

**BALTIMORE COUNTY, MARYLAND
PURCHASING DIVISION
400 WASHINGTON AVENUE, ROOM 148
TOWSON, MARYLAND 21204-4665**



REQUEST FOR PROPOSAL NO. P-043

ENERGY AUDIT FOR COUNTY COURTS BUILDING

Due Date: 12/09/10, Time: 2:00 PM

Pre-Bid Conference: 11/16/10, Time: 10:00 AM

Stephen P. Myer, Senior Buyer

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EMAIL: smyer@baltimorecountymd.gov

Amendments to solicitations often occur prior to bid opening and sometimes within as little as 48 hours prior to bid opening. It is the potential vendor's responsibility to frequently visit the Purchasing web site (www.baltimorecountymd.gov/purchasing) to obtain amendments once they have downloaded a solicitation.

BIDDER CHECK LIST

- ☐ Have you signed your bid?
- ☐ Have you signed the Procurement Affidavit?
- ☐ Have you filled out all applicable forms?
- ☐ Have you returned the original? (and required duplicate copies when required?)
- ☐ Have you signed and returned amendments?
- ☐ Have you included the bid bond, if required?
- ☐ Have you completed, signed and included all required MBE/WBE forms and documents? (if applicable)
- ☐ Have you included the electronic version(CD) of your bid?

**BALTIMORE COUNTY, MARYLAND
REQUEST FOR PROPOSAL NO. P-043
ENERGY AUDIT FOR COUNTY COURTS BUILDING
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BALTIMORE COUNTY, MARYLAND

General Instructions for Solicitations

1. Instructions, Forms and Specifications

1.1 All bids/proposals are to be submitted on and in accordance with the forms provided by the Purchasing Division. All bids must be submitted in a sealed envelope or carton as appropriate. All bids must be clearly identified on the front of the envelope or top of the carton with the SOLICITATION NUMBER and the DUE DATE and TIME. Bid times are either Eastern Standard Time or Eastern Daylight Time, whichever prevails. Late bids will not be considered.

1.2 Responses to Requests for Bids and Requests for Proposals shall be accompanied by an executed Procurement Affidavit, as provided by the Purchasing Division. This does not apply to Requests for Quotations.

1.3 Amendments to solicitations often occur prior to bid opening and sometimes within hours prior to bid opening. All bidders are responsible for frequently visiting the Purchasing web site to obtain amendments once they have downloaded a solicitation.

1.4 Additional information or clarification of any of the instructions or information contained herein may be obtained from the Purchasing Division. The County assumes no responsibility for oral instructions or suggestions. All official correspondence in regard to this solicitation must be directed to, and will be issued by, the Purchasing Division.

1.5 Bidders finding any discrepancy in or omission from the specifications, in doubt as to meaning, or asserting that the specifications are discriminatory, shall notify the Purchasing Division in writing at once, but in no case later than five (5) business days prior to the scheduled opening of bids. Exceptions stated do not obligate the County to change the specifications. The Purchasing Division will notify all bidders in writing, by amendment duly issued, of any substantive revisions to specifications or instructions.

1.6 Unless a written exception detailing non-conformance to specifications is noted on the bid, any part number, product number, catalog number, etc., noted on the bid will be considered in full compliance with the specifications.

1.7 Submission of a bid in response to this solicitation evidences the bidder's acceptance of these General Instructions and the terms and conditions of the solicitation. Submission of a bid evidences bidder's representation and warranty that the person submitting

the bid response is authorized to act for and bind the contractor.

1.8 All original and duplicate bids/proposals and other attachments, related documents and correspondence, including all follow-up documents and correspondence, shall be typed or written in English. All prices/percentages and/or other monetary figures shall be in United States dollars.

1.9 Requests for Bids and Requests for Proposals should be accompanied by an electronic version (CD) of the bid proposal in PDF format. The CD must be labeled with the bid number, the bid title, and the bidder's name submitting the response. All bids must be submitted in a sealed envelope or carton as appropriate. This does not apply to Requests for Quotation.

1.10 Issuing Officer: The sole point of contact for the County for purposes of this solicitation is the Buyer, listed on the cover page; questions regarding any aspect of the competitive process must be directed to the Buyer, in writing.

2. Award of Solicitations

2.1 Any award pursuant to Requests for Quotation and Requests for Bid is made to the lowest responsive and responsible bidder following the public opening of bids under Section 10-2-406 of the Baltimore County Code, 2003, as amended.

2.2 Awards on Requests for Quotations and Requests for Bid will be made within sixty (60) days after bid opening unless otherwise indicated in this solicitation. No bidder will be allowed to withdraw a bid during that period.

2.3 The successful bidder may be required to give security or bond, as stated in the bid document, for performance of the contract.

2.4 When there is a conflict between the unit price or percentage and the extension, the unit price or percentage will prevail as the amount of the bid.

2.5 Cash discounts will be considered in determining awards. However, cash discount offers must allow not less than 30 days to be considered in bid evaluation. A bid offering a cash discount in a period of less than 30 days will be evaluated as a bid without a discount offer; however, should that bidder obtain award by consideration of the gross price, the County shall make every effort to obtain the discount. The County will not accept any payment terms with a period of less than 30 days.

2.6 Invoices against resulting order(s) must be submitted, in duplicate, to the Office of Budget and Finance, Disbursements Section, 400 Washington Avenue, Room 148, Towson, Maryland 21204-4665. Invoices must show the vendor's Federal Tax Identification Number or Social Security Number, as appropriate, and order number and line number(s) that correspond with resulting order(s).

2.7 The County will not pay interest charges or other penalties for invoice payments.

2.8 Prices quoted shall be exclusive of all non-applicable Federal and Maryland State taxes. Tax exemption certificate will be furnished if required.

2.9 The County reserves the right to consider making payments via electronic funds transfers (EFT) on contracts for which this payment vehicle may be appropriate.

3. Reservations

3.1 The County reserves the right to reject, in whole or in part, any and all bids received, and to make a whole award, multiple awards, a partial award, or no award, to best serve the public interest.

3.2 The County may waive formalities in bids as the interests of the County may require.

3.3 The County reserves the right to increase or decrease quantities by approximately twenty (20) percent to be purchased at the prices bid.

3.4 The County reserves the right to award solicitations or place orders on a lump sum or individual item basis, or in such combination as to best serve the public interest.

3.5 The County may waive minor differences, irregularities, and technicalities in the specifications, provided they neither violate the specifications intent, materially affect the operation for which the items or services are being purchased, nor increase estimated maintenance and repair costs to the County.

3.6 At any time during normal business hours and as often as the County may deem necessary, the Contractor shall make available to and permit inspection and photocopying, by the County, its employees or agents, of all records, information and documentation of the Contractor related to the subject matter of this contract, including, but not limited to, all contracts, invoices, payroll, and financial audits.

3.7 Notwithstanding any other terms or provisions of the contract, in the event the County is temporarily or

permanently prevented, restricted or delayed in the performance of any or all of the duties and obligations imposed upon or assumed by it thereunder, by act of the General Assembly of Maryland or the Baltimore County Council, by a court of competent jurisdiction or by administrative delay not due to the fault of the County (and its members and agents) shall not be liable directly or indirectly for any claims caused to or suffered by the Contractor or any other person in connection with or as a result of such prevention, restriction or delay.

3.8 The County further reserves the right to make such investigation as it deems necessary to determine the ability of bidders to furnish the required services, and bidders shall furnish all such information for this purpose as the County may request. The County also reserves the right to reject the proposal of any bidder who is not currently in a position to perform the contract, or who has previously failed to perform similar contracts properly, or in a manner acceptable to the County, all of which shall be in the County's sole discretion.

4. Delivery

4.1 Bidders shall guarantee delivery of materials in accordance with the delivery schedule stated in specifications. All items shall be delivered F.O.B. Destination/Inside Delivery, unless otherwise indicated, with delivery costs and charges included in the bid price.

4.2 The County reserves the right to charge the Contractor or vendor for each day the materials, supplies, or services are not delivered in accordance with the delivery schedule. The sum established by the specifications may be invoked at the discretion of the Purchasing Agent, said sum to be considered not as a penalty, but as liquidated damages, and deducted from final payment, or otherwise, charged to the Contractor or vendor. This remedy is not exclusive but shall be in addition to all other rights and remedies available to the County. These liquidated damages shall be in addition to any and all actual damages incurred directly or indirectly by the County, its agents, assigns, and contractors.

4.3 All bidders and vendors are to ensure that packaging materials used for this requirement are not made of non-recyclable Styrofoam (Polystyrene). Additionally, any materials used in packing to cushion, protect and ship are to be made of recycled, recyclable or biodegradable materials.

5. Competition

5.1 The name of any manufacturer, trade name, or vendor catalog number mentioned in the specifications is for the purpose of designating a standard of quality and type, and for no other purpose unless otherwise stated in the solicitation.

5.2 A bidder may offer a price on only one unit per line item. Even though two or more units may meet the specification, bidders must determine for themselves which to offer. Submission by a bidder of prices for more than one unit shall be sufficient cause for rejection of the bid for that specific item.

5.3 Bids which show omission, irregularity, alteration of forms or additions not called for, as well as conditional or unconditional unresponsive bids, or bids obviously unbalanced, may be rejected.

5.4 All bids must be accompanied by such descriptive literature as may be called for by the specifications or proposal.

5.5 If products to be provided to the County contain any substances that could be hazardous or injurious to a person's health, a material safety data sheet (MSDS) must be provided to the Purchasing Division. This applies also to any product used by a Contractor when providing a service to the County.

5.6 Specifications are based on County needs and uses, estimated costs of operations and maintenance, and other significant and/or limiting factors to meet County requirements, and to ensure consistency with County policies. Minimum specifications, and maximum specifications where included, are not established arbitrarily to limit competition or to exclude otherwise competitive bidders.

5.7 Unless multiple or alternate bids are requested in the solicitation, these bids may not be accepted. However, if a bidder clearly indicates a base bid, it shall be considered for award as though it were the only bid submitted by the bidder.

6. Terminations

6.1 Termination for Convenience: The County may terminate a contract, in whole or in part, without cause, by providing written notice thereof to the Contractor. In the event of termination, without cause, the County shall advise the Contractor in writing of the termination date and of work to be performed during the final days prior to contract termination. The Contractor shall be paid for all reasonable costs incurred by the Contractor up to the date of termination set forth in the written notice of termination. The Contractor will not be reimbursed for any anticipatory profits, which have not been earned up

to the date of termination. Payments to be provided on a lump sum basis shall be prorated by the County based on the services rendered or goods delivered up to the date of termination set forth in the written notice.

6.2 Termination for Default

6.2.1 In addition to other available rights and remedies, the County shall have the right upon the happening of any default, without providing notice to the Contractor: 1) To terminate a contract immediately, in whole or in part; 2) To suspend the contractor's authority to receive any undisbursed funds; and/or 3) To proceed at any time or from time to time to protect and enforce all rights and remedies available to the County, by suit or any other appropriate proceedings, whether for specific performance or any covenant, term or condition set forth in the contract, or for damages or other relief, or proceed to take any action authorized or permitted under applicable law or regulations.

6.2.2 Upon termination of a contract for default, the County may elect to pay the Contractor for services provided or goods delivered up to the date of termination, less the amount of damages caused by the default, all as determined by the County in its sole discretion. If the damages exceed the undisbursed sums available for compensation, the County shall not be obligated to make any further disbursements hereunder.

6.3 Funding Out: If funds are not appropriated or otherwise made available to support contract continuation in any fiscal year, the County shall have the right to terminate the contract without prior notice to the Contractor and without any obligation or penalty.

7. Hold Harmless – Indemnification

7.1 The Contractor shall defend, indemnify and hold harmless the County, its employees, agents and officials from any and all liabilities, claims, suits, or demands including attorney's fees and court costs which may be incurred or made against the County, its employees, agents or officials resulting from any act or omission committed in the performance of the duties imposed by and performed under the terms of the contract. The Contractor shall not be responsible for acts of gross negligence or willful misconduct committed by the County.

7.2 The Contractor shall also defend, indemnify and hold harmless the County, its employees, agents and officials from any and all liabilities, claims, suits, or

demands including attorney's fees and court costs which may be made against the County, its employees, agents or officials by any third party arising from the alleged violation of any third party's trade secrets, proprietary information, trademark, copyright, patent rights, or intellectual property rights in connection with the contract.

7.3 Unless notified in writing by the County to the contrary, the Contractor shall provide defense for the County, its employees, agents and officials in accordance with this Article and in doing so the Contractor shall allow the County to participate in said defense of the County, its employees, agents and officials, to the extent and as may be required by the County and the Contractor shall cooperate with the County in all aspects in connection therewith. All filings, actions, settlements, and pleadings shall be provided to the County for comment and review prior to filing or entering thereof. No filing, action, settlement or pleading shall be filed or entered without the prior consent and approval of the County.

8. Minority/Women's Business Enterprise (MBE/WBE) and Small Business Notice: Baltimore County is seeking Minority, Woman and Small Businesses to bid on current solicitations as a prime or sub contractor. In accordance with the Executive Order dated June 4, 2009, "an overall goal of 15% of the cumulative total of all discretionary dollars spent in a fiscal year of County procurements is to be awarded to and/or performed by MBE and WBE firms." MBE/WBE's and Small Businesses are encouraged to respond to this solicitation.

9. Authority

9.1 In case of disputes as to whether an item or service quoted or delivered meets specifications, the decision of the Purchasing Agent or authorized representative shall be final and binding on both parties. The Purchasing Agent may request the recommendation in writing of the head of the using agency, the Standards and Specifications Committee, or other objective sources.

9.2 Bidders desiring to appeal a decision of the Purchasing Division must deliver written protests to the Purchasing Division within 10 days of notification of award. The Purchasing Agent or designee will review the protested decision, examine any additional information provided by the bidder and respond in writing within 10 working days of receipt of written protests.

9.3 Instructions, Specifications, and Proposals are issued, and all bids, quotations, orders, and purchases are made pursuant and subject to the provisions of the Baltimore County Charter, and Article 10, Title 2 of the Baltimore County Code, 2003, as amended, and

regulations and policies established or prescribed by the Purchasing Division.

10. HIPAA: The Contractor shall comply with the Health Insurance Portability and Accountability Act (HIPAA) and shall execute a Business Associate Agreement as may be required by the County.

11. Reports: When required, reports prepared for Baltimore County should be printed on recycled and recyclable paper printed on both sides per Section 10-2-312 of the Baltimore County Code, 2003, as amended.

12. Terms of Contract

12.1 Any contract awarded pursuant to this solicitation shall be by and between the successful bidder and the County, and shall contain and incorporate, but may not be limited to, all terms and conditions of the solicitation, any amendments or changes thereto. Submission of a bid in response to this solicitation evidences the Contractor's acceptance of the terms and conditions therein.

12.2 The provisions of the contract awarded pursuant to this solicitation shall be governed by the laws and regulations of Maryland and Baltimore County.

13. Severability: If any provisions in the contract are declared by a court or other lawful authority to be unenforceable or invalid for any reason the remaining provisions hereof shall not be affected thereby and shall remain enforceable to the full extent permitted by law.

14. Counterparts: The contract may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument.

15. Survival: The provisions of paragraphs 1.7 (Representations and Warranties), 4.2 (Damages), 7 (Indemnification), and 10 (HIPAA) shall survive delivery of commodities and/or performance of services.

16. No Waiver, Etc.: No failure or delay by the County to insist upon the strict performance of any term, condition or covenant of the contract, or to exercise any right, power, or remedy consequent upon a breach thereof, shall constitute a waiver of

any such term, condition, or covenant or of any such breach, or preclude the County from exercising any such right, power, or remedy at any later time or times.

