



Staff Report

File #: 16-280A, **Version:** 1

Agenda Date: 3/15/2016

Subject:

Purchase authorization for requirements of Voice over Internet Protocol telephone system equipment and maintenance services from Unify, Inc.

Recommended Action:

Approve the purchase authorization with Unify, Inc. (Unify), (formerly known as Siemens) for Voice over Internet Protocol (VoIP) telephone system equipment and maintenance services per State of Maryland Department of Information Technology (DoIT) contract number 060B1400048.

Provide authority for the County Administrator to approve subsequent annual extensions of this purchase authorization based upon extension of the State of Maryland DoIT contract.

Unify (formerly known as Siemens) has provided the maintenance and support services to the County through various State of Florida Contracts since 2006, but these services are no longer available via State of Florida Contract.

Contract 156-0185-PB(AA) with an annual expenditure not to exceed \$400,000.00 effective April 1, 2016 through March 31, 2017.

Strategic Plan:

Deliver First Class Services to the Public and Our Customers

5.2 Be responsible stewards of the public's resources

Summary:

This purchase authorization provides a mechanism for the Business Technology Services (BTS) Department to utilize the State of Maryland DoIT contract with Unify for requirements of hardware, software support and maintenance of the enterprise wide VoIP telephone system (phone system). The State of Maryland DoIT contract provides BTS the flexibility to acquire additional software, hardware and system enhancements as required from Unify.

Background Information:

The hardware, software support and maintenance of the phone system is comprised of two components. The first component provides the day to day "break-fix" type hardware and software support and maintenance for the core phone system. The second component (software assurance) provides upgrades to core software which are critical to maintaining current and future functionality of the phone system. There are currently over 10,000 phones that require hardware and software support.

Unify (formerly known as Siemens) has provided the maintenance and support services for this system to the County through various State of Florida Contracts (State) since 2006. These services are no longer available via State Contract.

Fiscal Impact:

Estimated annual expenditure not to exceed: \$400,000.00

Funding is derived from the Business Technology Services Enterprise License and Maintenance fund.

Staff Member Responsible:

Marty Rose, Chief Information Officer, Business Technology Services

Greg Carro, Finance and Budget Manager, Business Technology Services

Joe Lauro, Director, Purchasing

Partners:

N/A

Attachments:

State of Maryland Award

Agreement

Renewal option #1

Acknowledgement of name change Unify, Inc.

**DEPARTMENT OF INFORMATION TECHNOLOGY
ACTION AGENDA**

ITEM: 3-IT

Agency Contact:

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DEPARTMENT/PROGRAM:

Department of Information Technology (DoIT)
Telecommunications Division

CONTRACT ID:

Public Branch Exchange (PBX)
Telecommunications Equipment and Services
ADPICS NO. 060B1400048

CONTRACT DESCRIPTION:

Multiple award, indefinite quantity, Contract to provide PBX telecommunications equipment and related services for the State of Maryland.

AWARDS:

See Attachment 1

TERM:

3/23/2011 – 3/31/2015(w/two two-year renewal options)

AMOUNT:

\$48,000,000 Base Period (4 Yrs.)
24,000,000 (Option Years 1-2)
24,000,000 (Option Years 3-4)
\$96,000,000 Total

PROCUREMENT METHOD:

Competitive Sealed Proposals

BIDS OR PROPOSALS:

See Attachment 1

MBE PARTICIPATION:

12.5% (See Requesting Agency Remarks below)

INCUMBENTS:

Verizon Select Services, Inc.
Linthicum Heights, Maryland

NuVision Technologies, LLC
Sterling, VA

DEPARTMENT OF INFORMATION TECHNOLOGY

ACTION AGENDA

ITEM: 3-IT (Cont.)

REQUESTING AGENCY REMARKS: A notice of the availability of the Request for Proposals (RFP) was advertised on *eMarylandMarketplace.com* and DBM's website. In addition, a *Notice of Availability* (and copy of the RFP) was sent directly to 77 prospective vendors, 51 of which were Maryland firms and 34 of which were MBEs. A copy was also sent to the Governor's Office of Minority Affairs and the Governor's Office of Business Advocacy and Small Business Assistance.

