execution of the contract.

2.3. Negotiations: The College may select for award one or more Offeror(s) to negotiate the terms and conditions of the Contract. The College reserves the right to make an award with or without negotiation.

3. Debriefing.

3.1 Request: Unsuccessful Offerors may request a debriefing. A request must be submitted in writing to the Procurement Officer **within ten (10) days** after the date on which Offeror knows, or should have known, that its Proposal was unsuccessful. Debriefings shall be conducted at the earliest feasible time.

3.2 Discussion: Debriefings shall be limited to discussion of the Offeror's Proposal only and shall not include a discussion of a competing Offeror's Proposal. The debriefing may include information on areas in which the unsuccessful Offeror's Proposal was deemed weak or insufficient. The debriefing may not include discussion or dissemination of the thoughts, notes, or ranking from an individual Evaluation Committee Member.

APPENDIX A
PROPOSAL FORMS

1. Acknowledgement of Receipt of Addenda Form
2. Bid Proposal/Affidavit
3. Mercury Affidavit
4. Conflict of Interest Affidavit and Disclosure
5. MBE Utilization Affidavit
6. MBE Participation Schedule
7. References

ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA FORM

RFP NO.: _____

PROPOSAL DUE DATE: _____ at X:XX AM/P.M.

RFP FOR: _____

NAME OF OFFEROR: _____

ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA

The undersigned, hereby acknowledges the receipt of the following addenda:

Addendum No. _____ dated _____

Addendum No. _____ dated _____

Addendum No. _____ dated _____

Addendum No. _____ dated _____

Addendum No. _____ dated _____

As stated in the RFP documents, this form is included in our Proposal.

Signature

Printed Name

Title

BID/PROPOSAL AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

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

B. 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, or any of its employees directly involved in obtaining or performing contracts with public bodies (as is defined in Section 16-101(f) of the State Finance and Procurement Article of the Annotated Code of Maryland), has been convicted of, or has had probation before judgment imposed pursuant to Article 27, Section 641 of the 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):

C. 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, or any of its employees directly involved in obtaining or performing contracts with public bodies, has:

- (a) Been convicted under state or federal statute of a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract, fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property;
- (b) Been convicted of any criminal violation of a state or federal antitrust statute;
- (c) 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;

(d) 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;

(e) 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 (a), (b), (c), or (d) above;

(f) 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;

(g) 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 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):

D. 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, or any of its employees directly involved in obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, excepts 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):

E. 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):

F. 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.

G. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

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

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

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

H. 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.

I. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Article 33, Sections 30-1 through 30-4 of the 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.

J. 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 meaning when used in this certification.

(2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:

(a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;

(b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

(c) Prohibit its employees from working under the influence of drugs or alcohol;

(d) Not hire or assign to work on the contract anyone whom the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

(e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

about: (f) Establish drug and alcohol abuse awareness programs to inform its employees

- (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 5 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 21.08.06.

K. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

(1) The business named above is a (domestic _____) ((foreign _____) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of

Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is:

Name: _____

Address: _____

(If not applicable so state.)

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

L. 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 or agent 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 or agent, any fee or any other consideration contingent on the making of the Contract.

M. Repealed.

N. ACKNOWLEDGEMENT

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

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

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

Mercury Content

A. Mercury Content. If required under COMAR 21.11.07, a price preference not exceeding 5 percent shall be applied in the evaluation of bids or proposals in favor of products that are mercury free or if stated elsewhere in the solicitation, to products containing the least amount of mercury. The following mercury affidavit shall be completed and returned with the bid or proposal.

B. Mercury Affidavit.

**MERCURY AFFIDAVIT
AUTHORIZED REPRESENTATIVE**

THEREBY AFFIRM THAT:

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

MERCURY CONTENT INFORMATION:

The product(s) offered do not contain mercury.

OR

The product(s) offered do contain mercury.

(1) Describe the product or product component that contains mercury.

(2) Provide the amount of mercury that is contained in the product or product component.

Indicate the unit of measure being used.

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

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

Date

By: _____
Signature

Print Name: _____
Authorized Representative and Affiant

CONFLICT OF INTEREST INFORMATION

A. Each solicitation that will result in the selection of a Contractor who will assist a unit in the formation, evaluation, selection, award, or execution of a contract shall provide notice of the requirement of this regulation.

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

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

D. If the Procurement Officer makes a determination prior to award that facts or circumstances exist giving rise or which could in the future give rise to a conflict in interest, the procurement officer may reject a bid or offer under COMAR 21.06.02.03B.

E. After award the College may terminate the contract, in whole or in part, if it deems such termination necessary to avoid an actual or potential conflict of interest. If the Contractor knew or reasonably could have been expected to know of an actual or potential conflict of interest prior to or after award and did not disclose it or misrepresented relevant information to the Procurement Officer, the College may terminate the contract for default, institute proceedings to debar the Contractor from further contracts, or pursue such other remedies as may be permitted by law or the contract.

F. A conflict of interest may be waived if the Procurement Officer, with approval of the agency head or designee, determines that waiver is in the best interest of the State. The determination shall state the reasons for the waiver and any controls that avoid, mitigate, or neutralize the conflict of interest.

G. Each bidder or offeror responding to a solicitation that will result in the selection of a Contractor who will assist a unit in the formation, evaluation, selection, award, or execution of another College or State contract shall provide the affidavit and disclosures set forth in Subsection H of this regulation to the Procurement Officer with the bid or offer and such other times as may be required by the Procurement Officer.

H. The affidavits and disclosures required by Subsection G of this regulation shall be in substantially the same form as follows:

CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

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

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

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

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

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

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

By: _____
(Signature of Authorized Representative and Affiant)

Printed Name: _____

Date: _____

Title: _____

Federal Employer Identification Number (FEIN): _____

PRINCE GEORGE'S COMMUNITY COLLEGE
MINORITY BUSINESS ENTERPRISE UTILIZATION AFFIDAVIT

I hereby declare and affirm that I am the _____
(Title)

and the duly authorized representative of _____

(Name of Bidder)

1. I further declare and affirm that the Bidder acknowledges the Minority Business Enterprise participation goal of not less than the percent provided in the solicitation (____%) of the total contract amount, and commits to make a good faith effort to achieve the goal.

Therefore, I will not be seeking a waiver pursuant to MBE provisions included in this solicitation.

OR

I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with the provisions included in the solicitation or as requested by the College at a later date.

2. If requested and/or required under this solicitation by PGCC to submit an Attachment B - MBE Participation Schedule with our firm's Proposal, I acknowledge that I will/have identify/ied the MBE's that meet the College's MBE status and goal requirements, per the solicitation documents.

3. I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 working days of receiving notice of the potential award or from the date of conditional award, whichever is earlier.

(a) Outreach Efforts Compliance Statement (Attachment C)

(b) Subcontractor Project Participation Certification (Attachment D)

(c) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

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

4. In the solicitation of subcontract quotations or offers, MBE subcontractors were provided (or will be provided) not less than the same information and amount of time to respond as were (are) non-MBE subcontractors.
5. I understand that my failure to comply with the requirements of this solicitation and the contract may result in my being assessed liquidated damages as stated in the Contract issued with this solicitation.
6. I solemnly affirm under the penalties of perjury that the contents of this paper are true to the best of my knowledge, information, and belief.

