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MARYLAND STATE TREASURER'S OFFICE

**Louis L. Goldstein Treasury Building
80 Calvert Street, Room 109
Annapolis, Maryland 21401**

**REQUEST FOR PROPOSALS
FINANCIAL ADVISORY SERVICES FOR
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
RFP #DHCD-FA-04072014**

DUE DATE: MAY 20, 2014

ISSUED: April 7, 2014

KEY INFORMATION SUMMARY SHEET

**Maryland State Treasurer's Office
Request for Proposals
For
Financial Advisory Services for
Department of Housing and Community Development
RFP #DHCD-FA-04072014**

Procurement Officer: Anne Jewell
Tel.: (410)260-7903
Fax: (410)974-3530
Email: procurement@treasurer.state.md.us

Submit Proposals to: Maryland State Treasurer's Office
Attn: Anne Jewell, Procurement Officer
Louis L. Goldstein Treasury Building
80 Calvert Street, Room 109
Annapolis, Maryland 21401

Solicitation Issue Date: April 7, 2014

Deadline for Receipt of Questions: April 18, 2014 by 2:00 p.m. Local Time

Pre-Proposal Conference: April 28, 2014 at 11:00 a.m. Local Time

Proposal Due Date and Time: May 20, 2014 at 2:00 p.m. Local Time

Oral Presentations: June 11, 2014

Tentative Contract Award: June 30, 2014

Notice: Prospective offerors (the "Offerors") who received this document from eMaryland Marketplace (<https://emaryland.buyspeed.com/bso>), or from a source other than the Issuing Office, should immediately contact the Procurement Officer and provide their name and mailing address in order that amendments to this Request for Proposals or other communications can be sent to them. Any prospective Offeror who fails to notify the Issuing Office with this information assumes complete responsibility in the event that they do not receive the amendments or other communications from the Issuing Office prior to the closing date.

TABLE OF CONTENTS

	Page
I. Procurement Information	
1.01 Purpose.....	1
1.02 Procurement Method	1
1.03 Issuing Office and Procurement Officer	1
1.04 Contract Officer	1
1.05 Use of eMaryland Marketplace.....	2
1.06 Schedule of Events	2
1.07 Questions and Inquiries.....	2
1.08 Pre-proposal Conference.....	2
1.09 Submission Deadline.....	2
1.10 False Statements.....	3
1.11 Duration of Offer.....	3
II. General Information	
2.01 Electronic Distribution.....	4
2.02 Revisions to the RFP.....	4
2.03 Cancellation of the RFP; Rejection of All Proposals	4
2.04 Proposal Acceptance; Discussions.....	4
2.05 Oral Presentation.....	4
2.06 Incurred Expenses	5
2.07 Proposal Form	5
2.08 Multiple Proposals	5
2.09 Access to Public Records Act Notice	5
2.10 Protests.....	5
2.11 Proposal Opening	6
2.12 Bid/Proposal Affidavit.....	6
2.13 Living Wage Requirements.....	6
2.14 Contract Affidavit	6
2.15 Representations	7
2.16 Minority Business Enterprises.....	7
2.17 Veteran-Owned Small Business Enterprise	7
2.18 No Guarantee of Work.....	7
2.19 Order of Precedence.....	8
III. Scope of Services and Requirements	
3.01 Background.....	9
3.02 Minimum Qualifications.....	10
3.03 Specific Services.....	10
3.04 Staffing Requirements	14
3.05 Transition	15
3.06 Term	16
3.07 Compensation	16

IV. Proposal Format

4.01	Transmittal Letter	18
4.02	Two-Volume Submission.....	18
4.03	Volume I - Technical Proposal.....	18
4.04	Securities Law Violations	24
4.05	Volume II – Price Proposal.....	24

V. Evaluation and Selection Procedure

5.01	Qualifying Proposals	26
5.02	Evaluation Committee and Evaluation Criteria	26
5.03	Technical Evaluation.....	26
5.04	Evaluation of Costs/Fees	27
5.05	Best and Final Offer	27
5.06	Final Evaluation and Recommendation for Award	27
5.07	Debriefing of Unsuccessful Offerors.....	27
5.08	Responsibility	27

Appendices

A.	Price Proposal - Instructions.....	29
	Section 1.....	30
	Section 2.....	31
	Section 3.....	32
B.	Cash Flow Analysis Chart (complete and submit with offer).....	34
C.	Personnel Assignment Chart (A. General Advisory Services, B. Cash Flow Services, and C. Contingency Services Charts) (complete and submit with offer).....	35
D.	Bid/Proposal Affidavit (complete and submit with offer)	37
E.	Living Wage Requirements for Service Contracts	43
F.	Living Wage Affidavit of Agreement (complete and submit with offer) ..	45
G.	Minority Business Enterprise Forms (complete and submit with offer) ..	47
H.	Form of Standard Contract	54
I.	Contract Affidavit (complete and submit with Contract)	68

Exhibits

i.	DHCD Community Development Administration Bond Issuance from Inception to June 30, 2013.....	72
ii.	Financing Schedules (2010 – 2013).....	73

SECTION I. PROCUREMENT INFORMATION

1.01 Purpose

The Maryland State Treasurer's Office (the "Office") on behalf of the Department of Housing and Community Development (DHCD) is seeking proposals from experienced firms to provide financial advisory services for public bond financing for housing for DHCD.

1.02 Procurement Method

The Maryland State Treasurer's Office is the issuer of this RFP for Financial Advisory Services for DHCD. The Office will conduct this solicitation in accordance with the competitive sealed proposals process under COMAR 21.05.03 and will award a single contract arising out of this RFP (the "Contract")

1.03 Issuing Office and Procurement Officer

Maryland State Treasurer's Office
Louis L. Goldstein Treasury Building
80 Calvert Street, Room 109
Annapolis, Maryland 21401

Procurement Officer: Anne Jewell
Phone: (410) 260-7903
E-mail: procurement@treasurer.state.md.us

The sole point of contact for purposes of this procurement is the Procurement Officer. The Procurement Officer may designate others to act on her behalf. The Office may change the Procurement Officer or the limits of her authority at its discretion.

1.04 Contract Officer

The Contract Officer monitors the daily activities of the Contract and provides technical guidance to the Contractor. The State Contract Officer is:

Roy Westlund
Deputy Director, CDA
Deputy Chief Financial Officer, DHCD
100 Community Place
Crownsville, Maryland 21032
Phone: 410-514-7411
Fax: 410-514-7431
Email: westlund@mdhousing.org

1.05 Use of eMaryland Marketplace

eMaryland Marketplace (<https://emaryland.buyspeed.com/bs0>) is a free electronic commerce system administered by the Maryland Department of General Services. The RFP, associated materials, and all other solicitation related material will be provided via eMaryland Marketplace.

This means that all such information is immediately available to subscribers of eMaryland Marketplace. All subscribers will receive solicitation notifications as well as solicitation update/change order notifications. Because of the instant access afforded by eMaryland Marketplace, it is recommended that all Offerors interested in doing business with Maryland State agencies subscribe to eMaryland Marketplace. The successful Offeror will be required to subscribe to eMaryland Marketplace upon contract award.

1.06 Schedule of Events

<u>Event</u>	<u>Date</u>
Solicitation Issue Date	April 7, 2014
Deadline for Receipt of Questions	April 18, 2014 by 2:00 p.m. Local Time
Pre-Proposal Conference	April 28, 2014 at 11:00 a.m. Local Time
Proposal Due Date	May 20, 2014 by 2:00 p.m. Local Time
Oral Presentations	June 11, 2014
Tentative Date of Contract Award	June 30, 2014

1.07 Questions and Inquiries

All Offerors should direct their questions and inquiries to the Procurement Officer identified in Section 1.03 above. **Questions must be submitted in writing by mail or via email and received by the Issuing Office no later than 2:00 p.m. on Friday, April 18, 2014.** Oral questions will not be permitted. If the questions or inquiries pertain to a specific section of the RFP, Offerors must reference the relevant page and section number(s).

1.08 Pre-proposal Conference

A pre-proposal conference will be held on Monday, April 28, 2014 at 11:00 a.m. at the, Maryland Department of Housing and Community Development, Main Conference Room (1st Floor, Side B), 100 Crownsville Place, Crownsville, Maryland 21032. If you plan to attend the Pre-proposal Conference, please notify the Procurement Officer by email at: procurement@treasurer.state.md.us (identified in Section 1.03 above). Please provide your contact information and the number of individuals expected to attend.

1.09 Submission Deadline

To be considered for award, Offerors must submit to the Procurement Officer a package containing one (1) written original and three (3) copies (total of 4) of the Technical

Proposal and the Price Proposal (Appendix A), each in separate sealed envelopes. All submissions shall include the RFP Title and number and the Offeror's name and address. **Proposals must be received by the Procurement Officer at the Issuing Office no later than 2:00 p.m. local time on Tuesday, May 20, 2014.** Additionally, Offerors must provide to the Procurement Officer on compact disks one electronic copy of the Technical and Price Proposals submitted. As with the written submission, the electronic copy submission of the Technical Proposal and the Price Proposal must be provided in separate sealed envelopes. Refer to Section IV. Proposal Format for two-volume submission requirements.

The Office will not grant requests for extension of the submission date or time. Offerors mailing proposals should allow sufficient mail and internal delivery time to ensure timely receipt of the proposals by the Procurement Officer at the Issuing Office. Except as permitted under COMAR 21.05.02.10, the Office will not consider proposals or unsolicited amendments to proposals arriving in the Issuing Office or received by the Procurement Officer after the closing date and time, regardless of the method of their transmission. The Office will not consider proposals submitted by electronic means only (facsimile or e-mail).

1.10 False Statements

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

(a) *In general.* - In connection with a procurement contract a person may not willfully:

- (1) falsify, conceal, or suppress a material fact by any scheme or device;
- (2) make a false or fraudulent statement or representation of a material fact; or
- (3) use a false writing or document that contains a false or fraudulent statement or entry of a material fact.

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

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

1.11 Duration of Offer

Proposals submitted in response to this solicitation are irrevocable for 120 days following the later of the proposal due date or the date the Procurement Officer receives final best and final offers, if any. At the request of the Procurement Officer, the Offeror may agree in writing to extend this period.

SECTION II. GENERAL INFORMATION

2.01 Electronic Distribution

This RFP is published on *eMaryland Marketplace*, posted on the websites for the National Association of State Treasurers and the Office, and emailed to financial advisory firms known to be interested in receiving RFPs. Potential Offerors wishing to receive copies of the written document should contact the Procurement Officer identified in Section I, 1.03, above.

2.02 Revisions to the RFP

The Office reserves the right to amend this RFP at any time prior to the proposal due date and time. If it becomes necessary to revise this RFP at any time prior to the proposal due date and time, the Office will provide amendments to all prospective Offerors that were sent this RFP or otherwise are known by the Procurement Officer to have obtained this RFP. Offerors will be required to acknowledge in writing the receipt of all amendments. In addition, the Office will post amendments to the RFP on the Office's Web Page at www.treasurer.state.md.us, (select "Procurement" and then "RFP for Financial Advisory Services for DHCD"), and through eMaryland Marketplace at: <https://emaryland.buyspeed.com/bso>. The Office will send amendments made after the due date for proposals only to those Offerors who submitted a timely proposal.

Failure to acknowledge receipt of amendments does not relieve the Offeror from complying with all terms of any such amendment.