17. Maryland Registration / Qualification Requirements:

17.1 Baltimore County requires vendors to register or qualify to do business with Maryland Department of Assessments and Taxation (SDAT) in accordance with the Annotated Code of Maryland, Corporations and Associations Article: §2-102 Formation generally, §7-202 Registration to do interstate and foreign* business, and/or §7-203 Qualification to do intrastate.

17.2 For information on registering or qualifying a corporation, LLC, LLP or LP call SDAT at 410-767-1340. Sole Proprietors and General Partnerships should call 410-767-4991 or you may download the SDAT forms at <http://www.dat.state.md.us/sdatweb/sdatforms.html> - entity

17.3 The successful bidder will be required to submit a Good Standing Certificate (also known as "Certificate of Status") issued by SDAT within 10 days of being notified of potential award.

(*Note: "a corporation, association, or joint-stock company organized under the laws of the United States, another state of the United States, a territory, possession, or district of the United States, or a foreign country," § 1-101 Annotated Code of Maryland Corporations and Associations.

18. Eligibility of Candidates for Employment:

18.1 The E-Verify program is an internet-based employment verification system that allows employers to verify employee status against Federal Social Security and immigration databases.

18.2 Baltimore County encourages employers to utilize the E-verify program, or an equivalent system, as a means to help employers determine the eligibility of new hires.

19. Requests for Proposals: In addition to aforementioned instructions, the following apply to Requests for Proposals (RFP).

19.1 All RFP proposals submitted shall be valid for 180 days following the closing date noted, unless otherwise specified in the bid documents. This period may be extended by mutual written agreement between offerors and the County. Proposals may not be withdrawn during this period.

19.2 Modifications: The County may, at any time by written order, make changes within the general scope of a contract including, but not limited to, changes (1) in any designs or specifications; (2) in the method, quantity, or manner of performance of the work; (3) in any County-furnished facilities, equipment, materials, services, or property; or (4) directing acceleration in the performance of the work. No change, modification or revision shall be binding upon the County, unless made in writing by its authorized representatives.

19.3 Subcontracting and Assignment: All subcontracting arrangements require prior approval of the County. The Contractor shall not assign, transfer, convey, delegate, subcontract, or otherwise dispose of any award of any or all of its rights, title, or interest therein, without the prior written consent of the County, which shall not be unreasonably withheld.

19.4 Additional Reservations for RFP's

19.4.1 This RFP creates no obligation on the part of the County to compensate offerors for proposal preparation expenses. The County reserves the right to award a contract based upon proposals received without further negotiation and may do so; offerors should not rely upon the opportunity to alter their proposals during discussions.

19.4.2 The County reserves the right to waive minor irregularities, to negotiate in any manner necessary to best serve the public interest, and to make a whole award, multiple awards, a partial award, or no award. The County reserves the right to cancel this RFP, in whole or in part, any time before the closing date.

19.5 Confidentiality: Offerors must specifically identify any portions of their proposals deemed to contain confidential information, proprietary information or trade secrets. Those portions must be readily separable from the balance of the proposal. Such designations will not be conclusive, and offerors may be required to justify why such material should not, upon written request, be disclosed by the County under the Public Information Act, State Government Article, Title 10, Sub-Title 6, of the Annotated Code of Maryland, as amended. The County may disclose such information if required by law, court order or subpoena.

**BALTIMORE COUNTY, MARYLAND
PROCUREMENT AFFIDAVIT**

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the [title]_____ and I am duly authorized to represent and bind [business] _____ (the "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 Business, nor any of its officers, directors, partners, members, affiliates, 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 6-225 of the Criminal Procedure Article 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 Business, nor any of its officers, directors, partners, members, affiliates, or any of its employees directly involved in obtaining or performing contracts with public bodies, has:

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

(2) Been convicted of any criminal violation of a state or federal antitrust statute;

(3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §1961, et seq., or the Mail Fraud Act, 18 U.S.C. §1341, et seq., for acts arising out of the submission of bids or proposals for a public or private contract;

(4) Been convicted of a violation of the State Minority Business Enterprise Law, Section 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(5) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsection (1), (2), (3), or (4) above;

(6) 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;

(7) 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 Business, nor any of its officers, directors, partners, members, affiliates, 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, except as follows [list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceeding, 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 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 Business, nor any of its officers, directors, partners, members, affiliates, nor any of its employees, have in any way:

(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 take any action to impact, restrain, or inhibit free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted;

(3) Colluded with anyone to obtain information concerning the bid that would give the Business an unfair advantage over others.

H. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

The Contractor affirms that it is aware of, and will comply with, the provisions of Sections 14-101 through 14-108 of the Election Law Article of the Annotated Code of Maryland, which require that every person who makes, during any 12-month period, one or more contracts, with one or more Maryland governmental entities involving cumulative consideration, or at least \$100,000.00, shall file with the State Board of Elections certain specified information to include disclosure of attributable political contributions in excess of \$500 during defined reporting periods.

I. CERTIFICATION OF REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

(1) The Business is a (Insert State Name) (Example: Maryland, Ohio, Iowa) (Select One: **Corporation, Partnership, Limited Liability Company, Limited Liability Partnership, Sole Proprietor**) (_____), that it **is** registered in accordance with the Corporations and Associations Article of the Annotated Code of Maryland, that it **is** in good standing in the State of Maryland, and that it **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 none, 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 Baltimore County, 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.

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The Business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee 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 other consideration contingent on the making of the Contract.

K. NONDISCRIMINATION IN EMPLOYMENT STATEMENT

I FURTHER AFFIRM THAT:

During the performance of any contract awarded pursuant to the solicitation of which this affidavit is a part:

(1) The Business will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, national origin, marital status, sexual orientation, genetic information, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or because of the individual's refusal to submit to a genetic test or make available the results of a genetic test. The Business will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, marital status, sexual orientation, genetic information, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or because of the individual's refusal to submit to a genetic test or make available the results of a

genetic test. Such action shall include, but not be limited to the following: employment, promotion, upgrading, demotion or transfer, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Business agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the owner setting forth provisions of this nondiscrimination clause.

(2) The Business will, in all solicitations or advertisements for employees placed by or on behalf of the Business, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, national origin, marital status, sexual orientation, genetic information, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or because of the individual's refusal to submit to a genetic test or make available the results of a genetic test.

(3) The Business shall send to each labor union or representative of workers with which the Business has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the owner, advising the said labor union or workers' representative of these commitments, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Business shall furnish, if requested by the County, a compliance report concerning our employment practices and policies in order for the County to ascertain compliance with the special provisions of this affidavit concerning nondiscrimination in employment.

(5) In the event of the Business's noncompliance with the nondiscrimination clause of this affidavit, the contract may be canceled, terminated, or suspended in whole or in part, and the Business may be declared ineligible for further County work.

(6) The Business shall include the special provisions outlined herein pertaining to nondiscrimination in employment in every subcontract, so that such nondiscrimination in employment provisions shall be binding on each subcontractor or vendor.

L. FOREIGN CONTRACTS

I FURTHER AFFIRM THAT:

The Contractor affirms that it is aware of, and will comply with, the provisions of Sections 10-2-110 Article 10. Finance, Title 2 – Purchasing, Baltimore County Code 2003, as amended, which requires that prior to the award of a contract for services under the provisions of this title, and during the entire term of a contract award, the bidder or vendor shall disclose to the County whether any services covered by the bid or contract, including any subcontracted services, will be performed outside the United States. The disclosure shall be made to the Office of Budget and Finance, Purchasing Division.

M. ACKNOWLEDGMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the County and may be distributed to units of (1) Baltimore County; (2) the State of Maryland; (3) other counties or political subdivisions of the State of Maryland; (4) other states; and (5) 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 Baltimore County, or the State of Maryland or any unit of the State of Maryland having jurisdiction, the exercise of any right or remedy at Law or in equity with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the Business with respect to (a) this Affidavit, (b) 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, AFTER DILIGENT INQUIRY.

Date: _____

By: _____

Name:

Title:

(Authorized Representative and Affiant)

MINORITY PARTICIPATION AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the [title]_____ and the duly authorized representative of [business]_____ (the "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 MINORITY PARTICIPATION

I FURTHER AFFIRM THAT:

I am aware that, pursuant to the June 4, 2009 Executive Order of Baltimore County, Maryland, the following words have the meanings indicated.

(A) "Minority Business Enterprise" or "MBE" means a business enterprise that is owned, operated and controlled by one or more minority group members (African American, Hispanic American, Asian American, or Native American) who have at least 51% ownership and in which the minority group members have operational and managerial control, interest in capital and earnings commensurate with their percentage of ownership.

(B) "Women's Business Enterprise" or "WBE" means a business enterprise that is owned, operated and controlled by one or more women who have at least 51% ownership and in which the women have operational and managerial control, interest in capital and earnings commensurate with their percentage of ownership.

_____ The Business is a certified MBE with

☐ Maryland State Department of Transportation (MDOT)

☐ City of Baltimore

☐ Other Program: _____

_____ The Business is a certified WBE with

☐ Maryland State Department of Transportation (MDOT)

☐ City of Baltimore

☐ Other Program: _____

_____ The Business is not a certified MBE or WBE, however:

☐ The ownership of the Business consists of ____% minorities and ____% women (for a total of ____%), each of which has operational and managerial control, interest in capital and earnings commensurate with their percentage of ownership.

☐ The Business anticipates utilizing MBE or WBE subcontractors for ____% of the work on the contract.

☐ The Business is not a certified MBE or WBE nor is it 51% owned, operated and controlled by one or more minority group members or a woman.

☐ Due to the specific nature of work, this contract does not lend itself to subcontracting opportunities. Therefore, _____ is requesting a full waiver of the MBE/WBE requirement.

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: _____

Name:

Title:

(Authorized Representative and Affiant)

Taxpayer Identification Number (TIN) and Certification
(Substitute for IRS Form W-9)
COMPLETE BOTH SIDES OF FORM

Baltimore County, Maryland
Office of Budget and Finance
400 Washington Avenue, Room 148
Towson, Maryland 21204

Certification of TIN and business name are required for all successful bidders prior to issuing a contract or purchase order. Completion of **SIDE 1** of this form is necessary to meet IRS regulations. All MBE/WBE vendors should also complete **SIDE 2**. For questions, call 410-887-3587.

SIDE 1

List your **legal business name** below, **as shown on your income tax return**. **Sole proprietors** should list their individual name as noted on your social security card. You may enter a business name on line 2. Other entities must list your business name as shown on Federal tax documents. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the business name line (2). For **limited liability companies (LLC)** that are owned by an individual, the owner's name must be listed in the Name line (1) and the business name can be listed on the business name line (2). For **limited liability companies** that are corporations, partnerships, etc., enter the business name on Name line (1).

1. Name (as shown on your income tax return)

2. Business name, if different from above

Address

City State ZIP Code

Remittance Address, if different from above

City State ZIP Code

Contact Person Title

Phone Number () - Ext: Fax Number () -

E-mail address

Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1. For individuals, this is your social security number (SSN). For other entities, it is your employer identification number (EIN). Note, this is the TIN shown on your federal tax documents.

Social Security Number

OR

Employer Identification Number

IF YOU ARE EXEMPT FROM BACK-UP WITHHOLDING

IF YOU ARE TAX-EXEMPT, EXPLAIN:

Filing Status (Ownership) (LLC is not acceptable)

Individual	Sole Proprietor
Corporation	Partnership
Other: (explain)	

CERTIFICATION:

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. person (including a U.S. resident alien).

Signature of U.S. Person

Date

SIDE 2

MBE / WBE Certification	
Maryland Department of Transportation (MDOT) Certification #: _____ Certification Date: _____ / _____ / _____ Pending: _____	City of Baltimore Certification #: _____ Certification Date: _____ / _____ / _____ Pending: _____

Business Ownership (Check Only One)					
	G	Government Entity		O	Other: _____
	H	Disabled		P	Non Profit
	MA	Minority-owned, Not small business		W	Woman-owned, Small business
	M	Minority-owned, Small business		WA	Woman-owned, Not small business
	NS	Non-minority-owned, small business		X	Woman-owned, Minority, Small business
	NL	Non-minority-owned, Large business		XA	Woman-owned, Minority, Not small business

Type of Business/Organization			
	Association		Attorney
	Government Entity		Educational Institution
	Medical Service Provider		Non-profit Organization
	Other: (explain)		Financial Institution

Ethnicity of Ownership (Check Only One)					
	A	Asian American		I	American Indian/Alaskan Native
	B	African American		N	Non-minority
	H	Hispanic American		O	Other Ethnic Group: _____

Incorporation	
Incorporation State: _____	OR Date Business Started _____ / _____ / _____

Signature		
I certify that the information shown on this registration is true and correct. I will advise the Purchasing Division immediately, in writing, of any change affecting this data.		
Signature: _____	Title: _____	Date: _____



BALTIMORE COUNTY, MARYLAND

INSURANCE PROVISIONS

1. GENERAL REQUIREMENTS

1.1 Coverages Required:

Unless otherwise required by the specifications or the contract, the Contractor/Vendor shall purchase and maintain the insurance coverages listed herein.

1.2 Certificate of Insurance:

Before starting work on the contract or prior to the execution of the Contract on those bid, the Contractor/Vendor shall provide Baltimore County, Maryland with a Certificate of Insurance provided by the County, or an exact replica thereof, evidencing the required coverages.

1.3 Baltimore County as Insured:

The coverage required, excluding Worker's Compensation and Employers' Liability and Medical Malpractice Liability/Professional Liability/Errors and Omissions Liability, must include Baltimore County, Maryland and its agents, employees, officers, directors, and appointed and elected officials as an additional insured.

1.4 Contractor's/Vendor's Responsibility:

The providing of any insurance herein does not relieve the Contractor/Vendor of any of the responsibilities or obligations the Contractor/Vendor has assumed in the contract or for which the Contractor/Vendor may be liable by law or otherwise.

1.5 Failure to Provide Insurance:

Failure to provide and continue in force the required insurance shall be deemed a material breach of the contract.

2. INSURANCE COVERAGES

2.1 General Liability Insurance

2.1.1 Minimum Limits of Coverage:

Personal Injury Liability and Property Damage Liability Combined Single Limit - \$500,000 each occurrence

2.1.2 Such insurance shall protect the Contractor/Vendor from claims which may arise out of, or result from, the Contractor's/Vendor's operations under the contract, whether such operations be by the Contractor/Vendor, any subcontractor, anyone directly or indirectly employed by the Contractor/Vendor or Subcontractor, or anyone for whose acts any of the above may be liable.

2.1.3 Minimum Coverages to be Included:

- (a) Independent Contractor's coverage;
- (b) Completed Operations and Products Liability coverage; and
- (c) Contractual Liability coverage.

2.1.4 Damages not to be Excluded:

Such insurance shall contain no exclusions applying to operations by the Contractor/Vendor or any Subcontractor in the performance of the Contract including but not limited to: (a) Collapse of, or structural injury to, any building or structure; (b) Damage to underground property; or (c) Damage arising out of blasting or explosion.

2.2 Automobile Liability Insurance

2.2.1 Minimum Limits of Coverage:

Bodily Injury Liability and Property Damage Liability
Combined Single Limit - \$500,000
any one accident

2.2.2 Minimum Coverages to be Included:

Such insurance shall provide coverage for all owned, non-owned and hired automobiles.

