



MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE

**STANDARD SOLICITATION,  
BID AND ACCEPTANCE FORM  
AND CONTRACT FOR COMPETITIVE BIDS  
DHMH FORM 3982**

**Complete Pharmacy Services for the Holly Center,  
Deer's Head Hospital Center, Western Maryland  
Hospital Center, Regional Institute for Children and  
Adolescents-Baltimore and the John L. Gildner  
Regional Institute for Children and Adolescents**

**DHMH OPASS 09-AT3164**

**If this Invitation For Bids was obtained by any means other than the Issuing Office identified herein, please contact that office immediately to ensure that you receive all addenda or errata.**

**Minority Business Enterprises Are Encouraged To Respond To This Solicitation**

**VENDORS AND CONTRACTORS  
ENCOURAGEMENT OF PARTICIPATION STATEMENT**

The State of Maryland is actively seeking to increase participation from businesses and organizations in the procurement of goods and services. Therefore, we ask that you take a moment to complete this Vendor Survey. Please give us your candid comments regarding the solicitation process and documents we use. If you choose not to bid please indicate the reason(s). You may return this form either with your submission package or in an envelope addressed to the Issuing Office if you choose not to bid on this solicitation.

**Vendor Comments**

In order to help us improve the quality of State solicitations, and make our procurement process more responsive and business-friendly, we ask that you take a few minutes to complete this form and submit it to the Procurement Officer listed on the following page. Thank you for your assistance.

Bid/Proposal Number: OPASS 09-AT3164 Entitled: Comprehensive Pharmacy Services – Holly Center Center, Deer's Head Center, Western Md. Center, RICA – Baltimore, John L. Gildner - RICA

I. If you are not bidding, please indicate why:

- Other commitments preclude our participation at this time.
- The subject of the solicitation is not in our business line.
- We lack experience in the work/commodities required.
- The scope of work is beyond our current capacity.
- We cannot be competitive (Please explain below.)
- Specifications are either unclear or too restrictive. (Please explain below.)
- Bid/proposal requirements, other than specifications, are unreasonable or too risky. (Please explain below.)
- Time for completion is insufficient.
- Bonding/insurance requirements are prohibitive. (Please explain below.)
- Doing business with government is simply too complicated.
- Prior experience with State of Maryland contracts was unprofitable or otherwise unsatisfactory (Please explain below.)
- Other: \_\_\_\_\_

II. Please explain your response further, offer suggestions or express concerns. (Use the back for additional information.)

REMARKS:

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OPTIONAL:

Vendor Name: \_\_\_\_\_ Date \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Address or e-mail: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Thank You!!!

MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE  
STANDARD SOLICITATION, BID AND ACCEPTANCE FORM  
AND CONTRACT FOR COMPETITIVE BIDS

4/14/08

(Date of Solicitation)

Complete Pharmacy Services for the Holly Center, Deer's Head Hospital Center, Western Maryland Hospital Center, Regional Institute for Children and Adolescents-Baltimore and the John L. Gildner Regional Institute for Children and Adolescents

**Note: Minority Business Enterprises are encouraged to respond to this solicitation notice.**

Part I – III Standard Solicitation, Bid and Acceptance Form Pages 1 - 28  
Part IV – VIII Contract Pages 29- 65

## **PART I - SOLICITATION INFORMATION AND INSTRUCTIONS**

### **A. General:**

The Holly Center, Deer's Head Hospital Center, Western Maryland Hospital Center, the Regional Institute for Children and Adolescents-Baltimore and the John L. Gildner-Regional Institute for Children and Adolescents, hereinafter called the Facility(ies), units of the Maryland Department of Health and Mental Hygiene, hereinafter called the Department or DHMH, desire competitive sealed bids for the purpose of obtaining the service(s) described in PART II of this solicitation.

**ATTENTION:** Bids should be type written or written legibly in ink. The signer shall initial all erasures and other changes in ink. All bid envelopes shall be labeled with the following information:

#### **SAMPLE:**

- Sealed Bid
- Comprehensive Pharmacy Services
- May 6, 2008 – 11:00 a.m.

SEALED BID Provision of Temporary Nursing Services At Central Hospital Center February 30 2008 - 11:00 am
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### **B. Bid Due Date and Time:**

Sealed bids, in triplicate, will be received at the Office of:

Gary M. Goldberg, CPPO, CPM, Director  
Maryland Department of Health and Mental Hygiene  
Office of Procurement and Support Services  
201 W. Preston Street, Room 416  
Baltimore, MD 21201

on **Tuesday**, **May** **6, 2008** until **11:00 o'clock AM**, local time, and then, unless otherwise specified in PART II, publicly opened. Any bid not received by this time and date shall not be considered (See PART III, E).

**C. Delivery of Bids:**

Bidders may either mail or hand-deliver bids. Hand-delivery includes delivery by commercial carrier. For any type of direct (non-mail) delivery, bidders are advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery. (See attached "Standard Addendum for the Means of Delivering Bids and Proposals.")

**D. Electronic Funds Transfer:**

By submitting a response to this solicitation, the bidder agrees to accept payments by electronic funds transfer unless the State Comptroller’s Office grants an exemption. The selected bidder shall register using form COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form attached as Appendix D. Any request for exemption must be submitted to the State Comptroller’s Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption.

**E. Pre-Bid Conference:**

The Department will hold a pre-bid conference concerning this bid. This conference will be held at **10:00 o'clock A.M. local time on Tuesday ,April, 22nd, at 201 W. Preston St. Baltimore, MD 21201 Room L-2**

Notice is hereby given that attendance at the pre-bid conference described above (if any) is not a condition to bidding on this solicitation. However, the information provided at this pre-bid conference is generally very helpful. Bidders are, therefore, encouraged to attend. For further information regarding the pre-bid conference, please contact:

Gary M. Goldberg, CPPO, CPM (410) 767-0974  
Name Telephone #  
Director  
Title  
Office of Procurement and Support Services  
201 W. Preston Street, Room 416  
Baltimore, MD 21201

**F. Procurement Officer:**

The Procurement Officer responsible for this solicitation is:

Gary M. Goldberg, CPPO, CPM (410) 767-0974  
Name Telephone #  
Director  
Title  
Office of Procurement and Support Services  
201 W. Preston Street, Room 416  
Baltimore, MD 21201  
Address

## **PART II – SPECIFIC REQUIREMENTS/DELIVERABLES OF PROPOSED CONTRACT (SPECIFICATIONS) AND BID PAGE**

### **A. Background:**

This Invitation For Bids (IFB) is designed to acquire the services of one or two pharmacy service organizations that are experienced and able to supply prescription and over-the-counter (OTC) medications to five facilities operated by the Maryland Department of Health and Mental Hygiene (DHMH). The successful bidder(s) must have the ability to receive, process, and reconcile orders for pharmaceuticals through a secure HL7 compliant interface with a new hospital management information system. The interface can be an existing e-prescribing system with the ability to work with multiple accounts. Critical to this process is the transfer of information to DHMH concerning what was ordered and what was actually filled. No costs anticipated for integrating the bidder's existing system with the new hospital system should be included in the response to this IFB.

The Maryland Department of Health and Mental Hygiene manages 16 facilities under the aegis of three DHMH Administrations to provide an array of services to individuals with mental illness, chronic illness or a developmental disability. The five facilities affected by this solicitation are:

**Holly Center** located in Salisbury, Maryland is a residential facility, administered by the Maryland Department of Health and Mental Hygiene Developmental Disabilities Administration. The Center is licensed and certified for 195 individuals with developmental disabilities as an Intermediate Care Facility for the Mentally Retarded (ICF/MR). The current census is composed of 95 individuals from nine Eastern Shore Maryland counties who are in the "severe and profound" range of mental retardation. Residents have complex medical diagnoses as well as associated behavioral problems. Holly Center is partially funded under the Federal Medicaid program. Eligibility for this funding is based on compliance with the ICF/MR standards as promulgated by the Centers for Medicare and Medicaid Services.

**Western Maryland Hospital Center (WMHC)** located in Hagerstown, Maryland is one of two licensed and accredited regional facilities administered by the Maryland Department of Health and Mental Hygiene, Family Health Administration consisting of an inpatient chronic disease/acute care hospital, a nursing home unit, an outpatient renal dialysis unit and an outpatient physical/occupational therapy unit. The Center serves an average daily inpatient population of 90 patients who require in-hospital treatment and rehabilitation programs for an array of chronic illnesses. The Center also provides services for the region's Renal Dialysis program serving an average of 24 patients.

**Deer's Head Hospital Center (DHHC)** located in Salisbury, Maryland is one of two licensed and accredited regional facilities administered by the Maryland Department of Health and Mental Hygiene, Family Health Administration consisting of an inpatient chronic disease/acute care hospital, a nursing home unit, an outpatient renal dialysis unit and an outpatient physical/occupational therapy unit. The Center serves an inpatient population who require in-hospital treatment and offers rehabilitation programs for an array of chronic illnesses. The Center also provides services for the region's Renal Dialysis program serving an average of 62 patients.

**Regional Institute for Children and Adolescents (R.I.C.A.)-Baltimore** located in Baltimore City, Maryland is a mental health residential treatment and educational facility of the Maryland State Department of Health and Mental Hygiene, Mental Hygiene Administration. This facility provides treatment and educational programs for an average of 38 residential and 60 day student

adolescent boys and girls aged 12 to 18 who are experiencing emotional, behavioral and learning difficulties from the central Maryland region, the Eastern Shore, and parts of Western Maryland.

**John L. Gildner Regional Institute for Children and Adolescents (JLG-RICA)** located in Rockville, Maryland is a community-based, public residential, clinical, and educational facility serving children and adolescents with severe emotional disabilities. The program is designed to provide residential and day treatment for students ranging in age from 10 to 18. The JLG-RICA program has the capacity for 100 day students and 80 residential students.

**B. Definitions:**

**Administration Errors:** Each incident in which a client receives an incorrect drug, drug dose, dosage form, quantity, route, or concentrations. A failure to administer a dose or administering a dose at an incorrect time is an error.

**Client:** Anyone receiving services or care through any of the five facilities covered under this solicitation. This may include in-patients, out-patients, residents, and students.

**CMS:** Centers for Medicare and Medicaid Services, a branch of the U.S. Department of Health and Human Services (formerly the Health Care Financing Administration or HCFA).

**Prescribing Errors:** An incorrect selection of drug, drug dose, dosage form, quantity, route, concentration rate of administration, or instructions for use of a drug product ordered or authorized by physician or other legitimate prescriber. Errors may occur due to improper evaluation of indications, contraindications, known allergies, existing drug therapy and other factors. Illegible prescriptions or medication orders that lead to client level errors are also defined as errors of prescribing.

**Prescription:** A prescription is an order signed by a physician for medication necessary for the treatment of an illness or disorder.

**C. Mandatory Qualifications/Requirements:**

1. The Contractor shall have a minimum of five years prior experience in providing pharmaceutical delivery services to a group of facilities providing care to similar sorts of patients in both hospital and long-term care settings.
2. The contractor shall insure that throughout the term of the contract all applicable licenses, certifications, and accreditations are maintained. These shall include, but are not limited to, licensure standards of the Maryland Department of Health and Mental Hygiene (DHMH) Office of Health Care Quality (OHCQ), and the Maryland Board of Pharmacy. Evidence of these certifications shall be provided with the bid and as may be subsequently requested .
3. The Contractor shall have and maintain for the entire contract term (including option years if exercised) a current permit issued by the Maryland State Board of Pharmacy and shall provide only pharmacists currently licensed by the Board of Pharmacy.

Qualifications of the primary pharmacist shall include 3-5 years of experience related to serving hospitals and long term care facilities.

**D. Scope of Work**

It is the intent of DHMH to obtain the services of one or two pharmacies (hereafter referred to as “Contractor”) with prior experience in institutional pharmaceutical delivery services, to take full responsibility for providing comprehensive pharmaceutical services to the Holly Center, Western Maryland Hospital Center, Deer’s Head Hospital Center, Regional Institute for Children and Adolescents-Baltimore, and the John L. Gildner-Regional Institute for Children and Adolescents (hereafter referred to collectively as “Facilities”) and to any and all individuals being served under each facility’s license. These pharmaceutical services shall be provided to the facilities in accordance with all applicable licensure, certification, and accreditation standards as stated above. In addition, the Contractor shall comply with any and all new federal, state, and local regulations and requirements applicable to the Facilities and to pharmacy practice in Maryland that may be enacted and/or become required during the term of this contract.