2.03 Cancellation of the RFP; Rejection of All Proposals

The Office may cancel this RFP, in whole or in part, or may reject all proposals submitted in response whenever this action is determined to be fiscally advantageous to the State or otherwise in its best interests.

2.04 Proposal Acceptance; Discussions

The Office reserves the right to accept or reject any and all proposals, in whole or in part, received in response to this RFP, to waive or permit cure of minor irregularities, and to conduct discussions with all qualified Offerors in any manner necessary to serve the best interests of the State of Maryland. The Office also reserves the right, in its sole discretion, to award the Contract based upon the written proposals received without prior discussions or negotiations.

2.05 Oral Presentation

In support of their proposals, Offerors may be required to make an oral presentation, or conduct a demonstration, or both, not more than two calendar weeks after the Office has requested an Offeror to do so. Failure to be prepared to make an oral presentation or

conduct a demonstration within this time period may prevent the Offeror's proposal from receiving further consideration. All written representations will become part of the Offeror's proposal and are binding if the Contract is awarded to the Offeror.

2.06 Incurred Expenses

The State will not be responsible for any costs incurred by an Offeror in preparing and submitting a proposal in response to this RFP, including costs incurred in making an oral presentation, if required.

2.07 Proposal Form

Offerors should prepare proposals simply and economically, providing a straightforward, concise description of the Offeror's proposal for meeting the requirements of this procurement. The Office will not accept oral, telegraphic, facsimile, mailgram, or electronically transmitted proposals.

2.08 Multiple Proposals

The Office will not accept multiple or alternative proposals.

2.09 Access to Public Records Act Notice

An Offeror should give specific attention to the identification of those portions of its proposal that it considers confidential, proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Access to Public Records Act, State Government Article, Title 10, Subtitle 6, Annotated Code of Maryland. The Office may charge a fee for copies and search and preparation time, in accordance with COMAR 25.01.04.09. The Office may require payment of such fees before releasing the requested information.

2.10 Protests

Any protest or dispute related respectively to this solicitation or the resulting Contract shall be subject to the provisions of COMAR 21.10 (Administrative and Civil Remedies). Offerors must file in writing any protest regarding this solicitation with the Procurement Officer only. If the reason for the protest is apparent before the proposal opening, the Offeror must file the protest before the proposal opening. In all other cases, the Offeror must file the protest within 7 calendar days after the reason for the protest is known or should have been known.

The term "filed" means receipt by the Procurement Officer who has issued this solicitation.

The protest must be in writing and must contain (1) the name and address of the protester; (2) the appropriate identification of the solicitation and, if a Contract has been awarded, the Contract number if it is known; (3) a statement of the reasons for the protest; and (4)

any supporting exhibits, evidence, or documents to substantiate any claims unless the documents are not available within the filing time, in which case the date by which the supporting documents are expected to be available is to be noted.

2.11 Proposal Opening

Proposals will not be opened publicly.

2.12 Bid/Proposal Affidavit

All proposals submitted by an Offeror must be accompanied by a completed Bid/Proposal Affidavit. A copy of this Affidavit is included as Appendix D to this RFP.

2.13 Living Wage Requirements

A solicitation for services under a State contract valued at \$100,000 or more may be subject to State Finance and Procurement Article, Title 18, Annotated Code of Maryland. Additional information regarding the State's Living Wage requirement is contained in this solicitation (see Appendix E entitled Living Wage Requirements for Service Contracts). If the Offeror fails to complete and submit the Affidavit of Agreement (see Appendix F), the State may determine an Offeror to be not responsible.

Contractors and subcontractors subject to the Living Wage Law shall pay each covered employee at least \$13.19 per hour, if State contract services valued at 50% or more of the total value of the contract are performed in the Tier 1 Area. If State contract services valued at 50% or more of the total contract value are performed in the Tier 2 Area, an Offeror shall pay each covered employee at least \$9.91 per hour. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. If the employees who perform the services are not located in the State, the head of the unit responsible for a State contract pursuant to §18-102 (d) shall assign the tier based upon where the recipients of the services are located.

The Contract resulting from this solicitation has been deemed to be a Tier 1 contract.

All proposals must be accompanied by a completed Living Wage Affidavit of Agreement. A copy of this Affidavit is included as Appendix F to this RFP.

2.14 Contract Affidavit

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete a Contract Affidavit. A copy of this Affidavit is included for informational purposes as Appendix I to this RFP. This Affidavit need not be submitted with an Offeror's proposal.

2.15 Representations

By submitting a proposal in response to this RFP, the Offeror represents that (a) it is not in arrears in the payment of any obligation due and owing the State or any department or unit thereof, including but not limited to the payment of taxes and employee benefits (the “State Obligations”), and (b) it is in compliance with all federal, State and local laws applicable to its activities and obligations under the Contract. Further, if selected for award, the Offeror agrees that these representations will continue in effect during the term of the Contract.

2.16 Minority Business Enterprises

Minority business enterprises (“MBEs”) are encouraged to respond to this solicitation. The Office has established for this solicitation a MBE subcontractor participation goal of 10%. Offerors should indicate in their proposals which services under Section 3.03 will be performed by MBE firms, and complete the appropriate MBE participation forms in Appendix G.

This RFP is designed to encourage the participation of socially and economically disadvantaged individuals (members of a group as defined in State Finance and Procurement Article (“SFP”), §14-301(i)(1), Annotated Code of Maryland and minority business enterprises as defined in SFP §14-301(f). A directory of certified MBEs is maintained by the Maryland State Department of Transportation Office of Minority Business Enterprise. The directory is available online at www.mdot.state.md.us. Select the “Minority/Disadvantaged Business Enterprise” label.

The Contract requires the Offeror to make good faith efforts to comply with the Minority Business Enterprise Program and Contract provisions. The Offeror is advised that liquidated damages as outlined in Section 4.12 of the form of Contract will apply in the event the Contractor fails to comply in good faith with these provisions.

2.17 Veteran-Owned Small Business Enterprise

The Office has not established a veteran-owned small business enterprise (“VSBE”) subcontractor participation goal for this solicitation, but Offerors are encouraged to work with certified VSBE subcontractors. A VSBE must be verified by the Center for Veterans Enterprise of the United States Department of Veterans Affairs. The VSBE list is at: <http://www.vetbiz.gov>.

2.18 No Guarantee of Work

No Contractor is guaranteed any minimum amount of work or compensation.

2.19 Order of Precedence

The Contract between the parties will be embodied in the Contract documents which will consist of the following, listed in their order of precedence:

1. the executed Contract;
2. the RFP; and
3. the Offeror's proposal.

The Office will not accept any modifications to the order of precedence provision of this solicitation. If the Offeror proposes any terms and conditions inconsistent with the requirements of the solicitation, the Offeror must clearly state those terms and conditions in its proposal.

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SECTION III. SCOPE OF SERVICES AND REQUIREMENTS

3.01 Background

The Contractor will serve as financial advisor to DHCD in connection with certain revenue bond activities of the Community Development Administration (CDA).

CDA operates under statutory authority of Sections 4-401 through Section 4-255 of the Housing and Community Development Article of the Annotated Code of Maryland. CDA was created to meet the shortage of adequate, safe, and sanitary housing in the State, particularly for persons or families of limited income. CDA, pursuant to its enabling legislation, is authorized to meet any project development cost through, among other things, the issuance of bonds, notes, or other evidence of indebtedness for that purpose. CDA issues tax-exempt and taxable revenue bonds for single family and multifamily housing. In addition, CDA issues bonds for the Local Government Infrastructure Financing Program, under which proceeds are lent to local governments and secured by general obligation pledges by the local entities. CDA may also issue HUD revenue securitization bonds, under which proceeds are lent to local public housing authorities (PHAs) to expedite public housing renovations and repairs.

In recent years, CDA's average annual issuance has been \$258 million in housing revenue bonds to finance single family and multifamily mortgage loans for affordable housing. Most loans are credit enhanced through mortgage insurance, GNMA securities, or FNMA guarantee programs. This bond issuance estimate does not include any potential economic refundings, short-term notes, or draw down bonds that may be issued.

CDA has issued 490 bond series totaling approximately \$14 billion since inception. As of June 30, 2013, the outstanding indebtedness is approximately \$3.0 billion. Exhibits I and II hereto provide a summary of bonds issued by CDA from inception through June 30, 2013 and the specific bonds issued from January 1, 2010 through December 12, 2013.

As of June 30, 2013, CDA's loan portfolio exceeded \$3.1 billion with the following breakdown by type of loans (Please note that the number of Single Family Mortgage Loans includes approximately 13,000 whole loans within the portfolio plus approximately 4,000 underlying mortgages that CDA caused to originate and, therefore, make up the mortgage-backed securities that are either held by CDA or sold into the secondary market):

Type Of Loan Portfolio	Number of Outstanding Loans	Outstanding Principal Balance
Single Family Mortgage Loans	17,053	\$2,226,032,000
Multifamily Mortgage Loans	91	506,819,263
Special Housing Opportunities Loans	155	18,353,678

Type Of Loan Portfolio	Number of Outstanding Loans	Outstanding Principal Balance
Loans to Local Governments to Finance Community Facilities	63	126,941,117
Stand-alone or Conduit Multifamily Financings	33	255,825,000
TOTALS:	17,395	\$3,133,971,058

3.02 Minimum Qualifications

As part of its proposal, each Offeror must demonstrate that it meets the following requirements. Failure to do so may result in the rejection of the proposal.

- A. The President/ Principal/ Partner-in-Charge and the Senior Manager/ Senior Vice President/ Managing Director as proposed by the Offeror to be providing services to DHCD shall have at least three (3) years experience in advising issuers in connection past five (5) years with the issuance of single family and multifamily housing revenue bonds within the
- B. The Advisor must be registered as a Municipal Advisor with the U.S. Securities and Exchange Commission and MSRB, and must include information evidencing its compliance with this requirement in its Technical Proposal as set forth in Section IV of this RFP.
- C. Provide evidence of Professional Liability Insurance.

3.03 Specific Services

The financial advisor may be called upon to perform the following duties, all as directed by DHCD:

- A. **General Advisory Services** –General Advisory Services encompasses the items numbered below and presumes and requires an in-depth knowledge and understanding of the assumptions, methodology, and results of the cash flow runs described under Section 3.03 B – Cash Flow Services.
 - 1) Post Bond Sale Analyses: Complete post bond sale analyses, including review of bond underwriter performance and cost of issuance.
 - 2) Underwriter Performance: Review the performance of bond underwriters on an ongoing basis, including an annual underwriter review.
 - 3) Selection of Underwriters: Assist in the selection of bond underwriters.

