

**SUMMARY OF
MASTER CONTRACT TERMS
MASTER CONTRACT 91372**

Summary of Terms and Conditions for Master Agreements
Master Services Agreement 90972
USM/MEEC Information Technology Professional Consulting Services

Note: This is only a summary. It is the Buying MEEC Member's responsibility to thoroughly familiarize itself with the Terms and Conditions of the Master Agreements.

1. General:

1.1 Awards were made to twenty (20) Master Contractors. See the attached excel spreadsheet for the names of the Master Contractors, contact information, and the IT Service categories for each Master Contractor.

1.2 The Master Contracts can be used for the following six (6) IT Service Categories. Please note that these Master Contracts are not to be used to purchase/license software, but are only for services associated with such software or applications:

- **ERP Implementation, Upgrade and Integration**
Capability to provide either full lifecycle services or ad hoc problem solving for commercial-off-the-shelf, SaaS, or cloud based ERP systems to include initial implementation, upgrade management and all related services. MEEC institutions have ERPs from almost the full range of providers (Oracle, Ellucian, Jenzabar, Workday, Quali among others) and in a variety of lifecycle stages. It is anticipated that respondents in this category would have significant bench strength to meet long term needs of major projects or specific skill sets for meeting specialized needs related to ERP.
- **Change Management/Strategic Planning**
Services to include development of strategic plans on the institutional level, tactical business process analysis, proposals for process redesigns, communication, user acceptance, organizational transformation, structural reorganization. Ability to provide guidance and support from initial concept, proposal development, through to implementation and evaluation
- **Technology Management**
Includes services related to support of IT specific functions including technical architecture, strategic information system planning, project management, audit preparation and response, data base management, hardware configuration, software quality assurance, technical design and implementation. Ability to provide recommendations for operational improvement and performance management
- **Transition to Cloud Applications, Shared Services and Managed Services**
Provide decision support, institutional readiness assessment, guidance and transition assistance for movement of on-premise software to cloud environments. Provide professional services and/or support for hosting or managed services transitions and implementation tasks, including, but not limited to, providing the managed services and/or hosting services on an ongoing basis. Develop recommendations and tactical steps to implement shared services environments either on-premise or cloud based
- **Analytics**
Provide professional services for the development and or implementation of Analytics products, data analysis, business intelligence, reporting, KPIs, dashboards, predictive analytics, data warehouses and other statistical tools

- **Training**
Ability to provide training programs for both ERP and ancillary software for either technical staff, functional users or both. Training may be on-premise, vendor site or virtual as needed by the buying organization

1.3 Each Master Contractor has signed the same generic Master Agreement. (generic Master Agreement is on the MEEC website. You must contact MEEC's Executive Director to obtain any Master Contractor's specific Master Agreement.) The Master Contract was approved by the AG's Office for legal form and sufficiency.

The only customizations were:

- The name/address of the Master Contractor and dates of Master Contractor's reference documents, as applicable throughout the Agreement
- IT Service Categories for which Master Contract may be utilized.
- Exhibit 2 – Contractor's Best and Final Price Proposal

1.4 Term of the Master Contract: Per paragraph 3.1, the Master Contracts are valid through June 30, 2025 (i.e. 9 years.) At three (3) year intervals following the award of the Master Contracts, USM/MEEC intends to announce an Expansion Window during which new Offerors may propose to become Master Contractors. Further, during an announced Expansion Window, USM/MEEC intends to allow existing Master Contractors to propose to add functional areas to their Master Contract. Expansion Windows will continue through Year 6 of the Master Contract. Procedures regarding the Expansion Window process will be established by USM/MEEC as deemed in its best interests.

1.4.1 Per paragraph 3.4, any TOC, SOW, or PO that begins when the Master Contract is in effect may continue even if the Master Contract expires or is terminated.

