



REQUEST FOR PROPOSALS (RFP)

SOLICITATION NO. DHMH OPASS- 14-13399

Issue Date: March 28, 2013

Thomas B. Finan Center

DIETETIC DEPARTMENT SERVICES

NOTICE

A Prospective Offeror that has received this document from the Department of Health and Mental Hygiene's website or <https://emaryland.buyspeed.com/bsol/>, or that has received this document from a source other than the Procurement Officer, and that wishes to assure receipt of any changes or additional materials related to this RFP, should immediately contact the Procurement Officer and provide the Prospective Offeror's name and mailing address so that addenda to the RFP or other communications can be sent to the Prospective Offeror.

Minority Business Enterprises Are Encouraged to Respond to this Solicitation

**STATE OF MARYLAND
NOTICE TO VENDORS**

In order to help us improve the quality of State solicitations, and to make our procurement process more responsive and business friendly, we ask that you take a few minutes and provide comments and suggestions regarding this solicitation. Please return your comments with your response. If you have chosen not to respond to this Contract, please email or fax this completed form to the attention of the Procurement Officer (see Key Information Sheet below for contact information).

Title: DIETETIC DEPARTMENT SERVICES
Solicitation No: DHMH OPASS – 14-13399

1. If you have chosen not to respond to this solicitation, please indicate the reason(s) below:

- Other commitments preclude our participation at this time.
- The subject of the solicitation is not something we ordinarily provide.
- We are inexperienced in the work/commodities required.
- Specifications are unclear, too restrictive, etc. (Explain in REMARKS section.)
- The scope of work is beyond our present capacity.
- Doing business with the State of Maryland is simply too complicated. (Explain in REMARKS section.)
- We cannot be competitive. (Explain in REMARKS section.)
- Time allotted for completion of the Proposal/Proposal is insufficient.
- Start-up time is insufficient.
- Bonding/Insurance requirements are restrictive. (Explain in REMARKS section.)
- Bid/Proposal requirements (other than specifications) are unreasonable or too risky. (Explain in REMARKS section.)
- MBE or VSBE requirements. (Explain in REMARKS section.)
- Prior State of Maryland contract experience was unprofitable or otherwise unsatisfactory. (Explain in REMARKS section.)
- Payment schedule too slow.
- Other: _____

2. If you have submitted a response to this solicitation, but wish to offer suggestions or express concerns, please use the REMARKS section below. (Attach additional pages as needed.)

REMARKS:

Vendor Name: _____ Date: _____

Contact Person: _____ Phone (____) _____ - _____

Address: _____

E-mail Address: _____

**STATE OF MARYLAND
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
RFP KEY INFORMATION SUMMARY SHEET**

Request For Proposals: DIETETIC DEPARTMENT SERVICES

Solicitation Number: DHMH OPASS – 14-13399

RFP Issue Date: March 28, 2013

RFP Issuing Office: Maryland Department of Health and Mental Hygiene
Thomas B. Finan Center

Procurement Officer: Sharon R. Gambrill, CPPB
201 W. Preston St., Room 416B
Baltimore, MD 21201
Phone: (410) 767-5816 Fax: (410) 333-5958
e-mail: dhmh.solicitationquestions@maryland.gov

Contract Officer: Allegra Daye
201 West Preston Street
Baltimore, MD 21201
Phone: (410) 767-5741 Fax Number: (410) 333-5958
E-mail: allegra.daye@maryland.gov

Contract Monitor: John G. Cullen
Thomas B. Finan Center
10102 Country Club Road, P.O. Box 1722
Cumberland, MD 21501-1722
Phone: 301-777-2260 Fax: 301-777-2364
john.cullen@maryland.gov

Proposals are to be sent to: Maryland Department of Health and Mental Hygiene
Thomas B. Finan Center
10102 Country Club Road, P.O. Box 1722
Cumberland, MD 21501-1722
Attention: Craig W. Alexander, Procurement Director

Pre-Proposal Conference: Tuesday, April 9, 2013 at 10:00 a.m. Local Time
Thomas B. Finan Center
Administrative Conference Room
10102 Country Club Road, P.O. Box 1722
Cumberland, MD 21501-1722

Closing Date and Time: Friday, April 19, 2013 at 2:00 p.m. Local Time

MBE Subcontracting Goal: 0%

VSBE Subcontracting Goal: 0%

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SECTION 1 - GENERAL INFORMATION

1.1 Summary Statement

- 1.1.1 The Maryland Department of Health and Mental Hygiene (DHMH or the Department), Thomas B. Finan Center, is issuing this Request for Proposals (RFP) to provide professional nutrition care and food management services required to ensure optimal nutrition care to the patients/clients of the Thomas B. Finan Center.
- 1.1.2 It is the State's intention to obtain services, as specified in this RFP, from a Contract between the successful Offeror and the State.
- 1.1.3 The Department intends to make a single award as a result of this RFP.
- 1.1.4 Offerors, either directly or through their subcontractor(s), must be able to provide all services and meet all of the requirements requested in this solicitation and the successful Offeror (the Contractor) shall remain responsible for Contract performance regardless of subcontractor participation in the work.

1.2 Abbreviations and Definitions

For purposes of this RFP, the following abbreviations or terms have the meanings indicated below:

- a. **Business Day** – The official Working Days of the week to include Monday through Friday. Official Working Days excludes State Holidays (see definition of “Normal State Business Hours” below).
- b. **COMAR** – Code of Maryland Regulations available on-line at www.dsd.state.md.us.
- c. **Contract** – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of **Attachment A**.
- d. **Contract Monitor (CM)** – The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope.
- e. **Contract Officer (CO)** – The Office of Procurement and Support Services (OPASS) designated individual assigned to facilitate the procurement process. The Procurement Officer may designate the Contract Officer to conduct components of the procurement on behalf of the Procurement Officer.
- f. **Contractor** – The selected Offeror that is awarded a Contract by the State.
- g. **Department or DHMH** – Maryland Department of Health and Mental Hygiene.
- h. **eMM** – eMaryland Marketplace (see RFP Section 1.8).
- i. **Go-Live Date** – The date when the Contractor must begin providing all services required by this solicitation.
- j. **Local Time** – Time in the Eastern Time Zone as observed by the State of Maryland. Unless otherwise specified, all stated times shall be Local Time, even if not expressly designated as such.

- k. **Minority Business Enterprise (MBE)** – Any legal entity certified as defined at COMAR 21.01.02.01B(54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- l. **Normal State Business Hours** - Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: www.dbm.maryland.gov – keyword: State Holidays.
- m. **Notice to Proceed (NTP)** – A letter from the Contract Monitor to the Contractor stating the date the Contractor can begin work subject to the conditions of the Contract. After Contract commencement, additional NTPs may be issued by the Contract Monitor regarding the start date for any service included within this RFP with a delayed, or non-specified implementation date, or if the Department decides to exercise any optional services identified in this RFP.
- n. **Offeror** – An entity that submits a Proposal in response to this RFP.
- o. **Procurement Coordinator** – The State representative designated by the Procurement Officer to perform certain duties related to this solicitation which are expressly set forth herein.
- p. **Procurement Officer** – The State representative for the resulting Contract. The Procurement Officer is responsible for the Contract and is the only State representative who can authorize changes to the Contract. DHMH may change the Procurement Officer at any time by written notice to the Contractor.
- q. **Proposal** – As appropriate, either or both of an Offeror’s Technical or Financial Proposal.
- r. **Request for Proposals (RFP)** – This Request for Proposals issued by the Maryland Department of Health and Mental Hygiene, Thomas B. Finan Center, Solicitation Number OPASS- 14-13399 dated March 28, 2013, including any addenda.
- s. **State** – The State of Maryland.
- t. **Total Evaluated Price** - The Offeror’s total proposed price for services in response to this solicitation, included in the Financial Proposal with Attachment F – Price Form, and used in the financial evaluation of Proposals (see RFP Section 5.3).
- u. **Veteran-owned Small Business Enterprise (VSBE)** – a business that is verified by the Center for Veterans Enterprise of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.
- v. **Working Day** – Same as “Business Day.”

1.3 Contract Type

The Contract(s) resulting from this RFP shall be an indefinite quantity with fixed unit cost as defined at COMAR 21.06.03.06 A(2).

1.4 Contract Duration

- 1.4.1 The Contract that results from this solicitation shall commence as of the date the Contract is signed by the Department following approval of the Contract by the Board of Public Works, if such approval is required (“Contract Commencement”).
- 1.4.2 From the date of Contract Commencement through approximately **July 1, 2013**, or a later date contained in a Notice to Proceed issued by the Contract Monitor (the “Go-Live Date”), the Contractor shall perform start-up activities such as are necessary to enable the Contractor to begin the successful performance of Contract

activities as of the Go-Live Date. No compensation will be paid to the Contractor for any start-up activities it performs between the date of Contract Commencement and the Go-Live Date.

- 1.4.3 As of the Go-Live Date of **July 1, 2013**, or a later date as contained in a Notice to Proceed issued by the Contract Monitor, the Contractor shall begin performing all activities required by the Contract, including the requirements of the solicitation.
- 1.4.4 The duration of the Contract will be from the date of Contract Commencement through approximately **June 30, 2018** for the provision of all services required by the Contract, and the requirements of the RFP including the start-up activities described in RFP Section 1.4.2.
- 1.4.5 The Contractor's obligations to pay invoices to subcontractors that provided services during the Contract term, as well as the audit, confidentiality, document retention, and indemnification obligations of the Contract (see Attachment A) shall survive expiration or termination of the Contract and continue in effect until all such obligations are satisfied.

1.5 Procurement Officer

1.5.1 Except for the Procurement Coordinator and Contract Officer identified below, the sole point of contact in the State for purposes of this solicitation prior to the award of any Contract is the Procurement Officer at the address listed below:

Sharon R. Gambrell, CPPB
Maryland Department of Health and Mental Hygiene
Office of Procurement and Support Services
201 West Preston Street, Room 416B
Baltimore, Maryland 21201
Phone Number: (410) 767-5117
Fax Number: (410) 333-5958
E-mail: dhmh.solicitationquestions@maryland.gov

The Department may change the Procurement Officer at any time by written notice.

1.5.2 The Procurement Officer designates the following individual as the Procurement Coordinator, who is authorized to act on behalf of the Procurement Officer only as expressly set forth in this solicitation:

John Cullen
Thomas B. Finan Center
10102 Country Club Road
Cumberland, MD 21501-1722
Phone Number: (301) 777-2260
Fax Number: (301) 777-2364
E-mail: john.cullen@maryland.gov

The Department may change the Procurement Coordinator at any time by written notice.

1.5.3 The Procurement Officer designates the following individual as the Contract Officer, who is authorized to act on behalf of the Procurement Officer:

Allegra Daye
Maryland Department of Health and Mental Hygiene
Office of Procurement and Support Services
201 West Preston Street

Baltimore, MD 21201
Phone Number: (410) 767-5741
Fax Number: (410) 333-5958
E-mail: allegra.daye@maryland.gov

The Department may change the Contract Officer at any time by written notice.

1.6 Contract Monitor

The Contract Monitor is:

John G. Cullen
Maryland Department of Health and Mental Hygiene
Thomas B. Finan Center
10102 Country Club Road, P.O. Box 1722
Cumberland, MD 21501-1722
Phone Number: (301) 777-2260
Fax Number: (301) 777-2364
Email: john.cullen@maryland.gov

The Department may change the Contract Monitor at any time by written notice.

1.7 Pre-Proposal Conference

A Pre-Proposal Conference (the Conference) will be held on April 9, 2013, beginning at 10:00 a.m. Local Time, at Thomas B. Finan Center, 10102 Country Club Road, Cumberland, MD 21502 in the Administrative Conference Room (room F-114). Attendance at the Conference is not mandatory, but all prospective Offerors are encouraged to attend in order to facilitate better preparation of their Proposals. There will be a site tour which will be conducted immediately following the pre-proposal conference. A copy of the current dietary manual will be made available upon request.

The Conference will be summarized. As promptly as is feasible subsequent to the Conference, a summary of the Conference and all questions and answers known at that time will be distributed to all prospective Offerors known to have received a copy of this RFP. This summary, as well as the questions and answers, will also be posted on eMaryland Marketplace. See RFP Section 1.8.

In order to assure adequate seating and other accommodations at the Conference, please e-mail, mail, or fax to (301) 777-2364 the Pre-Proposal Conference Response Form to the attention of the Procurement Coordinator no later than 4:00 p.m. Local Time on March 3, 2013 for Attachment E. The Pre-Proposal Conference Response Form is included as **Attachment E** to this RFP. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please notify the Procurement Coordinator no later than March 3, 2013. The Department will make a reasonable effort to provide such special accommodation.

1.8 eMarylandMarketplace

Each Offeror is requested to indicate its eMaryland Marketplace (eMM) vendor number in the Transmittal Letter (cover letter) submitted at the time of its Proposal submission to this RFP.

eMM is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the DHMH website (<http://www.dhmh.maryland.gov/procumnt/SitePages/procopps.aspx>) and possibly other means for transmitting the RFP and associated materials, the solicitation and summary of the Pre-Proposal

Conference, Offeror questions and the Procurement Officer's responses, addenda, and other solicitation-related information will be provided via eMM.

In order to receive a contract award, a vendor must be registered on eMM. Registration is free. Go to <https://emaryland.buyspeed.com/bsol/login.jsp>, click on "Register" to begin the process, and then follow the prompts.

1.9 Questions

Written questions from prospective Offerors will be accepted by the Procurement Officer prior to the Conference. If possible and appropriate, such questions will be answered at the Conference. (No substantive question will be answered prior to the Conference.) Questions to the Procurement Officer shall be submitted via e-mail to the following e-mail address: dhmh.solicitationquestions@maryland.gov. Please identify in the subject line the Solicitation Number and Title. Questions, both oral and written, will also be accepted from prospective Offerors attending the Conference. If possible and appropriate, these questions will be answered at the Conference.

Questions will also be accepted subsequent to the Conference and should be submitted to the Procurement Officer (**see above email address**) in a timely manner prior to the Proposal due date. Questions are requested to be submitted at least five (5) days prior to the Proposal due date. The Procurement Officer, based on the availability of time to research and communicate an answer, shall decide whether an answer can be given before the Proposal due date. Time permitting, answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be distributed to all vendors that are known to have received a copy of the RFP in sufficient time for the answer to be taken into consideration in the Proposal.

1.10 Procurement Method

This Contract will be awarded in accordance with the Competitive Sealed Proposals method under COMAR 21.05.03.

1.11 Proposals Due (Closing) Date and Time

Proposals, in the number and form set forth in Section 4.2 "Proposals" must be received by the Procurement Officer at the address listed on the Key Information Summary Sheet, no later than 2:00 p.m. Local Time on April 19, 2013 in order to be considered.

Requests for extension of this time or date will not be granted. Offerors mailing Proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.02.10, Proposals received after the due date and time listed in this section will not be considered.

Proposals may be modified or withdrawn by written notice received by the Procurement Officer before the time and date set forth in this section for receipt of Proposals.

Proposals may not be submitted by e-mail or facsimile.

Vendors not responding to this solicitation are requested to submit the "Notice to Vendors" form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements, etc.). This form is located in the RFP immediately following the Title Page (page ii).

1.12 Multiple or Alternate Proposals

Multiple and/or alternate Proposals will not be accepted.

1.13 Economy of Preparation

Proposals should be prepared simply and economically and provide a straightforward and concise description of the Offeror's Proposal to meet the requirements of this RFP.

1.14 Public Information Act Notice

An Offeror should give specific attention to the clear identification of those portions of its Proposal that it considers confidential and/or proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Md. Code Ann., State Government Article, Title 10, Subtitle 6. (Also, see RFP Section 4.4.3.2 "Claim of Confidentiality"). This confidential and/or proprietary information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical and if applicable, separately in the Financial Proposal.

Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information must be disclosed.

1.15 Award Basis

The Contract shall be awarded to the responsible Offeror submitting the Proposal that has been determined to be the most advantageous to the State, considering price and evaluation factors set forth in this RFP (see COMAR 21.05.03.03.F), for providing the goods and services as specified in this RFP. See RFP Section 5 for further information.

1.16 Oral Presentation

Offerors may be required to make oral presentations to State representatives. Offerors must confirm in writing any substantive oral clarification of, or change in, their Proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror's Proposal and are binding if the Contract is awarded. The Procurement Officer will notify Offerors of the time and place of oral presentations.

1.17 Duration of Proposal

Proposals submitted in response to this RFP are irrevocable for 120 days following the closing date of the Proposals. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

1.18 Revisions to the RFP

If it becomes necessary to revise this RFP before the due date for Proposals, the Department shall endeavor to provide addenda to all prospective Offerors that were sent this RFP or which are otherwise known by the Procurement Officer to have obtained this RFP. In addition, addenda to the RFP will be posted on the DHMH Current Procurements web page and through eMM. It remains the responsibility of all prospective Offerors to check all applicable websites for any addenda issued prior to the submission of Proposals. Addenda made after the due date for Proposals will be sent only to those Offerors that submitted a timely Proposal and that remain under award consideration as of the issuance date of the addenda.

Acknowledgment of the receipt of all addenda to this RFP issued before the Proposal due date shall be included in the Transmittal Letter accompanying the Offeror's Technical Proposal. Acknowledgement of the receipt of addenda to the RFP issued after the Proposal due date shall be in the manner specified in the addendum notice. Failure to

acknowledge receipt of an addendum does not relieve the Offeror from complying with the terms, additions, deletions, or corrections set forth in the addendum.

1.19 Cancellations

The State reserves the right to cancel this RFP, accept or reject any and all Proposals, in whole or in part, received in response to this RFP, to waive or permit the cure of minor irregularities, and to conduct discussions with all qualified or potentially qualified Offerors in any manner necessary to serve the best interests of the State. The State also reserves the right, in its sole discretion, to award a Contract based upon the written Proposals received without discussions or negotiations.

1.20 Incurred Expenses

The State will not be responsible for any costs incurred by any Offeror in preparing and submitting a Proposal, in making an oral presentation, in providing a demonstration, or in performing any other activities related to this solicitation.

1.21 Protest/Disputes

Any protest or dispute related, respectively, to this solicitation or the resulting Contract shall be subject to the provisions of COMAR 21.10 (Administrative and Civil Remedies).

1.22 Offeror Responsibilities

The selected Offeror shall be responsible for all products and services required by this RFP. All subcontractors must be identified and a complete description of their role relative to the Proposal must be included in the Offeror's Proposal. If applicable, subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate Attachment(s) of this RFP (see Section 1.33 "Minority Business Enterprise Goals" and Section 1.41 "Veteran-Owned Small Business Enterprise Goals.").

If an Offeror that seeks to perform or provide the services required by this RFP is the subsidiary of another entity, all information submitted by the Offeror, including but not limited to references, minimum qualifications, and financial reports, or experience and documentation (e.g. insurance policies, bonds, letters of credit) used to meet minimum qualifications, if any, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's Proposal shall contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.

A parental guarantee of the performance of the Offeror under this Section will not automatically result in crediting the Offeror with the experience and/or qualifications of the parent under any evaluation criteria pertaining to the Offeror's experience and qualifications. Instead, the Offeror will be evaluated on the extent to which the State determines that the experience and qualification of the parent are transferred to and shared with the Offeror, the parent is directly involved in the performance of the Contract, and the value of the parent's participation as determined by the State.

1.23 Substitution of Personnel

A. Continuous Performance of Key Personnel

Unless substitution is approved per paragraphs B-D of this section, key personnel shall be the same personnel proposed in the Contractor's Technical Proposal, which will be incorporated into the Contract by reference. Such identified key personnel shall perform continuously for the duration of the Contract, or such lesser

duration as specified in the Technical Proposal. Key personnel may not be removed by the Contractor from working under this Contract, as described in the RFP or the Contractor's Technical Proposal, without the prior written approval of the Contract Monitor.

If the Contract is task order based, the provisions of this section apply to key personnel identified in each task order Proposal and agreement.

B. Definitions

For the purposes of this section, the following definitions apply:

Extraordinary Personal Circumstance – means any circumstance in an individual's personal life that reasonably requires immediate and continuous attention for more than fifteen (15) days and that precludes the individual from performing his/her job duties under this Contract. Examples of such circumstances may include, but are not limited to: a sudden leave of absence to care for a family member who is injured, sick, or incapacitated; the death of a family member, including the need to attend to the estate or other affairs of the deceased or his/her dependents; substantial damage to, or destruction of, the individual's home that causes a major disruption in the individual's normal living circumstances; criminal or civil proceedings against the individual or a family member; jury duty; and military service call-up.

Incapacitating – means any health circumstance that substantially impairs the ability of an individual to perform the job duties described for that individual's position in the RFP or the Contractor's Technical Proposal.

Sudden – means when the Contractor has less than thirty (30) days' prior notice of a circumstance beyond its control that will require the replacement of any key personnel working under the Contract.

C. Key Personnel General Substitution Provisions

The following provisions apply to all of the circumstances of staff substitution described in paragraph D of this section.

1. The Contractor shall demonstrate to the Contract Monitor's satisfaction that the proposed substitute key personnel have qualifications at least equal to those of the key personnel for whom the replacement is requested.
2. The Contractor shall provide the Contract Monitor with a substitution request that shall include:
 - A detailed explanation of the reason(s) for the substitution request;
 - The resume of the proposed substitute personnel, signed by the substituting individual and his/her formal supervisor;
 - The official resume of the current personnel for comparison purposes; and
 - Any evidence of any required credentials.
3. The Contract Monitor may request additional information concerning the proposed substitution. In addition, the Contract Monitor and/or other appropriate State personnel involved with the Contract may interview the proposed substitute personnel prior to deciding whether to approve the substitution request.
4. The Contract Monitor will notify the Contractor in writing of: (i) the acceptance or denial, or (ii) contingent or temporary approval for a specified time limit, of the requested substitution. The Contract Monitor will not unreasonably withhold approval of a requested key personnel replacement.

D. Replacement Circumstances

1. Voluntary Key Personnel Replacement

To voluntarily replace any key personnel, the Contractor shall submit a substitution request as described in paragraph C of this section to the Contract Monitor at least fifteen (15) days prior to the intended date of change. Except in a circumstance described in paragraph D.2 of this clause, a substitution may not occur unless and until the Contract Monitor approves the substitution in writing.

2. Key Personnel Replacement Due to Vacancy

The Contractor shall replace key personnel whenever a vacancy occurs due to the sudden termination, resignation, leave of absence due to an Extraordinary Personal Circumstance, Incapacitating injury, illness or physical condition, or death of such personnel. (A termination or resignation with thirty (30) days or more advance notice shall be treated as a Voluntary Key Personnel Replacement as per Section D.1 of this section.).

Under any of the circumstances set forth in this paragraph D.2, the Contractor shall identify a suitable replacement and provide the same information or items required under paragraph C of this section within fifteen (15) days of the actual vacancy occurrence or from when the Contractor first knew or should have known that the vacancy would be occurring, whichever is earlier.

3. Key Personnel Replacement Due to an Indeterminate Absence

If any key personnel has been absent from his/her job for a period of ten (10) days due to injury, illness, or other physical condition, leave of absence under a family medical leave, or an Extraordinary Personal Circumstance and it is not known or reasonably anticipated that the individual will be returning to work within the next twenty (20) days to fully resume all job duties, before the 25th day of continuous absence, the Contractor shall identify a suitable replacement and provide the same information or items to the Contract Monitor as required under paragraph C of this section.

However, if this person is available to return to work and fully perform all job duties before a replacement has been authorized by the Contract Monitor, at the option and sole discretion of the Contract Monitor, the original personnel may continue to work under the Contract, or the replacement personnel will be authorized to replace the original personnel, notwithstanding the original personnel's ability to return.

4. Directed Personnel Replacement

- a. The Contract Monitor may direct the Contractor to replace any personnel who are perceived as being unqualified, non-productive, unable to fully perform the job duties due to full or partial Incapacity or Extraordinary Personal Circumstance, disruptive, or known, or reasonably believed, to have committed a major infraction(s) of law, agency, or Contract requirements. Normally, a directed personnel replacement will occur only after prior notification of problems with requested remediation, as described in paragraph 4.b. If after such remediation the Contract Monitor determines that the personnel performance has not improved to the level necessary to continue under the Contract, if at all possible at least fifteen (15) days notification of a directed replacement will be provided. However, if the Contract Monitor deems it necessary and in the State's best interests to remove the personnel with less than fifteen (15) days' notice, the Contract Monitor can direct the removal in a timeframe of less than fifteen (15) days, including immediate removal.