A total of 21 proposals were received in response to the RFP. Twenty proposals were deemed reasonably susceptible of being selected for award and are recommended for award to receive a Master Contract. Of these 20 recommended contractors, 15 are Maryland resident businesses, two are Small Businesses and two are MBEs (see Attachment 1).

This PBX III Master Contract replaces the two soon-to-expire Contracts (PBX 1 and PBX II) that provide public branch exchange (PBX) telecommunications equipment and related services for the State of Maryland. This new Master Contract will provide State agencies with the flexibility of obtaining telecommunications equipment and services quickly and efficiently by issuing Purchase Order Requests for Proposals (PORFP) specific to their needs.

This Master Contract encompasses the following three functional areas:

- Functional Area 1 – Hardware, Software, and Licenses
- Functional Area 2 – Maintenance Services
- Functional Area 3 – Time and Material Labor

This new Master Contract is structured to be adaptable to rapidly changing technology by allowing Master Contractors the option to add additional manufacturers' product lines throughout the term of the Master Contract as they become authorized to sell those lines.

There will be a second level of competition through a Purchase Order Request for Proposals (PORFP) sent to all Master Contractors awarded a Master Contract within the appropriate functional area who are authorized to provide the equipment and/or services for the requested manufacturer(s) product line.

In addition, selected PORFPs can be designated as Small Business Reserve (SBR) competitions. For SBR designated PORFPs, each Master Contractor that is a small business will be able to compete within its approved functional area.

DEPARTMENT OF INFORMATION TECHNOLOGY

ACTION AGENDA

ITEM: 3-IT (Cont.)

Master Contractors affirmed that their prices for the PORFPs will not exceed the Manufacturer's Suggested Retail Price (MSRP) or GSA Schedule for the hardware, software, licenses and maintenance services being purchased for the term of the Master Contract in Functional Areas I and II., and it is expected that the competitive PORFP process will produce lower than MSRP/GSA Schedule pricing.

This procurement vehicle was designed to provide State agencies with a wide selection of Master Contractors who offer an extensive variety of telecommunications equipment and services. As a result of the awards from this solicitation, State agencies will obtain hardware, software, licenses, maintenance services and installation/ repair services quickly and efficiently by issuing PORFPs specific to agencies' needs. This contracting vehicle is also available to Maryland local and County government jurisdictions.

MBE subcontracting goals of 25% will be applied to each individual PORFP for Functional Areas II and III. An MBE goal was only applied to Functional Areas II and III because Functional Area I involves purely the provision of hardware and warranty, which does not afford any subcontracting opportunities. It is estimated that Functional Areas II and III will account for 50% of the total amount of this item resulting in a 12.5% overall MBE goal.

FUND SOURCE:	Various
APPROP. CODE:	Various
RESIDENT BUSINESSES:	See Attachment 1
MD TAX CLEARANCES:	See Attachment 1

Board of Public Works Action - The above referenced Item was:

APPROVED	DISAPPROVED	DEFERRED	WITHDRAWN
WITH DISCUSSION		WITHOUT DISCUSSION	

DEPARTMENT OF INFORMATION TECHNOLOGY

ACTION AGENDA

ITEM: 3-IT (Cont.)

**Telecommunications
Equipment and Services
(PBX III)**

ATTACHMENT 1

	Contractors	City	State	Functional Area			Maryland Tax Clearance Number	Maryland Resident Business		MBE	SBR
				<u>FA1</u>	<u>FA2</u>	<u>A3</u>		Yes	No		
1	Alliance Technology Group, LLC	Hanover	MD	X	X	X	# 11-0411-1010	X		X	
2	Altura Communication Solutions, LLC	Brookeville	MD	X	X	X	# 11-0412-1110	X			
3	Atlantech Online, Inc.	Silver Spring	MD	X	X	X	# 11-0413-1111	X			
4	Black Box Network Services	Millersville	MD	X	X	X	# 11-0471-1111	X			
5	Carousel Industries of North America, Inc.	Hunt Valley	MD	X	X	X	# 11-0454-1111	X			
6	Chesapeake Telephone Systems, Inc.	Millersville	MD	X	X	X	# 11-0414-1111	X			X
7	DISYS Solutions, Inc.	Chantilly	VA	X	X	X	# 11-0415-1110		X		
8	ePlus Technology, Inc.	Columbia	MD	X	X	X	# 11-0416-1111	X			
9	IPC Technologies, Inc.	Richmond	VA	X	X	X	# 11-0417-1110		X		
10	Mitel Business Systems, Inc.	Chandler	AZ	X	X	X	# 11-0418-1001		X		
11	MS Technologies Corporation	Rockville	MD	X	X	X	# 11-0419-1111	X		X	X
12	NEC Corporation of America	Columbia	MD	X	X	X	# 11-0420-1111	X			
13	Optus, Inc.	Jonesboro	AR	X	X	X	# 11-0456-1000		X		
14	Presidio Networked Solutions, Inc.	Greenbelt	MD	X	X	X	# 11-0421-1111	X			

