

MARYLAND DEPARTMENT OF TRANSPORTATION
MARYLAND TRANSIT ADMINISTRATION
 1331 S. Monroe St. • Baltimore, Maryland 21230-1713
 (410) 454-7882
REQUEST FOR QUOTATION

QUOTATION REQUEST NUMBER 022912-IM
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PROCUREMENT ADMINISTRATOR IVORY L MOORE	TELEPHONE 410 454 7355	REQUEST DATE 02/08/2012	THIS QUOTATION MUST BE RETURNED BY 2:00 P.M. ON DATE AT RIGHT TO THE ABOVE ADDRESS →	DUE DATE OF QUOTATION 02/29/2012
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BIDDERS NAME & ADDRESS
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BID OPENING: 02/29/2012 2:00 P.M.

INSTRUCTIONS

- QUOTATION TO INCLUDE DELIVERY OF FOLLOWING ITEMS TO OR DESTINATION, INCLUSIVE OF ALL CHARGES, IF PLATFORM OR DOORWAY OF SHIP-TO ADDRESS INDICATED:
 1331 S. MONROE STREET, BALTO, MD 21230 5801 WABASH AVE., BALTO, MD 21215 344 W. NORTH AVE., BALTO, MD 21217
 5 AMTRAK WAY, BWI AIRPORT, MD 21240 OTHER _____
- STATE FIRM DELIVERY AFTER RECEIPT OF ORDER _____ WEEKS. FAILURE TO INSERT DELIVERY INFORMATION WILL RESULT IN DISQUALIFICATION OF YOUR QUOTATION.
- QUOTATIONS MUST BE SUBMITTED WITH THIS FORM. EQUIPMENT ITEMS SHALL BE CONSIDERED BY COMPANY ACCOMPANIED BY SPECIFICATIONS AND/OR DESCRIPTIVE LITERATURE.
- VENDOR MUST COMPLETE AND SIGN THIS QUOTATION IN INK.
- PRICES QUOTED SHALL BE VALID FOR A MINIMUM OF NINETY DAYS UNLESS OTHERWISE NOTED.
- THE VENDOR SHALL COMPLY WITH ALL FEDERAL AND STATE REGULATIONS AND THE PURCHASING DEPARTMENT GENERAL RULES AND REGULATIONS IN EFFECT AT THE TIME OF SUBMISSION.
- A PURCHASE ORDER WILL ACKNOWLEDGE ACCEPTANCE OF YOUR OFFER HEREON. ANY RESULTANT PURCHASE ORDER IS SUBJECT TO THE TERMS AND CONDITIONS WHICH ARE ATTACHED.

DESCRIPTION	QUANTITY	UNIT ISSUE	UNIT PRICE
RAIL GRINDING 115 LB A.R.E.A	24	SHIFTS/8HRS	
MOBILIZATION SETUP	1	EVENT	
<p>NOTE: IF A MULTI-YEAR CONTRACT THE FOLLOWING APPLIES</p> <p>Quantity is based on estimated annual usage and may be adjusted without penalty. Releases will be made as required and confirmed in writing. Prices will be made firm for a minimum of 12 months. Deliveries not made within the quoted lead time may be cause for purchase order cancellation or to acquire the item(s) off-contract at the discretion of the MTA.</p> <p>FOB = Freight must be included in individual items.</p>			

Request for Quotation

INSTRUCTIONS:

1. Quotations shall include delivery of the following items F.O.B. destination, inclusive of all charges, i.e. platform or doorway of ship-to address indicated.
2. Provide maximum lead time (time between receipt of purchase order and delivery), **in days**, for each item quoted. Failure to insert delivery information may result in disqualification of quotation.
3. Quotations must be submitted with this form.
4. Equivalent items require MTA approval prior to award. These items must be identified on RFQ and accompanied by specifications and descriptive literature for MTA evaluation.
5. Vendor must complete and sign, in ink, the quotation.
6. Prices quoted shall be valid for a minimum of 90 days unless otherwise noted: _____
7. Vendor shall comply with all federal and state regulations and the Purchasing Department rules and regulations in effect at time of submission.
8. Any change of the vendor part number, as it is listed on the RFQ, must be identified by circling the number on the RFQ and completing the attached 'Part Number Verification Request'. The Part Number Verification Request form must be completed in full and submitted with the RFQ for any change in part numbers.

SOLICITATION REQUIREMENTS:

1. Award to be made on the basis of the lowest evaluated bid price based on a combination of the unit price, delivery, and quality rating of commodity. In addition, all items are subject to the Small Business preference when applicable.
2. In the event of a single line item award, the awarded vendor will not impose a minimum dollar value. If they do, the single line item will be awarded to the next lowest evaluated bidder.