- 4) Presentations to Boards: Prepare, make, and/or assist in the development of presentations needed for DHCD's Revenue Bond Advisory Board (RBAB) as well as other groups, including: credit rating agencies, investment bankers, investors, and others as appropriate. This includes attending any necessary meetings with these groups. DHCD's RBAB meets as needed, typically once per month.
- 5) Assistance and Training: Provide assistance and, when appropriate, training to DHCD staff in order to enhance in-house capacity for a variety of bond-related activities. These activities may include but are not limited to: (a) bond data management, including running and evaluating cash flows; (b) designing analytical models for derivative market valuations; (c) working with credit rating agencies; and (d) preparation of official statements, Electronic Municipal Market Access (EMMA) filings, and other official disclosure materials; (e) analytical support for preparing financial statement disclosures in compliance with Governmental Accounting Standards Board (GASB) and Generally Accepted Accounting Principles (GAAP) requirements.
- 6) Market Analyses: Perform financial market analyses (e.g., timing and size of bond issues). This includes being available for consultation and making recommendations on: (a) the pricing of the bond issues, (b) investments under the DHCD CDA Investment Policy and (c) interest-rate exchange agreements and/or similar derivative transactions permitted under the DHCD CDA Interest Rate Exchange Agreement Policy (the "Swap Policy"), and (d) types and terms of investments and levels of liquidity in CDA indentures.
- 7) Program Development: Assist with financial aspects of program development or operation, which may include analyses and advice regarding the appropriate use of interest rate exchange agreements and other similar derivative transactions, credit-enhanced financings and other structured finance arrangements. Analyze and make recommendations concerning various structuring or credit-enhanced options, including fixed-rate versus variable-rate debt or private placements, variable hedged versus variable unhedged debt.
- 8) Bond Issuance: Evaluate whether individual bond issues should be competitive or negotiated.
- 9) Industry Practices: Advise on industry practices and new developments in public bond financing for housing and public infrastructure.
- 10) Investment Advice: Review and make recommendations regarding CDA's

investment policy for bond proceeds and other funds. This includes assisting CDA, as requested, in obtaining investments, including Guaranteed Investment Contracts (GICs).

Notes –

1 - The brokering of investments and GICs will be compensated on an hourly basis, as described in Section 3.07 Compensation, as deemed appropriate by DHCD.

2 - With respect to brokerage services for investments and GICs, the financial advisor may negotiate for and receive a commission (paid by the successful investment or GIC provider) subject to applicable law and with the express prior approval of DHCD. The financial advisor will disclose to DHCD the commission to be received under each investment and GIC prior to receiving DHCD's approval. The total earned commission amount (Maximum Annual Commission) is subject to an annual cap of \$100,000. The annual cap is to be calculated by contract year.

- 11) Swaps/Interest Rate Exchange Agreements: Act as an independent swap advisor to DHCD with primary responsibilities including, but not limited to, review of market valuations provided by counterparties to interest rate exchange agreements or similar transactions involving marketable hedging securities. In addition, provide written affirmations and opinions on the adequacy of valuation methods for CDA's financial statement disclosures as well as on how change in market rates and volatility affect the value of an interest rate exchange or similar agreements, including separate valuation reviews for embedded options, if any. If needed, perform independent fair value market pricing services with a full disclosure of methods and significant assumptions used in pricing the interest rate exchange and other derivative agreements, including separate pricing of embedded options, if any; supply CDA with a written description of such valuation methods assumptions.
- 12) TBA/Mortgage Backed Securities Advisor: Provide advice on all aspects of CDA's To Be Announced (TBA) program. Advise CDA on mortgage pipeline management, including interest rate risk management using forward settlement trades. Solicit bids and execute trades with counterparties. Monitor trade fulfillment and make recommendations on pair-offs. Perform daily best execution analysis within the TBA program (both government and conventional loans) and between the TBA program and Bond issuance program. Secure and maintain relationships with investment trading firms, on behalf of CDA. Evaluate the performance of investment trading firm partners, in addition to monitoring the margin and compensating interest

requirements of each firm. Provide MBS (mortgage-backed securities) allocation instructions to the trustee in advance of monthly TBA settlements. Provide ad-hoc analysis for all aspects of CDA's TBA program.

- 13) Prepayment Speed Assumptions, etc.: Provide analytical support and, if necessary, run pricing scenarios for CDA's mortgage loans subject to projected or actual prepayment speed assumptions and compliance caps on mortgage yields, if any.
- 14) Portfolio Structuring: Advise DHCD on the relative advantages of using prepayments for cross calling bonds versus recycling into new mortgage loans; provide analytical support for optimal structuring of recycled mortgage loan portfolio.
- 15) Strategic Planning: Utilize the cash flows to perform any management or strategic planning activities requested by DHCD. This could include services related to future projections of cash flows, in-depth analysis of current or future cash flows and "what-if" scenarios, call analysis, universal cap analysis, yield swap analysis, and other analyses on cash flows, cross-calling decisions, conversion of variable-rate bonds to fixed-rate bonds, hedging of variable-rate debt obligations (VRDOs), and prepayment speed analysis for alternative cash flow runs.
- 16) Use of Computer Software: Provide access to and training on all software (whether non-proprietary or proprietary) used to perform all aspects of cash flows and yield compliance analysis. Such software shall be available to DHCD for use during the term of the Contract.
- 17) Third Party Cash Flow Evaluations: Evaluate cash flows, either consolidated or single issue, prepared by other entities.
- 18) Advice to the Maryland Housing Fund (MHF): Provide advice to MHF, the State's mortgage insurance entity, as it relates to the security for CDA's bonds, bond rating, and bond issuance process.
- 19) Disclosure Reporting: Provide full analytical support for any disclosures in financial statements or EMMA filings, which may be required by accounting pronouncements or changes in regulations.
- 20) Money Management: If necessary, act as, or assist CDA with selecting, a dedicated money and investment manager. Assist CDA staff with structuring and maintaining a liquidity analysis model for each indenture.

- 21) Staff Meetings: Participate in weekly conference calls with DHCD staff.
- 22) Other Tasks: Other tasks consistent with the purpose of the Contract as may be specified by the Chief Financial Officer, CDA Director and CDA Deputy Directors.

B. Cash Flow Services:

Cash Flow Services: Design, develop, review, and run cash flows for both negotiated and competitive bond sales. This may include consolidated and single issue cash flows for parity indentures and cash flows for stand-alone issuances. *(Note: DHCD's financial advisor currently performs all cash flow work. DHCD, at its option, may take primary responsibility for management of all cash flows or utilize its investment bankers to run the cash flows.)*

For reference, the following is an approximation of annual cash flow services that may be requested: Two Single Family and two Multifamily Annual Parity Cash Flows per year; four Single Family Bond Issue Cash Flows and Yield Calculations per year; one Single Family Refunding Bond Issue Cash Flows and Yield Calculations per year; five Multifamily Bond Issue Cash Flows and Yield Calculations (including stand-alone issues); one Multifamily Refunding Bond Issue Cash Flows and Yield Calculations per year; and two Local Government Infrastructure Bonds issuance or other competitive type financings per year may be requested.

C. Contingency Services:

Contingency Services: In the event of unplanned or unscheduled personnel departures or other DHCD staffing emergencies, be available and prepared to provide financial analysis on the bond portfolio; including, but not limited to: proceeds management and yield compliance, prepayment speed analysis and disclosure, interest rate exchange agreement calculations required for inclusion in the financial statement, on either a contingency or an emergency basis.

3.04 Staffing Requirements

The Contractor will be required to assemble a project team of key personnel with the necessary qualifications to perform the services required under the Contract.

The financial advisor's key personnel are expected to develop a close, positive working relationship with DHCD; therefore, the financial advisor is required to notify DHCD of any changes to personnel identified in Section 4.03 (F) below. Any personnel changes that, in DHCD's sole discretion, could result in a decline in the performance of the financial advisor may result in the termination of the contract.

A. Principal

- 1) President/ Principal/ Partner-in-Charge – Top individual in the firm; responsible for managing the account.
- 2) Senior Manager/ Senior Vice President/ Managing Director – Main person assigned to the account; responsible for managing all activities; principal person providing advice to DHCD and basic day-to-day financial advisory services, including swaps advice.

B. Other Key Persons

- 1) Manager/ Vice President/ Director – Primary individual(s) assigned to the account to work with and/or in support of the individual listed in Section 3.04 A.2 for managing all financial advisory services activities on a day-to-day basis, including swaps advice.
- 2) Manager/Vice President/ Associate – Primary individual(s) assigned to work on post sale analyses, annual underwriter reviews, presentation books, and other related tasks.
- 3) Manager/Vice President/ Associate – Primary individual(s) assigned to assist with swaps advice.
- 4) Manager/Vice President/ Associate -Primary individual(s) assigned to assist with strategic planning, which includes in-depth analysis of cash flows.
- 5) Manager/Vice President/ Associate – Primary individual(s) assigned for training staff in bond related activities, including cash flows.
- 6) Investment Officer – Primary individual(s) responsible for recommending investments and investment policies, including assisting with GIC bids.

C. Staff Time Conflicts Resolution

The Contractor shall resolve staff time conflicts between the needs of existing and future clients and the needs of DHCD for services.

3.05 Transition

The Contractor shall provide a transition plan, including professional cooperation to (1) convey institutional knowledge; (2) transition software used to perform all aspects of cash flows and yield compliance analysis, and (3) transfer all data and underlying assumptions, to any successor entity acting as financial advisor to DHCD.

3.06 Term

The Office expects the Contract to be awarded pursuant to this RFP to begin September 1, 2014 and continue for a period of four years, with up to one-year renewal option exercisable at the sole discretion of the Treasurer or the Treasurer's designee.

3.07 Compensation

The Contract will provide that the Contractor be paid monthly for general advisory services and contingency services. Payment shall be based upon the actual number of hours expended by the Contractor in performance of the services requested by DHCD and approved by the Contract Administrator in the preceding month, multiplied by the fixed hourly rates of compensation on the Contractor's Appendix A, Price Proposal Form, Sections 1 and 3.

For cash flow services, the Contractor shall be paid at the completion of each cash flow at the fixed fee indicated on the Contractor's Appendix A, Price Proposal Form, Section 2, for the type of cash flow analysis service completed.

General advisory and contingency contract services and associated hours must be evidenced on a monthly invoice that is processed through an appropriate payroll distribution system, verified by an authorized representative of the Contractor, and presented to and approved by DHCD. The invoice shall:

- reflect the hours billed on a daily basis by each individual providing services under the Contract for the preceding month, and
- identify the work performed for these hours.

During the term of the Contract, the Contractor will be reimbursed by DHCD for the following identified charges only upon approval by the Contract Administrator:

- Out-of-State travel, in accordance with the Board of Public Works Standard Travel Regulations (COMAR 23.02.01);
- Overnight delivery charges and messenger services, which shall be reimbursed at the rate charged by the delivery/ messenger service and detailed in the Contractor's monthly invoice submission, with a copy of the delivery charge/ messenger service invoice attached;
- Costs associated with bond issuance activity, such as but not limited to, bond buyer advertisements for bond sales and printer costs, which shall be reimbursed at the rate charged for the service and detailed in the Contractor's monthly invoice submission, with a copy of the service invoice attached.

Costs, such as duplicating, fax charges, telephone, Internet connections and/or any other type of computer charges or costs in performing any services under the Contract, including running cash flows, are considered costs of doing business and will not be reimbursed under this Contract.

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SECTION IV. PROPOSAL FORMAT

4.01 Transmittal Letter

The Offeror must include a brief transmittal letter prepared on the Offeror's business stationery to accompany the original and required copies of the two-volume proposal. The transmittal letter must be signed by an individual authorized to bind the Offeror to all statements, including services and price, contained within the proposal. This transmittal letter should also indicate that, if selected, the Offeror will execute a contract materially the same of the form of Contract included as Appendix H.

4.02 Two-Volume Submission

The selection procedure for this procurement requires that the initial technical evaluation of the proposal be completed before consideration of an Offeror's price proposal. Consequently, each proposal must be submitted in two volumes as indicated below.

4.03 Volume I - Technical Proposal

The volume containing the technical proposal shall be labeled "Volume I – RFP for Financial Advisory Services for DHCD, RFP #DHCD-FA-04072014 - Technical."