DEPARTMENT OF INFORMATION TECHNOLOGY

ACTION AGENDA

15	Shared Technologies, Inc.	Beltsville	MD	X	X	X	# 11-0422-1111	X			
16	Siemens Enterprise Communications, Inc.	Reston	VA	X	X	X	# 11-0423-1111		X		
17	Skyline Network Engineering, LLC	Eldersburg	MD	X	X	X	# 11-0424-1111	X			
18	Telephonet Corporation	Baltimore	MD	X	X	X	# 11-0425-1111	X			
19	TrueCommunications Inc.	Rockville	MD	X	X	X	# 11-0455-1111	X			
20	Verizon Select Services, Inc.	Silver Spring	MD	X	X	X	# 11-0426-1101	X			
				20	20	20	TOTALS	15	5	2	2

ATTACHMENT A – Telecommunications Equipment and Services Contract

THIS CONTRACT is made as of this 24th day of March, 2011 by and between Siemens Enterprise Communications, Inc. and the MARYLAND DEPARTMENT OF INFORMATION TECHNOLOGY.

IN CONSIDERATION of the premises and the covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Definitions

In this Contract, the following words have the meanings indicated:

- 1.2 “Contract” means this Contract for Telecommunications Equipment and Services (PBX III).
- 1.3 “Contractor” means Siemens Enterprise Communications, Inc. whose principal business address is 1881 Campus Common Drive, Reston, VA 20191 and whose principal office in Maryland is _____.
- 1.4 “Contract Manager” means the individual identified in Section 1.7 of the RFP or a successor designated by the Department.
- 1.5 “Department” means the Maryland Department of Information Technology.
- 1.6 “Financial Proposal” means the Contractor’s Financial Proposal dated January 19, 2011.
- 1.7 Installation means assembling the PBX components in the correct locations, connecting to existing or new cabling and to common carrier services, testing and cutover of the new system, training staff, and removing the old PBX equipment and debris from the site so that the equipment and services will provide the features and functions specified in the PORFP Proposal and generally described in the User Documentation.
- 1.8 “Purchase Order (PO)” authorizes the PO Contractor to proceed with delivery of products and/or any services requested via a PORFP.
- 1.9 “PORFP” means Purchase Order Request for Proposal.
- 1.10 “Procurement Officer” means the individual identified in Section 1.6 of the RFP or a successor designated by the Department.
- 1.11 “RFP” means the Request for Proposals for Telecommunications Equipment and Services (PBX III), No. 060B1400048 dated Thursday, November 18, 2010 and any amendments thereto issued in writing by the State.
- 1.12 “Telecommunications Equipment and Services (PBX III)” means the equipment and services described in Section 3 of the RFP.
- 1.13 “State” means the State of Maryland.
- 1.14 “Technical Proposal” means the Contractor’s Technical Proposal, dated January 19, 2011.

2 Scope of Work

2.1 The Contractor shall provide Telecommunications Equipment and Services, Training and Installation and/or Maintenance, for the State as described in the PO and the PORFP. These services shall be provided in accordance with the terms and conditions of this Contract and the following Exhibits, which

are attached and incorporated herein by reference. If there are any inconsistencies between this Contract and the PORFP process and/or Exhibits A, B, C, and D, the terms of this Contract shall control. If there is any conflict among these items, the following order of precedence shall determine the prevailing provision:

The RFP (Exhibit A).