In circumstances of directed removal, the Contractor shall, in accordance with paragraph C of this section, provide a suitable replacement for approval within fifteen (15) days of the notification of the need for removal, or the actual removal, whichever occurs first.

- b. If deemed appropriate in the discretion of the Contract Monitor, the Contract Monitor shall give written notice of any personnel performance issues to the Contractor, describing the problem and

delineating the remediation requirement(s). The Contractor shall provide a written Remediation Plan within ten (10) days of the date of the notice and shall implement the Remediation Plan immediately upon written acceptance by the Contract Monitor. If the Contract Monitor rejects the Remediation Plan, the Contractor shall revise and resubmit the plan to the Contract Monitor within five (5) days, or in the timeframe set forth by the Contract Monitor in writing.

Should performance issues persist despite the approved Remediation Plan, the Contract Monitor will give written notice of the continuing performance issues and either request a new Remediation Plan within a specified time limit or direct the substitution of personnel whose performance is at issue with a qualified substitute, including requiring the immediate removal of the key personnel at issue.

Replacement or substitution of personnel under this section shall be in addition to, and not in lieu of, the State's remedies under the Contract or which otherwise may be available at law.

1.24 Mandatory Contractual Terms

By submitting a Proposal in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached herein as **Attachment A**. Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary of the Technical Proposal. **Changes to the solicitation, including the Proposal Form or Contract, made by the Offeror may result in Proposal rejection.**

1.25 Proposal/Proposal Affidavit

A Proposal submitted by an Offeror must be accompanied by a completed Bid/Proposal Affidavit. A copy of this Affidavit is included as **Attachment B** of this RFP.

1.26 Contract Affidavit

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete a Contract Affidavit. A copy of this Affidavit is included as **Attachment C** of this RFP. This Affidavit must be provided within five (5) Business Days of notification of proposed Contract award.

1.27 Compliance with Laws/Arrearages

By submitting a Proposal in response to this RFP, the Offeror, if selected for award, agrees that it will comply with all Federal, State, and local laws applicable to its activities and obligations under the Contract.

By submitting a response to this solicitation, each Offeror represents that it is not in arrears in the payment of any obligations due and owing the State, including the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of the Contract if selected for Contract award.

1.28 Verification of Registration and Tax Payment

Before a business entity can do business in the State it must be registered with the State Department of Assessments and Taxation (SDAT). SDAT is located at State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. The SDAT website is <http://www.dat.state.md.us/sdatweb/datanote.html>.

It is strongly recommended that any potential Offeror complete registration prior to the due date for receipt of Proposals. An Offeror's failure to complete registration with SDAT may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

1.29 False Statements

Offerors are advised that Md. Code Ann., State Finance and Procurement Article, § 11-205.1 provides as follows:

1.29.1 In connection with a procurement contract a person may not willfully:

- (a) Falsify, conceal, or suppress a material fact by any scheme or device;
- (b) Make a false or fraudulent statement or representation of a material fact; or
- (c) Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.

1.29.2 A person may not aid or conspire with another person to commit an act under subsection (1) of this section.

1.29.3 A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding five years or both.

1.30 Payments by Electronic Funds Transfer

By submitting a response to this solicitation, the Bidder/Offeror agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller's Office grants an exemption. Payment by EFT is mandatory for contracts exceeding \$100,000. The selected Bidder/Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. 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, must include the business identification information as stated on the form, and must include the reason for the exemption. The COT/GAD X-10 form may be downloaded from the Comptroller's website at:

http://comptroller.marylandtaxes.com/Government_Services/State_Accounting_Information/Static_Files/APM/gadx-10.pdf

1.31 Prompt Payment Policy

This procurement and the Contract(s) to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs (GOMA) and dated August 1, 2008. Promulgated pursuant to Md. Code Ann., State Finance and Procurement Article, §§ 11-201, 13-205(a), and Title 14, Subtitle 3, and COMAR 21.01.01.03 and 21.11.03.01, the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The Contractor must comply with the prompt payment requirements outlined in the Contract, Section 31 "Prompt Payment" (see **Attachment A**).

Additional information is available on GOMA's website at:

http://www.mdminoritybusiness.com/documents/PROMPTPAYMENTFAQs_000.pdf

1.32 Electronic Procurements Authorized

- A. Under COMAR 21.03.05, unless otherwise prohibited by law, DHMH may conduct procurement transactions by electronic means, including the solicitation, bidding, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.

- B. Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Bidder/Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or the Contract.
- C. "Electronic means" refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes facsimile, e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://emaryland.buyspeed.com/bsol/>) and electronic data interchange.
- D. In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., § 1.30 "Payments by Electronic Funds Transfer") and subject to the exclusions noted in section E of this subsection, the following transactions are authorized to be conducted by electronic means on the terms described:
1. The Procurement Officer may conduct the procurement using eMM, e-mail or facsimile to issue:
 - (a) the solicitation (e.g., the IFB/RFP);
 - (b) any amendments;
 - (c) pre-bid/Proposal conference documents;
 - (d) questions and responses;
 - (e) communications regarding the solicitation or Bid/Proposal to any Bidder/Offeror or potential Bidder/Offeror;
 - (f) notices of award selection or non-selection; and
 - (g) the Procurement Officer's decision on any bid protest or Contract claim.
 2. A Bidder/Offeror or potential Bidder/Offeror may use e-mail or facsimile to:
 - (a) ask questions regarding the solicitation;
 - (b) reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer's request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer;
 - (c) submit a "No Bid/Proposal Response" to the solicitation.
 3. The Procurement Officer, the Contract Monitor, and the Contractor may conduct day-to-day Contract administration, except as outlined in Section E of this subsection utilizing e-mail, facsimile, or other electronic means if authorized by the Procurement Officer or Contract Monitor.
- E. The following transactions related to this procurement and any Contract awarded pursuant to it are *not authorized* to be conducted by electronic means:
1. submission of initial Bids or Proposals;
 2. filing of Bid Protests;
 3. filing of Contract Claims;
 4. submission of documents determined by DHMH to require original signatures (e.g., Contract execution, Contract modifications, etc.); or
 5. any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Bidder/Offeror be provided in writing or hard copy.
- F. Any facsimile or e-mail transmission is only authorized to the facsimile numbers or e-mail addresses for the identified person as provided in the solicitation, the Contract, or in the direction from the Procurement Officer or Contract Monitor.

1.33 Minority Business Enterprise Goals

There is no MBE subcontractor participation goal for this procurement.

1.34 Living Wage Requirements

A solicitation for services under a State contract valued at \$100,000 or more may be subject to Md. Code Ann., State Finance and Procurement Article, Title 18. Additional information regarding the State's living wage requirement is contained in **Attachment G**. Bidders/Offerors must complete and submit the Maryland Living Wage Requirements Affidavit (**Attachment G-1**) with their Bid/Proposal. If a Bidder/Offeror fails to complete and submit the required documentation, the State may determine a Bidder/Offeror to be not responsible under State law.

Contractors and subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier area. 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) of the State Finance and Procurement Article shall assign the tier based upon where the recipients of the services are located.

The Contract resulting from this solicitation will be determined 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. The Bidder/Offeror must identify in its Bid/Proposal the location(s) from which services will be provided, including the location(s) from which 50% or more of the Contract services will be provided.

- 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, the State agency determines the wage tier based on where the majority of the service recipients are located. This Contract has been determined to be a Tier 2 Contract.

Information pertaining to reporting obligations may be found by going to the Maryland Department of Labor, Licensing and Regulation (DLLR) website <http://www.dllr.state.md.us/labor/prev/livingwage.shtml>.

NOTE: Whereas the Living Wage may change annually, the Contract price may not be changed because of a Living Wage change.

1.35 Federal Funding Acknowledgement

This Contract does not contain Federal funds.

1.36 Conflict of Interest Affidavit and Disclosure

All Bidders/Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Contractor's personnel who perform or control work under this Contract and each of the participating subcontractor personnel who perform or control work under this Contract shall be required to complete agreements such as **Attachment I** Conflict of Interest Affidavit and Disclosure. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08.

Bidders/Offerors shall complete and sign the Conflict of Interest Affidavit and Disclosure and submit it with their Bid/Proposal.

1.37 Non-Disclosure Agreement

All Bidders/Offerors are advised that this solicitation and any resultant Contract(s) are subject to the terms of the Non-Disclosure Agreement (NDA) contained in this solicitation as **Attachment J**. This Agreement must be provided within five (5) Business Days of notification of proposed Contract award, however, to expedite processing, it is suggested that this document be completed and submitted with the Bid/Proposal.

1.38 HIPAA - Business Associate Agreement

Based on the determination by DHMH that the functions to be performed in accordance with this solicitation constitute Business Associate functions as defined in HIPAA, the recommended awardee shall execute a Business Associate Agreement as required by HIPAA regulations at 45 C.F.R. §164.501 and set forth in **Attachment K**. This Agreement must be provided within five (5) Business Days of notification of proposed Contract award, however, to expedite processing, it is suggested that this document be completed and submitted with the Bid/Proposal. Should the Business Associate Agreement not be submitted upon expiration of the five (5) Business Day period as required by this solicitation, the Procurement Officer, upon review of the Office of the Attorney General and approval of the Secretary, may withdraw the recommendation for award and make the award to the responsible Bidder/Offeror with the next lowest Bid or next highest overall-ranked Proposal..

1.39 Nonvisual Access

This solicitation does not contain Information Technology (IT) provisions requiring Nonvisual Access.

1.40 Mercury and Products That Contain Mercury

All products or equipment provided pursuant to this solicitation shall be mercury-free products. The Bidder/Offeror must submit a Mercury Affidavit in the form of **Attachment L** with its Bid/Proposal.

1.41 Veteran-Owned Small Business Enterprise Goals

There is no Veteran-Owned Small Business Enterprise (VSBE) subcontractor participation goal for this procurement.

1.42 Conflict Minerals Notice

Offerors are advised that Md. Ann. Code, State Finance and Procurement Article, § 14-413 provides as follows:

- (a) (1) In this section the following words have the meanings indicated.
- (2) (i) “Conflict mineral” means a mineral or mineral derivative determined under federal law to be financing human conflict.
- (ii) “Conflict mineral” includes columbite-tantalite (coltan), cassiterite, gold, wolframite, or derivatives of these minerals.
- (3) “Noncompliant person” means a person:
 - (i) that is required to disclose under federal law information relating to conflict minerals that originated in the Democratic Republic of the Congo or its neighboring countries; and
 - (ii) for which the disclosure is not filed, is considered under federal law to be an unreliable determination, or contains false information.

- (b) A unit may not knowingly procure supplies or services from a noncompliant person.

By submitting a response to this solicitation, the Bidder/Offeror represents that it is in compliance with the disclosure requirements related to conflict minerals, as set forth in § 14-413 of the State Finance and Procurement Article.

1.43 Investment Activities in Iran

The Bidder/Offeror is required to complete the Investment Activities in Iran Certification. A copy of this Certification is included as **Attachment N**. The Certification must be provided with the Bid/Proposal.

1.44 Location of the Performance of Services Disclosure

The Bidder/Offeror is required to complete the Location of the Performance of Services Disclosure. A copy of this Disclosure is included as **Attachment O**. The Disclosure must be provided with the Bid/Proposal.

1.45 Department of Human Resources (DHR) Hiring Agreement

All Bidders/Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Bidder/Offeror will be required to complete a DHR Hiring Agreement. A copy of this Affidavit is included as **Attachment P**. This Affidavit must be provided within five (5) Business Days of notification of proposed Contract award.

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SECTION 2 – MINIMUM QUALIFICATIONS

2.0 Offeror Minimum Qualifications

There are no Offeror Minimum Qualifications for this procurement.

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SECTION 3 – SCOPE OF WORK

3.1 Background and Purpose

3.1.1. PURPOSE

The purpose of this solicitation is to contract with a vendor who can successfully deliver the following:

- A. Food Service operations, and Professional Clinical Nutrition care services for patients/residents.
- B. Cafeteria services for employees and authorized visitors at the center.

3.1.2. BACKGROUND

The Thomas B. Finan Center, located in Cumberland, Maryland, is an integral part of the Mental Hygiene Administration Service Delivery Systems of the State of Maryland. The Center is one of a network of facilities administered by the Mental Hygiene Administration, Department of Health and Mental Hygiene, State of Maryland. The Center's complex includes a total complement of one hundred and ninety-five (195) patients/residents/students, broken down as follows:

- Finan Center: Sixty-six (66) bed licensed residential psychiatric facility (patients).
Twenty-two (22) bed licensed assisted living facility (residents).
- Massie : Twenty-five (25) bed addiction treatment unit for adults (patients).
- Jackson: Twenty-one (21) bed addiction treatment units for adolescent female (patients).
Twenty-one (21) bed addiction treatment units for adolescent males (patients).
- Jefferson School: Forty (40) student school day program (students).

1. Population to be Served:

- a. This Request for Proposals (RFP) is for a Contractor to provide for the total operation of the Dietetic Department at the Thomas B. Finan Center. The Contractor shall provide food and dietetic department services for approximately one hundred and ninety-five (195) individuals, and clinical nutrition services for approximately one hundred and fifty-five (155) individuals. Clinical nutrition services are not provided to the school day program.
- b. The Contractor shall operate a pay cafeteria at the Thomas B. Finan Center. The cafeteria shall provide meals at breakfast, lunch, and dinner and between meal offerings for employees and official visitors of the Center.

2. Type and Location of Service:

- a. The Finan Center is a one-story structure, built in 1978 and located in Cumberland, Maryland. The kitchen, ware washing, and all storage areas related to the dietetic department are located in this building. Patients/Residents of the complex reside in seven (7) separate cottages. Meal service for the patients/residents of the Finan Center, including the addiction units for adults and adolescents, is provided in five (5) separate dining areas using a combination of cafeteria-style service and insulated tray service. Two (2) of these dining areas are shared by the patients/residents of two (2) separate cottages. These two dining areas therefore require two meal periods for each meal. The Contractor shall be required to deliver and provide personnel to serve both types of meals (cafeteria and tray service) in each dining area. All cottages and dining areas of the Center are accessed through interior covered hallways.
- b. The Jefferson School currently rents space on the Finan Center grounds. Lunch meal service and beverages are provided Monday through Friday year-round for approximately forty (40)

students enrolled in this program. The Jefferson School is located in a separate building which is not accessible through the interior of the Finan Center building. Meal service is provided through a combination of bag meals and insulated trays. The Contractor shall be required to deliver these meals via truck or enclosed transport cart to the loading dock area of the building in which the Jefferson School is located.

3. Information and Statistics:

Patient/Resident Meal Service Statistics for the Period of July 1, 2011 - June 30, 2012:

- a. Average number of patient/resident meals for Finan Center (insulated tray and cafeteria style) served per meal per day (Sunday through Saturday) for the above referenced twelve-month period:

	Weekdays	Weekend
Breakfast	152	152
Lunch	152	152
Dinner	152	152

Approximately 30 of the total meals served at each meal above were served through the use of an insulated tray service. Some patients/residents may by physician's order require larger portions of food as part of their medical treatment.

- b. Following is a list of diet types and the number of each type served at the Finan Center for the period July 1, 2011, through June 30, 2012:

Diet Type	Approximate Total Each Meal	Approximate Total Annually
Regular	81	88,695
Adolescent	39	42,705
High Protein, High Calorie	1	1,095
Mechanical, Soft	4	4,380
Mechanical Soft, Low Potassium	1	1,095
Mechanical Soft, Low Fat, Low Cholesterol	1	1,095
Low Fat, Low Cholesterol	5	5,475
Sodium Restricted	4	4,380
Calorie Restricted	10	10,950
Calorie Restricted, Sodium Restricted	2	2,190
Calorie Restricted, Transitional	1	1,095
Pureed, Low Fat, Low Cholesterol	1	1,095
Vegetarian	2	2,190
	152	166,440

152 meals per serving period X 3 meals per day X 365 days per year = 166,440 meals served in a twelve month period.

- c. Following is a list of the specific commercial supplements, and food consistency modification products with the quantities utilized to meet the Finan Center patients/residents needs during the period July 1, 2011, through June 30, 2012:

Commercial Supplements/Tube Feeding Products

Ensure (8 oz.)	2,664
Ensure Plus (8 oz.)	936
Ensure Pudding (4 oz.)	288
Glucerna (8 oz.)	768
Resource Nutritional Juice (4oz)	576

Commercial Food Consistency Modification Products

Thickened Juices (4 oz.)	1,428
Thickened Tea (4 oz.)	318
Thickened Milk (8 oz.)	1,147
Thickened Water (4 oz.)	742
Thicken Up (8 oz.)	218

- d. Following is a list of juices with quantities utilized for administering medications and for the hydration of the Finan Center's patients/residents during the period July 1, 2011, through June 30, 2012:

Juice Used for Medications and Snacks

Orange Juice (64 oz.)	2,694 containers
Cranberry Juice (64 oz.)	1,156 containers
Apple Juice (64 oz.)	1,241 containers
Grape Juice (64 oz.)	926 containers
Orange Punch (64 oz)	3,527 containers
Diet Lemonade(64 oz)	799 containers
Prune Juice (46 oz.)	374 containers

- e. The following figures represent actual patient/resident days for the fiscal years indicated:

YEAR	PATIENT/CLIENT DAYS
FY 2008	61,320
FY 2009	30,091
FY 2010	29,239
FY 2011	29,786
FY 2012	30,752

- f. The anticipated average daily number of patients/residents for the contract period:

Fiscal Year	Finan	Massie	Jackson	Jefferson	Total
FY 2014	88	25	42	40	195
FY 2015	88	25	42	40	195
FY 2016	88	25	42	40	195
FY 2017	88	25	42	40	195
FY 2018	88	25	42	40	195

- g. Total number of employee/visitor cafeteria transactions during the period July 1, 2011, through June 30, 2012:

Breakfast	4,028	15%
Lunch	17,725	66%

Dinner	5,103	19%
Total	26,856	(100%)

h. Employee/Visitor Cafeteria Sales for Period July 1, 2011 - June 30, 2012:

July, 2011	\$5,526.
August, 2011	5,052.
September, 2011	5,541.
October, 2011	5,210.
November, 2011	4,853.
December, 2011	4,364.
January, 2012	5,192.
February, 2012	5,935.
March, 2012	6,288.
April, 2012	5,741.
May, 2012	5,219.
June, 2012	5,093.
Total	\$ 64,014.

3.2 Scope of Work - Requirements

3.2.1. INTRODUCTION

The Thomas B. Finan Center, is soliciting Proposals from qualified Offerors for the total operation of the Dietetic Department at the complex to include food service operations and management, and professional clinical nutrition care services to ensure optimal nutritional care of the patients/residents/students of the complex, as well as cafeteria services for employees and visitors. The Department intends to make a single award as a result of this RFP.

3.2.2. SERVICES TO BE PERFORMED

1. Policies and Procedures

- a. The Contractor shall develop a comprehensive Policy and Procedure Manual specific to the needs of the Dietetic Department of this Center.
- b. The Dietetic Department Policy and Procedure Manual shall clearly define all operational principles and methodologies to be utilized to ensure the ability to fulfill all of the requirements of the Contract in a consistent and satisfactory manner and ensure compliance with all requirements, standards and regulations of the Joint Commission (JCAHO), and all Federal, State and local agencies having authority over the Finan Center with respect to licensing and accreditation as well as compliance with requirements related to Health Insurance Portability and Accountability Act and the Americans with Disabilities Act.
- c. Policies related to, but not limited to the following topics must be included within the manual:
 - 1. Dietetic Department organization
 - 2. Employee orientation and training for contractor’s staff
 - 3. Ongoing training and continuing education of Contractor’s staff

4. Dietetic Department Personnel policies to include:
 - a. Employment process
 - b. Orientation procedures
 - c. Employee classifications
 - d. Salary scales
 - e. Employee benefits
 - f. Performance review procedures
 - g. Disciplinary process
 - h. Grievance process
 - i. Promotions
 - j. Work hours
 - k. Employee health (including physical, illness, injury)
 - l. Dress code
 - m. Timekeeping
 5. Personal health and hygiene of employees
 6. Interdepartmental relations and consistent ongoing communications
 7. Record keeping;
 8. Food purchasing
 9. Storage of food, chemicals and supplies
 10. Storage, distribution, and administration of enteral tube feedings and nutrition supplements
 11. Inventory
 12. Food production and service
 13. Cafeteria pricing, review and revision schedule
 14. Menu preparation
 15. Modified diet orders
 16. Tray identification system
 17. HACCP (Hazard Analysis Critical Control Points)
 18. Infection control
 19. Emergency/disaster menus, supplies and plans
 20. Pertinent safety practices
 21. Protection of the food supply
 22. Sanitation to include
 - a. handling of cutting boards
 - b. dish, utensil and ware washing techniques
 - c. disposal of single use containers
 - d. disposal of damaged/unusable service ware
 - e. traffic control within the Department
 23. Protocols for nutritional care
 24. Nutritional assessment
 25. Nutritional counseling and diet instruction
 26. Nutrition Education of patients/residents
 27. Quality assessment and improvement
 28. Quality control and risk management
- d. The Policy and Procedure Manual shall be submitted to the Center's Contract Monitor within two (2) weeks after receipt of the Notice to Proceed from the Contract Monitor for review and approval. This review will be accomplished within one week. The Contractor shall modify this Manual as required by the Center within seven (7) days of written notice of any necessary changes.
 - e. The Contractor shall review and revise the Policy and Procedure Manual annually no less than two (2) weeks before the anniversary date of the Contract and submit it to the Center's Contract Monitor for approval.

2. Reporting Requirement:

- a. The Contractor shall provide the Center's Contract Monitor with an annual report no later than 30 days following the anniversary date of each contract year. The report shall show the following information:

PATIENT/RESIDENT DATA:

- (1) Total number of meals served to patients/residents by diet type;
- (2) Total number of commercial supplements and tube feeding products provided by type and container size;
- (3) Total number of food consistency modification products provided by type and container size; and
- (4) Total number of juices for medications and hydration provided by type and container size.

CAFETERIA DATA:

- (1) Total number of transactions for Breakfast/Mid-Morning Break, Lunch, Mid-Afternoon Break, and Dinner; and
- (2) Total sales revenue for each month.

3. Patient/Resident Food Service

- a. The Contractor shall provide three (3) meals per day, seven (7) days per week and an evening nutritious snack for the patients/residents within the Finan center; Lunch meals five (5) days per week for the Jefferson school students.
- b. The Contractor shall utilize an insulated tray to serve patients on the units at Finan Center not served cafeteria style (those requiring modified diets). Insulated trays and permanent ware shall be maintained on a replacement basis by the Contractor. Tray-related disposables shall be provided by the Contractor. Trays shall be maintained in an acceptable condition at all times, free of cracks, chipping, stains or other conditions unacceptable under State Health Department Regulations COMAR 10.15.03, Food Service Facilities and any Licensure or Accreditation standards. The Contractor shall transport all food, beverages, utensils and accessories on the tray under a cover. Trays will be of a two-piece design consisting of a base unit and a top which completely covers the base unit. The Skandia insulated tray system is in use at the Finan Center. This system is manufactured by Aladdin Temp-Rite, 250 East Main Street, Hendersonville, TN 37075.
<http://aladdintemprite.com/MealDeliverySystems/InsulatedTrays/Skandia.aspx> An appropriate substitute insulated tray system may be utilized with the approval of the Contract Monitor.

The Contractor shall use this system (or appropriate, approved substitute) as it satisfactorily accommodates the varying needs of the respective patients/residents. The Contractor shall utilize disposable plastic dishware inserts designed for use with this system (to include: entrée dish, side dish, dessert dish and soup/cereal bowls with lids as appropriate). Each of the compartments of all trays in which food is placed for service to

the patients/residents of the center must be lined with a disposable insert. All cups and utensils utilized for meal, beverage and snack service for the four (4) behavioral health cottages (Finan) are to be disposables (Styrofoam cups, and plastic utensils). Re-usable utensils and disposable cups are to be utilized for the three (3) addictions treatment cottages (Massie and Jackson).

Cafeteria style service meals served by the Contractor's employees will be provided in the five (5) separate cottage dining rooms at the Finan Center. Food for this service shall be transported through internal hallways to the units in heated and refrigerated carts by the Contractor's staff. Carts will be provided by the State.

