



# REQUEST FOR PROPOSALS (RFP)

SOLICITATION NO. DHMH OPASS – 14-13835

Issue Date: 2/4/2014

## **Administrative Services Organization for Maryland's Public Behavioral Health System**

### 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: Administrative Services Organization for Maryland’s Public Behavioral Health System**  
**Solicitation No: DHMH OPASS – 14-13835**

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 Bid/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:** Administrative Services Organization for Maryland's Public Behavioral Health System

**Solicitation Number:** DHMH OPASS – 14-13835

**RFP Issue Date:** 2/4/2014

**RFP Issuing Office:** Maryland Department of Health and Mental Hygiene  
Office of Health Services

**Procurement Officer:** Michael Howard, CPPB  
Office of Procurement and Support Services  
201 W. Preston Street, Room 416B  
Baltimore, Maryland 21201  
Phone: (410) 767-5816 Fax: (410) 333-5958  
e-mail: [michael.howard@maryland.gov](mailto:michael.howard@maryland.gov)

**Contract Officer:** Queen Davis  
e-mail: [queen.davis@maryland.gov](mailto:queen.davis@maryland.gov)

**Contract Monitor:** Rebecca Frechard  
Medicaid, Office of Health Services  
201 W. Preston Street, Room 213;  
Baltimore, Maryland 21201  
Office: (410) 767-1750 Fax: (410) 333-5425  
[Rebecca.frechard@maryland.gov](mailto:Rebecca.frechard@maryland.gov)

**Proposals are to be sent to:** Maryland Department of Health and Mental Hygiene  
Office of Procurement and Support Services  
201 W. Preston Street, Room 416B  
Baltimore, Maryland 21201  
Attention: Michael Howard

**Pre-Proposal Conference:** February 18, 2014 at 10:00 a.m. Local Time  
300 W. Preston Street, Auditorium, Baltimore, MD 21201

**Closing Date and Time:** March 18, 2014 at 2:00 p.m. Local Time

**MBE Subcontracting Goal:** 18 %

**VSBE Subcontracting Goal:** 2%

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**\*EXHIBITS 1-9 ATTACHED UNDER SEPARATE COVER\***

## **SECTION 1 - GENERAL INFORMATION**

### **1.1 Summary Statement**

- 1.1.1 The Maryland Department of Health and Mental Hygiene (DHMH or the Department), Medicaid Office of Health Services, is issuing this Request for Proposals (RFP) to contract with a vendor who, through qualified and permanent staff, will assist the Department in the prompt and total recoupment of all available Federal Fund Participation (FFP) and who will provide the following support services to the Department: Provider Management and Maintenance; Participant Education; Authorizations and Utilization Management; Participant and Provider Assistance and Communication; Quality Management and Evaluation; Provider and Participant Appeals and Grievances; Claims Processing and Payment; Data Capabilities; Reports; and Special Projects/New Initiatives.
- 1.1.2 It is the State's intention to obtain services, as specified in this RFP, from a Contract between the selected Offeror and the State. The anticipated duration of services to be provided under this Contract is three years with up to two option years. See Section 1.4 for more information.
- 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. **Accountable Care Organization (ACO)**
- b. **Administrative Services Organization (ASO) is the Contractor**
- c. **Adult Evaluation and Review Services (AERS)**
- d. **Affordable Care Act (ACA)**
- e. **Alcohol and Drug Abuse Administration (ADAA)**
- f. **American Society of Addiction Medicine (ASAM)**
- g. **Assertive Community Treatment (ACT)**
- h. **Behavioral Health Administration (BHA)**
- i. **Behavioral Health System Baltimore (BHS Baltimore)**
- j. **Business Day(s)** – The official Working Days of the week to include Monday through Friday. Official Working Days exclude State Holidays (see definition of “Normal State Business Hours” below).
- k. **Centers for Medicare and Medicaid Services (CMS)**
- l. **Chief Executive Officer (CEO)**

- m. **Chief Financial Officer (CFO)**
- n. **Code of Federal Regulations (CFR)** – (<http://www.gpoaccess.gov/cfr/retrieve.html>)
- o. **COMAR** – Code of Maryland Regulations available on-line at [www.dsd.state.md.us](http://www.dsd.state.md.us).
- p. **Consumer Perception of Care (CPOC)**
- q. **Contract** – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of **Attachment A**.
- r. **Contract Commencement** - The date the Contract is signed by the Department following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required. See Section 1.4.
- s. **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.
- t. **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.
- u. **Contractor** – The selected Offeror that is awarded a Contract by the State.
- v. **Core Service Agency (CSA)**
- w. **Current Procedural Terminology (CPT)**
- x. **Department or DHMH** – Maryland Department of Health and Mental Hygiene.
- y. **Department of Human Resources (DHR)**
- z. **Department of Juvenile Services (DJS)**
- aa. **Department of Public Safety and Correctional Services (DPSCS)**
- bb. **Developmental Disabilities Administration (DDA)**
- cc. **Division of Rehabilitation Services (DORS)**
- dd. **Early Periodic Screening, Diagnosis and Treatment (EPSDT)**
- ee. **Eligibility Verification System (EVS)**
- ff. **eMM** – eMaryland Marketplace (see RFP Section 1.8).
- gg. **Evidence Based Practice (EBP)**
- hh. **Federal Fund Participation (FFP)**
- ii. **Federal Poverty Level (FPL)**
- jj. **Federally Qualified Health Center (FQHC)**

- kk. **Fee for Service (FFS)**
- ll. **File Transfer Protocol (FTP)**
- mm. **Fiscal Year (FY)**
- nn. **Go-Live Date** – The date when the Contractor must begin providing all services required by this solicitation. See Section 1.4.
- oo. **Governor’s Office for Children (GOC)**
- pp. **Health Home (HH)**
- qq. **Health Information Exchange (HIE)**
- rr. **Health Insurance Portability and Accountability Act** – Public Law 104-191, 110 Statute 1936, 1996 (HIPAA)
- ss. **Health Services Cost Review Commission (HSCRC)**
- tt. **Hospital Management Information System (HMIS)**
- uu. **Individual Rehabilitation Plan (IRP)**
- vv. **Individual Treatment Plan (ITP)**
- ww. **Individual Work Plan (IWP)**
- xx. **Institute for Mental Disease (IMD)**
- yy. **Institutional Review Board (IRB)**
- zz. **Intensive Outpatient Program (IOP)**
- aaa. **Intermediate Care Facilities for Adolescents (ICF-As)**
- bbb. **Local Addictions Authority (LAA)**
- ccc. **Local Care Team (LCT)**
- ddd. **Local Department of Social Services (DSS)**
- eee. **Local Management Board (LMB)**
- fff. **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.
- ggg. **Maintenance of Effort (MOE)**
- hhh. **Managed Care Organization (MCO)**
- iii. **Management Information System (MIS)**
- jjj. **Maryland Code Annotated Health General (HG)**-(<http://www.dsd.state.md.us>)
- kkk. **Maryland Medicaid Electronic Exchange (MMEE)**

- lll. **Maryland Mental Health Employment Network (MMHEN)**
- mmm. **Maryland State Department of Education (MSDE)**
- nnn. **Medicaid Management Information System (MMIS)**
- ooo. **Medical Assistance (MA)**
- ppp. **Mental Health First Aid (MHFA)**
- qqq. **Mental Health Statistic Improvement Program (MHSIP)**
- rrr. **Mental Hygiene Administration (MHA)**
- sss. **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.
- ttt. **Mobile Treatment (MT)**
- uuu. **National Drug Code (NDC)**
- vvv. **National Outcomes Measures (NOMS)**
- www. **National Provider Identifier (NPI)**
  
- xxx. **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](http://www.dbm.maryland.gov) – keyword: State Holidays.
- yyy. **Notice to Proceed (NTP)** – A written notice from the Procurement Officer that, subject to the conditions of the Contract, work under the Contract is to begin as of a specified date. The start date listed in the NTP is the Go Live Date, and is the official start date of the Contract for the actual delivery of services as described in this solicitation. After Contract Commencement, additional NTPs may be issued by either the Procurement Officer or the Department Contract Manager regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date.
- zzz. **Offeror** – An entity that submits a Proposal in response to this RFP.
- aaaa. **Office of the Attorney General/Medicaid Fraud Control Unit (MFCU)**
- bbbb. **Office of Health Care Quality (OHCQ)**
- cccc. **Office of Inspector General (OIG)**
- dddd. **Outcomes Measurement System (OMS)**
- eeee. **Outpatient Mental Health Clinics (OMHC)**
- ffff. **Per Member Per Month (PMPM)** a member is an eligible Medicaid Behavioral Health Participant.
- gggg. **Pre-Admission Screening and Resident Review (PASRR)**