- State Contract Affidavit, executed by the Contractor and dated March 2, 2011 (Exhibit B)
- The Technical Proposal (Exhibit C).
- The Financial Proposal (Exhibit D).
- The PO
- The PORFP
- The PORFP Proposal

2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under Article 10, Disputes. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

3 Time for Performance

The Contractor shall provide services in accordance with this Master Contract and any PORFP. The term of this Contract is for a period of about Four (4) years, beginning on Wednesday, February 23, 2011 and ending Monday, March 09, 2015 unless terminated earlier as provided in this Master Contract. The State shall have the sole right to extend the term of this contract for a maximum of two (2) two-year option periods.

4 Consideration and Payment

4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the State shall pay the Contractor in accordance with the not-to-exceed rates and terms of Exhibit C, Contractor's Financial Proposal. POs that are on a Time and Material basis shall include a not-to-exceed ceiling for payments. Any work performed by the Contractor in excess of the ceiling amount of any PO without the prior written approval of the Contract Manager is at the Contractor's risk of non-payment. Payments under POs issued on a fixed price basis shall be limited to the price specified in the PORFP, regardless of the actual cost to the Contractor.

4.2 Invoices must be provided in the format and on the schedule identified in the PORFP. Each invoice must reflect the Contractor's federal tax identification number, which is 26-2722137. The Contractor's eMM identification number is 307833. Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the State's receipt of a proper invoice from the Contractor. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1, of the State Finance and

Procurement Article, Annotated Code of Maryland, as from time to time amended, are prohibited. PORFPs may specify periodic payments based on deliverables or stages of completion. A PORFP may specify that a portion of the payments due will be withheld until completion of the PO. The amount withheld from each payment shall be paid to the Contractor within thirty (30) days of the State's acceptance of all deliverables required under the PO and receipt from the Contractor of a release in a form prescribed by the State for any claims arising out of or related to the PORFP. The final payment under this Contract will not be made until after certification is received from the Comptroller of the State that all taxes have been paid.

4.3 In addition to any other available remedies if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer pursuant to this Contract

4.4 The State will use electronic funds transfer to pay the Contractor for this Contract and any POs thereunder and any other State payments due Contractor unless the State's Comptroller Office grants the Contractor an exemption.

5 PORFPs

A PORFP may specify terms in addition to the terms specified herein. Such additional terms may include warranties, deliverables, and acceptance test requirements. PORFPs and POs may not limit the State's rights as provided by law, in this Contract, or in the RFP and may not change the terms of this Contract or the RFP.

6 Rights to Records

6.1 The Contractor agrees that all documents and materials, including but not limited to, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations and data prepared by the Contractor for purposes of this Contract shall be the sole property of the Department and shall be available to the Department at any time. The Department shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.

6.5 Upon termination of this Contract, the Contractor, at its own expense, shall deliver any equipment, hardware and associated equipment and services or other property provided by the State to the place designated by the Procurement Officer.

7 Confidentiality

Subject to the Maryland Public Information Act and any other applicable laws, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided the data may be collected, used, disclosed, stored and disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

8 Loss of Data

In the event of loss of any State data or records where such loss is due to the intentional act, omission, or negligence of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for recreating such lost data in the manner and on the schedule set by the Contract Manager. The Contractor shall ensure that all data is backed up and is recoverable by the Contractor.

9 Non-Hiring of Employees

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

10 Disputes

This Contract shall be subject to the provisions of Title 15, Subtitle 2, of the State Finance and Procurement Article of the Annotated Code of Maryland, as from time to time amended, and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision. Unless a lesser period is provided by applicable statute, regulation, or the Contract, the Contractor must file a written notice of claim with the Procurement Officer within 30 days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within 30 days of the filing of a notice of claim, but no later than the date of final payment under the Contract, the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

11 Maryland Law

- 11.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.
- 11.2 The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland) does not apply to this Contract or any software license acquired hereunder.
- 11.3 Any and all references to the Annotated Code of Maryland contained in this Contract shall be construed to refer to such Code sections as from time to time amended.

12 Nondiscrimination in Employment

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

13 Contingent Fee Prohibition

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agent working for the Contractor to solicit or secure this Contract, and that it has not paid or agreed to pay any

person, partnership, corporation or other entity, other than a bona fide employee, bona fide salesperson or commercial selling agency, any fee or other consideration contingent on the making of this Contract.