The technical proposal volume should be prepared in a clear and concise manner. The ideal response would reiterate each subsection and then list the Offeror's response, item by item so that an evaluator can read the requirement followed by the response.

The technical proposal shall provide all required information in the following subsections:

A. Forms and Request for General Information

- 1)
 - a. Transmittal letter (Section 4.01 above);
 - b. the completed Bid/Proposal Affidavit (Appendix D)
 - c. the Affidavit of Agreement Maryland Living Wage Requirements (Appendix F); and
 - d. the Minority Business Enterprise Forms (Appendix G);
- 2)
 - a. Name of Offeror.
 - b. Mailing address of office from which the proposal is being submitted.
 - c. Name of individual who will represent the Offeror as the primary contact person on matters relating to the proposal; and
 - d. Telephone, e-mail and facsimile numbers of the individual identified in item c. above.

B. Offeror's Qualifications

- 1) Each Offeror shall specifically and clearly provide supporting statements that it meets the required qualifications in Section 3.02 Minimum Qualifications.
- 2) The Offeror shall include evidence of Professional Liability Insurance.
- 3) Provide evidence of the financial ability to carry out this contract. Examples of evidence of financial ability may include, but are not limited to:
 - Recently audited (or best available) financial statements, including a certification by the Chief Financial Officer (or equivalent officer) that the statements are accurate and reliable.
 - Lines of credit.
 - Successful financial track record.
 - Adequate working capital.
 - Financial rating such as Dunn and Bradstreet
- 4) The Offeror shall include evidence of its registration/compliance as a Municipal Advisor with the U.S. Securities and Exchange Commission and MSRB.

C. Offeror's Experience and Capabilities

Describe the Offeror's significant experience as financial advisor, with particular emphasis on the following:

- 1) Experience in the field of housing finance and the syndication of bonds. Attach as an exhibit a list of bond issues for the last two calendar years in which the Offeror has been involved. Identify the client, dollar amount, whether the issue was negotiated or competitive, the role performed by the Offeror, the name of the proposed team member that was involved with the issue, date completed or anticipated to be completed, and details of any unique features of the financing that bear upon the qualifications to perform services for DHCD.

In separate exhibits provide:

- Sample(s) of recent post bond sale analyses or, using a hypothetical example, the form and content of a post bond sale analysis.
- Sample(s) of recent bond financed program evaluations.
- Sample(s) of recent post bond sale analyses or, using a hypothetical example, the form and content of a post bond sale analysis.

- 2) Experience in the design, development, running and evaluation of cash flows. Describe in detail how the design, development, and running of cash flows on both a single issue and a consolidated basis are handled and identify the software program to be utilized. Also, include how the evaluation of cash flows completed by other entities is managed. Offerors are to complete Appendix B, Cash Flow Analysis Chart, as directed on the attachment and submit with the technical proposal.

In a separate exhibit provide a sample of one recently completed parity indenture cash flow.

- 3) Experience in the field of swap and similar interest rate exchange agreements and derivative transactions. Describe in detail how a swap, interest rate exchange agreement, or similar derivative transaction would be presented and recommended to DHCD as well as how the transaction would be structured and subsequently managed on an ongoing basis with DHCD. This includes pricing and market valuations of transactions.

Attach as an exhibit a list of swap or similar derivative transactions that the Offeror has been involved with over the last two calendar years. Identify the client, dollar amount, type of transaction (i.e., fixed-to-variable interest rate swap, variable-to-fixed interest rate swap, etc.), the role performed by the Offeror, the name of the proposed team member involved in the transaction, date completed or anticipated to be completed, and details of any unique features of the transaction that bear upon the qualifications to perform services for DHCD.

In a separate exhibit provide a sample of one recently completed swap transaction that demonstrates skill in the pricing and valuation of the swap.

- 4) Knowledge and experience as a TBA Mortgage Backed Securities Advisor. Attach as an exhibit the amount of Ginnie Mae and Fannie Mae TBA trades that were executed by the Offeror on behalf of clients over the past two calendar years. Include names of the team members involved. Identify each client and the dollar amount of trades executed. Describe in detail how a pipeline of loans would be hedged using the TBA market. Provide examples of best execution analysis (for both Ginnie Mae and Fannie Mae eligible loans) between the TBA market and the tax-exempt bond issuance market. Provide details on what actions must be taken on the trade date, forty-eight hour day and settlement date.

Attach as an exhibit a sample of a pipeline hedging report that the Offeror has recently created.

- 5) Knowledge and experience in public finance. Describe experience with or knowledge of DHCD's housing programs, the program of similar state housing departments and/or finance agencies and the problems and issues affecting these programs. Include the names of the team members involved.
- 6) Knowledge and experience in the field of mortgage insurance. Describe experience in working with and/or analyzing mortgage insurance funds. Include the names of the team members involved.

D. State Contracts

Provide a list of all contracts with any entity of the State of Maryland that it is currently performing or which has been completed within the last five (5) years. For each identified contract the Offeror is to provide in its Technical Proposal:

- 1) The State contracting entity;
- 2) A brief description of the services/goods provided;
- 3) The dollar value of the contract;
- 4) The term of the contract;
- 5) The State employee contact person (name, title, telephone number and if possible e-mail address); and
- 6) Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised.

The Procurement Officer or a designee may contact the identified State agencies or the most appropriate ones if many contracts are involved, to ascertain the Offeror's level of performance of State contracts.

Information obtained regarding the Offeror's level of performance on State contracts will be considered as part of the experience and past performance evaluation criteria of the RFP.

E. References

Identify a minimum of three current clients, including the name of each firm, email, the mailing and street address, point of contact, and telephone number. Include a brief description of the services rendered for each referenced organization.

Identify one (1) reference that has knowledge of the Offeror's specific capabilities in providing financial advisory services in the housing field (not necessarily current).

The Procurement Officer or members of the Evaluation Committee may contact one or more of these references, and in addition, may contact any other reference of their choosing.

F. Key Personnel

- 1) Use the form of Appendix C, Personnel Assignment Chart, to identify the specific individuals who will be assigned to the Contract and any subcontractor including those used to meet an MBE goal assigned to this Contract. Include a resume for each individual named that:
 - a. Clearly indicates the number of years of experience of each person, including experience with or knowledge of DHCD's housing programs, the program of similar state housing departments and/or finance agencies and the problems and issues affecting these programs, and
 - b. Lists the name, address, and telephone number of at least one (1) recent client who may be contacted as a reference.
- 3) Identify the person or persons to perform work on a day-to-day basis under each of the tasks referred to in Section 3.03.
- 4) Specify the division of responsibility envisioned among these individuals and their availability to perform contract services during the term of the Contract. For each individual identified, indicate on Appendix C the percentage of time that person will be available for performance on this contract.
- 5) Identify other personnel who would be available to perform the services described in Section 3.03, if members of the specific team were unavailable.

G. Approach to Managing Clients and Organizing Projects

Describe the standard approach to managing clients. This should include, at a minimum:

- 1) How staff (including how many) are assigned to complete both routine and special tasks, and the philosophy on minimizing billable hours to the clients.
- 2) How decisions are made on how much oversight and/or leadership is required to complete both routine and special tasks.

H. Staff Time Conflicts Resolution

Describe how staff time conflicts will be resolved between the needs of existing and other future clients and the needs of DHCD for services.

I. Preparation of Presentations, Training, and Analysis Skills

- 1) Describe experience in preparing presentations development of presentations to groups such as credit rating agencies, investment bankers, investors, and others as appropriate. Attach a sample(s) of recent presentations to housing finance agency boards, investors and/or credit rating agencies. Describe experience and approach to training of in-house staff in order to enhance in-house capacity for a variety of bond-related activities.
- 2) Attach as an exhibit any example of work which highlights experience in financial analysis including portfolio analysis, portfolio management (both bond side and asset side), credit enhancement, cash flows, and any other experience that provides insight into the Offeror's ability in financial analysis and management, and ability to organize and complete projects for clients.
- 3) Include a sample of one recently completed project that demonstrates skill in financial analysis related to housing bonds.

J. Transition Plan

Provide a Transition Plan that proposes how transition to any successor entity acting as financial advisor to DHCD will be handled. This Plan shall cover the conveyance of institutional knowledge; the transition software used to perform all aspects of cash flows and yield compliance analysis; and the transfer of all data and underlying assumptions.

K. Contingency Services

Describe how contingency services, as described in Section 3.03 C, will be handled.

L. Economic Benefit to the State of Maryland

Describe the benefits that will accrue to the Maryland economy as a direct result of the Offeror's performance of the contract resulting from the solicitation. Economic benefits include:

- 1) The Contract dollars to be recycled into Maryland's economy in support of the Contract, through the use of Maryland subcontractors, suppliers, and

joint venture partners. Offerors should be as specific as possible and provide a breakdown of expenditures in this category. Do not provide actual dollars for each category. Include percent of the total budget requested.

- 2) The numbers and types of jobs for Maryland residents resulting from the contract. Indicate job classifications, number of employees in each classification, and the aggregate payroll to which the Contractor has committed at both prime, and if applicable, subcontract levels. Do not provide actual dollars for each category. Include percent of the total budget requested.
- 3) Tax revenues to be generated for Maryland and its political subdivisions as a result of this Contract. Indicate the tax category (sales tax, payroll taxes, inventory taxes, and estimated personal income taxes for new employee). Provide a forecast of the total tax revenues resulting from the Contract. Do not provide actual dollars for each category. Include percent of the total budget requested.
- 4) Subcontract dollars committed to Maryland Small Business and Minority Business Enterprises. Do not provide actual dollars for each category. Include percent of the total budget requested.
- 5) In addition to the factors listed above, the Offeror should explain any other economic benefits to the State of Maryland that would result from the Offeror's proposal

4.04 Securities Law Violations

Describe any current, potential, and past convictions and cease-and-desist orders, settlements or other judgments, administrative or civil actions concerning the Offeror, its owners, officers, directors and/or employees for violations of the following statutes and the rules and regulations promulgated hereunder: Securities Act of 1933, Securities Exchange Act of 1934, Investment Company Act of 1940, Investment Advisors Act of 1940, and similar State statutes.

4.05 Volume II - Price Proposal

The Evaluation Committee will evaluate price proposal based on the most favorable cost for services.

- A. Offerors must submit an unbound, clearly marked original and five (3) bound copies of the Price Proposal in a separate sealed envelope titled "Volume II - Financial Advisory Services for DHCD - RFP #DHCD-FA-04072014 - Price." The Price Proposal shall be submitted on the Price Proposal Form, Appendix A (Sections 1, 2 and 3), and signed by an official authorized to bind the Offeror.

B. The price proposal shall include three prices, as described below

- 1) **Hourly Rates for General Advisory Services** - The first part of the price proposal shall indicate the fixed hourly rates for each person assigned to the Contract for performing financial advisory services for all services described in 3.03 - General Advisory Services, 1 through 20).
- 2) **Fees for Cash Flow Services** - The second part of the price proposal shall indicate a fixed fee for the preparation of cash flows as described in 3.03B Cash Flow Services.
 - a. Structure of a new financing as part of a parity indenture;
 - b. Stand-alone financing;
 - c. Local government infrastructure and public housing securitization financing; and
 - d. Annual updates for basis cash flows (price per indenture).

This price shall be an all-inclusive rate that reflects all costs associated with performing cash flows or any other costs associated with running and maintaining cash flows.