Financial Disclosure by Persons Doing Business with the State:

Vendors and contractors providing materials, equipment, supplies or services to the State of Maryland herewith agree to comply with State Finance and Procurement Article, Sect. 13-221 of the Annotated Code of Maryland which requires that every business that enters into contracts, leases or other agreements with the State and receives in the aggregate of \$100,000 or more during a calendar year shall, within 30 days of the time when the \$100,000 is reached, file with the Secretary of State certain specified information to include disclosure of beneficial ownership of the business.

SCOPE OF WORK RAIL GRINDING REQUIREMENTS

1.1 Contractor shall provide Production Rail Grinding services using a rail bound vehicle with grinding profile by angle/ Right & Left rails (direction of normal traffic). The contractor shall supply all equipment, tools, materials and labor required to complete the grinding project per requirements identified herein.

The equipment must have at least eight (8) stone grinding capability, or the latest proven design using methods equal to or greater than industry standards. The MTA Metro track systems includes revenue tracks, pocket tracks, interlocking, connector tracks and yard tracks consisting of 115 lb A.R.E.A. rail. The MTA Metro Rail system consist of approximately 15.5 miles of track area.

1.2 Contractor shall provide upon request a copy of the grinding data collected and distributed either on a hard drive, computer driven disc (CD) or written report at the end of all completed segments of track.

1.3 Contractor shall identify defects that cannot be removed after the grinding process has been completed.

1.4 Contractor must be escorted at all times while on the MTA Metro property. If maintenance work on any vehicle is required during non-grinding hours a request for an escort shall be required.

1.5 Disbursements of any wet or dry chemical to running rails must be pre-approved prior to usage by the MTA Safety Department.

1.6 Rail grinding will be performed at various locations throughout the MTA and the available hours will be noted and subject to change at the discretion of Superintendent of MOW.

1.7 Use of gasoline powered equipment not permitted within the system.

1.8 Contractor shall provide the MTA Metro MOW personnel with appropriate gauge measuring equipment to verify grinding patterns and rail grinding profiles during the term of this contract.

1.9 Equipment must conform to the space restrictions (SEE CONTACT RAIL CLEARANCE & MAXIMUM DYNAMIC OUTLINE)



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RAIL GRINDING

BALTIMORE METRO SUBWAY SYSTEM

The Maryland Transit Administration Metro Rail Division requires the services of a qualified contractor to provide Rail Grinding Services to restore proper profile on the head of our running rails. The service has been projected not to exceed (24) eight (8) hour shifts.

UNLOADING AND LOADING OF EQUIPMENT:

All equipment shall be delivered to the Wabash Shop Systems Maintenance Building, 5801 Wabash Avenue, Baltimore, Maryland 21215 for Metro. All equipment is to be delivered on a prearranged schedule, approved at least two weeks in advance, between the Contractor and the Maintenance of Way Departments. Coordination of the delivery shall be arranged through the Maintenance of Way Departments. Contact Al Panuska (410) 454-1818 or Garry Hall (410) 454-1817. The Contractor should have a crew arrive prior to delivery to accept delivery of equipment and supervise the unloading and then reloading of equipment at job completion.

RAIL GRINDING SCHEDULE:

Due to revenue operation requirements, all work must be performed as per the following schedule:

Rail grinding shall be performed as directed and determined by the Superintendent of Maintenance of Way. The Superintendent will be the sole judge to determine the impact on train operations.

- A. All work shall be performed during non-revenue service at which time track access will be granted. Non-revenue service is as follows:
 - i. Metro – Monday through Friday; 1:00AM to 4:00AM, and Saturday and Sunday 1:00AM to 5:00AM.

These hours may be subject to revision. Track access for Metro is subject to the Orioles' games or other events scheduled at Camden Yards and also Baltimore's Football Team, the Ravens.

All track access will be arranged through the Maintenance of Way Departments. Rail grinding must be done during non-revenue hours and must be completed in a sufficient time to allow for



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commencement of the daily normal revenue service. Maximum shifts shall be no longer than twelve (12) hours unless agreeable to both parties.

The Contractor may request, on a daily basis, track rights during the revenue hours of 10:00PM to midnight. This time period may not be available for grinding at all times and arrangements should be made with the Superintendent 48 hours in advance. Failure to get track time prior to 12 midnight should not be considered time lost – Administration's Fault unless it had been previously approved by the Superintendent.

- B. The Superintendent of Maintenance of Way shall have the sole responsibility of determining the areas to be ground and to what depth in order to meet his complete satisfaction.

EQUIPMENT:

- A. The Contractor will provide all equipment, materials, supplies, and other services necessary to perform this contracted service. The Contractor will be responsible for all Administration's incurred expenses as a result of having to remove disabled contractor equipment from the Administration's rail system. The Contractor's equipment shall be maintained in good operating condition. The Administration reserves the right to inspect said equipment before each service begins, and any repairs and/or modifications it judges necessary for safe and reliable operation with the Administration's system, will be accomplished before the contracted service begins. Said repairs and/or modifications will be at the Contractor's expense.
- B. In order to accomplish the work in a timely manner, the equipment shall consist of a minimum of 8 stone, hydraulically powered, continuously variable grinding motors. Each grinding motor shall be a minimum of 30 horsepower. All grinding motors shall be adjustable from the operator's cab. The grinding operation shall be capable of being operated by computer with independent tilts and shifts (full flexibility). The rail grinder should have a proven spark guard and curtain system as well as a dust collection system for tunnel work. The maximum allowable noise level under full load shall not exceed 85DBA at 50FT. The rail grinder should be of the latest technology.
- C. The dimensions of the rail grinder should be within the dynamic outline and clearance diagrams which are included.
- D. Equipment should be able to negotiate #6 turnout, 250' radius curve, and also a 4° grade.