- hhhh. **Procurement Coordinator** – The State representative designated by the Procurement Officer to perform certain duties related to this solicitation which are expressly set forth herein.
- iiii. **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.
- jjjj. **Proposal** – As appropriate, either or both of an Offeror’s Technical or Financial Proposal.
- kkkk. **Psychiatric Rehabilitation Program (PRP)**
- llll. **Psychiatric Residential Treatment Facility (PRTF)**
- mmmm. **Public Behavioral Health System (PBHS)**
- nnnn. **Qualified Health Plan (QHP)**
- oooo. **Quality Management (QM)**
- pppp. **Rare and Expensive Case Management (REM)**
- qqqq. **Remittance Advice (RA)**
- rrrr. **Request for Proposals (RFP)** – This Request for Proposals issued by the Maryland Department of Health and Mental Hygiene, Office of Health Services, Solicitation Number OPASS - 14-13835 dated February 4, 2014, including any addenda.
- ssss. **Residential Treatment Center (RTC)**
- tttt. **Screening, Brief Intervention, and Referral to Treatment (SBIRT)**
- uuuu. **Serious and Persistent Mental Illness (SPMI)**
- vvvv. **Serious Emotional Disturbance (SED)**
- wwww. **Serious Mental Illness (SMI)**
- xxxx. **Social Security Administration (SSA)**
- yyyy. **Social Security Disability Insurance (SSDI)**
- zzzz. **State** – The State of Maryland.
- aaaaa. **State Coordinating Council (SCC)**
- bbbbb. **State Drug and Alcohol Abuse Council (SDAAC)**
- ccccc. **State Plan Amendment (SPA)**
- dddd. **Substance Abuse and Mental Health Services Administration (SAMHSA)**
- eeee. **Substance Use Disorder (SUD)**
- ffff. **Supplemental Security Income (SSI)**
- ggggg. **Supported Employment (SE)**

hhhhh. **Total Proposal 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).

iiii. **Therapeutic Behavioral Service (TBS)**

jjjj. **Traumatic Brain Injury (TBI)**

kkkk. **Unemployment Insurance (UI)**

llll. **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.

mmmm. **Working Day(s)** – Same as “Business Day(s).”

nnnn. **Youth Services Survey for Families (YSS-F)**

**1.3 Contract Type**

The Contract resulting from this solicitation shall be a Multi-Year contract to include three years plus up to two option years as defined in COMAR 21.06.03.09 at a fixed price as defined in COMAR 21.06.03.02 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 any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required (“Contract Commencement”).
- 1.4.2 The period of time from the date of Contract Commencement through the Go-Live Date (see Section 1.2 definition and Section 1.4.3) will be the Contract “Start-up Period.” During the Start-up Period 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 activities it performs during the Start-up Period.
- 1.4.3 As of the Go-Live Date contained in a Notice to Proceed (see Section 1.2 definition), the Contractor shall perform all activities required by the Contract, including the requirements of this solicitation, and the offerings in its Technical Proposal, for the compensation described in its Financial Proposal.
- 1.4.4 The duration of the Contract will be for the period of time from Contract Commencement to the Go-Live Date (the Start-Up Period as described in Section 1.4.2) plus three years from the Go-Live Date for the provision of all services required by the Contract and the requirements of this solicitation. This contract may be extended for two periods of one year each at the sole discretion of the Department and at the prices quoted in the Financial Proposal Form for Option Years.
- 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 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:

Michael Howard, CPPB  
Maryland Department of Health and Mental Hygiene  
Office of Procurement and Support Services  
201 West Preston Street. Room 416B  
Baltimore, MD 21201  
Phone: (410) 767-5816  
Fax: (410) 333-5958  
E-mail: [michael.howard@maryland.gov](mailto:michael.howard@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:

Sabrina Lewis  
Phone: (410) 767-1695  
Fax: (410) 333-7897  
E-mail: [sabrina.lewis@maryland.gov](mailto:sabrina.lewis@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:

Queen Davis, CPPB  
Maryland Department of Health and Mental Hygiene  
Office of Procurement and Support Services  
201 West Preston Street  
Baltimore, MD 21201  
Phone Number: (410) 767-5335  
Fax Number: (410) 333-5958  
E-mail: [queen.davis@maryland.gov](mailto:queen.davis@maryland.gov)

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

## **1.6 Contract Monitor**

The Contract Monitor is:

Rebecca Frechard  
Maryland Department of Health and Mental Hygiene  
Medicaid, Office of Health Services  
201 West Preston Street; Room 213  
Baltimore, MD 21201  
Phone Number: (410) 767-1750  
Fax Number: (410) 333-5425  
E-mail: [Rebecca.frechard@maryland.gov](mailto:Rebecca.frechard@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 **Tuesday, February 18, 2014**, beginning at **10:00 a.m. Local Time**, at **300 W. Preston Street, Auditorium, Baltimore, MD 21201**. All prospective Offerors are encouraged to attend in order to facilitate better preparation of their Proposals.

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 (410) 333-7897 the Pre-Proposal Conference Response Form to the attention of the Procurement Coordinator no later than **4:00 p.m. Local Time on Monday, February 17, 2014**. 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 **Monday, February 17, 2014**. 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.dhmfh.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: [dhmfh.solicitationquestions@maryland.gov](mailto:dhmfh.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 Tuesday, March 18, 2014** 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. Proposals will not be opened publicly.**

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 Proposal 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

21.05.03.03F), for providing the goods and services as specified in this RFP. See RFP Section 5 for further award 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 for submission of Proposals or best and final offers if requested. 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 submitting a Proposal in response 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, 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 or in equity.

### **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. **A Proposal that takes exception to these terms may be rejected (see RFP Section 4.4.2.4).**

### **1.25 Bid/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. This Contract Affidavit will also be required to be completed by the Contractor prior to any Contract renewals, including the exercise of any options or modifications that may extend the Contract term.

### **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/services.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](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](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/bso/>), 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**

#### **1.33.1 Establishment of Goal and Subgoals.**

An overall MBE subcontractor participation goal of **18%** of the total contract dollar amount has been established for this procurement.

There are no MBE subcontractor participation subgoals for this procurement.

**1.33.2 Attachment D** – Minority Business Enterprise participation, instructions, and forms are provided to assist Bidders/Offerors. A Bidder/Offeror must include with its Bid/Proposal a completed MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1**) whereby:

- (a) The Bidder/Offeror acknowledges the certified MBE participation goal and commits to make a good faith effort to achieve the goal and any applicable subgoals, or requests a waiver, and affirms that MBE subcontractors were treated fairly in the solicitation process; and
- (b) The Bidder/Offeror responds to the expected degree of MBE participation, as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of Bid/Proposal submission. The Bidder/Offeror shall specify the percentage of contract value associated with each MBE subcontractor identified on the MBE participation schedule.

***If a Bidder/Offeror fails to submit a completed Attachment D-1 with the Bid/Proposal as required, the Procurement Officer shall determine that the Bid is non-responsive or the Proposal is not reasonably susceptible of being selected for award.***

- 1.33.3 Bidders/Offerors are responsible for verifying that each of the MBE(s) selected to meet the goal and any subgoals and subsequently identified in **Attachment D-1** is appropriately certified and has the correct NAICS codes allowing it to perform the intended work.
- 1.33.4 Within ten (10) Working Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, the Bidder/Offeror must provide the following documentation to the Procurement Officer.
- (a) Outreach Efforts Compliance Statement (**Attachment D-2**).
  - (b) Subcontractor Project Participation Certification (**Attachment D-3**).
  - (c) If the recommended awardee believes a waiver (in whole or in part) of the overall MBE goal or of any applicable subgoal is necessary, the recommended awardee must submit a fully-documented waiver request that complies with COMAR 21.11.03.11.
  - (d) Any other documentation required by the Procurement Officer to ascertain Bidder/Offeror responsibility in connection with the certified MBE subcontractor participation goal or any applicable subgoals.