2.3 Workers' Compensation and Employers' Liability Insurance

Such insurance must contain statutory coverage, including Employers' Liability insurance with limits of at least:

Bodily Injury by Accident - \$250,000 each accident
Bodily Injury by Disease - \$500,000 policy limit
Bodily Injury by Disease - \$250,000 each employee

2.4 Valuable Papers and Records Coverage and Electronic Data Processing (Data and Media) Coverage

Minimum Limits of Coverage:

\$100,000 Per Claim and Each Occurrence
\$100,000 in the Aggregate

2.5 Other

Such other insurance in form and amount as may be customary for the type of business being undertaken by the Contractor/Vendor.



**BALTIMORE COUNTY, MARYLAND
CERTIFICATE OF INSURANCE**

THIS FORM MUST BE COMPLETED BY A LEGALLY AUTHORIZED REPRESENTATIVE OF INSURANCE COMPANY OR INSURANCE AGENCY.

THE CONTRACTOR/VENDOR MUST MAINTAIN THE INSURANCE COVERAGES REQUIRED UNDER THE TERMS AND CONDITIONS OF THIS CONTRACT WHILE THIS CONTRACT IS IN EFFECT INCLUDING RENEWAL AND EXTENSION TERMS.

**TO: BALTIMORE COUNTY, MARYLAND
PURCHASING DIVISION
400 Washington Avenue, Room 148
Towson, Maryland 21204**

Solicitation/Contract/Purchase Order No.

Name of Contractor/Vendor

THIS IS TO CERTIFY THAT:

- (1) The undersigned has received and reviewed the INSURANCE PROVISIONS of the above-numbered Solicitation/Contract/Purchase Order No.; and
- (2) The following insurance has been issued, is in force, and conveys all the rights and privileges afforded under the policy and as required under the Solicitation/Contract/Purchase Order; and

<u>Type of Insurance</u>	<u>Insurance Company</u>	<u>Policy Numbers</u>	<u>Amt. Of Coverage</u>
General Liability			
Automobile Liability			
Worker's Compensation and Employers' Liability			
Valuable Papers and Electronic Data			
Other			

- (3) General Liability, Automobile Liability and Valuable Papers and Electronic Data insurance coverage shall name Baltimore County, Maryland and its agents, employees, officers, directors, and appointed and elected officials as an additional insured.
- (4) The Worker's Compensation and Employers' Liability insurance coverage shall name Baltimore County, Maryland and its agents, employees, officers, directors, and appointed and elected officials as a certificate holder.

THE UNDERSIGNED AGREES that should any of the insurance coverages indicated above be cancelled, not renewed, or changed in such a manner as would make the coverage not in conformity with the provisions mentioned above, thirty (30) days advance written notice shall be given to BALTIMORE COUNTY, MARYLAND at the address shown above; EXCEPT IN THE CASE OF NON-RENEWAL, notice shall be given as soon as known, if that be less than thirty (30) days, but in no event, less than (10) days. This notice requirement shall be reduced to only ten (10) days in case of cancellation for non-payment of insurance premiums for the coverages certified. All notice requirements shall identify the Contractor/Vendor and the number of the Solicitation/Contract/Purchase Order No.

Name of Insurance Company or Agency

Signature of Authorized Representative of Insurance Company or Agency

Address

Type/Print Name

City, State, Zip Code

Date

Area Code/Telephone No.

This Certificate of Insurance was adopted to eliminate the uncertainty regarding different forms of such documents and to reduce clerical errors. Insurer may provide ACORD Certificates of Insurance also reflecting policy duration and amount of coverage, however, submission of an ACORD form does not satisfy the requirements of this procurement, and in the event of any conflict between this Certificate of Insurance form and any ACORD forms, the terms and conditions of this Baltimore County Certificate of Insurance form shall prevail.

BALTIMORE COUNTY, MARYLAND **MBE/WBE PARTICIPATION SUMMARY**

Executive Order: Minority business enterprises and women business enterprises (MBE/WBE) shall have the maximum opportunity to participate in the performance of contracts financed in whole, or in certain circumstances, in part with County funds. Accordingly, on June 4, 2009, the County Executive adopted the attached Executive Order addressing MBE/WBE participation in County contracts.

Each Contract: The County shall establish a minimum MBE/WBE participation amount for each contract, as applicable.

Bidder Responsibility: The bidder shall ensure that MBE/WBE participation occurs in accordance with the contract requirements and the County Executive's Executive Order. All bidders shall ensure that MBE/WBE have the maximum opportunity to compete for and perform County contracts, as applicable. Baltimore County, Maryland, and/or its bidders and contractors shall not discriminate on the basis of race, color, national origin, disability or sex in the award and performance of any County contract.

APPROVED MBE/WBE LISTINGS

Published compilations of approved and certified MBE/WBE, contractors, subcontractors, material suppliers, etc. include:

1. BALTIMORE COUNTY MINORITY AND WOMEN BUSINESS ENTERPRISE DIRECTORY (PRISM):
<http://www.baltimorecountymd.gov/Agencies/fairpractices/minoritybusiness/directory.html>
2. DIRECTORY OF MINORITY BUSINESS ENTERPRISE (MDOT):
http://mbe.mdot.state.md.us/directory/search_select.asp
3. MINORITY BUSINESS DIRECTORY OF THE CITY OF BALTIMORE:
<http://cityservices.baltimorecity.gov/mwbool/>

BIDDER'S ACTIONS

Seeking Commitments: The bidder will seek commitments by subcontract or otherwise from MBE/WBE for supplies and/or services, any combined value of which equals or exceeds the required percentage of MBE/WBE participation for the County contract.

Expenditures for Materials and Supplies: A bidder may count toward its MBE/WBE contract requirements, all expenditures for materials and supplies obtained from MBE/WBE suppliers and manufacturers, provided that the MBE/WBE assumes the actual and contractual responsibility for the provision of the materials and supplies.

Information to be Supplied: All bidders shall submit the following information to the County at the time of bid submission:

1. The name of an employee designated as the bidder's liaison to the County's Office for Fair Practices.
2. The following forms shall be completed and submitted
 - Certified MBE/WBE Utilization and Fair Solicitation Affidavit (**Form A**); from among those names appearing in the Approved MBE/WBE Listings (excepting Federal Highway Administration projects, which exclusively require MBE/WBE approved and certified by the Maryland Department of Transportation Certification Committee);
 - A MBE/WBE Participation (**Form B**) completed and signed by the prime contractor and MBE/WBE for each MBE/WBE listed on the Form.
 - A MBE/WBE Disclosure and Participation Statement (**Form C**) completed and signed by the prime contractor and MBE/WBE for each MBE/WBE listed on the Form.

- If applicable, MBE/WBE Subcontractor Unavailable Certificate (**Form D**) completed and signed by the prime contractor and MBE/WBE for each MBE/WBE listed on the Form.
 - If applicable, MBE/WBE Outreach Efforts - Compliance Statement (**Form E**) completed and signed by the Bidder.
 -
3. For DPW contracts, if the bidder intends to fulfill the MBE/WBE requirements by use of a joint venture, he/she must submit a Joint Venture Disclosure Affidavit (**Form D-EE0-006-A** and **B** showing the extent of MBE/WBE participation. If a bidder intends to use a MBE/WBE joint venture as a subcontractor to meet its MBE/WBE requirements, the affidavit must be submitted through the bidder by the proposed subcontractors and signed by all parties.
 4. If the bidder's proposed MBE/WBE participation does not meet the MBE/WBE contract requirements, information sufficient to demonstrate that the bidder has made every effort to meet the requirements must be submitted. (See DETERMINATION OF BID RESPONSIVENESS hereafter)

RECORDS AND REPORTS

Records to be Kept: The bidder must keep such records as are necessary to determine compliance with its MBE/WBE utilization requirements:

1. The MBE/WBE and non-minority contractors, type of work being performed, actual values of work and services.
2. Documentation of all correspondence, contacts, telephone calls, etc., to obtain MBE/WBE services for the contract.
3. All prime contractors and MBE/WBE sub-contractors are required to report monthly to the County through an online system called PRISM. If the contractor cannot submit his/her report on time, he/she will notify the County MBE/WBE office and request additional time to submit the report. Failure of the contractor to report in a timely manner may result in a finding of noncompliance. The County in its sole discretion and/or upon written request may require additional reports regarding MBE/WBE.

Retaining Records: All MBE/WBE records must be retained for 3 years following the expiration or any earlier termination of the contract and shall be available for inspection and photocopying by the County.

Investigation and Notification: Whenever the County believes the bidder, contractor, or any subcontractor may not be operating in compliance with the MBE/WBE requirements, the County may, in its sole discretion, conduct an investigation. If the County finds the bidder, contractor, or any subcontractor is not in compliance with the MBE/WBE requirements, the County may exercise any and all rights and remedies available to the County, under the contract, at law or equity, as deemed applicable and appropriate by the County in its sole discretion.

DETERMINATION OF BID RESPONSIVENESS

Request for Deviation: If the bidder is unable to procure from MBE/WBE's (by subcontract or otherwise), supplies and services, any combined value of which equals the required percentage of the total value of the contract, the bidder shall request, in writing, a deviation or waiver of the contract requirements. To obtain such a waiver, the bidder must submit the following information at the time bids are due:

The request for waiver request shall include (1) a signed unavailability statement (Form D) executed by all MBEs and WBEs that the bidder solicited for participation and (2) Outreach Efforts/Compliance Statement (Form E) that demonstrates the bidder's good faith efforts to comply with the contract requirements, including copies of solicitation documentation to all potential subcontractors:

Emails, letters, facsimile transmittals and confirmations containing plans, specifications, and anticipated time schedule for portions of the work to be performed and meeting notes and agendas clearly identifying the certified MBE or WBE classification and dates that the bidder contacted each MBE/WBE; and

Telephone logs containing names, addresses, dates, telephone numbers, work to be performed, anticipated time schedule and classification of certified MBEs and WBEs contacted.

Bid Rejection/Liquidated Damages/Contract Breach: For Purchasing contracts, the apparent low bidder's failure to provide a responsive MBE/WBE Plan as required by the solicitation may result in the bidder being deemed non-responsive and the County's rejection of the bid. FOR DPW CONTRACTS, (a) THE SOLICITATION, INCLUDING BUT NOT LIMITED TO THIS MBE/WBE PARTICIPATION SUMMARY AND ALL RELATED COUNTY MBE/WBE DOCUMENTS, AND (b) THE BID RESPONSE SHALL COLLECTIVELY OVERRIDE, CONTROL AND GOVERN OVER Section GP 7.29 of the February 2000 Baltimore County Department of Public Works' Standard Specifications for Construction and Materials. For DPW contracts, the apparent low bidder's failure to provide a responsive MBE/WBE Plan in the bidder's response as required by (a) described above, may result in the Director of the Department of Public Works' determination that the bid is non-responsive and recommendation to reject the bid as non-responsive despite the bidder being the apparent low bidder. For DPW contracts, if the County awarded the contract to the apparent low bidder who provided a responsive MBE/WBE Plan, but, if after said award and before execution of Contract Documents, the apparent low bidder fails to comply with the MBE/WBE Plan as required in (a) and (b) above, such failure may result in the Director of the Department of Public Works' recommendation to annul the award and forfeiture of the bidder's Proposal Guaranty to the County, not as a penalty, but as liquidated damages sustained. In such case, the County may proceed as it determines to be in its best interest, including but not limited to, the Notice of Award may be made to the next lowest responsive and responsible bidder or the work may be re-advertised.

After execution of each and any applicable County contract, in the event a contractor becomes aware it may or will fail to fulfill the applicable MBE/WBE requirements and/or may or will deviate from the contractor's bid response/contract terms, the contractor shall promptly advise the County of this in writing. Thereafter, the County will determine what action or remedy, if any, is appropriate on a case-by-case, contract by contract, basis. For example, such contractor failure may result in (i) a breach for which the County determines it is appropriate to declare a contract default and thereafter take further action and/or remedy as deemed appropriate by the County in its sole discretion, or (ii) a contract breach upon which the County may elect take no further action if deemed appropriate by the County in its sole discretion, or (iii) if mutually agreeable to the County and the contractor, such revision shall be documented via a contract amendment, executed by legally authorized representatives of the County and the contractor as described below in "Approval Required for Changes", or (iv) other actions or remedies as deemed appropriate by the County. Each action and/or remedy described above is at the sole discretion of the County.

Cooperation in Reviews: The bidder will cooperate with the County in any reviews of the contractor's procedures and practices with respect to MBE or WBE firms, which the County may from time to time conduct in its sole discretion.

Approval Required for Changes: Any and all changes to the contractor's use of MBE/WBE subcontractors during the contract term must be mutually agreeable to the County and the contractor and shall be documented via a contract amendment, executed by legally authorized representatives of the County and the contractor.

Other: If the documents used to determine the contractor's efforts, achievement of, and/or the status of an MBE/WBE requirement or fulfillment thereof contain false, misleading or misrepresenting information, the contractor may be declared in breach of the contract and/or the County may take any and all actions and/or remedies available to the County under the contract, at law, or in equity. If an MBE/WBE is disqualified by any public entity, including but not limited to, Baltimore City, the State or MDOT, at any time after award or during the term of the contract, the County may, in its sole discretion, take any action or no action, as deemed appropriate by the County, including but not limited to, review of each situation on a case-by-case basis, require the prime contractor to promptly submit for County approval, the contractor's plans for fulfilling the required MBE/WBE participation under the contract, and/or request such detail and additional information as the County, in its discretion deems appropriate.



EXECUTIVE ORDER

USE OF MINORITY BUSINESS ENTERPRISES AND WOMEN'S BUSINESS ENTERPRISES IN COUNTY CONTRACTS

WHEREAS, Baltimore County, Maryland recognizes the important contributions made by Minority Business Enterprises and Women's Business Enterprises to the overall economic health of the region; and

WHEREAS, it is the goal of this Administration to provide maximum opportunities for Minority Business Enterprises and Women's Business Enterprises to participate in all phases of procurement in the county, including construction, purchases of goods and services, architectural and engineering agreements, consultant contracts and other professional service agreements;

NOW, THEREFORE, it is this 4th day of June, 2009, by the County Executive of Baltimore County, Maryland, ordered that the March 5, 2004 Executive Order, Utilization of Minority Business Enterprises and Women's Business Enterprises in County Contracts, is hereby repealed and replaced by the following:

SECTION 1. DEFINITIONS.

In this Executive Order, the following words have the meanings indicated:

(A) (1) "Discretionary dollars" means dollars spent in county procurements from county capital funds and county operating funds.

(2)(I) "Discretionary dollars" does not include dollars spent on procurements or classes of procurements for which the county is not able to control or influence the utilization of MBE or WBE firms.

(II) These procurements are likely to include or involve:

- (a) other governmental or quasi-governmental agencies;
- (b) utilities;
- (c) proprietary items;
- (d) emergency procurements; and
- (e) operating grants to arts entities.

(B) “Minority Business Enterprise” or “MBE” means a business enterprise that is owned, operated and controlled by one or more minority group members (African American, Hispanic American, Asian American, or Native American) who have at least 51% ownership and in which the minority group members have operational and managerial control, interest in capital, and earnings commensurate with their percentage of ownership.

(C) “Women’s Business Enterprise” or “WBE” means a business enterprise that is owned, operated, and controlled by one or more women who have at least 51% ownership and in which the women have operational and managerial control, interest in capital and earnings commensurate with their percentage of ownership.

(D) “Waiver” means an adjustment to the MBE/WBE goals established by the Procurement Review Group for a solicitation that may be requested by a bidder at the time of bid submission.

SECTION 2. MINORITY AND WOMEN’S BUSINESS ENTERPRISE GOALS.

(A) An overall goal of 15% of the cumulative total of all discretionary dollars spent in a fiscal year of county procurements is to be awarded to and/or performed by MBE and WBE firms.