- 3) **Hourly Rates for Financial Analysis on a Contingency Basis** -The third part of the price proposal shall indicate the fixed hourly rate for providing financial analysis services on a contingency basis as described in Section 3.03 C.

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SECTION V. EVALUATION AND SELECTION PROCEDURE

5.01 Qualifying Proposals

The Procurement Officer first will review each proposal for completeness of response to requirements contained in Section IV, Proposal Format. Failure to respond to the appropriate questions or in the manner required may disqualify an Offeror's proposal from consideration by the Evaluation Committee.

5.02 Evaluation Committee and Evaluation Criteria

All qualifying proposals (those proposals that are reasonably susceptible to selection for Contract award) received by the submission deadline will be evaluated by an Evaluation Committee appointed by the Treasurer or the Treasurer's designee. The Evaluation Committee will rank the proposals and make a recommendation for award based on (1) technical merit (see Section 5.03), as demonstrated in the technical proposal and oral presentations, if any, and (2) fees, both as presented in the best and final offer, if any.

5.03 Technical Evaluation

After the Procurement Officer selects the qualifying proposals (those proposals that are reasonably susceptible to selection for Contract award) the Evaluation Committee will conduct an initial evaluation of the technical merit of each qualifying proposal based on the information provided in the proposal in response to Section 4.03 Volume I - Technical Proposal. The Evaluation Committee's final technical evaluation may include information obtained during oral presentations, if any.

The Proposals will be evaluated on the basis of the following factors listed in the order of relative importance:

1. Offeror's Qualifications, Experience and Capability
2. Key Personnel
3. Approach to Managing Clients and Organizing Projects
4. Preparation of Presentations, Training, and Analysis Skills
5. Transition Plan
6. Contingency Preparedness
7. Economic Benefits

5.04 Evaluation of Costs/Fees

Following completion of the initial technical evaluation, the Evaluation Committee will conduct an initial evaluation of each proposal and will establish a financial ranking of all proposals.

5.05 Best and Final Offer

When deemed in the best interest of the State, the Procurement Officer may permit qualified Offerors to revise their initial proposals by submitting best and final offers. The Procurement Officer shall notify each qualified Offeror of the scope of the requested best and final offer, and shall establish a date and time for the submission. The Procurement Officer may require more than one series of best and final offers and discussions, if determined that it is in the State's best interest to do so. If more than one best and final offer is requested, an Offeror's immediate previous offer shall be construed as its best and final offer unless the Offeror submits a timely notice of withdrawal or another best and final offer. The Procurement Officer may consult with and seek the recommendation of the Evaluation Committee during the best and final offer process.

5.06 Final Evaluation and Recommendation for Award

Following oral presentations, proposal negotiations, and reference checks, and site visits, if any, the Evaluation Committee will perform its final evaluations and will make a recommendation to the Procurement Officer for award of the Contract to the responsible Offeror whose proposal is determined to be the most advantageous to the State based on the results of the final technical and financial evaluations. Contract award, if any, is subject to the approval of the Treasurer or Chief Deputy Treasurer upon recommendation of the Procurement Officer.

5.07 Debriefing of Unsuccessful Offerors

Unsuccessful Offerors shall be debriefed upon their written request, provided the request is made within a reasonable period of time after receiving notice of a final determination of award from the Procurement Officer. Request for debriefings shall be honored by the Office at the earliest feasible time after the request has been received. Debriefings shall be held in accordance with COMAR 21.05.03.06.

5.08 Responsibility

1. General

- (a) The procurement regulations in COMAR Title 21 define a "responsible" Offeror as one "...who has the capability in all respects to perform fully the Contract requirements, and the integrity and reliability that shall assure good faith performance."

(b) COMAR Title 21 also requires that the Procurement Officer determine before awarding a contract to an Offeror whether the Offeror is responsible. The determination of responsibility is based on the subjective judgment of the Procurement Officer about whether the Offeror meets the definition of a “responsible” Offeror.

(c) In addition, the unreasonable failure of an Offeror to supply information promptly in connection with the determination of responsibility shall be grounds for a determination that the Offeror is not responsible.

2. Discussions

The Office reserves the right to discuss and negotiate with qualified Offerors or potentially qualified Offerors, (i.e., which are reasonably susceptible of being selected for award). Discussions or negotiations will be conducted with all qualified Offerors. The Office, however, is not obligated to conduct any discussions or negotiations. Each Offeror should be aware that the Office can select a proposal without first discussing the matter with the selected Offeror.

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APPENDIX A

PRICE PROPOSAL INSTRUCTIONS

- A. Offerors must submit an unbound, clearly marked original and five (3) bound copies of the Price Proposal in a separate sealed envelope titled “Financial Advisory Services for DHCD - Price Proposal.” The Price Proposal shall be submitted on the Price Proposal Form, Appendix A, and signed by an official authorized to bind the Offeror.
- B. The price proposal shall include three prices, as described below

Section 1 - Hourly Rates for General Advisory Services

The first part of the price proposal shall indicate the fixed hourly rates for each person assigned to the contract for performing financial advisory services for all services described in 3.03 A - General Advisory Services, 1 through 20.

Section 2 - Fees for Cash Flow Services

The second part of the price proposal shall indicate a fixed fee for the preparation of cash flows as described in 3.03 B - Cash Flow Services:

- a. Structure of a new financing as part of a parity indenture;
- b. Stand-alone financing;
- c. Local government infrastructure and public housing securitization financing; and
- d. Annual updates for basis cash flows (price per indenture).

This price shall be an all-inclusive rate that reflects all costs associated with performing cash flows or any other costs associated with running and maintaining cash flows.

Section 3- Hourly Rates for Financial Analysis on a Contingency Basis

The third part of the price proposal shall indicate the fixed hourly rate for providing financial analysis services on a contingency basis as described in Section 3.03 C – Contingency Services.

APPENDIX A
PRICE PROPOSAL - FINANCIAL ADVISOR

Section 1 - Hourly Rates for General Advisory Services - Personnel Assigned to the Contract Pursuant to RFP Section 4.03, F:

Covers all services set forth in Section 3.03 A. 1 through 21).

NOTES: (1)For evaluation purposes an assumption of 1400 hours per year will be used according to the estimated percentage of time reflected below for each category. This does not necessarily reflect required hours during the contract period.

(2) Each category below must have at least one individual identified. An individual can be assigned to more than one category.

NAME(s)	TITLE - DESCRIPTION (Do not change)	Est. % of Contract Time (Do not change)	Evaluated Contract Hours per year	Hourly Rate	Extended Price/ Evaluated (Columns C x D x E)	Four Year Contract Price (Column F x 4)
A	B	C	D	E	F	G
	1) President/Principal/Partner-in-Charge - Top individual in the firm that is responsible for managing the account.	10%	1400	\$	\$	\$
	2) Senior Manager/Senior Vice President/Managing Director - Main person assigned to the account responsible for managing all activities; principal person providing advice to DHCD and basic day-to-day financial advisory services, including swaps advice.	25%	1400	\$	\$	\$
	3) Manager/Vice President/Director - Primary individual(s) assigned to the account to work with and/or in support of the individual listed above (in #2) for managing all financial advisory services activities on a day-to-day basis, including swaps advice.	30%	1400	\$	\$	\$
	4) Manager/Vice President/Associate - Primary individual(s) assigned to work on post sale analyses, annual underwriter reviews, presentation books, and other related tasks.	15%	1400	\$	\$	\$
	5) Manager/Vice President/Associate - Primary individual(s) assigned to assist with swaps advice.	5%	1400	\$	\$	\$
	6) Manager/Vice President/Associate -Primary individual(s) assigned to assist with strategic planning, which includes in-depth analysis of cash flows.	5%	1400	\$	\$	\$
	7) Manager/Vice President/Associate - Primary individual(s) assigned for training staff in bond-related activities, including cash flows.	5%	1400	\$	\$	\$
	8) Investment Officer - Primary individual(s) responsible for recommending investment policies, including assisting with GIC bids.	5%	1400	\$	\$	\$
	9) Subtotal of rows 1- 8 above (1 Year Evaluated Price)				\$	
	10) Subtotal of Section 1 (4 Year Evaluated Price)					\$

Section 2 - Fees for Cash Flow Analysis Services Pursuant to RFP Section 4.03 C.2 (Covers all services set forth in Section 3.03 B.):

Chart A - Offerors shall propose a fixed fee total billable amount for each cash flow done for 1) structure of a new financing as part of a parity indenture; 2) a stand-alone financing; 3) local government infrastructure and public housing securitization financing; and 4) annual updates for basis cash flows (price per indenture.)

CASH FLOW TYPE	A Fixed Fee per Cash Flow	B Assumed Number of Cash Flows per year (Do Not Change)	C Cash Flow Fees
1. New financing/parity indenture	\$	9	\$
2. Stand-alone financing	\$	2	\$
3. Local gov. infrastructure/public housing financing	\$	2	\$
4. Annual updates/basis cash flow	\$	4	\$
SUBTOTAL Column A Fees	\$		
SUBTOTAL Column C Costs			\$

Chart B - Offerors shall propose a maximum annual cash flow fee amount in the chart below. If the number of cash flows per year results in a price that is lower than the maximum annual cash flow fee amount, DHCD will compensate the Contactor for the actual number of cash flows at the fixed fee cash flow price.

A	B
1. Maximum Annual Cash Flow Fee Amount Proposed by Offeror	\$
2. Four Year Evaluated Cash Flow Price (Column B x 4 Years)	\$

Section 3 - Hourly Rates for Financial Analysis on a Contingency Basis Pursuant to RFP Section 4.03 F (Covers only services set forth in Section 3.03 C.):

NOTE: For award purposes an assumption of 100 hours per year will be used according to the estimated percentage of time reflected below. This does not necessarily reflect required hours during the contract period.

	NAME(s)	TITLE - DESCRIPTION (Do not change)	A Est. % of Time (Do not change)	B Est. hours per year (Do not change)	C Hourly Rate	D Evaluated Annual Price (Columns A x B x C)	E Four Year Evaluated Contract Price (Column D x 4)
1		President/Principal/Managing Director/Senior Vice President - Main individual in the firm that is responsible for managing the account	10%	100	\$	\$	\$
2		Manager/Vice President - Main person assigned to provide financial analysis, or related tasks, on a contingency or emergency basis.	90%	100	\$	\$	\$
3	TOTALS					\$	\$

4) Calculation of Offeror's Evaluated Price:

To determine an Offeror's Total Evaluated Price, the Offeror shall complete the following summary table of their proposed prices from the following:

- Section 1 Column G, Row 10: Four Year Evaluated Price for Hourly Rates for General Advisory Services;
- Section 2, Chart B, Column B, Row 2: Four Year Evaluated Cash Flow Price for Maximum Fees for Cash Flow Services; and
- Section 3, Column E, Row 3: Four Year Evaluated Price for Hourly Rates for Contingency Services.

	Four Year Evaluated Prices
Section (1) General Advisory Services	\$ _____
Section (2) Cash Flow Analysis Services	\$ _____
Section (3) Financial Analysis on a Contingency Basis	\$ _____
FOUR YEAR TOTAL EVALUATED PRICE (Sum of Section 1 - 3)	\$ _____

5) Offeror Signature and Information:

Name of Offeror: _____ **By:** _____

Address: _____ **Typed Name:** _____

_____ **Title:** _____

Contact Name _____ **Title:** _____

Email: _____ **Telephone:** _____

FEIN: _____

APPENDIX B
CASH FLOW ANALYSIS CHART – FINANCIAL ADVISOR
 (To be submitted with technical proposal.)

