Request For Proposals (RFP)

State of Maryland

DEPARTMENT OF HUMAN SERVICES (DHS)

Legal representation services…

AGENCY CONTROL NO.: os/mlsp-21-500-S

**AMENDMENT No. 2**

**December 7, 2020**

Dear Prospective Offerors:

This amendment is being issued to amend certain information in the above-named RFP. All information contained herein is binding on all Offerors who respond to this RFP. Specific parts of the RFP have been amended. The changes are listed below. New language has been underlined and marked in **bold** (**i.e. word**), and language that has been deleted has been marked with a strikethrough (i.e. ~~word~~).

1. **Delete Section 3.5.1 Redundancy, Data Backup and Disaster Recovery and remaining sections are re-numbered.**
   * 1. **~~Redundancy, Data Backup and Disaster Recovery~~**
2. ~~Unless specified otherwise in the RFP, Contractor shall maintain or cause to be maintained disaster avoidance procedures designed to safeguard State data and other confidential information, Contractor’s processing capability and the availability of hosted services, in each case throughout the Contract term. Any force majeure provisions of the Contract do not limit the Contractor’s obligations under this provision.~~
3. ~~The Contractor shall have robust contingency and disaster recovery (DR) plans in place to ensure that the services provided under the Contract will be maintained in the event of disruption to the Contractor/subcontractor’s operations (including, but not limited to, disruption to information technology systems), however caused.~~
   1. ~~The Contractor shall furnish a DR site.~~
   2. ~~The DR site shall be at least 100 miles from the primary operations site, and have the capacity to take over complete production volume in case the primary site becomes unresponsive.~~
4. ~~The contingency and DR plans must be designed to ensure that services under the Contract are restored after a disruption within twenty-four (24) hours from notification and a recovery point objective of one (1) hour or less prior to the outage in order to avoid unacceptable consequences due to the unavailability of services.~~
5. ~~The Contractor shall test the contingency/DR plans at least twice annually to identify any changes that need to be made to the plan(s) to ensure a minimum interruption of service. Coordination shall be made with the State to ensure limited system downtime when testing is~~ ~~conducted. At least one (1) annual test shall include backup media restoration and failover/fallback operations at the DR location. The Contractor shall send the Contract Monitor a notice of completion following completion of DR testing.~~
6. ~~Such contingency and DR plans shall be available for the Department to inspect and practically test at any reasonable time, and subject to regular updating, revising, and testing throughout the term of the Contract.~~ 
   * 1. **Data Export/Import**
7. The Contractor shall, at no additional cost or charge to the State, in an industry standard/non-proprietary format:
   1. perform a full or partial import/export of State data within 24 hours of a request; or
   2. provide to the State the ability to import/export data at will and provide the State with any access and instructions which are needed for the State to import or export data.
8. Any import or export shall be in a secure format per the Security Requirements. 
   * 1. **Data Ownership and Access**
9. Data, databases and derived data products created, collected, manipulated, or directly purchased as part of a RFP are the property of the State. The purchasing State agency is considered the custodian of the data and shall determine the use, access, distribution and other conditions based on appropriate State statutes and regulations.
10. Public jurisdiction user accounts and public jurisdiction data shall not be accessed, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of the Contract, including as necessary to perform the services hereunder or (4) at the State’s written request.
11. The Contractor shall limit access to and possession of State data to only Contractor Personnel whose responsibilities reasonably require such access or possession and shall train such Contractor Personnel on the confidentiality obligations set forth herein.
12. At no time shall any data or processes – that either belong to or are intended for the use of the State or its officers, agents or employees – be copied, disclosed or retained by the Contractor or any party related to the Contractor for subsequent use in any transaction that does not include the State.
13. The Contractor shall not use any information collected in connection with the services furnished under the Contract for any purpose other than fulfilling such services.
    * 1. Provisions in Sections 3.5.1 – ~~3.5.3~~ **3.5.2** shall survive expiration or termination of the Contract. Additionally, the Contractor shall flow down the provisions of Sections 3.5.1-~~3.5.3~~ **3.5.2** (or the substance thereof) in all subcontracts.
14. **Revise Substitution of Personnel as follows:**
    * 1. **Continuous Performance of Key Personnel**

When Key Personnel are identified for the Contract, the following apply:

1. Key Personnel shall be available to perform Contract requirements as of the NTP Date. Unless explicitly ~~authorized~~ **accepted** by the Contract Monitor or specified in the Contract, Key Personnel shall be assigned to the State of Maryland as a dedicated resource.
2. Key Personnel shall perform continuously for the duration of the Contract, or such lesser duration as specified in the Technical Proposal. **Except for sudden or extraordinary personal circumstances, as defined herein, key personnel may not be removed by the Contractor from working under this Contract, as described in the RFP or the Contractor’s Technical Proposal, without prior written notice to the State Project Manager. In the event of a sudden or extraordinary circumstance, the Contractor will notify the State Project Manager of any changes in key personnel working on the Contract within three (3) Business Days of the change.** ~~Key Personnel may not be removed by the Contractor from working under the Contract without the prior written approval of the Contract Monitor.~~
3. The Contract Monitor must be notified on a rolling basis, of the change in staffing, any new hires, resignation, or terminations of Key Personnel using the Changes in Staffing Report Form (Attachment S).
   * 1. **Definitions**

For the purposes of this section, the following definitions apply:

1. **Extraordinary Personal Event** – means any of: leave under the Family Medical Leave Act; an Incapacitating injury or Incapacitating illness; or other circumstances that in the sole discretion of the State warrant an extended leave of absence, such as extended jury duty or extended military service that precludes the individual from performing his/her job duties under the Contract.
2. **Incapacitating** – means any health circumstance that substantially impairs the ability of an individual to perform the job duties described for that individual’s position in the RFP or the Contractor’s Technical Proposal. 
   * 1. **Contractor Personnel General Substitution Provisions**

The following provisions apply to all of the circumstances of Contractor Personnel substitution described in **Section 3.11.4**.