(B) All county offices and departments shall make good faith efforts to equitably use the services of MBE and WBE firms.

(C) The Office of Fair Practices and Community Affairs (hereinafter “Office of Fair Practices”) shall submit to the County Executive an annual written report on the efforts made in accordance with this section.

(D) All contracts or other agreements between Baltimore County and other governmental agencies, quasi-governmental agencies, developers, or any other parties, involving the provision of discretionary dollars from or through the county for the purpose of contracting with such entities to acquire and build, renovate, rehabilitate, demolish or otherwise perform a public works function shall include provisions regarding participation by MBE firms and WBE firms consistent with this Executive Order.

SECTION 3. PROCUREMENT REVIEW GROUP

(A)(1) There is a Procurement Review Group that, at a minimum, shall consist of at least one representative from:

- (I) The Office of Budget and Finance;
- (II) The Department of Public Works; and
- (III) The Office of Fair Practices.

(2) The Chairman of the Procurement Review Group may request the presence and participation (without voting rights) of representatives from other agencies.

(B) The representative from the Office of Fair Practices shall serve as the Chairman of the Procurement Review Group.

(C) (1) The Procurement Review Group shall review bid solicitations involving discretionary dollars to determine whether opportunities exist for MBE or WBE participation or both MBE and WBE participation.

(2) The Procurement Review Group may make recommendations for dividing total requirements of a solicitation into smaller contracts or shorter terms to allow maximum MBE or WBE participation or both MBE and WBE participation.

(3) (I) The Procurement Review Group may recommend that the minimum MBE or WBE participation or both MBE and WBE participation in an individual procurement or class of procurements be more or less than the 15% overall goal established in Section 2, as appropriate.

(II) Any recommendation that the minimum MBE or WBE participation or both MBE and WBE participation in an individual procurement or class of procurements be more or less than the 15% goal established in Section 2 shall be reasonable and shall reflect the number of willing and able firms available to perform the items of work to be subcontracted.

(D) (1) The Procurement Review Group may adopt rules of procedure for the conduct of its business.

(2) The rules may include:

(I) rules and standards for evaluating and determining MBE and WBE goals for solicitations;

(II) rules for evaluating requests for waivers; and

(III) refinements to the definition of “discretionary dollars.”

(E) The Procurement Review Group shall meet regularly as determined by the Chairman.

SECTION 4. SOLICITATIONS - OPPORTUNITIES.

In accordance with the recommendations of the Procurement Review Group, the Office of Budget and Finance and the Department of Public Works shall:

(1) To the extent practicable and consistent with other provisions of this Executive Order, take the steps outlined in this Section to ensure that MBE firms and WBE firms have maximum opportunity to participate on county contracts;

(2) Use best practices (which may include, but not be limited to, use of the county website, advertisement in newspapers, and other media outlets) to notify MBE and WBE firms of bid solicitations in accordance with Section 6 (Formal Bid Procedure) of the Purchasing Manual;

(3) Inform all prospective bidders of the county's policy concerning MBE and WBE participation during the solicitation phase of the bid process; and

(4) To the extent practicable, divide total requirements of a solicitation into smaller contracts or shorter terms to allow maximum MBE and WBE participation.

SECTION 5. AGENCY RESPONSIBILITIES.

(A) It shall be the responsibility of the Office of Fair Practices to ensure that county offices and departments adhere to the procedures and provisions of this Executive Order.

(B) The Office of Fair Practices shall:

(1) Post a list of certified MBE and WBE subcontractors on the county website;

(2) On request, provide a list of certified MBE and WBE subcontractors to prospective bidders; and

(3) Assume primary responsibility for reviewing, on a continuing basis, all aspects of the use of Minority Business Enterprises and Women's Business Enterprises in county contracts to assure that the purpose of this Executive Order is being achieved.

(C) The Department of Public Works shall:

(1) Post lists of pre-qualified consultants and contractors on the county website; and

(2) On request, provide a list of pre-qualified consultants and/or contractors to MBE and WBE subcontractors.

(D) The Office of Fair Practices and the Office of Budget and Finance shall jointly:

(1) Assist county offices and departments in identifying qualified certified MBE and WBE firms ready and able to provide services, equipment, materials and supplies to the county;

(2) If applicable, attend pre-bid meetings and bid openings to provide information to prospective bidders about the county's policy with respect to MBE and WBE participation;

(3) Review MBE and WBE participation plans submitted by general contractors to determine whether goals are being achieved;

(4) Provide outreach services to MBE and WBE firms by working closely with the Department of Public Works; and

(5) Provide periodic reports to the County Executive and County Council.

SECTION 6. BID REQUIREMENTS.

(A) (1) All bidders shall submit a list of all subcontractors contacted in preparation of their bid package or proposal.

(2) The list shall include the service to be performed, bid amount, and the race/ethnicity/gender of the business owner(s).

(B) (1) All bidders shall submit a list of all subcontractors to be used on a county contract in the bid package.

(2) This list shall include all subcontractors (both MBE/WBE and non-MBE/WBE) used, the service to be performed, the total amount to be paid, and the race/ethnicity/gender of the owner.

(C) Bidders (including certified MBE/WBE prime consultants and general contractors) shall make a good faith effort to meet the goals established in a bid for a project.

(D) Subject to subsection (E) of this Section, a bidder shall be deemed non-responsive if:

(1) The bidder does not comply with Subsections (A), (B), and (C) of this Section; or

(2) The bidder does not meet the goal established by the Procurement Review Group.

(E) (1) If a bidder is unable to comply with the goals established in a bid for a project, the bidder may submit a request for a waiver at the time of bid submission.

(2) The request for waiver shall include documentation that demonstrates the bidder's good faith efforts to comply with the goals, including:

(I) Signed unavailability statements from all MBEs and WBEs that the bidder solicited for participation; and

(II) Copies of solicitation documentation to all potential subcontractors, including:

(a) Emails, letters, facsimile transmittals and confirmations containing plans, specifications, and anticipated time schedule for portions of the work to be performed and meeting notes and agendas clearly identifying the certified MBE or WBE classification and dates that the bidder contacted each; and

(b) Telephone logs containing names, addresses, dates, telephone numbers, work to be performed, anticipated time schedule and classification of certified MBEs and WBEs contacted.

SECTION 7. CERTIFICATION.

In calculating the county's success in achieving the goals established in this Executive Order, the county may include the following:

(1) On contracts that have MBE/WBE subcontracting requirements, only the participation by subcontractors certified by the Maryland Department of Transportation or Baltimore City's Minority Business Office Certification shall be counted;

(2) For contracts by the Office of Budget and Finance, contracts with non-certified prime contractors who certify their status as an MBE/WBE under oath or Prime contractors certified by any jurisdiction as an MBE/WBE shall be counted toward the MBE/WBE participation; and

(3) For Public Works contracts, only prime consultants and general contractors certified by Maryland Department of Transportation or Baltimore City's Minority Business Office Certification programs shall be counted toward the MBE/WBE participation.

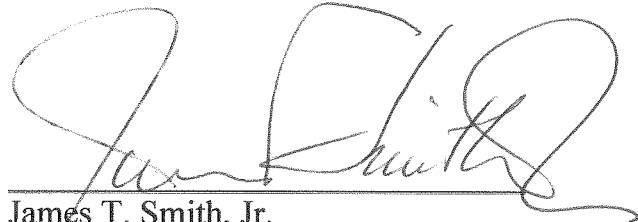
SECTION 8. EFFECTIVE DATE.

This Executive Order shall take effect on the day it is signed by the County Executive and shall continue in effect until changed by another Executive Order.

ATTEST:



Peter O'Malley
Chief of Staff to the County Executive



James T. Smith, Jr.
County Executive

Reviewed for legal form and sufficiency
and approved for execution



Office of the County Attorney 6-4-09
Date

BALTIMORE COUNTY, MARYLAND
Certified MBE/WBE Utilization and Fair Solicitation Affidavit
(FORM A)

**This document must be completed and submitted with Bid/Proposal to Baltimore County.*

NOTE: If you do not complete and submit this form with your bid or offer to the County, the County may, in its sole discretion, deem your bid or offer NON-RESPONSIVE and accordingly the COUNTY WILL NOT CONSIDER YOU FOR CONTRACT AWARD.

* * * * *

I acknowledge the:

- The goals, if applicable, of:
 - ____ % for certified MBE-owned businesses and
 - ____ % for certified WBE-owned businesses.

I have made a good-faith effort to achieve this MBE/WBE requirement. If awarded the contract, I will comply with this MBE/WBE contract requirement and will continue to use my best efforts to increase MBE/WBE participation during the contract term.

PLEASE CHECK ONE BOX (EITHER 1, 2, OR 3)

NOTE: ANY INCONSISTENCY BETWEEN THIS FORM AND FORM B MBE/WBE PARTICIPATION MAY RENDER A BID NON-RESPONSIVE AND THE COUNTY WILL NOT CONSIDER YOU FOR CONTRACT AWARD.

1 ☐ Prime contractor has met the MBE/WBE contract requirements for this solicitation and contract. I submit the MBE/WBE Participation Form B and Form C, along with this Affidavit, which details how the prime contractor will achieve the contract requirements.

or

2 ☐ After having made a good-faith effort to achieve the MBE/WBE requirements, the prime contractor can only achieve partial success. I submit the MBE/WBE Participation Form B, Form C, Form D and Form E along with this Affidavit, which details how the prime contractor will partially achieve the contract requirements.

I request a partial waiver and will meet the following MBE/WBE participation goals:

- Partial waiver of MBE/WBE subcontract participation subgoals, if applicable:
 - ____ % for certified MBE-owned businesses and
 - ____ % for certified WBE-owned businesses.

or

3 ☐ After having made a good faith effort to achieve the MBE/WBE requirements for this contract, the prime contractor is unable to achieve the requirements and/or sub requirements for this contract. I submit the MBE/WBE Participation Form D and Form E, along with this Affidavit, which details the steps the prime contractor has taken in an attempt to achieve the contract requirements.

I request a full waiver.

BALTIMORE COUNTY, MARYLAND
Certified MBE/WBE Utilization and Fair Solicitation Affidavit
(FORM A)

IF YOU HAVE CHECKED BOX 2 OR 3, THE FOLLOWING IS APPLICABLE:

- 1) If a bidder is unable to comply with the goals established in a bid for a project, the bidder may submit a request for a waiver at the time of bid submission. However, occasions for granting waivers will be limited.
- 2) The request for waiver shall include documentation that demonstrates the bidder's good faith efforts to comply with the goals, including:
 - (I) Signed unavailability statements from all MBEs and WBEs that the bidder solicited for participation; and
 - (II) Copies of solicitation documentation to all potential subcontractors, including:
 - (a) Emails, letters, facsimile transmittals and confirmations containing plans, specifications, and anticipated time schedule for portions of the work to be performed and meeting notes and agendas clearly identifying the certified MBE or WBE classification and dates that the bidder contacted each; and
 - (b) Telephone logs containing names, addresses, dates, telephone numbers, work to be performed, anticipated time schedule and classification of certified MBEs and WBEs contacted.

As I have checked Box 2 or 3 of this Affidavit, I understand I must submit the following supporting documentation with the bid:

- *MBE/WBE Participation Schedule* (Form B)
- *MBE/WBE Disclosure and Participation Statement* (Form C)
- *MBE/WBE Subcontractors Unavailable Certificate* (Form D) (if applicable)
- *MBE/WBE Outreach Efforts – Compliance Statement* (Form E)
- Any other documentation in accordance with Section 6 (E) Bid Requirements of the attached Executive Order.

I acknowledge that the MBE/WBE subcontractors/suppliers listed on the *MBE/WBE Participation Schedule* (Form B) will be used to accomplish the percentage of MBE/WBE participation that the prime contractor shall achieve.

In the solicitation of subcontract quotations or offers, MBE/WBE subcontractors were provided the same information and amount of time to respond, as were non-MBE/WBE subcontractors.

The solicitation process was conducted in such a manner so as to not place MBE/WBE subcontractors at a competitive disadvantage to non-MBE/WBE subcontractors.

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

BALTIMORE COUNTY, MARYLAND
Certified MBE/WBE Utilization and Fair Solicitation Affidavit
(FORM A)

Bidder/Offeror Name

Affiant Signature

Address

Printed Name & Title

Address (continued)

Date

BALTIMORE COUNTY, MARYLAND MBE/WBE PARTICIPATION SCHEDULE (FORM B)

****This document must be completed and submitted with Bid/Proposal to Baltimore County.***

NOTE: If you do not complete and submit this form with your bid or offer to the County, the County may, in its sole discretion, deem your bid or offer NON-RESPONSIVE and accordingly the COUNTY WILL NOT CONSIDER YOU FOR CONTRACT AWARD.

PLEASE COMPLETE THE FOLLOWING INFORMATION FOR EACH MBE/WBE PARTICIPANT

Prime Contractor's Name	Prime Contractor's Address and Telephone Number
Project Name and Description	Project Location
	Base Bid \$_____
1. MBE/WBE Firm Name	MBE/WBE Firm Address
MBE/WBE Firm Telephone Number _____ MBE/WBE Firm Fax Number _____ ☐ MDOT Certification ☐ Baltimore City Certification # _____	MBE/WBE Group Type ☐ (African American) ☐ (Women) ☐ (Asian) ☐ (Hispanic) ☐ (American Indian) ☐ (Other)
Work to be Performed and Subcontract Dollar Amount	Percent of Total Contract
2. MBE/WBE Firm Name	MBE/WBE Firm Address
MBE/WBE Firm Telephone Number _____ MBE/WBE Firm Fax Number _____ ☐ MDOT Certification ☐ Baltimore City Certification # _____	MBE/WBE Group Type ☐ (African American) ☐ (Women) ☐ (Asian) ☐ (Hispanic) ☐ (American Indian) ☐ (Other)
Work to be Performed and Subcontract Dollar Amount	Percent of Total Contract
3. MBE/WBE Firm Name	MBE/WBE Firm Address
MBE/WBE Firm Telephone Number _____ MBE/WBE Firm Fax Number _____ ☐ MDOT Certification ☐ Baltimore City Certification # _____	MBE/WBE Group Type ☐ (African American) ☐ (Women) ☐ (Asian) ☐ (Hispanic) ☐ (American Indian) ☐ (Other)
Work to be Performed and Subcontract Dollar Amount	Percent of Total Contract
MBE/WBE Total Dollar Amount	Total MBE/WBE Percent of Entire Contract
Form Prepared by:	Reviewed and Accepted by Minority Business Enterprise Officer
Name _____	Name _____
Title _____	Title _____
Date _____	Date _____

Total MBE Participation:	_____ %	\$ _____
Total WBE Participation:	_____ %	\$ _____
Total Participation:	_____ %	\$ _____

BALTIMORE COUNTY, MARYLAND MBE/WBE DISCLOSURE AND PARTICIPATION STATEMENT (FORM C)

****This document must be completed and submitted with Bid/Proposal to Baltimore County.***

NOTE: If you do not complete and submit this form with your bid or offer to the County, the County may, in its sole discretion, deem your bid or offer NON-RESPONSIVE and accordingly the COUNTY WILL NOT CONSIDER YOU FOR CONTRACT AWARD.