The performance of this contract is to commence on or about July 1, 2008 and will terminate on or about June 30, 2013.

**E. Deliverables:**

**1. Medication And Medication Packaging:**

- a. The Contractor shall maintain an adequate inventory to supply each Facility’s medication needs on an ongoing basis as provided for in this contract. **The following monthly averages are furnished as a guide for example only and shall not be construed as a guaranteed minimum or maximum of purchase.**

<u>Facility</u>	<u>Drug Prescriptions</u>	<u>OTC Supplies</u>
RICA Baltimore	123	47
JLG RICA	392	68
Holly Center	1,000	500
Western Maryland Hospital Center	1,022	370
Deer’s Head Hospital Center	1,136	574

- b. The Contractor shall supply all medications, both prescription and over the counter, as well as miscellaneous medical supplies, diabetes supplies, ostomy supplies and other items normally supplied by pharmacies, as ordered by the Facilities.
- c. The Contractor shall provide a single fill unit dose exchange cassette delivery system of prescription and appropriate non-prescription medications approved for hospitals and nursing facilities by the Department of Health and Mental Hygiene, Office of Health Care Quality. Routine drug deliveries to the Facility shall be available Monday through Friday of each week plus “STAT” deliveries provided 24 hours a day seven (7) days a week at no additional cost. STAT delivery shall be within 2 hours of order placed by the Facility.
- d. Leave of Absence (LOA) medications will be filled upon request. A multi fill unit

- dose package (whenever practicable) shall be provided for LOA medications for individual clients as prescribed by the Facility's physicians. Each medication's label shall show the individual's name, name of the medication, purpose (when applicable and known to the Contractor), dosage, and time to be given and shall have appropriate medication warning labels affixed.
- e. The Contractor shall provide medications for emergency boxes and interim drug cabinets (PYXIS or equivalent). The contents shall be determined by the Therapeutics Committee at each Facility which will then advise the Contractor, upon award of the contract, of the initial requirements. Interim drug cabinets contain a small supply of frequently used medications to be used as a temporary supply for a newly admitted client, or for a newly prescribed medication for an existing client at a Facility. Emergency drug boxes are supplies of medications carried in an emergency kit for use when there is a medical emergency in the Facility. The Contractor will be advised by the Facility whenever any of these drugs are used and of the patient's account to be charged. The Contractor shall replenish emergency or interim stock with the next delivery unless a request is made for STAT replacement. The Contractor shall monitor and update the drug supplies in the emergency boxes after each use and update the interim drug cabinets monthly or as needed to insure that all listed drugs are present and acceptable for use (i.e., expiration dates are valid, drugs are appropriate strength, form and delivery dispenser, etc.).
  - f. The Contractor shall provide all tablets, capsules, etc. and selected liquids in unit-dose packaging, such as blister cards that are perforated with the name of medication and dosage administration time, client name, expiration date, and all applicable warning labels affixed or printed on the back of each dose.
  - g. The Contractor shall have a licensed pharmacist(s) check the content of each individual/blister pack unit-dose package and each cassette before delivery to the Facility. Documentation of the pharmacist's review shall be maintained by the Contractor and provided to the Facility upon request.
  - h. When it is not feasible to provide medications in unit dose form, such as those provided in bottles, tubes, jars, etc., they shall be provided in individual labeled containers with the medication name, dose, administration time, client name, and expiration date with all applicable warning labels affixed in sizes appropriate to expected usage and practical limitations of size. Items where unit dosing is not feasible may include creams, liquids, patches, drops and suppositories, etc.
  - i. The Contractor shall provide certain medications in bulk form to the Central Supply Service and/or the Kidney Dialysis Unit at Deer's Head or Western Maryland Hospital Centers because of the inappropriateness of unit dose administration. Such medications might include Granulex, Bronkosol, Sodium Chloride Tablets (1 gram), Gelfoam, etc. The facility will provide a list of these items.
  - j. Intravenous solutions and intravenous additive solutions shall be supplied in the most cost-effective size available for practical dose administration, in individual client-labeled containers and prepared in accordance with current Maryland Board of Pharmacy standards governing intravenous medication preparation.

- k. Controlled drugs including narcotics shall be provided separately in locked carriers.
- l. The Facilities, at their discretion, may elect to purchase selected items such as vaccines, bulk topical products, antiseptics, respiratory drugs, colony stimulating factors, diabetes supplies, enemas, bladder irrigation solutions, personal hygiene products, and intravenous fluids (other than those used in the Contractor's preparation of additive solutions), from the Contractor, a State contract, or other sources and maintain their own inventory. This inventory will not be the responsibility of the Contractor.
- m. Medications shall be provided for clients discharged from each Facility following receipt of properly executed Physician's orders. The medications shall be in unit dose packaging and the label will show the individual's name, name of the medication, purpose (when applicable and known to the Contractor), dosage, time to be taken, and shall have appropriate medication warning labels affixed. Generally, a four-week supply of medications are ordered and dispensed at the time of discharge. The Contractor shall provide written instructions to the patient, or to the appropriate nursing personnel who will relay it to the patient, on the correct use of medication to be taken after discharge from the Facility. It is the responsibility of the Facility to forward prescriptions for clients to be discharged.
- n. Each Facility and its respective clients reserve the right to purchase and obtain prescription drugs, nonprescription drugs, and supplies from sources other than from the Contractor at any time.

## **2. Medication Delivery**

- a. Medication delivery is the complete responsibility of the Contractor. All couriers/delivery personnel must be bonded and insured and must be employees of the Contractor.
- b. The Contractor shall provide daily routine deliveries except for Saturdays, Sundays and approved holidays, which are New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas when medication services may be provided by the use of spare cassettes providing a forty-eight (48) hour medication supply.
- c. Any medication order faxed or phoned to the Contractor by 4 P.M. on weekdays must be delivered the same day unless the item is not in stock. All medications ordered which are not in stock must be delivered no later than one business day following receipt by the Contractor of a properly executed Physician's order. This delivery requirement shall apply to both prescription and non-prescription medications.
- d. Non-urgent, maintenance medications shall be provided in the quantities requested by each Facility (7 day supply, 30 day supply). Prescriptions may be limited to a period of time allowed by a Facility's Stop-Order Schedule, but in no case shall they exceed a one-month supply. Any unused medication from a prior delivery shall be removed from the medication cart when the new supply is delivered. Any discontinued medications shall be removed from the medication cart at the time of delivery of new medication by the Contractor and a credit shall be applied for all returns.

- e. When LOA medications are ordered they shall be delivered no later than one day prior to the date of the absence. The Facility will give the Contractor notice of the required medications at least 48 hours prior to the date of the absence so that the Contractor may meet the one-day prior delivery requirement.
- f. The Contractor shall provide routine medication deliveries on a rotating schedule for delivery so that not all areas of the Facility have their maintenance medications delivered on the same day.
- g. Between medication deliveries, Facility nursing personnel may remove from the medication carts any medications that have become outdated or discontinued and arrange for the item(s) to be returned to the Contractor. Credit shall be applied to the Facility's monthly invoice for all returns. This shall be done in accordance with all appropriate laws and regulations.
- h. Delivery time requirements may be relaxed by the Director of Clinical Services or his/her designee under certain circumstances such as (but not limited to):
  - i. Recognition by Contractor of known or suspected client allergy to requested medication.
  - ii. Recognition by Contractor of drug-drug interactions that must be resolved with the Facility prior to delivery.
  - iii. Non-availability of a product from the manufacturer. In the event of non-availability of a product, the Contractor will recommend therapeutic alternatives, when available.

### **3. Urgent Medication Delivery**

- a. When a medication is ordered STAT or ASAP (i.e. urgent), Facility nursing personnel will attempt to obtain the medication from interim or emergency medication supplies available at the Facility. Medications and medical supplies ordered as STAT or ASAP that are not available from these supplies shall be provided by the Contractor within two (2) hours of notification by the Center on a 24-hour per day, seven –day (7) per week basis.
- b. The two (2) hour delivery requirement shall also be applicable to the correction of medication dispensing errors (incorrect drugs, incorrect strength, insufficient quantity, etc.), and replacement of lost or damaged medication if there are insufficient doses of the medication to last until the next regularly scheduled medication delivery.

### **5. Personnel**

- a. The Contractor shall provide sufficient pharmacists and pharmacy supportive personnel to ensure service consistent with the requirements of the clients and staff of the Facilities. In addition to general staff the Contractor shall assign to each Facility a specific primary pharmacist who will be responsible to the Facility's Medical Director, Director of Clinical Services, etc. or designee. The primary pharmacist shall possess the following qualifications:

- i. The Primary Pharmacist must maintain a Maryland State Pharmacy license for the duration of the contract; and
  - ii. The Primary Pharmacist shall be knowledgeable, with a minimum of five years experience, in the provision of pharmacy services in hospital, long term care, chronic care or other health care setting.
- b. The Contractor shall provide only pharmacists currently licensed by the Maryland State Board of Pharmacy and shall, at all times, fully comply with the entire contents of MD Code Ann., Health Occupations Article, Title 12 (the Maryland Pharmacy Law). The Contractor shall provide a copy of each Pharmacist's license to the contract monitor at each Facility upon initiation of the contract. The Contractor will also supply to the contract monitor at each Facility a copy of the license of any pharmacist who becomes newly employed by the Contractor during the term of this contract. The Contractor shall not use the services of any personnel under this contract who has been disqualified, barred, or suspended from the Medicaid or Medicare programs in Maryland or in any other State. The Contractor shall immediately inform the contract monitor at each Facility in the event that it or any of its agents, officers, or employees becomes the subject of an investigation by the Maryland State Board of Pharmacy, the Medicare or Medicaid programs, or any other professional licensing or regulatory authority wherever located.
- c. The Contractor shall immediately notify the contract monitor at each Facility of any disciplinary action taken by the Maryland State Board of Pharmacy against any pharmacist employed by the contractor and shall ensure that the pharmacist does not provide services under this contract. Disciplinary action taken by the Maryland State Board of Pharmacy against the Contractor itself shall constitute cause for termination of the contract for default.
- d. The Contractor shall ensure that:
  - i. Non-pharmacist personnel work only under the direct supervision of a pharmacist;
  - ii. Non-pharmacist personnel are fully aware of all activities involved in the preparation and dispensing of medications, including the maintenance of appropriate records;
  - iii. That the duties and responsibilities of non-pharmacist personnel are consistent with their training and experience; and
  - iv. That non-pharmacist personnel are not assigned duties that by law must be performed only by licensed pharmacists.
- e. All personnel shall be required to attend an orientation program, sponsored by the contractor, that addresses appropriate State and Federal Laws and professional standards. Copies of appropriate State and Federal Laws and Regulations must be available to all pharmacists and staff.
- f. The Contractor shall adhere to State laws and State Board of Pharmacy regulations with respect to registration of support personnel.

- g. The Contractor shall be required to provide evidence upon request that each pharmacist's performance has been evaluated on at least an annual basis. The performance appraisal must be in accordance with the standards of the Joint Commission (JCAHO), based on at least the written job description and key competencies.

**h. MEDICAL EXAMINATION OF EMPLOYEES**

Prior to beginning work, and in keeping with each facility's infection control regulations, each employee of the Contractor who will provide services on any facility campus (whether this be a pharmacist, a courier, or other personnel), shall be required to pass a medical examination to exclude communicable disease. This examination shall be completed by a licensed physician and shall include, at a minimum:

A statement of general health

Tuberculosis test via the intradermal PPD test. All employees of the Contractor who provide services on the facilities' campuses must be certified free of tuberculosis before working at the facility and each must be tested annually thereafter and be certified as tuberculosis free for the full duration of the contract. Contractor shall provide verification of tuberculosis testing of each employee to contract monitor(s) annually and at the time of hiring of new employees who will provide services on any of the facilities' campuses.