1.5 IMPORTANT:

1.5.1 Order of Precedence, page 1, Paragraph 1 a. to f.:

- A Change Order to a Task Order Contract (TOC);
- Task Order Contracts (TOC) and/or Statements of Work (SOW), executed from time to time, between a Buying MEEC Member and a Contractor, pursuant to this Master Agreement (each of which is incorporated in this Master Agreement whether or not physically attached). **The Buying MEEC Member shall be responsible for the negotiations and implementation of all TOC/SOW requirements, terms, and conditions associated with this Master Agreement.** If applicable, the parties will leverage information contained in The Solicitation #91372 and all amendments to the solicitation, as well as Contractor's Technical Proposal and Price Proposal provided in response to Solicitation #91372, to develop mutually acceptable TOC and/or SOWs. **The terms and conditions in TOCs and/or SOWs may supersede this Master Agreement if so indicated in the applicable TOC or SOW.**
- The Master Contract Form as may be amended from time to time.
- Contractor's Task Order Proposal (TOP) to a Task Order Request for Proposal (TORP);
- Buying MEEC Member's TORP;
- RFP 91372 Section III, Article 1, Paragraph 2.4 Staffing of the Contract/Key Personnel

1.5.2 Paragraph 1.2 on page 2 of the Master Agreement as well as Exhibit A – The Implementation Process - This paragraph and Exhibit A of the Master Agreement detail the responsibilities of each Buying MEEC Member who utilizes these Master Agreements. This process is to be generally utilized in accordance with the Buying MEEC Member’s procurement policies and procedures. For convenience, Exhibit A is also attached to this Summary.

- The USM Institutions are encouraged to request Task Order Proposals from more than one Master Contractor to submit a proposal unless a sole source is determined to be in the USM Institutions best interest. If this is the case, the requirements under “Sole Source” in the USM Procurement Policies and Procedures” should be followed;
- All Buying MEEC Members are responsible for establishing policies and procedures to utilize these Master Agreements to ensure compliance with each Buying MEEC Member’s procurement policies and procedures.
- Each Buying MEEC member is responsible for compliance and audits as may be applicable to it.
- University System of Maryland and/or MEEC does not assume any direct liability for the Master Agreement(s) or for any Task Order Contract done under them. (See paragraph 1 of the Master Contract.)

1.5.3 Important Notes:

- Unlike other MEEC contracts, the Buying MEEC Member’s Task Order Contract and/or Statement of Work may take precedence over the Master Agreement. Each Buying MEEC Member is responsible to negotiate these documents with the Master Contractor. As a result, it is highly recommended that the Buying MEEC Member’s Procurement and Legal Offices are involved when utilizing these Master Agreements.
- The Buying MEEC Member’s Task Order Contract (TOC) or Purchase Order (PO) takes precedence over the Master Agreement.

Refer to Paragraph 2.20, definition of Purchase Order. However, if a Buying MEEC Member uses a PO with pre-printed PO Terms and Conditions, the pre-printed Terms and Conditions do NOT supersede the Master Agreements UNLESS these pre-printed PO Terms and Conditions are specifically accepted in writing by the parties.

2. Important Specifics of the Master Agreement:

2.1 Paragraph 4.1 – Contractor’s Best and Final Price Proposal (BAFO) is attached as Exhibit B. Onsite and remote hourly rates were obtained for a variety of staff positions. The hourly rates for onsite work are fully loaded, that is they include all costs and expenses to have a consultant onsite. As a result, Master Contractors should not be reimbursed for travel expenses of a consultant. These are the maximum hourly rates. Each Buying MEEC Member may negotiate lower hourly rates however there is no obligation on the part of the Master Contractor to negotiate a better fee/price. The Master Contractor is also not obligated to extend any better fee/price from one MEEC Member to another. The unit prices are valid through June 30, 2019.

- Most Master Contractors provided a different price for each of the three initial years.
- As well, many Master Contractors provided a range of prices for each staff position such as junior level, mid-career, and senior level.
- Some Master Contractors provided additional staff positions.

2.2 Paragraph 1.3.2: Pricing for Years 4, 5, 6, 7, 8, 9 - Master Contractors can request a price increase by April 1 of each of these years. Price increases shall not exceed Consumer Price Index.

2.2 Paragraph 1.5.1 - Each Master Contractor provided to MEEC a Dedicated Account Representative(s) to the Buying MEEC Members and a Single Point of Contact for the MEEC Executive Director. Refer to the “Master Contractor Contact List” for this information.

- These Key Personnel may not be changed by the Master Contractor without the Master Contractor following the process for request of substitution.
- USM/MEEC may request a change in these Key People in accordance with this paragraph.

2.3 Paragraph 1.5.2 - Each Buying MEEC Member may request in its TORP for the Master Contractors to name Key Personnel and/or Subcontractors as part of the Master Contractor’s proposal. If this is the case, then paragraph 1.5.1 applies to resulting the Task Order Contract and/or SOW.