- c. Trays and bulk food shall be delivered to the patient/resident units by the Contractor's employees at the following times:

Breakfast	7:30 A.M.
Lunch	NOON
Dinner	5:30 P.M.

Trays shall be picked up from the patient/resident units by the Contractor's employees and returned to the ware washing area beginning at the following times:

Breakfast	8:45 A.M.
Lunch	1:00 P.M.
Dinner	6:30 P.M.

- d. Each patient/resident tray shall be identified minimally with the patient's/resident's name, location, diet type, food likes, food dislikes and beverage preferences.
- e. Trays, beverages, and bag meals shall be delivered to the Jefferson School at Finan Center Monday through Friday by the Contractor's employees at 11:15 a.m.

The Jefferson School secretary will call in a count to the Contractor each day that specifies the number of lunch trays, bag meals and beverages that are required. This count will detail any dietary restrictions that are necessary. No clinical nutrition services are provided by the Contractor's registered dietitian to the Jefferson School.

Regular meal trays should follow the menu cycle planned for the adolescent population of the Finan Center. Bag meals should provide the same nutritional value as the lunch meals that are provided that day via tray service. Each tray or bag meal that is modified to address dietary restrictions will be identified and clearly labeled with the restrictions.

- f. The Contractor shall provide the following food and supplements seven (7) days per week for all patients/residents whose diet orders allow them:
 - (1) An evening nutritious snack, which may include, but is not limited to a selection or combination of the following: juice, trail mix, cookies, fruit, raw carrot/celery sticks, sandwich, crackers with cheese or peanut butter, etc.
 - (2) All commercial nutritional supplements and/or between meal snacks required by a physician's medical prescription or identified by the clinical dietitian as required as a part of a patient/resident nutrition care plan.
 - (3) A variety of juices (orange, prune, cranberry, apple, grape and fruit punch) as requested for use in administering medications and for patient/resident hydration.

- (4) Meat, cheeses, bread and condiments in addition to the evening nutritious snack must be provided each evening to the three (3) addiction treatment cottages (Massie and Jackson) to allow for each patient to assemble a supplemental sandwich snack.

The snacks, commercial supplements and juices shall be prepared and delivered to all units by the Contractor's employees according to a schedule approved by the Center.

- (5) The Contractor shall ensure that all potentially hazardous food, beverages, supplements etc. packaged on premise and sent to the patient/resident units are labeled as to the contents and that a "use by" date is indicated. Purchased commercially prepared items shall contain similar information.

4. Employee/Visitor Food Service

- a. The Contractor shall provide meals utilizing a selective type menu for employees and/or visitors at lunch and dinner seven (7) days per week, in the cafeteria at the following hours:

Lunch: 11:00 A.M. - 1:30 P.M.
Dinner: 4:00 P.M. - 5:45 P.M.

- b. The Contractor shall provide for employees and visitors at mid-morning and mid-afternoon, five (5) days per week (Monday through Friday). Mid-morning offerings are to include a minimum of coffee, tea, milk, juice, fresh fruit, hard cooked eggs, and a selection of pastries. Mid-Afternoon offerings are to include a minimum of coffee, tea, milk, juice, fresh fruit, cookies, and ice cream. Items shall be available the following times:

Mid-Morning: 9:30 A.M. - 10:30 A.M.
Mid-Afternoon: 2:00 P.M. - 3:00 P.M.

In addition, the Contractor shall provide a breakfast menu during the mid-morning break three (3) days per week, Monday, Wednesday, and Friday except when State holidays are observed on these days. Holidays observed by the State that will impact service include: New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, day after Thanksgiving, and Christmas Day. See RFP § 1.2 regarding "Business Days." Essential employees would be the only individuals required to work the above-noted holidays, therefore; all meals served in the cafeteria would be utilized by fewer individuals.

- c. The Contractor shall submit the menus, with portion sizes, raw food cost and selling price of all items to be sold in the cafeteria to the Center's Contract Monitor within two (2) weeks after receipt of the Notice to Proceed from the Contract Monitor for review and approval. The Contractor shall submit simultaneously, in a written policy, a schedule for periodic price review and revision. Any price revision shall be submitted to the Center's Contract Monitor for approval no less than two (2) weeks prior to the effective date.
- d. The Contractor shall post menus in the employees' cafeteria no less than one (1) week in advance of scheduled service.
- e. The Contractor shall ensure that sufficient employees are available in the cafeteria at all times to serve to Center Employees and visitors.

- f. The Contractor shall be responsible for the collection of money from sales in the employee's cafeteria.
 - g. The security of all monies associated with the employee cafeteria will be the responsibility of the Contractor.
 - h. A cash register system shall be utilized which provides a receipt tape for the customer and an audit tape for accounting records. This equipment will be provided by the Center. A register receipt shall be given for all food purchases. A daily summary of the employee cafeteria operation shall be maintained, which shall also include month to date totals, in a format approved by the Center's Contract Monitor. All records related to income, operational cost, and menu changes shall be maintained by the Contractor for the period set forth in the contract
 - i. The employees' cafeteria is available to State employees, Contractor staff, and authorized visitors only.
5. Special Food Requests
- a. All special food requests shall be submitted to the Contractor for review by the individual or group making the request, and for approval by the Center's Contract Monitor one (1) week prior to the required date.
 - b. Requests for special activities, bag lunches, picnics, etc. for patients/residents which have been approved by the contract monitor, shall be in lieu of that meal. (Section 3.2.3.1.c Nutritional Operational Requirements). These alternative meals shall be provided at no additional cost to the State,

3.2.3. NUTRITIONAL/OPERATIONAL REQUIREMENTS

1. Patients/Residents Menu:

- a. All menus shall be planned as to be nutritionally adequate according to the prescribed diet for the patient/resident population. All menus shall be in conformance and consistent with the meal plans for specified diets as outlined and approved in the Diet Manual in use for the Center.

The Diet Manual shall contain all diet types required to accommodate the nutritional needs of the patients/residents of the Finan Center. Diets included shall be consistent with current generally accepted theories of dietetic practice, be based on the Dietary Reference Intakes as defined by the Institute of Medicine of the National Academies, adjusted to meet the specific needs of the patients/residents of the Finan Center.

- b. A non-selective, seasonally-appropriate, five (5) week cycle menu shall be used. The Contractor shall prepare and utilize a minimum of two (2) menu cycles (Spring/Summer, Fall/ Winter) for all diet types.

Regular menus shall be modified for patients/residents as required to comply with physician's diet prescriptions. All modified menus and diet plans shall be developed and analyzed by the Contractor's Registered Dietitian to ensure compliance with the Center's approved Diet Manual.

A current copy of the patient/resident's menu will be posted in each dining/cottage area.

Evening snacks provided shall be planned to enhance the nutritional content of the daily menu for all patients/residents and not constitute a portion of their daily requirement, except where counter-indicated by diet prescription. A cycle menu for the evening snacks, with a minimum of five (5) weeks in length will be developed by the Contractor's Registered Dietitian to correspond to the two (2) regular menu cycles (Spring/Summer, Fall/Winter).

The initial menu cycle with analyses and a statement of the nutritional adequacy of the menus, signed by the Contractor's Registered Dietitian (Section 3.2.3.1.f Nutritional Operational Requirements) shall be submitted by the Contractor to the Center's Contract Monitor within two (2) weeks after receipt of the Notice to Proceed from the Contract Monitor for review and approval. Subsequently, each year, no later than January 15th, the Contractor shall submit for review and approval the Spring/Summer menu cycle with analysis and signed nutritional adequacy statement, and no later than July 15th, the Fall/Winter menu cycle to be utilized, with analysis and signed nutritional adequacy statement. Requests for any menu cycle revisions by the Center shall be accomplished within seven (7) days.

- c. Bag lunches, picnics, and special outings for patients/residents, requested and approved by the Center's Contract Monitor, which are in lieu of a regularly planned meal, shall provide the same nutritional value to the meal for which they are substituted. These alternative meals shall be provided at no additional cost to the State.

A minimum of a two-week bag lunch cycle menu shall be planned for the bag meals served to students at the Jefferson school for whom a bag lunch meal is ordered. The contents of these bag meals shall be planned in accordance with the requirements stated in (c) above.

- d. Nutritional supplements, commercially prepared formulas for use as tube feedings and food consistency modification products required to comply with physician's diet prescriptions shall be purchased by the Contractor. The Contractor's Registered Dietitian and the Medical Director/Unit Physician shall agree to any change of or substitution of any product before it is put into use.

The Contractor's Registered Dietitian shall include and maintain current in the Center's approved Diet Manual all appropriate nutritional information for the products in use at the Center.

- e. Standardized recipes shall be developed and utilized for the preparation of all menu items. The recipes shall be developed in a standard format which shall include Hazard Analysis Critical Control Point (CCP) elements (e.g., identification of Critical Control Points, CCP monitors, and corrective action to be implemented if CCP is violated). Recipes shall comply with State Hazard Analysis Critical Control Point requirements of COMAR 10.15.03.

Standardized recipes for consistency modified menu items shall be formulated to:

- (1) identify the method of manipulation;
- (2) define the type and quantity of fluids and or food products added to achieve desired consistency;
- (3) adjust the portion size of the manipulated food to equal the nutrient value of the regular diet portion; and
- (4) be consistent with the standardized recipe format.

All standardized recipes shall indicate the nutritional analysis for the stated portion size.

- f. The Contractor's Registered Dietitian shall perform a nutritional analysis for each cycle of menus to be used at the Center. The analysis shall be based on the nutritional composition of the ingredients of the Contractor's standardized recipes in use, and the nutritional composition provided by the manufacturer for any purchased commercially prepared ready to use or any heat/cook serve products used to determine the menus adequacy for each reference group. A copy of the approved menus with the corresponding analyses and signed documentation of nutritional adequacy of these menus for the Finan Center population shall be maintained on file and on site by the Contractor for review by licensing and accreditation surveyors upon request.
- g. The Contractor shall develop an Emergency Menu Plan that includes the provision of meals for no less than three (3) days, based upon service of three (3) meals per day and an evening snack. Menus shall be developed and posted, employees trained to ensure adequate and continued service during emergencies related to weather, floods, lack of steam, water, electricity, fire, labor strike, etc. The Plan shall detail instructions for food preparation, distribution, transportation, and all associated supplies required to implement the Plan (i.e. disposable ware, can openers, trash bags, serving utensils, etc.). The Contractor shall maintain the corresponding food inventory on the premises for feeding patients/residents and employees. A similar inventory of the required emergency supplies (e.g., disposable ware, can openers, trash bags, service utensils, etc.) shall also be maintained. The emergency food inventory and emergency supplies inventory are to be maintained separate from the regular inventories and identified for emergency use only. The plan should identify the means of access to these items twenty-four (24) hours per day, seven (7) days per week. The Dietetic Department policy related to the Emergency Menu Plan shall include a routine food inventory rotation schedule. The Plan shall be submitted to the Center's Contract Monitor within two (2) weeks after receipt of the Notice to Proceed from the Contract Monitor for review and approval. The Contractor shall make any required adjustments within seven (7) days of written notice. The Contractor shall review and revise the plan annually no less than two (2) weeks prior to the contract anniversary date and submit it to the Center's Contract Monitor for approval.
- h. The Contractor shall develop a separate plan for responding to both an internal and an external emergency. It shall include at a minimum, the following: evacuation plan for the Dietetic Department; location of fire-fighting equipment; a plan for the provision of food service following the loss of utilities; plan for contacting essential personnel; instructions for utilizing volunteers and a plan for providing a continuous source of uncontaminated food and supplies. Additionally, an integral part of the overall plan shall be a separately defined plan that ensures the availability of an adequate supply of food within the Center in the event of an on-going emergency (e.g., terrorist attack, etc.) that is of such a nature as to require an official declaration of a state of "Shelter in Place." Under this condition, in an effort to prevent contamination, no one will be permitted to enter or leave the Center. A defined rotation schedule shall be developed for this food inventory. The plan shall be submitted to the Center's Contract Monitor within two (2) weeks after receipt of the Notice to Proceed from the Contract Monitor for review and approval. The Contractor will make any required adjustments within seven (7) days of written notice. The Contractor shall review and revise the plan annually no less than two (2) weeks prior to the contract anniversary date and submit it to the Center's Contract Monitor for approval. A copy of these plans shall be provided to the Center for inclusion in its Emergency Preparedness Plan.

The Contractor shall also provide the Center's Contract Monitor with a list of the Contractor's employees, including their phone numbers, who shall be notified in an emergency by the Center's staff. The Contractor's Dietetic Department Director shall be responsible to assure the maintained list is current at all times.

The Contractor shall not change, by deletion or substitution, items on any menu which has been approved except in such emergencies as:

- (1) an item cannot be served due to non-delivery or late delivery of the item itself and/or other items required for its correct preparation;
- (2) an item is not fit for human consumption due to spoilage;
- (3) an item does not meet the Contractor's purchasing specifications or the standard of quality when delivered, and there is insufficient time available to allow for a redelivery;
- (4) an item is unavailable when scheduled for delivery due to a condition or conditions beyond the control of the vendor

2. Clinical Nutrition Services

- a. The Contractor shall employ a sufficient number of clinical dietitians (R.D., L.D.N.s) as referenced in 2. c below (who are registered by the commission on Dietetic Registration and licensed by the State of Maryland Board of Dietetic Practice) to provide direct nutrition care to the patients/residents at the Finan Center. All Clinical Dietitians performing services under this Contract shall possess a current and valid license from the Board of Dietetic Practice State of Maryland.
- b. At least one of the Contractor's Clinical Dietitian(s) will be employed and available full-time at the Center. Due to the specific nutrition care requirements of the patients/residents at the Center, the Contractor shall identify both the specific and shared responsibilities of each Clinical Dietitian(s) employed.
- c. The Contractor shall provide professional nutrition care for the adult psychiatric patients at Finan Center by a Clinical Dietitian (R.D., L.D.N) to satisfactorily comply with the scope and quality of services described in these specifications that shall minimally equate to 1.78 hours per patient per month.

The Contractor shall provide professional nutrition care for the patients in Massie and Jackson units by a Clinical Dietitian (R.D.,L.D.N) to satisfactorily comply with the scope and quality of services described in these specifications that shall minimally equate to 1.10 hours per patient per month.

- d. The Contractor's Dietetic Department Director may only perform the clinical dietary requirements of this contract if the Dietetic Department Director is a Registered Dietitian (RD), licensed by the State of Maryland Board of Dietetic Practice (LDN). However, the Director may only perform the clinical dietary requirements of this Contract in an emergency situation for a limited period, as agreed to by the Contractor and the Contract Monitor, or for vacation or sick leave for which prior approval has been given by the Center's Administration. Beyond this one-time approval period, the Contractor shall provide for extended vacation and long-term sick leave for an individual who meets the professional requirements for the Clinical RD as stated in 2A above.
- e. The clinical dietitian(s) (R.D., L.D.N.) shall take a nutritional history and prepare a nutritional assessment of each patient/resident admitted, within 72 hours of admission. Each assessment is to be updated no less than annually. These assessments shall be documented on a standardized approved form and shall be incorporated in the patient's/resident's medical

record. The documentation form is subject to review and approval by the Centers' Forms Committee and/or Medical Records Department.

- f. The clinical dietitian(s) (R.D., L.D.N.) shall prepare a progress note and document in the medical record pertinent nutritional data that:
 - (1) relates to or changes the nutrition care plan;
 - (2) includes a reassessment of the parameters evaluated in the nutritional assessment;
 - (3) impacts on the nutritional well-being of the patient/client;
 - (4) has programmatic implications;
 - (5) supports the short and long-term goals of the patient/resident. Evaluation of goal achievement is to be documented within the identified time factor.
- g. The progress note documentation shall occur no less than quarterly for modified diets (any deviation from the regular diet except for consistency), no less than semi-annually for regular diets, and no less than monthly for patients/residents on tube feedings.

The clinical dietitian(s) (R.D., L.D.N) shall prepare for each patient/resident an individualized nutrition care plan that shall be documented in the medical record. The clinical dietitian(s) (R.D., L.D.N.) shall retain copies to serve as the working document for developing meal plans and menu development. An initial nutrition care plan is to be developed within 72 hours after each patient's/resident's admission.

- h. The clinical dietitian (R.D., L.D.N.) shall prepare a minimum of two (2) five (5) week cycle menus (Spring/Summer, Fall/Winter) for all modified diets served which:
 - (1) include food items consistent with the regular menu prepared for the patient/resident population to the degree permitted by the diet restriction;
 - (2) meet the scope of modified diets required by the Center;
 - (3) identify all food items to be served to meet each diet type's requirements;
 - (4) reflect portion sizes, including adjusted portion sizes for food manipulation, as required to meet the diet requirements;
 - (5) are acceptable to the patients/residents as evidenced by bi-annual "food acceptance surveys."
- i. The clinical dietitian(s) (R.D., L.D.N.) shall be responsible for performing all clinical nutrition care requirements to satisfy all licensing and accreditation standards and regulations applicable to the Finan Center including but not limited to the following duties and responsibilities:
 - (1) Provide all requested diet consultations including discharge diet instructions within twenty-four (24) hours of notification of the request or by the end of the next normal business day. (Monday-Friday);

- (2) Revise, whenever necessary, and completely review annually, the nutrition care policies and procedures to assure that they are at all times in compliance with the current requirements, standards and regulations of all accreditation, licensing and any other Federal, State or local agency having jurisdiction over the Center;
- (3) Maintain a file of menus, as served, for all patients/residents of the Center for a period of no less than (5) years;
- (4) Prepare the nutrition component of the discharge packet for each patient/resident discharged from the Center. The nutritional discharge summaries shall comply with the requirements of the Center's policies and procedures with respect to information to be included;
- (5) Develop, implement and maintain a system of tray card identification for each patient/resident receiving a tray and an identifying mechanism for each patient/resident who requires a modified diet but uses the patient/resident cafeteria type service;
- (6) The clinical dietitian shall develop, implement, and maintain a system to identify, document, and respond to individual patient/resident food likes and dislikes;
- (7) Monthly, as a planned group activity, provide patients/residents with a general nutrition education program;
- (8) Prepare and provide the clinical nutrition education component of the dietetic department employee orientation program and the on-going in-service education program. Sessions are to be identified as part of the Dietetic Department's overall orientation and in-service training education plan. Documentation of employees' participation is required to be maintained;
- (9) Supervise and assume responsibility for the training of tray assembly supervisors and, employees and patient/resident cafeteria type service employees with respect to modified diet requirements, portion control, tray accuracy, and food temperatures;
- (10) Provide no less than one (1) hour of normal nutrition education and diet modification education to each new employee at the Finan Center and to each new employee of the Contractor performing services under this contract as part of the Centers' orientation programs. Documentation of employees participation is required to be maintained;
- (11) Develop and implement, for the Center on-going, the clinical nutrition care aspects of the quality assessment and improvement program for the Department. This shall be achieved through clinical nutrition care studies, outcome evaluations, problem identification, solution, and follow-up. As part of the clinical aspects, at least semi-annually, the following studies shall be performed:
 - (a) A food acceptance study at the Center that gives every patient/resident the opportunity to participate.
 - (b) A meal/tray accuracy study representing a minimum of 95% of the meal/trays served in the Center at one meal. Meals studied shall rotate between breakfast, lunch, and dinner.

Jointly, with the Dietetic Department Director combine all clinical nutrition care quality assessment and improvement elements results into the overall department plan.

- (12) Annually, no less than two (2) weeks prior to the anniversary date of the contract, review, and update as necessary, the clinical nutrition care aspects of the overall Dietetic Department Quality Assurance and Improvement/Quality Control Program. With the Dietetic Department Director, add new, revised, updated aspects to the overall program which will then be resubmitted to the Quality Assurance and Improvement/Quality Control Committee of the Center for review and approval;
- (13) Maintain an on-going, all inclusive daily record of professional clinical nutrition care responsibilities and other assigned duties performed. Identify for each, the type of activity, time required to complete the activity one time, then indicate, as appropriate, the number of individuals for which it was replicated or the number of instances in a day if the activity was performed multiple times.

Examples:

Activity	Required Time	# Instances/Individuals	Total Time
Orientation New Employees	1 hour	1	1 hour
Nutritional History	.50 hour	4	2 hours

A summary of these records shall be submitted on a quarterly basis to the Center's Contract Monitor;

- (14) Perform meal observations in the patient/resident units of the Center minimally: Meal observations shall include no less than checking the food temperature, food appearance, and serving practices.

At least two (2) complete meal observations per week shall be performed. Observations shall represent breakfast, lunch and evening meals and include special/alternate meal activities (e.g. picnics, cookouts).

Meal observations are to be documented in the Clinical Dietitian's daily activities record (Section 3.2.3.2.i.13 Nutritional Operational Requirements);

- (15) Maintain a Center Diet Manual (Section 3.2.3.1.a Nutritional Operational Requirements). The Center's manual shall be submitted for review, approval and signature of the Finan Center's Clinical Director or designee within two (2) weeks after receipt of the Notice to Proceed from the Contract Monitor. A copy of the current dietary manual will be made available upon request. Any changes required shall be made within seven (7) days of written notification to the Contractor. Copies of the approved current diet manual shall be placed at all nursing stations and in the physician's library. The Contractor's Registered Dietitian shall update as necessary and completely review annually, no less than two (2) weeks before the anniversary date of the Contract, the Center's Diet

Manual and submit it to the Clinical Director for approval and signature update. The Center's Diet Manual shall be completely revised at least every five years;

- (16) Participate in scheduled interdisciplinary clinical meetings when requested;
- (17) Review all new diet orders (prescriptions), and diet changes within seventy-two (72) hours from the date the order was written. Documentation of this review is to include diet order verification and an assessment of the diet order appropriateness. This information shall be written in the patient/resident's medical record.

The Dietetic Department Director will establish a procedure that assures that a Registered Dietitian (R.D.) of the Contractor shall be able to be contacted by a supervisory employee of the Contractor should a new diet order or diet change be received that requires professional direction and a Registered Dietitian (R.D.) is not on duty;

- (18) Evaluate the effects of diet orders and diet changes within three (3) days from the date the order was written.

- j. All clinical nutrition policies, procedures, and forms to be used for clinical documentation shall be submitted to the Center's Contract Monitor for review and approval. Simultaneously, forms shall also be submitted for review and approval to the Forms Committee of the Center.
- k. The Contractor's Dietetic Department Director and Clinical Dietitian (R.D., L.D.N.) shall participate in bi-monthly meetings at the Finan Center. A schedule for the meetings will be established and forwarded to them by the Administrator of the Center. The meetings are to provide a means of regular communication between all parties to assure the provision of overall quality services.

3. Food Quality

All food purchased by the Contractor shall comply minimally with the quality and grade standards identified in this section and COMAR 10.15.03 regulations, and shall be wholesome, unadulterated and free from contamination, spoilage, and decay. All food sources shall be approved by the Contract Monitor. Purveyors and distributors shall maintain all storage and distribution facilities in full compliance with the applicable State of Maryland sanitation regulations and those of their local jurisdiction. (Section 3.2.3.5.a Nutritional Operational Requirements)

- a. Meats: All solid cut meats shall be USDA "good" or better and shall have been inspected and passed by the United States Department of Agriculture. Purchased ground beef shall include a maximum 15% fat content. A Grading certificate shall be provided where required. The latest revision of the USDA Institutional Meat Purchase Summary (IMPS) shall be used. All deliveries of potentially hazardous foods shall conform to the Maryland State Department of Health and Mental Hygiene COMAR regulations 10.15.03 governing temperature maintenance during transportation.
- b. Fresh Fruits and Vegetables: All fresh fruits and vegetables shall be top grade, depending on the specific fruit or vegetable and its use in preparation of finished products.
- c. Frozen Foods: All frozen foods shall be USDA Grade AA or A depending on the specific food and shall have been packed under continuous inspection of the U.S. Department of

Agriculture. All deliveries of frozen foods shall conform to the Maryland State Department of Health and Mental Hygiene regulations governing transportation of frozen foods and temperature maintenance during transportation.