The Contractor shall provide documentation to the Contract Monitors that any employee of the Contractor providing services on any facility's campus has either received or been offered and declined a Hepatitis B vaccination series prior to the employee providing services on the facility's campus. Random drug testing may be as required. All costs of above medical examinations shall be the responsibility of the contractor.

**i. BACKGROUND CHECK OF EMPLOYEES**

The Contractor shall submit an information release form for each employee of the Contractor who will be providing services on any facility campus (whether this be a pharmacist, a courier, or other employee) which will be used by the facility to review background and qualifications. The reviews shall include, but are not limited to the following:

Past work history  
Character  
Education  
Military records

The Contractor shall obtain at contractor's expense, a Criminal Justice Information System (CJIS) criminal background check for each pharmacist or courier performing services. The State also reserves the right to inquire directly to the Board of Pharmacy as to the status of any pharmacist at the cost of the

Contractor. Until a successful CJIS criminal background check is completed (approximately one month), a pharmacist or courier may not work under this contract. A CJIS background check is necessary and must be completed within one (1) month of receiving award. The Contractor shall provide copies of the background check to the contract monitor to be kept on file. The State reserves the right to reject any pharmacists or couriers based upon the results of the background check.

All costs of above background check of employees to be the responsibility of the contractor.

## **6. Professional Services**

- a. The primary pharmacist assigned to work with each Facility, or a pharmacist-designee, shall be available during normal business hours (9AM through 5PM Monday to Friday with the exception of approved holidays, see I.I.E.2.b) for consultation with the Facilities' physicians and nursing staff regarding routine matters, medication selection, and prescribing including advice on drugs of choice for therapeutic indications, cost-effective prescribing practices, drug interactions, and other aspects of pharmacy and therapeutics which are recognized to be in the pharmacist's area of professional expertise. There shall be an on-call pharmacist, who is an employee of the Contractor, available at all other times for urgent and unusual medication selection and prescribing matters and consultations. There shall be no additional compensation for consulting services provided.
- b. A licensed pharmacist shall review and initial each medication order prior to dispensing the medication. The Contractor shall have a licensed pharmacist(s) check the content of each individual/blister pack unit-dose package and each cassette before delivery to the Facility. Documentation of the pharmacist's review shall be maintained by the Contractor and provided to the Facility upon request. Each order will be reviewed for possible client allergy and for drug-drug or drug food interaction.
- c. The pharmacist shall notify the prescribing physician of any possible allergy or drug-drug/drug-food interaction and not dispense the medication until the allergy or interaction issue is resolved to the satisfaction of the pharmacist and the prescribing physician (or designee). When the pharmacist has a question about a medication order, he/she shall resolve it with the physician prescribing the medication at the Facility and record the communication and follow-up action in a log book or electronic record. This procedure shall be followed for medication orders that may have an adverse medication reaction or for any occurrence when the pharmacist is not clear what the physician's intent is. Copies shall be filed and accessible for review at the next quarterly meeting of the appropriate Facility's Pharmacy and Therapeutics Committee.
- d. The primary pharmacist, or pharmacist-designee, shall attend all meetings of each Facility's quarterly Pharmacy and Therapeutics Committee. The primary pharmacist shall provide all requested pharmaceutical and cost-related information to enable the Pharmacy and Therapeutics Committee to formulate appropriate policies and procedures, to achieve consensus on efficacious and cost-effective prescribing practices and to design and carry out pharmacy-related quality assurance activities. The primary pharmacist shall provide

- reports of medication errors, adverse reactions and other incidents, and reports of drug utilization at each meeting.
- e. The primary pharmacist, or pharmacist designee, shall conduct clinical reviews of any new client's chart on site within five business days of notification by a Facility of a new admission, and an in-depth clinical record review of a client's chart on an as needed basis as requested by a Facility (this could include some medications not provided by the Contractor). These reviews may be performed by the Contractor at the Contractor's facility upon written approval by the DHMH Contract Monitor for the specific DHMH Facility.
  - f. The Contractor's primary pharmacist shall review each client's medications every quarter. The scheduling of these reviews will be done with the Contractor by each Facility. The results of each Facility's client medication reviews will be recorded on a quarterly medication review form. The reviews will cover, at a minimum, a review of the client's medications, diagnoses, recent laboratory tests, and clinical status. The primary pharmacist will provide, on the quarterly medication review form, any comments or recommendations regarding the client's medication treatment. These reviews may be performed by the Contractor at the Contractor's facility upon written approval by the DHMH Contract Monitor for the specific DHMH Facility.
  - g. The Contractor will notify the DHMH Contract monitor when each review has been completed in order that the primary physician can read the reviews, act upon any recommendations, and sign off on each review.
  - h. The Contractor shall provide drug regimen review of each client quarterly and make written recommendations to the client's attending physician.
  - i. The contractor shall use a clinical pharmacist to provide therapeutic drug monitoring including ordering medications based on drug monitoring results, ie, Aminoglycoside dosaging, hyperalimentation, etc.
  - j. The Contractor shall maintain a medical profile on each client by Facility for whom a prescription is filled. This profile is to include at a minimum the client's name, date of birth, gender, weight, diagnoses, prescribing physician(s), current medication therapy including prescription and non-prescription drugs, medication allergies or sensitivities and potential drug-food interactions. The Contractor shall promptly alert the prescribing physician or medication nurse on duty and Medical Director when contraindications, drug interactions, dosage abnormalities, or other potential drug problems occur or may occur.. The Contractor shall maintain other information as deemed appropriate by the Facility and/or the Contractor.
  - k. The Contractor shall routinely conduct a prospective review when new medications are prescribed and serve as a consultant and alert the prescribing physician regarding potential adverse drug/drug interactions, potential drug/food interactions and identify by severity level.
  - l. The Contractor shall perform monthly inspections and inventory of the medication carts, medication rooms at each nursing station, emergency and interim boxes, stock

supply cabinet, and additional areas where pharmaceuticals may be stored or handled as specified by DHMH contract monitor at each Facility. The Contractor shall monitor and update the drug supplies in the emergency and interim drug box and stock supply cabinet monthly to insure that all listed drugs are present and acceptable for use (i.e., expiration dates are valid, drugs are appropriate strength, etc.).

Inspections shall include:

- i. Checking and removing outdated drugs;
  - ii. Checking for proper storage of drugs;
  - iii. Checking proper refrigerator and freezer temperatures;
  - iv. Assuring those antiseptics and other drugs for external use and disinfectants are stored separately from internally administered and injectable medication;
  - v. Assuring that no food items or laboratory specimens are stored in the same refrigerator or freezer as medications;
  - vi. Assuring that those drugs requiring special conditions for storage are stored in accordance with current established standards (United States Pharmacopoeia) so that, in the opinion of the primary pharmacist, the integrity, stability, and effectiveness of the drugs are maintained;
  - vii. Assuring that all recalled, outdated or otherwise unusable drugs are removed from storage areas cabinets and boxes, and from the Center;
  - viii. Inspecting medication rooms to be sure they are secure and have properly functioning door locks; and
  - ix. Inspecting medication carts to be sure they are secure and have properly functioning locks.
- m. Results of these inspections, recommendations and subsequent corrective action shall be documented (format of report to be approved by the DHMH contract monitor at each Facility) and the reports forwarded promptly to the appropriate Facility contract monitor. The Facilities will be responsible for any necessary repairs or adjustments of medication, refrigerators, door locks, or repairs to medication rooms or other medication storage areas. The Contractor will supply, maintain and service the interim and emergency medication boxes.
- n. The Contractor shall provide a minimum of six hours of in-service training at each Facility each year to the medical and nursing staff on drug topics selected in conjunction with the staff, such as: signs of drug deterioration, drug incompatibilities, drug toxicity and optimum drug effect, choice of antibiotics, hypnotics, tranquilizers, etc., and instructions regarding new pharmaceutical products.
- o. The primary pharmacist, or pharmacist designee, may be requested to be present at a Facility, during inspections and surveys by regulatory and licensing bodies such as the Maryland Department of Health and Mental Hygiene, Maryland Office of Health Care Quality, The Centers for Medicare & Medicaid Services, the Maryland Board of Pharmacy, or any other regulatory agency whose inspection or survey includes pharmacy services at the Facilities. The Department cannot guarantee that such inspections will not co-occur among Facilities.

## **7. Equipment To Be Supplied**

- a. Medication Carts

Based on current censuses, the Contractor shall provide medication carts and cassettes for each Facility as described below. Each medication cart shall have a locking storage area containing individual draws for each client's medication and an area that is under double lock for storing of controlled substances. The Contractor shall furnish this equipment in good working condition without undue blemishes, chips, scratches or stains. Each Facility shall be the sole judge of the acceptability of the equipment. The equipment shall be the property and responsibility of the Contractor. The Contractor shall be responsible for repair, maintenance or replacement of the carts should they become unusable, inoperable or no longer secure. Restoration to safe working order shall occur within 24 hours of notification of problem. An extra full set of all keys to all medication carts will be maintained in each Facility in a place specified by each Facility's contract monitor.

RICA Baltimore: three mobile carts and adequate cassettes for three Medication Rooms, located in each Cottage with a capacity of 15 clients.

John L. Gildner RICA: four mobile carts and adequate cassettes for four Med Rooms. Carts are needed for two med rooms that are located in residential cottages that house 24 clients each.. Another cart is needed for one med room located in a third residential cottage that houses and serves 32 clients, and the fourth cart is needed in the Health Suite in the school building where an additional one med room is located, from which noon medications for all 80 residential and some day clients are dispensed during school hours.

Holly Center: nine medication carts. Some living areas may require one, two, or three carts.

Deer's Head Hospital Center: nine or more medication carts to meet the needs of the Center. Each medication cart shall have a configuration approved by the Center .

Western Maryland Hospital Center: nine or more medication carts to meet the needs of the Center. Each medication cart shall have a configuration approved by the Center

- b. Contractor will supply appropriate, secure medication storage containers, approved by each DHMH Facility's contract monitor, for storage of interim and emergency medication supplies.
- c. The Contractor shall ensure that each Facility has operating electronic plain paper facsimile (FAX) machines. The number and placement of the machines will be determined by each Facility. Machines will possess a transmission time of no longer than 45 seconds per 8½" X 11" page. The fax machines will be used to transmit medication orders and other correspondence or data to the Contractor not sent via the Internet.
  - i. The contractor shall provide a local number to transmit this data or an "800" number, or some type of similar arrangement which avoids incurring any long distance telephone charges when communicating with the contractor.

- ii. Contractor shall provide all related supplies and cover the cost of those supplies (drum, toner cartridges) and arrange and bear the cost of maintenance of the fax machines. Phone lines used for fax transmissions will be supplied and paid for by each Facility.
- iii. If the fax equipment becomes inoperable, the Contractor will provide a replacement machine or a loaner. If loaner is made, contractor will have a new machine within 2 (two) business days of notification that the machine is in operable.
- d. The contractor shall provide a secure Internet based tool which allows the physicians and Quality Assurance Department at each facility to access specific information on each individual. This system provides for each DHMH Facility:
  - i. Access to billing information;
  - ii. Drug formulary recommendations;
  - iii. Payor status report which ensures that the Facilities are billed correctly;
  - iv. Access to drug fact information; and
  - v. Capacity to fill pharmacy prescription orders electronically.

The Contractor shall provide internet program software that will permit staff to access resident medication profiles (current and past), pricing information, drug interaction/allergy information, patient education, physician order sheets, medication sheets, reports, and drug pricing. The Contractor shall provide for submission of prescription orders via the internet to enable personnel to send prescription orders and/or other appropriate correspondence or data to the Contractor and for the Center to maintain verification of orders sent.

- e. The Contractor shall provide training to key personnel at each Facility in the use of all equipment and software supplied.