SAFETY:



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The Administration will provide Administration approved safety and flagging protection at all times while the Contractor is on the Administration property. Flagging protection will include steps deemed necessary by the Administration while the Contractor is working. For the purpose of fire prevention, the Administration will handle and assume the responsibility of preventing, patrolling, and inspecting for actual or potential fires and extinguishing all fires from the entire rail grinding operation.

PARTICULARS & CONDITIONS:

- The term of the Contract shall be for a period ending by July 1, 2012, commencing from the Notice to Proceed Date. The MTA reserves the right to extend the TERM of this contract by additional days under the same conditions and with no change in Contract price.
- The contract term is scheduled to start on or about March 01, 2012 and conclude no later than June 30, 2012.
- Minimum guaranteed commitment is fifteen (15) Basic Charge Days per project to occur on mutually agreeable dates.
- The rates are based on working a minimum of five (5) days per week, eight (8) hours per day.
- A Basic Charge Day is defined as a day when the equipment performs production or is available to perform production. The changing of stone and taking on of fuel and water shall not be classified as delay. When the sum of prorated Basic Charges equals a full Basic Charge or a full Basic Charge is applied, then it is considered a Basic Charge Day.
- All Contractor's employees who operate the equipment will be limited to twelve (12) consecutive hours of operation, followed by a rest period of eight (8) hours prior to operating the equipment. For the purposes of this provision, the operating day shall commence at a call time agreed to by the parties at the end of the previous shift and shall end when the equipment is released upon return to a tie-up point at the conclusion of a day's operations.
- Railroad is responsible for fuel and water for the equipment
- Payment terms – Semi – monthly invoicing, due net 30 days from invoice. All invoices not paid within thirty (30) days from the date of the invoice will be assessed a 2% carrying charge for each month until paid.
- Rates do not account for the payment of prevailing wages. Should prevailing wages apply, the Contractor will adjust rates accordingly.

BASIC CHARGE



MARYLAND TRANSIT ADMINISTRATION

MARYLAND DEPARTMENT OF TRANSPORTATION

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- A Basic Charge is billed for each scheduled workday the equipment is operating or available to operate. The operating day shall commence at a call time agreed to by the parties at the end of the previous shift and shall end when the equipment is released upon return to a tie-up point at the conclusion of a day's operations.
- No charge shall be made to Railroad for time lost because of any delays due to a cause attributable to the Contractor.
- Charges shall accrue at the Basic Charge during equipment or other delay which is due to a cause attributable to Railroad, such as train delay, pilot delay or delay during working hours.
- Overtime worked beyond the scheduled eight (8) hour workday will be charged at the applicable prorated Basic Charge.
- A Basic Charge is billed for machine travel not part of the round-trip mobilization, such as between job sites.

MOBILIZATION CHARGE

- The Mobilization Charge is charged to deliver the equipment to/from Railroad property from its current location at the time required for the work program, including cranes.