- d. Fresh Eggs: Fresh shell eggs shall not be used except for hard cooked eggs and egg salad. All fresh liquid and frozen eggs shall be pasteurized and processed under continuous inspection of the USDA. All cans and packages shall bear the USDA seal showing the date of inspection. Frozen eggs, once thawed, shall be used promptly and may not be refrozen. All deliveries of potentially hazardous foods shall conform to the Maryland State Department of Health and Mental Hygiene regulations governing temperature maintenance during transportation.
- e. Fresh Poultry: All poultry, fresh or frozen, shall have been inspected and passed for wholesomeness by the USDA, and shall be Grade A or better. All deliveries of potentially hazardous foods shall conform to the Maryland State Department of Health and Mental Hygiene regulations governing temperature maintenance during transportation.
- f. Fresh and/or Frozen Seafood: All seafood shall be of the best quality and fresh chilled or frozen, and shall conform to all standards and regulations of any Health Department or agency having jurisdiction over the processing, packing, sale, transportation, or distribution of seafood.
- g. Canned Foods: All canned foods shall be USDA-inspected and no less than Grade A, or extra standard; except that Grade B may be used for soups, stews, purees, and similar items.
- h. Dairy Products: All dairy products shall conform to Maryland State Department of Health and Mental Hygiene regulations COMAR 10.15.03. Fluid milk shall contain a minimum of 400 IU of vitamin D and 2,000 IU of vitamin A per quart. All deliveries of potentially hazardous foods shall conform to the Maryland State Department of Health and Mental Hygiene regulations COMAR 10.15.03 governing temperature maintenance during transportation.

4. Storage

- a. Designated storage areas shall be provided to the Contractor by the Center. The Contractor shall be responsible for the security and cleanliness of these areas.
- b. The Contractor is responsible for maintaining adequate inventory of all food items to serve patients/residents, employees, and to provide for emergency and disaster menu requirements. Sufficient inventory of cleaning supplies, dishwashing compounds, glassware, china, utensils, pots and pans, office supplies, sanitation supplies, trash can liners, and paper goods shall be maintained by the Contractor.
- c. A bi-weekly physical inventory of food and supplies shall be taken by the Contractor. A perpetual inventory may be substituted for the bi-weekly inventory.
- d. The Contractor and/or the Contractor's employees may not use food service areas associated with this contract as staging or storage areas to support any other contracts.

5. Sanitation

- a. Operations under this Contract shall be conducted in conformance with regulations of any health department having jurisdiction, including those promulgated by the Maryland State Department of Health and Mental Hygiene, COMAR 10.15.03: Food Service Facilities, and

in compliance with the requirements of Allegany County. It shall be the Contractor's responsibility to be familiar and to comply with these regulations. The Contractor shall not be held responsible for structural deficiencies which are the responsibility of the Center.

- b. The premises, furniture, fixtures, and equipment are to be kept in a clean, sanitary and safe condition at all times according to all applicable regulations. The Contractor shall be responsible for the sanitation of the following areas:
- (1) Kitchen - food preparation surfaces, equipment, floor drains, floors, light fixtures, vents, fans, walls, small equipment, utility carts, and cutting boards. The Contractor shall be responsible for exhaust hoods and filters except that the Center shall be responsible for the exhaust ducts above the ceiling.
 - (2) Dishwashing and Utensil Washing Areas - to include all equipment, floor drains, floors, and walls.
 - (3) Employees' Cafeteria- walls, tables and chairs shall be cleaned after each meal; floors shall be swept after each meal and wet-mopped daily.
 - (4) Receiving Dock - the area that is adjacent to the Dietetic Department shall be maintained in a clean and orderly manner at all times and shall include scrubbing and hosing as required.
 - (5) Storage Areas - those under control of the Contractor including walk-in refrigerators and freezers shall be maintained in a clean and orderly manner at all times.
 - (6) Janitors Closets and Employee Restrooms - those for the exclusive use of the Contractor and that are within the Dietetic Department.
 - (7) Patient's/Resident's Dining Rooms - to include the walls, tables and chairs. Chairs shall be cleaned after each meal; floors shall be swept after each meal and mopped daily.
 - (8) Office Areas – located within the Kitchen area including floors and walls.
 - (9) Patient/Resident Cottage Pantries
 - Daily – Sweep and mop floors, clean and sanitize all counter work surfaces and equipment surfaces.
 - Weekly – Clean sinks, clean interior and exterior of refrigerators, removing out-of-date food items.
 - Monthly – Empty, clean and sanitize ice machines.
- c. The Contractor shall budget for and purchase all cleaning agents and chemicals, and be responsible for the storage and controlled usage of these products. All such compounds shall be non-phosphorus and of a type approved for use within food service areas. All cleaning agents must be approved for use by the Finan Center's Director of Housekeeping Services.

The Contractor shall comply with all requirements of the "Access to Information about Hazardous and Toxic Substances Law and Regulation" (COMAR 09.12.33) as established by the State of Maryland Department of Labor, Licensing and Regulation, Division of Labor and

Industry.

- d. The Contractor is responsible for moving all Dietetic Department refuse to a designated location for pick-up and removal. The Contractor is not responsible for the removal of refuse from the Center's property.
- e. The Contractor shall regularly include basic sanitation, as part of the on-going in-service training program for employees at all levels. This training shall be supplemented as necessary to reinforce specific sanitation problem areas. The Dietetic Department Director shall have satisfactorily completed a formal sanitation certification course acceptable to the Allegany County Health Department. Similarly, all Supervisory level personnel shall have satisfactorily completed a formal sanitation certification course acceptable to the Allegany County Health Department in order to assure that there is at least one (1) supervisor per shift on duty who is certified. Certification will be maintained by the Dietetic Department Director, and all supervisory level personnel.
- f. The Contractor shall develop a sanitation manual to include procedures for the cleaning and sanitizing of all food service equipment for which it is responsible. Procedures shall identify at a minimum the cleaning equipment to be used, method of cleaning and sanitizing equipment, including instructions regarding dilutions and/or concentrations of specific chemical compounds and/or cleaning agents as well as necessary safety precautions. The manual shall be submitted to the Center's Contract Monitor for approval within two (2) weeks after receipt of the Notice to Proceed from the Contract Monitor. Any changes required shall be made within seven (7) days of notification to the Contractor.
- g. The Contractor shall develop, implement, and monitor a daily cleaning and sanitation schedule for the Dietetic Department. The schedule shall be submitted to the Center's Contract Monitor for approval within two (2) weeks after receipt of the Notice to Proceed from the Contract Monitor. Any changes required shall be made within seven (7) days of notification to the Contractor.
- h. The Contractor shall develop, implement, and monitor a schedule for the cleaning of patient/resident dining rooms and cottage pantries consistent with the requirements specified (Section 3.2.3.5.b (7) (9) Nutritional Operational Requirements). Detailed procedures are to be developed that correspond to each of the tasks to be performed and the Contractor's employees shall be trained to follow these procedures. The Contractor shall implement a verification procedure to assure that all cleaning is accomplished as scheduled.
- i. The Center will maintain a separate contract for pest control. The Contractor shall ensure that the Dietetic Department Director or a supervisory level designee is on duty when service is provided.
- j. The Contractor shall log and monitor the temperature of all refrigerators, freezers, and the dish machine at least three times per day to assure appropriate temperatures are maintained.
- k. The Contractor shall forward all manuals, schedules, and documents indicated to be submitted to the Center's Contract Monitor for approval within two (2) weeks after receipt of the Notice to Proceed from the Contract Monitor unless otherwise specified. Review and approval or requests for changes will be made to Contractor within seven (7) days after materials are received. All requests for changes shall then be performed within one (1) week of notice to the Contractor.

6. Security

- a. Keys will be provided to the Contractor by the Center for all storage and Dietetic Department areas assigned to the Contractor's use. The only Center personnel to have access to keys to these areas will be the Security Personnel on duty.
- b. Security and key control for all storage and Dietetic Department areas assigned to the Contractor's use shall be the Contractor's responsibility.
- c. Any loss of keys shall be reported immediately to the Center's Contract Monitor. At the Center's option the Contractor may be charged for replacement keys and/or for lock changes resulting from lost keys.
- d. Duplication of these keys or their possession by unauthorized personnel is a criminal offense. (See Annotated Code of Maryland, Criminal Law Article 7-204).

7. Vehicles

- a. The Contractor shall be responsible for the provision of all vehicles and drivers required for the performance of this Contract. Insurance, maintenance, service and/or replacement of vehicles shall be the responsibility of the Contractor. Employees of the Contractor may not drive State-owned vehicles.
- b. The Contractor shall utilize parking places, adjacent to the loading dock area, identified exclusively for its use. The entrance to the building for employees of the Contractor is through the main loading dock area. All of the Contractor's employees are expected to utilize this entrance only.

8. Expendable Inventory

- a. The Center and Contractor shall jointly inventory at the commencement of this Contract, all china, flatware, utensils, glassware, and all other equipment and supplies. A signed copy of the inventory shall be provided to both parties. The Center and Contractor shall then mutually agree as to the adequacy of these inventory levels for normal requirements; the Center shall bring below-normal inventories up to the agreed upon operating level at the Center's expense. The Contractor shall be responsible thereafter for making necessary replacements to maintain the agreed upon level. The Contractor shall bring below-normal inventories to the agreed upon operating level at the termination of the contract.
- b. The Contractor shall sign for all other items provided and return them in good condition to the Center at completion of the contract taking into consideration normal wear and tear.

9. Quality Assessment and Improvement/Quality Control

- a. The Contractor shall develop a quality assessment and improvement/quality control program for the Dietetic Department and submit it to the Center's Contract Monitor for review and approval within thirty (30) days of commencement of the Contract. The Dietetic Department quality assessment and improvement/quality control program will be subject to review and acceptance by the Center's Quality Assessment and Improvement/Quality Control Committee of the Finan Center for inclusion in the Center's overall plan. The program shall be reviewed annually by the Contractor's Dietetic Department Director and Clinical Dietitian (R.D., L.D.N.) with contemplated revisions submitted for review and approval to the Center's Contract Monitor and the Center's Quality Assessment and Improvement Committee. A written report documenting quality assessment and improvement/quality control activities

completed during the year shall be submitted to the Center's Contract Monitor annually no less than two (2) weeks prior to the anniversary date of the Contract.

- b. The focus of the quality assessment and improvement/quality control program shall be the identification and resolution of problems associated with any aspect of the Dietetic Department services. The review and evaluation of identified problems shall include corrective action and plans for restudy.

The quality assessment and improvement/quality control program, in addition to assessing and resolving identified problems, shall include annually as a minimum:

- (1) Evaluation of the nutritional adequacy of the menus;
- (2) Evaluation of the tray identification system;
- (3) Evaluation of portion control accuracy;
- (4) Evaluation of tray assembly food temperatures;
- (5) Evaluation of patient/resident tray/cafeteria style service food temperatures;
- (6) Evaluation of completed tray accuracy;
- (7) Evaluation of food palatability;
- (8) Evaluation of compliance with patient/resident food preferences;
- (9) Performance and evaluation of plate waste studies;
- (10) Evaluation of food and supplies receiving and storage;
- (11) Evaluation of the adequacy of refrigeration, freezer, and dish machine temperatures;
- (12) Evaluation of the effectiveness of overall sanitation program;
- (13) Evaluation of pest control measures;
- (14) Evaluation of Contractor's employees injuries as defined by Contractor's policies;
- (15) Evaluation of the preventive maintenance program for dietary equipment.

10. Vending Services

Vending machines for use within the Center shall not be part of this Contract. Contractor shall not be permitted to install or place vending machines in the facility.

3.2.4 PERSONNEL REQUIREMENTS

1. The Contractor shall employ a Dietetic Department Director who will be assigned to be on-site, full-time at the Finan Center. The Dietetic Department Director shall have at least the following qualifications:

- a. Education:

Possession of a bachelor's degree from a four-year accredited college or university in Dietetics, Foods, Nutrition, Food Service Management, Food Service Administration, Hotel and Restaurant Administration, Hospitality Management, or a similar major with a curriculum that requires the completion of a variety of courses such as quantity food purchasing and food production, menu development, inventory management, food cost control, budgeting, sanitation and nutrition courses required to satisfactorily direct the functions of a complex dietetic department in the provision of quality nutrition care and food services.

- b. Experience:

Four (4) years full-time experience in a management position of a Dietetic Department, full-service menu restaurant or similar type food service operation during which two (2) years shall have been as Dietetic Department Director.

c. Professional Qualifications:

Be a Registered Dietitian with the Commission on Dietetic Registration and be licensed by the State of Maryland Board of Dietetic Practice. A photocopy of current registration and license shall be maintained by the Contractor in the Department and be updated annually for review by licensure and accreditation surveyors;

OR

Possess current membership in a comparable food-service oriented professional association and provide annually proof of a minimum of fifteen (15) hours of professional continuing education related to the administrative and management responsibilities of a complex dietetic department. Documentation of continuing education shall be updated annually and maintained by the Contractor in the Department for review by licensure and accreditation surveyors.

d. Certification:

Certification of the completion of a Sanitation course approved by the Allegany County Health Department with recertification as required.

2. The Contractor shall provide the required patient/resident clinical nutrition care services by a Clinical Dietitian(s) (R.D., L.D.N.) , who shall have no less than the following qualifications:

a. Education:

Possession of a bachelor's degree from a four-year accredited college or university in a Dietetic/ Nutrition related curriculum.

b. Experience:

One (1) year successful full-time experience as a clinical dietitian (R.D). Experience in providing nutrition care to mental health and substance abuse patients/residents served by the Center is preferred.

c. Professional Qualifications:

Be a Registered Dietitian with the Commission on Dietetic Registration and be licensed by the State of Maryland Board of Dietetic Practice. Should the Contractor employ a Clinical Dietitian(s) not licensed by the Board of Dietetic Practice for the State of Maryland, the Dietitian(s) shall obtain a license within 90 days of assuming responsibility at the Center. A photocopy of current registration and license shall be maintained by the Contractor in the Department and be updated annually for review by licensure and accreditation surveyors.

3. When the Dietetic Department Director is absent beyond two (2) weeks, the Contractor shall provide a replacement; an individual with the same-defined qualifications who is acceptable to the Center. The Contractor's Clinical Dietitian (R.D., L.D.N.) may not be utilized to perform the duties of the Dietetic Department Director.

4. The Contractor shall provide supervisory employees in sufficient number to ensure that at least one (1) employee of the Contractor with designated supervisory responsibility is on duty whenever the Dietetic Department is operational. This means that from the time the first food service employee reports for duty in the morning until the last food service employee departs in

the evening, there shall be at least one (1) person with supervisory responsibility on duty seven (7) days per week.

Proposal

5. The Contractor shall provide job descriptions for all positions to the Center's Contract Monitor for review and approval within two (2) weeks after receipt of the Notice to Proceed from the Contract Monitor. Any changes required shall be made within seven (7) days of notification to the Contractor. The Contractor shall review and revise job specifications annually no less than two (2) weeks prior to the anniversary date of the Contract and submit them to the Center's Contract Monitor for review and approval.

The Contractor shall develop detailed job descriptions for each employee which identify all assigned tasks and which indicate the time each task is to be performed. These shall be submitted to the Center's Contract Monitor within two (2) weeks after receipt of the Notice to Proceed from the Contract Monitor for review and approval. Any changes required shall be made within seven (7) days of notification to the Contractor. The Contractor shall review and revise the job descriptions annually no less than two (2) weeks prior to the anniversary date of the Contract and submit to the Center's Contract Monitor for review and approval.

6. Employees time schedule shall be prepared monthly in sufficient time for it to be posted two (2) weeks prior to implementation. It shall include the work hours for all employees of the Contractor. A copy shall be submitted simultaneously to the Center's Contract Monitor.
7. The Contractor shall submit to the Center's Contract Monitor, no less than two (2) working days prior to the beginning of each month, a schedule for the Dietetic Department Director and Clinical Dietitian(s) (R.D., L.D.N.) indicating their duty days, work hours, vacation days, holidays, in-service training days, etc. The Center's Contract Monitor shall be notified of any subsequent non-emergency changes to the schedule as soon as they are known.
8. It shall be the Contractor's responsibility to provide the agreed number of employees regardless of absences due to vacation, illness, labor dispute strikes or any other reason.
9. The Contractor shall be responsible for all personnel timekeeping related functions.
10. The Contractor shall be responsible for the supervision of its employees at all times that work is in progress to ensure compliance with all requirements of these specifications, and to ensure appropriate procedures are utilized to prohibit injury to the employees, public, and patients/residents, or damage to the physical facilities. The Contractor shall be familiar with and enforce all regulations of O.S.H.A. MOSH, and any other State or Federal requirements pertaining to fire and safety.
11. All Dietetic Department employees shall attend a general orientation program given by the Center during the first week of employment. Documentation of employees' attendance at the orientation shall be maintained in their personnel files for review by licensure and accreditation surveyors. All employees shall participate in a Departmental orientation conducted by the Contractor during the first week of employment. As appropriate to the employee's level of responsibility, each employee shall receive instruction and demonstrate competence in: fire safety procedures, client and staff courtesy; personal hygiene and infection control; the proper inspection, handling, preparation, serving, and storing of food; HACCP; portion control; comprehending modified diet menus; sanitation procedures; waste disposal; safe operation of equipment; general safety; writing modified diets; giving diet instruction; developing, implementing and following nutritional care protocol; employee supervision; management; etc. Documentation of the employees' orientation within the Department shall be maintained in their personnel files for review by licensure and accreditation surveyors.

Additionally, as part of the Department orientation, the clinical dietitian shall instruct new employees with respect to the special nutritional requirements of the Center's patient/resident types and shall arrange with the appropriate unit staff for him/her to accompany them to observe a meal at the Center.

12. The Contractor shall provide monthly in-service training/education programs for all Dietetic Department employees on all shifts. The Contractor shall develop an annual schedule for these programs. The annual in-service training/education program shall include safety, sanitation, and infection control each year and other subjects as required by licensure and accreditation agencies.
13. The Contractor shall develop a written plan to provide orientation training for new employees and on-going training for all employees in Hazard Analysis Critical Control Point (HACCP) procedures and the handling of food if a critical control point is not met due to employee error, equipment malfunction or power failure.
14. The Contractor shall ensure that a representative from the corporate management staff and a supervising Registered Dietitian of the company will visit the Center at least monthly. Visits are to be coordinated so as to assure that the Center's Contract Monitor is available at the time of the visit(s). A written report of all visit(s) shall be provided to the Contractor's Dietetic Department Director and the Center's Contract Monitor within one (1) week following the visit.
15. The Dietetic Department Director and the Clinical Dietitian(s) (R.D., L.D.N.) shall maintain daily performance records (Section 3.2.3.2.i. 13 Nutritional Operational Requirements). This record shall be of specific services performed and is to be summarized and submitted on a quarterly basis to the Center's Contract Monitor.
16. All Dietetic Department employees, prior to employment, shall be required to pass a medical examination as specified by Center policy. The Contractor's policy shall minimally be the same as the Center policy. Medical Certificates shall be maintained in the employee's file at the Center for review by licensure and accreditation surveyors. The Contractor shall comply with any other health testing requirements that are initiated during the term of this contract. The cost of all such testing shall be the sole responsibility of the Contractor.
17. All Contractor employees assigned to the Center shall be tested for Tuberculosis. The Tuberculosis test shall be of a type acceptable for licensure standards or other applicable regulations. The Contractor's policy shall minimally be the same as the Center policy. Each employee shall be certified free of Tuberculosis before being assigned to work at the Center. The cost of this test shall be the responsibility of the Contractor.
 - a. Each employee shall be tested annually and remain Tuberculosis free for the full time of employment.
 - b. The Center shall provide tuberculosis testing or questionnaire for all employees who have been at the Center for one year.
 - c. If the employee requires additional diagnostic testing to determine if the employee has infectious Tuberculosis, the tests shall be conducted at the Contractor's expense.
18. The Contractor shall offer Hepatitis B vaccinations annually to its employees who will be working at the Center. The cost of the Hepatitis B vaccinations shall be borne by the Contractor. Annually, the Contractor shall provide documentation to the Contract Monitor that this requirement has been met.

19. The Contractor shall maintain records of all required medical information on each Dietetic Department employee as required by regulation and law. The Contractor shall also provide this information to the Center's Contract Monitor upon request.
20. The Contractor shall assign to duty only those employees acceptable to the Center.
21. The Dietetic Department Director and the Clinical Dietician shall be approved by the Center's Administration prior to performing services on this contract.
22. The Contractor shall require all employees to comply with the rules and regulations of the Center.
23. The Contractor shall develop an organization chart and submit it to the Center's Contract Monitor for Center approval within two (2) weeks after receipt of the Notice to Proceed from the Contract Monitor. The organization chart shall be updated as needed to remain current and will be reviewed annually by the Center's Contract Monitor. A copy of the organization chart will be posted in the Food Service Department in a location accessible to all employees.
24. The Contractor shall include all personnel policies in the Dietetic Department Policy and Procedure Manual. The following policies shall be included as a minimum: employment process, orientation procedures, employee classifications, salary scales, employee benefits, performance review procedures, disciplinary process, grievance process, promotions, work hours, employee health (including physical, illness, injury), dress code, timekeeping, etc.
25. All employees shall wear hair restraints when present in food service and/or production areas.
26. The Contractor shall provide all of its staff with visible identification tags, which must include photographs. Identification tags shall be worn when in the Center at all times.
27. The Contractor shall require all Dietetic Department employees, except the Dietetic Department Director and the Clinical Dietician, to wear uniforms. The Contractor shall develop and enforce a dress code. Proposed uniforms will be subject to Center approval. The dress code must be in accordance with State of Maryland Regulations COMAR 10.15.03: Food Service Facilities and policies as included in the Department Policy and Procedure Manual. The cost of uniforms and laundering will be the sole responsibility of the Contractor.
28. The Contractor shall require all professional employees to follow an appropriate dress code agreed upon mutually by the Contractor and the Contract Monitor to be followed when present in the food service and/or production areas. These requirements shall be identified within the Dietetic Department's dress code policy and included in the Dietetic Department Policy and Procedure Manual. The dress code policies and procedures for both professional and non-professional employees shall be submitted to the Center's Contract Monitor for approval within two (2) weeks after receipt of the Notice to Proceed from the Contract Monitor
29. The Contractor shall be responsible for the provision of all office equipment necessary to support the food service operations such as computer, calculator, copier, scanner, and fax machine.

3.2.5 PERFORMANCE REQUIREMENTS/REVIEW

1. An on-premises departmental review will be conducted quarterly by the Center's Contract Monitor or designee. At a minimum, participants will include a representative of the Contractor's Corporate Management Staff, the Contractor's Supervising Corporate Dietitian, and the Center's Dietetic Department Director and Clinical Dietitian(s).

The Contract specifications will form the basis of the performance review as a means of quality control and quality assurance to determine the degree of Contractor compliance and level of performance satisfaction.

For identified areas of non-compliance or unsatisfactory compliance the Contractor shall submit a plan of correction identifying the time frame for completion to the Contract Monitor within two (2) days of the review for approval. The Center's Contract Monitor will approve or reject the plan within one (1) working day.

A summary of the quarterly review findings will be documented by the Contract Monitor with a copy forwarded to each participant.

2. At any time, when the Contractor's level of performance and/or conditions in any area of their responsibilities is marginal or unacceptable, they will be reviewed by the Center's Contract Monitor with the Contractor's Dietetic Department Director and/or Clinical Dietitian(s), as appropriate.

The Dietetic Department Director shall submit a plan of correction to the Center's Contract Monitor within two (2) working days from the time an unacceptable condition is reviewed with the Dietetic Department Director and/or Clinical Registered Dietitian(s), indicating corrective action and time frame for completion. The Center's Contract Monitor will approve or reject the plan within one (1) working day.

3. Marginal or unacceptable performance and/or conditions will be documented with copies forwarded to the Dietetic Department Director and to the corporate management representative and/or supervising dietitian, as appropriate.
4. In the event an unacceptable condition is life-threatening to patients/residents, employees, etc., corrective action, as directed by the Center's Contract Monitor, shall be initiated immediately.
5. Continuing failure to satisfactorily respond in the time frames required in accordance with this section, more than one (1) instance of unacceptable conditions that are life-threatening, or more than a total of three (3) situations involving marginal or unacceptable conditions during a twelve (12) month period, shall be considered a material breach of contract and may result in a termination for default of this contract. Termination shall be in addition to, not in lieu of, any additional rights that DHMH may have at law or in contract.

3.2.6. RESPONSIBILITY OF THE CENTER

1. FACILITY AND EQUIPMENT

The Center will provide the Contractor with general kitchen facilities, permanently installed food service equipment, designated furnished office space, storage areas, locker area, restroom facilities and all utensils and tableware associated with the food service operation.

