



REQUEST FOR PROPOSAL
FOR
PRIME CONTRACTING SERVICES
FOR THE
UTILITIES UPGRADES PHASE I
AT
UNIVERSITY OF MARYLAND, BALTIMORE COUNTY

RFP NO: BC-21194-C
ISSUED: 05/04/2020

**PROCUREMENT/ISSUING
OFFICE**

Dept. of Procurement & Strategic Sourcing
University of Maryland, Baltimore County
Administration Building, 7th Floor
1000 Hilltop Circle
Baltimore, MD 21250

PROJECT MANAGEMENT

UMB Office of Facilities Management
University of Maryland, Baltimore
620 West Lexington Street, Office Level 06
Baltimore, MD 21201

**UTILITIES UPGRADES PHASE I
AT
THE UNIVERSITY OF MARYLAND, BALTIMORE COUNTY**

RFP #BC- 21194-C

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The following box folder contains the documents listed below, which are packaged separately, but incorporated into this RFP by this reference:

<https://umbc.box.com/s/h0azhodybgth5hgudflzliqjzd99dd1>

Attachment A – 19-113 Site Improvements – Phase 1 - Drawings

Attachment B – 19-113 Site Improvements – Phase 1 - Specifications

Attachment C – Technical Proposal Forms

Attachment D – MBE Documents to be submitted with the Technical Proposal

Attachment E – MBE Waiver Forms and MBE Contract Forms (*to be completed by awarded firm*)

Attachment F – Price Proposal Form (*to be provided to short-listed firms*)

SOLICITATION SCHEDULE

Issue Date	Monday, 5/4/20
Pre-Proposal Conference	Monday, 5/11/20, at 3:00 p.m.
Pre-Proposal Conference Location	Webex meeting: www.webex.com – select “Join” Meeting ID: 477874836 Password: NmgQtPis Phone: (202) 860-2110 (access code: 477874836)
Site Visits	Scheduled for 1 hour time slots Tuesday, May 12 th – Friday, May 15 th Proposers to sign up for time slots via email to emoss@umbc.edu
Deadline for questions for Technical Proposal	Tuesday, 5/19/20, on or before 4:30 pm. via email to emoss@umbc.edu
Technical Proposal Due Date	Wednesday, 5/27/20, on or before 11:59 pm. via email to Box link below
Submit Technical Proposal to UMBC Box:	Technic.lrl1ptnxkvv33g0vx@u.box.com
Interview Sessions for Shortlisted Firms	Wednesday, 6/17/20
Price Proposal Due Date	Thursday, 7/9/20, on or before 11:59 pm via email to Box link below
Submit Price Proposal to UMBC Box:	Price_P.hj815nwulzplt0vz@u.box.com

SCOPE OF WORK

1.1 Introduction

The objective of this Request for Proposal (RFP) is for the University of Maryland, Baltimore County to select a qualified firm for the Utilities Upgrades Phase I project as more fully set forth below and in accordance with the specifications and drawings. The successful firm shall furnish all labor, materials, equipment, supplies, supervision, and other resources as required for this project.

1.2 Institutional Profile of the University:

Established in 1966, the University of Maryland, Baltimore County (UMBC) is one of twelve institutions that along with two regional centers constitute the University System of Maryland. UMBC is located on 482 acres with 4.2 million gross square feet and only 15 minutes from Baltimore's Inner Harbor and 30 minutes from Washington, D.C. and five minutes from BWI Airport.

UMBC combines the emphasis on teaching found at the best liberal arts colleges with the innovation of a research university. UMBC's students take full advantage of the educational, business, cultural, and recreational resources of Baltimore and Washington, D.C. At UMBC, students work alongside faculty who are leaders in their fields; think about the hard questions of society, science, and creative expression; and then move beyond the classroom to make a difference.

UMBC is increasingly recognized as a major resource for building the State's economy and addressing its social concerns. More than 70% of UMBC's 77,000 active alumni live and work in Maryland, contributing significantly to the State's economic and social vitality. In Fall 2019, UMBC had 13,602 enrolled students of which 49.8% are minority enrollments from nearly all 50 states and 3% are international enrollments from more than 80 nations, creating a richly diverse student body.

UMBC continues to be recognized for its academic program, innovation, value and campus environment including the following recent rankings:

- *U.S. News & World Report* has again named UMBC a leading U.S. university: the #9 most innovative university and #12 top university for undergraduate teaching in the nation.
- *Times Higher Education* has recognized UMBC as one of the world's top universities. In a new THE impact ranking, UMBC is #3 in the U.S. and #62 worldwide in global social and economic impact.
- *Princeton Review, Kiplinger's Personal Finance, Forbes, Money, and the Fiske Guide to Colleges* have named UMBC a "Best Value" university.