Bidder/Offeror Name

Signature of Affiant

Address

Printed Name, Title

Date

SUBMIT THIS AFFIDAVIT WITH INITIAL PROPOSAL

**MBE Participation Schedule
(for submission with Proposal)**

This document must be included with the bid or Price Proposal offer. If the Offeror fails to submit this form with the bid or Price Proposal offer as required, the Procurement Officer shall deem the bid non-responsive or shall determine that the Offer is not reasonably susceptible of being selected for award.

| | |
|--|--------------------------|
| Prime Contractor (Firm Name, Address, Phone) | Project Description |
| Project Number | Total Contract Amount \$ |
| List Information For Each Certified MBE Subcontractor On This Project | |
| Minority Firm Name | MBE Certification Number |
| Work To Be Performed | |
| Dollar Amount or Percentage of Total Contract | |
| Minority Firm Name | MBE Certification Number |
| Work To Be Performed | |
| Dollar Amount or Percentage of Total Contract | |
| Minority Firm Name | MBE Certification Number |
| Work To Be Performed | |
| Dollar Amount or Percentage of Total Contract | |

USE THE ATTACHED CONTINUATION PAGE AS NEEDED

SUMMARY

TOTAL MBE PARTICIPATION: _____ % \$ _____

TOTAL AFRICAN-AMERICAN MBE PARTICIPATION: _____ % \$ _____

TOTAL ASIAN-AMERICAN MBE PARTICIPATION: _____ % \$ _____

TOTAL HISPANIC-AMERICAN MBE PARTICIPATION: _____ % \$ _____

TOTAL WOMAN-OWNED MBE PARTICIPATION: _____ % \$ _____

TOTAL OTHER MBE PARTICIPATION: _____ % \$ _____

| |
|---|
| <p>Document Prepared By: (please print or type) Name: _____ Title: _____</p> |
|---|

MBE Participation Schedule, continued

| List Information For Each Certified MBE Subcontractor On This Project | |
|---|--------------------------|
| Minority Firm Name | MBE Certification Number |
| Work To Be Performed | |
| Dollar Amount or Percentage of Total Contract | |
| Minority Firm Name | MBE Certification Number |
| Work To Be Performed | |
| Dollar Amount or Percentage of Total Contract | |
| Minority Firm Name | MBE Certification Number |
| Work To Be Performed | |
| Dollar Amount or Percentage of Total Contract | |
| Minority Firm Name | MBE Certification Number |
| Work To Be Performed | |
| Dollar Amount or Percentage of Total Contract | |
| Minority Firm Name | MBE Certification Number |
| Work To Be Performed | |
| Dollar Amount or Percentage of Total Contract | |
| Minority Firm Name | MBE Certification Number |
| Work To Be Performed | |
| Dollar Amount or Percentage of Total Contract | |

CLIENT REFERENCES

EACH BIDDER MUST LIST BELOW AT MINIMUM, THREE CUSTOMERS OF A SIMILAR SIZE AND PROJECT WITH STATED TIMELINES COMPLETED WITHIN THE LAST THREE YEARS. FAILURE TO SUBMIT REFERENCES WITH BID RESPONSE MAY LEAD TO THE DISQUALIFICATION OF BIDDER.

1. Customer Name: _____
Address: _____
Contact Person: _____
Phone Number: _____
Email Address: _____

Projects:

2. Customer Name: _____
Address: _____
Contact Person: _____
Phone Number: _____
Email Address: _____

Projects:

3. Customer Name: _____
Address: _____
Contact Person: _____
Phone Number: _____
Email Address: _____

Projects:

APPENDIX B

1. Price Proposal Form

PROPOSAL NO.: RFP _____
PRICE PROPOSAL DUE DATE: _____ AT _:00 P.M.
PROPOSAL FOR: _____
PROPOSER: _____
Federal Identification Number/Social Security Number: _____

FINANCIAL AND PRICE PROPOSAL FORM

DATE _____

Nena Charity
Prince George’s Community College
Office of Procurement
301 Largo Road
Largo, MD 20774

Dear Ms. Charity:

The undersigned hereby submits the Financial Proposal as set forth in RFP # _____ dated _____, 2020, and the following subsequent addenda:

| | |
|--------------|-------------|
| Addendum ___ | dated _____ |
| Addendum ___ | dated _____ |
| Addendum ___ | dated _____ |
| Addendum ___ | dated _____ |

We confirm that this Price Proposal is based on the Requirements per the RFP and any subsequent addenda as noted above.

Having received clarification on all matters upon which any doubt arose, the undersigned proposes to provide services as described in this RFP and subsequent Addenda as noted above. By signing and submitting this response, undersigned hereby agrees to all the terms and conditions of this RFP including any issued addenda. Proposers are cautioned to verify their final proposals prior to submission, as PGCC cannot be responsible for Proposer’s errors or omissions. Any price/fee proposal that has been accepted by PGCC may not be withdrawn by the contractor.

A. Attached to this Price Proposal Form is our firm's fee for all services, reimbursables and expenses that will be provided to complete the project as outline in this RFP’s SOW. We confirm that these rates/prices are fully loaded and include all costs and expenses.

List any and all other fees required to provide the required services, if applicable.

Hourly rates are to be provided for the following positions:

- Sr.Project Manager
- Project Manager

- Scheduler
- BIM Coordinator
- Estimator
- Project Engineer

Include other positions not listed but may be required at any given time for any project to complete the required services.

We understand that by submitting a proposal we are agreeing to the terms and conditions included in the RFP documents, and that the Bid/Proposal Affidavit submitted as part of the Proposal remains in effect.

We further understand the fees/costs provided are fixed for the life of the contract, if awarded unless discounted for any subsequent Task Order/Project.

The evaluation and subsequent final ranking of proposals will be in accordance with the RFP documents. We understand that technical weighs greater than financial.

We understand that the College reserves the right to award a contract (or contracts) for all items, or any parts thereof, as set forth in detail under the information furnished in the RFP document. We further confirm that the Team proposed in the Proposal will be assigned to the PGCC Contract for the duration of this Contract. We understand that no changes in these assignments will be allowed without written authorization from the College via contract amendment prior to such changes being made.

Enclosure:

(Signatures should be placed on following page.)

The offeror represents, and it is a condition precedent to acceptance of this proposal, that the offeror has not been a party to any agreement to submit a fixed or uniform price. Sign where applicable below.

A. INDIVIDUAL PRINCIPAL

In Presence of Witness: _____

FIRM NAME _____
ADDRESS _____

TELEPHONE NO. _____
SIGNED _____

PRINTED NAME _____

TITLE: _____

B. CO-PARTNERSHIP PRINCIPAL

(Name of Co - Partnership)
ADDRESS _____

In Presence of Witness:

TELEPHONE NO. _____

Printed Name: _____

_____ as to

BY _____
(Partner)

Printed Name: _____

_____ as to

BY _____
(Partner)

C. CORPORATION

(Name of Corporation)
ADDRESS _____

Attest:

[Printed Name of Corporate (or Assistant Corporate) Secretary]

TELEPHONE NO. _____

[Corporate (or Assistant Corporate) Secretary Signature for Identification]

BY: _____

Signature of Officer and Title

Printed Name

Title

APPENDIX C

CONTRACT DOCUMENTS AND FORMS

1. Contract (Sample) to include a Service Level Agreement/Conditions.
2. Contract Affidavit

APPENDIX C

SAMPLE ONLY – CONTRACT TERMS AND CONDITIONS ARE SUBJECT TO CHANGE AT THE COLLEGE’S SOLE DISCRETION, PRIOR TO EXECUTION

PRINCE GEORGE’S COMMUNITY COLLEGE

CONTRACT # _____

_____, 2020

CONTRACTOR:

Federal Employer ID: _____
Address: _____
Contact Person: _____
Contact Phone: _____
Contact Fax: _____
Contact Email: _____

PGCC Ordering Office:
Project Coordinator:
Coordinator Phone:
Coordinator Fax:
Coordinator Email:

PGCC Procurement Officer/Contract Manager:
Phone Number:
E-mail address:

This Agreement (“Agreement” or “Contract”) is made this day of, between the Prince George’s Community College (“PGCC” or “College”), and _____ (“Contractor” or “Consultant”), with an address of _____, collectively the “Parties”.