*If the recommended awardee fails to return each completed document within the required time, the Procurement Officer may determine that the recommended awardee is not responsible and, therefore, not eligible for Contract award. If the Contract has already been awarded, the award is voidable.*

- 1.33.5 A current directory of certified MBEs is available through the Maryland State Department of Transportation (MDOT), Office of Minority Business Enterprise, 7201 Corporate Center Drive, Hanover, Maryland 21076. The phone numbers are (410) 865-1269, 1-800-544-6056, or TTY (410) 865-1342. The directory is also available on the MDOT website at <http://www.mdot.state.md.us>. The most current and up-to-date information on MBEs is available via this website. **Only MDOT-certified MBEs may be used to meet the MBE subcontracting goals.**
- 1.33.6 The Contractor, once awarded a Contract, will be responsible for submitting or requiring its subcontractor(s) to submit the following forms to provide the State with ongoing monitoring of MBE Participation:
- (a) **Attachment D-4** (MBE Participation Prime Contract Paid/Unpaid MBE Invoice Report).
  - (b) **Attachment D-5** (MBE Participation Subcontractor/Contractor Unpaid MBE Invoice Report).
- 1.33.7 A Bidder/Offeror requesting a waiver of the goal or any of the applicable subgoals will be responsible for submitting the following form if applicable within ten (10) Working Days of recommendation for award and all documentation as required in **COMAR 21.11.03.11 - Waiver**:
- (a) **Attachment D-6** (MBE Minority Contractor Unavailability Certificate).
- 1.33.8 All documents, including **Attachment D**, completed and submitted by the Bidder/Offeror in connection with its certified MBE participation commitment shall be considered to be a part of the resulting Contract and are hereby expressly incorporated into reference thereto. All of the referenced documents will be considered a part of the Bid/Proposal for order of precedence purposes (see **Attachment A**, § 2.1).
- 1.33.9 The Bidder/Offeror is advised that liquidated damages will apply in the event the Contractor fails to comply in good faith with the provisions of the MBE program and pertinent Contract provisions. (See **Attachment A**, §39).

## **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, Title18. 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 of Agreement (**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. In this circumstance, this Contract will be determined to be a Tier 1 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**

- 1.35.1 There are programmatic conditions that apply to this Contract due to Federal funding. (see **Attachment H**).
- 1.35.2 The total amount of Federal funds allocated for the Office of Health Services is \$14,696,760 in Maryland State fiscal year FY 14. This represents 5% of funds budgeted for the unit in that fiscal year. This does not necessarily represent the amount of funding available for any particular grant, contract, or solicitation.
- 1.35.3 This Contract contains federal funds. The source of these federal funds is: Medicaid. The CFDA number is: 93.778. The conditions that apply to all federal funds awarded by the Department are contained in Federal Funds **Attachment H**. Any additional conditions that apply to this particular federally-funded contract are contained as supplements to Federal Funds **Attachment H** and Bidders/Offerors are to complete and submit these Attachments with their Bid/Proposal as instructed in the Attachments. Acceptance of this agreement indicates the Bidder/Offeror's intent to comply with all conditions, which are part of this Contract.

### **1.36 Conflict of Interest Affidavit and Disclosure**

Bidders/Offerors shall complete and sign the Conflict of Interest Affidavit and Disclosure (**Attachment I**) and submit it with their Bid/Proposal. 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 substantially similar to **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.

### **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**

By submitting a Bid/Proposal, the Bidder/Offeror warrants that the information technology offered under the Bid/Proposal: (1) provides equivalent access for effective use by both visual and nonvisual means; (2) will present information, including prompts used for interactive communications, in formats intended for both visual and nonvisual use; (3) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and (4) is available, whenever possible, without modification for compatibility with software and hardware for nonvisual access. The Bidder/Offeror further warrants that the cost, if any, of modifying the information technology for compatibility with software and hardware used for nonvisual access will not increase the cost of the information technology by more than five percent (5%). For purposes of this solicitation and resulting Contract, the phrase “equivalent access” means the ability to receive, use, and manipulate information and to operate controls necessary to access and use information technology by nonvisual means. Examples of equivalent access include keyboard controls used for input and synthesized speech, Braille, or other audible or tactile means used for output.

The Nonvisual Access Clause noted in COMAR 21.05.08.05 and referenced in this solicitation is the basis for the standards that have been incorporated into the Maryland regulations. See [www.doit.maryland.gov](http://www.doit.maryland.gov), keyword: NVA.

### **1.40 Mercury and Products That Contain Mercury**

This solicitation does not include the procurement of products known to likely include mercury as a component.

### **1.41 Veteran-Owned Small Business Enterprise Goals**

#### **1.41.1 NOTICE TO BIDDERS/OFFERORS**

Questions or concerns regarding the Veteran-Owned Small Business Enterprise (VSBE) subcontractor participation goal of this solicitation must be raised before the due date for submission of Bids/Proposals.

#### 1.41.2 PURPOSE

The Contractor shall structure its procedures for the performance of the work required in this Contract to attempt to achieve the VSBE subcontractor participation goal stated in this solicitation. VSBE performance must be in accordance with this section and **Attachment M**, as authorized by COMAR 21.11.13. The Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this section and **Attachment M**.

#### 1.41.3 VSBE GOALS

A VSBE subcontract participation goal of 2% of the total Contract dollar amount has been established for this procurement. By submitting a response to this solicitation, the Bidder or Offeror agrees that this percentage of the total dollar amount of the Contract will be performed by verified veteran-owned small business enterprises.

#### 1.41.4 SOLICITATION AND CONTRACT FORMATION

A Bidder/Offeror must include with its Bid/Proposal a completed Veteran-Owned Small Business Enterprise Utilization Affidavit and Subcontractor Participation Schedule (**Attachment M-1**) whereby:

- (1) the Bidder/Offeror acknowledges it: a) intends to meet the VSBE participation goal; or b) requests a full or partial waiver of the VSBE participation goal. If the Bidder/Offeror commits to the full VSBE goal or requests a partial waiver, it shall commit to making a good faith effort to achieve the stated goal.
- (2) the Bidder/Offeror responds to the expected degree of VSBE participation as stated in the solicitation, by identifying the specific commitment of VSBEs at the time of Bid/Proposal submission. The Bidder/Offeror shall specify the percentage of contract value associated with each VSBE subcontractor identified on the VSBE Participation Schedule.

***If a Bidder/Offeror fails to submit Attachment M-1 with the Bid/Proposal as required, the Procurement Officer may determine that the Bid is non-responsive or that the Proposal is not reasonably susceptible of being selected for award.***

Within 10 Working Days from notification that it is apparent awardee, the awardee must provide the following documentation to the Procurement Officer.

- (1) VSBE Project Participation Statement (**Attachment M-2**);
- (2) If the apparent awardee believes a full or partial waiver of the overall VSBE goal is necessary, it must submit a fully-documented waiver request that complies with COMAR 21.11.13.07; and
- (3) Any other documentation required by the Procurement Officer to ascertain Bidder/Offeror responsibility in connection with the VSBE subcontractor participation goal.

***If the apparent awardee fails to return each completed document within the required time, the Procurement Officer may determine that the apparent awardee is not responsible and therefore not eligible for contract award.***

#### 1.41.5 CONTRACT ADMINISTRATION REQUIREMENTS

The Contractor, once awarded the Contract shall:

1. Submit monthly to the Department a report listing any unpaid invoices, over 45 days old, received from any VSBE subcontractor, the amount of each invoice, and the reason payment has not been made. (**Attachment M-3**)
2. Include in its agreements with its VSBE subcontractors a requirement that those subcontractors submit monthly to the Department a report that identifies the prime contract and lists all payments received from Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices. (**Attachment M-4**)

3. Maintain such records as are necessary to confirm compliance with its VSBE participation obligations. These records must indicate the identity of VSBE and non-VSBE subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed. The subcontract agreement documenting the work performed by all VSBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
4. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the VSBE participation obligations. The Contractor must retain all records concerning VSBE participation and make them available for State inspection for three years after final completion of the Contract.
5. At the option of the procurement agency, upon completion of the Contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from VSBE subcontractors.

#### **1.42 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 N**. The Disclosure must be provided with the Bid/Proposal.

#### **1.43 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 O**. This Affidavit must be provided within five (5) Business Days of notification of proposed Contract award.

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## **SECTION 2 – MINIMUM QUALIFICATIONS**

### **2.1 Offeror Minimum Qualifications**

The Offeror must provide proof with its Proposal that the following Minimum Qualifications have been met:

- 2.1.1 The Offeror shall have a minimum of three consecutive years of experience as an Administrative Services Organization (ASO) managing an array of services for individuals who have severe behavioral health needs that are financed with Medicaid and state general funds serving a minimum of 100,000 Medical Assistance (MA) recipients of behavioral health services for a single entity. As proof of meeting this requirement, the Offeror shall provide with its Proposal evidence of this experience, including at least one reference able to attest to the Offeror's experience.
- 2.1.2 The Offeror shall have at least three years' experience operating and maintaining a Management Information System (MIS). As proof of meeting this requirement, the Offeror shall provide with its Proposal evidence of managing a system that serves a minimum of 100,000 MA covered lives for a single entity, such as references able to attest to the Offeror's experience.. If all or part of the MIS function will be subcontracted, the primary contractor and the proposed MIS subcontractor shall have experience performing similar services for a single publicly funded behavioral health system, and shall provide at least one reference able to attest to this experience.
- 2.1.3 If a Managed Care Organization (MCO) that serves the Maryland Medicaid population has a financial interest in the Contractor, the MCO and the Offeror must have a structure which has been pre-approved by the State to prevent conflict of interest or the appearance of impropriety and it shall disclose its interest to the State. As proof of meeting this requirement, the Offeror shall provide with its Proposal evidence of pre-approval by the State and statement of disclosure of the relationship between the Contractor and MCO.
- 2.1.4 The Offerer shall be accredited under the National Committee for Quality Assurance (NCQA) as a managed behavioral health care organization, or URAC (formerly Utilization Review Accreditation Commission). As proof of meeting this requirement, the Offeror shall provide with its Proposal a copy of documentation evidencing this accreditation.
- 2.1.5 The Offeror or any proposed subcontractor of the Offeror shall not be a Maryland Medicaid provider.