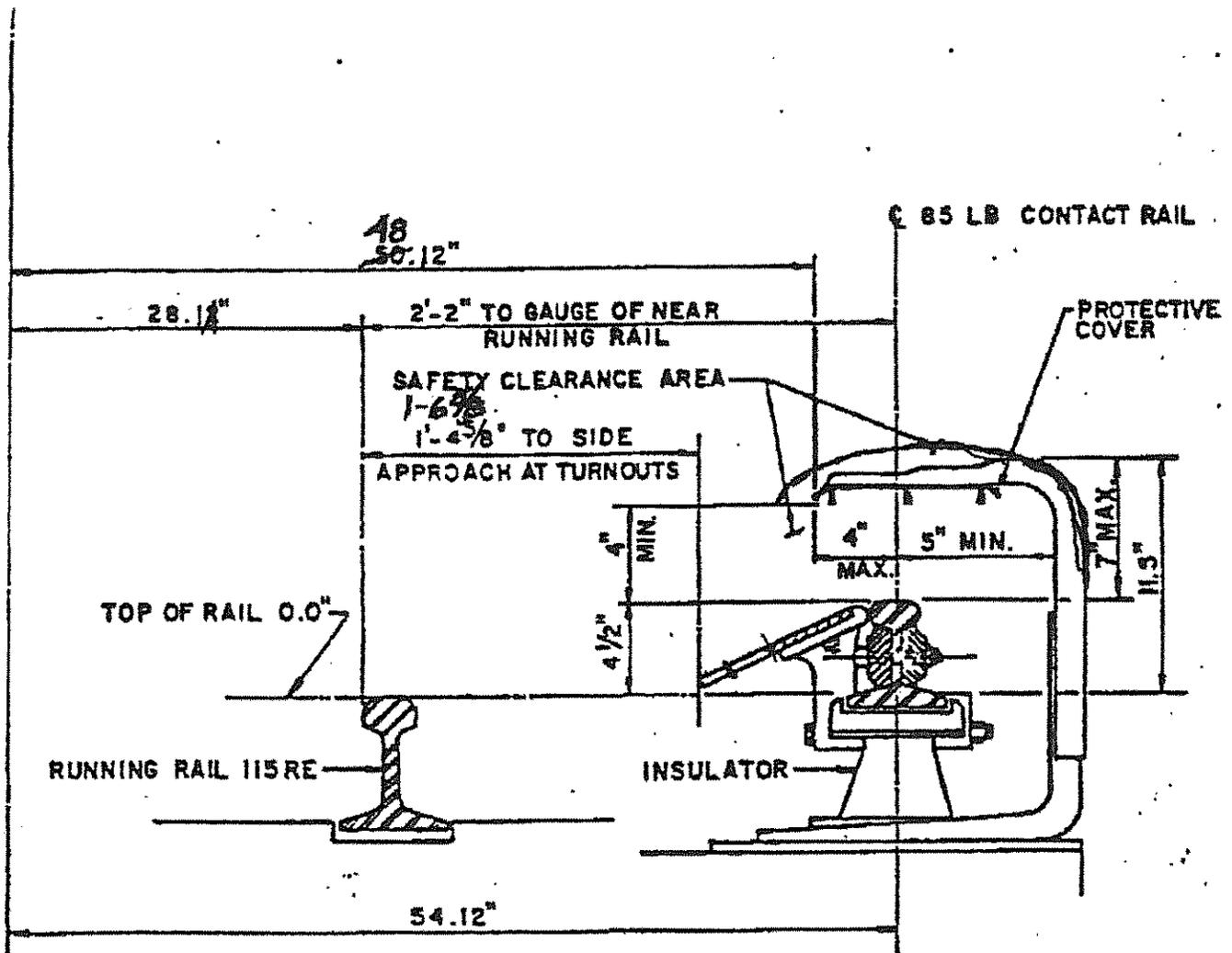
INSURANCE STIPULATIONS

Railroad Protective Liability Insurance (RRL) issued to MTA as the Named Insured with minimum limits of \$5,000,000 per occurrence / \$10,000,000 per aggregate and covering the liability of all Contracting Parties for the work to be performed within fifty (50) feet (on, above, adjacent to or underneath) of MTA Metro railroad tracks or within MTA Metro rail stations for any personal injuries or deaths or any damage to the property, equipment and facilities caused by the activities of any Contractor or Subcontractor resulting from performance of this contract work.

Workers' Compensation Insurance meeting the statutory requirements of the jurisdiction where the work will be performed, including Employer's Liability coverage with minimum limits of \$1,000,000 each accident or disease.

Business Automobile Liability Insurance with minimum limits of \$2,000,000 per occurrence covering contractor against claims for bodily injury and property damage arising out of the ownership, maintenance or use of any owned, hired, or non-owned motor vehicle. MTA shall be added as an additional insured on the policy.

— ϵ OF TRACK AND VEHICLE = 0.0"