CONTRACT DOCUMENTS AND TERM

This Agreement consists of multiple documents as follows in the order of precedence:

- This Agreement Form (pages 1 through 11) and any Amendments;
- The RFP___ and Contractor’s Proposal dates_____;
- Attachment A:Contractor’s Statement of Work
- Work Orders, and Purchase Orders Terms and Conditions, issued under this Contract, whether attached hereto or not.

This as needed, non- exclusive Agreement shall be effective upon the date of execution by both Parties and shall continue through _____, 2020, or until the work deliverables are completed, per Attachment A or unless extended by amendment.

RECITALS. The Contractor has been awarded a contract to provide services, as needed, for PGCC upon the terms and conditions set forth herein, and the Contractor is willing to undertake those services ("the Services") upon such terms and conditions. The Contractor represents that the Contractor is qualified to render the Services required by PGCC.

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

1.0 PROFESSIONAL SERVICES

1.1 The Contractor shall perform the non-exclusive Services as described in Attachment A to this Agreement.

1.2 Services shall be performed in accordance with a schedule of activities agreed upon by the Parties issued as a work order by the College. The Contractor will provide all the necessary equipment and materials to perform the Services in an expeditious manner as is consistent with good professional skill and care and the orderly progress of the Services. In the event of any conflict in terms between Attachment A and this Agreement, the terms and conditions of this Agreement take precedence.

1.3 The PGCC will designate a staff member to act as manager (“Project Manager”) between the College and the Contractor. Throughout the period of the Services, copies of all correspondence, work products, specifications, estimates and other materials prepared by the Contractor should be directed to the Project Manager and also to any other PGCC personnel designated by the Project Manager. Direct contact or communication by the Contractor with other PGCC offices or any other entity concerning the Services shall be made only with the prior knowledge and concurrence of the Project Manager.

1.4 The professional contractor for the Services shall be the same person identified in this contract unless (a) a change is requested by the Contractor and approved in writing by the Project Manager; or (b) a change is requested in writing by the Project Manager for good cause, in which case the Contractor shall make an appropriate substitution, subject to PGCC's approval, and notify PGCC in writing. Major changes in the Contractor's organization or personnel (other than the Contractor) shall be reported to PGCC in writing as they occur.

1.5 If applicable, any amendments thereto, are made a part of this Agreement unless expressly contradicted by a term or condition of this Agreement. The Scope of Services which is set forth as Attachment A is made a part of this Agreement.

2.0 FEES AND PAYMENTS

2.1 Contractor's rates shall not exceed the fixed rates/fee provided in Attachment A and all such rates/fee include all expenses in the performance of the Services. Payments shall be made upon acceptance of deliverables as outlined in Attachment A of this Agreement or in task orders/work orders/written directives issued by PGCC. The maximum fee for all services provided under this Agreement shall not exceed \$_____ **for services provided during** _____, unless modified by an amendment, at a later date.

2.2 Payment requests (invoices) shall be submitted electronically to the Accounts Payable Department, Prince George's Community College, 301 Largo Road, Largo MD 20774 at accounting@pgcc.edu and the Project Manager.

2.3 Payment shall be paid within 30 days after PGCC's receipt and acceptance of invoice.

2.4 **The Contractor shall include along with each invoice a summary of work/activities completed during the work period being invoiced.** The Contractor shall clearly reference the Purchase Order or Contract number; the type of billing, i.e., the deliverable; and, additional information as may be specifically required elsewhere in this Agreement.

2.5 No invoice will be processed if there is a dispute between PGCC and the Contractor as to the current or cumulative services provided.

2.6 PGCC's approval of periodic payments to the Contractor shall not constitute, in any sense, approval or acceptance by PGCC of the Services work performed through the date of the invoice or of the Contractor's assertion of percentage of the Services completed through the date of the invoice.

2.7 It is understood that there is no guarantee of dollar amount of work under this Contract. Payment will be issued on services rendered. Adjustments to payments for non-performance may be taken by the College, as its sole discretion.

2.8 As an independent contractor of PGCC, no withholding of income tax, Social Security or other sums will be made from the payment to the Contractor.

3.0 EVALUATION AND ACCEPTANCE PROCEDURE

3.1 Upon completion and delivery of each deliverable by Contractor, PGCC will begin the evaluation and acceptance process, which shall include, but not be limited to, the steps described below. Payments, in accordance with Section 3 of this Contract will be based on the completion/delivery of a deliverable by Contractor and acceptance by PGCC of each deliverable. Contractor will demonstrate to PGCC that the deliverable has been completed or has occurred and will provide PGCC with written notice of the same.

3.2 Within the time period specified in the Contract including any Contract Amendments, or if not specified, then within five (5) business days of receipt by PGCC of a scheduled deliverable from Contractor, PGCC shall determine whether such deliverable Materially Conforms to the specifications defined in the Contract. As used herein, the term "Materially Conforms" means that the deliverable is ready to be used in production and meets or exceeds its intended functionality and performance. If the deliverable Materially Conforms to the specifications, then PGCC will provide written confirmation to Contractor that the deliverable is accepted.

3.3 If the deliverable does not Materially Conform, PGCC shall immediately return it to Contractor with a written list of deficiencies. Contractor, at no additional cost to PGCC, shall thereafter make all appropriate and necessary fixes to the deliverable and return it to PGCC within the time period specified, or if not specified, then within ten (10) business days for further testing by PGCC. If the deliverable again fails to Materially Conform then this same process will be repeated one more time. If the deliverable fails to Materially Conform to the specifications after delivery for the second time then PGCC may, at its sole discretion, (a) further extend the timeframe for cure and (b) extend the warranty period, if applicable, or (c) begin the termination process as defined in Section 6.3 of this Contract. If PGCC does not elect to terminate this Contract after the second failure, it has not automatically waived its right to do so following any additional failed attempt at correction by Contractor to which the parties may agree.

3.4 If either party fails to meet the testing period described above, or any other periods of time as mutually agreed to, the other party may declare the Contract in material breach and begin the termination process as defined in Section 6.3 of this Contract.

4.0 ONSITE AND OFFSITE MEETINGS

The College may request the Contractor to attend meetings or working sessions PGCC's offices/campuses and/or at designated offsite locations, as needed.

5.0 OWNERSHIP OF WORK PRODUCT AND INTELLECTUAL PROPERTY

5.1 For the consideration payable under this Agreement, all work product derived from the Services and required by this Agreement shall be considered a work made for hire within the meaning of that term under the copyright laws of the United States, applicable common law and corresponding laws of other countries. PGCC shall have sole right and authority to seek statutory copyright protection and to enjoy the benefits of ownership of the work. The Contractor hereby assigns all rights, title and interest in and to the work derived from the Services and agrees to require all members of the production, as well as any agents or subcontractors of Contractor involved in Services, to agree in writing that they assign to PGCC all right, title and interest in work product derived from the Services required by this Agreement. All work product required by this Agreement shall also be protected by the attorney client and attorney work product privileges available under Maryland law.