## **8. Forms and Publications**

- a. The Contractor shall provide printed physician order sheets and medication administration record (MAR) forms for each client. Sample forms currently in use will be made available for review . Prior approval by each Facility is required if forms other than those currently in use are desired by the Contractor. These forms shall be provided and updated as needed at no additional cost to the Facilities. The delivery date and person to receive the forms will be determined by each Facility's contract monitor.
  - i. Physician order sheets shall be provided no later than seven days prior to the medication review date for each client or whenever requested by a Facility to replenish the supply.
  - ii. One week prior to each month, and as needed during a month, printed MAR forms shall be provided for each client. The MAR must correspond to the prescribed medications and include the client's name, birth date, chart number, allergies and diagnoses. All currently ordered medications and treatments will be listed on a grid to enable recording the next month's administration of medications and treatments. MARs shall be provided for all new admissions

within two business days of notification and transmission of medication orders and demographic, allergy and diagnostic data to the Contractor by a Facility. Updated MARs shall be delivered to a Facility prior to the scheduled start of a medication change each month. The Contractor will be expected to provide forms for the month following termination of the contract. The Department prefers to access MARs electronically via the web if extra forms are needed.

- b. The contractor will annually provide one copy of the current Physicians' Desk Reference (PDR) to each Facility. The contractor will also provide copies of the current PDR Nurses Drug Handbook as requested by each Facility.

## 9. Reports

- a. The Contractor shall provide the following reports to all Facilities with information specific to each. The minimum information required in each is identified below; however, the number of copies required and the recipient(s) of each report vary by Facility and shall be arranged with each Facility following contract award. Copies of report formats currently in use may be provided by each specific Facility. The delivery date for each report will be in accordance with the particular schedule determined by each Facility.
  - i. **Master Drug Listing.** This report is required monthly in a standard electronic format acceptable to each Facility (such as Microsoft Access or Excel). The report shall list the prescriptions written during the previous month. It shall be sorted alphabetically by resident name and contain the following data elements: drugs prescribed, order date, dosage strength, form and quantity or cumulative quantity of multi-source drugs, NDC code, new medications initiated, cost, and prescribing physician. This report shall also include a list of drugs that exceed the FDA recommended dosage and prompt for various labs needed with specific drugs (i.e. lithium levels). **Data should be coded so that the Facility can filter on psychotropic, somatic, over the counter medications, and new generation antipsychotic drugs.**
  - ii. The Contractor shall provide a quarterly report to the Quality Manager containing the results of quality indicator monitoring. At least five significant indicators shall be chosen and approved by the Quality Manager.
  - iii. **Pharmacy Inspection Reports** – quarterly. Report results of Pharmacist's inspection for all medication administration areas.
  - iv. **Medication Error Report** – monthly. This report shall list administration errors and errors in prescribing (see definitions).
  - v. If other report data, not presently compiled, are required in the future by accrediting or licensing agencies, the Contractor shall agree to work with the Center's staff to collect additional data and develop an adequate report format.

## 10. Drug Formulary

- a. The Contractor shall furnish generic drugs if available and covered by Medicaid or other Insurance.

- b. The Contractor shall fill prescriptions only for drugs as listed in the Facility's formulary unless presented with authorization for non-formulary or "special approval" drug in accordance with the Facility's policies and procedures (e.g. a medication that has a newly studied application that has not been officially studied by the FDA). The Facility will provide a copy of the formulary; however the formulary may change as a result of new medications as well as changes in client population.
- c. Contractor will notify prescribing physician if a medication is outside of a client's pharmacy benefits manager's drug formulary and recommend possible therapeutic substitutions that fall within the drug formulary.

### **13. Quality Assurance**

- a. The Contractor shall ensure that the places of preparation of medications to be supplied have appropriate space, equipment, and supplies to permit the proper storage, compounding, sterilizing when applicable, packaging, labeling, and dispensing of medications. These areas of preparation must also have appropriate ventilation, including laminar airflow hoods, when necessary and appropriate and required by regulation. Furthermore, adequate quality control methods must be in place regarding the cleaning of equipment and microbiological monitoring. The State reserves the right to inspect the facilities with a 24-hour notice.
- b. Upon notification of selection as the apparent awardee, the Contractor shall provide the State with a written description of its quality control program including the monitoring of the qualifications, training and performance of personnel and the monitoring of equipment, facilities, and products; thereafter the Contractor shall provide a periodic report of the results of such monitoring no less than quarterly. The performance appraisal must be in accordance with JCAHO and based on a written job description and include age-specific criteria and key competencies.

### **14. Reimbursement**

We are providing our best available information on annual Medicaid billing that each facility generates. **THERE IS NO ASSURANCE THAT THE FACILITY WILL GENERATE SIMILAR BILLINGS IN THE FUTURE.** In addition, we believe that there may be additional revenues available from filling prescriptions under Medicare Part D, private insurance, and no insurance situations.

The Facility is to be billed for any co-pay and will be responsible to the Contractor for payment under the provisions of paragraph (g) below. The information shall include patients name, drug, date of delivery, amount of drug cost, and amount of co-pay. In the instances where there is no insurance, the Contractor is to bill, and accept, the Medicaid rate which will be paid by the facility (including any applicable co-pay). Should the procedure change and the Facility request that all or any patients be billed directly for any co-pay, the state will guarantee payment after the vendor has made a good faith effort to collect the money.

- a. When a client has prescription insurance coverage, that insurance will be billed for the client's medications and supplies. This payment will be accepted as primary

- coverage and payment will be accepted as payment in full. This includes Medical Assistance, Medicare D, or any private insurance provider. In the event a prescription is not covered by a client's plan the contractor will notify the physician with a suggested substitute that is covered by the client's plan.
- b. Prior approvals: Contractor will notify prescribing physician if prior approval for a medication is required by a client's pharmacy benefits manager.
  - c. Client summary shall be submitted monthly in duplicate in both a summary format and a detail form. THE TWO MUST RECONCILE. The following detail information is needed at the time of delivery and another with a monthly summary statement.
    - i. Client summary shall reflect the following information: Vendor identification data (name, address, Federal Tax I.D. number, and contract control number), Grand total of all charges for the month, (Medical Assistance, Private Pay, and Facility).
    - ii. Client detail shall reflect the following information: Alphabetical listing by client name, Drug identification (description plus NDC Code), Date of prescription order, Quantity / unit dispensed, Unit cost of the medication (with decimal place extension), Agency/Individual billed for medication, Over the Counter medications by client, and Total cost per medication dispensed to each client (i.e. Joe's Depakote, Joe's Ritalin).
    - iii. Clients must be separately tracked for data retrieval in the following categories: Medical Assistance, Private Pay, and Facility.
  - d. The Contractor shall accept complete responsibility for securing payment for prescription drugs from the private insurance company and/or from Medical Assistance.
  - e. Each Facility agrees to notify the Contractor as to the status of each client regarding source of reimbursement for prescription drugs and supplies and shall promptly notify the Contractor as to any change in status or source of reimbursement. All Facilities will give the Contractor reasonable access to all client records, space, and supplies necessary for the performance of pharmacy duties therein, and the Contractor agrees that it shall furnish to the Facility upon request all reciprocal information relating to the drugs and supplies furnished to the Facility or clients therein.
  - f. The Contractor shall bill the responsible party directly for all clients using private insurance for which services are provided. In the event of any dispute arising from any claims or bill submitted by the Contractor, the Contractor shall have access to all reasonable and necessary documents and records that would, in the discretion of the Contractor, tend to sustain its claim. Further, where a Facility is an intermediary in the processing of said claim, the Facility shall promptly furnish to the Contractor all information regarding the status of the claim and shall grant to any fiscal agency involved the right to discuss the status of the claim with the Contractor.
  - g. The Contractor will bill Medicaid directly for all medications covered by Medicaid. Billing and Collection Procedures and tactics to be used by the Contractor shall follow good business practices. The Contractor will be provided by the Facility with information to facilitate collection of co-payments and other payments. The Contractor is responsible for collection of co-payments from individuals or

parents/guardian. If the Contractor is unable to collect after reasonable efforts, the appropriate Facility shall assist in the following manner:

- i. Provide to the Contractor the billing method agreed upon by the parent/guardian,
- ii. The Contractor will inform the Facility after thirty days of any billed and non-collected payments so that the Facility can do an intervention.
- iii. After sixty (60) days, the Facility will assume responsibility for payment for unpaid co-pays, to the extent funding for such payment is appropriated and available.

**F. Insurance Requirements:**

Prior to commencing work on this contract, the contractor shall provide the Department with a Certificate of Insurance for itself and any subcontractor under the agreement covering claims arising from the operations and provided under the contract. These insurance coverages shall include the following:

- a. The statutory limit for Worker's Compensation coverage;
- b. Broad Form Comprehensive General Liability Insurance with a minimum bodily injury limit of \$300,000 for each person and \$500,000 aggregate for each;
- c. Professional Liability Insurance with a minimum limit of \$1,000,000 per incident and \$3,000,000 aggregate for each occurrence; and
- e. Automobile Liability, if applicable.

All coverages shall be provided by insurance companies licensed to do business in the State of Maryland and shall be endorsed to provide 30 day notice of cancellation or non-renewal to the Department's Contract Monitor identified in PART III of this document. All insurance shall be in an amount and type acceptable to the State of Maryland. Any self-insurance program must be documented including any necessary regulatory approval. The contractor will name the State of Maryland as an Additional Named Insured on all liability policies (Workers' Compensation excepted).

**G. Bid Submission Requirements:**

The bidder shall submit one copy of the following with each bid submission:

- a. Two references for which hospital pharmacy and/or long-term care services have been/are being provided within the past two years. For each reference provide the name, address, type, size of the account, approximate dollar value, and a contact person identified by name, title and telephone number.
- b. All bidders shall complete and submit with their bid, the Bid/Proposal Affidavit attached hereto. Bids that do not include the Bid/Proposal Affidavit may be considered non-responsive and rejected by the Procurement Officer.
- c. All bidders shall provide the most current annual report to stockholders and/or any documentation that indicates corporate and/or other financial resources that will permit the bidder to fulfill the terms of this IFB. This documentation may include but

- is not limited to, one or all of the following:
- i. Dunn and Bradstreet Ratings
  - ii. Audited Financial Statements
  - iii. Line(s) of Credit
  - iv. Successful financial track record
  - v. Adequate Working Capital
- d. All bidders shall provide a Legal Action Summary that includes:
- i. A statement as to whether there are any outstanding legal actions or potential claims against the bidder and a brief description of any such action.
  - ii. A brief description of any settled or closed legal actions or claims against the bidder over the past five (5) years.
  - iii. A description of any judgments against the Offeror within the past five (5) years, including the case name, number court, and what the final ruling or determination was from the court.
  - iv. In instances where litigation is ongoing and the bidder has been directed not to disclose information by the court, provide the name of the judge and location of the court.
- e. All bidders shall provide a list of all contracts with any entity of the State of Maryland that it is currently performing or which have been completed within the last 5 years. For each identified contract the bidder is to provide:
- i. The State contracting entity
  - ii. A brief description of the services/goods provided
  - iii. The dollar value of the contract
  - iv. The term of the contract
  - v. The State employee contact person (name, title, telephone number and if possible e-mail address)
  - vi. Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised.
- f. Bidders shall provide, with their bid, a description and educational history of the Primary Pharmacist and include recent experience, employment history, and background. The state reserves the right to require any of the contractor's employees to consent to a background investigation.
- g. Provide a copy of the permit issued to the bidder by the Maryland Board of Pharmacy.
- h. Complete and submit with the bid Attachment II, Certification of Delivery Capability, providing the following information.:
- 1. Address of the location(s) that will be providing daily deliveries to the Center.
  - 2. One or more telephone numbers that will be answered 24 hours per day, 7 days per week.

3. Specific willingness and capability to comply with the two-hour delivery requirements addressed in this solicitation document.

- i. Identify a backup location (i.e., a subcontracted pharmacy) within one (1) hours driving time which will provide the STAT/emergency medications and Contractor medication error correction needs if the dispensing location identified in “h.1.” above is more than one (1) hours driving time from the Center. Additionally, the backup source must submit a letter of agreement that explicitly states their commitment to be such a backup source and to also meet all other requirements as outlined in this document.
- j. The Contractor shall provide the Contract Monitors with a written description of its quality control program including the monitoring of the qualifications, training and performance of personnel and the monitoring of equipment, facilities, and products; thereafter, provide a periodic report of the results of such monitoring no less than quarterly.

