

APPENDIX S

SOLICITATION TERMS AND CONDITIONS

This solicitation and any subsequent award are further subject to:

- 1. Contractor's/Offeror's Responsibility.**
Offerors are advised to read the requirements very carefully to ensure that each requirement is understood. If in doubt, develop and submit applicable questions in writing to the contact at the Issuing Office. An Offeror's misinterpretation of requirements shall not relieve the Offeror of the responsibility to address accurately the requirements of the RFP or to perform the Contract, if awarded. PGCC will enter into a contractual agreement with the selected Contractor(s) only. The selected Contractor(s) shall be solely responsible for all services as required by this RFP. Subcontractors, if any, will be the responsibility of the Contractor(s) and the role of subcontractors must be clearly identified in the proposal. The use of a subcontractor(s) does not relieve the Contractor(s) of liability under a Contract.
- 2. Rejection or Acceptance of Proposals.**
The College reserves the right to: (i) accept or reject any and all proposals, in whole or in part; (ii) to waive minor irregularities; and (iii) to negotiate in any manner necessary to best serve the interests of the College. Further, the College reserves the right to make a whole award, multiple awards, a partial award, or no award at all. Offerors judged by the Procurement Officer not to be responsible or Offerors whose Proposals are classified as not reasonably susceptible to being selected for award shall be so notified. The College reserves the right to increase or decrease the quantities of any materials, equipment, supplies or services.
- 3. Cancellation of the RFP.**
PGCC may cancel this RFP, in whole or in part, at any time.
- 4. Incurred Expenses.**
PGCC shall not be responsible for any expenses that Offerors may incur in preparing and submitting Proposals or in making oral presentations of their Proposals, if required.
- 5. Payment.**
The College issues payments on a net 30 day basis for PGCC approved invoices. Payment provisions shall be in arrears, with late payment and interest calculated as provided by Maryland law. For purposes of determining whether a prompt-payment discount, if applicable, may be taken by PGCC, the starting date of such reckoning period shall be the later of the date of a properly executed invoice or the date of completion of service and/or delivery of product.
6. Intentionally Left Blank
- 7. Confidentiality.**

7.1. PGCC's Information during the Procurement Process: The selected Contractor may have access to, may obtain, or be given confidential information, including without limitation information concerning the College's business strategies, political and legislative affairs, students, faculty, employees, vendors, contractors, customer lists, finances, properties, methods of operation, computer and telecommunication systems, and software and documentation. Certain confidential information may be protected under the Family Educational Rights and Privacy Act ("FERPA"), the Gramm-Leach-Bliley Act, and the Maryland Public Information Act. The selected Contractor must have administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of the PGCC's confidential information. PGCC may conduct discussions with Offerors in order to evaluate their abilities and responsiveness to the RFP. In order to facilitate the discussions and to allow Offerors to propose responsive solutions to PGCC's needs and requirements, PGCC is willing to disclose certain confidential information to Offerors, including without limitation information concerning PGCC's business strategies, political and legislative affairs, students, employees, vendors, contractors, customer lists, finances, properties, methods of operation, computer and telecommunications systems, and software and documentation ("Confidential Information"). By submitting a proposal in response to this RFP, Offerors agree: (i) to use Confidential Information solely for purposes of responding to and discussing the RFP; and (ii) not to disclose, permit or cause use of, or provide access to Confidential Information to any third person or entity. Upon request by PGCC, Offerors may be required to sign a Non-Disclosure Agreement.

7.2. Offeror's Information: Offerors should give specific attention to the identification of those portions of the Proposal that the Offeror deems to be confidential, proprietary information, or trade secrets and provide any justification why such materials, upon request, should not be disclosed by the State under the Access to Public Records Act, State Government Article, Title 10, Subtitle 6, Annotated Code of Maryland. Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination as to whether the information may or may not be disclosed to the requesting party. That decision will take into consideration the Offeror's position regarding its Proposal. A blanket statement by a Offeror that its entire Proposal is confidential or proprietary will not be upheld.

8. Multiple Proposals.

Contractors may not submit more than one Proposal, per service/program category.

9. Alternate Solution Proposals.

Contractors may submit an alternate to the solution given in this RFP.