Contractor shall retain ownership of any pre-existing intellectual property it held prior to this Agreement, and to any intellectual property it develops outside this Agreement without reference to any materials or work it exposed to under this Agreement.

5.2 Notwithstanding the terms of Paragraph 5.1, Contractor is permitted with written consent to retain all rights to the intellectual capital (including without limitation, ideas, methodologies, processes, inventions and tools) developed or possessed by the Contractor prior to, or acquired during, the performance of the Services under this Contract.

6.0 OTHER TERMS AND CONDITIONS

6.1 Maryland Law – The laws of Maryland shall govern the interpretation and enforcement of this Agreement.

6.2 Termination for Convenience - The College may terminate this Agreement, in whole or in part, without showing cause upon prior written notice to the Contractor specifying the extent and the effective date of the termination.

6.3 Termination for Default - When the Contractor has not performed or has unsatisfactorily performed the Services; payment shall be withheld at the discretion of the College. Failure on the part of a Contractor to fulfill contractual obligations shall be considered just cause for termination of the contract and the Contractor will not be entitled to recover any costs incurred by the Contractor up to the date of termination.

6.4 Changes - This Agreement may be amended with the consent of both parties. Amendments may not change significantly the scope of the Agreement.

6.5 Disputes - Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Agreement in accordance with the Procurement Officer's decision. Claims not resolved by action of the Procurement Officer may be reviewable by other College officials.

6.6 Suspension of Work - The Procurement Officer unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as he may determine to be appropriate for the convenience of the College.

6.7 Delays and Extension of Time - The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Agreement.

Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without 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, its subcontractors or suppliers.

6.8 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, and (b) 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.

6.9 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, any fee or any other consideration contingent on the making of this Agreement.

6.10 Ethics - This Agreement is cancelable in the event of a violation of the Maryland Public Ethics Law by the Contractor or any College employee in connection with this Agreement.

6.11 Intellectual Property – Contractor agrees to defend upon request and to indemnify and save harmless PGCC, its officers, agents and employees with respect to any claim, action, cost or judgment for patent infringement, or trademark or copyright violation arising out of purchase or use of materials, supplies, equipment or services covered by this Agreement.

6.12 Choice of Venue – Any lawsuits filed by either party arises out of this agreement shall be filed in either the Circuit Court or District Court for Prince George’s County, MD.

6.13. If the appropriate funds or if funds are not otherwise made available for continued performance of this Contract, this Contract shall be canceled automatically for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the College'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 College from future performance of the Contract, but not from their rights and obligations existing at the time of termination.

The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Contract. The College 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.

7.0 CONFIDENTIAL INFORMATION

7.1 Contractor acknowledges and understands that in connection with this Agreement, the performance of the Services and otherwise, Contractor has had or shall have access to, has obtained or shall obtain, or has been or shall be given the College's Confidential Information (as defined herein). For purposes of this Agreement, "Confidential Information" means all information provided by the College to Contractor, including without limitation information concerning the College's business strategies, political and legislative affairs, students, employees, vendors, contractors, student records, customer lists, finances, properties, methods of operation, computer and telecommunications systems, and software and documentation. Confidential Information includes information in any and all formats and media, including without limitation oral, and includes the originals and any and all copies and derivatives of such information.

7.2 Contractor shall use the Confidential Information only if and when required for the performance of the Services, and for no other purpose whatsoever, and only by Contractor employees engaged in that performance.

7.3 Contractor shall not, in any manner whatsoever, disclose, permit access to, or allow use of Confidential Information to any person or entity except as specifically permitted or required under this Contract.

7.4 Contractor acknowledges and understands that PGCC is required to protect certain Confidential Information from disclosure under applicable law, including but not limited to the Family Educational Rights and Privacy Act ("FERPA"), the Gramm Leach Bliley Act ("GLBA"), or the Maryland Public Information Act ("PIA"), including regulations promulgated thereunder, as the laws and regulations may be amended from time to time (collectively the "Privacy Laws"). The Confidential Information that is protected under FERPA was provided to the Contractor as it is handling an institution service or function that would ordinarily be performed by PGCC's employees. The Contractor agrees that it shall be obligated to protect and may only maintain and use the Confidential Information in its possession or control in accordance with the Privacy Laws to the same extent as PGCC would be obligated if the Confidential Information was in the possession or control of PGCC. The Contractor further agrees that it is subject to the requirements governing the use and redisclosure of personally identifiable information from education records as provided in FERPA.

7.5 Contractor may disclose Confidential Information as required by legal process. If Contractor is required by legal process to disclose Confidential Information, Contractor shall immediately notify the College, and before disclosing such information shall allow

PGCC reasonable time to take appropriate legal action to prevent disclosure of the Confidential Information.

7.6 Contractor's obligations with respect to Confidential Information shall survive the expiration or the termination of this Contract.

7.7 Contractor acknowledges that Contractor's failure to comply fully with the restrictions placed upon use, disclosure and access to Confidential Information may cause the College grievous irreparable harm and injury. Therefore, any failure to comply with the requirements of this Section 8 shall be a material breach of this Agreement.

7.8 Contractor agrees and acknowledges that it is not the custodian of any Confidential Information that may be in Contractor's possession or control. Contractor shall forward any request for disclosure of Confidential Information to:

**Office of Procurement
Prince George's Community College
301 Largo Road, Largo MD 20774**

7.9 Except to the extent otherwise required by applicable professional standards, the obligations under this section do not apply to information that (a) is or becomes generally known to the public, other than as a result of disclosure by Contractor, (b) had been previously possessed by Contractor without restriction against disclosure at the time of receipt by Contractor, (c) was independently developed by Contractor without violation of this Contract, or (d) Contractor and the College agree in writing to disclose. Each party shall be deemed to have met its nondisclosure obligations under this section as long as it exercises the same level of care to protect the other's information as it exercises to protect its own confidential information, except to the extent that applicable law or professional standards impose a higher requirement.

7.10 All Confidential Information received by Contractor shall be returned to the College or destroyed upon completion or termination of this Contract.

8.0 INDEMNIFICATION

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless College and their respective agents, servants and employees, from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of the Services work by the Contractor, provided that such claim, damage, loss, or expense is caused in whole or in part by any negligent or willful act or omission of the Contractor or any employee, agent or subcontractor of the Contractor. At PGCC's request, the Contractor will defend PGCC or settle any suit, claim, or proceeding brought against PGCC in relation to this contract. This obligation is not intended to be or to imply a waiver of the sovereign immunity of PGCC. The College does not assume any obligation to indemnify, hold harmless, or pay attorney's fees that may arise from or in any way be associated with the performance or operation of this Agreement.

9.0 RELATIONSHIP OF THE PARTIES

9.1 Nothing in this Agreement shall be construed to establish a relationship of servant, employee, partnership, association, or joint venture between the parties. Neither party shall bind or attempt to bind the other to any contract, warranty, covenant or undertaking of any nature whatsoever unless previously specifically authorized in writing in each instance. Nothing in this Agreement is intended to create a joint employment relationship.

9.2 It is understood and agreed that Contractor is an independent contractor of the College, and not an employee. Except as set forth in this Agreement, the College will not withhold income taxes, social security or any other sums from the payments made to Contractor hereunder. All employees or contractors of Contractor shall in no way be considered employees of the College, but rather they shall be employees or contractors of Contractor, and Contractor shall bear full responsibility for compensating those persons and for the performance of the Services by way of them.

9.3 Each party reserves the right to review all press releases or other public communications of the other party that may affect the party's public image, programs or operations.

9.4 Contractor may not assign or subcontract any rights or delegate any of its duties under this Agreement without Client's prior written approval.