2. UTILITIES

- a. The Center will provide the Contractor with and pay for electricity, gas, steam, water and refrigeration as associated with and required for the economical, efficient and sanitary operation of the Dietetic Department.
- b. The Center will provide the Contractor with local telephone service and telephone equipment within the Center. The Contractor shall be responsible for all associated long distance expenses.

- c. The Center will provide the Contractor with a basic internet connection through the State network, however if additional services are desired or required the Contractor shall be responsible for all associated expenses.

3. MAINTENANCE AND REPAIRS

- a. The Center will maintain and repair the building structure, including the maintenance of water, steam, sewer, and electrical lines, ventilation, electrical lighting fixtures, and space heating systems. The Contractor will bear the expense of repairs necessitated by its employees' negligent or intentional actions or inactions.
- b. All requests for repair service or replacement of equipment shall be approved by the Center's Administration. The Center will assume responsibility for payment of all equipment repairs and replacements approved by the Center.

4. REFUSE REMOVAL AND HOUSEKEEPING

The Center will provide refuse removal from the Center's grounds and all other housekeeping services not designated to the Contractor.

3.2.7. ROLE OF THE CENTER'S CONTRACT MONITOR

The Center's Contract Monitor is the liaison between the Center's Administration and the Contractor. The Center's Contract Monitor may obtain assistance with any of the following responsibilities from an appropriate source. The Center's Contract Monitor may designate a qualified alternate in his/her absence. The Center's Contract Monitor:

1. Reviews the Contractor's operating policies and procedures for the Dietetic Department prior to final approval;
2. Reviews and approves the Policy and Procedure Manual prepared by the Contractor within two (2) weeks after receipt of the Notice to Proceed from the Contract Monitor and annually thereafter;
3. Approves all special food/function requests;
4. Reviews and approves the Contractor's in-service training plans and observes in-service training;
5. Establishes a regular meeting schedule with the Dietetic Department Director;
6. Monitors regularly the performance of the clinical dietitian(s) by reviewing quarterly accomplishment reports of the dietitian(s) with the Dietetic Department Director; by meeting monthly with the Contractor's supervising dietitian to review findings and assess that all licensure and accreditation/standards are being performed at an acceptable level of compliance;
7. Meets with the Contractor's Corporate Management representative and the supervising Registered Dietitian monthly;
8. Reviews and approves all cycle menus;
9. Reviews and approves monthly, anticipated menu changes/revisions;
10. Reviews and approves portion sizes and selling prices of food in the employees' cafeteria prior to initiation of the contract and thereafter, according to price revision schedule developed by the Contractor;
11. Reviews and approves emergency menu plans and related inventories;

12. Facilitates the coordination of the Contractor's plan for responding to both an internal and external emergency with the appropriate individual/committee responsible for the total Facility plan and the annual revisions thereafter;
13. Reviews and makes determinations concerning any requests for additional or replacement equipment by the Contractor;
14. Reviews and makes determinations concerning equipment repairs and/or service;
15. Monitors the Contractor's performance with respect to the Contract requirements, through review of licensing and accreditation inspection reports, conducting the performance reviews, staff consultations, and other appropriate methods;
16. Reviews and approves the sanitation manual and cleaning schedules developed by the Contractor;
17. Coordinates the quarterly contract performance requirements/review evaluation;
18. Initiates requests to the Contractor concerning any aspect of the Dietetic Department operation;
19. Monitors that the Finan Center policies and procedures are understood and complied with by the Contractor's employees.

3.2.8. SUCCESSOR TRANSITION

1. In the event the Contractor is not awarded the contract in a subsequent procurement, the incumbent Contractor must cooperate with the incoming awardee in the following manner:
 - a. Mutually take and verify all food, beverages, cleaning, and sanitation supplies and equipment inventories;
 - b. Leave premises and equipment in the same condition as when Contract began with the exception of normal wear and tear. This will be verified by an inspection conducted by the Center's Contract Monitor in the presence of the current Contractor's Dietetic Department Director;
 - c. In order to enhance the transition from one Contractor to another the Contractor shall certify that it will not impede any of its employees working under this Contract from accepting employment with a successor vendor for a subsequent contract.
2. The Center will make space available to the in-coming Contractor two (2) weeks prior to takeover for job interviews and overall transition planning.
3. In the event the Contractor is not awarded the contract in a subsequent procurement, the incoming awardee is encouraged to extend the opportunity of employment to as many of the incumbent Contractor's employees as are desirous of continuing employment under the new contract as the new contract awardee determines it can accommodate.

3.3 Security Requirements

3.3.1 Employee Identification

- (a) Each person who is an employee or agent of the Contractor or subcontractor shall display his or her company ID badge at all times while on State premises. Upon request of authorized State personnel, each such employee or agent shall provide additional photo identification.
- (b) At all times at any facility, the Contractor's personnel shall cooperate with State site requirements that include but are not limited to being prepared to be escorted at all times, providing information for badge issuance, and wearing the badge in a visual location at all times.

3.3.2 Information Technology

- (a) Contractors shall comply with and adhere to the State IT Security Policy and Standards. These policies may be revised from time to time and the Contractor shall comply with all such revisions. Updated and revised versions of the State IT Policy and Standards are available online at: www.doit.maryland.gov – keyword: Security Policy.
- (b) The Contractor shall not connect any of its own equipment to a State LAN/WAN without prior written approval by the State. The Contractor shall complete any necessary paperwork as directed and coordinated with the Contract Monitor to obtain approval by the State to connect Contractor-owned equipment to a State LAN/WAN.

3.3.3 Criminal Background Check

The Contractor shall obtain from each prospective employee a signed statement permitting a criminal background check. The Contractor shall secure at its own expense a Maryland State Police and/or FBI background check and shall provide the Contract Monitor with completed checks on all new employees prior to assignment. The Contractor may not assign an employee with a criminal record unless prior written approval is obtained from the Contract Monitor.

3.4 Insurance Requirements

- 3.4.1 The Contractor shall maintain Commercial General Liability Insurance with limits sufficient to cover losses resulting from, or arising out of, Contractor action or inaction in the performance of the Contract by the Contractor, its agents, servants, employees, or subcontractors, but no less than a Combined Single Limit for Bodily Injury, Property Damage, and Personal and Advertising Injury Liability of \$1,000,000 per occurrence and \$3,000,000 aggregate.
- 3.4.2 The Contractor shall maintain Errors and Omissions/Professional Liability insurance with minimum limits of \$3,000,000 per occurrence.
- 3.4.3 The Contractor shall maintain Automobile and/or Commercial Truck Insurance as appropriate with Liability, Collision, and PIP limits no less than those required by the State where the vehicle(s) is registered but in no case less than those required by the State of Maryland.
- 3.4.4 The Contractor shall maintain Employee Theft Insurance with minimum limits of \$1,000,000 per occurrence.
- 3.4.5 Within five (5) Business Days of execution of a Contract with the State, the Contractor shall provide the Contract Monitor with current certificates of insurance, and shall update such certificates from time to time but no less than annually in multi-year contracts, as directed by the Contract Monitor. Such copy of the Contractor's current certificate of insurance shall contain at minimum the following:
 - a. Workers' Compensation – The Contractor shall maintain such insurance as necessary and/or as required under Workers' Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act.

- b. Commercial General Liability as required in Section 3.4.1.
- c. Errors and Omissions/Professional Liability as required in Section 3.4.2.
- d. Automobile and/or Commercial Truck Insurance as required in Section 3.4.3.
- e. Employee Theft Insurance as required in Section 3.4.4.

3.4.6 The State shall be named as an additional named insured on the policies with the exception of Worker's Compensation Insurance and Professional Liability Insurance. Certificates of insurance evidencing coverage shall be provided prior to the commencement of any activities in the Contract. All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Contract Monitor, by certified mail, not less than 45 days' advance notice of any non-renewal, cancellation, or expiration. In the event the Contract Monitor receives a notice of non-renewal, the Contractor shall provide the Contract Monitor with an insurance policy from another carrier at least 30 days prior to the expiration of the insurance policy then in effect. All insurance policies shall be with a company licensed by the State to do business and to provide such policies.

3.4.7 The Contractor shall require that any subcontractors providing services under this Contract obtain and maintain similar levels of insurance and shall provide the Contract Monitor with the same documentation as is required of the Contractor.

3.5 Problem Escalation Procedure

3.5.1 The Contractor must provide and maintain a Problem Escalation Procedure (PEP) for both routine and emergency situations. The PEP must state how the Contractor will address problem situations as they occur during the performance of the Contract, especially problems that are not resolved to the satisfaction of the State within appropriate timeframes.

The Contractor shall provide contact information to the Contract Monitor, as well as to other State personnel, as directed should the Contract Monitor not be available.

3.5.2 The Contractor must provide the PEP no later than ten (10) Business Days after notice of Contract award or after the date of the Notice to Proceed, whichever is earlier. The PEP, including any revisions thereto, must also be provided within ten (10) Business Days after the start of each Contract year (and within ten (10) Business Days after any change in circumstance which changes the PEP). The PEP shall detail how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. The PEP shall include:

- The process for establishing the existence of a problem;
- The maximum duration that a problem may remain unresolved at each level in the Contractor's organization before automatically escalating the problem to a higher level for resolution;
- Circumstances in which the escalation will occur in less than the normal timeframe;
- The nature of feedback on resolution progress, including the frequency of feedback, to be provided to the State;
- Identification of, and contact information for, progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;
- Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays, etc.) and on an emergency basis; and
- A process for updating and notifying the Contract Monitor of any changes to the PEP.

Nothing in this section shall be construed to limit any rights of the Contract Monitor or the State which may be allowed by the Contract or applicable law.

3.6 Invoicing

3.6.1 General

(a) All invoices for services shall be signed by the Contractor and submitted to the Contract Monitor. All invoices shall include the following information:

- Contractor name;
- Remittance address;
- Federal taxpayer identification number (or if sole proprietorship, the individual's social security number);
- Invoice period;
- Invoice date;
- Invoice number
- State assigned Contract number;
- State assigned (Blanket) Purchase Order number(s);
- Goods or services provided; and
- Amount due.

Invoices submitted without the required information cannot be processed for payment until the Contractor provides the required information.

(b) 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 action on the part of the Department, or dispute of action by the Contractor, shall be in accordance with the provisions of Md. Code Ann., State Finance and Procurement Article §§ 15-215 through 15-223 and with COMAR 21.10.02.

3.6.2 Invoice Submission Schedule

The Contractor shall submit invoices in accordance with the following schedule:

The Contractor will submit invoices to the Finan Center no later than the 15th of the month following the month in which services were provided. The invoice shall show the current monthly billing amount and a brief description of services provided (e.g. February - xxxx patient days @ rate per day). The invoice shall be accompanied by supporting documentation (in a format acceptable to the Center) showing the number of patients/residents served, broken down by cottage for each day of the month. Any variances between the Contractor's reported number of patients/residents served and the agency census as reported by the agency's Medical Records department shall be reconciled to the agency's satisfaction with various in-house forms related to patient movements and meal requests. In any unresolved dispute over number of patients served, the agency census as reported by the agency's Medical Records department shall be the accepted number for billing purposes. The Contractor shall maintain on the Center's premises copies of all supplier's invoices and other documents the agency deems necessary for the Center to audit the Contractor's performance under the terms of the Contract.

Invoices shall be addressed to: Thomas B. Finan Center, c/o Craig Alexander, Chief Fiscal Officer, P.O. Box 1722, Cumberland, MD 21501-1722, with one copy of this invoice, marked "copy", submitted to Thomas B. Finan Center, c/o John Cullen, Administrator, P.O. Box 1722, Cumberland, MD 21501-1722.

3.7 MBE Reports

If this solicitation includes a MBE Goal (see Section 1.33), the Contractor and its MBE subcontractors shall provide the following MBE Monthly Reports based upon the commitment to the goal:

- (a) **Attachment D-4**, the MBE Participation Prime Contractor Paid/Unpaid MBE Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the MBE Liaison Officer.
- (b) **Attachment D-5**, the MBE Participation Subcontractor Paid/Unpaid MBE Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the MBE Liaison Officer.

3.8 VSBE Reports

If this solicitation includes a VSBE Goal (see Section 1.41), the Contractor and its VSBE subcontractors shall provide the following VSBE Monthly Reports based upon the commitment to the goal:

- (a) **Attachment M-3**, the VSBE Participation Prime Contractor Paid/Unpaid VSBE Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the VSBE Liaison Officer.
- (b) **Attachment M-4**, the VSBE Participation Subcontractor Paid/Unpaid VSBE Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the VSBE Liaison Officer.

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SECTION 4 – PROPOSAL FORMAT

4.1 Two Part Submission

Offerors shall submit Proposals in separate volumes:

- Volume I – TECHNICAL PROPOSAL
- Volume II – FINANCIAL PROPOSAL

4.2 Proposals

4.2.1 Volume I – Technical Proposal, and Volume II – Financial Proposal shall be sealed separately from one another. Each Volume shall contain an unbound original, so identified, and five (5) copies. The two (2) sealed Volumes shall be submitted together under one (1) label bearing:

- The RFP title and number,
- Name and address of the Offeror,
- The volume number (I or II), and
- Closing date and time for receipt of Proposals

To the Procurement Officer (see Section 1.5 “Procurement Officer”) prior to the date and time for receipt of Proposals (see Section 1.11 “Proposals Due (Closing) Date and Time”).

4.2.2 An electronic version (CD) of the Technical Proposal in Microsoft Word format must be enclosed with the original Technical Proposal. An electronic version (CD) of the Financial Proposal in Microsoft Word format must be enclosed with the original Financial Proposal. CDs must be labeled on the outside with the RFP title and number, name of the Offeror, and volume number. CDs must be packaged with the original copy of the appropriate Proposal (Technical or Financial).

4.2.3 A second electronic version of Volume I and Volume II in searchable Adobe .pdf format shall be submitted on CD for Public Information Act (PIA) requests. This copy shall be redacted so that confidential and/or proprietary information has been removed (see Section 1.14 “Public Information Act Notice”).

4.2.4 All pages of both Proposal volumes shall be consecutively numbered from beginning (Page 1) to end (Page “x”).

4.2.5 Proposals and any modifications to Proposals will be shown only to State employees, members of the Evaluation Committee, or other persons deemed by the Department to have a legitimate interest in them.

4.3 Delivery

4.3.1 Offerors may either mail or hand-deliver Proposals. For U.S. Postal Service deliveries, any Proposal that has been received at the appropriate mailroom, or typical place of mail receipt, for the respective procuring unit by the time and date listed in the RFP will be deemed to be timely. If an Offeror chooses to use the U.S. Postal Service for delivery, the Department recommends that it use Express Mail, Priority Mail, or Certified Mail only as these are the only forms for which both the date and time of receipt can be verified by the Department. An Offeror using first class mail will not be able to prove a timely delivery at the mailroom and it could take several days for an item sent by first class mail to make its way by normal internal mail to the procuring unit.

- 4.3.2 Hand-delivery includes delivery by commercial carrier acting as agent for the Offeror. For any type of direct (non-mail) delivery, Offerors are advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery.
- 4.3.3 After receipt, a Register of Proposals will be prepared that identifies each Offeror. The Register of Proposals will be open to inspection only after the Procurement Officer makes a determination recommending the award of the Contract.

4.4 Volume I – Technical Proposal

Note: No pricing information is to be included in the Technical Proposal (Volume 1). Pricing information is to be included only in the Financial Proposal (Volume II).

4.4.1 Format of Technical Proposal

Inside a sealed package described in Section 4.2 “Proposals,” the unbound original, five (5) copies, and the electronic version shall be provided. The RFP sections are numbered for ease of reference. Section 4.4.3 sets forth the order of information to be provided in the Technical Proposal, e.g., Section 4.4.3.1 “Title and Table of Contents,” Section 4.4.3.2 “Claim of Confidentiality,” Section 4.4.3.3 “Transmittal Letter,” Section 4.4.3.4 “Executive Summary,” etc. In addition to the instructions below, responses in the Offeror’s Technical Proposal should reference the organization and numbering of Sections in the RFP (ex. “Section 3.2.1 Response . . . ; “Section 3.2.2 Response . . . ,” etc.). This Proposal organization will allow State officials and the Evaluation Committee to “map” Offeror responses directly to RFP requirements by Section number and will aid in the evaluation process.

4.4.2 Additional Required Technical Submissions

4.4.2.1 The following documents shall be completed, signed, and included in the Technical Proposal; each in its own section that follows the material submitted in response to Section 4.4.3.

- a. Completed Bid/Proposal Affidavit (**Attachment B**).
- c. Completed Maryland Living Wage Requirements Affidavit (**Attachment G-1**).
- d. Completed Certification of Investment Activities in Iran (**Attachment N**).

4.4.2.2 ***If Required**, the following documents shall be completed, signed, and included in the Technical Proposal; each in its own section that follows the material submitted in response to Section 4.4.3.

*See appropriate RFP Section to determine whether the Attachment is required for this procurement:

- a. Completed MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D1**) *see **Section 1.33**. This attachment must be provided in a separately sealed envelope within the main Technical Proposal package/envelope.
- b. Completed Federal Funds Attachment (**Attachment H**) *see **Section 1.35**.
- c. Completed Conflict of Interest Affidavit and Disclosure (**Attachment I**) *see **Section 1.36**.
- d. Completed Mercury Affidavit (**Attachment L**) *see **Section 1.40**.
- e. Completed Veteran-Owned Small Business Enterprise (VSBE) Utilization Affidavit and Subcontractor Participation Schedule. (**Attachment M-1**) *see **Section 1.41**. This attachment must be provided in a separately sealed envelope within the main Technical Proposal package/envelope.
- f. Completed Location of the Performance of Services Disclosure (**Attachment O**) *see **Section 1.44**.

4.4.3 **The Technical Proposal** shall include the following documents and information in the order specified as follows:

4.4.3.1 Title Page and Table of Contents

The Technical Proposal should begin with a Title Page bearing the name and address of the Offeror and the name and number of this RFP. A Table of Contents shall follow the Title Page for the Technical Proposal, organized by section, subsection, and page number.

4.4.3.2 Claim of Confidentiality

Any information which is claimed to be confidential is to be noted by reference and included after the Title Page and before the Table of Contents, and if applicable, also in the Offeror's Financial Proposal. An explanation for each claim of confidentiality shall be included (see Section 1.14 "Public Information Act Notice").

4.4.3.3 Transmittal Letter

A Transmittal Letter shall accompany the Technical Proposal. The purpose of this letter is to transmit the Proposal and acknowledge the receipt of any addenda. The Transmittal Letter should be brief and signed by an individual who is authorized to commit the Offeror to the services and requirements as stated in this RFP. The Transmittal Letter should include the following:

- Name & address of Offeror;
- Name, title, email address, and telephone number of Primary Contact for Offeror;
- Solicitation Title and Solicitation Number that Proposal is in response to;
- Signature, typed name, and title of an individual authorized to commit Offeror to its Proposal;
- Federal Employer Identification Number (FEIN) of the Offeror, or if a single individual, their Social Security Number (SSN);
- Offeror's eMM number;
- Offeror's MBE certification number (if applicable);
- Acceptance of all State RFP and Contract terms and conditions (see Section 1.24); if any exceptions are taken, they are to be noted in the Executive Summary (see Section 4.4.3.4); and
- Acknowledgement of all addenda to this RFP.

4.4.3.4 Executive Summary

The Offeror shall condense and highlight the contents of the Technical Proposal in a separate section titled "Executive Summary." The Summary should identify the Service Category(ies) and Region(s) the Offeror is proposing to provide services for (if applicable). The Summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (Attachment A), or any other attachments. Exceptions to terms and conditions may result in having the Proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award.

If the Offeror has taken no exceptions to the requirements of this RFP, the Executive Summary shall so state.

4.4.3.5 Minimum Qualifications Documentation:

The Offeror shall submit any Minimum Qualifications documentation that may be required, as set forth in Section 2 "Offeror Minimum Qualifications."

4.4.3.6 Offeror Technical Response to RFP Requirements and Proposed Work Plan

- a. The Offeror shall address each Scope of Work requirement (Section 3.2) in its Technical Proposal and describe how its proposed services will meet or exceed the requirement(s). If

the State is seeking Offeror agreement to any requirement(s), the Offeror shall state its agreement or disagreement. Any paragraph in the Technical Proposal that responds to a Scope of Work (Section 3.2) requirement shall include an explanation of how the work will be done. Any exception to a requirement, term, or condition may result in having the Proposal classified as not reasonably susceptible of being selected for award or the Offeror deemed not responsible.

- b. The Offeror shall give a definitive description of the proposed plan to meet the requirements of the RFP, i.e., a Work Plan. It shall include the specific methodology and techniques to be used by the Offeror in providing the required services as outlined in RFP Section 3, Scope of Work. The description shall include an outline of the overall management concepts employed by the Offeror and a project management plan, including project control mechanisms and overall timelines. Project deadlines considered contract deliverables must be recognized in the Work Plan.
- c. The Offeror shall identify the location(s) in which it proposes to provide the services, including, if applicable, any current facilities that it operates, and any required construction to satisfy the State's requirements as outlined in this RFP.
- d. The Offeror must provide a draft Problem Escalation Procedure (PEP) that includes, at a minimum, titles of individuals to be contacted by the Department's Contract Monitor should problems arise under the Contract and explain how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. Final procedures must be submitted as indicated in RFP Section 3.5.
- e. Provide a proposed complete table of contents for the Dietetic Department Policy and Procedure Manual.
- f. Provide two (2) samples of the policies and the correlated procedures that are typically included in each of the following sections of the Dietetic Department Policy and Procedure Manual (as evidence of the formal procedures and controls to be implemented at the Center):
 - Quality Assurance and Improvement/Quality Control (include two (2) samples each of clinical and non-clinical examples)
 - Clinical Nutrition Care Protocol
 - Purchasing
 - Safety
- g. Provide samples of two (2) weeks menus representative of those to be included in the Cycle Menus proposed for use at the Center.
- h. Provide a sample of three (3) days emergency menus typical of those to be included in an emergency plan.
- i. Provide an index of the Standardized recipes available to be used to fulfill the requirements of this Contract which have been developed in Hazard Analysis Critical Control Point (HACCP) format consistent with complying with all related requirements of COMAR 10.15.03 Food Service Facilities regulations. Provide two (2) of these standardized recipes which are representative of those which will be utilized at the Center for each of the following categories: entrée, potato/vegetable, salad (one protein salad, and one fruit or vegetable salad), and a dessert. Include the nutritional analyses of each recipe.
- j. Provide two (2) samples of standardized recipes for consistency-modified foods, one meat, one vegetable, consistent with the format in "i." specified above.

- k. Provide an in-service training and education policy and a corresponding comprehensive sample annual in-service training plan outline representative of the plan to be implemented at this Center for employees at all levels.
- l. Provide a sample daily sanitation schedule representative of one to be implemented at this Center and which demonstrates the potential to meet or exceed the minimum requirements of all State and local agencies authorized to inspect a food service facility.
- m. Provide a sample table of contents for a complete Sanitation Program Manual. Provide separate detailed sanitation procedures for the following: cleaning of grease filters, cleaning of a dish machine, cleaning and sanitizing food contact surfaces, cleaning and sanitizing a food slicer and cleaning of kitchen floors similar to those which would be implemented in this Center.

4.4.3.7 Experience and Qualifications of Proposed Staff

The Offeror shall identify the number and types of staff proposed to be utilized under the Contract.

The Offeror shall describe in detail how the proposed staff's experience and qualifications relate to their specific responsibilities, as detailed in the Work Plan. The Offeror shall include individual resumes for the key personnel who are to be assigned to the project if the Offeror is awarded the contract. Each resume should include the amount of experience the individual has had relative to the Scope of Work set forth in this solicitation. Letters of intended commitment to work on the project, including any proposed subcontractors, shall be included in this section.

The Offeror is required to provide an Organizational Chart outlining personnel and their related duties. The Offeror shall include job titles and the percentage of time each individual will spend on his/her assigned tasks. Offerors using job titles other than those commonly used by industry standards must provide a crosswalk reference document.

4.4.3.8 Corporate Qualifications and Capabilities

The Offeror shall include information on past corporate experience with similar projects and/or services. The Offeror shall describe how its organization can meet the requirements of this RFP and shall also include the following information:

- a. The number of years the Offeror has provided the similar services;
- b. The number of clients/customers and geographic locations that the Offeror currently serves;
- c. The names and titles of key management personnel who will be directly involved with supervising the services to be performed under this Contract;
- d. The Offeror shall also describe how it is configured managerially, financially, and individually so as to afford the assurance that it can execute a contract successfully;
- e. The Offeror's process for resolving billing errors; and
- f. A corporate organizational chart that identifies the complete structure of the company including any parent company, headquarters, regional offices, and subsidiaries of the Offeror.