2.4 Paragraph 1.7 – Speaks to the development of project plans and/or statements of work.

2.5 Paragraph 1.7.1 – Evaluation and Acceptance Procedures. Provides process for evaluation and acceptance of Deliverables if none are established by the Buying MEEC Member in its TORP.

2.6 Paragraph 1.11 - Minority Business Enterprise Participation. - There was no goal set for the Master Agreements, but each Buying MEEC Member may set a goal as

part of a Task Order Request for Proposal process (TORP) as may be applicable to the Buying MEEC Member's jurisdiction.

2.7 Paragraph 1.12 – Small Business Reserve: A Buying MEEC Member may designate a TORP as a “small business reserve” (This is applicable only to MEEC Members who are subject to this aspect of COMAR.)

2.8 Section 2. – Definitions -- All Buying MEEC Members should familiarize themselves with the Definitions section, especially:

- Materials
- Intellectual Property Rights
- Services or Work
- Statement of Work
- Deliverable
- Purchase Order

These definitions define what the Contractor owns and what the Buying MEEC Member owns. It is important that the Buying MEEC Member can articulate in their TORP or requirements what its expectations are regarding these. You may need assistance from your respective Legal Office.

2.9 Section 3 – Term of the Agreement

- Per 3.1: The term of the Master Agreement is through June 30, 2025
- Per 3.2: Trial programs and/or proof of concepts may be conducted under these Agreements, however, the Contractor may charge fees related to such Pilot Programs.
- Per 3.3: Termination by Notice: USM/MEEC may cancel the Master Agreement with sixty days notice with no penalty. The Buying MEEC Member may cancel any Task Order Contract (TOC) with sixty days notice with no penalty.

Also, the Master Agreements are NOT exclusive. MEEC members may procure LMS products and services in another manner.

- Per 3.4: Any TOC's that commence during the term of the Master Agreement may be completed even if the Master Agreements terminate or expire before the completion of the TOC.

2.10 Section 4 – Payment - The Buying MEEC Member should include in its TORP and/or TOC the invoicing requirements applicable to it as well as the payment terms.

2.11 Section 5 – Ownership and Proprietary Rights

- Basically, the Contractor retains ownership rights to its materials and the Buying MEEC Member retains ownership rights to its materials.
- Per 5.2, Buying MEEC Member has the responsibility of providing to the Contractor with any copyright notice language that is applicable to the work/services being provided by the Contractor.
- Per 5.3 – Deliverables (as defined in Paragraph 2.16) are owned by the USM/MEEC or the Buying MEEC Member.
- Per 5.5 – Agreement is a “work for hire” with respect to Deliverables.
- Per 5.6 – Concept of “Know-how”
- Per 5.7 – Contractor is responsible to recreate any lost data due to the error, negligence, or intentional wrongdoing of the Contractor or any of its subcontractors, the Contractor shall be responsible, irrespective of cost to the Contractor, for recreating such lost data or records, subject to Section 11. Limitation of Liability of this Agreement.

2.12 Section 6 – Confidentiality – very broad definition of Confidential Information

- Per 6.4 – Privacy Laws defined (i.e. FERPA, GLBA, and PIA)
- Per 6.8 – Any request for disclosure of Confidential Information should be forwarded to the Buying MEEC Member’s Legal Office(or other designated official); **be sure to include the person and office in your Task Order Contracts.**
- Per 6.11 – Contractor is obligated to return the Buying MEEC Member’s data in accordance with this paragraph.
- Per 6.12 – USM/MEEC and its Buying Members are obligated to implement security measures to ensure confidentiality of Contractor’s confidential information
- Per 6.13 – Electronic data transmission is permitted.

2.13 Section 7 – Representations and Warranties

- Per 7.2 – Contractor warrants that they comply with applicable laws
- Per 7.3 – Warranty regarding software
 - 7.3.G – Warranties related to “hosted services” security (Buying MEEC Members should review this carefully to be sure it complies with its security requirements.)

2.14 Section 8 – Insurance

- It is recommended that Buying MEEC Members receive Insurance Certificates for specific Task Order Contracts or Purchase Orders in accordance with this Section

2.15 Section 9 – Indemnification

- Per 9.1 Contractor indemnifies USM/MEEC and Buying MEEC Member arising directly out of Contractor's operations is resulting from Contractor's negligence
- Per 9.2 and 9.3, Contractor indemnifies USM/MEEC and Buying MEEC Member for any suit, claim, or proceeding for Contractor software infringement.
- Per 9.4 – USM/MEEC and Buying MEEC Member shall not assume any obligations to indemnify, hold harmless, or pay attorneys' fees under these Master Agreements.