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## **SECTION 3 – SCOPE OF WORK**

### **3.1 Background and Purpose**

The State is issuing this solicitation to secure a Contractor to serve as an ASO (Contractor) to provide the Department with administrative support services to operate the Maryland Public Behavioral Health System (PBHS). The ASO will provide the following support services to the Department: Provider Management and Maintenance; Participant Education; Authorizations and Utilization Management; Participant and Provider Assistance and Communication; Quality Management and Evaluation; Provider and Participant Appeals and Grievances; Claims Processing and Payment; Data Capabilities; Reports; and Special Projects/New Initiatives.

#### **The Current System**

Maryland's population is approximately 5.9 million. In whole or in part, Medicaid funds the cost of health care services for approximately 1,063,000 individuals. At present, approximately 150,000 Marylanders receive specialty mental health services annually, 93 percent of whom are participants in the Medicaid system. In addition, 92,000 Marylanders receive publicly funded substance use disorder services, 46 percent of whom are Medicaid participants. The services available under the PBHS are those presently covered by Medicaid as well as others offered by Federal, State, and other grants that support the continuum of care.

Since 1997, three separate contracting and oversight entities [Medicaid, Alcohol and Drug Abuse Administration (ADAA), and Mental Hygiene Administration (MHA)], all located within DHMH, have had independent funding streams, management structures, and payment arrangements. MHA has managed its services for individuals who are uninsured and Medicaid under a Fee for Service (FFS) system managed by an ASO. Substance Use Disorders (SUD) services for Medicaid participants have been managed through a capitated system managed by the MCOs or through the Medicaid FFS program for individuals not enrolled in an MCO. The ADAA has contracted for SUD services for the uninsured and for services that are not covered by Medicaid.

#### *Somatic Care*

Currently, about 80 percent of all Maryland Medicaid participants receive somatic health services through a MCO, which is responsible for providing somatic care through a risk-based, capitated payment system. As of October 2013, seven MCOs participate in the HealthChoice program. Providing managed care in Maryland requires ensuring access to services, meeting certain quality measures, collecting and analyzing encounter data, and participating in performance improvement projects as defined by the Department. Any MCO that meets the standards set by the Department can participate in HealthChoice.

The remaining 20 percent of participants receive their somatic care through a FFS system. Populations whose services are paid FFS include individuals who are:

1. Newly eligible for Medicaid and waiting to select an MCO;
2. In a spend down category;
3. Over the age of 65;
4. Dually eligible for Medicare and Medicaid;
5. Living in institutions;
6. Participating in the Employed Individuals with Disabilities program;
7. Participating in the Rare and Expensive Case Management (REM) program; or
8. Participating in the Model Waiver.

## *Mental Health Care*

The MHA is responsible for administering the specialty mental health system. With the exception of primary mental health services which can be obtained from a Medicaid participant's primary care provider, Medicaid participants needing specialty mental health services, both those in managed care and in FFS, receive services through the specialty mental health system. Under the current system, specialty mental health care is carved-out into a managed FFS program. The MHA controls policy for specialty mental health services, and contracts with a contractor managed by the MHA to implement the policies as set by MHA and Medicaid. The contractor pays claims for Medicaid mental health services, and pays claims for authorized state-only funded services for Medicaid participants as well as eligible uninsured.

MHA is responsible for planning, managing, and monitoring the public mental health system in Maryland, and it shares this authority with 19 local Core Service Agencies (CSAs). The CSAs provide information and referrals, help build networks, handle consumer and provider complaints, and procure and monitor contracts for services not included in the statewide FFS system. On the local level, CSAs collaborate with other care systems, develop innovative services, and assist in monitoring provider quality and compliance. The CSAs authorize certain mental health and support services, coordinate care for certain individuals, and assist MHA in reducing cost of care. For example, each CSA receives regular reports of high cost users in their jurisdiction and works with the contractor to provide a less costly alternative, when appropriate, that produces good clinical outcomes.

The mental health system provides a wide array of services all reimbursed through the contractor including inpatient, outpatient, residential treatment (for children and adolescents) and partial hospitalization. Services provided and reimbursed through the contractor include a range of recovery and support services, including mental health case management, mobile treatment/assertive community treatment, psychiatric rehabilitation, residential rehabilitation, supported employment, and respite care services. The contractor also pays for residential crisis services. Community crisis services, which are not well suited to a FFS system but are developed flexibly at the local level, are funded through CSA contracts.

## *Substance Use Disorder Treatment*

The ADAA is responsible for the planning, coordination, and regulation of the statewide network of SUD prevention, treatment, and recovery services. ADAA provides state-funded grants to 23 local jurisdictions and Baltimore City, largely through the Local Health Authorities (LAA). ADAA grant dollars cover services for the non-Medicaid eligible population as well as non-reimbursable services for Medicaid participants.

LAAs provide a wide array of substance use disorder services, which are funded through a combination of State (ADAA and other agency), local and Federal grant dollars, and client fees. LAA Jurisdictional Coordinators plan a continuum of services specific to the assessed needs of their jurisdiction. They can provide services directly, contract with community-based private and non-profit providers, or combine direct and procured services for both Medicaid and non-Medicaid reimbursable services. All contracted providers charge a fee based on the client's ability to pay and determine if a client has Medicaid prior to billing the jurisdiction or using ADAA grant dollars. LAAs monitor these contracts for compliance and quality. LAAs develop and implement new services and collaborate with local stakeholders.

Medicaid reimburses certain key substance use disorder services for Medicaid participants in MCOs or in its FFS program. Specifically, Medicaid coverage includes a comprehensive assessment, outpatient, intensive outpatient, opioid maintenance treatment, partial hospitalization, youth residential and inpatient treatment, and medically managed inpatient detoxification. HealthChoice enrollees can self-refer for treatment for substance use services. Services not covered by Medicaid are covered by the ADAA funding sources described above. Some examples of non-Medicaid reimbursable services include: information and referral; prevention; residential treatment for adults; and recovery support services; as well as coordination of care between other service systems and managing within the system of care.

## **Integration of Behavioral Health in Maryland**

The Legislative and Executive Branches recognized the need for improved coordination in Maryland's approach to serving individuals with behavioral health conditions. Hence, in 2010, DHMH began a process to review the landscape and make recommendations for clinical and financial integration in Maryland. As required by the 2011 *Joint Chairmen's Report*, DHMH convened workgroups and stakeholder forums resulting in recommendations "to develop a system of integrated care for individuals with co-occurring serious mental illness and substance use disorders." DHMH has also begun to move toward using national accreditation standards rather than state-specific regulations for provider qualifications.

In July 2014, MHA and ADAA will be fully merged into a new Behavioral Health Administration (BHA) which will work with Medicaid as partners to improve the delivery of behavioral health services in Maryland. The design and operation of the PBHS is built on the following core values:

- A. Maintaining basic personal rights;
- B. Empowering the participant and community;
- C. Providing family support and education;
- D. Promoting timely access to care;
- E. Providing care in the most appropriate, least restrictive setting;
- F. Working collaboratively with all stakeholders;
- G. Fostering collaboration and integration with relevant stakeholders to assist participants in all activities of life;
- H. Having well-managed services;
- I. Promoting cost effective services and accountability as measured through key outcome measures;
- J. Retaining local governance of key elements of the system;
- K. Promoting early identification and prevention for at-risk groups of all ages through public education and early intervention programs;
- L. Promoting a recovery and resiliency focus; and
- M. Coordinating care, clinical integration, and continuous quality improvement with MCOs

The goal of the integration initiative is to build on the existing strengths of the public behavioral health programs and the Medicaid program in order to:

- A. Improve services for individuals with co-occurring conditions;
- B. Expand access to appropriate mental health and addictions services;
- C. Capture and analyze data regarding overall population health, and the use and cost of care for behavioral health services,;
- D. Expand the public health initiatives; and
- E. Reduce the cost of care through prevention, utilization of evidence-based practices, and an added focus on prevention of unnecessary or duplicative services.