Contract Name and Description: _____

Name of Prime Contractor: _____

Name of MBE/WBE Subcontractor: _____

☐ MDOT ☐ Baltimore City # _____
Certification Number

1. Work/Services to be performed by MBE/WBE Subcontractor: _____

2. Subcontract Amount: \$ _____

3. Bonds - Amount and type required of Subcontractor if any: _____

4. MBE/WBE Anticipated Commencement Date: _____ Completion Date: _____

5. This MBE/WBE subcontract is _____ percent of the County contract cost:

6. This is a MBE-Owned Business Firm: Yes _____ No _____

7. This is a WBE-Owned Business Firm: Yes No

The undersigned MBE/WBE subcontractor and prime contractor will enter into a contract for the work/service indicated above upon the prime contractor's execution of a contract for the above referenced project with the Baltimore County. The undersigned subcontractor is a MDOT or Baltimore City certified MBE/WBE. The terms and conditions stated above are consistent with our agreements.

Signature of MBE/WBE Subcontractor: _____ Date: _____

The terms and conditions stated above are consistent with our agreements.

Signature of Prime Contractor: _____ Date: _____

BALTIMORE COUNTY, MARYLAND
MBE/WBE - SUBCONTRACTOR UNAVAILABILITY CERTIFICATE
(FORM D)

**If applicable, this document must be completed and submitted with Bid/Proposal to Baltimore County.*

NOTE: If you do not complete and submit this form with your bid or offer to the County, the County may, in its sole discretion, deem your bid or offer NON-RESPONSIVE and accordingly the COUNTY WILL NOT CONSIDER YOU FOR CONTRACT AWARD.

1. It is hereby certified that the firm of _____
(Name of Minority firm)

located at _____
(Number) (Street)

(City) (State) (Zip)

was offered an opportunity to bid on the _____ contract.

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

Signature of Minority Firms MBE/WBE Representative

Title

Date

MDOT/Baltimore City Certification #

Telephone #

3. PRIME CONTRACTOR SIGNATURE AND CERTIFICATION

I certify under oath that I contacted the Certified MBE/WBE and they advised me that they are unavailable, unable to perform the work/services for the above-contract or failed to respond to repeated requests for a price proposal for the above-contract.

Signature of Prime Contractor

Title

Date

BALTIMORE COUNTY, MARYLAND
MBE/WBE - OUTREACH EFFORTS - COMPLIANCE STATEMENT
(FORM E)

**If applicable, this document must be completed and submitted with Bid/Proposal to Baltimore County.*

NOTE: If you do not complete and submit this form with your bid or offer to the County, the County may, in its sole discretion, deem your bid or offer NON-RESPONSIVE and accordingly the COUNTY WILL NOT CONSIDER YOU FOR CONTRACT AWARD.

In conjunction with the bid or offer submitted in response to Solicitation Number _____, I state the following:

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

2. Attached to this form are copies of the solicitation documentation in accordance with Section 6 (E) Bid Requirements of the Executive Order, used to solicit certified MBE/WBEs for the subcontract opportunities accompanied with the signed MBE/WBE Subcontractor Unavailability Certificate (Form D).

3. Bidder/Offeror made the following attempts to solicit MBE/WBEs:

Signature – Bidder Offeror

Print or Type Name of Firm

Street Address

City State Zip Code

Date

BID REPLY LABEL

*CUT ON THE DOTTED LINE AND SECURE
TO THE OUTSIDE OF YOUR RESPONSE
ENVELOPE OR CARTON.*

REQUEST FOR PROPOSAL	
NO. P-043 12/09/10, 2:00 PM ENERGY AUDIT FOR COUNTY COURTS BUILDING	
TO:	BALTIMORE COUNTY, MARYLAND PURCHASING DIVISION 400 WASHINGTON AVE, ROOM 148 TOWSON, MARYLAND 21204-4665

BE SURE TO SEPARATE THE PRICE PROPOSALS FROM THE TECHNICAL PROPOSALS. PRICE AND TECHNICAL PROPOSALS MUST BE BOUND SEPARATELY SO THAT EVALUATORS CAN REVIEW THE TECHNICAL PROPOSALS WITHOUT KNOWLEDGE OF THE PRICE PROPOSALS.

PLEASE USE THE LABELS BELOW TO CLEARLY MARK THE OUTSIDE OF BOTH THE TECHNICAL PROPOSALS AND PRICE PROPOSALS WITHIN YOUR ENVELOPE OR CARTON.

TECHNICAL PROPOSAL

PRICE PROPOSAL

**BALTIMORE COUNTY, MARYLAND
REQUEST FOR PROPOSAL NO. P-043
ENERGY AUDIT FOR COUNTY COURTS BUILDING**

GENERAL CONDITIONS

GENERAL CONDITIONS AND SPECIFICATIONS

1. BACKGROUND.

- 1.1. Baltimore County (the "County"), is requesting services of an energy consultant to conduct an energy assessment of the County Courts Building, 401 Bosley Avenue, Towson, MD 21204. The County Courts Building is a five story pre-cast concrete paneled structure built in 1974. It houses the Baltimore County Circuit Courts, the Baltimore County Sheriff's Office, and the Baltimore County 911 Center, which is a 24 hour operation.

1.2 Major Mechanical Equipment

1.2.1 *Chillers*

- 1.2.1.1 Two (2) 490-ton steam absorber chillers, CH-1 and CH-2, support the building's cooling load and are located in the ground floor boiler room. CH-1 was installed during the original construction of the building completed in 1972. CH-2 was installed during Phase 2, completed in 1974. Both chillers have exceeded their estimated service life of 23 years.
- 1.2.1.2 An emergency chiller was installed in the garage for the 911 call center in 1991. The chiller serves (2) Liebert units that were located in a previous CAD room, (8) fan coil units located in the Radio room, an air-conditioning unit in the UPS room, and another fan coil unit in the telephone room. The chiller is not connected to the air handling unit that serves the 911 dispatch areas. The air-cooled chiller is 35 tons and is estimated to have four (4) years remaining until the unit reaches the end of its service life. The relocation of the 911 center, to the North end of the first and mezzanine floors, is now under construction, when the new center is operational, in January 2012, this emergency chiller will be removed.
- 1.2.1.3 Two (2) 1870-gpm, 856-ton induced draft, crossflow cooling towers replaced the original cooling towers in 2003. CT-1 is located on the South roof of the building; CT-2 is located at the North end. Each cooling tower has four (4) 20-HP fans with single speed, 1,800-rpm motors. Varying capacity of the cooling towers is difficult due to the single speed fan motors and concerns about this issue have been voiced by maintenance personnel. The towers have approximately 13 years of useful life remaining.

1.2.2 *Boilers*

- 1.2.2.1 Two (2) 300-hp firebox boilers, B-1 and B-2, provide steam to the building. The steam provided by the boilers supports the chillers, heating hot water converter, and domestic hot water generator. Therefore, the boilers run year round in order to support the chillers and domestic hot water in the summer and heating the building in the winter. the boilers were installed during original construction and have exceeded their 30 year estimated service life.

1.2.3 Air Handling Units

- 1.2.3.1 Air Handling Units (AHU) 1 through 17 were installed during the original construction of the building, approximately 1972. All, with the exception of AHU-2, are constant volume air handling units. AHU-2 is a variable air volume unit and delivers tempered outside air to other air handling units throughout the building. AHU-2 is now being replaced. The majority of these units have hot water heating coils; however, AHU-1, AHU-2, AHU-3, and AHU-4, located in the penthouse, have steam heating coils. The steam heating coil on AHU-4 appeared to have been recently replaced during survey.
- 1.2.3.2 Air handling units provided on the 3rd floor during the original construction, AHU-5 through 16, were installed above the ceiling and have limited access to them. AHU-18, 19, 20, and 21 were installed during Phase 2 building construction, approximately 1974. All of these units are constant volume. Steam heating coils are installed in units 18, 20, and 21.
- 1.2.3.3 AHU-22 and AHU-23 were installed during the 4th floor renovation in 1976. Both units are variable air volume. AHU-22 provides 19,350-cfm of tempered outside air to the building and is now being replaced. AHU-23 serves the 4th floor and is now being replaced.
- 1.2.3.4 AHU-24 was installed in the penthouse in 1982. AHU-24 serves the 5th floor, has a steam heating coil, and is sized for 28,500-cfm of supply air.
- 1.2.3.5 All of the units mentioned above, with the exception of AHU-3, have exceeded their estimated service life of 20 years. AHU-3 is now being replaced as part of the 911 Call Center relocation project.
- 1.2.3.6 The 911 Call Center was completed in 1989. One air handling unit serves the space, AHU-1-911, and is sized for 14,600-cfm. Two down-flow air conditioning units, AHU-2-911 and AHU-3-911, serve computing spaces in the call center. These units are sized for 2,200-cfm each.
- 1.2.3.7 Two units were installed on the ground floor during the NW Corner renovation (1990) of the ground floor. AHU-1-NW is located in the boiler room mechanical office and is sized for 4,270-cfm. AHU-2B is installed in a small mechanical room off the ground floor corridor and is sized for 1,705-cfm.
- 1.2.3.8 Two air handling units were installed during the South Mezzanine renovation in 1991: AHU-1-SM and AHU-2A. These units have steam heating coils and are sized for 2,695 and 4,245-cfm respectively. AHU-1-SM is a variable air volume unit; AHU-2A is a constant volume unit.
- 1.2.3.9 AHU-26 is located in the penthouse and serves Courtrooms 13, 14, and 15. It is sized for 2,450-cfm, has a hot water heating coil, and was installed during the 4th floor Circuit Court renovation in 1997. The unit was also provided with a variable frequency drive.
- 1.2.3.10 Air handling units 1-911, 2-911, 1-SM, 2A, 1-NW, and 2B are within a year of the end of their estimated service lives. These air handling units will be removed when the existing 911 Call Center is demolished in January 2012.

1.2.4 Heating and Ventilating Units

- 1.2.4.1 Four (4) heating and ventilating units provide heat and ventilation for the garage. HV-1, HV-2, HV-3, and HV-4 have hot water heating coils and were installed

when the building was originally constructed. A fifth unit, HV-5, has an electric heating coil and serves the tunnel. HV-5 was also installed in 1972. All heating and ventilating units have well exceeded their estimated service life of 20 years.

1.2.5 Return and Exhaust Fans

1.2.5.1 *Return Fans*

- A. Return fans 1, 2, 3, and 4 were installed during Phase 2 of building construction and are located in the penthouse. RAF-1 returns 3,070-cfm of air to AHU-1. RAF-3 is sized for 5,000-cfm and return air to AHU-4. AHU-18 receives 18,690-cfm of return air from RAF-4.
- B. RAF-2 was replaced with a larger fan in 1990 during the Law Library renovation in 1990. After replacement, RAF-2 delivers 8,500-cfm of return air to AHU-3.
- C. RAF-5 is now being replaced.
- D. RAF-6 returns air to AHU-24 and was installed in 1982 during the 5th floor fit out. The fan's capacity is 24,000-cfm.
- E. Two return air fans were installed during the 911 Call Center renovation, RAF-1-911 and RAF-2-911. During the South Mezzanine renovation, two more return fans were installed. RAF-1-SM and RAF-2-SM are sized for 2,695-cfm and 3,820-cfm respectively. These fans were installed in 1991. These fans will be removed when the existing 911 Call Center is demolished in January 2012.
- F. The estimated service life for the return air fans is 20 years. RAF-1, 3, 4, 5, and 6 have exceeded their useful lives. All other return air fans are within 3 years of reaching the end of their estimated service life.

1.2.5.2 *Exhaust Fans*

- A. The majority of exhaust fans in the building were installed during the original construction of the building. Exhaust fans 1 through 27 were installed with the original 1972 construction. EF-28 and EF-29 followed in the second phase of construction, in approximately 1974. Exhaust fans 26 and 27 were replaced in 2003.
- B. Exhaust fans 34 through 41 were installed during the 4th floor renovation in 1976. In 1982, fans 42, 43, and 44 were added for the 5th floor renovation.
- C. EF-34 and EF-37 have since been removed. EF-35 was replaced in 1997. With the exception of these three fans, all fans mentioned above have exceeded their estimated useful life of 25 years. EF-40 is now being deleted. EF-36, 38, and 41 are now being replaced.
- D. Four other exhaust fans in the building have a few years remaining before the equipment reaches the end of its 25 year estimated service life. These fans are:
 - EF-45-911 and EF-1-911, added for the 911 Call Center fit out in 1989.

- EF-45, added during the Law Library renovation in 1990.
- EF-35, replaced in 1997.

1.2.6 Water Distribution

1.2.6.1 *Chilled Water Pumps*

- A. Three (3) 1,200-gpm, 50-HP pumps, located in the boiler room, provide chilled water to the building equipment. One of these pumps is used for standby. Two of these pumps, P-11 and P-12 were installed during the original 1972 building construction. P-17, the third chilled water pump, was installed during Phase 2 in approximately 1974. The estimated service life for the pumps above is 20 years. All three pumps have exceeded that timeframe.
- B. An additional pump was installed in 1991 for chilled water circulation through the emergency chiller installed in the garage. This pump will be removed when the existing 911 Call Center is demolished in January 2012.
- C. Three (3) 1,870-gpm, 60-HP pumps are available to provide condenser water to the chillers and are located in the boiler room. One of these pumps is used for standby. Two of these pumps, P-9 and P-10 were installed during the original 1972 building construction. P-16, the third condenser water pump, was installed during Phase 2 in approximately 1974. The estimated service life for these pumps is 20 years and all condenser water pumps are operating beyond this estimate.

1.2.6.2 *Heating Water Pumps*

- A. Heating water from the heating hot water convertor is pumped to coils in the building from two (2) heating water pumps in the boiler room. P-5 and P-6 are 1,300-gpm, 30-HP each and piped for one of these pumps to be on standby. Both pumps were installed in 1972 when the building was originally built and have exceeded their estimated useful services life of 20 years.

1.2.7 Reheat Coils

- 1.2.7.1 Electric reheat coils throughout the building monitor and control space heating. All electric reheat coils were either installed during the original 1972 building construction or Phase 2 of construction (1974). Eleven additional reheat coils and two electric convectors were installed in the 911 Call Center in 1989. These coils, however, will be removed when the existing 911 Call Center is demolished in January 2012. The estimated equipment service life for electric coils is 15 years. Therefore, the electric reheat coils in the building (approximately 121 in total) have far exceeded their estimated useful life.

1.2.8 Fan Coil Units

- 1.2.8.1 Dual temperature fan coil units (FCU) are located throughout the building and, for the most part, serve the exterior skin load. Approximately 206 fan coil units (type A) were installed between the original and Phase 2 construction of the building. Approximately 11 type B units were installed in that same timeframe. Type A units (FCU-A) were sized for 415-cfm at high fan speed and type B (FCU-B) were sized for 600-cfm at the same fan speed.

- 1.2.8.2 Three types of fan coil units were used during the 5th floor renovation in 1982. FCU-A was sized only for 10.7-MBH of cooling. FCU-B and FCU-C were sized at the same capacity, 7.4-MBH heating and 10.7-MBH cooling, according to the drawing schedule. However, FCU-C was not located on the drawings provided. Approximately 47 type A and 13 type B fan coil units were installed during construction.
- 1.2.8.3 Fan coil units are estimated to have a 20 year equipment service life. All fan coil units described above (approximately 217) are in poor condition and have exceeded their useful life.
- 1.2.8.4 Fan coil units installed during the 911 Call Center renovation in 1989 will be removed when the existing 911 Call Center is demolished in January 2012. Fan coil units installed during the Law Library renovation in 1990 are now being replaced.
- 1.2.8.5 Fan coil units were installed on the 4th floor during the Circuit Courts renovation in 1997. Approximately twelve (12) units were installed at this time. All have approximately 7 years left before they reach the end of their 20 year estimated equipment useful life. The balance of the fan coil units on the 4th floor are now being replaced.