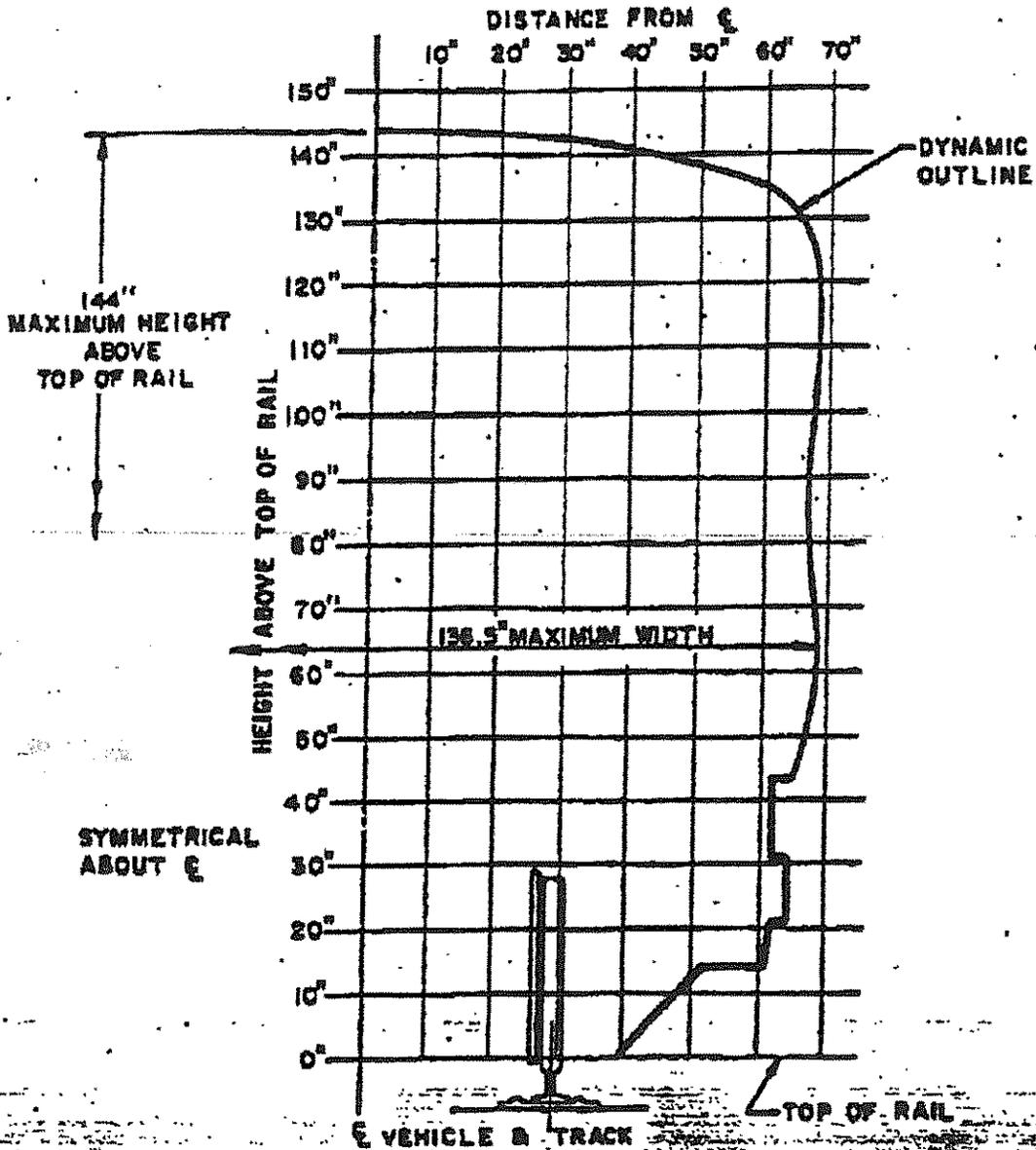


NOTE:

ADDITIONAL CLEARANCE FOR MID-ORDINATE OVERHANG AND SECANT PROJECT ON CURVES MUST BE ALLOWED. THE LIMITING CURVE IS 250 FT. RADIUS WITH THE CONTACT RAIL INSTALLED ON EITHER THE INSIDE OR OUTSIDE OF THE TRACKS.

CONTACT RAIL CLEARANCE

1. THE DYNAMIC OUTLINE REPRESENTS THE MAXIMUM ALLOWED EXCURSION OF THE VEHICLE WITH NEW OR WORN WHEELS.
2. THE DYNAMIC OUTLINE INCLUDES THE SUM OF ALL MAXIMUM VERTICAL (UP AND DOWN), LATERAL, YAW AND ROLL MOTIONS OF THE VEHICLE.
3. FOR UNDERFLOOR EQUIPMENT CLEARANCES, SEE PAGE A2.



MAXIMUM DYNAMIC OUTLINE

XO-16-10

APPENDIX A

Rev
Date 4-1-82
Page A-1

MARYLAND DEPARTMENT OF TRANSPORTATION (MDOT)
MARYLAND TRANSIT ADMINISTRATION
TERMS AND CONDITIONS
(MANDATORY)