Beginning in 2014, provisions in the Affordable Care Act (ACA) will allow Maryland to expand Medicaid eligibility to most individuals under 138 percent of the Federal Poverty Level (FPL), and these individuals will qualify for Medicaid's behavioral health benefits. In addition, Maryland's state-operated health benefit exchange will require all participating health plans to cover the ACA's "essential health benefits", including behavioral health services. The need for grant-funded services is expected to decrease as private and public insurance coverage extend to many individuals who now lack health insurance. Despite this expectation, grant-funded services will still be necessary for residential, educational, employment, and other recovery services not reimbursed by Medicaid. In addition, there will still need to be state-only funding for individuals who do not meet the citizenship requirements to participate in Medicaid.

The Department is responsible for administering behavioral health services. The administration of these services include: setting provider rates; establishing utilization review and prior authorization criteria; ensuring a process for clinical reviews and consumer appeals; setting the benefit design standards, including the amount, duration, and scope requirements; setting medical necessity standards; building provider capacity; setting provider participation, compliance, integrity, and audit standards and methods; promulgating regulations in conformance with the State Plan and waiver requirements; developing claims and encounter data submission standards; establishing and managing

other data and reporting standards; serving as the lead agency with consumer and stakeholder engagement; managing the budgeting for the Medicaid-financed and State funded services, and all other components of traditional program management.

The ASO Contract will be managed by the Medicaid Program , which includes all traditional areas of contract management: evaluating the Contractor’s performance; directing the Contractor’s activities; reviewing and approving the Contractor’s deliverables; reviewing and approving invoices; and establishing and amending the scope of work (subject to review by control agencies).

In assisting the Department in meeting its goals for behavioral health integration, the Contractor will manage behavioral health services for individuals with Medicaid eligibility as well as certain uninsured individuals.

The Contractor shall, as specified in more detail in the Scope of Work below:

- A. Manage behavioral health services for the total population of Medicaid participants, uninsured individuals, and some grant funded services;
- B. Ensure that services provided are medically necessary and provided in the least restrictive setting appropriate;
- C. Manage a seamless system of care for eligible individuals regardless of the payer and collect all data for publicly funded health services regardless of payer;
- D. Produce and analyze data as directed by the Department; and
- E. Contract with and maintain information and qualifications on licensed/approved Medicaid/Behavioral Health providers, monitor quality of care, and ensure coordination of services for high cost and/or high risk users.

### **3.2 Scope of Work - Requirements**

The Contractor shall comply with any pertinent requirements from the following Federal and State rules:

- Title XIX of the Social Security Act (“Medical Assistance Program”) §§1901-1935, 42 U.S.C. §1396 and concomitant Federal regulations;
- Title XXI of the Social Security Act (“State Children’s Health Insurance Program”), §§2101-2110, 42 U.S.C §§1397aa-1397jj and concomitant Federal regulations;
- Title XVIII of the Social Security Act (“Medicare”) §§1810-1896, 42 U.S.C. §1395 et seq. and concomitant Federal regulations;
- Health General, Title 8 (ADAA), Title 10 (MHA), Title 15 (MA), and Title 19 (Health Care Facilities) Subtitles 1, 2, 3; Md. Code Ann. Health Occupations (“HO”); COMAR 10.21; COMAR 10.09;
- Maryland’s HealthChoice Waiver and other Waivers (EXHIBIT 1: MARYLAND MEDICAID PROGRAMS AND WAIVERS);
- HO §1-401 (Peer review statute); HG§§4-301 and following (Maryland’s Medical Record Act); 42 CFR Part 2, confidentiality as it relates to drug and alcohol records, 42 USC 1320d HIPAA and concomitant Federal regulations, 45CFR 160-164; and
- Americans with Disability Act of 1990, 42 U.S.C. §12101 et seq.

### 3.2.1 Provider Management and Maintenance

The Contractor shall:

#### 3.2.1.1 Provider Enrollment

Register providers using an efficient and streamlined credentialing process to facilitate enrollment for behavioral health providers and maintain a database of registered providers approved to deliver services in the PBHS.

(a) For **Medicaid** providers:

- (1) Ensure that all Medicaid providers are licensed and/or credentialed to render services under applicable State law and/or regulations.
- (2) Review sanction history, verified through the National Practitioner Data Bank or other appropriate entity and not enroll sanctioned providers.
- (3) Maintain an electronic database of all persons who apply to become providers, which includes at a minimum the date the application was received; the application, attachments, and all subsequent information submitted as part of the application; the dates and nature of all actions taken; and the date a decision was rendered.
- (4) Ensure that the provider will not be required to fill out two separate application processes to participate in Medicaid by enrolling the provider directly into the Medicaid system.
- (5) For data collection purposes, the Contractor may require providers to submit information beyond that required on the Medicaid application. However, those additional elements and the application used to collect the elements must be approved by the Department and the Contractor must incorporate the additions into a single application process.
- (6) Enter behavioral health individual providers through eMedicaid within 3 business days (See EXHIBIT 7: Connectivity to DHMH File Exchange System) and maintain provider network data in the Program's Medicaid Management Information System (MMIS).
- (7) For behavioral health providers requiring site visits (EXHIBIT 2: Medicaid Provider Enrollment BH Site Visit Matrix), enroll provider into MMIS within 3 business days with a pending status and forward the application to Medicaid to perform the site visit and Medicaid will complete enrollment process.
- (8) Ensure that the Contractor only pays Medicaid claims for appropriately enrolled providers.
- (9) Manage electronic capability to receive, maintain, or create Medicaid provider files including a daily feed of a Medicaid provider file that mirrors Medicaid files.
- (10) Maintain a website specifically for Medicaid providers which will explain how to update their address and contact information, including email address and website information, and instructions regarding procedures, and additional requirements for program participation.
- (11) Enter provider changes to contact information into MMIS so that Contractor and MMIS files will be consistent.

(b) For **Non-Medicaid** providers:

- (1) Ensure that all non-Medicaid providers are licensed and/or credentialed to render services under applicable State law and/or regulations.
- (2) Review sanction history, verified through the National Practitioner Data Bank or other appropriate entity and not enroll sanctioned providers.
- (3) Maintain an electronic database of all persons who apply to become providers in the PBHS, which includes at a minimum the date the registration application was received, the dates and nature of all actions taken and the date a decision was rendered.
- (4) Process the non-Medicaid provider application of any Office of Health Care Quality (OHCQ) licensed, certified, or approved provider, within thirty (30) calendar days of receipt of the completed application and all supporting documentation; verify that the provider meets the appropriate qualifications and assurances for the type of service applied for. For non-Medicaid vendors the Contractor shall maintain a website which allows providers to update their address and contact information including email and website information. Instructions regarding procedures, additional requirements, and information on how to update provider data must be accessible on the Contractor website.

- (5) Track and monitor for non-traditional providers certification and/or approval and renewal requirements including the following Expressive and Experiential Therapies: Art Behavioral Services, Dance/Movement Behavioral Services, Equine-Assisted Behavioral Services; Horticultural Behavioral Services, Music Behavioral Services, and Psychodrama/Drama Behavioral Services.

### **3.2.1.2 Provider Types Enrolled (EXHIBIT 3: Provider and Service types)**

- (a) For **Medicaid**, enroll the following provider types:
  - (1) Individual licensed providers, such as physicians, psychologists, social workers, nurse psychotherapists, nurse practitioners, professional counselors;
  - (2) Community behavioral health programs, such as Outpatient Mental Health Clinics (OMHCs), Federally Qualified Health Centers (FQHCs), Psychiatric Rehabilitation Programs (PRPs), Opioid Treatment Programs, outpatient and inpatient intensive outpatient (IOP) behavioral health programs, detoxification programs, mobile treatment (MT) programs, partial hospitalization programs, Therapeutic Behavioral Service (TBS) providers; and case management programs;
  - (3) Psychiatric Hospitals;
  - (4) Residential Treatment Centers (RTCs) and Intermediate Care Facilities for Adolescents (ICF-As);
  - (5) Specialized providers to serve children and adolescents in the 1915(i) State Plan Amendment (SPA) program described in more detail in Sec. 3.2.10 Special Projects/New Initiatives; and
  - (6) Have the capacity to expand provider types enrolled as determined by the Department.
- (b) For **Non-Medicaid** providers:
  - (1) Enroll residential services providers, residential rehabilitation programs, respite care, mental health vocational programs, and residential crisis services; and
  - (2) Any other providers as determined by the Department.