1.2.9 Variable Air Volume Terminals

- 1.2.9.1 VAV units were then installed on the 5th floor in 1982. VAV units were scheduled by air volume ranges and no designations were specified. Approximately 81 terminal units were installed throughout the floor. All VAV units installed during the 5th floor renovations are operating beyond their estimated service life of 20 years.
- 1.2.9.2 VAV terminal units were installed in the south mezzanine office areas and the Law Library. Approximately eleven (11) VAV units were installed in the south mezzanine offices in 1991. In addition, 19 are estimated to have been installed in the Law Library during the 1990 renovation. All of these units are either being replaced now or will be removed when the existing 911 Call Center is demolished in January 2012. Approximately 17 terminal units were installed on the 4th floor during the Circuit Courts renovation in 1997. These units have approximately seven (7) years until they reach the end of their estimated equipment useful life. The balance of the VAV units on the 4th floor are now being replaced.

1.2.10 Miscellaneous Mechanical Equipment

1.2.10.1 *Controls*

- A. The current controls system is primarily pneumatic but does include some digital technologies. Pneumatic/electric switches are installed throughout the building in order for the newer digital control technology to be compatible with the pneumatic control system. The compressed air for the pneumatic system is provided by two (2) 7.5-HP air compressors located in the boiler room.
- B. The majority of the controllers and panels installed in the building are Honeywell Delta 2000, the original controls system installed in the building. The Honeywell Delta 2000 system is now obsolete and hardware is difficult to find when repairs are required.

- C. Approximately 7 years ago panels and controllers with newer technology were installed on the third floor only. The controllers, Honeywell XL500, and panels were installed for some of the air handling units on the 3rd floor; however, not all units on the 3rd floor have been upgraded.
- D. The front end equipment is a Honeywell XBS system and includes technology from the late 1980s/earlier 1990s. The system includes a computer that displays temperatures and status of some of the equipment in the building. Only a portion of the mechanical equipment in the building is connected to the front end computer. Control of the mechanical equipment on the systems is limited to some temperature modifications and start/stop of equipment. Notification of alarms is at the front end computer. The system has the capability to send remote alarms, but this feature is currently not used.

1.2.10.2 *Air Conditioning Unit, ACU-1*

- A. Air conditioning unit (ACU) 1 was installed in 1089 during the 3rd floor Circuit Courts renovation. It is located in Computer Room 346 and is ceiling mounted. The chilled water ACU is sized for 12.8-MBH of cooling. It has reached the end of its estimated 20 year service life.

1.2.10.3 *Court Psychology Offices Fan Coil and Condensing Units*

- A. Two fan coil units were installed during the 1993 renovation on the ground floor of the Court Psychiatrist offices. FC-1 was sized for 1,050-cfm and is horizontal. FC-2 was sized for 1,400-cfm and is a vertical unit. Both units have refrigerant coils and associated condensing units, AC-1 and AC-2, installed in a ground floor areaway. AC-1 and AC-2 have total capacities of 33.7-MBH and 42.7-MBH respectively. All four pieces of equipment have an estimated 20 year service life and currently have approximately 5 years until the end of the service life is reached.

1.2.11 Plumbing

- 1.2.11.1 In general, plumbing systems and associated equipment are original to the early 1970's construction. Plumbing fixtures and trim are original and should be considered for replacement. While the condition of the fixtures is fair and operational, there are significant sustainable building related opportunities with the replacement of fixtures relative to water conservation.

- 1.2.11.2 Conditions relative to miscellaneous plumbing equipment are as follows:

1.2.11.3 *Hot Water Generator*

- A. Domestic hot water from the hot water generator serves plumbing fixtures throughout the building. The hot water generator is original to the building (1972) and consists of a hot water tank with internal steam-water heat exchanger fed from the central boiler plant. Due to the age of the unit, replacement of unit should be considered prior to equipment failure.

1.2.11.4 *Hot Water Recirculation Pump*

- B. An inline pump, P-13, is installed for recirculation of the domestic hot water for the hot water generator. Installed during the buildings original construction and sized for 20-gpm, the pump has exceeded its estimated service life of 10 years.

- 1.3 The building's fluorescent lighting was retrofitted with energy efficient lamps and ballasts back in the early 1990's.

The building has eleven (11) elevators: eight (8) passenger units, two (2) private judge units, and one (1) hydrostatic unit for the Law Library. All ten (10) passenger and private elevators were renovated and upgraded both mechanically and with new energy efficient control systems in 2009.

2. **SCOPE OF WORK.**

- 2.1 The scope of services shall consist of two (2) phases.

2.1.1 For Phase I, the Contractor shall conduct a study of the building's energy and utility usage: gas, electricity, and domestic water. Included in the study shall be a review of all building maintenance and operational procedures, the building's mechanical and HVAC systems and capital equipment, and the building envelope. The Contractor shall evaluate and report on the overall energy efficiency status of the building.

2.1.2 For Phase II, the Contractor shall reveal the energy shortcomings of the building, reporting on all wasteful, inefficient mechanical and HVAC systems, and ineffective, energy costly maintenance and operational practices. The Contractor shall assess the efficiency of all capital equipment, such as boilers, chillers, air handlers, pumps, fans, cooling towers, steam converter, chilled and hot water lines. The Contractor shall provide an energy reduction plan for the County to implement. The plan shall recommend improvements in our maintenance and operational procedures. The plan shall recommend major repairs, upgrades, and replacement of capital equipment and components of the mechanical and HVAC systems. The plan shall recommend changes in the building culture that may result in energy reduction. The plan shall recommend additional equipment (e.g., times, controllers, monitoring devices) for the building systems to make energy usage more efficient. The Contractor shall develop an estimate of annual savings based on implementation of each recommendation.

2.1.3 Included in this Request for Proposal are attachments which detail one (1) year's worth of electricity, gas, and domestic water usage. Each proposer can use this data to develop their proposal and, if successful, use it as the basis for implementing their evaluation plan.

3. **PROGRAM CONSTRAINTS.**

- 3.1 The estimated value range for this contract is \$40,000 to \$70,000. The total price proposal is part of evaluation criteria.

4. **PROPOSAL REQUIREMENTS.**

The proposal should consist of the following elements:

4.1 **Technical Proposal**

4.1.1 Energy Evaluation Plan

- Outline how each phase of work shall be accomplished.

- What maintenance and operational procedures, mechanical and HVAC systems, and capital equipment will be investigated.
- Development of recommendations and process of implementation.
- Detail training program.
- Schedule for each phase of work.

4.1.2 Offeror's Company History

- Overall history of company.
- Structure of leadership.
- Resumes of key personnel.
- Capability of the company to fulfill all contractual requirements and the scope of work.

4.1.3 Offeror's Energy Consulting Experience

- Past and current projects. List client contracts, phone numbers, e-mail, and address.
- Detail each past and current project scope of work and intended goals.
- Outcome of projects. How were recommendations followed, changes implemented, equipment and systems replaced, updated, or installed. Summation of savings realized or anticipated as a result of the offeror's consulting services.

4.2 Price Proposal

4.2.1 Offerors shall submit a fully, burdened hourly rate on the proposal page. All items of cost, overhead, and profit, shall be included in the hourly rate.

4.2.2 Offerors shall include an itemization of billable hours for each phase of work.

5. **PRE-PROPOSAL CONFERENCE.** A pre-proposal conference is scheduled for Tuesday, November 16, 2010 at 10:00 a.m. in the Purchasing Division, 400 Washington Avenue, Room 148, Towson, MD.

6. **QUESTIONS AND INQUIRIES; ADDENDA.**

6.1 Questions will be entertained at the conference. If it becomes necessary to revise any part of this RFP, addenda will be posted on the web site at www.baltimorecountyonline/purchasing.

6.2 Offerors must acknowledge, in writing, receipt of all addenda in the text of their proposals. All official correspondence in regard to the specifications should be directed to and will be issued by the Purchasing Bureau. Offerors are cautioned that the County assumes no responsibility for oral explanations or interpretations of solicitation documents.

6.3 **The deadline for written questions pertaining to this solicitation is seven (7) working days prior to the due date of proposals.**

7. **EVALUATION OF OFFERS.**

- 7.1 Award will be made to the responsible offeror whose proposal best meets the needs of the County as set forth herein. Proposals will be evaluated based on the following criteria, listed in order of importance.

7.1.1 Technical Proposal

7.1.1.1 Energy Evaluation Plan

7.1.1.2 Offeror's Energy Consulting Experience

7.1.1.3 Offeror's Company History

7.1.1.4 Degree of completeness of response to the RFP and degree to which the offeror followed instructions for submittal.

7.1.1.5 MBE/WBE participation

7.1.2 Price Proposal

- 7.2 This RFP will result in the submission of "proposals" (not "bids"), and the evaluation and award process will be based on both scored technical and price responses, not just price. Therefore, the County may enter into negotiations with offerors and invite "best and final offers" as deemed to be in the best interest of the County. Negotiations may be in the form of face-to-face, telephone, facsimile or written communications, or any combination thereof, at the County's sole discretion.
- 7.3 Offerors are strongly advised not to prepare their proposal submissions based on any assumption or understanding that negotiations will take place. Offerors are advised to respond to this RFP fully and with forth-rightness at the time of proposal submission.
- 7.4 After consideration of the factors set forth in this RFP, the committee will recommend award to the offeror whose proposal is most advantageous to the County. Non-acceptance of an individual offer may mean that one or more other proposals were more advantageous, or that all were rejected.

8. **ORAL PRESENTATION.** Offerors may be required to clarify their proposals by making individual presentations to the evaluation committee.

9. **SUBMITTAL PROCESS AND REQUIRED COPIES.**

- 9.1 Each offeror shall submit **one (1) original, clearly marked as such, and six (6) copies** of the complete proposal. The cost of preparing proposals is the responsibility of offerors. The County will not photocopy your proposal documents for the purpose of complying with this provision requiring a pre-determined number of duplicate copies. Failure to provide the required number of complete duplicate copies may result in rejection of your proposal.
- 9.2 Proposals must be securely sealed and addressed to the Baltimore County Purchasing Bureau, 400 Washington Avenue, Room 148, Towson, Maryland 21204 using the label provided in the solicitation package. Copies of the label must be made for multiple packages.
- 9.3 Technical and price proposals are to be mailed together in one package, but the Technical and Price Proposals must be bound separately. There shall be no reference to the price of products and services in the Technical Proposal. Proposals may be either mailed or hand-delivered. If the proposal is sent by mail or commercial express service, the Offeror shall be responsible for actual delivery of the proposal to the proper County office before the deadline. All timely proposals become the property of the County.

- 9.4 Late proposals will not be considered. Proposals received after the deadline will be returned unopened.
- 9.5 Proposals should be prepared simply and economically, providing a straightforward, concise description of the offer, and all required information. They should be printed on recycled paper and duplexed if possible; staples, clips or rubber bands are preferred to ring binders, and unnecessarily elaborate brochures or other expensive visual presentations are neither necessary nor desired. Each page of the proposal should be consecutively numbered.
- 9.6 Each proposal shall be accompanied by an executed procurement affidavit which is provided by the Purchasing Bureau in the solicitation package.

10. **INSURANCE.**

- 10.1 The successful vendor will be required to execute a Certificate of Insurance form furnished by the County in accordance with the attached requirements. The successful vendor will have fifteen (15) calendar days to comply with this requirement, excluding County holidays and non-work days, if applicable.
- 10.2 The Insurer must maintain the insurance coverages required by the County while this agreement is in force, including automatic renewal terms, and shall provide documentation of such insurance in a form satisfactory to the County when required.
- 10.3 In the event the Vendor changes their insurance carrier, a new Certificate of Insurance (form PB021) must be requested from the County and completed by the new insurance carrier within ten (10) days of the change of policy.

11. **COUNTY HOLIDAYS.**

New Year's Day	Columbus Day
MLK, Jr. Birthday	General Election Day (each even year)
Presidents' Day	Veterans' Day
Memorial Day	Thanksgiving Day
Independence Day	Christmas Day
Labor Day	

12. **COOPERATIVE PURCHASE.**

- 12.1 The County reserves the right to extend all of the terms, conditions, specifications, and unit or other prices of any contract resulting from this bid to any and all public bodies, subdivisions, school districts, community colleges, colleges, and universities including non-public schools. This is conditioned upon mutual agreement of all parties pursuant to special requirements which may be appended thereto. The supplier/contractor agrees to notify the issuing body of those entities that wish to use any contract resulting from this bid and will also provide usage information, which may be requested.
- 12.2 The County assumes no authority, liability or obligation, on behalf of any other public or non-public entity that may use any contract resulting from this bid. All purchases and payment transactions will be made directly between the contractor and the requesting entity. Any exceptions to this requirement must be specifically noted in the bid/proposal response.

13. **"SAMPLE" FORM CONTRACT.**

- 13.1 The County's form contract is attached as part of this solicitation. By the act of submitting a proposal, the offeror expressly acknowledges that he/she/it accepts the terms and conditions as stated in the form contract unless exceptions are submitted in writing with the proposal.

- 13.2 The offerors' acceptance of, or deviations from, the form contract terms and conditions are considered during the evaluation and subsequent award.
- 13.3 If the offeror submits an exception, which alters the County's risk, liability, exposure in, or the intent of this procurement, the County reserves the right in its' sole and absolute discretion to deem the offeror non-responsive.

14. **ELECTRONIC VERSION SUBMITTAL.**

- 14.1 In accordance with the General Instructions for Solicitations, #1.9, Instructions, Forms and Specifications, responses to Requests for Bids and Requests for Proposals shall be accompanied by an electronic version (CD) of the bid proposal in PDF format. The CD must be labeled with the bid number, the bid title, and the bidders' name submitting the response. All bids must be submitted in a sealed envelope or carton as appropriate. This does not apply to Requests for Quotations.

15. **MINORITY AND WOMEN BUSINESS ENTERPRISE REQUIREMENTS:** The resulting minority and women business participation requirement for this contract is **15%**.

- 15.1 Each Contractor must comply with all Minority and Women Business Enterprises (M/WBE) participation requirements. Included with this solicitation package are copies of the County's M/WBE policy and provisions and M/WBE participation schedule forms. All M/WBE participation forms must be completed, executed, and **returned to the Purchasing Division with the bid** if a goal has been assigned. To request M/WBE participation forms, contact the buyer on the solicitation.
- 15.2 The Prime Contractor shall make a genuine good faith effort to comply with the Baltimore County Minority Business program's minimum 15% subcontracting goal. However, the percentage requirement may vary. The Prime Contractor shall make a good faith effort to obtain minority subcontractor participation even if the Prime Contractor has the capability to complete the work with its own workforce. This good faith effort is also applicable to Prime Contractors who are, themselves, minority-owned or woman owned firms.
- 15.3 All prime contractors and MBE/WBE sub-contractors are required to report payments to the County through an online system called PRISM at www.baltimorecountymd.gov/go/mwbe under MWBE directory/Vendor Compliance. If the contractor cannot submit his/her report on time, he/she will notify the County MBE/WBE office and request additional time to submit the report. Failure of the contractor to report in a timely manner may result in a finding of noncompliance. The County in its sole discretion may require additional reports regarding MBE/WBE. Questions regarding the use of this system can be directed to Damon Hughes at 410-887-3407.

BALTIMORE COUNTY, MARYLAND
REQUEST FOR PROPOSAL NO. P-043
ENERGY AUDIT FOR COUNTY COURTS BUILDING
Due Date: 12/09/10, Time: 2:00 P.M.