1. **GENERAL**
The following are mandatory terms and conditions to be included in all purchase orders EXCEEDING \$25,000 it is also MTA'S policy to extend the inclusion of the following terms and conditions to all purchase orders under \$25,000
- 1.1 **INCORPORATION BY REFERENCE**
"All terms and conditions of the solicitation, and any amendments thereto, are made a part of this contract "
2. **TAX EXEMPTION**
"The State is generally exempt from federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes, and transportation taxes. Exemption certificates shall be completed upon request. Where a contractor is required to furnish and install material in the construction or improvement of real property in performance of a contract, the Contractor shall pay the Maryland sales tax and the exemption does not apply."
3. **SPECIFICATIONS**
"All materials, equipment, supplies or services shall conform to federal and state laws and regulations and to the specifications contained in the solicitation
4. **DELIVERY AND ACCEPTANCE**
"Delivery shall be made in accordance with the solicitation specifications. The State, in its sole discretion, may extend the time of performance for excusable delays due to unforeseeable causes beyond the Contractor's control. The State unilaterally may order in writing the suspension, delay, or interruption of performance hereunder. The State reserves the right to test any materials, equipment, supplies, or services delivered to determine if the specifications have been met. The materials listed in the bid or proposal shall be delivered FOB the point or points specified prior to or on the date specified in the bid or proposal. Any material that is defective or fails to meet the terms of the solicitation specifications shall be rejected. Rejected materials shall be promptly replaced. The State reserves the right to purchase replacement materials in the open market. Contractors failing to promptly replace materials lawfully rejected shall be liable for any excess price paid for the replacement, plus applicable expenses, if any."
5. **NON-HIRING OF OFFICIALS AND EMPLOYEES**
"No official or employee of the State, as defined under State Government Article, § 15-102, Annotated Code of Maryland, whose duties as such official or employee include matters relating to or affecting the subject matter of this contract shall, during the pendency or term of this contract and while serving as an official or employee of the State become or be an employee of the contractor or any entity that is a subcontractor on this contract."
6. **NONDISCRIMINATION IN EMPLOYMENT**
"The Contractor agrees not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or physical or mental disability of a qualified individual with a disability and to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause."
7. **FINANCIAL DISCLOSURE**
"The Contractor shall comply with State Finance and Procurement Article, § 13-221, Annotated Code of Maryland, which requires that every business that enters into contracts, lease or other agreements with the State and receives in the aggregate \$100,000 or more during a calendar year shall, within 30 days of the time when the \$100,000 is reached, file with the Secretary of State certain specified information to include disclosure of beneficial ownership of the business."
8. **POLITICAL CONTRIBUTION DISCLOSURE**
"The Contractors shall comply with Election Law Article, §§ 14-101 - 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State of Maryland or a political subdivision of the State, including its agencies, during a calendar year in which the person receives in the aggregate \$100,000 or more, shall file with the State Administration Board of Election Laws a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election."
9. **ANTI-BRIBERY**
"The Contractor warrants that neither it nor any of its officers, directors, or partners nor any of its employees who are directly involved in obtaining or performing contracts with any public body has been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or of the federal government or has engaged in conduct since July 1, 1977, which would constitute bribery, attempted bribery, or conspiracy to bribe under the laws of any state or the federal government."
10. **REGISTRATION**
"Pursuant to § 7-201 et seq. of The Corporations and Associations Article of the Annotated Code of Maryland, corporations not incorporated in the State shall be registered with the State Department of Assessments and Taxation, 301 West Preston St., Baltimore, Maryland 21201, before doing any interstate or foreign business in this State. Before doing any intrastate business in this State, a foreign corporation shall qualify with the Department of Assessments and Taxation."
11. **CONTINGENT FEES**
"The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Contractor, to solicit or secure this agreement, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this agreement."
12. **EPA COMPLIANCE**
"Materials, supplies, equipment, or services shall comply in all respects with the Federal Noise Control Act of 1972, where applicable."
13. **OCCUPATIONAL SAFETY AND HEALTH ACT (O.S.H.A.)**
"All materials, supplies, equipment, or services supplied as a result of this contract shall comply with the applicable U.S. and Maryland Occupational Safety and Health Act standards."

MARYLAND DEPARTMENT OF TRANSPORTATION (MDOT)
MARYLAND TRANSIT ADMINISTRATION
TERMS AND CONDITIONS
(MANDATORY)

14. **TERMINATION FOR CONVENIENCE**
"Upon written notice to the Contractor, the State may terminate this contract, in whole or in part, whenever the State shall determine that such termination is in the best interest of the State. The State shall pay all reasonable costs incurred up to the date of termination and all reasonable costs associated with termination of the contract. However, the Contractor may not be reimbursed for anticipatory profits. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A(2)."
15. **TERMINATION FOR DEFAULT**
"When the Contractor has not performed or has unsatisfactorily performed the contract, payment shall be withheld at the discretion of the State. Failure on the part of a Contractor to fulfill contractual obligations shall be considered just cause for termination of the contract and the Contractor is not entitled to recover any costs incurred by the Contractor up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B."
16. **DISPUTES**
"This contract shall be subject to the provisions of Title 15, Subtitle 2, of the State Finance and Procurement Article of the Annotated Code of Maryland and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the contract in accordance with the procurement officer's decision."
17. **FUND AVAILABILITY**
"If funds are not appropriated or otherwise made available to support continuation in any fiscal year succeeding the first fiscal year, this contract shall terminate automatically as of the beginning of the fiscal year for which funds are not available. The Contractor may not recover anticipatory profits or costs incurred after termination."
18. **INTELLECTUAL PROPERTY**
"Contractor agrees to indemnify and save harmless the State, its officers, agents and employees with respect to any claim, action, cost or judgment for patent infringement, or trademark or copyright violation arising out of purchase or use of materials, supplies, equipment or services covered by this contract."
19. **MARYLAND LAW PREVAILS**
"The provisions of this contract shall be governed by the laws of Maryland."
20. **CONTRACTOR'S INVOICES**
"Contractors agree to include on the face of all invoices billed to the State, its Taxpayer Identification Number, which is the Social Security Number for individuals and sole proprietors and the Federal Employer Identification Number for all other types of organizations."
21. **PRE-EXISTING REGULATIONS**
"The regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR Title 21) in effect on the date of execution of this Contract are applicable to this Contract."
22. **REPEALED**
23. **INDEMNIFICATION**
"The State shall not assume any obligation to indemnify, hold harmless, or pay attorney's fee that may arise from or in any way be associated with the performance or operation of this agreement."
24. **CONFLICTING TERMS**
"Any proposal for terms in addition to or different from those set forth in this purchase order or any attempt by the Contractor to vary any of the terms of this offer by Contractor's acceptance shall not operate as a rejection of this offer, unless such variance is in the terms of the description, quantity, price or delivery schedule, but shall be deemed a material alteration thereof, and this offer shall be deemed acceptable by the Contractor without the additional or different terms. If this purchase is an acceptance of a prior offer by the Contractor, the acceptance is expressly conditioned upon Contractor's assent to any additional or different terms contained herein. The Contractor understands and agrees that the terms and conditions of this purchase order may not be waived."
25. **DRUG AND ALCOHOL FREE WORKPLACE**
"The contractor warrants that the contractor shall comply with COMAR 21.11.08, and that the contractor shall remain in compliance throughout the term of this purchase order."