- The latest *U.S. News* Best Graduate Schools rankings include several UMBC graduate programs as among the best in the nation.
- UMBC is the nation's #1 producer of African American undergraduates who go on to complete an M.D./Ph.D. and #2 nationally for African American undergraduates who complete a science or engineering Ph.D.
- According to NSF, UMBC ranks in the country's top 150 universities in federal research and development expenditures, and #12 in NASA funding.
- *The Chronicle of Higher Education* has named UMBC one of the best colleges to work for ten (10) years running.
- UMBC placed in top 3.3% of universities worldwide by the Center for World Universities Rankings (CWUR).
- UMBC is named a 2019-2020 Fulbright Top Producing Institution, an honor granted by the U.S. Department of State's Bureau of Educational & Cultural Affairs.
- Learn more about the latest [UMBC rankings news](#).

UMBC's research expenditures totaled \$90M for fiscal year 2019. UMBC is ranked #148 in federal research funding in the 2018 fiscal year and #173 in total research funding from all sources. UMBC ranked #13 nationally in NASA funding.

1.3 Overview

In order to more efficiently produce and distribute energy, while simultaneously reducing consumption, the University has undertaken a two-phase campus-wide utility upgrade and site improvement project ("Project") on the UMBC campus. This solicitation is for the first phase of this Project, which primarily encompasses the replacement of a hot water generator and electrical equipment and the associated work. The Project Phase 1 work is preceded by the installation of new high-temperature hot-water ("HTHW") valves to allow portions of the system to be isolated to facilitate the execution of work under Phase 1. Subsequent Project Phase 2 work includes structural repairs to the utility tunnel, the installation of new site lighting, site improvements including the restoration of the stream watersheds, and new pedestrian pathways including a new pedestrian bridge to the athletic stadium complex.

1.4 Project Information

The Project is to be completed within twelve (12) months from the date of the Notice to Proceed issued by the University. Specifications and drawings for the project are provided in the box folder. The selected Contractor shall complete all work in the time required by the University and in accordance with the requirements stated within the Contract.

The University has the following breaks scheduled within the upcoming academic year; this information is provided so that Proposers are aware that the campus population will be at its lowest during these time periods:

- Thanksgiving Break: November 26-29, 2020
- Winter Break: December 26, 2020 – January 3, 2021
- Spring Break: March 13-21, 2021

Additionally, the University schedules an annual high-temp hot-water (HTHW) outage for the last week of May, for a period of approximately ten (10) days. The exact dates for this outage in 2021 have not yet been determined. Additional information regarding outages and work restrictions is contained within the Specification document; the selected firm is to consider this information when preparing the construction schedule.

1.5 Scope of Work

The Project generally consists of the following:

- Hot water generator replacement:
Remove existing 25 million BTU/HR hot water generator and provide new 50 million BTU/HR hot water generator capable of firing natural gas and No. 2 oil.
- Electrical feeder replacement:
Replace five (5) electrical feeders in existing conduit pathways throughout the campus. Existing loop switches will be utilized to isolate feeder sections during the Project.
- Electric switchgear replacement:
Replace low and medium voltage switchgear in three buildings; these buildings are: Fine Arts; Sondheim Hall; and University Center.
- Electric transformer replacement:
Replace transformers in four buildings; these buildings are: Fine Arts; Sondheim Hall; University Center; and Engineering.

Associated work shall also be performed to support the mechanical and electrical work to include, but not be limited to, selective demolition, concrete emplacement, concrete restoration, structural steel framing, furnish and install miscellaneous metals, penetration fire stopping, and painting.

Given the nature of the work involved in this project, the University requires the firm that performs the applicable scope to have certain prior experience as detailed below. The selected Prime Contractor is required to submit documentation to confirm that the below requirements have been met by their subcontractors, as applicable, prior to full execution of the contract.

Mechanical

The firm that performs the mechanical scope shall have experience with the following installations:

- HTHW generators with a fuel input greater than 30 million BTU/hour;
- HTHW generators within a functioning power generating facility;
- Pipe systems that were welded under design conditions of 400PSIG at 450 deg F; and
- Welded pipe systems that were joined without backer rings and were validated through radiographic testing.

The Mechanical Superintendent shall have experience supervising projects with these components.

Electrical

The firm that performs the electrical scope shall have experience with the following replacements:

- Medium and low voltage equipment in an operational campus environment; and
- Medium voltage feeder cabling within tunnels and vaults near adjacent energized cabling.

The Electrical Superintendent shall have experience supervising projects with these components and shall hold a Maryland State Master Electrician's license.

Rigging

The firm that performs the rigging scope shall have experience rigging, moving, and emplacing multi-ton industrial power-generating equipment in confined spaces and adjacent to energized electrical and high pressure mechanical systems.

Technical Proposal Submittal Format

2.1 Introduction

All technical proposals shall be organized in accordance with the format listed below. Proposers should describe in detail and provide evidence supporting the qualifications requested below. Conciseness and clarity of content are emphasized and encouraged. Vague and general proposals will be considered non-responsive and may result in disqualification. Non-conforming and non-responsive proposals may be rejected at the discretion of the University's Procurement Officer.