14 Non-availability of Funding

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the State's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the State from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

15 Termination for Cause

If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. This includes the failure to meet the service levels described in Section 3 of the RFP. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State of Maryland shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

16 Termination for Convenience

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

17 Delays and Extensions of Time

The Contractor agrees to perform the work under this Contract continuously and diligently. No charges or claims for damages shall be made by the Contractor for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract. Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

18 Suspension of Work

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

19 Pre-Existing Regulations

In accordance with the provisions of Section 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, as from time to time amended, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR 21) in effect on the date of execution of this Contract are applicable to this Contract.

20 Financial Disclosure

The Contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, as from time to time amended, which requires that every business that enters into contracts, leases, or other agreement with the State of Maryland or its Agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more, shall within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of the State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

21 Political Contribution Disclosure

The Contractor shall comply with the Election Law Article, Sections 14-101 through 14-108, of the Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State, a county or an incorporated municipality or their Agencies, during a calendar year under which the person receives in the aggregate \$100,000 or more, shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their Agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

22 Retention of Records

The Contractor shall retain and maintain all records and documents in any way relating to this Contract for six years after final payment by the State of Maryland under this Contract or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including by way of example only, the Procurement Officer or the Procurement Officer's designee, and the Contract Manager or the Contract Manager's designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section. The Contractor shall, upon request by the Issuing Agency, surrender all and every copy of documents needed by the State, including, but not limited to itemized billing documentation containing the dates, hours spent and work performed by the Contractor and its subcontractors under the Contract. The Contractor agrees to cooperate fully in any audit conducted by or on behalf of the State, including, by way of example only, making records and employees available as, where, and to the extent requested by the State and by assisting the auditors in reconciling any audit variances. Contractor shall not be compensated for providing any such cooperation and assistance

23 Compliance with Laws

The Contractor hereby represents and warrants that:

- A. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- B. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- C. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- D. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

24 Cost and Price Certification

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

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

25 Subcontracting; Assignment

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the Procurement Officer, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Procurement Officer, any such approvals to be in the State's sole and absolute subjective discretion; provided however, a Contractor may assign monies receivable under a PO after due notice to the State. Any such subcontract or assignment shall include the terms of sections 8 through 23 of this Contract and any other terms and conditions that the State deems necessary to protect its interests. The State shall not be responsible for the fulfillment of the Contractor's obligations to the subcontractors.

26 Indemnification

26.1 Subject to the terms of Section 31, the Contractor shall hold harmless and indemnify the State against liability for any costs, expenses, loss, suits, actions, or claims of any character arising from or relating to the performance of the Contractor or its subcontractors under this Contract.

26.2 The State of Maryland has no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim or action of any character is brought by any person not party to this Contract against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.

26.3 The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.

26.4 The Contractor shall immediately notify the Procurement Officer of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from or relating to the Contractor's obligations under the Contract, and will cooperate, assist, and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of or relating to the Contractor's performance under this Contract.

27 Administrative

27.1 Procurement Officer. The work to be accomplished under this Contract shall be performed under the direction of the Procurement Officer and the Contract Manager. All matters relating to the interpretation of this Contract shall be referred to the Procurement Officer for determination.

27.2 Notices. All notices hereunder shall be in writing and either delivered personally or sent by certified or registered mail, postage prepaid as follows:

If to the State: State of Maryland
 Department of Information Technology
 Contracts Manager PBX III
 45 Calvert Street
 Annapolis, MD 21401-1907

If to the Contractor: Siemens Enterprise Communications, Inc.
 ATTN: Legal Department
 5500 Broken Sound Boulevard
 Boca Raton, FL 33487

28 Risk of Loss; Transfer of Title.

Risk of loss for conforming supplies, equipment and materials specified as deliverables to the State hereunder shall remain with the Contractor until the supplies, equipment, materials and other deliverables are accepted by the State, as evidenced by a written statement of acceptance from the State to the Contractor that expressly specifies the supplies, equipment, materials and other deliverables that are subject to such acceptance. Title of all such deliverables passes to the State upon acceptance by the State, subject to the State's payment for the same in accordance with the terms of this Contract.