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**BID PAGE**

Complete Pharmacy Services for the Holly Center, Deer's Head Hospital Center, Western Maryland Hospital Center, Regional Institute for Children and Adolescents-Baltimore and the John L. Gildner Regional Institute for Children and Adolescents

(Solicitation/Contract Title)

Note To Vendors: This Bid Page is divided into two parts according to geographic area. A Vendor may bid for either or both areas. The Department intends to award one contract in each area as a result of this solicitation.

<u>Area 1</u>	OTC*	**Monthly Service Cost	Total
Holly Center		\$ _____	\$ _____
Deer's Head Hospital Center		\$ _____	\$ _____
Total	\$ _____	\$ _____	\$ _____ ***

<u>Area 2</u>			
RICA Baltimore		\$ _____	\$ _____
John L. Gildner RICA		\$ _____	\$ _____
Western Maryland Hospital Center		\$ _____	\$ _____
Total	\$ _____	\$ _____	\$ _____ ***

\* See next two pages

\*\*Bidder may add an amount needed for on-site visits and/or on-site supplies

\*\*\*Basis for Award (add OTC Total plus Monthly Service Cost)

Bid Price Attested to by \_\_\_\_\_ Date \_\_\_\_\_  
 (Signature)

By submitting this bid, the bidder, in the event of contract award, agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. See Part I Electronic Funds Transfer.

**Important: Do not alter this page.** Failure to fill out this bid page completely or altering the bid page in any way may render your bid non-responsive. Should you have any questions regarding this bid page contact the Procurement Officer identified in PART I.

## BID SHEET

Bidders should recognize that they achieve the vast majority of their revenues by supplying pharmaceuticals under the Medicaid and Medicare programs. Although the State will be responsible for prescriptions ordered but not paid for by these, or other health insurance, programs, the reimbursement formulas are pre-set by Medicaid and Medicare. Co-pays will normally remain the responsibility of the individual patient.

Therefore, the only item that can be compared in this bid will be those over-the-counter drugs and any other medically needed items that are requested but not covered under one of the aforementioned plans.

Since we have not been able to locate a common published listing of prices for over-the-counter drugs and related items, we have chosen to have bidders supply a price for the attached items. This will be used as a basis of comparison between bids and **MUST** be based upon a percentage over or under the bidder's own raw cost of the items ("raw" cost is that cost of the item as billed to the bidder by a manufacturer or third-party supplier and does not include any separately identifiable charge for freight or handling). The intent of this BID SHEET is, therefore, to identify the bidder that is able to buy products economically and to sell them at a pre-agreed markup or discount from their "raw" cost. Bidders are to submit "raw" cost data, accompanied by either an affidavit from their supplier or copy of the appropriate bill, and agree to the State having the right to audit any charge for over-the-counter medications and related items.

The contract resulting from this bid will use the percentage markup or discount for the basis of charging for over-the-counter drugs and related items.

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**REPRESENTATIVE OTC ITEMS**

<b>ITEM</b>	<b>RAW COST</b>	<b>BID PRICE</b>	<b>% MARK-UP</b>
Acetaminophen 325 mg/1000 count			
Acetaminophen 160mg/5ml 480ml bottles			
Aspirin EC 81 mg tab			
Aspirin EC 81 mg tab Chewable			
Bacitracin Ointment			
Benzoyl Peroxide Wash 10%			
Calcium Carbonate 1250mg/5ml 500ml bottles			
Calmoseptine ointment			
Certagen Liquid 237ml bottles			
Cetaphil Cream 453gm bottles			
Chlortrimeton 4mg, 8mg			
Citrate Of Magnesia 296ml bottles			
Diphenhydramine 25mg.			
Docusate Sodium 100mg 1000 bottles			
Ferrous Sulfate 325mg Tablet			
Ferrous Sulfate liquid			
Genebs 325mg tablet			
Ibuprofen 200mg			
Immodium			
Loratadine D 24 hour			
Loratadine 10mg			
Loratadine children's 5mg/5ml 120ml bottles			
Maalox Liquid			
Milk of Magnesia 400 mg/5 ml bottles			
Ocean Nasal Mist			
Oyster Cal 250/125mg 1000 bottles			
Pepto Bismol Liquid			
Rena-Vite Tablet			
Reliable Gentle Lax Tab EC			
Robitussin DM			
Senna 8.6 mg tab			
Senna S			
Simethicone 80 mg tab			
Sodium Chloride 1 GM tab			
Therapeutic-M Tablet			
Visine			
Vitamin C tab 500 mg			
Vitamin-Multi			
Vitamin-Mult with Iron			

**TOTAL**                    \$ \_\_\_\_\_                    \* \$ \_\_\_\_\_                    **AVG %** \_\_\_\_\_

**\*This is the number to be inserted for the OTC Total on the Bid Page. Insert the same number for each area that is being bid.**

### **PART III -- GENERAL SOLICITATION AND BID PROVISIONS**

- A. The Department of Health and Mental Hygiene reserves the right to cancel this solicitation or reject any or all bids, in whole or in part, to waive minor irregularities in bids, or to allow the bidder to correct a minor irregularity if the best interest of the State will be served by doing so (COMAR 21.06.02).
- B. All bids become the property of the Department of Health and Mental Hygiene, and neither the Department nor the State of Maryland shall be responsible for any expenses incurred by the bidders in preparing or submitting their bids.
- C. All bidders shall acknowledge the receipt of all amendments, addenda, and changes issued in connection with this solicitation.
- D. Bids may be modified or withdrawn by written notice received in the office designated in this Solicitation before the time and date set for the opening. If expressly permitted in the invitation for bids, notification of bid modification or withdrawal may be made by electronic means only in the manner specified in the invitation for bids..
- E.
  - 1. A bid, request to withdraw a bid, or a modification to a bid is late if it is not received by the Department at the place and by the date and time specified on page 1 of this Solicitation.
  - 2. A late bid, late modification, or late request for withdrawal shall not be considered. Exceptions may be made when a late bid is received before contract award, and the bid, the modification, or withdrawal would have been timely but for the action or inaction of State personnel directing the procurement activity or their employees. A late modification of a successful bid, which makes its terms more favorable to the State, shall be considered at any time it is received and may be accepted.
- F. All bidders must complete and submit with their bid the Bid/Proposal Affidavit attached hereto As Appendix A. Note that the Contract Affidavit (Appendix B) must be submitted by the successful bidder within ten (10) business days of being notified of recommendation for award.
- G. Unless otherwise specified under PART II of this solicitation, this contract shall be awarded to the responsive and responsible bidder submitting the most favorable (lowest) bid price.
- H. In the case of tie bids, the award will be made in accordance with COMAR 21.05.02.14, unless another tie breaker is defined under Section II of this document.
- I. Bidders should give specific attention to the identification of those portions of their proposal that they deem to be confidential, proprietary information, or trade secrets and provide any justification of why this information should not be disclosed under the Annotated Code of Maryland, §§ 10-611 through 10-630 of the State Government Article. Bidders are advised that, upon request for this information from a third party, the Department is required to make an independent determination as to whether the

information may or must be divulged to the party. Bidders are further advised that bids will be opened publicly unless specifically stated otherwise in Section II (see COMAR 21.05.02.11 and 21.05.02.17).

- J. Any bidder, offeror or other interested person who is aggrieved by the award of the contract resulting from this solicitation may protest that decision. If a protest is made, it shall be in accordance with the procedures set forth at COMAR 21.10.02.03. and 04.
- K. The State reserves the right to make the award by item, or group of items, or total bid if it is in the best interest of the State to do so, unless the bidder specifies in its bid that a partial or progressive award is not acceptable. Note: this may render the bid non-responsive.
- L. The prices bid in response to this solicitation are irrevocable for a period of 90 days following the bid opening unless another period of time is contained in the bid specifications.
- M. Although Maryland law does not authorize procuring agencies to favor resident Bidders in awarding procurement contracts, many other states do grant their resident businesses preference over Maryland contractors. Therefore, as described in COMAR 21.05.01.04, a resident business preference will be given if: a responsible Bidder whose headquarters, principal base of operations, or principal site that will primarily provide the services required under this INVITATION FOR BIDS is in another state submits the most advantageous bid; the other state gives a preference to its residents through law, policy, or practice; and, the preference to be applied to the contract award herein does not conflict with a Federal law or grant affecting the procurement contract. The preference given shall be identical to the preference that the other state, through law, policy or practice gives to its residents.

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## PART IV -- CONTRACT INFORMATION

### Parties and Term of Contract:

This Contract, dated [enter today's date], is made by and between:

[enter the complete name of the contractor including any abbreviation, i.e. Inc., Ltd., LLC, PA, etc.]

[enter the contractor's complete business address]

Tax I.D. Number: [contractor's Federal Identification Number or Social Security Number]

eMaryland Marketplace Registration Number: \_\_\_\_\_

hereinafter called the "contractor" and the [enter the name of your facility, administration or program] a unit of the Maryland Department of Health and Mental Hygiene, hereinafter called the "Department". Now, therefore, in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

This Contract shall commence on 7/1/2008, and shall expire on 6/30/2013, unless otherwise renewed at the sole discretion of the Department for the following periods: N/A

### Contract Type:

The contract resulting from this Invitation For Bids will be a Fixed Price Contract, as described in COMAR 21.06.03.02A(2)

### Audit of Cost or Pricing Data

Designees of the Department of Health and Mental Hygiene, the Department of Fiscal Services, or any other State unit authorized by law may audit during the record retention period the books and records of any contractor who has submitted cost or pricing data to the extent that the books and records relate to the cost or pricing data

### Contract Audit

Designees of the Department of Health and Mental Hygiene, the Department of Fiscal Services, or any other State unit authorized by law shall be entitled to audit the books and records of a contractor or any subcontractor or of any group of subcontractors under any negotiated contract or subcontract other than a firm fixed price contract to the extent that the books and records relate to the performance of the contract or subcontract, or if the Department has reason to believe, from an audit of a cost type contract, that costs have been inappropriately assigned to a cost type contract from a fixed price contract.]

### Federal Funds:

1. There \_\_\_ are / X are not programmatic conditions that apply to this contract, regardless of the type of funding. If applied, these conditions are contained in Federal Funds Attachment A.

2. The total amount of federal funds allocated for the \_\_\_\_\_ is \$ \_\_\_\_\_ in Maryland State fiscal year \_\_\_\_\_. This represents \_\_\_\_\_% of all funds budgeted for unit in that fiscal year. This does not necessarily represent the amount of funding available for any particular grant, contract, or Invitation for Bid.
3. This contract \_\_\_\_ does /  X  does not contain federal funds.
4. If contained, the source of these federal funds is: \_\_\_\_\_ . The CFDA number is \_\_\_\_\_ . The conditions that apply to all federal funds awarded by the Department are contained in Federal Funds Attachment B. Any additional conditions that apply to this federally funded contract are contained in Federal Funds Attachment C.
5. Acceptance of this agreement indicates your intent to comply with all conditions, which are part of this agreement.

**MBE Goal:**

The MBE subcontracting goal for any contract(s) resulting from this solicitation is 0%. Minority businesses are strongly encouraged to submit an offer in response to this IFB.

**Contract Monitors:**

The CONTRACT MONITOR for RICA Baltimore is:

\_\_\_\_\_  
Name (Typed)

\_\_\_\_\_  
Title (Typed)

\_\_\_\_\_  
Business Address (Typed)

\_\_\_\_\_  
Business Telephone Number (Typed)

The CONTRACT MONITOR for John L Gildner RICA is:

\_\_\_\_\_  
Name (Typed)

\_\_\_\_\_  
Title (Typed)

\_\_\_\_\_  
Business Address (Typed)

\_\_\_\_\_  
Business Telephone Number (Typed)

The CONTRACT MONITOR for Deer's Head Hospital Center is:

---

Name (Typed)

---

Title (Typed)

---

Business Address (Typed)

---

Business Telephone Number (Typed)

The CONTRACT MONITOR for Western Maryland Hospital Center is:

---

Name (Typed)

---

Title (Typed)

---

Business Address (Typed)

---

Business Telephone Number (Typed)

The CONTRACT MONITOR for the Holly Center is:

---

Name (Typed)

---

Title (Typed)

---

Business Address (Typed)

---

Business Telephone Number (Typed)

The Department's Contract Monitor is the primary point of contact for the Department for matters relating to this contract. The contractor shall contact this person immediately if the contractor is unable to fulfill any of the requirements of this contract or has any questions regarding the interpretation of the provisions of the contract.