### **3.2.1.3 Provider Recruitment**

- (a) Collaborate with BHA, Medicaid, CSA, and LAA efforts to recruit behavioral health providers, as listed in Section 3.2.1.2 above.
- (b) Strategize in collaboration with the Department and its designees on recruitment efforts of behavioral health providers to enhance the system of care at the local level through analysis of Contractor data based on complaints regarding access to care and data which compares services authorized to services delivered, authorization and claims filed and:
- (c) Submit a monthly report on provider recruitment activities, including the type of provider, location, date and type of recruitment activity;
- (d) Submit a quarterly report of all providers whose participation status was terminated during the preceding quarter, including the provider's name, address, specialty, and reason for termination;
- (e) Use eMedicaid (EXHIBIT 7) to maintain provider network data in the Department's MMIS; and
- (f) Develop and submit action plans, as specified by the Department, to address network adequacy issues, whether geographic or specialty driven, this includes collaborative efforts with the CSAs and LAAs.

### **3.2.1.4 Provider Relations and Communication**

- (a) Have sufficient provider relations staff to respond to provider inquiries within one business day. This staff shall provide individual technical assistance as needed and as requested by providers. For example, this staff shall inform providers of the Contractor's availability and processes to:
  - (1) Assist participants or their primary care provider with finding behavioral health specialists;
  - (2) Help behavioral health providers navigate the pre-authorization process and claims payment process;
  - (3) Resolve provider application and credentialing issues;

- (4) Resolve claims problems and answer questions related to billing;
  - (5) Explain the grievance and appeals processes for providers;
  - (6) Assist providers in completing and understanding authorization requirements; and
  - (7) Coordinate with CSAs and LAAs.
- (b) Provide individual training, technical assistance, and education, with the capability and staffing to provide in-person, telephonic, and web-based training format as needed and as requested by providers, consisting of:
- (1) Providing training and technical assistance for completing authorization requirements;
  - (2) Conducting at least two on-site trainings annually (with a webinar option for providers who cannot attend in person) in each of the four regions in the State (Eastern, Western, Central, and Southern);
  - (3) Conducting annually, or as significant changes are made, billing training to interested providers on both HIPAA compliant professional and institutional billing;
  - (4) Developing and maintaining web based training capability that is available to providers when needed;
  - (5) Providing written materials to providers, as needed, on the implications for their operations of changes in State and Federal laws, regulations (Exhibit 4: COMAR), policies, or procedures that are being implemented;
  - (6) Providing recurring, targeted training to new providers on authorization and fee for service claims payment processes;
  - (7) Providing web based orientations at least every three months (e.g. billing topics, including preventing fraud and abuse, Outcome Measurement System administration, and other topics as determined by the Department);
  - (8) Convening web based forums/trainings on six topics per year chosen in collaboration with the DHMH; and
  - (9) Providing any other relevant information needed or requested by a provider.
- (c) Create and maintain a user-friendly website for providers and participants containing separate pages of information which are updated monthly including a section for providers (the format to be approved by the Department). The site shall contain the following:
- (1) A link to the Contractor's current provider directory (as described in Section 3.2.2.2) and with the capability to search for providers, by provider name, geographic location, type of practice, age group served, and panel restrictions (e.g., accepting or not accepting new participants);
  - (2) A description of covered services;
  - (3) A provider manual (as described in Section 3.2.1.6);
  - (4) The participant handbook (as described in Section 3.2.2.1);
  - (5) Contractor contact names, telephone numbers, and addresses for individuals to contact with respect to services covered in this RFP;
  - (6) For non-English speaking providers, information on how to obtain program information in various languages, including Spanish, and other languages comprising 30 percent or more of the PBHS participants;
  - (7) Information on how to obtain program information for providers who are visually impaired and deaf /hard of hearing;
  - (8) Information regarding how to submit grievances and appeals to the Contractor (as described in Section 3.2.4.2);
  - (9) A link to the Department's website and relevant agency websites;
  - (10) A link to the Contractor's secure electronic claims submission portal;
  - (11) Information to assist providers with issues such as billing and/or prior authorization issues, access to the provider manual, frequently asked questions, and provider alerts;
  - (12) A bulletin board or similar type of communication for providers who request information, ask questions and receive answers that are viewable or accessible to all providers in the PBHS;
  - (13) Information about how to access the PBHS, the service types for which providers may apply to participate and requirements for participation, and the reimbursement rates for the services (these materials must be approved by the BHA and Medicaid);
  - (14) Linkage through its website to each CSA, LAA, and to their respective links to online mental health and substance use information source(s) that include local resources, state and national information and activities, and tool(s) to maintain personal health records; and

- (15) Maintenance of a Department approved site on the internet which includes a list of essential contacts for the PBHS and the Contractor, a detailed manual of instructions for providers, a matrix of all PBHS services, the codes used to bill these services, information on limitations and availability of such services, policy changes, implementation and the rates for services. The site shall be updated monthly and when requested by the Department.
- (d) Create and maintain a state of the art communication system (alert system) for providers, to include:
- (1) Telephone, electronic transmission, mail, internet, and all other forms of communication deemed necessary by the Department for information exchange between the Contractor, providers, participants, CSA, LAA, and general public;
  - (2) Ability to target messages to specific provider types and specific participants;
  - (3) Use of emerging technologies, including telemedicine, social media, smartphones, and Internet, for prevention services, service provision, and reminders about services and treatment;
  - (4) Updates to the PBHS provider directory with each CSA's and LAA's online behavioral health information; and
  - (5) Updates of relevant federal and State guidelines for current announcements and transmittals e.g., Office of Inspector General (OIG) Transmittals, Medicaid and BHA transmittals, guidance from CMS and SAMHSA.
- (e) Provide technical assistance and educate providers on its utilization management system and the program requirements of Medicaid as requested by providers or the Department or its designees in the form of web-based training, written communication, and on-site assistance when needed; and
- (f) Encourage providers, through the provider communication system, the website, and written materials, to call the provider Call Center if they need immediate assistance and are unable to reach their provider relations representative.

### **3.2.1.5 Provider Education and Training**

Collaborate with DHMH and HealthChoice MCOs to review on a quarterly basis and update annually or as necessary, behavioral health education materials to be made available for somatic care providers, including:

- (1) Information on appropriate screening tools for identifying individuals who need behavioral health services beyond what would be provided by a primary care providers;
- (2) Information necessary to identify individuals who need to be linked with Behavioral Health services e.g., Screening, Brief Intervention, and Referral to Treatment (SBIRT);
- (3) Information on addressing addiction at a basic level with referral resources; and
- (4) Additional materials as determined by the Department.

### **3.2.1.6 Provider Manual**

- (a) Create and maintain electronic Provider Manuals with ability to print copies upon request, which shall include information about provider application and credentialing, participant referral and authorization process, service delivery requirements, service documentation, claims/billing requirements, and the following:
- (1) A definition of the covered populations and the service package, including limitations and exclusions;
  - (2) Utilization management and preauthorization procedures and requirements (including medical necessity criteria);
  - (3) Documentation requirements for treatment of participants;
  - (4) Detailed description of the grievance and appeal processes available to providers;
  - (5) A detailed description of billing requirements and a copy of the Contractor's Health Insurance Portability and Accountability Act (HIPAA) compliant paper billing forms and electronic billing format; and
  - (6) Instructions for all electronic claim submissions and information on its no-cost direct data entry method for entering claims through a web portal.

- (b) Update the Provider Manual as frequently as directed by the Department, but no less than annually and submit the Manual and any revisions to the Department for approval at least thirty (30) working days prior to distribution.

### **3.2.1.7 Policy of Nondiscrimination**

- (a) Ensure that the providers with which it contracts offer services to participants under this Contract at the same quality level and practice standards and with the same level of dignity and respect, as they provide to insured or private paying participants.
- (b) Not discriminate against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, marital status, national origin, ancestry, or disability.
- (c) Require a provision identical to the provision above in any subcontract for work to be performed under this Contract, except a subcontract for standard commercial supplies or raw materials.
- (d) Post, and to cause subcontractors to post, in conspicuous places available to employees and applicants for employment, notices setting forth the substance of the non discrimination provisions of this Section.

## **3.2.2 Participant Education**

### **3.2.2.1 Participant Handbook**

The Contractor shall:

- (a) Produce a Participant Handbook that facilitates access to covered services. The handbook shall:
  - (1) Be placed on the Contractor website with current links to the BHA, and the Medicaid website;
  - (2) Explain how to access behavioral health services through the Contractor including how to use the on-line provider directory;
  - (3) List the toll-free telephone number for the Contractor's Call Center with a statement that the participant may contact the Contractor call center to locate a behavioral health provider, obtain appointment assistance, or answer any other questions;
  - (4) Explain the importance of behavioral health care in promoting recovery for individuals with behavioral health disorders;
  - (5) Describe the array of behavioral health services and the importance of receiving treatment at the appropriate intensity level and duration;
  - (6) Explain availability and coverage of behavioral health services;
  - (7) Explain how to apply for health insurance through [MarylandHealthConnection.gov](http://MarylandHealthConnection.gov);
  - (8) Explain participants' rights and responsibilities;
  - (9) Explain the appeal and grievance processes;
  - (10) Include information on how to obtain program information in various languages, including Spanish, and other languages comprising 30 percent or more of the PBHS participants;
  - (11) Include information on how to obtain program information for participants who are visually impaired and deaf /hard of hearing;
  - (12) Encourage participants to maintain relationships with primary care providers even while receiving care from behavioral health providers; and
  - (13) Explain how to access behavioral health services provided through local jurisdictions.
- (b) Submit the participant handbook for approval to DHMH fifteen (15) working days prior to the Go Live and resubmit to the DHMH for approval when revisions are made.
- (c) Provide, as directed by DHMH or upon participant request, participant handbooks in hard copy.

