

Wes Moore
Governor

Aruna Miller
Lt Governor



Atif Chaudhry
Secretary

Nelson E. Reichart
Deputy Secretary

OFFICE OF STATE PROCUREMENT

INTEROFFICE MEMORANDUM

AND

**PROCUREMENT OFFICER'S DETERMINATION FOR PARTICIPATION IN AN
INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT (ICPA)**

DATE: February 9, 2023

TO: Mike Haifley, Acting Chief Procurement Officer

FROM: Andrea R. Simmons, Procurement Officer

RE: Approval to Purchase Microsoft Licensing Packages via OMNIA Partners' Master Agreement No. 2018011-02, led by the City of Mesa, Arizona as the lead Agency

Vendor: SHI International Corporation (SHI)
290 Davidson Avenue
Somerset, NJ 08873

Contract No.: CTR012098

Contract Term: March 2, 2023 through February 28, 2025

Estimated Contract Value: \$40,000,000

An ICPA for the above-referenced services was presented to and received BPW approval on the September 23, 2020 agenda, Item 15-IT. The ICPA was approved for a term of November 1, 2020 through February 28, 2023, with two (2), one (1) year renewal periods. When the Maryland Department of General Services, Office of State Procurement's (DGS-OSP) Procurement Officer sought to exercise the two (2), one (1) year renewal periods, DGS identified an issue. Namely, neither the State nor SHI were able to locate a Participating Addendum (PA) signed by both parties. Unfortunately, the PA contained language that was crucial to the parties' agreement. Further, neither party is able to confirm whether a copy of the ADPICS BPO (which the parties incorporated by reference into the agreement) was issued to SHI. Given these issues (and the language contained in the PA), the Office of the Attorney General did not believe the parties held a valid agreement for the licenses.

As a result, DGS-OSP intends to create a new agreement that will allow DGS to leverage the OMNIA Master Contract. The term of the State's agreement with SHI will run from March 2, 2023 through February 28, 2025. This new ICPA will replace DGS's existing ICPA for Microsoft



Licensing Packages (which is due to expire on February 28, 2023). Microsoft licensing is currently being used by State agencies; therefore, it is crucial that DGS-OSP put in place a contract to avoid any uninterrupted flow of services to the using agencies.

By continuing to use the OMNIA Master Contract, DGS-OSP will leverage the nation's largest and most experienced cooperative purchasing organization for the public sector. DGS-OSP will manage the contract with SHI on behalf of all State agencies as it did with the prior agreement. Also, like the prior agreement, the contract shall be administered via a Work Order process which will allow each agency to tailor a specific Statement of Work (SOW) for each task or product.

Background Information from DGS's Prior Determination to Use the OMNIA Master Contract: As OMNIA Partners is the nation's largest and most experienced cooperative purchasing organization for the public sector, all contracts available through OMNIA Partners are competitively solicited and publicly awarded by a lead agency, using a competitive solicitation process consistent with applicable procurement laws and regulations. Thus, DGS-OSP's ability to leverage the use of this contract vehicle is crucial.

The resulting services from this ICPA would allow States to have a master agreement to purchase Microsoft Licensing Packages. It will also limit the procurement process and maximize cost avoidance to the using State agencies. Other key benefits resulting from this competitively, and successfully negotiated contract by the City of Mesa includes a wide variety of technology solutions broken down by category including, but not limited to, systems, input/output devices, memory, storage devices, network equipment, software, media supplies, collaboration & IP telephony, and other related products and services. Through the City of Mesa, with overall project oversight from OMNIA Partners, eleven (11) proposals were received and evaluated by an evaluation committee, using the evaluation criteria set forth in the RFP. SHI was awarded the contract upon successful completion of negotiations.

While there are other contract vehicles that the State could have leveraged from such as the NASPO ValuePoint and ViTA master contract, both contract vehicles presented a cost-plus-a-percentage-of cost model which is not advantageous to the State. Including the Pace contract vehicle, which is recommended for K-12, the OMNIA Partners' contract vehicle presented the most advantageous pricing model to include a national pricing discount, off of a verifiable price list by the manufacturer.

Determination to Continue Using the OMNIA Master Contract: In accordance with COMAR 21.05.09.04, the Procurement Officer, has determined that it is in the best interest of the State to continue its participation in the OMNIA Master Contract. This purchasing agreement provides the State of Maryland with favorable contract terms, and a variety of technology solutions already detailed above. Additionally, SHI offers a discount off of a verifiable price list by the manufacturer. SHI's Pricing Proposal to the State provides an 18.25% discount from the Estimated Retail Price on Cloud (Monthly Subscriptions) and a 16.25% discount off of the Estimated Retail Price of On-Premises Products (Perpetual Licenses and Software Assurance). This model presents the most aggressive pricing that SHI can offer based on how Microsoft prices out its products and takes into

consideration both current agency needs, as well as future growth. This ICPA is in the best interest of the State, and it is not in any way intended as a means to evade the purposes set forth under COMAR 21.01.01.03.

In order to determine a price comparison, I reviewed multiple line items of SHI's State of Maryland (SOM) Microsoft February 2023 Pricing list (specifically its contract price and estimated retail price) with SHI's pricing available on the General Services Administration's (GSA), Federal Supply Service Authorized Federal Supply Schedule Price List, multiple award schedule. After reviewing thousands of line items, I located two (2) for the same requested software offered by SHI under both contracts. SHI's prices for the Dyn365E Marketing Addl Int T1 - Dyn365E Marketing Addl Interactions T1 Sub Add-on 50K Int monthly subscription under the SOM contract and GSA list are \$202.33 and \$207.78, respectively, for a difference of \$5.45. Additionally, SHI's prices for the MS Cloud FSI AO - MS Cloud FSI AO Sub monthly subscription under the SOM contract and GSA list are \$15,287.25 and \$15,698.58, respectively, for a difference of \$411.33. SHI's price is lower in both instances. As a result, the price has been determined to be fair and reasonable.


Pursuant to COMAR 21.05.09.04, I have determined that it is in the State's best interest to continue the use of the OMNIA Master Contract with the City of Mesa, Arizona.

Determination By:


Andrea R. Simmons 2/9/2023
Procurement Officer Date

DGS Office of State Procurement Approval:

Primary procurement unit head approval of above facts and determination:

 Feb 13, 2023
Mike Haifley (Feb 13, 2023 15:59 EST)
Michael Haifley, Acting Chief Procurement Officer Date

DGS Secretary Approval:

 Feb 16, 2023
Atif Chaudhry, Secretary Date









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Final Audit Report

2023-02-16

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