The CONTRACT MONITOR for the contractor is:

---

Name (Typed)

---

Title (Typed)

---

Business Address (Typed)

---

Business Telephone Number (Typed)

The contractor's Contract Monitor is the primary point of contact for the contractor for matters relating to this contract. The contractor's Contract Monitor shall contact the Department's Contract Monitor immediately if the contractor is unable to fulfill any of the requirements of the contract or if there are any questions regarding the interpretation of the provisions of the contract.

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## PART V -- BILLING AND PAYMENT PROVISIONS

A. The contractor agrees to:

1. Bill the Department in accordance with Part II.E.14 of the Invitation for Bids identified as DHMH OPASS 08-XXXX and referenced in this contract.
2. Invoices sent directly to a Facility must (at a minimum) be signed and dated, and include the following:
  - (a) The contractor's name and mailing address,
  - (b) The contractor's Federal Tax Identification or Social Security Number,
  - (c) The State assigned Contract Control Number \_\_\_\_\_,
  - (d) The State assigned ADPICS number \_\_\_\_\_,
  - (e) The goods or services provided,
  - (f) The time period covered by the invoice,
  - (g) The amount of requested payment, and
  - (h) \* \_\_\_\_\_,
3. Address all invoices **in triplicate** to Accounts Payable at:

RICA Baltimore  
605 South Chapelgate Lane  
Baltimore MD 21229-3999  
Attn:

John L. Gildner RICA  
15000 Broschart Road  
Rockville MD 20850  
Attn:

Deer's Head Hospital Center  
351 Deer's Head Hospital Road  
PO Box 2018  
Salisbury MD 21802-2018  
Attn:

Western Maryland Hospital Center  
1500 Pennsylvania Avenue  
Hagerstown MD 21742-3112  
Attn:

Holly Center  
PO Box 2358  
Salisbury MD 21802-2018  
Attn:

- B. The State agrees to pay the contractor in accordance with Part II.E.14 of the Invitation for Bids identified as DHMH OPASS 08-XXXX and referenced in this contract.
- C. Electronic Funds Transfer (EFT) will be used to pay the contractor for the contract resulting from this solicitation and any other State payments unless the State Comptroller's Office grants the contractor an exemption. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for exemption.
- D. Funding for any contract(s) resulting from this Invitation For Bids is dependent upon appropriations from the Maryland General Assembly.

E. Reduction/Withholding of Payment

The Department reserves the right to reduce or withhold contract payment in the event the contractor does not provide the Department with all required deliverables within the time frame specified in the contract or in the event that the contractor otherwise materially breaches the terms and conditions of the contract until such time as the contractor brings itself into full compliance with the contract. Any such action on the part of the Department, or dispute of such action by the contractor, shall be in accordance with the provisions of Md. Code Ann. St. Fin. & Proc. §15-215 through §15-223 and with COMAR 21.10.02.

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## **VI: GENERAL CONTRACT TERMS AND CONDITIONS**

In accordance with the Annotated Code of Maryland, State Finance and Procurement Article, and the Code of Maryland Regulations, COMAR Title 21, the following clauses are hereby incorporated as a part of this solicitation and the contract awarded as a result of this solicitation.

### **1. FINANCIAL DISCLOSURE**

The contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases or other agreements 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 State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

### **2. PUBLIC INFORMATION ACT NOTICE**

Bidders should give specific attention to the identification of those portions of their bids that they deem to be confidential proprietary information or trade secrets and provide any justification of why such materials, upon request, should not be disclosed by the State under the Access to Public Records Act, Maryland Code Annotated, State Government Article, Title 10, Subtitle 6. Justification in support of such non-disclosure must accompany the bid. Upon request for 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. A blanket statement by a bidder that their entire bid is confidential or proprietary is unacceptable.

### **3. APPROVALS**

This contract may be subject to approval by the Office of the Attorney General, the Maryland Department of Budget and Management, and the Board of Public Works.

### **4. MULTI YEAR CONTRACTS**

If the General Assembly fails to appropriate funds, or if funds are not otherwise made available for continued performance of the contract for any fiscal period of the contract succeeding the first fiscal period, the contract shall be automatically cancelled as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, this will not affect either the Department's rights or the contractor's rights under any termination clause in the contract. The effect of termination of the contract will be to discharge both the contractor and the Department from future performance of the contract, but not from their obligation existing at the time of termination. The contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred, but not amortized in the price of the services delivered under 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.

5. MODIFICATION OF CONTRACT

This contract may be amended as the Procurement Officer and the contractor mutually agree in writing (subject to any necessary approvals of the Office of the Attorney General, Department of Budget and Management and, in certain cases, the Board of Public Works). No amendment may change significantly the scope of the original solicitation or, if none, the original contract. An amendment to this contract does not alter the other terms of the contract, except to the extent necessary to make them consistent with the amendment. This contract may not be amended to provide salary and wage increases for the contractor's employees with the intention of making these increases consistent with salary and wage increases given to employees of the State except as provided in the Maryland Code Annotated, Health-General Article, §10-905.

6. NON-HIRING OF STATE EMPLOYEES

No official or employee of the State of Maryland, as defined under State Government Article, §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.

7. CONFLICT OF INTEREST LAW

It is unlawful for any State officer, employee, or agent to participate personally in his official capacity through decision, approval or disapproval, recommendation, advice, or investigation in any contract or other matter in which he, his spouse, parent, minor child, brother, or sister has a financial interest or to which any firm, corporation, association, or other organization in which he has a financial interest or in which he is serving as an officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, is a party, unless such officer, employee, or agent has previously complied with the provisions of the Maryland Code Annotated, State Government Article, §15-501 et seq.

8. DISPUTES

This contract shall be subject to the provisions of the Maryland Code Annotated, State Finance and Procurement Article, Title 15, Subtitle 2 and COMAR 21.10. In accordance with the requirement of COMAR 21.10.04.02 the contractor must file a written notice of a claim with the procurement officer within 30 days after the basis for the claim is known or should have been known, whichever is earlier, but no later than the date final payment is made under the contract. Pending a resolution of a claim, the contractor shall proceed diligently with the performance of the contract in accordance with the Procurement Officer's decision.

9. MARYLAND LAW PREVAILS

The Provisions of this contract shall be governed by the laws of the State of Maryland.

10. NON-DISCRIMINATION 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 sub-contract except a sub-contract 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.

11. 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 or agent working for the contractor to solicit or secure this agreement; and that he has not paid or agreed to pay any person; partnership; corporation; or other entity, other than a bona fide employee or agent, any fee or other consideration contingent on the making of this agreement.

12. TERMINATION FOR DEFAULT

The rights and remedies of the State under the contract are cumulative. The enforcement of any right or election of any remedy by the State provided by the contract for any breach of the contract will not preclude the State from enforcing other rights and availing itself of other remedies available under the contract for the same breach or any other breach of the contract.

If the contractor fails to properly perform its obligations under the contract, the State may correct such deficiencies at the contractor's expense.

If the Contractor fails to fulfill its obligations under this contract properly and on time, or otherwise violates any provision of the Contract, the Department may terminate the contract by written notice to the contractor. The notice shall specify the acts or omissions relied on as cause for termination. All finished or unfinished supplies and services provided by the contractor shall, at the Department's option, become the State's property. The Department 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 Department can affirmatively collect damages. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11.B.

13. TERMINATION FOR CONVENIENCE

The performance of work under this contract may be terminated by the Department in accordance with this clause in whole, or from time to time in part, whenever the Procurement Officer shall determine that such termination is in the best interest of the State. The Department 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. However, the contractor shall not be reimbursed for any

anticipatory profits, which 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).

14. TAX EXEMPTION

The State is generally exempt from Federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. Exemption certificates shall be completed upon request. Where a contractor is required to furnish and install material in the construction or improvement of real property in performance of a contract, the contractor shall pay the Maryland sales tax and the exemption does not apply.

15. ARREARAGES

By submitting a response to this solicitation, a vendor 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; and
- 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 if selected for contract award.

16. NON-ASSIGNMENT

The contractor may not, during the term of this contract or any renewals or extensions of the contract, assign or sub-contract all or any part of the contract without the prior written consent of the Procurement Officer. However, the contractor may assign monies receivable under a contract after due notice to the Department's contract monitor.

17. DOCUMENTS RETENTION AND INSPECTION CLAUSE - OTHER THAN RESIDENTIAL HEALTH CARE FACILITIES CONTRACTS

The contractor and sub-contractors shall retain and maintain all records and other documents relating to this contract for a period of five (5) years from the date of final payment by the State hereunder or any applicable statute of limitation, whichever is longer, and shall make the documents available for inspection and audit by authorized representatives of the State, including the procurement officer or designee, at all reasonable times.

18. DOCUMENTS RETENTION AND INSPECTION CLAUSE - RESIDENTIAL HEALTH CARE FACILITIES CONTRACTS

If the contractor supplies services to a State residential health care facility under the Mental Hygiene Administration, the Family Health Administration, the Alcohol and Drug Abuse Administration, or the Developmental Disabilities Administration, the contractor agrees, in addition to the requirements of Clause 17, above:

- (1) That pursuant to 42 Code of Federal Regulations (C.F.R.) Part 420, the Secretary of Health and Human Services, and the Comptroller General of the United States, or their duly authorized representatives, shall be granted access to the contractor's contract, books, documents and records necessary to verify the cost of the services provided under this contract, until the expiration of four years after the services are furnished under this contract; and
- (2) That similar access will be allowed to the books, documents and records of any organization related to the contractor or controlled by the contractor (as those terms are defined in 42 C.F.R. (420.301) if that organization is sub-contracting to provide services with a value of \$10,000 or more in a twelve-month period to be reimbursed through funds provided by this contract.

19. INDEMNITY (HOLD HARMLESS) CLAUSE

A. Definitions.

For the purpose of this clause only, the following terms have the meanings indicated:

- (1) "Contractor" means the contractor, its officers, employees, agents, and representatives.
- (2) "State" means the State, its departments, agencies, officials, officers, and employees.
- (3) "Sub-contractor" means any sub-contractor of the contractor, its officers, employees, agents, and representatives.

B. Indemnification by contractors.

The contractor shall indemnify and hold the State of Maryland harmless for any cost, expense, loss, liability, fine, or penalty of any nature or character whatsoever that the State may incur as a result of a failure of the contractor, or its subcontractor(s), to comply with the terms of this agreement (or any part thereof), negligence of the contractor, injury or death to any person, damage to property, nuisance (public or private), or trespass arising out of or attributable to the performance of work by the contractor or its subcontractor(s), except to the extent caused by the negligent or willful act or omission of the State or its employees, agents, or independent contractors, other than the contractor, or its subcontractor(s).

The contractor further agrees to indemnify the State for damage, loss, or destruction of State property in the contractor's care, custody, and/or control during the term of this contract due to the action or inaction of the contractor or its subcontractor(s).

C. Liability of State.

State law prohibits the State from incurring, by way of an indemnity agreement, a potentially unlimited liability when no funds have been appropriated to fund the

liability, the risk is uninsured, and the indemnity agreement is not conditioned upon the future appropriation of funds to satisfy the liability. Notwithstanding any other provisions of the contract documents, the State shall have no liability to the contractor under the circumstances described in this paragraph

The State has no obligation to provide legal counsel or legal defense to the contractor or its sub-contractors in the event that a suit, claim or action of any character is brought by any person or persons not party to the contract against the contractor or its sub-contractors as a result of or relating to the contractor's obligations under this contract.

The State has no obligation for the payment of any judgments or the settlement of any claims made against the contractor or its sub-contractors as a result of or relating to the contractor's obligations under this contract.

D. Notice of and Cooperation in Litigation.

The contractor will immediately give notice to the Procurement Officer of any claim or suit made or filed against the contractor or its sub-contractors regarding any matter resulting from or relating to the contractor's obligations under this 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 obligations under this contract.