All proposers are *required to first submit only a Technical Proposal without a Price Proposal*. The technical proposal shall be submitted via email to the Box address provided in the Solicitation Schedule. File names for the documents are to include the RFP number and the Proposer's name. Submit two (2) sets of the Technical Proposal as follows:

- One set in Microsoft Word format (for documents created in word processing format).
- One set in PDF Format.

2.2 Organization of Technical Proposal

Technical proposals shall be organized in the following format with a description of each provided below:

Title page
Organizational Chart
Basis for Selection
Key Personnel
Firm Relevant Experience
Proposed Approach and Preliminary Schedule
Profile of the Proposer
Acknowledgement of Addenda form
Bid/Proposal Affidavit
Licenses
Other

Failure to include all the documents may render the proposal non-responsive and the offer may be rejected.

2.3 Title Page

The title page shall be on company letterhead and include the name and address of the firm submitting the proposal, a contact person at the firm for the proposal, including complete telephone number with extension and email contact information. The page shall also include the RFP title and number, as well as the date of submission. The title page shall be signed by an individual who is authorized to bind the Proposing firm to all statements, including services, and financials, contained in the Proposal.

2.4 Key Personnel

Organizational Chart:

Proposers shall provide an organizational chart of the proposed Team. The chart shall provide the name of the Firm and clearly indicate the Team Organizational and Reporting Structure. The chart shall show the relationship between the following positions: Project Executive; Project Manager; and Project Superintendent. The individual's name and project role for each Key Person shall be included in the chart.

By submitting the names for consideration under this Key Personnel Section, the Proposer is committing these people to the University for this contract's duration if awarded the contract. Personnel changes will not be permitted without written authorization from the University through a contract amendment issued by UMBC's Procurement Department.

Basis for Selection

A completed "Key Personnel/Basis for Selection Form" shall be submitted that indicates the reason these individuals were submitted for the indicated key positions Team.

Key Personnel Form

A completed Key Personnel form for the Project Executive, Project Manager, and Project Superintendent to be assigned under this contract, if awarded. The following information shall be provided for each of these individuals:

- Educational background;
- Work experience with the proposing firm inclusive of dates of employment and positions held with applicable years;
- Work experience with prior employers, including dates of employment and positions held with applicable years;
- Specific project experience similar to the work to be done for this Project and the role that this person played in each selected project with higher consideration to be given if the role is the same as to be assigned on the UMBC project; and
- Achievements/Other Notations, if any.

A minimum of three (3) projects shall be listed for each person. Additionally, a concise, detailed description of the project should be given, if not provided elsewhere in the technical proposal, inclusive of the type of work performed (i.e., infrastructure upgrades and/or replacements, renovation, new construction, etc.), work setting (higher education, campus setting, occupied setting, etc.), dollar volume of project, contract method (CM at Risk, DBB/GC, DB, etc.), and schedule of the job (month/year in which it started and was completed). Each project shall include a description of the Services performed directly by this individual. Higher consideration will also be given based on the extent to which the key personnel have experience in similar projects in a higher education setting.

Key Personnel References

In the space provided on the Key Personnel form, provide three (3) project references for each of the proposed key people inclusive of contact person, phone number, email address, and name of applicable project. These references are to be project references from projects listed on the individual's project experience, not employment references, as the University is interested in speaking to a Project Owner regarding the person's performance on a particular project.

References are to be from different projects; only one reference per project is allowed. Additionally, one (1) reference for each person must be from outside the University of Maryland, Baltimore County. Proposers must ensure that the information provided is accurate and complete, and that the reference is able to speak to the individual's performance in the role to be assigned under this contract.

In addition, the University reserves the right to check other sources available including its own institution even if not provided as a reference by the Proposer. References will be held in strictest confidence by the University.

All references of the Key Personnel will be checked during the Second Phase Technical Evaluation. Only the short listed proposers will have their references contacted; however, all proposers responding must furnish this information within their Technical Proposals.

2.5 Firm Relevant Experience

Proposers are to submit information on a total of three (3) similar or relevant projects. These projects shall demonstrate the firm's experience as a prime on multi-discipline projects of similar scope, complexity, & cost. All projects must be constructed in the last ten (10) years, or at least be substantially complete (available for its intended purpose by 5/1/20). Additionally, the projects must have been completed by the proposing firm as the prime contractor.

For each project, the Proposer is to complete the Prime Contractor Experience Form provided in this RFP, as well as project photographs with the description on the same or opposing page.

The project submission shall include the following:

- Project Name and Location;
- Project Owner, Contact Person, Email Address, and Telephone Number, including extension;
- Construction Start and Project Completion Date (month/year);
- Construction Cost (*indicate construction cost at the time of the project and also the escalated cost to today's value per the chart below*);
- Project Delivery Method (e.g. DBB/GC, CMAR, DB, etc.);
- Brief but complete Project Description;
- Project Setting (i.e., university, etc.);
- Names of Proposed Key Personnel who were involved in the project and the assigned role for each; and,
- Similarities of the submitted project to the work to be performed under this contract.