10.0 INSURANCE

The Contractor shall maintain in full force and effect adequate insurance coverage to protect against the risks associated with the performance of services under this Agreement. The Contractor shall also maintain in full force and effect workers' compensation insurance as required by the laws of the jurisdiction in which the services are performed. Upon request, the Contractor shall provide the College with evidence of such insurance.

11.0 SOFTWARE AND SECURITY (If Applicable)

11.1 The Contractor is the owner or authorized user of the Contractor's software and all of its components, and Contractor software and all of its components, to the best of Contractor's knowledge, do not violate any patent, trademark, trade secret, copyright or any other right of ownership of any third party.

11.2 Contractor shall (i) establish and maintain industry standard technical and organizational measures to help to protect against accidental damage to, or destruction, loss, or alteration of the materials; (ii) establish and maintain industry standard technical and organizational measures to help to protect against unauthorized access to the Services and materials; and (iii) establish and maintain network and internet security procedures, protocols, security gateways and firewalls with respect to the Services. Contractor software and its components are equipped and/or designed with systems intended to prevent industry known system attacks (e.g., hacker and virus attacks) and unauthorized access to

confidential information.

11.3 Report any confirmed or suspected breach of College data to PGCC's Program Manager within one (1) hour of discovery or detection. Any confirmed or suspected computer security incidents not resulting in breach of College data shall be reported to PGCC's Program Manager within 12 hours of discovery or detection.

11.4 Follow strong identity management characteristics and practices, requiring users to adhere to organizational usage, construction, and change requirements.

11.5 Configure and maintain network to be suitably hardened against security threats and ensure adequate performance.

11.6 **SSAE16 COMPLIANCE.** To facilitate compliance with SSAE16, vendor must provide Prince George's Community College with its most recent SOC report and that of all subservice provider(s) relevant to this contract. It is further agreed that the SOC report, which will be free of cost to Prince George's Community College, will be provided annually, within 30 days of its issuance by the auditor, and no later than February 1. The SOC report should be directed to _____ or other representative identified by the College. Contractor also commits to providing Prince George's Community College with a designated point of contact for the SOC report, addressing issues raised in the SOC report with relevant subservice provider(s), and responding to any follow up questions posed by Prince George's Community College in relation to the SOC report.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized officers or officials.

Prince George's Community College

Contractor

By: _____

By: _____

Date: _____

Date: _____

Exhibit A

This Exhibit A to the contract made this 8th day of _____, between the Prince George's Community College ("PGCC"), and _____ ("Contractor" or "Consultant"), collectively the "Parties".

Services shall include, but are not limited to:

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

D. 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 Proposal Affidavit dated _____, 20__, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

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

Date: _____ By: _____

APPENDIX M

MINORITY BUSINESS ENTERPRISE PROVISIONS AND INFORMATION

APPENDIX M TO SOLICITATION

PRINCE GEORGE'S COMMUNITY COLLEGE MINORITY BUSINESS ENTERPRISE PARTICIPATION

I. PURPOSE

Contractor shall structure its procedures for the performance of the work required in this contract to attempt to achieve the minority business enterprise (MBE) goal stated in the Invitation for Bids or Request for Proposals. MBE performance must be in accordance with this Exhibit. Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this Exhibit.

II. MBE Goals and Sub Goals

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

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

A prime contractor — **including an MBE prime contractor** — may accomplish 100% the required MBE goal.

A prime contractor utilizing MBE partner(s) will accomplish the MBE subcontract goal with preferably certified MBE subcontractors.

III. PROPOSAL REQUIREMENTS

A bidder or offeror **must** include with its PROPOSAL:

1. A completed ***MBE Utilization Affidavit (see Appendix A and Appendix M)*** whereby the bidder or offeror acknowledges the MBE participation goal or requests a waiver, commits to make a good faith effort to achieve the goal, and affirms that MBE subcontractors were treated fairly in the solicitation process.
2. MBE Participation Schedule (see Appendix A and Appendix M) whereby the Proposer/Offeror responds to the expected degree of Minority Business Enterprise participation as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of submission of the Price Proposal. The bidder or offeror shall specify the percentage of the contract value or dollar amount and the items of work associated with each MBE. subcontractor identified on the MBE Participation Schedule.

If a bidder or offeror fails to submit the MBE Utilization Affidavit with the bid or offer as required, the Procurement Officer may deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

IV. NOTICE OF CONTRACT AWARD: Within 10 working days (unless modified by the College) from notification that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee must provide the following documentation to the Procurement Officer.

(1) **Outreach Efforts Compliance Statement** (Attachment M-C)

(2) **Subcontractor Project Participation Statement** (Attachment M-D)

(3) If the apparent awardee believes a waiver (in whole or in part) of the overall MBE goal or of any sub goal is necessary, it must submit a fully documented waiver request that complies with the provisions in this solicitation.

(4) Any other documentation required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the MBE participation goal.

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

V. CONTRACT ADMINISTRATION REQUIREMENTS

Contractor shall:

1. Submit monthly (unless otherwise modified by the Procurement Officer) to the Procurement Officer, hereafter referred to as “Department” or the College’s third party designee a report listing any unpaid invoices, over 30 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made.

2. Include in its agreements with its MBE subcontractors a requirement that those subcontractors submit monthly to the Department a report that identifies the prime contract and lists all payments received from Contractor in the preceding 30 days (unless otherwise modified by the Procurement Officer), as well as any outstanding invoices, and the amount of those invoices.

3. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer or designee on request.

4. Consent to provide such documentation as reasonably requested and to provide right-of-entry

at reasonable times for purposes of the College's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the contract.

5. At the option of the College, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

Note:

A. MBE Utilization Affidavit (must be submitted with Proposal)

B. MBE Participation Schedule (must be submitted with the Proposal)

C. Outreach Efforts Compliance Statement, M-C (must be submitted within 10 working days of notification of apparent award or actual award, whichever is earlier), unless modified by the College, at a later date.

D. Subcontractor Project Participation Statement, M-D (must be submitted within 10 working days of notification of apparent award or actual award, whichever is earlier) , unless modified by the College, at a later date.

PRINCE GEORGE'S COMMUNITY COLLEGE

MINORITY BUSINESS ENTERPRISE UTILIZATION AFFIDAVIT

I hereby declare and affirm that I am the _____
(Title)

and the duly authorized representative of _____

(Name of Bidder)

1. I further declare and affirm that the Bidder acknowledges the Minority Business Enterprise participation goal of not less than __percent of the total contract amount, and commits to make a good faith effort to achieve the goal.

Therefore, I will not be seeking a waiver pursuant to MBE provisions included in this solicitation.

OR

I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with the provisions included in the solicitation or as requested by the College at a later date.

2. If requested and/or required under this solicitation by PGCC to submit an MBE Participation Schedule with our firm's Proposal, I acknowledge that I will/have identify/ied the MBE's that meet the College's MBE status and goal requirements, per the solicitation documents.

3. I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 working days of receiving notice of the potential award or from the date of conditional award, whichever is earlier.

- (a) Outreach Efforts Compliance Statement (M-C Form)
- (b) Subcontractor Project Participation Certification (M-D Form)
- (c) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

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

4. In the solicitation of subcontract quotations or offers, MBE subcontractors were provided (or will be provided) not less than the same information and amount of time to respond as were (are) non-MBE subcontractors.

5. I understand that my failure to comply with the requirements of this solicitation and the contract may result in my being assessed liquidated damages as stated in the Contract issued with this solicitation.