4.4.3.9 References

At least three (3) references are requested from customers who are capable of documenting the Offeror's ability to provide the services specified in this RFP. References used to meet any Offeror Minimum Qualifications (see Section 2) may be used to meet this request. Each reference shall be from a client for whom the Offeror has provided services within the past five (5) years and shall include the following information:

- a. Name of client organization;
- b. Name, title, telephone number, and e-mail address, if available, of point of contact for client organization; and
- c. Value, type, duration, and description of services provided.

The Department reserves the right to request additional references or utilize references not provided by an Offeror.

4.4.3.10 List of Current or Prior State Contracts:

Provide a list of all contracts with any entity of the State of Maryland for which the Offeror is currently performing services or for which services have been completed within the last five (5) years. For each identified contract, the Offeror is to provide:

- a. The State contracting entity;
- b. A brief description of the services/goods provided;
- c. The dollar value of the contract;
- d. The term of the contract;
- e. The State employee contact person (name, title, telephone number, and, if possible, e-mail address); and
- f. 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.

Information obtained regarding the Offeror's level of performance on State contracts will be used by the Procurement Officer to determine the responsibility of the Offeror and considered as part of the experience and past performance evaluation criteria of the RFP.

4.4.3.11 Financial Capability

An Offeror must include in its Proposal a commonly-accepted method to prove its fiscal integrity. The Offeror shall include Financial Statements, preferably a Profit and Loss (P&L) and a Balance Sheet, for the last two (2) years (independently audited preferred).

In addition, the Offeror may supplement its response to this Section by including one or more of the following with its response:

- a. Dunn and Bradstreet Rating;
- b. Standard and Poor's Rating;
- c. Lines of credit;
- d. Evidence of a successful financial track record; and
- e. Evidence of adequate working capital.

4.4.3.12 Certificate of Insurance:

The Offeror shall provide a copy of the Offeror's current certificate of insurance with the prescribed limits set forth in Section 3.4 "Insurance Requirements." The recommended awardee must provide a certificate of insurance naming the State as an additional insured, if required, within five (5) Business

Days from notification by the Procurement Officer that the Offeror has been determined to be the apparent awardee.

4.4.3.13 Subcontractors:

The Offeror shall provide a complete list of all subcontractors that will work on the Contract if the Offeror receives an award, including those utilized in meeting the MBE and/or VSBE subcontracting goal, if applicable. This list shall include a full description of the duties each subcontractor will perform and why/how each subcontractor was deemed the most qualified for this project.

4.4.3.14 Legal Action Summary:

This summary shall include:

- a. A statement as to whether there are any outstanding legal actions or potential claims against the Bidder and a brief description of any action;
- b. A brief description of any settled or closed legal actions or claims against the Bidder over the past five (5) years;
- c. A description of any judgments against the Bidder within the past five (5) years, including the case name, number court, and what the final ruling or determination was from the court; and
- d. In instances where litigation is on-going and the Bidder has been directed not to disclose information by the court, provide the name of the judge and location of the court.

4.4.3.15 Economic Benefit Factors

The Offeror shall submit with its Proposal a narrative describing benefits that will accrue to the Maryland economy as a direct or indirect result of its performance of this contract. Proposals will be evaluated to assess the benefit to Maryland's economy specifically offered.

Proposals that identify specific benefits as being contractually enforceable commitments will be rated more favorably than Proposals that do not identify specific benefits as contractual commitments, all other factors being equal.

Offerors shall identify any performance guarantees that will be enforceable by the State if the full level of promised benefit is not achieved during the contract term.

As applicable, for the full duration of the contract, including any renewal period, or until the commitment is satisfied, the Contractor shall provide to the procurement officer or other designated agency personnel reports of the actual attainment of each benefit listed in response to this section. These benefit attainment reports shall be provided quarterly, unless elsewhere in these specifications a different reporting frequency is stated.

Please note that in responding to this section, the following do not generally constitute economic benefits to be derived from this contract:

- a. generic statements that the State will benefit from the Offeror's superior performance under the contract;
- b. descriptions of the number of Offeror employees located in Maryland other than those that will be performing work under this contract; or
- c. tax revenues from Maryland based employees or locations, other than those that will be performing, or used to perform, work under this contract.

Discussion of Maryland-based employees or locations may be appropriate if the Offeror makes some projection or guarantee of increased or retained presence based upon being awarded this contract.

Examples of economic benefits to be derived from a contract may include any of the following. For each factor identified below, identify the specific benefit and contractual commitments and provide a breakdown of expenditures in that category:

- The contract dollars to be recycled into Maryland’s economy in support of the contract, through the use of Maryland subcontractors, suppliers and joint venture partners. Do not include actual fees or rates paid to subcontractors or information from your Financial Proposal;
- The number and types of jobs for Maryland residents resulting from the contract. Indicate job classifications, number of employees in each classification and the aggregate payroll to which the Contractor has committed, including contractual commitments at both prime and, if applicable, subcontract levels. If no new positions or subcontracts are anticipated as a result of this Contract, so state explicitly;
- Tax revenues to be generated for Maryland and its political subdivisions as a result of the contract. Indicate tax category (sales taxes, payroll taxes, inventory taxes and estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from the contract;
- Subcontract dollars committed to Maryland small businesses and MBEs; and
- Other benefits to the Maryland economy which the Offeror promises will result from awarding the contract to the Offeror, including contractual commitments. Describe the benefit, its value to the Maryland economy, and how it will result from, or because of the contract award. Offerors may commit to benefits that are not directly attributable to the contract, but for which the contract award may serve as a catalyst or impetus.

4.5 Volume II – Financial Proposal

Under separate sealed cover from the Technical Proposal and clearly identified in the format requirements identified in Section 4.2 “Proposals,” the Offeror shall submit an original unbound copy, five (5) copies, and an electronic version in MS Word of the Financial Proposal. The Financial Proposal shall contain all price information in the format specified in **Attachment F**. The Offeror shall complete the Financial Proposal Form only as provided in the Financial Proposal Instructions and the Financial Proposal Form itself.

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SECTION 5 – EVALUATION COMMITTEE, EVALUATION CRITERIA, AND SELECTION PROCEDURE

5.1 Evaluation Committee

Evaluation of Proposals will be conducted by a committee established for that purpose and based on the criteria set forth below. The committee may obtain assistance with its evaluation from any appropriate source.

5.2 Technical Proposal Evaluation Criteria

The criteria to be used to evaluate each Technical Proposal are listed below in descending order of importance. Unless stated otherwise, any subcriteria within each criterion have equal weight.

- 5.2.1 Operational Plan - The extent to which the Offeror has outlined and described the overall methodology to be used in providing the scope and quality of the required services. At a minimum, the following areas shall be considered:
- a. Any programs, and/or systems that the Offeror currently has available for implementation at the Centers that may enhance the overall dietary service to the patients at the Center.
 - b. Ability of Offeror to plan, organize, and direct an efficient Dietetic Department.
 - c. Evidence of sufficient management resources to provide the proper corporate oversight of the Contractor's operation, and the appropriate review of the Clinical Dietician's work.
- 5.2.2 Sample Documents - The extent to which the samples submitted are responsive to the specific administrative, regulatory, and reporting requirements of the Center. At a minimum, the following sample items will be considered:
- a. Dietetic Department Policy and Procedures Manual "Table of Contents."
 - b. The sample policies and procedures from the Policy and Procedure Manual: quality assurance and improvement, quality control, clinical nutrition care protocol, purchasing, and safety.
 - c. Two-weeks menus, and three (3)-day emergency menus.
 - d. Standardized recipes in HACCP format, which include nutritional analysis.
 - e. Training and Education Policy with corresponding outline of an annual in-service training plan.
 - f. Daily Sanitation Schedule, and a sample "Table of Contents" for Sanitation Program Manual and detailed sanitation procedures.
- 5.2.3 Demonstrated Experience - The extent to which the Offeror has presented evidence of current and/or previous experience in providing services of similar nature and scope. At a minimum, the following items will be considered:

- a. Current contracts with other healthcare facilities.
- b. Previous contracts with other healthcare facilities.

5.2.4 Corporate and Financial Resources - The extent to which the Offeror demonstrates financial solvency. At a minimum, the following items will be considered:

- a. A copy of the most current annual report to stockholders and/or financial report.
- b. Lines of credit.

5.2.5 Offeror's Technical Response to RFP Requirements

The State wishes to see an Offeror's response to work requirements in the RFP that illustrates a comprehensive understanding of work requirements and mastery of the subject matter to include an explanation of how the work will be done. Responses to work requirements such as "concur" or "will comply" will receive a lower evaluation ranking than those Offerors who demonstrate they understand a work requirement and have a plan to meet or exceed it.

5.2.6 Economic Benefit to State of Maryland (See RFP § 4.4.3.15)

5.3 Financial Criteria

All qualified Offerors will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on the Total Evaluated Price within the stated guidelines set forth in this RFP and as submitted on **Attachment F** - Financial Proposal Form.

5.4 Reciprocal Preference

Although Maryland law does not authorize procuring agencies to favor resident Offerors in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. Therefore, COMAR 21.05.01.04 requires that procuring units apply a reciprocal preference under the following conditions:

- The most advantageous offer is from a responsible Offeror whose headquarters, principal base of operations, or principal site (that will primarily provide the services required under this RFP) is in another state.
- The other state gives a preference to its resident businesses through law, policy, or practice; and
- The preference 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 resident businesses.

5.5 Selection Procedures

5.5.1 General

The Contract will be awarded in accordance with the Competitive Sealed Proposals (CSP) method found at COMAR 21.05.03. The Competitive Sealed Proposals method allows for the conducting of discussions and the revision of Proposals during these discussions. Therefore, the State may conduct discussions with all Offerors that have submitted Proposals that are determined to be reasonably susceptible of being selected for contract award or potentially so. However, the State reserves the right to make an award without holding discussions.

In either case (i.e., with or without discussions), the State may determine an Offeror to be not responsible and/or an Offeror's Proposal to be not reasonably susceptible of being selected for award at any time after the initial closing date for receipt of Proposals and prior to Contract award. If the State finds an Offeror to be not responsible and/or an Offeror's Technical Proposal to be not reasonably susceptible of being selected for award, that Offeror's Financial Proposal will be returned if the Financial Proposal is unopened at the time of the determination.

5.5.2 Selection Process Sequence

- 5.5.2.1 A determination is made that the MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1**) is included and is properly completed, if there is a MBE goal. In addition, a determination is made that the Veteran-Owned Small Business Enterprise (VSBE) Utilization Affidavit and Subcontractor Participation Schedule. (**Attachment M-1**) is included and is properly completed, if there is a VSBE goal.
- 5.5.2.2 Technical Proposals are evaluated for technical merit and ranked. During this review, oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the State's requirements and the Offeror's ability to perform the services, as well as to facilitate arrival at a Contract that is most advantageous to the State. Offerors will be contacted by the State as soon as any discussions are scheduled.
- 5.5.2.3 Offerors must confirm in writing any substantive oral clarifications of, or changes in, their Technical Proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror's Technical Proposal. Proposals are given a final review and ranked.
- 5.5.2.4 The Financial Proposal of each Qualified Offeror (a responsible Offeror determined to have submitted an acceptable Proposal) will be evaluated and ranked separately from the Technical evaluation. After a review of the Financial Proposals of Qualified Offerors, the evaluation committee or Procurement Officer may again conduct discussions to further evaluate the Offeror's entire Proposal.
- 5.5.2.5 When in the best interest of the State, the Procurement Officer may permit Qualified Offerors that have submitted acceptable Proposals to revise their initial Proposals and submit, in writing, Best and Final Offers (BAFOs). The State may make an award without issuing a request for a BAFO.

5.5.3 Award Determination

Upon completion of the Technical Proposal and Financial Proposal evaluations and rankings, each Offeror will receive an overall ranking. The Procurement Officer will recommend award of the Contract to the responsible Offeror that submitted the Proposal determined to be the most advantageous to the State. In making this determination, technical factors will receive greater weight than financial factors.

5.6 Documents required upon Notice of Recommendation for Contract Award

Upon receipt of a Notification of Recommendation for Contract Award, the following documents shall be completed and submitted by the recommended awardee within five (5) Business Days, unless noted otherwise. Submit three (3) copies of each with original signatures:

- a. signed Contract (**Attachment A**),
- b. completed Contract Affidavit (**Attachment C**),
- c. completed MBE **Attachments D-2 and D-3**, within ten (10) Working Days, if applicable; *see **Section 1.33**,

- d. completed MBE **Attachment D-6** if a waiver has been requested, within ten (10) Working Days, if applicable; ***see Section 1.33,**
- e. signed Non-Disclosure Agreement (**Attachment J**), if applicable; ***see Section 1.37,**
- f. signed HIPAA Business Associate Agreement (**Attachment K**), if applicable; ***see Section 1.38,**
- g. completed VSBE **Attachments M-2 and M-3**, if applicable ***see Section 1.41,**
- h. completed DHR Hiring Agreement, **Attachment P**, if applicable ***see Section 1.45,** and
- i. copy of a current Certificate of Insurance with the prescribed limits set forth in Section 3.4 “Insurance Requirements,” naming the State as an additional insured, if applicable; ***see Section 3.4.**

Note: Some of the documents required to be submitted with the Technical Proposal (**see Section 4.4.3.6**) are samples to be representative of those to be developed for use at the Center. The successful Contractor shall be required to furnish the Center's Contract Monitor with a complete set of all actual documents to be used at the Center within two (2) weeks after receipt of the Notice to Proceed from the Contract Monitor for review and approval.

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RFP ATTACHMENTS

ATTACHMENT A – Contract

This is the sample contract used by the Department. It is provided with the RFP for informational purposes and is not required to be submitted at Proposal submission time. Upon notification of recommendation for award, a completed contract will be sent to the recommended awardee for signature. The recommended awardee must return to the Procurement Officer three (3) executed copies of the Contract within five (5) Business Days after receipt. Upon Contract award, a fully-executed copy will be sent to the Contractor.

ATTACHMENT B – Bid/Proposal Affidavit

This Attachment must be completed and submitted with the Technical Proposal.

ATTACHMENT C – Contract Affidavit

This Attachment must be completed and submitted by the recommended awardee to the Procurement Officer within five (5) Business Days of receiving notification of recommendation for award.

ATTACHMENT D – Minority Business Enterprise Forms

If required (see Section 1.33), these Attachments include the MBE subcontracting goal statement, instructions, and MBE Attachments D-1 through D-6. Attachment D-1 must be properly completed and submitted with the Offeror's Technical Proposal or the Proposal will be deemed not reasonably susceptible of being selected for award and rejected. Within 10 Working Days of receiving notification of recommendation for Contract award, the Offeror must submit Attachments D-2 and D-3 and, if the Offeror has requested a waiver of the MBE goal, Attachment D-6.

ATTACHMENT E – Pre-Proposal Conference Response Form

It is requested that this form be completed and submitted as described in Section 1.7 by those potential Offerors that plan on attending the Pre-Proposal Conference.

ATTACHMENT F – Financial Proposal Instructions and Form

The Financial Proposal Form must be completed and submitted with the Financial Proposal.

ATTACHMENT G – Maryland Living Wage Requirements for Service Contracts and Affidavit of Agreement

Attachment G-1 Living Wage Affidavit must be completed and submitted with the Technical Proposal.

ATTACHMENT H – Federal Funds Attachment

If required (see Section 1.35), these Attachments must be completed and submitted with the Technical Proposal as instructed in the Attachments.

ATTACHMENT I – Conflict of Interest Affidavit and Disclosure

If required (see Section 1.36), this Attachment must be completed and submitted with the Technical Proposal.

ATTACHMENT J – Non-Disclosure Agreement

If required (see Section 1.37), this Attachment must be completed and submitted within five (5) Business Days of receiving notification of recommendation for award. However, to expedite processing, it is suggested that this document be completed and submitted with the Technical Proposal.

ATTACHMENT K – HIPAA Business Associate Agreement

If required (see Section 1.38), this Attachment is to be completed and submitted within five (5) Business Days of receiving notification of recommendation for award. However, to expedite processing, it is suggested that this document be completed and submitted with the Technical Proposal.

ATTACHMENT L – Mercury Affidavit

If required (see Section 1.40), this Attachment must be completed and submitted with the Technical Proposal.

ATTACHMENT M – Veteran-Owned Small Business Enterprise Forms

If required (see Section 1.41), these Attachments include the VSBE Attachments M-1 through M-4. Attachment M-1 must be completed and submitted with the Technical Proposal. Attachment M-2 is required to be submitted within ten (10) Business Days of receiving notification of recommendation for award.

ATTACHMENT N – Certification of Investment Activities in Iran

This Attachment must be completed and submitted with the Technical Proposal.

ATTACHMENT O – Location of the Performance of Services Disclosure

If required (see Section 1.44), this Attachment must be completed and submitted with the Technical Proposal.

ATTACHMENT P – Department of Human Resources (DHR) Hiring Agreement

If required (see Section 1.45), this Attachment is to be completed and submitted within five (5) Business Days of receiving notification of recommendation for award.

ATTACHMENT A – CONTRACT

DIETETIC DEPARTMENT SERVICES

THIS CONTRACT (the “Contract”) is made this (“Xth”) day of (month), (year) by and between (Contractor’s name) and the STATE OF MARYLAND, acting through the DEPARTMENT OF HEALTH AND MENTAL HYGIENE, OFFICE OF PROCUREMENT AND SUPPORT SERVICES.

In consideration of the promises and the covenants herein contained, the parties agree as follows:

1. Definitions

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

- 1.1 “COMAR” means Code of Maryland Regulations.
- 1.2 “Contract Monitor” means the Department employee identified in Section 1.6 of the RFP as the Contract Monitor.
- 1.3 “Contractor” means (Contractor’s name) whose principal business address is (Contractor’s primary address) and whose principal office in Maryland is (Contractor’s local address).
- 1.4 “Department” means the Maryland Department of Health and Mental Hygiene and any of its Agencies, Offices, Administrations, Facilities, or Commissions.
- 1.5 “Financial Proposal” means the Contractor’s Financial Proposal dated (Financial Proposal date).
- 1.6 “Procurement Officer” means the Department employee identified in Section 1.5 of the RFP as the Procurement Officer.
- 1.7 “RFP” means the Request for Proposals for (solicitation title) Solicitation # DHMH OPASS (solicitation number), and any addenda thereto issued in writing by the State.
- 1.8 “State” means the State of Maryland.
- 1.9 “Technical Proposal” means the Contractor’s Technical Proposal dated (Technical Proposal date).

2. Scope of Contract

- 2.1 The Contractor shall provide deliverables, programs, goods, and services specific to the Contract awarded in accordance with Exhibits A-C listed in this section and incorporated as part of this Contract. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A – The RFP

Exhibit B – State Contract Affidavit, executed by the Contractor and dated (date of Attachment C)

Exhibit C – The Proposal

- 2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract or the RFP. No other order, statement, or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor’s cost of, or the time required for, the performance of any part of the work, whether

or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

- 2.3 While the Procurement Officer may, at any time, by written change order, make unilateral changes in the work within the general scope of the Contract as provided in Section 2.2 above, the Contract may be modified by mutual agreement of the parties, provided: (a) the modification is made in writing; (b) all parties sign the modification; and (c) all approvals by the required agencies as described in COMAR Title 21, are obtained.

3. Period of Performance.

- 3.1 The Contract resulting from this RFP shall be for a period of approximately (number of years of base term of Contract) years (change to months if necessary) beginning on or about (anticipated Contract start date) and ending on (anticipated end date of base term of Contract). The term of this Contract begins on the date the Contract is signed by the Department following approval of the Board of Public Works, if such approval is required. The Contractor shall provide services under this Contract upon receipt of official notification of award and a written Notice to Proceed issued by the Procurement Officer.
- 3.2 Audit, confidentiality, document retention, and indemnification obligations under this Contract shall survive expiration or termination of the Contract.

4. Consideration and Payment

- 4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the Department shall pay the Contractor in accordance with the terms of this Contract and at the prices quoted on the Financial Proposal Form (Attachment F). Unless properly modified (see above Section 2.3), payment to the Contractor pursuant to this Contract shall not exceed \$ (Not-to-Exceed amount).

Contractor shall notify the Contract Monitor, in writing, at least sixty (60) days before payments reach the above specified amount. After notification by the Contractor, if the State fails to increase the Contract amount, the Contractor shall have no obligation to perform under this Contract after payments reach the stated amount; provided, however, that, prior to the stated amount being reached, the Contractor shall: (a) promptly consult with the State and work in good faith to establish a plan of action to assure that every reasonable effort has been undertaken by the Contractor to complete State-defined critical work in progress prior to the date the stated amount will be reached; and (b) when applicable secure databases, systems, platforms, and/or applications on which the Contractor is working so that no damage or vulnerabilities to any of the same will exist due to the existence of any such unfinished work.

- 4.2 Payments to the Contractor shall be made no later than thirty (30) days after the Department's receipt of a proper invoice for services provided by the Contractor, acceptance by the Department of services provided by the Contractor, and pursuant to the conditions outlined in Section 4 of this Contract. Each invoice for services rendered must include the Contractor's Federal Tax Identification or Social Security Number for a Contractor who is an individual which is (Contractor's FEIN or SSN). Charges for late payment of invoices other than as prescribed at Md. Code Ann., State Finance and Procurement Article, §15-104 as from time-to-time amended, are prohibited. Invoices shall be submitted to the Contract Monitor. Electronic funds transfer shall be used by the State to pay Contractor pursuant to this Contract and any other State payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.
- 4.3 In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any

invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer.

4.4 Payment of an invoice by the Department is not evidence that services were rendered as required under this Contract.

4.5 Contractor's eMarylandMarketplace vendor ID number is (Contractor's eMM number).

5. Rights to Records

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

5.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a deliverable under this Contract, and services performed under this Contract shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created as a deliverable under this Contract are not works made for hire for the State, the Contractor hereby relinquishes, transfers, and assigns to the State 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 the State in effectuating and registering any necessary assignments.

5.3 The Contractor shall report to the Contract Monitor, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all data delivered under this Contract.

5.4 The Contractor shall not affix any restrictive markings upon any data, documentation, or other materials provided to the State hereunder and if such markings are affixed, the State shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

6. Exclusive Use

The State shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable of being copyrighted, the State shall be the copyright owner and Contractor may copyright material connected with this project only with the express written approval of the State.

7. Patents, Copyrights, and Intellectual Property

7.1 If the Contractor furnishes any design, device, material, process, or other item, which is covered by a patent, trademark or service mark, or copyright or which is proprietary to, or a trade secret of, another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items.

7.2 The Contractor will defend or settle, at its own expense, any claim or suit against the State alleging that any such item furnished by the Contractor infringes any patent, trademark, service mark, copyright, or trade secret. If a third party claims that a product infringes that party's patent, trademark, service mark, trade secret, or copyright, the Contractor will defend the State against that claim at Contractor's expense and will pay all damages, costs, and attorneys' fees that a court finally awards, provided the State: (a) promptly notifies the Contractor in writing of the claim; and (b) allows Contractor to control and cooperates with Contractor in, the defense and any related settlement negotiations. The obligations of this paragraph are in addition to those stated in Section 7.3 below.

- 7.3 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 and expense: (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.

8. Confidentiality

- 8.1 Subject to the Maryland Public Information Act and any other applicable laws including, without limitation, HIPAA, the HI-TECH ACT, and the Maryland Medical Records Act, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents, and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided that the data may be collected, used, disclosed, stored, and disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that: (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.
- 8.2 This Section 8 shall survive expiration or termination of this Contract.

9. Loss of Data

In the event of loss of any State data or records where such loss is due to the intentional act or omission or negligence of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for recreating such lost data in the manner and on the schedule set by the Contract Monitor. The Contractor shall ensure that all data is backed up and recoverable by the Contractor. Contractor shall use its best efforts to assure that at no time shall any actions undertaken by the Contractor under this Contract (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms, and/or applications with which the Contractor is working hereunder.