10. Contractor Responsibilities and Use of Subcontractors

The College shall enter into contractual agreement with the selected Contractor(s) only. The Contractor(s) shall be responsible for all products and/or services required by this RFP. PGCC will consider Proposals that reflect primary and secondary service providers or a prime/subcontractor relationship. There should be proof of ability of the primary to manage a subcontractor and successfully coordinate the delivery of quality service and

support in a timely manner. Subcontractors, if any, shall be identified and a complete description of their role relative to the proposal shall be included. PGCC's intent is not to direct the use of any particular subcontractor, however, PGCC strongly encourages the Contractor to consider the utilization of local MBEs when possible. In addition, the Contractor may not contract with any such proposed person or entity to whom PGCC has a reasonable objection. Notification of such objection will be made by PGCC within fifteen (15) days of Contract. The Contractor shall be fully responsible for the acts and omissions of its subcontractors and of persons directly or indirectly employed by them. The use of subcontractors does not relieve the Contractor of liability.

11. Access to Contractor Records for Quality Assurance and Auditing Purposes.

The Contractor and its principal subcontractors must provide access to pertinent records by College personnel or its representatives (including internal auditors, external auditors, representatives, and agents) to provide quality assurance and auditing.

12. Arrearages.

By submitting a Proposal, an Offeror shall be deemed to represent that it is not in arrears in the payment of any obligation due and owing the College, 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.

13. Taxes.

Contractor shall exempt PGCC from taxes as applicable. Exemption Certificates shall be provided upon request.

14. RFP Response Materials.

All written materials submitted in response to this RFP become the property of PGC and may be appended to any formal documentation that would further define or expand the contractual relationship between PGCC and the Contractor(s).

15. Maryland Public Ethics Law, Title 15.

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 Annotated, State Government Article, § 15-502.

If the Offeror has any questions concerning application of the State Ethics law to the Offeror's participation in this procurement, it is incumbent upon the Offeror to seek advice from the State Ethics Commission: The Office of The Executive Director, State Ethics Commission, 9 State Circle, Suite 200, Annapolis, Maryland 21401. For questions regarding the applicability of this provision of the Public Ethics Law, call the State Ethics Commission's toll-free phone number, 877-669-6085, or see the website, <http://www.ethics.gov.state.md.us>. The Procurement Officer may refer any issue raised by a Proposal to the State Ethics Commission. The Procurement Officer may require the

Offeror to obtain advice from the State Ethics Commission and may reject a Proposal that would result in a violation of the Ethics law.

A resulting Contract is cancelable in the event of a violation of the Maryland Public Ethics Law by a Contractor or any State of Maryland employee in connection with this procurement.

16. Assistance in Drafting.

Under the State Government Article, § 15-508 of the Annotated Code of Maryland, an individual or person who employs an individual who assists an executive unit in drafting specifications, an invitation for bids, a request for proposals for a procurement, or the selection or award made in response to an invitation for bids or request for proposals may not submit a bid or proposal for that procurement or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for that procurement. For questions regarding the applicability of this provision of the Public Ethics Law, call the State Ethics Commission's toll-free phone number, 877-669-6085, or see the website, <http://www.ethics.gov.state.md.us>.

17. Addenda Acknowledgment.

Offerors must acknowledge in writing the receipt of any and all addenda, amendments, and/or changes issued. Such acknowledgement must be included in the Technical Proposal.

18. Duration of Offers.

Proposals (consisting of a Technical Proposal and, if applicable, a Price Proposal) shall remain irrevocable for 120 days following the closing date of the Price Proposal due date. This period may be extended by mutual agreement between the Offeror and the College.

19. Minority Business Enterprises.

Minority Business Enterprises (MBE) are strongly encouraged to respond to this solicitation notice. If a sub-contracting goal and/or subgoals has been set in Section I of the solicitation, refer to Appendix M for further information regarding required process and documentation.

20. Living Wage Requirements.

A solicitation for services under a contract valued at \$100,000 or more may be subject to Maryland's Living Wage requirement, located at Maryland Code Annotated, State Finance and Procurement Article, Title 18, §§ 18-101 through 18-109. Additional information regarding the Living Wage requirement is contained in Appendix B, if applicable to this solicitation. An Offeror that fails to submit and complete the Affidavit of Agreement contained in Appendix B, if applicable, may be deemed not responsible by the Issuing Office. The College reserves the right to waive this requirement at any time during the procurement process.

21. Conflict of Interest.

The Contractor awarded the Contract shall provide the specified services for PGCC, and must do so impartially, and without any conflicts of interest. If the Procurement Officer makes a determination that facts or circumstances exist that give rise to or could in the future give rise to a conflict of interest within the meaning of the provisions described in the solicitation, the Procurement Officer may reject a Contractor's Proposals. Contractors should be aware that the State Ethics Law, State Government 15-508, might limit the selected Contractor's ability to participate in future related procurements, depending upon specific circumstances. Refer to Paragraphs 15 and 16 above. By submitting a response to the solicitation, the Contractor affirms its understanding and compliance with this clause.