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

Bidder/Offeror Name

Signature of Affiant

Address

Printed Name, Title

Date

SUBMIT THIS AFFIDAVIT WITH INITIAL PROPOSAL

**MBE Participation Schedule
(for submission with Proposal)**

This document must be included with the bid or Price Proposal offer. If the Offeror fails to submit this form with the bid or Price Proposal offer as required, the Procurement Officer shall deem the bid non-responsive or shall determine that the Offer is not reasonably susceptible of being selected for award.

| | |
|--|--------------------------|
| Prime Contractor (Firm Name, Address, Phone) | Project Description |
| Project Number | Total Contract Amount \$ |
| List Information For Each Certified MBE Subcontractor On This Project | |
| Minority Firm Name | MBE Certification Number |
| Work To Be Performed | |
| Dollar Amount or Percentage of Total Contract | |
| Minority Firm Name | MBE Certification Number |
| Work To Be Performed | |
| Dollar Amount or Percentage of Total Contract | |
| Minority Firm Name | MBE Certification Number |
| Work To Be Performed | |
| Dollar Amount or Percentage of Total Contract | |

USE THE ATTACHED CONTINUATION PAGE AS NEEDED

SUMMARY

TOTAL MBE PARTICIPATION: _____ % \$ _____

TOTAL AFRICAN-AMERICAN MBE PARTICIPATION: _____ % \$ _____

TOTAL ASIAN-AMERICAN MBE PARTICIPATION: _____ % \$ _____

TOTAL HISPANIC-AMERICAN MBE PARTICIPATION: _____ % \$ _____

TOTAL WOMAN-OWNED MBE PARTICIPATION: _____ % \$ _____

TOTAL OTHER MBE PARTICIPATION: _____ % \$ _____

| |
|---|
| <p>Document Prepared By: (please print or type) Name: _____ Title: _____</p> |
|---|

MBE Participation Schedule, continued

| List Information For Each Certified MBE Subcontractor On This Project | |
|---|--------------------------|
| Minority Firm Name | MBE Certification Number |
| Work To Be Performed | |
| Dollar Amount or Percentage of Total Contract | |
| Minority Firm Name | MBE Certification Number |
| Work To Be Performed | |
| Dollar Amount or Percentage of Total Contract | |
| Minority Firm Name | MBE Certification Number |
| Work To Be Performed | |
| Dollar Amount or Percentage of Total Contract | |
| Minority Firm Name | MBE Certification Number |
| Work To Be Performed | |
| Dollar Amount or Percentage of Total Contract | |
| Minority Firm Name | MBE Certification Number |
| Work To Be Performed | |
| Dollar Amount or Percentage of Total Contract | |
| Minority Firm Name | MBE Certification Number |
| Work To Be Performed | |
| Dollar Amount or Percentage of Total Contract | |
| Minority Firm Name | MBE Certification Number |
| Work To Be Performed | |
| Dollar Amount or Percentage of Total Contract | |

NOTE: MBE FORMS M-C, AND M-D ARE TO BE
SUBMITTED **ONLY** IF THE FIRM PROGRESSES IN THE
PROCUREMENT PROCESS AS IS APPLICABLE.

IF PROPOSER IS NOTIFIED AS THE APPARENT AWARDEE:

Form M-C

OUTREACH EFFORTS COMPLIANCE STATEMENT

Complete and submit this form within 10 working days of notification of apparent award or actual award, whichever is earlier, unless modified by the College, at a later date.

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

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

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

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

4. **Please Check One:**

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

5. **Please Check One:**

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

Company Name

Signature of Representative

Address

Printed Name and Title

City, State and Zip Code

Date

IF PROPOSER IS NOTIFIED AS THE APPARENT AWARDEE:
M- D
SUBCONTRACTOR PROJECT PARTICIPATION STATEMENT

Please complete and submit **one form for each MBE listed on Attachment B** within 10 working days of notification of apparent award, unless modified by the College, at a later date.

| | |
|--|--------------------------|
| Prime Contractor Address and Phone | Project Description |
| Project Number | Total Contract Amount \$ |
| Minority Firm Name | MBE Certification Number |
| Description of MBE's Work to Be Performed | |
| Percentage of Total Contract | |
| Type of Bonds Required of MBE, if any and amounts: | |

Provided that _____ (*Prime Contractor Name*) is awarded the contract in conjunction with Solicitation described above _____, it and _____ (*Subcontractor Name*) intend to enter into a contract by which Subcontractor shall provide the services described above.

The undersigned Prime Contractor and Subcontractor hereby certify and agree that they have fully complied with the College's Minority Business Enterprise requirements, which provides that, except as otherwise provided or modified by the College, a contractor may not identify a minority business enterprise in a bid or proposal and:

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

Both parties signing below understand that failure to comply with the requirements of the College may result in both parties being assessed liquidated damages as stated in the Contract issued with the solicitation. Both parties affirm that this is a contractual requirement for both the Prime Contractor and the MBE Subcontractor.

 Prime Contractor Signature

 Subcontractor Signature

By: _____
 Name, Title
 Date: _____

By: _____
 Name, Title
 Date: _____

**FORMS E AND F THAT FOLLOW ARE TO BE USED
TO REPORT PAYMENTS/NON-PAYMENTS**

**MBE M-E (Sample)
 Minority Business Enterprise Participation
 Prime Contractor Unpaid MBE Invoice Report**

| | |
|---|---|
| Report #: _____ Reporting Period (Month/Year): _____ | Contracting Unit: _____ Contract Amount: _____ MBE Subcontract Amt: _____ Project Begin Date: _____ Project End Date: _____ Services Provided: _____ |
| Report is due by the 15th of the following month, or as requested by the College. | |

| | | | |
|---|------|-----------------|------|
| Prime Contractor: | | Contact Person: | |
| Address: | | | |
| City: | | State: | ZIP: |
| Phone: | FAX: | | |
| Subcontractor Name: | | Contact Person: | |
| Phone: | FAX: | | |
| Subcontractor Services Provided: | | | |
| List all unpaid invoices over 30 days old received from the MBE subcontractor named above: | | | |
| 1. | | | |
| 2. | | | |
| 3. | | | |
| Total Dollars Unpaid: \$ _____ | | | |

**If more than one MBE subcontractor is used for this contract, please use separate forms.

Return one copy (hard or electronic) of this form to the following address (electronic copy is preferred):

| |
|-----------------------|
| Contact person: _____ |
| Dept: _____ |
| Address: _____ |
| _____ |
| E-mail: _____ |

Signature: _____ Date: _____

**MBE M-F (Sample)
 Minority Business Enterprise Participation
 Subcontractor Paid/Unpaid MBE Invoice Report**

| | |
|--|---|
| Report#: _____ Reporting Period (Month/Year): _____ Report is due by the 15th of the following month, or as requested by the College. | Contracting Unit: _____ Contract/PO Amount: _____ MBE Subcontract Amount: _____ Project Begin Date: _____ Project End Date: _____ Services Provided: _____ |
|--|---|

| | | |
|---|---|-----------------|
| MBE Subcontractor Name: | | |
| MDOT Certification #: | | |
| Contact Person: | | |
| Address: | | |
| City: | State: | ZIP: |
| Phone: | FAX: | |
| Subcontractor Services Provided: | | |
| List all payments received from Prime Contractor during reporting period indicated above. 1. 2. 3. Total Dollars Paid: \$ _____ | List dates and amounts of any unpaid invoices over 30 days old. 1. 2. 3. Total Dollars Unpaid: \$ _____ | |
| Prime Contractor: | | Contact Person: |

Return one copy (hard or electronic) of this form to the following address (electronic copy is preferred):

| |
|-----------------------|
| Contact Person: _____ |
| Dept.: _____ |
| Address: _____ |
| _____ |
| _____ |
| E-mail: _____ |

Signature: _____ Date _____

PRINCE GEORGE'S COMMUNITY COLLEGE

MINORITY BUSINESS ENTERPRISE PARTICIPATION ADDITIONAL PROVISIONS

MBE 1. Noncompliance. If the college determines that the apparent successful bidder/contractor has not complied with the certified MBE subcontract participation contract goal, and has not obtained a waiver in accordance with MBE 2, or if the bidder/contractor fails to submit the documentation required by the solicitation, the College, may reject the bid or offer or cancel the award of the contract. The reasons for this action shall be specified in writing and mailed or delivered to the bidder.