For project construction costs, Proposers are to use the following escalation chart to determine the project size in today's dollars for evaluation purposes:

Calendar year	% Escalation Factor
2008	6
2009	1
2010	1
2011	3.5
2012	3
2013	3.5
2014	4
2015	3
2016	3
2017	3.5
onward	4

The escalation factor is to be calculated from the mid-point of construction and it is cumulative.

The projects submitted under this category are to be similar in size, function, setting (higher education and occupied project setting) and complexity to the Project to be done under this contract. A greater degree of consideration will be given to projects in which the majority of these factors are applicable. Higher consideration will also be given if proposed key people were involved in the submitted projects and, particularly in the proposed role.

Firm References

Provide a reference contact for each of the three (3) projects, including contact name, address, telephone number (including extension), and email address for each reference. References are to be from different projects; that is, only one reference per project is allowed and the reference must be someone from the project owner's organization. One (1) of the three (3) references must be from outside the University. Please be sure that accurate information is provided and that the contact person is capable of speaking to your firm's capability in performing the services required. References will be held in the strictest of confidence.

The University reserves the right to verify all information provided, as well as to check any other sources available or to use itself as a reference, even if not provided by the Proposer.

Firms are also to provide two (2) additional project references, including name of project owner, contact name, email address, and phone number. These references will be used only in the event the University is unable to contact one or more of the three projects provided. Please include with these references, a list of applicable projects with a brief description of each inclusive of dollar size and date completed.

All references of the Firm will be checked as part of the Second Phase Technical Evaluation. Only the short listed proposers will have their references contacted; however, all proposers responding must furnish this information within their Technical Proposals.

2.6 Project Approach and Preliminary Schedule

Provide a proposed approach to performing the work required under the contract and preliminary schedule taking into consideration the dates for award and campus break schedule. The narrative shall address such aspects as site constraints, safety, quality control, quality assurance, phasing of work while avoiding extended outages. Include a detailed rigging plan for the HTHW generator and a site/staging plan as part of this approach. Additionally, identify long lead equipment and material items and the proposed approach to securing these items in order to complete the project on time.

2.7 Profile of Proposer

2.7.1 History: Provide a brief but informative history of the firm inclusive of how the firm was established and how the firm has developed/evolved over the years. Indicate the type of work performed when first established and now the firm's portfolio of project evolved along with its client base. Provide the number of employees inclusive of a breakdown among office and field and supervisory and non-supervisory, and any other pertinent information about the firm. (Limited to no more than 2 pages with a font size no smaller than 11)

- 2.7.2 Bonding: Your firm's bonding capacity via a confirmation letter from your firm's insurance agent or bonding company (with higher consideration if from the bonding company or entity with the power of attorney from the bonding company). The letter is to include total bonding capacity, available bonding and single limit.
- 2.7.3 Safety: Provide your firm's **Experience Modifier Ratio (EMR)** for the last three (3) years (2017, 2018, and 2019).
- 2.7.4 Financial Information: your firm's Dun & Bradstreet Report inclusive of rating or the most recent Financial statement (with higher consideration given if audited financial statement provided). **Note: Only one (1) set of the financial information under 2.7.4 is required to be submitted and should be submitted as a separate document file**

2.8 Bid/Proposal Affidavit

The Bid/Proposal Affidavit included in this RFP document must be executed by each responding proposer and submitted with the proposer's technical proposal.

2.9 Licenses and Qualifications

Proposers shall be licensed as required by the Maryland Business Regulation Article of the Annotated Code of Maryland, Title 17, Subtitle 6, and shall submit proof of current licensing with their proposal.

EVALUATION PROCESS

3.1 Evaluation Overview

Proposals must meet the requirements as stated in this document. Proposals that fail to meet one or more of the criteria may be ineligible for award. The University may make any investigations deemed necessary to determine the ability of the firm to provide the work as specified herein.

The solicitation evaluation involves an iterative evaluation process through a number of different phases by an evaluation committee. The initial technical evaluation encompasses the review of the written technical proposal. The second technical evaluation incorporates information from the Interview Session and references. The last phase is the review of the price proposal. All firms will be notified if they do not meet the requirements for a particular phase. The final proposal rating will be based on the second phase technical evaluation and the price proposal evaluation. Technical merit will have a much greater weight than cost.

The University will choose from among the highest rated proposals those proposals which will best serve the interests of the University and the State, in accordance with University procurement policies. The University reserves the right to negotiate or modify any element of the request for proposal evaluation process to secure the best possible arrangement for achieving the stated purpose. The University reserves the right to make an award with or without negotiations. The final decision will not be based upon price alone.

3.2 Initial Technical Evaluation - Technical Proposals

An Initial Technical Evaluation of the Technical Proposals will be conducted by a University Selection and Evaluation Committee.

The Committee shall conduct its evaluation of the technical merit of the proposals in accordance with the evaluation criteria. Proposals are evaluated to determine which proposal is most advantageous to the University. The process involves applying the evaluation criteria in the RFP. Based on the results of the initial technical evaluation, the University will develop a short list of firms that are deemed most qualified to perform the services required under this Contract will be short listed and advance in the procurement.