20. COST AND PRICE CERTIFICATION

A. The contractor shall submit cost or price information and shall certify that, to the best of its knowledge, 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 for:

- (1) A negotiated contract if the total contract price is expected to exceed \$100,000, or a smaller amount set by the Procurement Officer; or
- (2) A change order or contract modification, expected to exceed \$100,000, or a smaller amount set by the Procurement Officer.

B. 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 between the parties, was inaccurate, incomplete, or not current.

21. PAYMENT OF STATE OBLIGATIONS AND INTEREST

A. 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 the Maryland Code Annotated, State Finance and Procurement Article, § 15-104 et seq. or by the Public Service Commission of Maryland, with respect to regulated public utilities,

as applicable, are prohibited.

- B. The Maryland Code Annotated, State Finance and Procurement Article, §15-104 et seq. provides that the State shall remit payment to the contractor within forty-five (45) days after receipt of a proper invoice pursuant to any authorized, written procurement contract. Except as provided in State Finance and Procurement Article, §15-105, the State's failure to remit payment within this period may entitle the contractor to interest at the rate specified in State Finance and Procurement Article, §15-104, for the period that begins thirty one (31) calendar days after the receipt date. This amount, if paid, shall be in lieu of payment of any other late charge(s) by the State.
- C. For purposes of this contract, an amount will not be deemed "due and payable" and interest payments will not be authorized for late payments unless the following conditions have been met:
- (1) The amount invoiced is consistent with the amount agreed upon by the parties to the contract.
  - (2) The goods or services have been received by the State and the quantity received agrees with the quantity ordered.
  - (3) The goods or services meet the qualitative requirements of the contract and have been accepted by the State.
  - (4) The proper invoice has been received by the party or unit of government specified in the contract.
  - (5) The invoice is not in dispute.
  - (6) If the contract provides for progress payments, the proper invoice for the progress payment has been submitted pursuant to the schedule contained in the contract.
  - (7) If the contract provides for withholding a retainage and the invoice is for the retainage, all stipulated conditions for release of the retainage have been met.
- D. In order to receive payment of interest, the contractor must submit a proper invoice for accrued interest within 30 calendar days after the payment date (i.e., the date of the check from the State Treasurer that pays the contractor for the goods supplied or the service rendered) of the amount on which the interest accrued. Interest may not be claimed (1) if a claim has been filed under the Maryland Code Annotated, State Finance and Procurement Article, §15-201 through 223, (2) if the accrual period is more than one year following the 31st calendar day after the date that a proper invoice is received by a State agency, or (3) on an amount representing unpaid interest.

## 22. INSPECTION OF PREMISES

The contractor agrees to permit authorized officials of the State to inspect, at reasonable times, its plant, and place of business, job site, or any other location that is related to the performance of the contract.

23. INCORPORATION BY REFERENCE

All terms and conditions under the solicitation, and any amendments thereto, are made a part of this Contract. In the event of contract award, the contract shall consist of the INVITATION FOR BIDS, including all addenda, exhibits, and attachments. This shall constitute the entire agreement between the contracting parties, superseding all representations, commitments, conditions, or agreements that may have been made orally or in writing prior to the execution of the contract.

24. SPECIFICATIONS

All materials, equipment, supplies or services shall conform to federal and State laws and regulations and to the specifications contained in the solicitation.

25. DELIVERY AND ACCEPTANCE

Delivery shall be made in accordance with the solicitation specifications. The State, at its sole discretion, may extend the time of performance for excusable delays due to unforeseeable causes beyond the contractor's control. The State unilaterally may order in writing the suspension, delay, or interruption of performance hereunder. The State reserves the right to test any materials, equipment, supplies, or services delivered to determine if the specifications have been met. The materials listed in the bid or proposal shall be delivered FOB the point or points specified prior to or on the date specified in the bid or proposal. Any material that is defective or fails to meet the terms of the solicitation specifications shall be rejected. Rejected materials shall be promptly replaced. The State reserves the right to purchase replacement materials in the open market. Contractors failing to promptly replace materials lawfully rejected shall be liable for any excess price paid for the replacement, plus applicable expenses, if any.

26. ANTI-BRIBERY

Potential contractors and contractors are required to be aware of the Maryland Code Annotated, State Finance and Procurement Article, §16-202, that requires that any person convicted of bribery, attempted bribery, or conspiracy to bribe committed in the obtaining of a contract from the State or any of its subdivisions, shall be subject to disqualification pursuant to the Maryland Code Annotated, State Finance and Procurement Article, §16-202, from entering into a contract with the State, or any county or other subdivision of the State.

27. REGISTRATION

Pursuant to the Maryland Code Annotated, Corporations and Associations Article, §7-201, et seq. corporations not incorporated in the State shall be registered with the State Department of Assessments and Taxation, 301 West Preston Street, Baltimore, Maryland 21201, before doing any interstate or foreign business in this State. Before doing any

intrastate business in this State, a foreign corporation shall qualify with the Department of Assessments and Taxation. The contractor shall be responsible for ensuring that all subcontractors meet these requirements and further that the contractor and all subcontractors meet these requirements for the duration of the contract.

Any potential bidder who has questions concerning this requirement is advised to contact the Department of Assessments and Taxation at (410) 767-1330. It is strongly recommended that potential bidders be completely registered prior to the due date for receipt of bids. Failure to register may result in the rejection of a bidder's bid.

28. EPA COMPLIANCE

Materials, supplies, equipment, or services shall comply in all respects with the Federal Noise Control Act of 1972, where applicable.

29. OCCUPATIONAL SAFETY AND HEALTH ACT (O.S.H.A.)

All materials, supplies, equipment, or services supplied as a result of this Contract shall comply with the applicable U.S. and Maryland Occupational Safety and Health Act standards.

30. PATENT, COPYRIGHTS, TRADE SECRETS & INDEMNIFICATION

If the contractor furnishes any design, device, material process, or other item which is covered by a patent or copyright, or which is proprietary to, or a trade secret of another, it is solely the responsibility of the contractor to obtain the necessary permission or license to use such item or items. The contractor hereby grants to the Department a royalty-free, nonexclusive, and irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so, all data now and hereafter covered by copyright, and warrants that it has the authority to do this.

If any products furnished by the contractor become, or in the contractor's opinion are likely to become, the subject of a claim of infringement, the contractor will, at its option: a) procure for the State the right to continue using the applicable item, b) replace the product with a non-infringing product substantially complying with the item's specifications, or c) modify the item so that it becomes non-infringing and performs in a substantially similar manner to the original item.

If the contractor obtains or uses for purposes of the contract (or any subcontracts) any design, device, material, process, supplies, equipment, text, instructional material, services or other work, the contractor shall indemnify the State, DHMH, their officials, agents, and employees with respect to any claim, action, cost, or judgment for patent, trademark, or copyright infringement, arising out of the possession or use of any design, device, material, process, supplies, equipment, text, instructional material, services or other work covered by this contract.

31. STATE CONTRACT PREVAILS

Whenever a vendor/contractor's standard contract is used along with this State's contract, this State's Contract shall prevail in the event of conflict between any provisions of the two contracts when the State determines it to be in its best interest.

32. CHANGE ORDERS AND SUSPENSION OF WORK

Both parties agree that pursuant to the Maryland Code Annotated, State Finance and Procurement Article, §13-218, 1) the State has the unilateral right to order in writing changes in the work within the scope of the contract; and 2) the procurement officer unilaterally may order the contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as the procurement officer may determine to be appropriate for the convenience of the State.

33. RIGHTS IN DATA

Work produced as a result of this solicitation is and shall remain the sole property of the Department of Health & Mental Hygiene (DHMH).

The contractor agrees that all documents, equipment, and materials, including but not limited to, reports, drawings, studies, specifications, estimates, texts, computer software including software documentation and related materials, maps, photographs, designs, graphics, mechanicals, art work, computations and data prepared by or for, or purchased by or for, the contractor because of this contract shall, at any time during the term of the contract, be available to DHMH and shall become and remain the exclusive property of DHMH during and upon termination or completion of the services required to be performed under this contract.

DHMH shall have the right to use same without restriction and without compensation to the contractor other than that provided in this contract.

The contractor agrees that, at all times during the term of this contract and thereafter, the works created and services performed shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created under this contract are not works for hire for DHMH, the contractor hereby transfers and assigns to DHMH all of its rights, title and interest (including all intellectual property rights) to all such products created under this contract, and will cooperate reasonably with DHMH in effectuating and registering any necessary assignments.

The contractor shall report to the Department, promptly and in written detail, each notice or claim of copyright infringement received by the Vendor with respect to all data delivered under this agreement.

The contractor shall not affix any restrictive markings upon any data and if such markings are affixed, the Department shall have the right at any time to modify, remove, obliterate, or ignore such markings.

34. DELAYS AND EXTENSIONS OF TIME

The contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it 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 cause 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.

35. PRE-EXISTING REGULATIONS

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

36. POLITICAL CONTRIBUTION DISCLOSURE

The contractor shall comply with Maryland Code Annotated, Election Law Article, §§14-101 through 14-108, 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 in 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.

37. COMPLIANCE WITH LAWS

By submitting a bid in response to this solicitation the vendor 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 shall comply with all Federal, state and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and

- C. 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.

38. PROHIBITION OF SEXUAL HARASSMENT

The contractor shall operate under this agreement so that no employee or client is subjected to sexual harassment in the workplace or in locations and situations otherwise associated with the performance of duties per the terms of this contract. Further, except in sub-contracts for standard commercial supplies or raw materials, the contractor shall include this clause, or a similar clause approved by DHMH, in all sub-contracts. The contractor has primary responsibility for enforcement of these provisions and for securing and maintaining the sub-contractor's full compliance with both the letter and spirit of this clause.

39. 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.

#### 40. LIVING WAGE REQUIREMENTS

A solicitation for services under a State contract valued at \$100,000 or more may be subject to Title 18, State Finance and Procurement (SFP) Article, Annotated Code of Maryland. Additional information regarding the State's wage requirement is contained in this solicitation (see Appendix \_\_D\_\_ entitled Living Wage Requirements for Service Contracts). If the Bidder fails to submit and complete the required documentation under State law, the State may determine a Bidder to be not responsible.

Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at least \$11.30 per hour, if State contract services valued at 50% or more of the total value of the contract is performed in the Tier 1 Area. If State contract services valued at 50% or more of the total value are performed in the Tier 2 Area, a Bidder shall pay each covered employee at least \$8.50 per hour. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State contract pursuant to §18-102 (d) shall assign the tier based upon where the recipients of the services are located.

The contract resulting from this solicitation will be deemed to be a Tier 1 contract or a Tier 2 contract depending on the location(s) from which the contractor provides 50% or more of the services. If the contractor provides 50% or more of the services from a location(s) in a Tier 1 jurisdiction(s) the contract will be a Tier 1 contract. If the contractor provides 50% or more of the services from a location(s) in a Tier 2 jurisdiction(s), the contract will be a Tier 2 contract. If the contractor provides more than 50% of the services from an out-of-State location, then the contract will be deemed to be a Tier 1 contract. **The Bidder must identify in their Bid the location from which services will be provided.**

#### 41. FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS) EXCLUSION REQUIREMENTS

The contractor agrees that it will comply with federal provisions (pursuant to §§1128 and 1156 of the Social Security Act and 42 CFR 1001) that prohibit payments under certain federal health care programs to any individual or entity that is on the List of Excluded Individuals/Entities maintained by DHHS. By executing this contract, the contractor affirmatively declares that neither it nor any employee is, to the best of its knowledge, subject to such exclusion. The contractor agrees, further, during the term of this contract, to check the List of Excluded Individuals/Entities prior to hiring or assigning individuals to work on this contract, and to notify OOE immediately of any identification of the contractor or an individual employee as excluded, and of any DHHS action or proposed action to exclude the contractor or any contractor employee.