MTA'S POLICY

- **GOVERNMENTAL RESTRICTION**
"In the event any governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship, or performance of the items offered on this proposal prior to their delivery, it shall be the responsibility of the supplier to notify the Purchasing Department at once, indicating in his letter the specific regulation which required an alteration. The State reserves the right to accept any such alteration, including any price adjustments occasioned thereby, or to cancel the contract at no expense to the State."
- **ASSIGNMENT**
"This Purchase Order and the monies which may become due hereunder are not assignable except with the prior written approval of the Procurement Officer."
- **BID AWARD-RESIDENT BUSINESS**
"Pursuant to Section 14-401 of the State Finance and Procurement Article of the Annotated Code of Maryland, the procuring agency shall give a percentage preference to the lowest responsive and responsible bid from a Maryland firm over that of a nonresident firm if the state in which the non-resident firm is located gives a resident business preference. The percentage of preference awarded under this section shall be the same as that awarded by the State in which the non-resident firm is located. This provision shall not apply if it conflicts with any federal grant or regulation affecting this contract."

MARYLAND TRANSIT ADMINISTRATION
Mandatory Written Solicitation Requirements

.01 Public Information Act Notice.

A public information act notice is a mandatory provision for all requests for proposals. The following notice is preferred:

"Offerors should give specific attention to the identification of those Portions of their proposals that they deem to be confidential, proprietary Information or trade secrets and provide any justification why such materials, upon request, should not be disclosed by the State under the Access to Public Records Act, State Government Article Title 10 Subtitle 6, Annotated Code of Maryland."

.05 No visual Access Clause.

Except as provided in §B of this regulation, the following clause is a mandatory provision for each invitation for bid under COMAR21.05.02 or request for proposals under COMAR 21.05.03 for the purchase of new or upgraded information technology:

"The bidder or offeror warrants that the information technology offered under this bid or proposal (1) provides equivalent access for effective use by both visual and non visual means; (2) will present information, including prompts used for interactive communications, in formats intended for both visual and non visual use; (3) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and (4) is available, whenever possible, without modification for compatibility with software and hardware for non visual access. The bidder or offeror further warrants that the cost, if any, of modifying the information technology for compatibility with software and hardware used for non visual access will not increase the cost of the information technology by more than 5 percent".

"For purposes of this regulation, the phrase 'equivalent access' Means the ability to receive, use, and manipulate information and Operate controls necessary to access and use information technology By non visual means. Examples of equivalent access include keyboard Controls used for input and synthesized speech, Braille, or other audible or tactile means used for output."

- B. The non visual access clause is not required if the Procurement Officer makes a determination that:
- The information technology is not available with non visual access because the essential elements of the information technology are visual and non visual equivalence cannot be developed; or
 - The cost of modifying the information technology for compatibility with software and hardware used for non visual access would increase the cost of the procurement by more than 5 percent.
- C. The procurement officer may request such documentation as is reasonably necessary to implement this regulation.

.06 Arrearages.

An arrearages clause is a mandatory provision for all solicitations; the language may be varied but shall contain the following information:

"By submitting a response to this solicitation, a vendor shall be deemed to represent that it is not in arrears in the payment of any obligation due and owing the State of Maryland, including the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of the contract if selected for contract Award."

MARYLAND TRANSIT ADMINISTRATION
Mandatory Written Solicitation Requirements

.07 Bid/Proposal Affidavit.

A. Each solicitation shall provide notice that the affidavit in §B of this regulation shall be completed and submitted to the procurement agency with the vendor's bid or offer.

B. Mandatory Solicitation Addendum. The solicitation addendum shall be in substantially the same form as follows:

BID/PROPOSAL AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

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

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

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

B-1. Certification Regarding Minority Business Enterprises.