Those proposers not deemed susceptible of the award and not short listed will be advised and will not progress further in the procurement.

3.3 Interview Sessions and Second Technical Evaluation

Upon completion of the evaluation of the technical proposal, the University will contact short listed proposers to schedule an interview at the University. Only those Proposers who are shortlisted as a result of the initial technical evaluation will be requested to attend an Interview Session at the University. The date and time for these sessions will be set upon completion of

the initial technical evaluation. However, it is anticipated that the Interview Sessions will be conducted on the dates provided in the Solicitation Schedule.

Each firm will be required to have the following Key Personnel attend: Project Executive, PM, and Project Superintendent. Proposers are advised to set aside the entire dates on all of these individuals' calendars to avoid any conflicts. At the time these sessions are scheduled, the University will confirm in writing with each Proposer the specifics of these sessions, including the date and time. These sessions will be one-hour in duration.

The Interview Session is an opportunity for the University to meet the Proposer's key personnel and for the proposer to demonstrate their background and expertise for the University's Project. Proposers are specifically to be prepared to review their Project Approach and Preliminary Schedule at this session. The University may also request clarifications from the Proposer based on the University's review of its technical proposal.

Following the Interview sessions, a Second Phase Technical Evaluation will be conducted. In the Second Phase Technical Evaluation, all information provided by the Proposer in both the initial technical proposal and the Interview session will be evaluated along with the results of the reference checking. A second shortlist will result from this evaluation.

Upon completion of the second phase technical evaluation, proposers will be notified as to the results; that is, whether their firm is remains shortlisted or not. Further information may be requested by the University during the technical evaluation process and a Best & Final Technical phase may be conducted.

3.4 Price Proposal

After completion of the Second Technical Evaluation, only Proposers who remain shortlisted will be requested to submit a Price Proposal. The form for the Price Proposal will be provided at the time that firms are shortlisted and scheduled for an Interview.

The price proposal shall be submitted via email to the Box address provided in the Solicitation Schedule. File names for the documents are to include the RFP number and the Proposer's name. Submit two (2) sets of the Price Proposal as follows:

- One set in Microsoft Word format (for documents created in word processing format); and,
- One set in PDF Format.

The Price Proposal Form shall be filled out completely inclusive of the attachments. Please note, that no changes, alterations or additions to the Price Proposal Form are permitted. Additionally, a five percent (5%) proposal bond shall be included with the submission.

Price Proposals will not be opened publicly. The Price Proposal, if submitted by an individual, shall be signed by the individual; if submitted by a partnership or joint venture, shall be signed by such member or members of the partnership or joint venture as have authority to bind the partnership or joint venture; if submitted by a corporation, shall be signed by an officer, and witnessed. If the Form is not signed by an officer, a copy of the portion of the by-laws or board resolution, duly certified by the corporate secretary, must be attached that shows the authority of the person that signed on behalf of the corporation.

Price Proposals will be evaluated based on the sum total of the Price Proposal. The resulting contract will be a lump sum agreement. The University may elect to request Best & Final Price Proposals.

GENERAL INFORMATION

4.1 Due Date and Time

The Technical Proposal shall be submitted via email to the Box address provided in the Solicitation schedule with the email time log no later than the date and time indicated in the Solicitation Schedule.

Price Proposals will only be requested from those proposers who are shortlisted following the second phase technical evaluation per the RFP. The due date for Price Proposals will be set upon completion of the technical evaluation, however, the University anticipates the price proposal due date to be as provided in the Solicitation Schedule.

Proposers shall allow sufficient time in submitting responses to the RFP to ensure timely receipt by the Issuing Office via the Box site. Proposers should receive an automatically generated verification from Box when the file has successfully uploaded. Proposers that do not receive verification should immediately contact the Issuing Office to confirm that their response has been received. Proposals or unsolicited amendments to proposals arriving after the due date and time will not be considered.

4.2 Late Proposals

Any proposal, request for modification, or request for withdrawal that is not received at the designated location, time, and date set forth in the Solicitation Schedule will be deemed late and will not be considered. Delivery of the proposal to the specified location at the prescribed time and date is the sole responsibility of the proposer.

4.3 Multiple/Alternative Proposals

Proposers may not submit more than one (1) proposal nor may proposers submit an alternate to this RFP.

4.4 Modifications and Withdrawals of Proposals

Withdrawal of, or modifications to, proposals are effective only if written notice is filed to the Issuing Office prior to the time proposals are due. A notice of withdrawal or modification to a proposal must be signed by an officer with the authority to commit the company.

No withdrawal or modifications will be accepted after the time proposals are due.

4.5 Pre-Proposal Conference/Site Visits

A Pre-Proposal Conference will be held at the date and time indicated on the Solicitation Schedule. This session will be held remotely and may be accessed using the WebEx link included in the Solicitation Schedule. Attendance is not mandatory, but is strongly recommended as clarifications may be provided.