29 Non-visual Accessibility Warranty

The Contractor warrants that the information technology offered under the proposal (1) provides equivalent access for effective use by both visual and non-visual means; (2) will present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use; (3) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and (4) is available, whenever possible, without modification for compatibility with software and hardware for non-visual access. The Contractor further warrants that the cost, if any, of modifying the information technology for compatibility with software and hardware used for non-visual access does not increase the cost of the information technology by more than five percent. For purposes of this Contract, the phrase "equivalent access" means the ability to receive, use and manipulate information and operate controls necessary to access and use information technology by non-visual means. Examples of equivalent access include keyboard controls used for input and synthesized speech, Braille, or other audible or tactile means used for output.

30 Commercial Nondiscrimination

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

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

31 Limitation of Liability

For breach of this Contract, negligence, misrepresentation or any other contract or tort claim, Contractor shall be liable as follows:

- A. For infringement of intellectual property rights;
- B. Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property;
- C. For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract, regardless of the form, Contractor's liability per claim shall not exceed five (5) times the total amount of the PORFP out of which the claim arises; provided however, the State may, in its sole discretion, decrease the ceiling established hereunder in any PORFP issued pursuant to this RFP. Third party claims arising under Section 26 ("Indemnification") of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor's liability for third party claims arising under Section 26 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 26.

32 Intellectual Property

32.1 All work performed or provided by the Contractor in connection with the RFP, this Contract and a PO Agreement, including but not limited to any and all deliverables, reports, drawings, studies, specifications, estimates, tests, photographs, graphics, mechanical, artwork, computations, data, inventions, discoveries, developments, improvements, ideas, concepts, creative works, innovations and designs, whether or not in writing or reduced to practice, and whether or not they are patentable, including but not limited to, processes, methods, formulas, and techniques and know-how, works of authorship, trade secrets, trademarks, copyrights, and any other intellectual property ("Work Product") will be considered "work for hire," as if the Contractor had been "hired to invent," or as having similar status in the United States or elsewhere, and therefore, all rights therein will be the property of the State. In the event any Work Product is not considered "work for hire," Contractor, on behalf of itself and its employees, agents, subcontractors and affiliates, hereby assigns to the State all rights, title, and interest in such Work Product. The Contractor shall not affix (or permit any third party to affix) any restrictive markings upon any Work Product (except as expressly directed or otherwise authorized in writing by the State) and, if such markings are affixed, the State shall have the right at any time to modify, remove, obliterate, or ignore such markings. During the term of this Contract and at any time following expiration or termination for any reason of this Contract, upon the request and at the reasonable expense of the State or its nominee and for no additional remuneration, Contractor and its employees, agents, subcontractors and affiliates will take such action as the State reasonably may request to more fully evidence, protect, maintain, secure, defend, transfer, vest or confirm the State's ownership, right, title and interest in the Work Product.

32.2 Contractor will defend, indemnify, and hold harmless the State, including, but not limited to, the Department and its agents, officers, and employees, from and against any and all claims, costs, losses, damages, liabilities, judgments and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with any claim the Work Product or any third party intellectual property infringes, misappropriates or otherwise violates any third party intellectual property rights. Contractor will not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent, which consent may be withheld in the State's sole and absolute discretion. Contractor will be entitled to control the defense or settlement of such claim (with counsel reasonably satisfactory to the State), provided that the State will, upon requesting indemnification hereunder: (a) provide reasonable cooperation to Contractor in connection with the defense or settlement of any such claim, at Contractor's expense; and (b) be entitled to participate in the defense of any such claim. Contractor's obligations under this section will not apply to the extent any third party intellectual property infringes, misappropriates or otherwise violates any third party intellectual rights as a result of modifications made by the State in violation of the license granted to the State pursuant to section 32.1; provided that such infringement, misappropriation or violation would not have occurred absent such modification.