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

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

MARYLAND TRANSIT ADMINISTRATION
Mandatory Written Solicitation Requirements

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

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

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

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

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

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

MARYLAND TRANSIT ADMINISTRATION
Mandatory Written Solicitation Requirements

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

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

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

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

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

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

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

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

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

MARYLAND TRANSIT ADMINISTRATION
Mandatory Written Solicitation Requirements

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

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

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

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

- (1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;
- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

I. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

J. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, §§14-101—14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

K. DRUG AND ALCOHOL FREE WORKPLACE

MARYLAND TRANSIT ADMINISTRATION
Mandatory Written Solicitation Requirements

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

I CERTIFY THAT:

- (1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.
- (2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:
 - (a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;
 - (b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;
 - (c) Prohibit its employees from working under the influence of drugs or alcohol;
 - (d) Not hire or assign to work on the contract anyone whom the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;
 - (e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;
 - (f) Establish drug and alcohol abuse awareness programs to inform its employees about:
 - (i) The dangers of drug and alcohol abuse in the workplace;
 - (ii) The business' policy of maintaining a drug and alcohol free workplace;
 - (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;
 - (g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §K(2)(b), above;
 - (h) Notify its employees in the statement required by §K(2)(b), above, that as a condition of continued employment on the contract, the employee shall:
 - (i) Abide by the terms of the statement; and
 - (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;
 - (i) Notify the procurement officer within 10 days after receiving notice under §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;

MARYLAND TRANSIT ADMINISTRATION
Mandatory Written Solicitation Requirements

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

- (i) Take appropriate personnel action against an employee, up to and including termination; or
- (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and
- (k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §K(2)(a)—(j), above.

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

(4) I acknowledge and agree that:

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

L. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

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

(If not applicable, so state).

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

M. CONTINGENT FEES

I FURTHER AFFIRM THAT:

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

MARYLAND TRANSIT ADMINISTRATION
Mandatory Written Solicitation Requirements

corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

N. Repealed.

O. ACKNOWLEDGEMENT

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

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

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

MARYLAND TRANSIT ADMINISTRATION
Mandatory Written Solicitation Requirements

STATE PROCUREMENT

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 YOUR KNOWLEDGE INFORMATION AND BELIEF.

Date: _____ By _____
(Authorized Representative and Affiant)

.08 Conflict of Interest.

A. Definitions.

(1) In this regulation, the following terms have the meanings Indicated.

(2) Terms Defined.

- (a) "Conflict of interest" means that, because of other activities or relationships with other persons:
- (i) A person is unable or potentially unable to render impartial Assistance or advice to the State;
 - (ii) The person's objectivity in performing the contract work is or might be otherwise impaired; or
 - (iii) A person has an unfair competitive advantage,

(b) Person,

(i) "Person" has the meaning stated in COMAR 21.01.02.01B (64).

(ii) "Person" includes a bidder, offeror, contractor, consultant, Or subcontractor or sub consultant at any tier, and also includes An employee or agent or any of them if the employee or agent has or Will have the authority to control or supervise all or a portion of the Work for which a bid or offer is made.

B. A solicitation that will result in the selection of a contractor

Who will assist a unit in the formation, evaluation, selection, award, Or execution of a State contract shall provide notice of the requirements of this regulation.

C. If the procurement officer makes a determination before award that facts or circumstances exist giving rise or which could in the future give rise to a conflict of interest, the procurement officer may Reject a bid or offer under COMAR 21.06.02.03B.

PROCUREMENT METHODS 21.05.080

D. Termination.

(1) After award, the State may terminate the contract, in whole **Or in part, if it considers termination necessary to avoid an actual or Potential conflict of interest.**

(2) If the contractor knew or reasonably could have been expected To know of an actual or potential conflict of interest before or After award and did not disclose it or misrepresented relevant information To the procurement officer, the State may terminate the contract For default, institute proceedings to debar the contractor from Further State contracts, or pursue other remedies as may be permitted By law or the contract.

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

MARYLAND TRANSIT ADMINISTRATION
Mandatory Written Solicitation Requirements

F. A bidder or offeror responding to a solicitation that will result in the selection of a contractor who will assist a unit in the formation, **Evaluation, selection, award, or execution of another State contract** shall provide the affidavit and disclosures set forth in §G of this regulation to the procurement officer with the bid or offer and at other times as may be required by the procurement officer.

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

CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

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

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

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

STATE PROCUREMENT

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

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

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

Date _____: By: _____

MARYLAND TRANSIT ADMINISTRATION
Mandatory Written Solicitation Requirements

STATE PROCUREMENT

21.05.08.09

MERCURY CONTENT INFORMATION:

The product(s) offered do not contain mercury.
OR

The product(s) offered do contain mercury.

- (1) Describe the product or product component that contains mercury.
- (2) Provide the amount of mercury that is contained in the product or product component.
Indicate the unit of measure being used.

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

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

_____ By _____
Date Signature

Print Name: _____
Authorized Representative and Affiant