Due to current restrictions under COVID-19, site visits will be scheduled for interested firms by the procurement officer on the dates provided in the Solicitation Schedule. As groups are required to be less than 10 individuals, a prime firm shall coordinate directly with the procurement officer to schedule the specific time for the prime's team, to include their subcontractor firms. It is recommended that only one person from each firm attend the visit to ensure that the number of individuals remain within the legal limit for group gatherings.

4.6 Issuing Office

The Issuing Office shall be the **sole** point of contact with the University for purposes of the preparation and submittal of the RFP proposal. The Issuing Office is:

University of Maryland, Baltimore County
Department of Procurement & Strategic Sourcing
Administration Building, 7th Floor
1000 Hilltop Circle
Baltimore, Maryland 21250

All questions on this procurement are to be directed via email to the following individuals:

Elizabeth Moss: emoss@umbc.edu

and

Terry Cook: tcook@umbc.edu

4.7 Questions, Inquiries, Clarifications, and Addenda

Questions and inquiries shall be submitted to the Issuing Office no later than the date and time indicated in the Solicitation Schedule.

Should a Proposer find discrepancies in the RFP documents, or be in doubt as to the meaning or intent of any part thereof, the Proposer must, prior to the question deadline listed in the Solicitation Schedule, request clarification in writing from the Issuing Office, who will issue a written Addendum to the Contract. Failure to request such clarification is a waiver to any claim by the Proposer for expense made necessary by reason of later interpretation of the RFP documents by the University. Requests shall include the RFP number and name.

Oral explanations or instructions will not be binding; only written Addenda will be binding. Any Addenda resulting from these requests will be posted on the University's bid board. The Proposer shall acknowledge the receipt of all addenda in the Acknowledgement of Receipt of Addenda Form.

4.8 Site Investigation

By submitting a proposal the Proposer acknowledges that the Proposer has investigated and been satisfied as to the conditions affecting the work, including but not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, and electric power. Any failure by the Proposer to become acquainted with the available information will not relieve the Proposer from responsibility for estimating properly the cost of successfully performing the work. The University shall not be responsible for any conclusions or interpretations made by the Proposer of the information made available by the University.

4.9 Right to Reject Proposals and Waive Irregularities

The University reserves the right to reject either all proposals after the opening of the proposals but before award, or any proposal, in whole or part, when it is in the best interest of the State of Maryland. For the same reason, the University reserves the right to waive any minor irregularity in a proposal.

4.10 Cancellation of the RFP

The University may cancel this RFP, in whole or in part, at any time before the opening of the proposals.

4.11 Proposal Acceptance

The University reserves the right to accept or reject any and all proposals, in whole or in part, received as a result of this RFP; to waive minor irregularities; or to negotiate with all responsible proposers, in any manner necessary, to serve the best interest of the University. Further, the University reserves the right to make a whole award, multiple awards, a partial award, or no award at all.

4.12 Confidential/Proprietary Information

Proposers should give specific attention to the identification of those portions of their proposals which they deem to be confidential, proprietary information or trade secrets, and provide any justification of why such materials, upon request, should not be disclosed by the State under the Public Information Act, General Provisions Article, Title 4 of the Annotated Code of Maryland. Proposals are not publicly opened. Proposers must clearly indicate each and every section that is deemed to be confidential, proprietary or a trade secret. It is not sufficient to preface the entire proposal with a proprietary statement.

4.13 Financial Disclosure by Persons Doing Business with the State

Proposers providing materials, equipment, supplies or services to the University must comply with Section 13-221 of the State Finance & Procurement Article of the Annotated Code of Maryland which requires that every business which enters into contracts, leases or other agreements with the University and receives in the aggregate \$200,000, or more, during a calendar year shall, within 30 days of the time when the \$200,000 is reached, file with the

Secretary of State a list containing the names and address of its resident agent, each of its officers, and any individual who has beneficial ownership of the contracting business.

4.14 Performance and Payment Bonds

At the time of the signing of the contract, and prior to the start of any work, the awarded firm shall furnish Performance and Payment Bonds, each in the amount of one hundred percent (100%) of the contract amount for construction work, in the form specified in the University System of Maryland Procurement Policies and Procedures #VIII-3.00 (available at <https://www.usmd.edu/regents/bylaws/SectionVIII/>). During the course of the construction phase, the University may request bond riders based on the executed contract amendments.

4.15 Irrevocability of Proposals

The Price Proposal for this project shall be irrevocable for one hundred twenty (120) calendar days from the price proposal due date. This period may be extended by written mutual agreement between the Proposer and the University.

4.16 Arrearages

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

4.17 Incurred Expenses

The University will not be responsible for any costs incurred by any firm in preparation and submittal of a proposal.