The following four Official Statements are to be referred to by Offerors in completing Appendix B: 1) Residential Revenue Bonds 2012 Series A & B (Single Family Financing (SF) in a parity indenture); 2) Housing Revenue Bonds Series 2013 B and C (Multi-Family Financing (MFa) in a parity indenture); 3) Multifamily Development Revenue Bonds (Glen Manor Apartments) Series 2013 G (Multifamily stand-alone indenture financing (MFb); and 4) Local Government Infrastructure Bonds 2013 Series A (Local Government Infrastructure financing (LocalGov). These Official Statements are located on the DHCD web site www.mdhousing.org. Offerors should review the Official Statements and use as a sample to estimate the number of hours that would be required to perform cash flows for the sample financing.

NAME	TITLE	ESTIMATED NO. OF HOURS (To perform cash flows for three sample financings using the attached Official Statements)			
		1) SF	2) MFa	3) MFb	4) LocalGov
President/Principal/ Managing Director/Senior Vice President – Main individual in the firm that is responsible for managing the account.					
Manager/Vice President - Main person assigned to provide cash flow services.					
Manager/Vice President/ Associate Primary individual(s) assigned to assist with strategic planning, which includes in-depth analysis of cash flows.					
Manager/Vice President/ Associate Primary individual(s) assigned for training staff in bond related activities, including cash flows.					

APPENDIX C
PERSONNEL ASSIGNMENT CHART - FINANCIAL ADVISOR

(To be submitted with technical proposal)

A. General Advisory Services (Section 3.03.A): Personnel Assigned to the Contract Pursuant to Section 3.04 Staffing Requirements:

TITLE - DESCRIPTION	NAME OF KEY PERSON	PERCENTAGE OF TIME
1) President/Principal/Partner-in-Charge – Top individual in the firm that is responsible for managing the account		
2) Senior Manager/Senior Vice President/Managing Director – Main person assigned to the account responsible for managing all activities; principal person providing advice to DHCD and basic day-to-day financial advisory services, including swaps advice.		
3) Manager/Vice President/Director – Primary individual(s) assigned to the account to work with and/or in support of the individual listed above (in #2) for managing all financial advisory services activities on a day-to-day basis, including swaps advice.		
4) Manager/Vice President/ Associate – Primary individual(s) assigned to work on post sale analyses, annual underwriter reviews, presentation books, and other related tasks.		
5) Manager/Vice President/ Associate – Primary individual(s) assigned to assist with swaps advice.		
6) Manager/Vice President/ Associate - Primary individual(s) assigned to assist with strategic planning, which includes in-depth analysis of cash flows.		
7) Manager/Vice President/ Associate – Primary individual(s) assigned for training staff in bond related activities, including cash flows.		
8) Investment Officer – Primary individual(s) responsible for recommending investment policies, including assisting with GIC bids.		

NOTE: For Personnel Title Level 3 – 8, a person may be assigned to more than one major category. All personnel named should be identified on the price proposal (Appendix A).

B. Cash Flow Services (Section 3.03.B): Personnel Assigned to the Contract Pursuant to Section 3.04:

TITLE	NAME OF KEY PERSON	PERCENTAGE OF TIME
President/Principal/ Managing Director/Senior Vice President - Main individual in the firm that is responsible for managing the account.		
Manager/Vice President - Main person assigned to provide cash flow services.		
Manager/Vice President/ Associate Primary individual(s) assigned to assist with strategic planning, which includes in-depth analysis of cash flows.		
Manager/Vice President/ Associate Primary individual(s) assigned for training staff in bond related activities, including cash flows.		

C. Contingency Services (Section 3.03.C): Personnel Assigned to the Contract Pursuant to Section 3.04:

TITLE - DESCRIPTION	NAME OF KEY PERSON	PERCENTAGE OF TIME
President/Principal/ Managing Director/Senior Vice President - Main individual in the firm that is responsible for managing the account.		
Manager/Vice President - Main person assigned to provide financial analysis, or related tasks, on a contingency or emergency basis.		

APPENDIX D
(To be submitted with Technical Proposal)
BID/PROPOSAL AFFIDAVIT

A. Authority

I HEREBY AFFIRM THAT:

I (print name)_____ possess the legal authority to make this Affidavit.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

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

B-1. Certification Regarding Minority Business Enterprises.

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

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

(4) Pay the certified minority business enterprise solely for the use of its name in the bid or proposal.

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

B-2. Certification Regarding Veteran-Owned Small Business Enterprises. The undersigned bidder hereby certifies and agrees that it has fully complied with the State veteran-owned small business enterprise law, State Finance and Procurement Article, §14-605, Annotated Code of Maryland, which provides that a person may not:

(1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;

(2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran-owned small business enterprise in order to obtain or retain a bid preference or a procurement contract;

(3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;

(4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;

(5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.12; or

(6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of §B-2(1)—(5) of this regulation.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

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

disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

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

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

(a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or

(b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;

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

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

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

(5) Been convicted of a violation of §11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;

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

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

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

(9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any

law or statute described in §§B and C and subsections D(1)—(8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

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

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

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

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

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

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

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

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

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

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

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT: 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.

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

K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

(1) The undersigned certifies that, in accordance with State Finance and Procurement Article, §17-705, Annotated Code of Maryland:

(a) It is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland; and

(b) It is not engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland.

2. The undersigned is unable to make the above certification regarding its investment activities in Iran due to the following activities:

L. CONFLICT MINERALS ORIGINATED IN THE DEMOCRATIC REPUBLIC OF CONGO (FOR SUPPLIES AND SERVICES CONTRACTS)

I FURTHER AFFIRM THAT:

The business has complied with the provisions of State Finance and Procurement Article, §14-413, Annotated Code of Maryland governing proper disclosure of certain information regarding conflict minerals originating in the Democratic Republic of Congo or its neighboring countries as required by federal law.

M. 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: _____ (print name of Authorized Representative and Affiant)

_____ (signature of Authorized Representative and Affiant)

APPENDIX E
Living Wage Requirements for Service Contracts

- A. This contract is subject to the Living Wage requirements under Title 18, State Finance and Procurement Article, Annotated Code of Maryland and the regulations proposed by the Commissioner of Labor and Industry. The Living Wage generally applies to a Contractor or Subcontractor who performs work on a State contract for services that is valued at \$100,000 or more. An employee is subject to the Living Wage if he/she is at least 18 years old or will turn 18 during the duration of the contract; works at least 13 consecutive weeks on the State Contract and spends at least one-half of the employee's time during any work week on the State Contract.
- B. The Living Wage Law does not apply to:
- (1) A Contractor who:
 - (A) has a State contract for services valued at less than \$100,000, or
 - (B) employs 10 or fewer employees and has a State contract for services valued at less than \$500,000.
 - (2) A Subcontractor who:
 - (A) performs work on a State contract for services valued at less than \$100,000,
 - (B) employs 10 or fewer employees and performs work on a State contract for services valued at less than \$500,000, or
 - (C) performs work for a contractor not covered by the Living Wage Law as defined in B(1)(B) above, or B (3) or C below.
 - (3) Service contracts for the following:
 - (A) services with a Public Service Company;
 - (B) services with a nonprofit organization;
 - (C) services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement ("Unit"); or
 - (D) services between a Unit and a County or Baltimore City.
- C. If the Unit responsible for the State contract for services determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.
- D. A Contractor must not split or subdivide a State contract for services, pay an employee through a third party, or treat an employee as an independent contractor or assign work to employees to avoid the imposition of any of the requirements of Title 18, State Finance and Procurement, Annotated Code of Maryland.

- E. Each Contractor/Subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.
- F. The Commissioner of Labor and Industry shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's Website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.
- G. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of the health insurance premium, as provided in §18-103(c), State Finance and Procurement Article, Annotated Code of Maryland, shall not lower an employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of health insurance premium shall comply with any record reporting requirements established by the Commissioner of Labor and Industry.
- H. A Contractor/Subcontractor may reduce the wage rates paid under §18-103(a), State Finance and Procurement, Annotated Code of Maryland, by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland.
- I. Under Title 18, State and Finance Procurement Article, Annotated Code of Maryland, if the Commissioner determines that the Contractor/Subcontractor violated a provision of this title or regulations of the Commissioner, the Contractor/Subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of \$20 per day for each employee paid less than the Living Wage.
- J. Information pertaining to reporting obligations may be found by going to the DLLR Website at: <http://www.dllr.maryland.gov/prev/livingwage.com>.

APPENDIX F
(To be submitted with Technical Proposal)
Affidavit of Agreement
Maryland Living Wage Requirements-Service Contracts

Contract No. _____

Name of Contractor _____

Address _____

City _____ State _____ Zip Code _____

If the Contract is Exempt from the Living Wage Law

The Undersigned, being an authorized representative of the above named Contractor, hereby affirms that the Contract is exempt from Maryland's Living Wage Law for the following reasons: (check all that apply)

- Bidder/Offeror is a nonprofit organization
- Bidder/Offeror is a public service company
- Bidder/Offeror employs 10 or fewer employees and the proposed contract value is less than \$500,000
- Bidder/Offeror employs more than 10 employees and the proposed contract value is less than \$100,000

If the Contract is a Living Wage Contract

- A. The Undersigned, being an authorized representative of the above named Contractor, hereby affirms our commitment to comply with Title 18, State Finance and Procurement Article, Annotated Code of Maryland and, if required, to submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Bidder/Offeror agrees to pay covered employees who are subject to living wage at least the living wage rate in effect at the time service is provided for hours spent on State contract activities, and to ensure that its Subcontractors who are not exempt also pay the required living wage rate to their covered employees who are subject to the living wage for hours spent on a State contract for services. The Contractor agrees to comply with, and ensure its Subcontractors comply with, the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate established by the Commissioner of Labor and Industry, automatically upon the effective date of the revised wage rate.

Attachment F (continued)
Affidavit of Agreement
Maryland Living Wage Requirements-Service Contracts

B. _____ (initial here if applicable) The Bidder/Offeror affirms it has no covered employees for the following reasons: (check all that apply)

- All employee(s) proposed to work on the State contract will spend less than one-half of the employee's time during every work week on the State contract;
- All employee(s) proposed to work on the State contract will be 17 years of age or younger during the duration of the State contract; or
- All employee(s) proposed to work on the State contract will work less than 13 consecutive weeks on the State contract.

The Commissioner of Labor and Industry reserves the right to request payroll records and other data that the Commissioner deems sufficient to confirm these affirmations at any time.

Name of Authorized Representative: _____

Signature of Authorized Representative

Title: _____

Date: _____

Witness Name (Typed or Printed)

Witness Signature

Date

APPENDIX G

MINORITY BUSINESS ENTERPRISE PARTICIPATION

PURPOSE

Contractor shall structure its procedures for the performance of the work required in this contract to attempt to achieve the minority business enterprise (MBE) goal stated in the Request for Proposals. MBE performance must be in accordance with this Appendix, as authorized by Code of Maryland Regulations (COMAR) 21.11.03. Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this Appendix.

MBE GOALS AND SUB GOALS

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

OR

An overall MBE subcontract participation goal of ___ percent of the total contract dollar amount has been established for this procurement. This percentage of the total dollar amount includes:

- A sub goal of ___ percent of the total contract dollar amount to be allocated to certified minority business enterprises classified as women-owned businesses.
- A sub goal of ___ percent of the total contract dollar amount to be allocated to certified minority business enterprises classified as African American-owned businesses.