### **3.2.2.2 Provider Directory**

- (a) The Contractor shall provide an on-line directory of providers and services, with a provider listing, sorted by region and specialty, listing all office locations and including:
  - (1) Provider name;
  - (2) Address;
  - (3) Telephone numbers;
  - (4) Website Address;
  - (5) Office hours;
  - (6) Foreign languages spoken;
  - (7) Provider Type;
  - (8) Practice limitations or age restrictions;
  - (9) Disability accessibility; and
  - (10) If accepting new patients.
- (b) The Contractor shall propose a method to establish and update provider information and expertise including cultural and linguistic competencies and certification in treating co-occurring disorders. The Contractor shall review the listing monthly and update to keep the information accurate and current.

### **3.2.2.3 Standards for Communication and Development of Written Outreach and Education Materials**

- (a) The Contractor shall create participant materials that meet the following standards:
  - (1) Be worded at a 6th grade reading level, unless otherwise approved by the Department;
  - (2) Be culturally appropriate to the needs of the populations to be served;
  - (3) Comply with the standards in the Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq.;
  - (4) Be clearly legible with a minimum font size of 12 pt. unless otherwise approved by the Department;
  - (5) Be translated and available in Spanish;
  - (6) Be made available in alternative formats, including large print, upon request, for persons with physical, sensory, and/or cognitive disabilities; and
  - (7) Be approved by the Department.
- (b) The Seal of Maryland or any Department logo, trademark or copyrighted material shall not be used on communication material without the written approval of the Department.
- (c) The Contractor is responsible for the cost of design, printing, and distribution (including postage) of all participant materials. The Contractor shall comply with all Federal postal regulations and requirements for mailing of all materials. The Department will not be responsible for any postal fees assessed on mailings sent by the Contractor in relation to activities required by this RFP due to failure by the Contractor to comply with Federal postal regulations. Such fees shall be borne by the Contractor.
- (d) All education and outreach materials shall be publicly available for download at no additional charge.
- (e) The Contractor shall update all education and outreach materials, and obtain DHMH approval to ensure information is current and accurate.

### **3.2.2.4 Coordination of Care**

- (a) The Contractor shall work closely and cooperatively with the State, the CSAs, LAAs, MCOs, ACOs, QHPs, case management providers in local communities, community services organizations, peer support and recovery organizations, behavioral health providers and behavioral health provider associations, advocacy groups, schools, local Departments of Social Services, family serving agencies, family members, and other interested parties, when such parties are working on behalf of the participant to secure needed behavioral health care for the participant.
- (b) The Contractor's coordination with other entities shall comply with all applicable Federal and State confidentiality requirements, and shall include following up with the participant or the participant's

responsible party (delegated or appointed) regarding issues related to coordination of care communicated by the participant or responsible party.

### **3.2.3 Authorizations & Utilization Management**

- (a) The Contractor shall be responsible for the administration of the behavioral health benefits, ensuring that authorized services are medically necessary as defined in Medicaid Program regulations, meet quality standards, and are provided in a cost effective manner.
- (b) The Contractor, in collaboration with DHMH shall develop and implement all necessary processes and policies for authorization of services, and monitoring, assessing, and promoting effective utilization.
- (c) The Contractor shall operate a DHMH approved utilization management system that fulfills all Federal requirements contained in 42 CFR Part 456, 42 USC § 1396 a (c)(31), as well as the requirements of the BHA as set forth in DHMH's 1115c Waiver, DHMH regulations, and DHMH policies.

#### **3.2.3.1 Authorization of Services**

For all behavioral health services which require registration into the Contractor system or pre-authorization, the Contractor shall implement a service authorization/registration system that shall:

- (a) Utilize a secure web-based authorization and registration system that will be designed using the service matrix approved by DHMH to authorize appropriate behavioral health services based on provider type, participant eligibility, and any other business rules;
- (b) Permit providers to query whether a participant is eligible for services, request authorization, and be notified whether authorization is granted;
- (c) Contain the data fields listed within the Data Collection and Management Information Services Section, Data Collection, and Client Demographics/Insurance Eligibility Section of this RFP;
- (d) Disallow duplicate authorization requests and overlapping authorization requests for the same service type or for services which should not be offered at the same time;
- (e) Integrate Medicaid pharmacy information into web-based system used by behavioral health providers in an easily accessible and printable format, as well as into an accessible and printable database for physical health care providers, who are Medicaid providers;
- (f) Integrate within the authorization system for purposes of claims payment and data tracking a process that combines administrative procedures between BHA and the DORS, for approval of supported employment services, which are jointly authorized based upon DORS access to the authorization information in the PBHS.
- (g) Have available a web based authorization system which can automatically trigger authorization for a bundled set of services based on patient eligibility characteristics and responses that are entered into the Outcome Measurement System (OMS <http://dhmh.maryland.gov/mha/SitePages/Home.aspx>).
- (h) As described in Section 3.2.10.1, use web-based system to capture OMS questionnaires and key SUD data (SMART: <http://adaa.dhmh.maryland.gov/SitePages/SMART%20Forms.aspx>) and link authorization of a group of outpatient services – multiple Current Procedural Terminology (CPT) codes – to payment of claims for the services within the group.
- (i) Operate a toll free authorization telephone number accessible to providers and participants from 8am to 6pm.

- (j) Have the capacity to process inpatient authorization requests 24 hours per day, 7 days per week.
- (k) Pursuant to COMAR 10.09.70.07, establish a process that is staffed by a Maryland licensed psychiatrist with specialized addiction expertise, and other Maryland licensed behavioral health professionals for authorization (pre-authorization, concurrent and retro-authorization) of behavioral health services;
- (l) Ensure utilization review clinical staff are appropriately trained and knowledgeable about the PBHS, the services available in particular geographic areas and the needs of special populations and ensure inter-rater reliability in clinical decision;
- (m) Through the Contractor's authorization system, with DHMH approval, develop and implement electronic treatment and rehabilitation plans in conformance with regulations currently located in COMAR 10.47.Alcohol and Drug Abuse Administration chapter, and 10.21. Mental Hygiene Administration chapters;
- (n) Incorporate a function to save and download authorization information and data from individual treatment and rehabilitation plans into providers' electronic medical records using national data standards;
- (o) Using timeframes and protocols approved by the Department, approve or deny a request to initiate services; or extend the duration of current services, or change existing services in type, frequency, or level of intensity in a manner which is consistent with expected results and is cost effective;
- (p) Participate with BHA, if needed, to form the independent team required by CMS to issue the Certificates of Need for Services (CONS) for authorization and admissions to RTC services per 42 CFR 441.152 and 441.153;
- (q) Participate with the BHA in implementing the Needs Based Eligibility Determination process for admission into the 1915(i) SPA and other authorization and utilization management functions for the 1915(i) SPA described below in Section 3.2.10 Special Projects/New Initiatives;
- (r) Have the capability to develop processes for similar programs if they are implemented;
- (s) Have the capacity to grant access to the CSAs and LAAs to the authorization system in order for CSAs and LAA to authorize and coordinate services allowed by the Department;
- (t) Review and authorize TBS, defined in COMAR 10.09.34, for children and adolescents with a developmental disability or a psychiatric diagnosis;
- (u) Perform focused review of requests for inpatient level of care in order to reduce reliance on and use of unnecessary hospital level of care by diverting individuals to other services or alternative levels of care;
- (v) Recommend approval or disapproval of administrative days per DHMH Policy;
- (w) Perform non-binding courtesy reviews as needed for children and adolescents admitted to Institutes for Mental Disease (IMDs) and RTCs who are likely to become Medicaid eligible and uninsured individuals entering inpatient psychiatric care;
- (x) With the assistance of the CSAs, LAAs, MCOs, ACOs, REM program staff, community-based waiver coordinators, and providers, monitor and manage at-risk and high service utilization participants, and assist in the development and coordination of appropriate treatment plans;
- (y) Establish protocols for the Contractor to coordinate referrals with appropriate CSAs, LAAs, MCOs, and ACOs;