4.18 Debriefing of Unsuccessful Proposers

A debriefing of an unsuccessful proposer shall be conducted upon written request submitted to the procurement officer within 10 days after the proposer knew or should have known its proposal was unsuccessful. The debriefing shall be limited to discussion of the unsuccessful proposer's proposal only and shall not include a discussion of a competing proposer's proposal. Debriefings shall be conducted at the earliest feasible time. A summarization of the procurement officer's rationale for the selection may be given.

4.19 Maryland Public Ethics Law

The Maryland Public Ethics Law prohibits, among other things: State employees or officials (and in some cases, former employees) and businesses in which such an individual is employed or holds a financial interest from (i) submitting a bid or proposal, (ii) negotiating a contract, and (iii) entering into a contract with the governmental unit with which the individual is affiliated per the Maryland Code, General Provisions Article, Title 5, Subtitle 5.

If the proposer has any questions concerning application of the State Ethics Law to the proposer's participation in this procurement, it is incumbent upon the proposer to seek advice from the State Ethics Commission: Executive Director, State Ethics Commission, 45 Calvert Street, 3rd Floor, Annapolis, Maryland 21401, 410-260-7770, 877-669-6085.

The procurement officer may refer any issue raised by a bid or proposal to the State Ethics Commission. The procurement officer may require the proposer to obtain advice from the State Ethics Commission and may reject a bid or proposal that would result in a violation of the Ethics Law.

The resulting contract is cancelable in the event of a violation of the Maryland Public Ethics Law by the vendor or any State of Maryland employee in connection with this procurement.

4.20 Use of Affiliates to Avoid Taxation on Income from State Contracts

Contractor agrees that it will not reduce its income subject to tax by claiming a deduction for royalty or similar payments for trademarks, trade names, or intangible property that shift income from the contractor to an affiliated entity that does not file Maryland income tax returns.

Contractor agrees that any affiliated entity receiving such payments is doing business in Maryland and is required to file Maryland income tax returns. Contractor agrees that during the course of this contract: (1) it shall not make any such royalty or similar payments to any affiliated company; but (2) if any such royalty or similar payments are made, contractor and the affiliated company shall file separate Maryland income tax returns and pay their respective Maryland income taxes in such a manner that contractor may claim a deduction against Maryland income tax for such payments only if the affiliated company receiving the royalty or similar payment files its Maryland income tax return and pays Maryland tax, under a formula that reasonably apportions the income of the affiliated company among the states, including Maryland, in which the contractor does business. Contractor agrees that it is authorized to bind its affiliated entities to the terms hereof.

4.21 Payments to Contractors by Electronic Funds Transfer

If the annual dollar value of this contract will exceed \$200,000.00, the Proposer is hereby advised that electronic funds transfer (EFT) will be used by the State to pay the Contractor for this Contract and any other State payments due Contractor unless the State Comptroller's Office grants the Contractor an exemption.

By submitting a response to this solicitation, the Proposer agrees to accept payments by EFT. The selected Proposer shall register using form COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. The form is available as a pdf file on the web site of the General Accounting Division of the Comptroller of Maryland:

http://comptroller.marylandtaxes.gov/Vendor_Services/Accounting_Information/Static_Files/GA_DX10Form20150615.pdf

4.22 Minority Business Enterprise

Establishment of Goal and Sub-goals:

An overall MBE subcontractor participation goal of 5% of the total contract dollar amount has been established for this procurement. There are no MBE subcontractor participation subgoals for this procurement.

MBE Attachments D-1A and E-1B-5 – The Minority Business Enterprise participation instructions, and forms are provided to assist Proposers:

Attachment D-1A	MBE Utilization and Fair Solicitation Affidavit (Part 2) & MBE Participation Schedule (Part 3) & Signature Page (Part 4) (Please note that MBE -1A, Part 2 Affidavit and Part 4 Signature only must be submitted with the technical proposal; if proposer fails to include this form, their proposal will be found not susceptible of award and this failure is not curable)
Attachment E-1B	Waiver Guidance
Attachment E-1C	Good Faith Efforts Documentation to Support Waiver Request
Attachment E-2	Outreach Efforts Compliance Statement
Attachment E-3A	MBE Subcontractor Project Participation Certification
Attachment E-3B	MBE Prime Project Participation Certification
Attachment E-4A	Prime Contractor Paid/Unpaid MBE Invoice Report
Attachment E-4B	MBE Prime Contractor Report
Attachment E-5	Subcontractor/Contractor Unpaid MBE Invoice Report

4.22.1 A Proposer shall include with its Proposal a completed MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) whereby:

- (a) The Proposer acknowledges the certified MBE participation goal and commits to make a good faith effort to achieve the goal, or requests a waiver, and affirms that MBE subcontractors were treated fairly in the solicitation process; and
- (b) The Proposer responds to the expected degree of MBE participation, as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of Proposal submission. The Proposer shall specify the percentage of total contract value associated with each MBE subcontractor identified on the MBE participation schedule, including any work performed by the MBE prime (including a prime participating as a joint venture) to be counted towards meeting the MBE participation goals.

A Proposer requesting a waiver should review Attachment E-1B (Waiver Guidance) and E-1C (Good Faith Efforts Documentation to Support Waiver Request) prior to submitting its request.