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

- ◆ A prime contractor — including an MBE prime contractor — must accomplish an amount of work not less than the MBE subcontract goal with certified MBE subcontractors.
- ◆ A prime contractor comprising a joint venture that includes MBE partner(s) must accomplish the MBE subcontract goal with certified MBE subcontractors.

SOLICITATION AND CONTRACT FORMATION

A bidder or offeror must include with its bid or offer a completed *Certified MBE Utilization and Fair Solicitation Affidavit (Attachment A)* whereby:

- (1) the bidder or offeror acknowledges the certified MBE participation goal or requests a waiver, commits to make a good faith effort to achieve the goal, and affirms that MBE subcontractors were treated fairly in the solicitation process.
- (2) the bidder or offeror responds to the expected degree of Minority Business Enterprise participation as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of submission. The bidder or offeror shall specify the percentage of contract value associated with each MBE subcontractor identified on the MBE Participation Schedule.

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

Within 10 working days from notification that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee must provide the following documentation to the Procurement Officer.

- (1) **Outreach Efforts Compliance Statement** (Attachment B)
- (2) **Subcontractor Project Participation Statement** (Attachment C)
- (3) If the apparent awardee believes a waiver (in whole or in part) of the overall MBE goal or of any sub goal is necessary, it must submit a fully documented waiver request that complies with COMAR 21.11.03.11.
- (4) Any other documentation required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

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

CONTRACT ADMINISTRATION REQUIREMENTS

Contractor shall:

1. Submit monthly to the Department a report listing any unpaid invoices, over 30 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made.
2. Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit monthly to the Department a report that identifies the prime contract and lists all payments received from Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices.
3. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
4. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the contract.
5. At the option of the procurement agency, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

ATTACHMENTS

- A. Certified MBE Utilization and Fair Solicitation Affidavit (must be submitted with bid or offer)
- B. Outreach Efforts Compliance Statement (must be submitted within 10 working days of notification of apparent award or actual award, whichever is earlier)
- C. Subcontractor Project Participation Statement (must be submitted within 10 working days of notification of apparent award or actual award, whichever is earlier)

MDOT Certified MBE Utilization and Fair Solicitation Affidavit

(submit with bid or offer)

This document **MUST BE** included with the bid or offer. If the Bidder or Offeror fails to complete and submit this form with the bid or offer as required, the procurement officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

In conjunction with the bid or offer submitted in response to Solicitation No. IM/OM-07__2013, I affirm the following:

1. I acknowledge and intend to meet the overall certified Minority Business Enterprise (MBE) participation goal of ___ percent and, if specified in the solicitation, sub goals of ___ percent for MBEs classified as African American-owned and ___ percent for MBEs classified as women-owned. Therefore, I will not be seeking a waiver pursuant to COMAR 21.11.03.11.

OR

- I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.03.11.

2. ***I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 working days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier.***

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

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

3. In the solicitation of subcontract quotations or offers, MBE subcontractors were provided not less than the same information and amount of time to respond as were non-MBE subcontractors.
4. Set forth below are the (i) certified MBEs I intend to use and (ii) the percentage of the total contract amount allocated to each MBE for this project. I hereby affirm that the MBE firms are only providing those products and services for which they are MDOT certified.

Prime Contractor: (Firm Name, Address, Phone)	Project Description:
Project Number:	

List Information For Each Certified MBE Subcontractor On This Project

Minority Firm Name	MBE Certification Number
Certification Category For Dually Certified MBE Subcontractors (<i>Check Only One Certification Category</i>)	
<input type="checkbox"/> African American Owned	<input type="checkbox"/> Woman-Owned
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Certification Category For Dually Certified MBE Subcontractors (<i>Check Only One Certification Category</i>)	
<input type="checkbox"/> African American Owned	<input type="checkbox"/> Woman-Owned
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Certification Category for Dually Certified MBE Subcontractors (<i>Check Only One Certification Category</i>)	
<input type="checkbox"/> African American Owned	<input type="checkbox"/> Woman-Owned
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Certification Category for Dually Certified MBE Subcontractors (<i>Check Only One Certification Category</i>)	
<input type="checkbox"/> African American Owned	<input type="checkbox"/> Woman-Owned
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Certification Category for Dually Certified MBE Subcontractors (<i>Check Only One Certification Category</i>)	
<input type="checkbox"/> African American Owned	<input type="checkbox"/> Woman-Owned
Percentage of Total Contract	

Continue on a separate page, if needed.

SUMMARY

Total *African-American* MBE Participation: _____ %
Total *Woman-Owned* MBE Participation: _____ %
Total *Other* Participation: _____ %
Total All MBE Participation: _____ %

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

Bidder/Offeror Name
(PLEASE PRINT OR TYPE)

Signature of Affiant

Name: _____
Title: _____
Date: _____

Outreach Efforts Compliance Statement

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

In conjunction with the bid or offer submitted in response to Solicitation No. _____, Bidder/Offeror states the following:

1. Bidder/Offeror identified opportunities to subcontract in these specific work categories.
2. Attached to this form are copies of written solicitations (with bidding instructions) used to solicit MDOT certified MBEs for these subcontract opportunities.
3. Bidder/Offeror made the following attempts to contact personally the solicited MDOT certified MBEs.
4. Select ONE of the following:
 - a. This project does not involve bonding requirements.
 - OR**
 - b. Bidder/Offeror assisted MDOT certified MBEs to fulfill or seek waiver of bonding requirements (*describe efforts*).
5. Select ONE of the following:
 - a. Bidder/Offeror did/did not attend the pre-bid/proposal conference.
 - OR**
 - b. No pre-bid/proposal conference was held.

Bidder/Offeror Printed Name

By: _____
Signature

Address: _____

Subcontractor Project Participation Certification

Please complete and submit one form for each MDOT certified MBE listed on Attachment A within 10 working days of notification of apparent award.

_____ (prime contractor) has entered into a contract with _____ (subcontractor) to provide services in connection with the Solicitation described below.

Prime Contractor Address and Phone	Project Description
Project Number	Total Contract Amount \$
Minority Firm Name	MBE Certification Number
Work To Be Performed	
Percentage of Total Contract	

The undersigned Prime Contractor and Subcontractor hereby certify and agree that they have 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 business enterprise in its bid or proposal;
- (2) fail to notify the certified minority business enterprise before execution of the contract of its inclusion of 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.

PRIME CONTRACTOR SIGNATURE

By: _____
 Name
 Title
 Date

SUBCONTRACTOR SIGNATURE

By: _____
 Name
 Title
 Date

APPENDIX H

**CONTRACT FOR
FINANCIAL ADVISORY SERVICES FOR
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
BETWEEN
MARYLAND STATE TREASURER'S OFFICE
AND**

CONTRACT

THIS CONTRACT (the "Contract") is made as of the ___ day of _____, 2014, by and between [NAME AND ADDRESS] (the "Contractor"), and the **MARYLAND STATE TREASURER'S OFFICE**, 80 Calvert Street, Annapolis, Maryland 21401 (the "Office"), on behalf of the **DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (the "DHCD)**, offices of the **STATE OF MARYLAND** (the "State").

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

ARTICLE I - SCOPE OF SERVICES

The Office hereby engages the Contractor to perform the services set forth below:

1.1. General Services. The Contractor shall provide financial advisory services as described in this Contract, which includes the following exhibits:

- Exhibit The Office's Request for Proposals ("RFP") for Financial Advisory Services for Department of Housing and Community Development, RFP #04072014;
- Exhibit Contractor's Proposal dated ____;
- Exhibit Contractor's Price Proposal dated ____;
- Exhibit Contractor's Cash Flow Analysis Chart and Personnel Assignment Charts;
- Exhibit Contractor's Presentation dated ____; and
- Exhibit Bid/Proposal Affidavit, and Living Wage Affidavit, Contract Affidavit.

1.2. If there are any inconsistencies between this Contract and the Exhibits, this Contract shall control. If there is any conflict among the Exhibits, Exhibit A, shall control.

1.3 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under Section 4.5., Disputes. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

ARTICLE II - TERM

- 2.1. The initial term of this Contract shall be for the period beginning September 1, 2014 and ending August 31, 2018.
- 2.2. In addition there shall be one additional one-year renewal option, which may be exercised at the sole discretion of the Treasurer or the Treasurer's designee.
- 2.3. After the end of the Contract term, should a new contract be awarded to a contractor other than the incumbent, the Contract shall be deemed to be extended, Contractor shall continue to perform Contract services, and Contractor shall continue to receive the compensation specified in the Contract for such services, until such time as the transition to the new contractor is complete. Contractor shall also assist the Office during any transition period to a new contractor and provide all necessary information and data to any subsequent contractor.
- 2.4. The provisions Sections 4.1 (Liability), 4.5 (Disputes), 4.6 (Maryland Law Prevails), 4.21 (Retention of Records/Audit), 4.25 (Ownership of Documents and Materials) and 4.26 (Patents, Copyrights and Trade Secrets) of this Contract shall survive termination of this Contract for any reason.

ARTICLE III - CONSIDERATION, PAYMENT AND PERFORMANCE

- 3.1. Contractor shall charge only the fees as described on Contractor's Price Proposal [BAFO] as attached hereto as Exhibit __. These fees shall not be adjusted during the term of this Contract including any renewal option periods.
- 3.2. General advisory services and contingency services will be paid monthly. Payment shall be based upon the actual number of hours expended by the Contractor in performance of the services requested by DHCD and approved by the Contract Administrator in the preceding month, multiplied by the fixed hourly rates of compensation on Exhibit __, Price Proposal, Sections 1 and 3.

For cash flow services, the Contractor shall be paid at the completion of each cash flow at the fixed fee indicated on Exhibit __, Price Proposal, Section 2, for the type of cash flow analysis service completed.
- 3.3. General advisory and contingency contract services and associated hours must be evidenced on a monthly invoice that is processed through an appropriate payroll distribution system, verified by an authorized representative of the Contractor, and presented to and approved by DHCD. The invoice shall:
 - reflect the hours billed on a daily basis by each individual providing services under the contract for the preceding month, and

- identify the work performed for these hours.
- 3.4 The Contractor will be reimbursed by DHCD for the following identified charges only upon approval by the Contract Administrator:
- Out-of-State travel, in accordance with the Board of Public Works Standard Travel Regulations (COMAR 23.02.01);
 - Overnight delivery charges and messenger services, which shall be reimbursed at the rate charged by the delivery/ messenger service and detailed in the Contractor's monthly invoice submission, with a copy of the delivery charge/ messenger service invoice attached;
 - Costs associated with bond issuance activity, such as but not limited to, bond buyer advertisements for bond sales and printer costs, which shall be reimbursed at the rate charged for the service and detailed in the Contractor's monthly invoice submission, with a copy of the service invoice attached.
- 3.5 Costs, such as duplicating, fax charges, telephone, Internet connections and/or any other type of computer charges or costs in performing any services under the Contract, including running cash flows, are considered costs of doing business and will not be reimbursed under this Contract.

ARTICLE IV – GENERAL CONDITIONS

4.1. Liability

The Contractor agrees to assume full responsibility for any and all damage to the property of the Office, both real and personal, which results from or arises in connection with, the performance of this Contract.

The Contractor hereby agrees to indemnify and save harmless the State against all claims, damages, costs, losses and liabilities whatsoever, for any and all injury to persons and property that may arise out of the performance of this Contract.