2.16 Section 11 – Limitation of Liability

- Contractor's liability is limited to the total fees paid by USM/MEEC under the Master Agreement or a Buying Member under a TOC or SOW; or \$1,000,000 whichever is greater
- This Section 11 does NOT apply to Section 6. Proprietary and Confidential and Subsection 9.2 and 9.3 of Section 9 of Indemnification. For these sections, the Contractor's liability is not limited. (Buying MEEC Members should watch that Contractor's do not revise this in their proposals and/or the resulting TOC/SOW. This provision should only be revised upon agreement by the Buying MEEC Member.)

2.17 Section 12 – Termination

- Per 12.1 – The Agreement or any TOC may be terminated for default; A maximum 10 day cure period is provided in this clause, however, this can be revised by the Buying MEEC Member’s Procurement Officer.
- Per 12.2 – The Agreement or any TOC may be terminated for convenience, however, **This clause 12.2 does not apply to managed services or hosting services procured by a Buying MEEC Member as these services will be governed by the provisions in the hosting agreement as negotiated between the Contractor and the Buying MEEC Member.**

2.18 Section 14 – Non-Visual Access – **Buying MEEC Members need to specifically state in a TORP that this clause applies.**

2.19 Section 16. Miscellaneous Terms – These are generally the required USM Contract terms and conditions

2.19.1 16.1 A to C – Publicity/Use of Name and Logo –

Buying MEEC Members should familiarize themselves with this provision . Contractor is authorized to identify USM/MEEC to potential customers, however, any other use of USM/MEEC’s or a Buying MEEC Member’s name, etc. is to be granted in writing by the appropriate party.

2.19.2 16.6 – Dispute Resolution – this is the USM’s Dispute Resolution; Buying MEEC Members may want to revise based on its jurisdiction, policies, or procedures.

2.19.3 16.8 – Non-hiring of Employees - This paragraph applies only to the Master Contractor hiring State of Maryland employees. Buying MEEC Members who are not State of Maryland entities may want to have this apply to its employees. As well, Master Contractors may request that similar stipulations be applicable to its employees in TOC/SOW.

2.19.4 16.17 – Maryland Law Prevails

2.19.5 16.21 – Subcontracting and Assignment

- Contractor may NOT subcontract any portion of the Services or any Task Order Contract without obtaining the prior written approval of the USM/MEEC or Buying MEEC Member.

Buying MEEC Members should ask for this information to be provided in any Task Order Proposal (TOP)

- Neither party may assign the Master Agreement or any TOC without the prior written of the other party.

2.20 Exhibit A – Implementation Process

2.21 Exhibit B – Contractor’s BAFO and other pertinent pricing documents

EXHIBIT A TO MASTER CONTRACT 91372

USE OF MASTER CONTRACTS BY BUYING MEEC MEMBERS

Generally, the Buying MEEC member will follow this process, although the Buying MEEC Member may adapt this process to meet its specific needs and/or to comply with its procurement policies and procedures.

1. Task Order Request for Proposal (TORP) Process: The TORP process will generally be handled as follows:

- a. **Scope of Work and Proposals:** As the need for IT Professional Consulting Services arises, the Buying MEEC Member will contact a minimum of two, although more is preferable, Master Contractors (if available) in the applicable IT Professional Consulting category. However, at its sole discretion, the Buying MEEC Member may contact a single Master Contractor if a) the Buying MEEC Member's procurement policies permit; and/or b) if it is determined by the Buying MEEC Member to be in its best interest. The requesting department of the Buying MEEC Member organization will provide to the Buying MEEC Member's appropriate staff person:

(1) Written business issue and/or requirements for the particular scope of work for the related services inclusive (at a minimum) of:

- High level functional requirements or business issue to be resolved;
- Required schedule for the start and completion of the engagement; and,
- A detailed Statement of Work or a business issue/problem;

(2) The Buying MEEC Member, in collaboration with the applicable IT group, will develop a written TORP that may require the following technical/qualifications and price criteria to be addressed by the Master Contractors:

- (a) Methodologies to be utilized to provide the requested Service(s) required with qualifications; proof of certification as a partner of the system for which services are proposed; recommended project management/work plan that may include may include, but is not limited to: specific deliverables and timelines for their successful completion; criteria for evaluation and acceptance of key milestones; communication plans; risk assessments and risk mitigation plans as applicable; change management plan including approval by the Buying MEEC member; as well

any other project activities that may be specifically required in the TORP document.