32.3 Without limiting Contractor's obligations under section 32.1, if all or any part of the Work Product or any third party intellectual property is held, or Contractor or the State reasonably determines that it could be held, to infringe, misappropriate or otherwise violate any third party intellectual property right, Contractor (after consultation with the State and at no cost to the State): (a) will procure for the State the right to continue using the item in accordance with its rights under this Contract, the RFP and the applicable PO Agreement; (b) replace the item with an item that does not infringe, misappropriate or otherwise violate any third party intellectual property rights and, in the State's sole and absolute determination, complies with the item's specifications, and all rights of use and/or ownership set forth in this Contract, the RFP and the applicable PO Agreement; or (c) modify the item so that it no longer infringes, misappropriates or otherwise violates any third party intellectual property right and, in the State's sole and absolute determination,

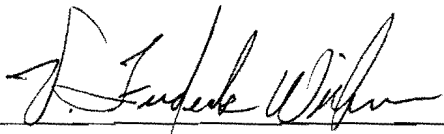
complies with the item's specifications and all rights of use and/or ownership set forth in this Contract, the RFP and the applicable PO Agreement.

32.4 Contractor shall not acquire any right, title or interest (including any intellectual property rights subsisting therein) in or to any goods, software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the State to the Contractor. Notwithstanding anything to the contrary herein, the State may, in its sole and absolute discretion, grant the Contractor a license to such materials and/or the Work Product, subject to the terms of a separate writing executed by the Contractor and an authorized representative of the State.


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

CONTRACTOR

MARYLAND DEPARTMENT OF
INFORMATION TECHNOLOGY



By:




By:

2 Mar 11

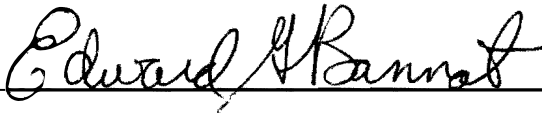
Date

3/24/2011

Date



Witness



Witness

Approved for form and legal
sufficiency this 23rd day
of March 2011.

Douglas Carney-Beane

Assistant Attorney General

APPROVED BY BPW:

3/23/2011
(Date)

3-IT
(BPW Item #)



MARTIN O'MALLEY
Governor

ANTHONY BROWN
Lieutenant Governor

STATE OF MARYLAND
DEPARTMENT OF INFORMATION TECHNOLOGY

ISABEL FITZGERALD
Secretary

May 14, 2014

Unify, Inc.
1881 Campus Common Drive,
Reston, VA 20191

Subject: 060B1400048 – PBX Telecommunications Equipment and Services – Renewal Option #1

Mr. V. Frederick Wilkerson:

The Department of Information Technology (DOIT) hereby is notifying you that it is exercising its sole right to extend the term of the subject contract for two years under the first of its two renewal options as described in Section 3 of the Contract. The option period shall begin on April 1, 2015 and terminate on March 31, 2017.

If you have any questions regarding this, please contact me at 410-260-7662.

Sincerely,



Edward Bannat
Procurement Officer



S T A T E O F M A R Y L A N D

DEPARTMENT OF INFORMATION TECHNOLOGY

LARRY HOGAN,
Governor

BOYD RUTHERFORD
Lieutenant Governor

DAVID A. GARCIA
Secretary

February 16, 2016

Maryland Department of Information Technology
Office of Procurement and Contracts
45 Calvert Street
Annapolis, MD 21401

Subject: PBX III Telecommunications Equipment and Services Master Contract (060B1400048)

To whom it may concern,

On March 23, 2011 the Maryland Department of Information Technology ("DoIT") awarded the subject Master Contract which, among other things, contains provisions allowing other governmental entities to purchase goods or services covered by the Master Contract at the same maximum prices to which the State would be subject (see RFP §1.37).

One of the Master Contractors, Siemens Enterprise Communications, Inc. ("Siemens"), notified the State of Maryland on or about October 15, 2013 that it intended to change its name to Unify, Inc. After a review of the documentation provided by Siemens, DoIT determined that an assignment of contractual rights and obligations was unnecessary given the fact that the Master Contractor was simply rebranding itself with a new name, no sale or transfer of assets took place and the rebranded entity operates under the same federal tax identification number. The Master Contractor's name has been updated in the State's financial systems without a contract modification and DoIT allows Unify to operate as a Master Contractor under the subject contract without restriction.

Sincerely,

Michael G. Meinel
Assistant Director of Procurement
Maryland Department of Information Technology