PROPOSAL SIGNATURE COVER PAGE

SUBMISSION OF A BID/PROPOSAL IN RESPONSE TO THIS SOLICITATION EVIDENCES THE BIDDER'S ACCEPTANCE OF THE TERMS AND CONDITIONS THEREIN. THIS PAGE MUST BE PROPERLY SIGNED BY AN AUTHORIZED OFFICIAL IN THE FIRM WHO REPRESENTS AND WARRANTS ACCEPTANCE OF ALL TERMS AND CONDITIONS OF THE REQUEST FOR BID/ REQUEST FOR PROPOSAL. THE PERSON SIGNING THE BID/PROPOSAL MUST INITIAL ANY ALTERATIONS IN FIGURES ON THIS FORM IN INK.

COMPANY NAME: _____

ADDRESS: _____

(City) (State) (Zip Code)

TELEPHONE: _____ FAX: _____

SIGNED: _____ DATE: _____

PRINT NAME: _____ TITLE: _____

TAX ID NUMBER (FIN/SS#) _____ EMAIL: _____

Is your company a certified Minority Business Enterprise? Bidders must complete the applicable Minority Participation Affidavit attached.

Is your firm in compliance with all applicable laws and regulations relating to the employment of illegal aliens? If YES, check here _____

NOTICE: A notice required to be delivered shall be deemed to have been received when such notice has been sent to the following address and individual:

F.O.B. Destination (unless otherwise stated herein).

Delivery shall be made within _____ calendar days after receipt of order.

Payment Terms: _____ Cash discounts for less than 30 days will not be considered in determining awards. However, should that bidder obtain award by consideration of the gross price, the County should make every effort to obtain the discount. The County will not accept payment terms with a period of less than (30) days.

If your firm is not already receiving email notification of new solicitations and amendments, you may register for email notification on the County's web site at <http://www.baltimorecountyonline.info/purchasing>
<http://www.baltimorecountymd.gov/purchasing>.

**BALTIMORE COUNTY, MARYLAND
REQUEST FOR PROPOSAL NO. P-043
ENERGY AUDIT FOR COUNTY COURTS BUILDING
Due Date: 12/09/10, Time: 2:00 P.M.**

PRICE SHEET PAGE 1 OF 1		REQUEST FOR PROPOSAL			
LINE NO.	COMMODITY/SERVICE DESCRIPTION	QUANTITY FROM/TO	UNIT	UNIT PRICE	EXTENDED AMOUNT
1	COMMODITY CODE: 91016 CONSULTING SERVICES, COUNTY COURTS BUILDING, ENERGY AUDIT, AS PER SPECIFICATIONS. <u>NOTE:</u> OFFERORS MUST FILL IN THE TOTAL NUMBER OF HOURS THAT THEY ARE PROPOSING FOR THIS CONTRACT.	_____	HOUR	_____	_____

GRAND TOTAL \$_____

COMPANY NAME: _____

FED ID OR SOCIAL SECURITY NO. _____

WHERE LANGUAGE IS BRACKETED SELECT ONE OF THE OPTIONS AND DELETE THE OTHER OR INSERT THE INFORMATION REQUESTED. PLEASE CONTACT THE PURCHASING DIVISION AND THE OFFICE OF LAW BEFORE THIS FORM IS MODIFIED

**BALTIMORE COUNTY, MARYLAND
CONTRACT**

THIS AGREEMENT made this ____ day of _____, ____, (the "Agreement") is by and between Baltimore County, Maryland, a body corporate and politic, (hereinafter "County") and **[NAME AND ADDRESS OF CONTRACTOR]** (hereinafter the "Contractor").

WHEREAS, the said Contractor, hereby covenants and agrees to [perform all services] [deliver all goods], in strict and entire conformity with the Attachment A entitled, "Services and/or Scope of Work to be Performed", "Goods To Be Provided", [and] any Purchase Order subsequently issued and the **[Invitation to Bid, Request for Proposal, Request for Quotation] Bid No. _____, as amended, and the Contractor's response and any amendments or revisions thereto [If material business terms are contained in correspondence or emails subsequent to initial bid response, Purchasing should list such correspondence and emails here] (collectively, the "Bid").**

NOW THEREFORE, in consideration of the mutual promises and covenants, the parties hereto agree that the County shall pay the Contractor, an amount as set forth herein, for [services and/or scope of work rendered][goods provided] in accordance with this Agreement, the other attachments hereto (ALL ATTACHMENTS MUST BE DESCRIBED HERE AND PROPERLY LABELED) and if applicable, the Bid and the Purchase Order all of which are hereby incorporated into and made a part of this Agreement. Notwithstanding any other terms or provisions of this Agreement, in the event the County is temporarily or permanently prevented, restricted or delayed in the performance of any or all of the duties and obligations imposed upon or assumed by it hereunder, by act of the General Assembly of Maryland or the Baltimore County Council, by a court of competent jurisdiction or by administrative delay not due to the fault of the County (and its members and agents), then the County shall not be liable directly or indirectly for any claims caused to or suffered by the Contractor or any other person in connection with or as a result of such prevention, restriction or delay. In addition the parties hereto agree as follows:

1. **Contractor's Duties.**

The Contractor shall be an independent Contractor and not an employee of the County, and shall be responsible for the reporting and remittance of all state and federal taxes. The Contractor shall [perform the services] [provide the goods] outlined in Attachment A hereto. The Contractor's [services and/or scope of work to be performed] [goods] will be provided with due care and in a [manner satisfactory to the County] and in accordance with all applicable [professional] standards.

2. **Compensation.**

2.1 In consideration of the [services and/or scope of work to be performed][goods] to be provided by the Contractor, the County shall pay the Contractor **[SELECT ONE OF THE FOLLOWING OPTIONS:]**[the sum of _____ Dollars (\$____)]

[an amount equal to 90% of the amount invoiced pursuant to Paragraph 2.2 below. Ten percent (10%) of each disbursement shall be retained by the County and disbursed in a lump sum upon [completion of the services and/or scope of work described herein][delivery of the goods described herein] in a manner satisfactory to the County, in its sole discretion.] [an hourly rate of \$_____ per hour for an approximate total of _____ hours and shall reimburse the Contractor for eligible expenses incurred by the Contractor in the performance of the Contractor's responsibilities and obligation under this Agreement. The eligible expenses are set forth in Attachment A [and in no event shall eligible expenses exceed \$_____ during the entire term of this Agreement].] [in accordance with the unit prices set forth in the Bid] [in accordance with the fee schedule attached hereto as Attachment ____].

2.2 The Contractor shall submit invoices to the County [SELECT ONE OF THE FOLLOWING OPTIONS: [monthly] [quarterly] [insert the time period for submission of invoices]. The Contractor's invoices shall reflect the:

- Contractor's name
- Address
- Federal tax identification number
- Order number and line number(s) that correspond with resulting orders
- [Goods provided][Services and/or scope of work performed] during the preceding billing period

Original invoices shall be submitted to Office of Budget and Finance, Disbursements, 400 Washington Avenue, Room 148, Towson, Maryland 21204. [DELETE IF NOT APPLICABLE] Copies of invoices shall be sent to [Agency Name and Address]. Invoices in the proper form and approved by the County shall be paid by the County within thirty (30) days of receipt thereof. The County reserves the right to approve such invoices, in its sole discretion, and to request such detail and additional information as the County, in its discretion deems appropriate.

[DELETE IF NOT APPLICABLE] [Cash Discount Periods will be computed from the date of delivery and acceptance of the goods ordered, or the date of receipt of correct and proper invoices prepared in accordance with terms of Baltimore County's order, whichever date is later.]

2.3 [In no event shall the compensation paid to the Contractor exceed the sum of _____ Dollars (\$_____) [in any contract year] [during the Initial Term of this Agreement, as defined below] [or during any renewal period] [provided, however, that the County may entertain a request for escalation in any year subsequent to the first year in accordance with [SELECT ONE OF THE FOLLOWING: [Paragraph ____ of the Invitation to Bid] OR [Paragraph ____ of this Agreement]. [In no event shall the total compensation paid to the Contractor under this Agreement exceed the sum of _____ Dollars (\$_____) during the entire term of this Agreement including renewals thereof.]

3. **Term.**

3.1 This Agreement shall be [retroactively] effective [SELECT ONE OF THE FOLLOWING: [as of the date above written] [when it has been properly signed by all parties hereto][when executed by the County] and shall continue through [Insert Date] [(the "Initial Term")]] [, at which time the County may exercise its option to renew set forth in Paragraph 3.2 below], unless sooner terminated pursuant to this Agreement. [The County shall have the option of extending this Agreement at the end of the Initial Term or any renewal term for an additional [SELECT ONE OF THE FOLLOWING TIME PERIODS: [30] [60] [90] days], on the same terms and conditions, by providing written notice of its intent to extend to the Contractor. In the event the County elects to extend this Agreement, the Contractor shall continue to submit invoices monthly, for [services and/or scope of work rendered] [goods provided] in the manner prescribed in Paragraph 2 hereof. Any compensation [or reimbursement] paid during the extension period shall, when added to sums already disbursed hereunder, not exceed the maximum amount set forth in Paragraph 2 of this Agreement. In the event any extension changes the terms and conditions set forth herein, including but not limited to, a change in the compensation, approval of the Baltimore County Council may be required.]

[3.2 The County reserves the right to renew this Agreement for [insert renewal period] on the same terms and conditions set forth herein. [INSERT ANY CHANGES TO THE TERMS, i.e. COMPENSATION, UPON RENEWAL OF AGREEMENT, OTHERWISE, IT MUST BE RENEWED ON THE SAME TERMS AND CONDITIONS] The County will automatically renew this Agreement at the end of the Initial Term and each renewal term (except the last) unless it provides written notice of non-renewal to the Contractor prior to the end of the then current term. Unless set forth in a written amendment, the compensation [, reimbursement] and manner of payment set forth in Paragraph 2 shall remain unchanged, including but not limited to, the maximum amount of compensation [and reimbursement] available hereunder. In the event any renewal changes the terms and conditions set forth herein, the approval of the Baltimore County Council may be required.]

4. **Contractor's Representations and Warranties.** The Contractor hereby represents the following:

4.1 [USE FOR CORPORATIONS, LIMITED OR GENERAL PARTNERSHIPS OR LIMITED LIABILITY COMPANIES; DELETE IF CONTRACTOR IS AN INDIVIDUAL] The Contractor is a [corporation][limited partnership][general partnership][limited liability company], duly formed and validly existing under the laws of the State of [INSERT STATE OF INCORPORATION] and is qualified to do business and is in good standing in the State of Maryland.

4.2 [USE FOR CORPORATIONS, LIMITED OR GENERAL PARTNERSHIPS OR LIMITED LIABILITY COMPANIES; DELETE IF CONTRACTOR IS AN INDIVIDUAL] The Contractor has the power and authority to consummate the obligations and responsibilities contemplated hereby, and has taken all necessary action to authorize the execution, delivery and performance required under this Agreement.]

4.3 The Contractor and the person executing this Agreement for the Contractor each warrant that [he][she] is [duly authorized by the Contractor] [is the person set forth in the Procurement Affidavit with the authority] to execute and seal this Agreement on the Contractor's behalf.

4.4 **SELECT ONE OF THE FOLLOWING OPTIONS:** A. [The [professional] services and/or scope of work to be provided under this Agreement shall be performed competently and with due care, in accordance with all applicable laws, codes, ordinances, regulations and licensing requirements and free from defects in workmanship and materials, as applicable. The parties understand and agree that this Agreement may be for the provision of a combination of goods and services. In such case, the parties hereby agree that the warranties of merchantability and fitness for a particular purpose and use shall apply to the portion of this Agreement that is pertaining to or for goods. The parties understand and agree that County shall rely upon all express warranties contained in this Agreement, including but not limited to the Bid, and any sample or model presented by Contractor and expressly accepted by the County.] OR B. [The goods to be delivered shall comply with the implied warranties of merchantability, fitness for particular purpose and use and warranties of title and against infringement, and all express warranties contained in this Agreement, including but not limited to the Bid.]

4.5 The Contractor has obtained and shall continue to maintain, at its own cost, such licenses and certifications as are necessary to provide the services and/or scope of work and provide the goods, as applicable, required pursuant to this Agreement, and shall present such licenses to the County upon its request for the same.

4.6 The Contractor has delivered to the County such written financial statements, schedules or reports in such form and containing such information and accompanied by such documents as requested or required by the County concerning the financial condition of Contractor. Such documentation fairly and accurately represents the financial condition of Contractor as of their date and the results of its operations for the period then ended. There has been no material adverse change in the financial condition of the Contractor or the results of its operations since the date of such financial statements, schedules or reports.

4.7 All representations and warranties made in the Procurement Affidavit[, the Bid response], the Contract Affidavit, attached hereto as Attachment C and incorporated herein, and this Agreement remain true and correct in all respects throughout the term of this Agreement.

5. **Termination for Convenience.**

5.1 The County may terminate this Agreement, without cause, by providing written notice thereof to the Contractor at least thirty (30) days prior to the intended date of termination at the address set forth below, or at such other address as may be later designated by the Contractor in writing. The Contractor acknowledges that the absence of a reciprocal right of termination for convenience does not render this Agreement illusory or unenforceable.

5.2 In the event of termination, without cause, the County shall advise the Contractor in writing of the termination date and of work to be performed during the final days prior to contract termination. The Contractor shall be paid for all reasonable costs incurred by the Contractor up to the date of termination set forth in the written notice of termination. Payment shall be made in accordance with the provisions of Paragraph 2 of this Agreement.

6. **Insurance.**

The Contractor shall provide evidence of insurance as required by the County pursuant to the insurance requirements attached hereto as Attachment ____ in form and amounts acceptable to the County. The Contractor shall maintain the insurance coverages required by the County while this Agreement is in force, and provide documentation of such insurance in a form satisfactory to the County. Such documentation may, in the discretion of the County, be in the form of binders or declarations from the insurance company. [INCLUDE IF THERE ARE ATTACHED INSURANCE REQUIREMENTS: In the event of a conflict between the provisions of the attached insurance requirements and this Agreement, the provisions of this Agreement shall prevail.

7. **Default.** The term "Default" as used in this Agreement shall mean the occurrence or happening, from time to time, of any one or more of the following:

7.1 **Representations and Warranties.** If any representation or warranty, expressed or implied, of the Contractor and pertaining to this Agreement shall prove at any time to be incorrect or misleading in any material respect either on the date when made or throughout the term of this Agreement.

7.2 **Compliance with Covenants and Conditions.** If the Contractor shall fail to comply with the terms of any covenant, condition, agreement or any express or implied warranty contained in this Agreement.

7.3 **Performance of Contractual Obligations.** If the services and/or scope of work hereunder are not performed in good faith and in accordance with the provisions of this Agreement [FOR CAPITAL IMPROVEMENT CONTRACTS: including but not limited to, time frames specified or the completion schedule which is described in Attachment A.][If the delivery of the goods that are the subject of this Agreement [SELECT ONE: [was not made][is not being made] in good faith and/or in accordance with this Agreement, including but not limited to, the delivery schedule which is attached hereto as Attachment ____].

7.4 **Conditions Precedent to Any Disbursement.** If the Contractor shall be unable to satisfy any condition precedent to its right to receive a disbursement.

7.5 **Bankruptcy.** If the Contractor becomes insolvent or generally does not pay its debts as they become due, or if a petition for relief is filed by the Contractor in a bankruptcy court, or if the Contractor applies for, consents to, or acquiesces in the appointment of a trustee, custodian, or receiver for the Contractor or any of its assets and property, or makes a general assignment for the benefit of creditors; or in the absence of such application, consent, or

acquiescence, a trustee, custodian, or receiver is appointed for the Contractor or for a substantial part of the assets and property of the Contractor and is not discharged within thirty (30) days; or any bankruptcy, reorganization, debt arrangement, or other proceeding or case under any bankruptcy or insolvency or any dissolution or liquidation proceeding is instituted against the Contractor and is consented to or acquiesced to by the Contractor or remains for sixty (60) days undismissed; or the Contractor takes any action to authorize any of the actions described in this subsection.