10. Indemnification

- 10.1 The Contractor shall hold harmless and indemnify the State from and against any and all losses, damages, claims, suits, actions, liabilities, and/or expenses, including, without limitation, attorneys' fees and disbursements of any character that arise from, are in connection with or are attributable to the performance or nonperformance of the Contractor or its subcontractors under this Contract.

This indemnification clause shall not be construed to mean that the Contractor shall indemnify the State against liability for any losses, damages, claims, suits, actions, liabilities, and/or expenses that are attributable to the sole negligence of the State or the State's employees.

- 10.2 The State of Maryland has no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim, or action of any character is brought by any person not party to this Contract against the Contractor or its subcontractors as a result of or relating to the Contractor's performance under this Contract.
- 10.3 The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's performance under this Contract.
- 10.4 The Contractor shall immediately notify the Procurement Officer of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from, or relating to, the Contractor's

obligations under the Contract, and will cooperate, assist, and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of, or relating to, the Contractor's performance under this Contract.

10.5 This Section 10 shall survive termination of this Contract.

11. Non-Hiring of Employees

No official or employee of the State, as defined under Md. Code Ann., State Government Article, § 15-102, 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.

12. Disputes

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

13. Maryland Law

13.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.

13.2 The Md. Code Ann., Commercial Law Article, Title 22, Maryland Uniform Computer Information Transactions Act, does not apply to this Contract or to any purchase order or Notice to Proceed issued under this Contract.

13.3 Any and all references to the Maryland Code, Annotated contained in this Contract shall be construed to refer to such Code sections as are from time to time amended.

14. Nondiscrimination in Employment

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

15. Contingent Fee Prohibition

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling 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 this Contract.

16. Non-availability of Funding

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

17. Termination for Cause

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

18. Termination for Convenience

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

19. 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, interruptions, interferences, or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

20. Suspension of Work

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

21. Pre-Existing Regulations

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

22. Financial Disclosure

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

23. Political Contribution Disclosure

The Contractor shall comply with Md. Code Ann., 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: (a) 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 (b) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (i) February 5, to cover the six (6) month period ending January 31; and (ii) August 5, to cover the six (6) month period ending July 31.

24. Documents Retention and Inspection Clause

The Contractor and subcontractors shall retain and maintain all records and documents relating to this contract for a period of five (5) years after final payment by the State hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section. This Section 24 shall survive expiration or termination of the Contract.

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 above,:

24.1 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 (4) years after the services are furnished under this contract; and

24.2 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 subcontracting to provide services with a value of \$10,000 or more in a twelve (12) month period to be reimbursed through funds provided by this contract.

25. Compliance with Laws

The Contractor hereby represents and warrants that:

- 25.1 It is qualified to do business in the State and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- 25.2 It is not in arrears with respect to the payment of any monies due and owing the State, 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;
- 25.3 It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- 25.4 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.

26. Cost and Price Certification

By submitting cost or price information, the Contractor certifies to the best of its knowledge that the information submitted is accurate, complete, and current as of the date of its Bid/Proposal.

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 of its Bid/Proposal, was inaccurate, incomplete, or not current.

27. Subcontracting; Assignment

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the Department's Procurement Officer, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Department's Procurement Officer provided, however, that a Contractor may assign monies receivable under a contract after due notice to the State. Any subcontracts shall include such language as may be required in various clauses contained within this contract, exhibits, and attachments. The contract shall not be assigned until all approvals, documents, and affidavits are completed and properly registered. The State shall not be responsible for fulfillment of the Contractor's obligations to its subcontractors.

28. Liability

- 28.1 For breach of this Contract, negligence, misrepresentation, or any other contract or tort claim, Contractor shall be liable as follows:
 - a. For infringement of patents, copyrights, trademarks, service marks, and/or trade secrets, as provided in Section 7 of this Contract;
 - b. Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and
 - c. For all other claims, damages, losses, costs, expenses, suits, or actions in any way related to this Contract, regardless of the form. Contractor's liability for third party claims arising under Section 10 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 10.

29. Parent Company Guarantee (If Applicable)

(Corporate name of Contractor's Parent Company) hereby guarantees absolutely the full, prompt, and complete performance by (Contractor) of all the terms, conditions and obligations contained in this Contract, as it may be amended from time to time, including any and all exhibits that are now or may become incorporated hereunto, and

other obligations of every nature and kind that now or may in the future arise out of or in connection with this Contract, including any and all financial commitments, obligations, and liabilities. **(Corporate name of Contractor's Parent Company)** may not transfer this absolute guaranty to any other person or entity without the prior express written approval of the State, which approval the State may grant, withhold, or qualify in its sole and absolute subjective discretion. **(Corporate name of Contractor's Parent Company)** further agrees that if the State brings any claim, action, suit or proceeding against **(Contractor)**, **(Corporate name of Contractor's Parent Company)** may be named as a party, in its capacity as Absolute Guarantor.

30. Commercial Nondiscrimination

- 30.1 As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described at Md. Code Ann., State Finance and Procurement Article, Title 19. 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 Contract and may result in termination of this Contract, 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.
- 30.2 The Contractor shall include the above Commercial Nondiscrimination clause, or similar clause approved by the Department, in all subcontracts.
- 30.3 As a condition of entering into this Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Md. Code Ann., State Finance and Procurement Article, Title 19, as amended from time to time, Contractor agrees to provide within sixty (60) days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past four (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 at Md. Code Ann., State Finance and Procurement Article, Title 19, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

31. Prompt Pay Requirements

- 31.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the Department, at its option and in its sole discretion, may take one or more of the following actions:
- a. Not process further payments to the Contractor until payment to the subcontractor is verified;
 - b. Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
 - c. Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;
 - d. Place a payment for an undisputed amount in an interest-bearing escrow account; or
 - e. Take other or further actions as appropriate to resolve the withheld payment.
- 31.2 An "undisputed amount" means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute. Such "undisputed amounts" include, without limitation,:

- a. Retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor; and
 - b. An amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
- 31.3 An act, failure to act, or decision of a Procurement Officer or a representative of the Department, concerning a withheld payment between the Contractor and a subcontractor under this provision, may not:
- a. Affect the rights of the contracting parties under any other provision of law;
 - b. Be used as evidence on the merits of a dispute between the Department and the Contractor in any other proceeding; or
 - c. Result in liability against or prejudice the rights of the Department.
- 31.4 The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise (MBE) program.
- 31.5 To ensure compliance with certified MBE subcontract participation goals, the Department may, consistent with COMAR 21.11.03.13, take the following measures:
- a. Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule.
 - b. This verification may include, as appropriate:
 - i. Inspecting any relevant records of the Contractor;
 - ii. Inspecting the jobsite; and
 - iii. Interviewing subcontractors and workers.
 - iv. Verification shall include a review of:
 - (a) The Contractor's monthly report listing unpaid invoices over thirty (30) days old from certified MBE subcontractors and the reason for nonpayment; and
 - (b) The monthly report of each certified MBE subcontractor, which lists payments received from the Contractor in the preceding thirty (30) days and invoices for which the subcontractor has not been paid.
 - c. If the Department determines that the Contractor is not in compliance with certified MBE participation goals, then the Department will notify the Contractor in writing of its findings, and will require the Contractor to take appropriate corrective action. Corrective action may include, but is not limited to, requiring the Contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.
 - d. If the Department determines that the Contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that the Department requires, then the Department may:
 - i. Terminate the contract;
 - ii. Refer the matter to the Office of the Attorney General for appropriate action; or
 - iii. Initiate any other specific remedy identified by the contract, including the contractual remedies required by any applicable laws, regulations, and directives regarding the payment of undisputed amounts.
 - e. Upon completion of the Contract, but before final payment or release of retainage or both, the Contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from, MBE subcontractors.

32. Contract Monitor

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

33. Notices

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

If to the State: _____
Procurement Officer
Maryland Department of Health and Mental Hygiene
Office of Procurement and Support Services
201 West Preston Street, Room 416
Baltimore, Maryland 21201

If to the Contractor: _____

34. 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 C.F.R. 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 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 the DHMH Office of Systems, Operations and Pharmacy 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.

35. Compliance with Federal HIPAA and State Confidentiality Law

35.1 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 C.F.R. Parts 160 and 164. The Contractor also agrees to comply with the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§ 4-301 et seq. This obligation includes:

- (a) As necessary, adhering to the privacy and security requirements for protected health information and medical records under HIPAA and MCMRA and making the transmission of all electronic information compatible with the HIPAA requirements;
- (b) 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
- (c) Otherwise providing good information management practices regarding all health information and medical records.

35.2 Based on the determination by the Department that the functions to be performed in accordance with the scope of work set forth in the solicitation constitute business associate functions as defined in HIPAA, the selected Bidder/Offeror shall execute a business associate agreement as required by HIPAA regulations at 45 C.F.R. 164.501 and in the form as required by the Department.

35.3 Protected Health Information as defined in the HIPAA regulations at 45 C.F.R. 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.

36. Hiring Agreement

The Contractor agrees to execute and comply with the enclosed Maryland Department of Human Resources (DHR) Hiring Agreement (Attachment P). The Hiring Agreement is to be executed by the Bidder/Offeror and delivered to the Procurement Officer within ten (10) Working Days following receipt of notice by the Bidder/Offeror that it is being recommended for contract award. The Hiring Agreement will become effective concurrently with the award of the contract.

The Hiring Agreement provides that the Contractor and DHR will work cooperatively to promote hiring by the Contractor of qualified individuals for job openings resulting from this procurement, in accordance with Md. Code Ann., State Finance and Procurement Article §13-224.

37. Limited English Proficiency

The Contractor shall provide equal access to public services to individuals with limited English proficiency in compliance with Md. Code Ann., State Government Article, §§ 10-1101 et seq., and Policy Guidance issued by the Office of Civil Rights, Department of Health and Human Services, and DHMH Policy 02.06.07.

38. Miscellaneous

38.1 Any provision of this contract which contemplates performance or observance subsequent to any termination or expiration of this contract shall survive termination or expiration of this contract and continue in full force and effect.

38.2 If any term contained in this contract is held or finally determined to be invalid, illegal, or unenforceable in any respect, in whole or in part, such term shall be severed from this contract, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.

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

CONTRACTOR

STATE OF MARYLAND
DEPARTMENT OF HEALTH AND
MENTAL HYGIENE

By:

By: Joshua M. Sharfstein, M.D., Secretary

Date

Or designee:

Date

Approved for form and legal sufficiency
this ____ day of _____, 20__.

Assistant Attorney General

APPROVED BY BPW: _____
(Date) (BPW Item #)

Rev. 3/11/2013

ATTACHMENT B – BID/PROPOSAL AFFIDAVIT

A. AUTHORITY

I hereby affirm that I, _____ (name of affiant) am the _____ (title) and duly authorized representative of _____ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned Bidder/Offeror hereby certifies and agrees that the following information is correct: In preparing its Bid/Proposal on this project, the Bidder/Offeror 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 vendor's, 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/Proposal submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the Bid/Proposal. As part of its Bid/Proposal, the Bidder/Offeror 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/Offeror 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/Offeror 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.

B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.

The undersigned Bidder/Offeror hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, § 14-308(a)(2), Annotated Code of Maryland, which provides that, except as otherwise provided by law, a Contractor may not identify a certified minority business enterprise in a Bid/Proposal and:

- (1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority Proposal;
- (2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the Bid/Proposal;
- (3) Fail to use the certified minority business enterprise in the performance of the contract; or
- (4) Pay the certified minority business enterprise solely for the use of its name in the Bid/Proposal.

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/Proposal submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the Bid/Proposal.

B-2. CERTIFICATION REGARDING VETERAN-OWNED SMALL BUSINESS ENTERPRISES.

The undersigned Bidder/Offeror hereby certifies and agrees that it has fully complied with the State veteran-owned small business enterprise law, State Finance and Procurement Article, § 14-605, Annotated Code of Maryland, which provides that a person may not:

- (1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;
- (2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran-owned small business enterprise in order to obtain or retain a Bid/Proposal preference or a procurement contract;
- (3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.12; or
- (6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of § B-2(1)-(5) of this regulation.

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 Section 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):

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/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 § 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 subsections (1)—(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/Proposals for a public or private contract;

(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 and C and subsections D(1)—(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):

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).

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 Sections 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):

G. SUBCONTRACT 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/Proposal that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the Bid/Proposal price of the Bidder/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/Proposal is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

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.

J. 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.

K. 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/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: _____ (print name of Authorized Representative and Affiant)

_____ (signature of Authorized Representative and Affiant)

ATTACHMENT C – CONTRACT AFFIDAVIT

A. AUTHORITY

I hereby affirm that I, _____ (name of affiant) am the _____ (title) and duly authorized representative of _____ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

B. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION

I FURTHER AFFIRM THAT:

The business named above is a (check applicable box):

- (1) Corporation — domestic or foreign;
- (2) Limited Liability Company — domestic or foreign;
- (3) Partnership — domestic or foreign;
- (4) Statutory Trust — domestic or foreign;
- (5) Sole Proprietorship.

and is registered or qualified as required under Maryland Law. I further affirm that the above business is in good standing both in Maryland and (IF APPLICABLE) in the jurisdiction where it is presently organized, and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation. The name and address of its resident agent (IF APPLICABLE) filed with the State Department of Assessments and Taxation is:

Name and Department ID Number:

_____ Address: _____

and that if it does business under a trade name, it has filed a certificate with the State Department of Assessments and Taxation that correctly identifies that true name and address of the principal or owner as:

Name and Department ID Number:

_____ Address: _____

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13-221, 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.

D. 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.

E. 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/Proposal, 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 who 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's 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 §E(2)(b), above;
 - (h) Notify its employees in the statement required by §E(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 §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;

(j) Within 30 days after receiving notice under §E(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 §E(2)(a)—(j), above.

(3) If the business is an individual, the individual shall certify and agree as set forth in §E(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.

F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Bid/Proposal Affidavit dated _____, 201____, and executed by me for the purpose of obtaining the contract 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: _____ (printed name of Authorized Representative and Affiant)

_____ (signature of Authorized Representative and Affiant)

ATTACHMENT D – MINORITY BUSINESS ENTERPRISE FORMS

This solicitation does not include a Minority Business Enterprise (MBE) subcontractor participation goal.

ATTACHMENT E – PRE-PROPOSAL CONFERENCE RESPONSE FORM

**Solicitation Number DHMH OPASS 14-13399
Dietetic Department Services**

A Pre-Proposal Conference will be held at 10:00 a.m., on April 9, 2013, at Thomas B. Finan Center, Administrative Conference Room, 10102 Country Club Road, Cumberland, MD 21501. Please return this form by April 3, 2013, advising whether or not you plan to attend.

Return via e-mail or fax this form to the Procurement Coordinator:

John G. Cullen
Thomas B. Finan Center
Department of Health and Mental Hygiene
10102 Country Club Road
Cumberland, MD 21501-1722
Email: john.cullen@dhhm.state.md.us
Fax #: (301) 777-2364

Please indicate:

_____ Yes, the following representatives will be in attendance:

- 1.
- 2.
- 3.

_____ No, we will not be in attendance.

Please specify whether any reasonable accommodations are requested (see RFP § 1.7 “Pre-Proposal Conference”):

Signature

Title

Name of Firm (please print)

ATTACHMENT F – FINANCIAL PROPOSAL INSTRUCTIONS

In order to assist Offerors in the preparation of their Financial Proposal and to comply with the requirements of this solicitation, Financial Proposal Instructions and a Financial Proposal Form have been prepared. Offerors shall submit their Financial Proposal on the Financial Proposal Form in accordance with the instructions on the Financial Proposal Form and as specified herein. Do not alter the Financial Proposal Form or the Proposal may be determined to be not reasonably susceptible of being selected for award. The Financial Proposal Form is to be signed and dated, where requested, by an individual who is authorized to bind the Offeror to the prices entered on the Financial Proposal Form.

The Financial Proposal Form is used to calculate the Offeror's TOTAL EVALUATED PRICE. Follow these instructions carefully when completing your Financial Proposal Form:

- A) All Unit and Extended Prices must be clearly entered in dollars and cents, e.g., \$24.15. Make your decimal points clear and distinct.
- B) All Unit Prices must be the actual price per unit the State will pay for the specific item or service identified in this RFP and may not be contingent on any other factor or condition in any manner.
- C) All calculations shall be rounded to the nearest cent, i.e. .344 shall be 34 and .345 shall be 35.
- D) Any goods or services required through this RFP and proposed by the vendor at **No Cost to the State** must be clearly entered in the Unit Price, if appropriate, and Extended Price with **\$0.00**.
- E) Every blank in every Financial Proposal Form shall be filled in. Any changes or corrections made to the Financial Proposal Form by the Offeror prior to submission shall be initialed and dated.
- F) Except as instructed on the Financial Proposal Form, nothing shall be entered on or attached to the Financial Proposal Form that alters or proposes conditions or contingencies on the prices. Alterations and/or conditions may render the Proposal not reasonably susceptible of being selected for award.
- G) It is imperative that the prices included on the Financial Proposal Form have been entered correctly and calculated accurately by the Offeror and that the respective total prices agree with the entries on the Financial Proposal Form. Any incorrect entries or inaccurate calculations by the Offeror will be treated as provided in COMAR 21.05.03.03E and 21.05.02.12, and may cause the Proposal to be rejected.
- H) If option years are included, Offerors must submit pricing for each option year. Any option to renew will be exercised at the sole discretion of the State and will comply with all terms and conditions in force at the time the option is exercised. If exercised, the option period shall be for a period identified in the RFP at the prices entered in the Financial Proposal Form.
- I) All Financial Proposal prices entered below are to be fully loaded prices that include all costs/expenses associated with the provision of services as required by the RFP. The Financial Proposal price shall include, but is not limited to, all: labor, profit/overhead, general operating, administrative, and all other expenses and costs necessary to perform the work set forth in the solicitation. No other amounts will be paid to the Contractor. If labor rates are requested, those amounts shall be fully-loaded rates; no overtime amounts will be paid.
- J) Unless indicated elsewhere in the RFP, sample amounts used for calculations on the Financial Proposal Form are typically estimates for evaluation purposes only. Unless stated otherwise in the RFP, the Department does not guarantee a minimum or maximum number of units or usage in the performance of this Contract.
- K) Failure to adhere to any of these instructions may result in the Proposal being determined not reasonably susceptible of being selected for award.

Rev. 3/11/2013

ATTACHMENT F – FINANCIAL PROPOSAL FORM

FINANCIAL PROPOSAL FORM

The Financial Proposal Form shall contain all price information in the format specified on these pages. Complete the Financial Proposal Form only as provided in the Financial Proposal Instructions. Do not amend, alter or leave blank any items on the Financial Proposal Form. If option years are included, Offerors must submit pricing for each option year. Failure to adhere to any of these instructions may result in the Proposal being determined not reasonably susceptible of being selected for award.

Offerors are to enter their Fully-Loaded Unit Price per Patient per Day and calculate totals in the fields indicated below:

Year	Estimated Daily Population	Days in Year	Fully Loaded Unit Price Per Patient Per Day	Total
Year 1				
Finan Center	88	x 365	x \$_____	= (a) \$_____
Massie	25	x 365	x \$_____	= (b) \$_____
Jackson	42	x 365	x \$_____	= (c) \$_____
Jefferson (Lunch Only)	40	x 261	x \$_____	= (d) \$_____
Total Year 1 Contract Price [(a) + (b) + (c) + (d)]:				= (e) \$_____
Year 2				
Finan Center	88	x 365	x \$_____	= (f) \$_____
Massie	25	x 365	x \$_____	= (g) \$_____
Jackson	42	x 365	x \$_____	= (h) \$_____
Jefferson (Lunch Only)	40	x 261	x \$_____	= (i) \$_____
Total Year 2 Contract Price [(f) + (g) + (h) + (i)]:				= (j) \$_____

Year 3

Finan Center 88 x 366 x \$_____ = (k) \$_____

Massie 25 x 366 x \$_____ = (l) \$_____

Jackson 42 x 366 x \$_____ = (m) \$_____

Jefferson (Lunch Only) 40 x 261 x \$_____ = (n) \$_____

Total Year 3 Contract Price [(k) + (l) + (m) + (n)]: = (o) \$_____

Year 4

Finan Center 88 x 365 x \$_____ = (p) \$_____

Massie 25 x 365 x \$_____ = (q) \$_____

Jackson 42 x 365 x \$_____ = (r) \$_____

Jefferson (Lunch Only) 40 x 261 x \$_____ = (s)

Total Year 4 Contract Price [(p) + (q) + (r) + (s)]: = (t) \$_____

Year 5

Finan Center 88 x 365 x \$_____ = (u) \$_____

Massie 25 x 365 x \$_____ = (v) \$_____

Jackson 42 x 365 x \$_____ = (w) \$_____

Jefferson (Lunch Only) 40 x 261 x \$_____ = (x) \$_____

Total Year 5 Contract Price [(u) + (v) + (w) + (x)]: = (y) \$_____

TOTAL EVALUATED PRICE = \$_____
Years 1 through 5 [(e) + (j) + (o) + (t) + (y)]

Submitted By:
Authorized Signature: _____ Date: _____

Printed Name and Title: _____

Company Name: _____

Company Address: _____

Location(s) from which services will be performed (City/State): _____

FEIN: _____

eMM #: _____

Telephone: (_____) _____ -- _____

Fax: (_____) _____ -- _____

E-mail: _____ @ _____

ATTACHMENT G – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS

Living Wage Requirements for Service Contracts

- A. This contract is subject to the Living Wage requirements under Md. Code Ann., State Finance and Procurement Article, Title 18, and the regulations proposed by the Commissioner of Labor and Industry (Commissioner). 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.
- 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) Service contracts 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 for services 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 State contract for services, 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 Md. Code Ann., State Finance and Procurement Article, Title 18.

- 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 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 Md. Code Ann., State Finance and Procurement Article, §18-103(c), shall not lower an employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413. 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.
- H. A Contractor/Subcontractor may reduce the wage rates paid under Md. Code Ann., State Finance and Procurement Article, §18-103(a), 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 Md. Code Ann., Labor and Employment Article, §3-413.
- I. Under Md. Code Ann., State Finance and Procurement Article, Title 18, 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 Division of Labor and Industry website <http://www.dllr.state.md.us/labor/> and clicking on Living Wage for State Service Contracts.

Maryland Living Wage Requirements Affidavit

(submit with Bid/Proposal)

Contract No. _____

Name of Contractor _____

Address _____

City _____ State _____ Zip Code _____

If the Contract Is Exempt from the Living Wage Law

The Undersigned, being an authorized representative of the above named Contractor, hereby affirms that the Contract is exempt from 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 its commitment to comply with Title 18, 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 wage rate in effect at the time service is provided for hours spent 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.

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

- The employee(s) proposed to work on the contract will spend less than one-half of the employee’s time during any work week on the contract

- The employee(s) proposed to work on the contract is 17 years of age or younger during the duration of the contract; or
- The 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

(submit with Bid/Proposal)

ATTACHMENT H - FEDERAL FUNDS ATTACHMENT

This solicitation does not include a Federal Funds Attachment.

ATTACHMENT I – CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

Reference COMAR 21.05.08.08

(submit with Bid/Proposal)

A. "Conflict of interest" means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

B. "Person" has the meaning stated in COMAR 21.01.02.01B(64) and includes a Bidder/Offeror, Contractor, consultant, or subcontractor or sub-consultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a Bid/Proposal is made.

C. The Bidder/Offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.

D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain in detail—attach additional sheets if necessary):

E. The Bidder/Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the Bidder/Offeror shall immediately make a full disclosure in writing to the procurement officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the Bidder/Offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the Contractor shall continue performance until notified by the procurement officer of any contrary action to be taken.

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)

ATTACHMENT J – NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT (“Agreement”) is made by and between the State of Maryland (the “State”), acting by and through its Department of Health and Mental Hygiene (the “Department”), and _____ (the “Contractor”).

RECITALS

WHEREAS, the Contractor has been awarded a contract (the “Contract”) following the solicitation for “*Dietetic Services*” Solicitation # DHMH OPASS 14-13399; and

WHEREAS, in order for the Contractor to perform the work required under the Contract, it will be necessary for the State at times to provide the Contractor and the Contractor’s employees, agents, and subcontractors (collectively the “Contractor’s Personnel”) with access to certain information the State deems confidential information (the “Confidential Information”).