MBE 2. Waiver.

MBE 2.1. If, for any reason, the apparent successful bidder/contractor is unable to achieve the contract goal for MBE participation, the bidder may request, in writing, an exception to the goal with justification to include the following:

- (a) A detailed statement of the efforts made to select portions of the work proposed to be performed by MBEs in order to increase the likelihood of achieving the stated goal;
- (b) A detailed statement of the efforts made to contact and negotiate with certified MBEs, including:
 - (1) The names, addresses, dates and telephone numbers of MBEs contacted, and;
 - (2) A description of the information provided to MBEs regarding the specifications, and anticipated time schedule for portions of the work to be performed;
- (c) As to each MBE that had placed a subcontract quotation or offer which the successful bidder/contractor considers not to be acceptable, a detailed statement of the reasons for this conclusion; and
- (d) A list of minority subcontractors found to be unavailable. This list may include a statement from the apparent successful bidder/contractor that the minority business refused to give the required documentation, or documentation proving reasonable outreach and verification from the MBEs.

MBE 2.2. A waiver of a MBE contract goal may be granted only upon a reasonable demonstration by the bidder that MBE participation was unable to be obtained or was unable to be obtained at a reasonable price and if the College determines that the public interest is served by a waiver. In making a determination under this section, the College may consider engineering estimates, catalogue prices, general market availability, and availability of MBEs in the area work is to be performed, other bids or offers and subcontract bids or offers substantiating significant variances between MBE and non-MBE cost of participation, and their impact on the overall cost of the contract to the college and any other relevant factor.

MBE 2.3. The College may waive any of these provisions for a sole source, expedited or emergency procurement in which the public interest cannot reasonably accommodate use of these procedures.

MBE 3. Amendment for Unforeseen Circumstances. If at any time before execution of a contract, the apparent successful bidder/contractor determines that a MBE listed on the schedule for participation has become or will become unavailable, then the apparent successful bidder/contractor shall immediately notify the Procurement Officer. Any desired change in the schedule for participation shall be approved in advance by the Procurement Officer and shall indicate the Contractor's efforts to substitute another MBE subcontractor to perform the work. Desired changes occurring after the date of Contract execution may occur only upon written approval by the Procurement Officer and subsequently by Contract amendment.

MBE 4. Compliance.

MBE 4.1. To assure compliance with certified MBE subcontract requirements, the college may require the Contractor to furnish documentation that include but not limited to; forms M-E and M-F, and;

- (a) Copies of purchase orders, subcontracts, cancelled checks, and other records that may indicate the number, names, dollar value of MBE subcontracts, dates, and schedule time for performance of work by an MBE subcontractor; and
- (b) Entry for an on-site verification inspection.

The College reserves the right to modify change the format of these forms or the format in which MBE reporting shall be provided to the College during the duration of the Contract.

MBE 4.2. Upon determining the Contractor's non-compliance, the college shall notify the Contractor in writing of its findings and shall specify what corrective actions are required. The Contractor shall be required to initiate the corrective actions within 10 days and complete them within the time specified by the college.

MBE 4.3. If the college determines that substantial non-compliance with MBE subcontract provisions exists and that the Contractor refuses or fails to take the corrective action required by the college, then the following sanctions may be invoked:

- (a) Termination of the Contract in whole or in part for cause;
- (b) *Liquidated damages;
- (c) Initiation of any other specific remedy identified by Contract; or
- (d) The college may use any other compliance mechanism authorized by Contract or by law.

MBE 4.4 Liquidated Damages.

Liquidated damages may include but are not limited to:

- 1) a per-day penalty in an amount determined by the College for failing to provide reports in full compliance with the College's MBE provisions;
- 2) a per-subcontract penalty for every subcontract that does not require subcontractors to submit payment reports per the College's MBE provisions;
- 3) a penalty for terminating, canceling, or changing the scope of work or value of a contract with an MBE subcontractor and/or amending the MBE participation schedule in an amount that equals the difference between the dollar value of the MBE participation commitment on the MBE participation schedule for that specific MBE firm and the dollar value of the work performed by that MBE firm for the contract; and
- 4) a penalty for failure to meet the Contractor's total MBE participation goal and subgoal commitments in an amount equal to the difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually achieved.

MBE 4.5 Other Provisions

The College at its sole discretion may change and modify any MBE provisions or requirements at any given time during the life of a contract. Written notification will be provided to the Contractor of any MBE provision changes.

APPENDIX S

SOLICITATION TERMS AND CONDITIONS

This solicitation and any subsequent award are further subject to:

1. Contractor's/Offeror's Responsibility.

Offerors are advised to read the requirements very carefully to ensure that each requirement is understood. If in doubt, develop and submit applicable questions in writing to the contact at the Issuing Office. An Offeror's misinterpretation of requirements shall not relieve the Offeror of the responsibility to address accurately the requirements of the RFP or to perform the Contract, if awarded. PGCC will enter into a contractual agreement with the selected Contractor(s) only. The selected Contractor(s) shall be solely responsible for all services as required by this RFP. Subcontractors, if any, will be the responsibility of the Contractor(s) and the role of subcontractors must be clearly identified in the proposal. The use of a subcontractor(s) does not relieve the Contractor(s) of liability under a Contract.

2. Rejection or Acceptance of Proposals.

The College reserves the right to: (i) accept or reject any and all proposals, in whole or in part; (ii) to waive minor irregularities; and (iii) to negotiate in any manner necessary to best serve the interests of the College. Further, the College reserves the right to make a whole award, multiple awards, a partial award, or no award at all. Offerors judged by the Procurement Officer not to be responsible or Offerors whose Proposals are classified as not reasonably susceptible to being selected for award shall be so notified. The College reserves the right to increase or decrease the quantities of any materials, equipment, supplies or services.

3. Cancellation of the RFP.

PGCC may cancel this RFP, in whole or in part, at any time.

4. Incurred Expenses.

PGCC shall not be responsible for any expenses that Offerors may incur in preparing and submitting Proposals or in making oral presentations of their Proposals, if required.

5. Payment.

The College issues payments on a net 30 day basis for PGCC approved invoices. Payment provisions shall be in arrears, with late payment and interest calculated as provided by Maryland law. For purposes of determining whether a prompt-payment discount, if applicable, may be taken by PGCC, the starting date of such reckoning period shall be the later of the date of a properly executed invoice or the date of completion of service and/or delivery of product.