8. **Remedies for Default.**

8.1 The County shall have the right upon the happening of any Default, without providing notice to the Contractor:

a. In addition to other available rights and remedies, to terminate this Agreement immediately, in whole or in part;

b. To suspend the Contractor's authority to receive any undisbursed funds; and/or

c. To proceed at any time or from time to time to protect and enforce all rights and remedies available to the County, by suit or any other appropriate proceedings, whether for specific performance of any covenant, term or condition set forth in this Agreement, or for damages or other relief, or proceed to take any action authorized or permitted under this Agreement, including but not limited to, calling upon any security, letter of credit, or bond and any other action authorized or permitted by applicable law; regulation, or equity.

8.2 **Upon termination of this Agreement for default, the County may elect to pay the Contractor for [services and/or scope of work provided] [goods delivered] up to the date of termination, less the amount of damages caused by the default, all as determined by the County in its sole discretion.** If the damages exceed the undisbursed sums available for compensation, the County shall not be obligated to make any further disbursements hereunder.

9. **Remedies Cumulative and Concurrent.**

No remedy herein conferred upon or reserved to the County is intended to be exclusive of any other remedies provided for in this Agreement, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder, or now or hereafter existing at law or in equity or by statute. Every right, power and remedy given to the County shall be concurrent and may be pursued separately, successively or together against the Contractor, and every right, power and remedy given to the County may be exercised from time to time as often as may be deemed expedient by the County.

10. **Confidential Information.**

The Contractor shall not disclose any documentation and information of any kind or nature disclosed to the Contractor in the course of its performance of duties hereunder without the express prior written consent of the County.

11. **Conflict of Interest.**

The Contractor represents and warrants that there exists no actual or potential conflict of interest between its performance under this Agreement and its engagement or involvement in any other personal or professional activities. In the event such conflict or potential conflict arises during the term of this Agreement, or any extension or renewal thereof, the Contractor shall immediately advise the County in writing thereof.

12. **Assignment.**

12.1 Neither the County nor the Contractor shall assign, subcontract or transfer its interest or obligations under this Agreement to any third party, without the written consent of the other. The Contractor further agrees to provide a minimum of ninety (90) days' written notice to the County prior to entering into any bankruptcy, merger or consolidation where the surviving entity will be unwilling or unable to accept the Contractor's obligations hereunder, to enable the County to procure the goods or services elsewhere. In the event the cost of procuring such alternate goods or services increases the cost to the County, and/or delays delivery time of any product, in addition to any other remedies available to the County, the Contractor shall pay to the County, as damages, any additional costs incurred.

12.2 Nothing herein shall be construed to create any personal or individual liability upon any employee, officer or elected official of the County, nor shall this Agreement be construed to create any rights hereunder in any person or entity other than the parties of this Agreement.

13. **Delegation of Duties.**

The Contractor shall not delegate the Contractor's duties under this Agreement without the prior written consent of the County.

14. **Indemnification.**

14.1 The Contractor shall defend, indemnify and hold harmless the County, its employees, agents and officials from any and all liabilities, claims, suits, or demands including attorney fees which may be incurred or made against the County, its employees, agents or officials resulting from any act or omission committed in the performance of the duties imposed by and performed under the terms of this Agreement by the Contractor or anyone under agreement with the Contractor to perform duties under this Agreement. The Contractor shall not be responsible for acts of gross negligence or willful misconduct committed by the County.

14.2 The Contractor shall also defend, indemnify and hold harmless the County, its employees, agents and officials from any and all liabilities, claims, suits, or demands including attorney fees which may be made against the County, its employees, agents or officials by any third party arising from the alleged violation of any third party's trade secrets, proprietary information, trademark, copyright, patent rights, or intellectual property rights in connection with the Contractor's work under this Agreement.

14.3 Unless notified by the County in writing to the contrary, Contractor shall provide defense for County, its employees, agents and officials in accordance with this Article 14. Contractor shall allow County to participate in said defense of County, its employees, agents and officials, to the extent and as may be required by the County and the Contractor shall cooperate with County in all aspects in connection therewith.

15. **Integration and Modification.**

This Agreement sets forth the entire agreement between the parties relative to the subject matter hereof. No representation, promise or condition, whether oral or written, not incorporated herein shall be binding upon either party to this Agreement. No waiver, modification or amendment of the terms of this Agreement shall be effective unless made in writing and signed by an authorized representative(s) of the party sought to be bound thereby.

16. **Fee Prohibition.**

The Contractor warrants and represents that it has not employed or engaged any person or entity to solicit or secure this Agreement, and that it has not paid, or agreed to pay any person or entity a fee or any other consideration contingent on the making of this Agreement. If any suit, claim, or demand shall arise concerning such a fee, the Contractor agrees to indemnify and hold harmless the County, from all such claims, suits or demands.

17. **No Partnership.**

Nothing contained in this Agreement shall be construed in any manner to create any relationship between the Contractor and the County other than expressly specified herein and the Contractor and the County shall not be considered partners or co-venturers for any purpose on account of this Agreement.

18. **Governing Law.**

This Agreement shall be governed and construed in accordance with the laws of the State of Maryland and Baltimore County, Maryland.

19. **Recitals and Conflicting Terms.**

[19.1] The Recitals are hereby incorporated into this Agreement. The Contractor acknowledges that any Purchase Order issued on or after the effective date of this Agreement is also hereby incorporated and made a part of this Agreement, provided, however that any preprinted terms and conditions of any purchase order or other ordering document issued by the County in connection with this Agreement that are in addition to or inconsistent with the terms and conditions of the Agreement, shall not be binding on the Contractor and shall not be deemed to modify this Agreement.

[19.2] In the event of a conflict between the Bid (including standard specifications) and this Agreement, the provisions of this Agreement (without the conflicting terms in the Bid) shall prevail.

[19.3] If a conflict arises between the provisions of this Agreement and any Purchase Order, the provisions of this Agreement shall prevail.

[USE FOR CAPITAL IMPROVEMENT ONLY] [19.4 In the event of a conflict between this Agreement, the Baltimore County Department of Public Works' Standard Specifications For Construction And Materials, and the Standard Details For Construction, the parties hereto agree that the provisions of this Agreement shall prevail.]

20. **Severability.**

If any of the provisions in this Agreement are declared by a court or other lawful authority to be unenforceable or invalid for any reason, the remaining provisions hereof shall not be affected thereby and shall remain enforceable to the full extent permitted by law.

21. **Time is of the Essence.**

TIME IS OF THE ESSENCE WITH RESPECT TO PERFORMANCE OF THE TERMS AND CONDITIONS OF THIS AGREEMENT.

22. **Funding.**

The failure of the County to appropriate sufficient funds in any future fiscal year to provide funds for this Agreement shall entitle the County to terminate this Agreement without prior notice to the Contractor.

23. **Counterparts.**

This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument.

24. **Ownership of Goods.**

All finished or unfinished work or work product, reports, or goods that are the subject of this Agreement [DELETE IF NOT APPLICABLE: including any licenses or consents acquired by the Contractor for performance hereunder,] shall be and shall remain the property of the County.

25. **Discrimination Prohibited.**

25.1 In the execution of the obligations and responsibilities hereunder, including, but not limited to, hiring or employment made possible by or relating to this Agreement, the Contractor shall not:

a. Fail or refuse to hire, or discharge, any individual, or otherwise to discriminate against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, genetic information, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or because of the individual's refusal to submit to a genetic test or make available the results of a genetic test;

b. Limit, segregate, or classify its employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, genetic information, or disability unrelated in

nature and extent so as to reasonably preclude the performance of the employment, or because of the individual's refusal to submit to a genetic test or make available the results of a genetic test; or

c. Request or require genetic tests or genetic information as a condition for hiring or determining benefits.

25.2 All solicitations or advertisements for employees shall state that the Contractor is an equal opportunity employer.

26. **Reports / Information/Inspections / and Audits.**

[DELETE IF NOT APPLICABLE: 26.1 The Contractor shall furnish the County with the following reports or information [insert reporting requirements]: Reports produced for the County under this Agreement should be on recycled and recyclable paper printed on both sides.

[26.2] At any time during normal business hours and as often as the County may deem necessary, the Contractor shall make available to and permit inspection and copying by the County, its employees or agents, of all records, information and documentation of the Contractor related to the subject matter of this Agreement, including, but not limited to, all contracts, invoices, payroll, and financial audits. Contractor shall retain all records, information, and documentation of the Contractor related to this Agreement, including but not limited to, all contracts, invoices, payroll, and financial audits for at least three (3) years after the termination of this Agreement.

[DELETE IF NOT APPLICABLE: 26.3 The County may request the Contractor, at the expense of the Contractor, to have performed an independent audit of the Contractor's financial information including, but not limited to, balance sheets, statement of revenue and expenses, and receipts and disbursements. The independent auditor selected shall be subject to the approval of the County.]

27. **Notice.**

Any notice required to be delivered shall be deemed to have been received when the notice has been sent by certified mail, return receipt, overnight carrier, or hand delivered with signed receipt to the following address and individual or at such other address and/or such other individual as a party may identify in writing to the other party:

[Make it a sentence or column, depending on space available]

FOR THE COUNTY: [Contact Name and/or Job Title, address, telephone number and fax number]

[IF DEEMED NECESSARY] [ADDITIONAL CONTACT] FOR THE COUNTY: [Contact Name, County Attorney, address, telephone number and fax number] [DELETE IF NOT APPLICABLE]

[IF DEEMED NECESSARY] BALTIMORE COUNTY OFFICE OF LAW: [Contact Name, address, telephone number and fax number] [DELETE IF NOT APPLICABLE]

[Make it a sentence or column, depending on space available]

FOR THE CONTRACTOR:
/[Contact Name,
address
telephone number and fax number]

[IF DEEMED NECESSARY] **[ADDITIONAL CONTACT]** [DELETE IF NOT APPLICABLE]

FOR THE CONTRACTOR:
[Contact Name,
address
telephone number and fax number]

[DELETE IF NOT APPLICABLE: 28. **Recycled and Recyclable Products.**

Any goods delivered under this Agreement that require packaging must be packed in recycled and recyclable materials.]

[DELETE IF NOT APPLICABLE: 29. **HIPAA. § Compliance With Federal HIPAA And State Confidentiality Law**

A. The Contractor acknowledges its duty to become familiar with and comply, to the extent applicable, with all requirements of the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. §§ 1320 *et seq.*, as the same may be amended from time to time and implementing regulations including 45 CFR Parts 160 and 164, as the same may be amended from time to time, the Contractor also agrees to comply with the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§4-301 *et seq.*, as the same may be amended from time to time. This obligation includes:

1. As necessary, adhering to the privacy and security requirements for protected health information and medical records under federal HIPAA and State MCMRA and making the transmission of all electronic information compatible with the federal HIPAA requirements; and
2. Providing good management practices regarding all health information and medical records.

B. [If the County determines that functions to be performed constitute business associate functions as defined in HIPAA, t][T]he Contractor must execute a business associate agreement as required by HIPAA regulations at 45 CFR §164.501, as the same may be amended from time to time. The fully executed business associate agreement must be submitted within 10 working days after notification of selection, or within 10 days after award, whichever is earlier. Upon expiration of the ten-day submission period, if the County determines that the Contractor has not provided the HIPAA agreement

required by this Agreement, the Procurement Officer, upon review of the Baltimore County Office of Law, may determine the Contractor to be in default of this Agreement.

C. Protected Health Information as defined in the HIPAA regulations at 45 CFR 160.103 and 164.501, as, the same may be amended from time to time, means information transmitted as defined in the regulations, that is individually identifiable; that is created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and that is related to the past, present, or future physical or mental health or condition of an individual, to the provision of healthcare to an individual, or to the past, present, or future payment for the provision of healthcare to an individual. The definition excludes certain education records as well as employment records held by a covered entity in its role as employer.

30. **Political Contribution Disclosure Affirmation.**

The Contractor affirms that it is aware of, and will comply with, the provisions of Sections 14-101 through 14-108 of the Election Law Article of the Annotated Code of Maryland, as the same may be amended from time to time, which require that every person who makes, during any 12-month period, one or more contracts, with one or more Maryland governmental entities involving cumulative consideration, of at least \$100,000.00, to file with the State Board of Elections certain specified information to include disclosure of attributable political contributions in excess of \$500 during defined reporting periods.

31. **No Waiver, Etc.**

No failure or delay by the County to insist upon the strict performance of any term, condition or covenant of this Agreement, or to exercise any right, power, or remedy consequent upon a breach thereof, shall constitute a waiver of any such term, condition, or covenant or of any such breach, or preclude the County from exercising any such right, power, or remedy at any later time or times.

32. **Survival.**

Those sections in this Agreement which by their nature are intended to survive, including but not limited to Sections 4 (Contractor's Representations and Warranties), 10 (Confidential Information), 14 (Indemnification), 26 (Reports/Information/and Audits), shall survive the termination of this Agreement.

[USE FOR CAPITAL IMPROVEMENT ONLY]33. **Applicable Laws, Codes, Ordinances, and Regulations.**

The services and/or scope of work to be provided under this Agreement shall be performed competently and with due care, and in accordance with all applicable laws, codes, ordinances, regulations (including but not limited to the Baltimore County Department of Public Works' Standard Specifications For Construction and Materials and the Standard Details For Construction).

[INSERT ANY SPECIAL CLAUSES HERE, SUCH AS WARRANTIES, ETC.]

IN WITNESS WHEREOF, it is the intent of the parties that Contractor has signed this Agreement under seal and further, that the parties have executed this Agreement the day and year first written above.

WITNESS: **[INSERT LEGAL NAME OF CONTRACTOR]**
Federal Identification No. _____

By: _____(SEAL)
[Insert Name]
[Insert Title]

WITNESS: **BALTIMORE COUNTY, MARYLAND**, a body corporate and politic

By: _____ Date
Fred Homan
Administrative Officer

APPROVED FOR LEGAL FORM AND SUFFICIENCY*
(Subject to Execution by A Duly Authorized County
Administrative Official and County Council, if Indicated)

OFFICE OF THE COUNTY ATTORNEY
*Approval of Legal Form and Sufficiency Does Not Convey.
Approval or Disapproval of Substantive Nature of Transaction.
Approval is Based Upon Typeset Document. All Modifications Require Re-Approval.

REVIEWED AND APPROVED:

[INSERT DEPT. AND DEPT. HEAD]

BALTIMORE COUNTY COUNCIL

By: _____ Date
Chairman

ATTACHMENT A

[SERVICES AND/OR SCOPE OF WORK TO BE PERFORMED] [GOODS TO BE PROVIDED]
[FOR CAPITAL IMPROVEMENT CONTRACTS: TIME FRAME OR COMPLETION SCHEDULE
WITH INTERIM BENCHMARKS, AS APPLICABLE]

SAMPLE

THE ABOVE ARE IN ADDITION TO ANY OTHER SERVICES AS SET FORTH IN THE
[REQUEST FOR PROPOSAL # / INVITATION TO BID #] AND THE BID RESPONSE.

ATTACHMENT B

[INSURANCE INFORMATION]

SAMPLE

ATTACHMENT C
CONTRACT AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the [title]_____ and the duly authorized representative of [business]_____
(the "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. BID/PROPOSAL AFFIDAVIT 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 Procurement Affidavit dated _____, and executed by (me) (_____) for the purpose of obtaining the contract to which this Affidavit 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: _____
Name:
Title:
(Authorized Representative and Affiant)