- (b) Staffing Plan for providing the required services. Such plan may include, but is not limited to, the executive management, project management, technical and functional consultants, trainers, etc., and summary of the proposed staffs' expertise. If requested, references of similar projects are to be provided for the proposed staff so that the Buying MEEC Member may, if it so chooses, check references.
- (c) Similar firm experience with other educational customers/clients including contact information so that the Buying MEEC Member may, if it so chooses, check references.
- (d) Utilization of Subcontractors, if any, that are proposed to provide some of the required services. If subcontractors will provide some or all of the required services, the Buying MEEC may request references of the subcontractors; past working relationships with the Master Contractor; firm experience, MBE status/allocation, etc. to be provided for the subcontractor.
- (e) A schedule of tasks and level of effort to ensure that the required time frame to complete the work is in accordance with the Buying MEEC Member's scope,
- (f) If an MBE subcontracting goal is established by the Buying MEEC Member, a statement indicating the MBE percentage commitment for the project (Note: Contractors are encouraged to seek Maryland State Certified MBE's to participate in the resulting Task Orders.) If an MBE goal is set for a specific TORP and the Buying MEEC Member complies with the State of Maryland's MBE Program requirements, the MBE Forms in Appendix M of Solicitation 91372 will be required to be completed and submitted as specified in the TORP, and,
- (g) Quoted price which may be: a) lump sum fee; b) not-to-exceed price for the services (dependent on the requirements within Buying MEEC Member's scope of services); or c) time and material estimate. Generally, the Buying MEEC Member will request a breakdown of the quoted price by staff position, task hours for each staff person, and billable hourly rate (Master Contractors are

required to apply the quoted maximum or better hourly rates for the proposed staff as established and specified in their Master Contract with USM/MEEC.)

Note: In addition to the information noted above, the Buying MEEC Member reserves the right to request additional information from the Master Contractors as it deems appropriate for the scope of services. In such instances, this request will be included in the TORP issued by the Buying MEEC Member.

(3) The Buying MEEC Member may conduct a pre-proposal meeting, if applicable, with the invited awarded Master Contractors.

- b. The Master Contractors will provide to the Buying MEEC Member's designated staff person a Task Order Proposal ('TOP') for the requested services that addresses the specified technical and price criteria.
- c. **Evaluation of TOPs:** The evaluation criteria and evaluation process is solely at the Buying MEEC Member's discretion and will be included in the requirements and/or scope of work for the related Task Order Request for Proposal (TORP) issued by the Buying MEEC Member. The Buying MEEC Member will establish an Evaluation and Selection Committee ("Committee") that will be responsible for the review and evaluation of the Task Order Proposal responses received. The Buying MEEC Member will evaluate the Task Order Proposals for, but not limited to, cost advantage, proposed assigned key personnel's expertise and time commitment, firm experience and expertise, references of the firm and/or key personnel, MBE commitment, ability to meet the required schedule, ability to provide the scope of services, etc.

As part of the evaluation, the Committee may request interviews of proposed Master Contractor team members and/or discussions with the Master Contractors.

Following the evaluation of the proposal, including any applicable interviews and/or discussions, an award will be made by the Buying MEEC Member to the Master Contractor(s) with the most advantageous proposal. The award will be based in accordance with the TORP and may be based:

- (1) solely on price with the lowest responsive and responsible cost receiving the award;
- (2) on a combination of technical and price evaluation/ranking, or

(3) solely on technical expertise, followed by the Buying MEEC Member negotiating a fee with the top ranked Contractor; in the event of unsuccessful negotiations, the Buying MEEC Member may discontinue negotiations with the top ranked firm and proceed to the next rank, and so forth.

- d. **Award of a Task Order:** Dependent upon the Services to be provided or the nature of the assignment/engagement, a Task Order Contract (TOC) and Purchase Order (P.O.), or solely a Purchase Order will be issued by the Buying MEEC Member to the successful Master Contractor for each specific task order. The business terms and conditions of the Master Contract will apply unless specifically revised, at the Buying MEEC Member's sole discretion, for a specific Task Order Contract.

The Master Contractor will be expected to provide leadership and supervision for its consultants assigned to a resulting TOC engagement while collaborating with a designated Buying MEEC Member point of contact.

END OF EXHIBIT A