1. The Contractor shall demonstrate to the Contract Monitor’s satisfaction that the proposed substitute has qualifications at least ~~equal~~ **comparable** to those of the Contractor Personnel proposed to be replaced **or that meets the minimum qualifications established in the RFP**.
2. The Contractor shall provide the Contract Monitor with a substitution request that shall include:
   1. A detailed explanation of the reason(s) for the substitution request;
   2. The resume of the proposed substitute, signed by the substituting individual and his/her formal supervisor;
   3. The official resume of the current personnel for comparison purposes; and
   4. Evidence of any required credentials.
3. The Contract Monitor may request additional information concerning the proposed substitution. ~~and may interview the proposed substitute personnel prior to deciding whether to approve the substitution request.~~
4. The Contract Monitor will notify the Contractor in writing **within 3 Business Days** of: (i) the acceptance or denial, or (ii) contingent or temporary ~~approval~~ **acceptance** for a specified time limit, of the requested substitution **until the additional information is received**. The Contract Monitor will not unreasonably withhold approval of a proposed Contractor Personnel replacement. 
   * 1. **Replacement Circumstances**
5. Directed Personnel Replacement
   1. The Contract Monitor may direct the Contractor to replace any Contractor Personnel who, in the sole discretion of the Contract Monitor, are perceived as being unqualified, non-productive, unable to fully perform the job duties, disruptive, or known, or reasonably believed, to have committed a major infraction(s) of law, Department policies, or Contract requirements. Normally, a directed personnel replacement will occur only after prior notification of problems with requested remediation, as described in paragraph **3.11.4.A.2**.
   2. If deemed appropriate in the discretion of the Contract Monitor, the Contract Monitor may give written notice of any Contractor Personnel performance issues to the Contractor, describing the problem and delineating the remediation requirement(s). The Contractor shall provide a written response to the remediation requirements in a Remediation Plan within ten (10) days of the date of the notice and shall immediately implement the Remediation Plan upon written acceptance by the Contract Monitor. If the Contract Monitor rejects the Remediation Plan, the Contractor shall revise and resubmit the plan to the Contract Monitor within five (5) days, or in the timeframe set forth by the Contract Monitor in writing.
   3. Should performance issues persist despite an approved Remediation Plan, the Contract Monitor may give written notice of the continuing performance issues and either request a new Remediation Plan within a specified time limit or direct the substitution of Contractor Personnel whose performance is at issue with a qualified substitute, including requiring the immediate removal of the Contractor Personnel at issue.
   4. Replacement or substitution of Contractor Personnel under this section shall be in addition to, and not in lieu of, the State’s remedies under the Contract or which otherwise may be available at law or in equity.
   5. If the Contract Monitor determines to direct substitution under **3.11.4.A.1**, if at all possible, at least fifteen (15) days advance notice shall be given to the Contractor. However, if the Contract Monitor deems it necessary and, in the State’s, best interests to remove the Contractor Personnel with less than fifteen (15) days’ notice, the Contract Monitor may direct the removal in a timeframe of less than fifteen (15) days, including immediate removal.
   6. In circumstances of directed removal, the Contractor shall, in accordance with paragraph **3.11.4.A.1** of this section, provide a suitable replacement for approval within fifteen (15) days of the notification of the need for removal, or the actual removal, whichever occurs first.
6. Key Personnel Replacement
   1. If any Key Personnel has been absent from his/her job for a period of ten (10) days and it is not known or reasonably anticipated that the individual will be returning to work within the next twenty (20) days to fully resume all job duties, before the 25th day of continuous absence, the Contractor shall identify a suitable replacement and provide the same information and items to the Contract Monitor as required in **Section 3.11.3**.
   2. However, if this person is available to return to work and fully perform all job duties before a replacement has been ~~authorized~~ **accepted** by the Contract Monitor, ~~the Contract Monitor may, at his/her sole discretion, authorize~~ the original personnel in continue to work under the Contract~~., or authorize the replacement personnel to replace the original personnel, notwithstanding the original personnel’s ability to return.~~
7. **Revised second paragraph of Section 4.5 as follows:**

Proposal will be accepted through the State’s eMaryland Marketplace Advantage (eMMA) e-Procurement system. Instructions on how to submit proposals electronically can be found at: [~~http://procurement.maryland.gov/wp-content/uploads/sites/12/2019/08/5–eMMA-ORG-Responding-to-Solicitations-Double-Envelope-v2.pdf~~](http://procurement.maryland.gov/wp-content/uploads/sites/12/2019/08/5%20–eMMA%20-ORG-Responding-to-Solicitations-Double-Envelope-v2.pdf) [**https://procurement.maryland.gov/wp-content/uploads/sites/12/2019/08/4-eMMA-QRG-Responding-to-Solicitations-IFB-v3.pdf**](https://procurement.maryland.gov/wp-content/uploads/sites/12/2019/08/4-eMMA-QRG-Responding-to-Solicitations-IFB-v3.pdf)

If you require clarification of the information provided in this amendment, please contact me at (410) 767-7044, or via email at [rufus.berry@maryland.gov](mailto:rufus.berry@maryland.gov).

**Rufus Berry, Procurement Officer**

**December 7, 2020**