#### 42. COMPLIANCE WITH HIPAA AND STATE CONFIDENTIALITY LAW

- A. The contractor acknowledges its duty to become familiar with and comply, to the extent applicable, with all requirements of the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. § 1320d et seq. and implementing regulations including 45 CFR Parts 160 and 164. The contractor also agrees to comply with the Maryland Confidentiality of Medical Records Act (Md. Code Ann. Health-General §§4-301 et seq., MCMRA). This obligation includes:
1. As necessary, adhering to the privacy and security requirements for protected health information and medical records under federal HIPAA and State MCMRA and making the transmission of all electronic information compatible with the federal HIPAA requirements;
  2. Providing training and information to employees regarding confidentiality obligations as to health and financial information and securing acknowledgement of these obligations from employees to be involved in the contract; and
  3. Otherwise providing good information management practices regarding all health information and medical records.
- B. If in connection with the procurement or at any time during the term of the contract, the Department determines that functions to be performed in accordance with the Services to Be Performed set forth in Part I constitute business associate functions as defined in HIPAA, the contractor acknowledges its obligation to execute a business associate agreement as required by HIPAA regulations at 45 CFR §164.501.
- C. Protected Health Information as defined in the HIPAA regulations at 45 CFR 160.103 and 164.501, means information transmitted as defined in the regulations, that is individually identifiable; that is created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and that is related to the past, present, or future physical or mental health or condition of an individual, to the provision of healthcare to an individual, or to the past, present, or future payment for the provision of healthcare to an individual. The definition excludes certain education records as well as employment records held by a covered entity in its role as employer.

**PART VII: INCORPORATION BY REFERENCE**

The documents listed below are hereby incorporated into this contract and made an integral part thereof. (Type "NONE" if none)

TITLE	Number of Pages
<u>Appendices A - D</u>	<u>16</u>
_____	_____
_____	_____
_____	_____

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## BID/PROPOSAL AFFIDAVIT

## A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the (title) \_\_\_\_\_ and the duly authorized representative of (business) \_\_\_\_\_ and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

## B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in “discrimination” as defined in §19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. “Discrimination” means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendors, supplier’s or commercial customer’s employees or owners. “Discrimination” also includes retaliating against any person or other entity for reporting any incident of “discrimination”. Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the state of Maryland that the bidder discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken.

Bidder agrees to comply in all respects 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.

## C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in §16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business’s contracting activities including obtaining or performing contracts with public bodies, has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, §6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in

violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

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D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

- (1) Been convicted under state or federal statute of:
  - (a) a criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
  - (b) fraud, embezzlement, theft, forgery, falsification or destruction of records, or receiving stolen property;
- (2) Been convicted of any criminal violation of a state or federal antitrust statute;
- (3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §1961, et seq., or the Mail Fraud Act, 18 U.S.C. §1341, et seq., for acts in connection with the submission of bids or proposals for a public or private contract;
- (4) Been convicted of a violation of the State Minority Business Enterprise Law, §14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (5) Been convicted of a violation of the §11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsection (1) through (5) above;
- (7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract; or
- (8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract; or

- (9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B — C and subsections (1) through (8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

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E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension):

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F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

- (1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to §16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and
- (2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

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G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

- (1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;
- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

I. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of §13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements 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 the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

J. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, §§14-101—14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in 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.

K. DRUG AND ALCOHOL FREE WORKPLACE

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head's designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency's undercover operations.)

I CERTIFY THAT:

- (1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.
- (2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:
  - (a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;
  - (b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;
  - (c) Prohibit its employees from working under the influence of drugs or alcohol;
  - (d) Not hire or assign to work on the contract anyone whom the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;
  - (e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;
  - (f) Establish drug and alcohol abuse awareness programs to inform its employees about:
    - (i) The dangers of drug and alcohol abuse in the workplace;
    - (ii) The business' policy of maintaining a drug and alcohol free workplace;
    - (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and

- (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;
- (g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §K(2)(b), above;
- (h) Notify its employees in the statement required by §K(2)(b), above, that as a condition of continued employment on the contract, the employee shall:
  - (i) Abide by the terms of the statement; and
  - (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;
- (i) Notify the procurement officer within 10 days after receiving notice under §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;
- (j) Within 30 days after receiving notice under §K(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:
  - (i) Take appropriate personnel action against an employee, up to and including termination; or
  - (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and
- (k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §K(2)(a)—(j), above.
- (3) If the business is an individual, the individual shall certify and agree as set forth in §K(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.
- (4) I acknowledge and agree that:
  - (a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;
  - (b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and
  - (c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of

the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

L. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

(1) The business named above is a (domestic \_\_\_) (foreign \_\_\_) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is: Name: \_\_\_\_\_

Address: \_\_\_\_\_

(If not applicable, so state).

(2) Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

M. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The business 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 agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

N. Repealed.

O. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this bid or proposal

shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: \_\_\_\_\_ By: \_\_\_\_\_

(Authorized Representative and Affiant)

Revised March 30, 2007

CONTRACT AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the \_\_\_\_\_ and the duly authorized representative  
of (title)

\_\_\_\_\_  
(name of business)

and that I possess the legal authority to make this Affidavit on behalf of my self and the business for which I am acting.

B. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

1. The business named above is a (domestic \_\_\_\_\_) (foreign \_\_\_\_\_) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

2. Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

C. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgments contained in that certain Bid/Proposal Affidavit dated \_\_\_\_\_, and executed by me for the purpose of obtaining the contact to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: \_\_\_\_\_ By: \_\_\_\_\_  
(Authorized Representative and Affiant)

**MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE****Standard Addendum for the Means of Delivering Bids or Proposals**

Any bid or proposal due to any unit of the Maryland Department of Health and Mental Hygiene shall be delivered/transmitted as described in this addendum. The failure of any bidder or offeror to follow these instructions may result in its bid or offer not being received by the due time and date, which will result in the rejection of that bid or offer.

There are three acceptable means of delivering/transmitting a bid or offer:

1. The United States Postal Service;
2. Hand delivery by the bidder/offeror itself; and
3. Hand delivery by a commercial delivery/courier company acting as an agent of the bidder/offeror.

The detailed manner for the utilization of each of these methods is described below:

**For U. S. Postal Service Deliveries**

For U.S. Postal Service deliveries, any bid or proposal that has been received at the appropriate mail room or typical place of mail receipt for the respective procuring unit by the time and date listed in the RFP or specifications will be deemed to be timely.

If a vendor chooses to use the United States Postal Service for delivery, the Department recommends that it use Express Mail, Priority Mail, or Certified Mail only.

These are the only forms of U.S. Postal Delivery for which both the date and time of receipt can be verified by the Department. A vendor using first class mail will, therefore, not be able to prove a timely delivery at the mail room. It may take several days for an item sent by first class mail to make its way by normal internal mail pickup to a procuring unit's bid box.

**For Hand Deliveries by Vendors and Deliveries**  
**By Commercial Courier Services**

These deliveries must be delivered directly to the room or location specified in the RFP or solicitation and placed in the designated bid box. A bidder who uses a commercial courier service must take appropriate action to ensure that the courier actually delivers the bid/offer to the specified location and not to the Department's mailroom or loading dock. The bid/offer will not be deemed to have been received until it is placed in the designated bid box.

For any type of hand delivery, the vendor or its commercial courier services should request a signed receipt from a procuring unit employee which notes the title of the procurement, the name of the vendor, and the time and date of receipt at the bid box.

**Identifying Information**

All envelopes containing bids or offers, no matter how transmitted, must contain this information prominently displayed:

- either "Sealed Bid" or "Sealed Proposal," as appropriate;
- the exact title of the bid or proposal as noted in the RFP or specifications;
- the due time and date; and
- the name of the bidder/offeror.

Questions on any of these requirements should be directed to the Department contact person identified in the RFP or solicitation or to the Office of Procurement and Support Services at (410) 767-5816.

## Living Wage Requirements for Service Contracts

- A. This contract is subject to the Living Wage requirements under Title 18, State Finance and Procurement Article, Annotated Code of Maryland and the regulations proposed by the Commissioner of Labor and Industry. The Living Wage generally applies to a Contractor or Subcontractor who performs work on a State contract for services that is valued at \$100,000 or more. An employee is subject to the Living Wage if he/she is at least 18 years old or will turn 18 during the duration of the contract; works at least 13 consecutive weeks on the State Contract and spends at least one-half of the employee's time during any work week on the State Contract. The Living Wage Law does not apply to an employee who works less than thirteen consecutive weeks and full-time on a contract subject to the Living Wage.
- B. The Living Wage Law does not apply to:
- (1) A Contractor who:
    - (A) has a State contract for services valued at less than \$100,000, or
    - (B) employs 10 or fewer employees and has a State contract for services valued at less than \$500,000.
  - (2) A Subcontractor who:
    - (A) performs work on a State contract for services valued at less than \$100,000,
    - (B) employs 10 or fewer employees and performs work on a State contract for services valued at less than \$500,000, or
    - (C) performs work for a contractor not covered by the Living Wage Law as defined in B(1)(B) above, or B (3) or C below.
  - (3) Contracts involving services needed for the following:
    - (A) Services with a Public Service Company;
    - (B) Services with a nonprofit organization;
    - (C) Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement ("Unit"); or
    - (D) Services between a Unit and a County or Baltimore City.
- C. If the Unit responsible for the State contract determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the

contract or program.

- D. A Contractor must not split or subdivide a contract, pay an employee through a third party, or treat an employee as an independent contractor or assign work to employees to avoid the imposition of any of the requirements of Title 18, State Finance and Procurement, Annotated Code of Maryland.
- E. Each Contractor/Subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.
- F. The Commissioner of Labor and Industry shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's Website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.
- G. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of the health insurance premium, as provided in §18-103(c), State Finance and Procurement Article, Annotated Code of Maryland, shall not lower an employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of health insurance premium shall comply with any record reporting requirements established by the Commissioner of Labor and Industry.
- H. A Contractor/Subcontractor may reduce the wage rates paid under §18-103(a), State Finance and Procurement, Annotated Code of Maryland, by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland.
- I. Under Title 18, State and Finance Procurement Article, Annotated Code of Maryland, if the Commissioner determines that the Contractor/Subcontractor violated a provision of this title or regulations of the Commissioner, the Contractor/Subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of \$20 per day for each employee paid less than the Living Wage.
- J. Information pertaining to reporting obligations may be found by going to the DLLR Website: <http://www.dllr.state.md.us/> and clicking on Living Wage.

**Affidavit of Agreement**

Maryland Living Wage Requirements-Service Contracts

Contract No. \_\_\_\_\_

Name of Contractor \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**If the Contract is Exempt form the Living Wage Law**

The Undersigned, being an authorized representative of the above named Contractor, hereby affirms that the Contract is exempt form Maryland’s Living Wage Law for the following reasons (check all that apply):

- Bidder/Offeror is a nonprofit organization
- Bidder/Offeror is a public service company
- Bidder/Offeror employs 10 or fewer employees and the proposed contract value is less than \$500,000
- Bidder/Offeror employs more than 10 employees and the proposed contract value is less than \$100,000

**If the Contract is a Living Wage Contract**

A. The Undersigned, being an authorized representative of the above named Contractor, hereby affirms our commitment to comply with Title18, State Finance and Procurement Article, Annotated Code of Maryland and, if required, to submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Bidder/Offeror agrees to pay covered employees who are subject to living wage at least the living rate in effect at the time service is provided for hours spend on State contract activities, and to ensure that its Subcontractors who are not exempt also pay the required living wage rate to their covered employees who are subject to the living wage for hours spent on a State contract for services. The Contractor agrees to comply with, and ensure its Subcontractors comply with, the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate established by the Commissioner of Labor and Industry, automatically upon the effective date of the revised wage rate.

**Affidavit of Agreement**  
**Maryland Living Wage Requirements-Service Contracts**

B. \_\_\_\_\_ (initial here if applicable) The Bidder/Offeror affirms it has no covered employees for the following reasons: (check all that apply):

- \_\_\_\_\_ All employee(s) proposed to work on the contract will spend less than one-half of the employee's time during every work week on the State contract;
- \_\_\_\_\_ All employee(s) proposed to work on the contract will be 17 years of age or younger during the duration of the contract; or
- \_\_\_\_\_ All employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

The Commissioner of Labor and Industry reserves the right to request payroll records and other data that the Commissioner deems sufficient to confirm these affirmations at any time.

Name of Authorized Representative: \_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Representative Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Witness Name (Typed or Printed)

\_\_\_\_\_  
Witness Signature Date