If a Proposer fails to submit a completed Attachment D-1A part 2 and part 4 with the Proposal as required, the Procurement Officer shall determine that the Proposal is non-responsive or the Proposal is not reasonably susceptible of being selected for award.

4.22.2 Proposers are responsible for verifying that each of the MBEs (including any MBE primes or MBE primes participating in a joint venture), selected to meet the goal and any sub-goals and subsequently identified in Attachment D-1A is appropriately certified and has the correct NAICS codes allowing it to perform the committed work.

Within ten (10) Working Days from full execution of the contract, the awarded firm must provide the following documentation to the Procurement Officer.

- (a) MBE Participation Schedule (**Attachment D-1A – Part 3**).
- (b) Outreach Efforts Compliance Statement (**Attachment E-2**).
- (c) MBE Prime/Subcontractor Project Participation Certification (**Attachment E-3A/3B**).
- (d) If the recommended awardee believes a waiver (in whole or in part) of the overall MBE goal is necessary, the recommended awardee must submit a fully-documented waiver request that complies with COMAR 21.11.03.11.
- (e) Any other documentation required by the Procurement Officer to ascertain Proposer responsibility in connection with the certified MBE subcontractor participation goal.

If the recommended awardee fails to return each completed document within the required time, the Procurement Officer may determine that the recommended awardee is not responsible and, therefore, the Contract may be voidable.

4.22.3 A current directory of certified MBEs is available through the Maryland State Department of Transportation (MDOT), Office of Minority Business Enterprise, 7201 Corporate Center Drive, Hanover, Maryland 21076. The phone numbers are (410) 865-1269, 1-800-544-6056, or TTY (410) 865-1342. The directory is also available on the MDOT website at <http://mbe.mdot.state.md.us/directory/>. The most current and up-to-date information on MBEs is available via this website. **Only MDOT-certified MBEs may be used to meet the MBE subcontracting goals.**

4.22.3 The Contractor will be responsible for submitting or requiring its subcontractors to submit the following forms to provide the University with ongoing monitoring of MBE Participation:

- (a) Attachment E-4A (Prime Contractor Paid/Unpaid MBE Invoice Report).
- (b) Attachment E- 4B (MBE Prime Contractor Report)
- (c) Attachment E-5 (MBE Subcontractor/Contractor Unpaid MBE Invoice Report).

A Proposer that requested a waiver of the goal or any of the applicable sub-goals will be responsible for submitting the Good Faith Efforts Documentation to Support Waiver Request (Attachment E-1C) and all documentation within ten (10) Working Days from execution of the Contract.

4.22.4 All documents, including the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule, completed and submitted by the Proposer in connection with its certified MBE participation commitment shall be considered a part of the resulting Contract and are hereby expressly incorporated into the Contract by reference thereto. All of the referenced documents will be considered part of the Proposal for order of precedence purposes.

4.22.5 The Proposer is advised that liquidated damages will apply in the event the Contractor fails to comply in good faith with the requirements of the MBE program and pertinent Contract provisions.

4.22.6 As set forth in COMAR 21.11.03.12-1(D) when a certified MBE firm participates on a contract as a prime contractor (including a joint-venture where the MBE firm is a partner), a procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own work force towards fulfilling up to fifty-percent (50%) of the MBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the MBE participation sub-goals, if any, established for the contract.

In order to receive credit for self-performance, an MBE prime must list its firm in Section 4A of the MBE Participation Schedule (Attachment D-1A- Part 3) and include information regarding the work it will self-perform. For the remaining portion of the overall goal and the sub-goals, the MBE prime must also identify other certified MBE subcontractors (see Section 4B of the MBE Participation Schedule (Attachment D-1A – Part 3) used to meet those goals. If dually-certified, the MBE prime can be designated as only one of the MBE classifications but can self-perform up to 100% of the stated sub-goal.

4.22.7 As set forth in COMAR 21.11.03.12-1, once the Contract work begins, the work performed by a certified MBE firm, including an MBE prime, can only be counted towards the MBE participation goal if the MBE firm is performing a commercially useful function on the Contract.

4.22.8 With respect to Contract administration, the Contractor shall:

- (a) Submit by the 10th of each month to the Agency's designated representative:
 - i A Prime Contractor Paid/Unpaid MBE Invoice Report (Attachment E-4A) listing any unpaid invoices, over 45 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made; and
 - ii (If Applicable) An MBE Prime Contractor Report (Attachment E-4B) identifying an MBE prime's self-performing work to be counted towards the MBE participation goals.
- (b) Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit by the 10th of each month to the Department's designated representative an MBE Subcontractor Paid/Unpaid Invoice Report (Attachment E-5) that identifies the Contract and lists all payments to the MBE subcontractor received from the Contractor in the preceding 30 days, as well as any outstanding invoices, and the amounts of those invoices.
- (c) 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.
- (d) 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.
- (e) Upon completion of the Contract and before final payment 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.