NOW, THEREFORE, in consideration of being given access to the Confidential Information in connection with the IFB and the Contract, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties do hereby agree as follows:

1. Confidential Information means any and all information provided by or made available by the State to the Contractor in connection with the Contract, regardless of the form, format, or media on or in which the Confidential Information is provided and regardless of whether any such Confidential Information is marked as such. Confidential Information includes, by way of example only, information that the Contractor views, takes notes from, copies (if the State agrees in writing to permit copying), possesses or is otherwise provided access to and use of by the State in relation to the Contract.
2. Contractor shall not, without the State’s prior written consent, copy, disclose, publish, release, transfer, disseminate, use, or allow access for any purpose or in any form, any Confidential Information provided by the State except for the sole and exclusive purpose of performing under the Contract. Contractor shall limit access to the Confidential Information to the Contractor’s Personnel who have a demonstrable need to know such Confidential Information in order to perform under the Contract and who have agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information. The names of the Contractor’s Personnel are attached hereto and made a part hereof as ATTACHMENT J-1. Contractor shall update ATTACHMENT J-1 by adding additional names (whether Contractor’s personnel or a subcontractor’s personnel) as needed, from time to time.
3. If the Contractor intends to disseminate any portion of the Confidential Information to non-employee agents who are assisting in the Contractor’s performance of the IFB or who will otherwise have a role in performing any aspect of the IFB, the Contractor shall first obtain the written consent of the State to any such dissemination. The State may grant, deny, or condition any such consent, as it may deem appropriate in its sole and absolute subjective discretion.
4. Contractor hereby agrees to hold the Confidential Information in trust and in strictest confidence, to adopt or establish operating procedures and physical security measures, and to take all other measures necessary to protect the Confidential Information from inadvertent release or disclosure to unauthorized third parties and to prevent all or any portion of the Confidential Information from falling into the public domain or into the possession of persons not bound to maintain the confidentiality of the Confidential Information.
5. Contractor shall promptly advise the State in writing if it learns of any unauthorized use, misappropriation, or disclosure of the Confidential Information by any of the Contractor’s Personnel or the Contractor’s former Personnel. Contractor shall, at its own expense, cooperate with the State in seeking injunctive or other equitable relief against any such person(s).

6. Contractor shall, at its own expense, return to the Department, all copies of the Confidential Information in its care, custody, control or possession upon request of the Department or on termination of the Contract.
7. A breach of this Agreement by the Contractor or by the Contractor's Personnel shall constitute a breach of the Contract between the Contractor and the State.
8. Contractor acknowledges that any failure by the Contractor or the Contractor's Personnel to abide by the terms and conditions of use of the Confidential Information may cause irreparable harm to the State and that monetary damages may be inadequate to compensate the State for such breach. Accordingly, the Contractor agrees that the State may obtain an injunction to prevent the disclosure, copying or improper use of the Confidential Information. The Contractor consents to personal jurisdiction in the Maryland State Courts. The State's rights and remedies hereunder are cumulative and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and to seek damages from the Contractor and the Contractor's Personnel for a failure to comply with the requirements of this Agreement. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys' fees and disbursements) that are attributable, in whole or in part to any failure by the Contractor or any of the Contractor's Personnel to comply with the requirements of this Agreement, the Contractor shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and costs.
9. Contractor and each of the Contractor's Personnel who receive or have access to any Confidential Information shall execute a copy of an agreement substantially similar to this Agreement, in no event less restrictive than as set forth in this Agreement, and the Contractor shall provide originals of such executed Agreements to the State.
10. The parties further agree that:
 - a. This Agreement shall be governed by the laws of the State of Maryland;
 - b. The rights and obligations of the Contractor under this Agreement may not be assigned or delegated, by operation of law or otherwise, without the prior written consent of the State;
 - c. The State makes no representations or warranties as to the accuracy or completeness of any Confidential Information;
 - d. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement;
 - e. Signatures exchanged by facsimile are effective for all purposes hereunder to the same extent as original signatures;
 - f. The Recitals are not merely prefatory but are an integral part hereof; and
 - g. The effective date of this Agreement shall be the same as the effective date of the Contract entered into by the parties.

IN WITNESS WHEREOF, the parties have, by their duly authorized representatives, executed this Agreement as of the day and year first above written.

Contractor: _____

Maryland Department of Health and Mental Hygiene

By: _____ (SEAL)

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

NON-DISCLOSURE AGREEMENT – ATTACHMENT J-2

CERTIFICATION TO ACCOMPANY RETURN OF CONFIDENTIAL INFORMATION

I AFFIRM THAT:

To the best of my knowledge, information, and belief, and upon due inquiry, I hereby certify that: (i) all Confidential Information which is the subject matter of that certain Non-Disclosure Agreement by and between the State of Maryland and

_____ (“Contractor”) dated _____, 20____ (“Agreement”) is attached hereto and is hereby returned to the State in accordance with the terms and conditions of the Agreement; and (ii) I am legally authorized to bind the Contractor to this affirmation.

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, HAVING MADE DUE INQUIRY.

DATE: _____

NAME OF CONTRACTOR: _____

BY: _____
(Signature)

TITLE: _____
(Authorized Representative and Affiant)

Rev. 3/11/2013

ATTACHMENT K – HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the “Agreement”) is made by and between the Thomas B. Finan Center, a unit of the Maryland Department of Health and Mental Hygiene (herein referred to as “Covered Entity”), and _____ (hereinafter known as “Business Associate”). Covered Entity and Business Associate shall collectively be known herein as the “Parties.”

WHEREAS, Covered Entity have a business relationship with Business Associate that is memorialized in a separate agreement (the “Underlying Agreement”) pursuant to which Business Associate may be considered a “business associate” of Covered Entity as defined in the Health Insurance Portability and Accountability Act of 1996 including all pertinent regulations (45 C.F.R. Parts 160 and 64), as amended from time to time, issued by the U.S. Department of Health and Human Services as either have been amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), as Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (collectively, “HIPAA”); and

WHEREAS, the nature of the contractual relationship between Covered Entity and Business Associate may involve the exchange of Protected Health Information (“PHI”) as that term is defined under HIPAA; and

WHEREAS, for good and lawful consideration as set forth in the Underlying Agreement, Covered Entity and Business Associate enter into this agreement for the purpose of ensuring compliance with the requirements of HIPAA and the Maryland Confidentiality of Medical Records Act (Md. Code Ann., Health-General §§4-301 *et seq.*) (“MCMRA”); and

WHEREAS, this Agreement supersedes and replaces any and all Business Associate Agreements the Covered Entity and Business Associate may have entered into prior to the date hereof;

NOW THEREFORE, the premises having been considered and with acknowledgment of the mutual promises and of other good and valuable consideration herein contained, the Parties, intending to be legally bound, hereby agree as follows:

I. DEFINITIONS.

- A. Individual. “Individual” shall have the same meaning as the term “individual” in 45 C.F.R. §164.501 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. §164.502(g).
- B. Breach. “Breach” shall have the same meaning as the term “breach” in 45 C.F.R. § 164.402.
- C. Designated Record Set. “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 C.F.R. §164.501.
- D. Privacy Rule. “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and E.
- E. Protected Health Information or PHI. “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 C.F.R. §164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity
- F. Required By Law. “Required By Law” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.501.

- G. Secretary. “Secretary” shall mean the Secretary of the U.S. Department of Health and Human Services or his or her designee.
- H. Unsecured Protected Health Information. “Unsecured Protected Health Information” or “Unsecured PHI” shall mean PHI that is not secured through the use of a technology or methodology specified by the Secretary in guidance or as otherwise defined in the §13402(h) of the HITECH Act.

II. USE OR DISCLOSURE OF PHI BY BUSINESS ASSOCIATE.

- A. Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement, provided that such use or disclosure would not violate the Privacy Rule.
- B. Business Associate shall only use and disclose PHI if such use or disclosure complies with each applicable requirement of 45 C.F.R. §164.504(e).
- C. Business Associate shall be directly responsible for full compliance with the relevant requirements of the Privacy Rule to the same extent as Covered Entity.

III. DUTIES OF BUSINESS ASSOCIATE RELATIVE TO PHI.

- A. Business Associate shall not use or disclose PHI other than as permitted or required by this Agreement, the MCMRA, or as Required By Law.
- B. Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity.
- C. Business Associate shall immediately notify Covered Entity of any use or disclosure of PHI in violation of this Agreement
- D. In addition to its obligations in Section III.C, Business Associate shall document and notify Covered Entity of a Breach of Unsecured PHI. Business Associate’s notification to Covered Entity hereunder shall:
 - 1. Be made to Covered Entity without unreasonable delay and in no case later than fifty (50) calendar days after the incident constituting the Breach is first known, except where a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security. For purposes of clarity for this Section III.D.1, Business Associate must notify Covered Entity of an incident involving the acquisition, access, use or disclosure of PHI in a manner not permitted under 45 C.F.R. Part E within fifty (50) calendar days after an incident even if Business Associate has not conclusively determined within that time that the incident constitutes a Breach as defined by HIPAA;
 - 2. Include the names of the Individuals whose Unsecured PHI has been, or is reasonably believed to have been, the subject of a Breach;
 - 3. Be in substantially the same form as ATTACHMETN K-1 hereto; and
 - 4. Include a draft letter for the Covered Entity to utilize to notify the Individuals that their Unsecured PHI has been, or is reasonably believed to have been, the subject of a Breach that includes, to the extent possible:

- a) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
 - b) A description of the types of Unsecured PHI that were involved in the Breach (such as full name, Social Security number, date of birth, home address, account number, disability code, or other types of information that were involved);
 - c) Any steps the Individuals should take to protect themselves from potential harm resulting from the Breach;
 - d) A brief description of what the Covered Entity and the Business Associate are doing to investigate the Breach, to mitigate losses, and to protect against any further Breaches; and
 - e) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, website, or postal address.
- E. In the event of an unauthorized use or disclosure of PHI or a Breach of Unsecured PHI, Business Associate shall mitigate, to the extent practicable, any harmful effects of said disclosure that are known to it.
- F. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- G. To the extent applicable, Business Associate shall provide access to PHI in a Designated Record Set at reasonable times, at the request of Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. §164.524.
- H. To the extent applicable, Business Associate shall make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of Covered Entity or an Individual.
- I. Business Associate shall, upon request with reasonable notice, provide Covered Entity access to its premises for a review and demonstration of its internal practices and procedures for safeguarding PHI.
- J. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for a Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528. Should an individual make a request to Covered Entity for an accounting of disclosures of his or her PHI pursuant to 45 C.F.R. §164.528, Business Associate agrees to promptly provide Covered Entity with information in a format and manner sufficient to respond to the individual's request.
- K. Business Associate shall, upon request with reasonable notice, provide Covered Entity with an accounting of uses and disclosures of PHI provided to it by Covered Entity.
- L. Business Associate shall make its internal practices, books, records, and any other material requested by the Secretary relating to the use, disclosure, and safeguarding of PHI received from Covered Entity available to the Secretary for the purpose of determining compliance with the Privacy Rule. The aforementioned information shall be made available to the Secretary in the manner and place as designated by the Secretary or the Secretary's duly appointed delegate. Under this Agreement, Business Associate shall comply and cooperate with any request for documents or other information from the Secretary directed to Covered Entity that seeks documents or other information held by Business Associate.

- M. Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 42 C.F.R. §164.502(j)(1).
- N. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

IV. TERM AND TERMINATION.

- A. Term. The Term of this Agreement shall be effective as of the effective date of the Contract entered into following the solicitation for “*Dietetic Services*”, Solicitation # DHMH OPASS 14-13399, and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section IV.
- B. Termination for Cause. Upon Covered Entity’s knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall:
 - 1. Provide an opportunity for Business Associate to cure the breach or end the violation and, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, terminate this Agreement;
 - 2. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
 - 3. If neither termination nor cure is feasible, report the violation to the Secretary.
- C. Effect of Termination.
 - 1. Except as provided in paragraph C(2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall not retain any copies of the PHI.
 - 2. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity written notification of the conditions that make return or destruction infeasible. After written notification that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.
 - 3. Should Business Associate make an intentional or grossly negligent Breach of PHI in violation of this Agreement or HIPAA or an intentional or grossly negligent disclosure of information protected by the MCMRA, Covered Entity shall have the right to immediately terminate any contract, other than this Agreement, then in force between the Parties, including the Underlying Agreement.

V. CONSIDERATION. Business Associate recognizes that the promises it has made in this Agreement shall, henceforth, be detrimentally relied upon by Covered Entity in choosing to continue or commence a business relationship with Business Associate.

VI. REMEDIES IN EVENT OF BREACH. Business Associate hereby recognizes that irreparable harm will result to Covered Entity, and to the business of Covered Entity, in the event of breach by Business Associate of any of the covenants and assurances contained in this Agreement. As such, in the event of breach of any of the covenants and assurances contained in Sections II or III above, Covered Entity shall be entitled to enjoin and restrain Business Associate from any continued violation of Sections II or III. Furthermore, in the event of breach of Sections II or III by Business Associate, Covered Entity is entitled to reimbursement and indemnification from Business Associate for Covered Entity's reasonable attorneys' fees and expenses and costs that were reasonably incurred as a proximate result of Business Associate's breach. The remedies contained in this Section VI shall be in addition to (and not supersede) any action for damages and/or any other remedy Covered Entity may have for breach of any part of this Agreement.

VII. MODIFICATION; AMENDMENT. This Agreement may only be modified or amended through a writing signed by the Parties and, thus, no oral modification or amendment hereof shall be permitted. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and HIPAA.

VIII. INTERPRETATION OF THIS AGREEMENT IN RELATION TO OTHER AGREEMENTS BETWEEN THE PARTIES. Should there be any conflict between the language of this Agreement and any other contract entered into between the Parties (either previous or subsequent to the date of this Agreement), the language and provisions of this Agreement shall control and prevail unless the Parties specifically refer in a subsequent written agreement to this Agreement by its title and date and specifically state that the provisions of the later written agreement shall control over this Agreement.

IX. COMPLIANCE WITH STATE LAW. The Business Associate acknowledges that by accepting the PHI from Covered Entity, it becomes a holder of medical records information under the MCMRA and is subject to the provisions of that law. If the HIPAA Privacy or Security Rules and the MCMRA conflict regarding the degree of protection provided for protected health information, Business Associate shall comply with the more restrictive protection requirement.

X. MISCELLANEOUS.

- A. Ambiguity. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.
- B. Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.
- C. Notice to Covered Entity. Any notice required under this Agreement to be given Covered Entity shall be made in writing to:

Ramiak James, Privacy Officer
Department of Health and Mental Hygiene
Office of the Inspector General
201 W. Preston Street, 5th Floor
Baltimore, MD 21201
Phone: (410) 767-5411

- D. Notice to Business Associate. Any notice required under this Agreement to be given Business Associate shall be made in writing to:

Address: _____

Attention: _____
Phone: _____

IN WITNESS WHEREOF and acknowledging acceptance and agreement of the foregoing, the Parties affix their signatures hereto.

COVERED ENTITY:

By: _____
Name: _____
Title: _____
Date: _____

BUSINESS ASSOCIATE:

By: _____
Name: _____
Title: _____
Date: _____

**NOTIFICATION TO THE
MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE
ABOUT A BREACH OF UNSECURED PROTECTED HEALTH INFORMATION**

This notification is made pursuant to the Business Associate Agreement between the *Thomas B. Finan Center*, a unit of the Maryland Department of Health and Mental Hygiene (DHMH), and _____ (Business Associate).

Business Associate hereby notifies DHMH that there has been a breach of unsecured (unencrypted) protected health information (PHI) that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the breach: _____

Date of the breach: _____

Date of discovery of the breach: _____

Does the breach involve 500 or more individuals? Yes / No

If yes, do the people live in multiple States? Yes / No

Number of individuals affected by the breach: _____.

Names of individuals affected by the breach: (attach list)

The types of unsecured PHI that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code): _____

Description of what Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches: _____

Contact information to ask questions or learn additional information:

Name: _____

Title: _____

Address: _____

E-mail Address: _____

Phone Number: _____

ATTACHMENT L – MERCURY AFFIDAVIT

MERCURY AFFIDAVIT

(submit with Bid/Proposal)

AUTHORIZED REPRESENTATIVE THEREBY AFFIRM THAT:

I, _____ (name of affiant) am the
_____ (title) and the duly authorized representative of
_____ (name of the business). I possess
the legal authority to make this affidavit on behalf of myself and the business for which I am acting.

MERCURY CONTENT INFORMATION:

The product(s) offered do not contain mercury.

OR

The product(s) offered do contain mercury.

In an attachment to this Mercury Affidavit:

(1) Describe the product or product component that contains mercury.

(2) Provide the amount of mercury that is contained in the product or product component. Indicate the unit of measure being used.

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/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.

_____ By: _____
Date Signature

Print Name: _____
Authorized Representative and Affiant

ATTACHMENT M – VETERAN-OWNED SMALL BUSINESS ENTERPRISE

This solicitation does not include a Veteran-Owned Small Business Enterprise goal.

ATTACHMENT N – CERTIFICATION REGARDING INVESTMENTS IN IRAN

CERTIFICATION REGARDING INVESTMENTS IN IRAN

(submit with Bid/Proposal)

I, _____ (print name), possess the legal authority to make this Certification.

Pursuant to Md. Ann. Code, State Finance and Procurement Article, §§ 17-701 through 17-707, and in conjunction with the Bid or Proposal submitted in response to Solicitation No. 14-13399, the following certifications are hereby made:

1. The Bidder/Offeror is **not** identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in Md. Ann. Code, State Finance and Procurement Article § 17-702; and

2. The Bidder/Offeror is **not** engaging in investment activities in Iran as described in Md. Ann. Code, State Finance and Procurement Article § 17-702.

3. If the Bidder/Offeror is unable to make the certifications listed in paragraphs 1 and 2 above, the Bidder/Offeror shall provide a detailed description of the Bidder/Offeror's investment activities in Iran (attach additional pages if necessary):

I do solemnly declare and affirm under the penalties of perjury that the contents of this certification are true and correct to the best of my knowledge, information, and belief.

Date: _____

Bidder/Offeror Name: _____

By: _____

Name: _____

Title: _____

ATTACHMENT O – LOCATION OF THE PERFORMANCE OF SERVICES DISCLOSURE

(submit with Bid/Proposal)

Pursuant to Md. Ann. Code, State Finance and Procurement Article, § 12-111, and in conjunction with the Bid/Proposal submitted in response to Solicitation No. _____, the following disclosures are hereby made:

- 1. At the time of Bid/Proposal submission, the Bidder/Offeror and/or its proposed subcontractors:
 - ___ have plans
 - ___ have **no** plans

to perform any services required under the resulting Contract outside of the United States.

2. If services required under the contract are anticipated to be performed outside the United States by either the Bidder/Offeror or its proposed subcontractors, the Bidder/Offeror shall answer the following (attach additional pages if necessary):

- a. Location(s) services will be performed:

- b. Reasons why it is necessary or advantageous to perform services outside the United States:

The undersigned, being an authorized representative of the Bidder/Offeror, hereby affirms that the contents of this disclosure are true to the best of my knowledge, information, and belief.

Date: _____

Bidder/Offeror Name: _____

By: _____

Name: _____

Title: _____

Please be advised that the Department may contract for services provided outside of the United States if: the services are not available in the United States; the price of services in the United States exceeds by an unreasonable amount the price of services provided outside the United States; or the quality of services in the United States is substantially less than the quality of comparably priced services provided outside the United States.

ATTACHMENT P – DHR HIRING AGREEMENT

**MARYLAND DEPARTMENT OF HUMAN RESOURCES
HIRING AGREEMENT**

This Hiring Agreement (“Agreement”) is effective this _____ day of _____, _____ and is entered into by and between the Maryland Department of Human Resources (“Department”) and _____ (the “Contractor”) pursuant to State Finance Procurement Article, § 13-224, Annotated Code of Maryland, arising out of a Contract for services between Contractor and _____ (“Entity”), contract number _____ (“Procurement Contract”).

WITNESSETH:

WHEREAS, the Department has identified the Procurement Contract as eligible for execution of this Agreement; and,

WHEREAS, the Contractor and the Entity, have discussed and reviewed an inventory of job openings that exists or the Contractor is likely to fill during the term of the Procurement Contract in the State of Maryland; and

WHEREAS, the Contractor, Department and the Entity have discussed and reviewed the job descriptions, locations, and skill requirements for those positions; and

WHEREAS, the Department and the Entity have identified and discussed with the Contractor the workforce related benefits and support services available to the Contractor as a result of the Agreement including:

- Medicaid coverage for the employee and the employee’s dependents for up to one year after placement in the job;
- Maryland Children’s Health Program (MCHP) medical coverage for the employee’s dependents after one year of employment for as long as eligibility is met;
- Food Stamps for the employee and the employee’s dependents for as long as eligibility requirements are met;
- Child Care subsidies for the employee’s dependents for up to one year after employment as long as eligibility requirements are met;
- Transportation subsidies for the employee for a period of time after employment;
- Other Retention services including counseling on an as needed basis; and
- Assistance with claiming tax credits for hiring Candidates.

WHEREAS, the Contractor and Department agree to work cooperatively to develop responses to the workforce development requirements faced by the Contractor and to promote the hiring of the Department’s current and former Family Investment Program (“FIP”) recipients, their children, foster youth, and child support obligors (“Candidates”) by the Contractor.

NOW THEREFORE, upon valuable consideration received, the Contractor and the Department specifically agree as follows:

A. The CONTRACTOR will:

1. Notify the Department of all job openings that exists or result from the Procurement Contract.
2. Declare the Department the “first source” in identifying and hiring Candidates for those openings.
3. Work with Department as necessary and appropriate, to develop necessary training programs which enable Candidates to qualify for and secure the jobs.
4. Give first preference and first consideration, to the extent permitted by law and any existing labor agreements, to Candidates the Department refers.
5. Agree to give Candidates referred to the Contractor by the Department priority in the filling of a job opening so long as the Candidate meets the qualifications of the position and the Department refers qualified Candidates within three (3) working days.
6. Provide the DEPARTMENT with feedback regarding the disposition of referrals made, to include an explanation of why any such Candidate was not hired or considered qualified.
7. Designate this individual to be the specific contact person:

Name

Address

Telephone #

Fax #

e-Mail

who will:

- provide additional information regarding ‘first source’ jobs and clarify their requirements;
- receive Department referrals, and
- provide feedback to a Department account representative upon request regarding the dispositions of those referrals as well as the progress/employment status of those Candidates hired by the Contractor.

B. The Department will designate an account representative who will:

1. Process all the Contractor’s job notices in accordance with this “Agreement”.
1. Refer screened and qualified Candidates to the Contractor’s designated contact person.
2. Make referrals in a timely manner, that is, within three (3) working days after receiving the Contractor’s job opening notices.
4. Assist in the development of any mutually agreed upon training and/or internship programs that will better prepare Candidates for employment with the Contractor.
5. Provide follow-up and post hire transitional/supportive services, (e.g. Medicaid, MCHP, Food Stamps, child care, transportation, retention counseling, and access to tax credits) as necessary and appropriate.

6. Insure that the Contractor is advised of available subsidies and provide any assistance to the Contractor to obtain those subsidies.
7. Report the Contractor to the procurement Entity if the Contractor does not fulfill its responsibilities in accordance with this Agreement.
8. Review and evaluate the effectiveness of this undertaking with the Contractor and make modifications as necessary and appropriate.

C. DISCLAIMERS

Nothing in this Agreement shall cause the Contractor, except as explicitly provided in Section A above, to alter existing hiring practices or to hire an individual into a position for which he/she is not qualified.

D. NON-DISCRIMINATION

The Contractor agrees that there shall be no discrimination against any employee or Candidate for employment because of race, color, sex, religion, national origin, age, sexual preference, disability or any other factor specified in Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1983 and subsequent amendments and that they will comply with all other pertinent federal and State laws regarding discrimination.

E. MARYLAND LAW PREVAILS

The place of performance of this Agreement shall be the State of Maryland. This Agreement shall be construed, interpreted, and enforced according to the laws and regulations of the State of Maryland, including approval of the Board of Public Works where appropriate.

F. EFFECTIVE DATE

This Agreement shall take effect on the date of the aforementioned Procurement Contract, which is for the period _____ through _____, and it shall remain in effect for the duration of the Procurement Contract, including any option periods or extensions.

IN WITNESS, WHEREOF, the Contractor and the Department have affixed their signatures below:

FOR THE CONTRACTOR:

FOR THE DEPARTMENT

SIGNATURE

SIGNATURE

TITLE

Hiring Agreement Coordinator
TITLE

DATE

DATE