6. Intentionally Left Blank

7. Confidentiality.

7.1. PGCC’s Information during the Procurement Process: The selected Contractor may have access to, may obtain, or be given confidential information, including without limitation information concerning the College’s business strategies, political and legislative affairs, students, faculty, employees, vendors, contractors, customer lists, finances, properties, methods of operation, computer and telecommunication systems, and software and documentation. Certain confidential information may be protected under the Family Educational Rights and Privacy Act (“FERPA”), the Gramm-Leach-Bliley Act, and the Maryland Public Information Act. The selected Contractor must have administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of the PGCC’s confidential information. PGCC may conduct discussions with Offerors in order to evaluate their abilities and responsiveness to the RFP. In order to facilitate the discussions and to allow Offerors to propose responsive solutions to PGCC’s needs and requirements, PGCC is willing to disclose certain confidential information to Offerors, including without limitation information concerning PGCC’s business strategies, political and legislative affairs, students, employees, vendors, contractors, customer lists, finances, properties, methods of operation, computer and telecommunications systems, and software and documentation (“Confidential Information”). By submitting a proposal in response to this RFP, Offerors agree: (i) to use Confidential Information solely for purposes of responding to and discussing the RFP; and (ii) not to disclose, permit or cause use of, or provide access to Confidential Information to any third person or entity. Upon request by PGCC, Offerors may be required to sign a Non-Disclosure Agreement.

7.2. Offeror’s Information: Offerors should give specific attention to the identification of those portions of the Proposal that the Offeror deems to be confidential, proprietary information, or trade secrets and provide any justification why such materials, upon request, should not be disclosed by the State under the Access to Public Records Act, State Government Article, Title 10, Subtitle 6, Annotated Code of Maryland. Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination as to whether the information may or may not be disclosed to the requesting party. That decision will take into consideration the Offeror’s position regarding its Proposal. A blanket statement by an Offeror that its entire Proposal is confidential or proprietary will not be upheld.

8. Multiple Proposals.

Contractors may submit more Proposal, per service/program category.

9. Alternate Solution Proposals.

Contractors may not submit an alternate to the solution given in this RFP.

10. Contractor Responsibilities and Use of Subcontractors

The College shall enter into contractual agreement with the selected Contractor(s) only. The Contractor(s) shall be responsible for all products and/or services required by this RFP. PGCC will consider Proposals that reflect primary and secondary service providers or a prime/subcontractor relationship. There should be proof of ability of the primary to

manage a subcontractor and successfully coordinate the delivery of quality service and support in a timely manner. Subcontractors, if any, shall be identified and a complete description of their role relative to the proposal shall be included. PGCC's intent is not to direct the use of any particular subcontractor, however, PGCC strongly encourages the Contractor to consider the utilization of local MBEs when possible. In addition, the Contractor may not contract with any such proposed person or entity to whom PGCC has a reasonable objection. Notification of such objection will be made by PGCC within fifteen (15) days of Contract. The Contractor shall be fully responsible for the acts and omissions of its subcontractors and of persons directly or indirectly employed by them. The use of subcontractors does not relieve the Contractor of liability.

11. Access to Contractor Records for Quality Assurance and Auditing Purposes.

The Contractor and its principal subcontractors must provide access to pertinent records by College personnel or its representatives (including internal auditors, external auditors, representatives, and agents) to provide quality assurance and auditing.

12. Arrearages.

By submitting a Proposal, an Offeror shall be deemed to represent that it is not in arrears in the payment of any obligation due and owing the College, including the payment of taxes and employee benefits and that it shall not become so in arrears during the term of the Contract if selected for Contract Award.

13. Taxes.

Contractor shall exempt PGCC from taxes as applicable. Exemption Certificates shall be provided upon request.

14. RFP Response Materials.

All written materials submitted in response to this RFP become the property of PGC and may be appended to any formal documentation that would further define or expand the contractual relationship between PGCC and the Contractor(s).

15. Maryland Public Ethics Law, Title 15.

The Maryland Public Ethics Law prohibits, among other things, State employees or officials (and in some cases, former employees) and businesses in which such an individual is employed or holds a financial interest from: (i) submitting a bid or proposal; (ii) negotiating a contract; and (iii) entering into a contract with the governmental unit with which the individual is affiliated per the Maryland Code Annotated, State Government Article, § 15-502.

If the Offeror has any questions concerning application of the State Ethics law to the Offeror's participation in this procurement, it is incumbent upon the Offeror to seek advice from the State Ethics Commission: The Office of The Executive Director, State Ethics Commission, 9 State Circle, Suite 200, Annapolis, Maryland 21401. For questions regarding the applicability of this provision of the Public Ethics Law, call the State Ethics Commission's toll-free phone number, 877-669-6085, or see the website, <http://www.ethics.maryland.gov>. The Procurement Officer may refer any issue raised by

a Proposal to the State Ethics Commission. The Procurement Officer may require the Offeror to obtain advice from the State Ethics Commission and may reject a Proposal that would result in a violation of the Ethics law.

A resulting Contract is cancelable in the event of a violation of the Maryland Public Ethics Law by a Contractor or any State of Maryland employee in connection with this procurement.

16. Assistance in Drafting.

Under the State Government Article, § 15-508 of the Annotated Code of Maryland, an individual or person who employs an individual who assists an executive unit in drafting specifications, an invitation for bids, a request for proposals for a procurement, or the selection or award made in response to an invitation for bids or request for proposals may not submit a bid or proposal for that procurement or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for that procurement. For questions regarding the applicability of this provision of the Public Ethics Law, call the State Ethics Commission's toll-free phone number, 877-669-6085, or see the website, <http://www.ethics.maryland.gov>.

17. Addenda Acknowledgment.

Offerors must acknowledge in writing the receipt of any and all addenda, amendments, and/or changes issued. Such acknowledgement must be included in the Proposal.

18. Duration of Offers.

Proposals (consisting of a Proposal and, if applicable, a Price Proposal) shall remain irrevocable for 120 days following the closing date of the Price Proposal due date. This period may be extended by mutual agreement between the Offeror and the College.

19. Minority Business Enterprises.

Minority Business Enterprises (MBE) are strongly encouraged to respond to this solicitation notice. If a sub-contracting goal and/or subgoals has been set in Section I of the solicitation, refer to Appendix M for further information regarding required process and documentation.

20. Living Wage Requirements.

A solicitation for services under a contract valued at \$100,000 or more may be subject to Maryland's Living Wage requirement, located at Maryland Code Annotated, State Finance and Procurement Article, Title 18, §§ 18-101 through 18-109. Additional information regarding the Living Wage requirement is contained in Appendix A, if applicable to this solicitation. An Offeror that fails to submit and complete the Affidavit of Agreement contained in Appendix A, if applicable, may be deemed not responsible by the Issuing Office. The College reserves the right to waive this requirement at any time during the procurement process.

21. Conflict of Interest.

The Contractor awarded the Contract shall provide the specified services for PGCC, and must do so impartially, and without any conflicts of interest. If the Procurement Officer makes a determination that facts or circumstances exist that give rise to or could in the future give rise to a conflict of interest within the meaning of the provisions described in the solicitation, the Procurement Officer may reject a Contractor's Proposals. Contractors should be aware that the State Ethics Law, State Government 15-508, might limit the selected Contractor's ability to participate in future related procurements, depending upon specific circumstances. Refer to Paragraphs 15 and 16 above. By submitting a response to the solicitation, the Contractor affirms its understanding and compliance with this clause.

22. LIQUIDATED DAMAGES

In the event the CMA fails to complete work on a timely manner, thus impacting the project schedule, the CMA shall pay to the College the sum indicated as specified in "in this section, not as a penalty, but as liquidated damages.

Liquidated Damages will be established for each project and be included with each Task Order. The minimum will be \$2,000; unless additional amounts are determined for specific projects.