The Contractor agrees to maintain adequate insurance coverage in order to fulfill its responsibilities under this section.

4.2. Tax Exemption

The State is generally exempt from Federal Excise Taxes, Maryland Sales and Use Taxes, District of Columbia Sales Tax and Transportation Taxes. Exemption certificates shall be completed upon request.

4.3. Subcontracting; Assignment

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the State, nor may the Contractor sell, transfer, or otherwise assign its obligations under this Contract, or any portion thereof, or any of its rights or obligations hereunder, without the prior written approval of the State; provided, however, that the Contractor may subcontract services under or make an assignment of this Contract to an affiliate of the Contractor that is fully capable of performing such services if the Contractor retains full responsibility for the Contract. Any such subcontract or assignment shall be subject to any terms and conditions that the Office deems necessary to protect the interest of the State. The Office shall not be responsible for the fulfillment of the Contractor's obligations to subcontractors.

4.4. Non-Hiring of Officials and Employees

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

4.5. 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 (Dispute Resolution), 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.

4.6. Maryland Law Prevails

The provisions of this Contract shall be governed by the Laws of Maryland.

4.7. Amendments

This Contract, including the exhibits hereto, constitutes the entire agreement between the parties and all other communications prior to its execution, whether written or oral, with reference to the subject matter of this Contract are superseded by this Contract. Any amendment to this Contract must first be approved in writing by the Procurement Officer, subject to any additional approvals required by State law. No amendment to this Contract shall be binding unless so approved and unless it is in writing and signed by the party to be charged.

4.8. Nondiscrimination in Employment

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

4.9. Commercial Nondiscrimination Clause

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

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

4.10. Contingent Fee Prohibition

The Contractor, architect, or engineer (as applicable) 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, architect, or engineer, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this Contract.

4.11. Living Wage Requirements

A solicitation for services under a State contract valued at \$100,000 or more may be subject to Title 18, State Finance and Procurement (SFP) Article, Annotated Code of Maryland.

Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at least \$12.28 per hour, if State contract services valued at 50% or more of the total value of the contract are performed in the Tier 1 Area. If State contract services valued at 50% or more of the total Contract value are performed in the Tier 2 Area, an Offeror shall pay each covered employee at least \$9.23 per hour. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event employees who perform the services are not located in the State, the head of the unit responsible for a State contract pursuant to §18-102 (d) shall assign the tier based upon where the recipients of the services are located.

This Contract has been deemed to be a Tier 1 contract.

4.12 Liquidated Damages for Non-Compliance

The Contract requires the Contractor to make good faith efforts to comply with the Minority Business Enterprise ("MBE") Program and Contract provisions. The State and the Contractor acknowledge and agree that the State will incur damages, including but not limited to loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources, if the Contractor does not make good faith efforts to comply with the requirements of the MBE Program and MBE Contract provisions. The parties further acknowledge and agree that the damages the State might reasonably be anticipated to accrue as a result of such lack of compliance are difficult to ascertain with precision and that liquidated damages represent a fair, reasonable, and appropriate estimation of damages.

Upon a determination by the State that the Contractor failed to make good faith efforts to comply with one or more of the specified MBE Program requirements or Contract

provisions and without the State being required to present any evidence of the amount or character of actual damages sustained, the Contractor agrees to pay liquidated damages to the State at the rates set forth below. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty. The Contractor expressly agrees that the State may withhold payment on any invoices as an offset against liquidated damages owed. The Contractor further agrees that for each specified violation, the agreed upon liquidated damages are reasonably proximate to the loss the State is anticipated to incur as a result of such violation.

- 4.12.1. Failure to submit each monthly payment report in full compliance with COMAR 21.11.03.13B (3): \$49.00 per day until the monthly report is submitted as required.
- 4.12.2. Failure to include in its agreements with MBE subcontractors a provision requiring submission of payment reports in full compliance with COMAR 21.11.03.13B (4): \$49.00 per MBE subcontractor.
- 4.12.3. Failure to comply with COMAR 21.11.03.12 in terminating, canceling, or changing the scope of work/value of a Contract with an MBE subcontractor and/or amendment of the MBE participation schedule: the difference between the dollar value of the MBE participation commitment on the MBE participation schedule for that specific MBE firm and the dollar value of the work performed by that MBE firm for the Contract.
- 4.12.4. Failure to meet the Contractor's total MBE participation goal and subgoal commitments: the difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually achieved.
- 4.12.5. Failure to promptly pay all undisputed amounts to an MBE subcontractor in full compliance with the prompt payment provisions of this Contract: \$98.00 per day until the undisputed amount due to the MBE subcontractor is paid.

Notwithstanding the use of liquidated damages, the State reserves the right to terminate the contract and exercise all other rights and remedies provided in the Contract or by law.”

4.13. Multi-Year Contracts Contingent upon Appropriations

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be cancelled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the State's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the State from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any non-

recurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

4.14. Termination for Default

If the Contractor fails to fulfill its obligation under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State shall pay the Contractors fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

4.15. Termination for Convenience

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

4.16. Delays and Extensions of Time

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

Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another contractor in the performance of a Contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

4.17. Variations in Estimated Quantities

No equitable adjustment shall be permitted in favor of either the State or the Contractor in the event that the quantity of any pay item in this Contract is an estimated quantity and the actual quantity of such pay item varies from the estimated quantity stated in the Contract.

4.18. Suspension of Work

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

4.19. Pre-Existing Regulations

In accordance with the provisions of §11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, 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.

4.20. Financial Disclosure

The Contractor shall comply with the provisions of §13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more, shall, within 30 days of the time when the aggregate value of these 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.

4.21. Political Contribution Disclosure

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

4.22. Retention of Records/Audit

The Contractor shall retain and maintain all records and documents relating to this Contract for three years after final payment by the State hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or his designee, at all reasonable times.

4.22. Compliance with Laws

The Contractor hereby represents and warrants that:

4.22.1. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time, hereafter may be necessary to remain so qualified;

4.22.2. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;

4.22.3. It shall comply with all federal, State and local laws, regulations and ordinances applicable to its activities and obligations under this Contract; and

4.22.4. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

4.23. Liability for Loss of Data

In the event of loss of any data or records necessary for the performance of this Contract where such loss is due to the error or negligence of the Contractor, the Contractor shall be responsible, irrespective of cost to the Contractor, for recreating such lost data or records.

4.24. Cost and Price Certification

4.24.1. The Contractor by submitting cost or price information certifies that, to the best of its knowledge, the information submitted is accurate, complete, and current as a mutually determined specified date prior to the conclusion of any price discussions or negotiations for:

- (1) A negotiated contract, if the total contract price is expected to exceed \$100,000, or a smaller amount set by the procurement officer; or
- (2) A change order or contract modification, expected to exceed \$100,000, or a smaller amount set by the procurement officer.

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

4.25. Ownership of Documents and Materials

The Contractor agrees that all documents and materials including, but not limited to, reports, drawings, studies, specifications, estimates, maps, photographs, designs, graphics, mechanical, artwork, and computations prepared by or for it under the terms of this Contract shall at anytime during the performance of the services be made available to the State upon request by the State and shall become and remain the exclusive property of the State upon termination or completion of the services. The State shall have the right to use same without restriction or limitation and without compensation to the Contractor other than that provided by this Contract. The State shall be the owner for purposes or copyright, patent or trademark registration.

4.26. Patents, Copyrights and Trade Secrets

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

4.26.2. Contractor will defend or settle, at its own expense, any claim or suit against the State alleging that any such item furnished by Contractor infringes any patent, trademark, copyright, or trade secret. Contractor also will pay all damages and costs that by final judgment may be assessed against the State due to such infringement and all attorney fees and litigation expenses reasonably incurred by the State to defend against such a claim or suit. The obligations of this paragraph are in addition to those stated in paragraph 4.26.3. below.

4.26.3. If any product(s) furnished by Contractor become, or in Contractor's opinion are likely to become, the subject of a claim of infringement, Contractor will, at its option: (1) procure for the State the right to continue using the applicable item; (2) replace the product with a non-infringing product substantially complying with the item's specifications; or (3) modify the item so it becomes non-infringing and performs in a substantially similar manner to the original item.

4.27. Confidentiality

Subject to the Maryland Public Information Act and any other applicable laws, including all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence by the other party. Each party

shall, however, be permitted to disclose relevant confidential information to its officers, agents and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided the data may be collected, used, disclosed, stored and disseminated only as provided by and consistent with the law and the confidentiality provisions of the RFP. The provisions of this section shall not apply to information that (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

ARTICLE V - NOTICES

5.1. All notices required to be given by one party to the other hereunder shall be in writing and shall be addressed as follows:

If to the Office: Procurement Officer
Maryland State Treasurer's Office
Louis L. Goldstein Treasury Building
80 Calvert Street
Annapolis, Maryland 21401

If to DHCD: Roy Westlund
Deputy Director, CDA
Deputy Chief Financial Officer, DHCD
100 Community Place
Crownsville, Maryland 21032

If to the Contractor: _____

ARTICLE VI - ADMINISTRATION

6.1. The work to be accomplished under this Contract shall be performed under the direction of the Contract Officer, Roy Westlund. All matters relating to the administration of this Contract shall be referred to the Procurement Officer for determination.

ARTICLE VII - REPRESENTATIONS

7.1. Each party to this Contract represents and warrants to the other that it has full right, power, and authority to execute this Contract.

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

ATTEST:

[FIRM NAME]

By: _____

WITNESS:

By: _____

Bernadette T. Benik
Chief Deputy Treasurer

**ACKNOWLEDGED AND ACCEPTED:
Department of Housing and
Community Development**

By: _____

Roy Westlund
Deputy Director, Community
Development Administration

Approved for form and legal sufficiency
for the Maryland State Treasurer's Office:

David P. Chaisson
Assistant Attorney General

APPENDIX I
(To be submitted with the Contract)
CONTRACT AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I, _____ (print name), possess the legal authority to make this Affidavit.

B. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION

I FURTHER AFFIRM THAT:

The business named above is a (check applicable box):

- (1) Corporation — domestic or foreign;
- (2) Limited Liability Company — domestic or foreign;
- (3) Partnership — domestic or foreign;
- (4) Statutory Trust — domestic or foreign;
- (5) Sole Proprietorship.

and is registered or qualified as required under Maryland Law. I further affirm that the above business is in good standing both in Maryland and (IF APPLICABLE) in the jurisdiction where it is presently organized, and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation. The name and address of its resident agent (IF APPLICABLE) filed with the State Department of Assessments and Taxation is:

Name and Department ID

Number: _____ Address: _____

and that if it does business under a trade name, it has filed a certificate with the State Department of Assessments and Taxation that correctly identifies that true name and address of the principal or owner as:

Name and Department ID Number: _____

Address: _____.

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13-221, 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.

D. 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.

E. DRUG AND ALCOHOL FREE WORKPLACE

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

I CERTIFY THAT:

(1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.

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

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

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

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

(d) Not hire or assign to work on the contract anyone who 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's 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 §E(2)(b), above;

(h) Notify its employees in the statement required by §E(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 §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;

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

(3) If the business is an individual, the individual shall certify and agree as set forth in §E(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.

F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Bid/Proposal Affidavit dated _____, 2013, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

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

Date: _____

By: _____ (printed name of Authorized Representative and Affiant)

_____ (signature of Authorized Representative and Affiant)