- (z) In collaboration with MCOs, ACOs, REM program staff, and home and community-based waiver coordinators, establish protocols somatic care providers can use to submit referrals for mental health, substance use, and recovery services;
- (aa) When a service is approved for an individual who does not have Medicaid, verify with the provider that the provider has determined:
  - a. Whether the individual should be referred to the Social Security Administration (SSA) or the Local Department of Social Services (DSS) or the Maryland Health Connection for a determination of eligibility for Supplemental Employment Income (SSI), Social Security Disability Income (SSDI), Medicaid or other public assistance and so inform the provider; or
  - b. Whether the individual may be eligible for private insurance or Medicare;
- (bb) Employ a psychiatrist who is Maryland licensed and certified by the American Board of Psychiatry and Neurology, and has appropriate expertise, to deny services based on medical necessity criteria;
- (cc) If a service is not deemed to be medically necessary, the psychiatrist discusses with the requesting participant, or provider on behalf of the participant, whether there is an alternative service or a service of alternative duration, which both the Contractor and requesting participant/provider believe will satisfy the medically necessity criteria;
- (dd) If authorization of treatment is denied, notify the participant and provider of that fact and the procedures to appeal the denial. Notify the CSA and LAA so that they can assist in linking the participant to an appropriate alternative resource;
- (ee) Prior to determination of denial of medical necessity for individuals with Serious Mental Illness (SMI), SED or SUD who are receiving long-term rehabilitation services:
  - a. Consult with the CSA and LAA in order to link the individual with other services and supports to prevent homelessness; and
  - b. Work with the BHA to develop a transition plan to minimize abrupt changes in living situation or other changes that may cause severe disruption to the individual;
- (ff) Maintain a confidential record, in accordance with federal and state privacy laws, including an electronic tracking system of contacts between the Contractor and providers regarding authorizations and any significant clinical issues, of any individual referred to the PBHS;
- (gg) Review provider requests for authorization to monitor for accuracy and quality of the materials and information submitted by providers and contact providers for clarification when information is inadequate to support the request;
- (hh) Provide current authorization information to providers, based on provider access level, on the Contractor authorization system.

### **3.2.3.2 Reviews**

The Contractor shall:

- (a) Perform concurrent reviews for participants receiving inpatient services, including:
  - (1) Reviewing all psychiatric admissions to acute care hospitals, IMDs, Medically-Monitored inpatient services for under 21, Medically-Monitored Inpatient Detoxification, and RTCs for under 21;
  - (2) Determining continued medical necessity;
  - (3) Reviewing all requests for continued services for medical necessity and effectiveness of the services provided;
  - (4) Denying services that are not effective; and
  - (5) Proposing other medically necessary services that are more effective.

- (b) Perform concurrent reviews for participants receiving ongoing outpatient services, as required by the Department, including:
  - (1) Determining continued medical necessity;
  - (2) Reviewing all requests for continued services for medical necessity and effectiveness of the services provided;
  - (3) Denying services that are not effective; and
  - (4) Proposing other medically necessary services that are more effective.
- (c) Perform retrospective reviews for individuals whose eligibility for Medicaid was retroactively provided after services have been provided through providers who participate in Medicaid.

### **3.2.3.3 Audits**

The Contractor shall:

- (a) Actively coordinate with Medicaid to ensure consistency of interpretation and application of all rules, and coordination of audits;
- (b) Consult with Medicaid's Division of Behavioral Health Services to ensure that recommendations for referral are appropriately directed to the DHMH OIG or the Office of the Attorney General/Medicaid Fraud Control Unit (MFCU);
- (c) Perform audits and other reviews of medical and billing records to ensure that only medically necessary authorized services are funded by the PBHS;
- (d) Develop and implement DHMH approved audit tools, protocols, and systems which:
  - (1) Evaluate the quality of the assessment, diagnosis, treatment/service planning, and service delivery and highlight practices that promote recovery, resiliency, and self-determination of participants;
  - (2) Identify and monitor providers who have filed claims with insufficient supporting documentation;
  - (3) Review required encounter data against paid claims for PRP services,;
  - (4) Identify false claims, fraud or abuse by providers or participants, including abuses of referrals, overutilization;
  - (5) Identify overpayments;
  - (6) Identify high utilizers, unusual service patterns, and billing outliers, and assist in developing alternative service plans for these participants, as needed;
  - (7) Develop, analyze, and provide reports to identify suspicious provider billing activity;
  - (8) Provide for a random sample of all services rendered by providers after services have been appropriately authorized, in order to determine whether the medical necessity continued and was documented as required throughout the course of treatment/service provision;
  - (9) Conduct, in consultation with DHMH, a minimum of 300 audits annually of both clinical and financial records of PBHS programs, individual practitioners, group practices, inpatient hospitals, and RTCs which shall include high utilizers, outpatient treatment, rehabilitation, residential, and support programs;
  - (10) Audit, in consultation with the BHA, specialized providers of 1915(i) Medicaid State Plan services, as subsequently described in Section 3.2.10 Special Projects/New Initiatives;
  - (11) Retract payments, at the instruction of DHMH, from the providers when there is no documentation to substantiate claims payment and implement procedures to retract payments through MMIS so that CMS receives its lawful share of Federal Financial Participation for overpayments;
  - (12) Maintain documentation of all audits; and
  - (13) Ensure Inter-rater Reliability among auditors performing these functions.
- (e) Provide technical expertise required to develop a Comprehensive Audit Plan, consistent with the needs and goals of the Department and including evidence-based audit practices.

### 3.2.4 Participant and Provider Assistance & Communication

As specified below, the Contractor shall operate a toll-free participant and provider Call Center to provide accurate and timely assistance, including appointment assistance and grievance and appeal handling, for participants and providers; and create and maintain an easily accessible website of information for participants and providers.

#### 3.2.4.1 Call Center

- (a) The Contractor shall assume the current Call Center toll-free number, 1-800-888-1965, and install, operate, monitor, and support an automated call distribution system.
- (b) The Contractor shall equip the Call Center for the following general functions:
  - (1) Responding to questions regarding available behavioral health services, requirements to become a provider, procedures for filing a complaint or grievance, and billing information in an accurate and timely manner;
  - (2) Responding to clinical calls; and
  - (3) Providing appointment assistance to participants as needed.
- (c) Specific service requirements for the Call Center include:
  - (1) Operating a toll-free, HIPAA compliant, automated call distribution call center for participants and providers, either separately or combined;
  - (2) Accommodating all calls, including those requiring the use of TTY (teleprinter, teletypewriter or teletype) or Maryland Relay services for the hearing impaired or interpreter for callers that have limited English proficiency, for which the participant may not be charged a fee;
  - (3) Ensuring a sufficient number of adequately trained staff to operate the Call Center from 8:00 am to 6:00 pm Eastern Standard Time;
  - (4) Ensuring all Call Center staff are responsive, courteous, and accurate when responding to calls;
  - (5) Having a DHMH-approved method for handling calls received after normal business hours and during state-approved holidays to triage calls and manage emergencies;
  - (6) Having a system for referral for services and authorization for services that complies with COMAR 10.09.70, which includes “safety net” providers, teaching institutions, and facilities necessary to ensure that participants are able to access services that are not covered by the program;
  - (7) Having the technological capability to allow for monitoring and recording of calls, both by the Contractor and by the Department, for quality, accuracy, and professionalism;
  - (8) Having an electronic system that allows Call Center staff to document calls in sufficient detail for reference, tracking, and analysis;
  - (9) Having a documentation system, developed in conjunction with DHMH, able to accommodate production and ad-hoc reports;
  - (10) Having reportable fields to accurately capture the type (all calls), date, subject, and resolution of each call;
  - (11) Having a plan approved by DHMH for providing Call Center services and system access in the event the primary Call Center facilities are unable to function in their normal capacity;
  - (12) Relinquishing ownership of the toll-free numbers upon contract termination, at which time the Department shall take title to these telephone numbers; and
  - (13) Designing and staffing the system to ensure that participants who call with an emergency, or perceived emergency, are never put on hold and are immediately transferred to an appropriately trained behavioral health professional.
- (d) Call center staff shall include clinically competent behavioral health professionals who:
  - (1) Are licensed in Maryland;
  - (2) Have treatment or rehabilitation experience and knowledge of the PBHS, Medicaid, and its policies and procedures regarding eligibility and access, available behavioral health resources; and
  - (3) Are trained to screen crisis or emergency calls and to address specific treatment and rehabilitation issues which vary by age, diagnosis and particular need.

- (e) The Call center shall:
  - (1) Include specialty clinicians (as defined in Section 3.2.5. – Contractor Staffing Requirements) who are knowledgeable in co-occurring disorders, including substance use disorders/mental illness, developmental disabilities/behavioral health disorders, developmental disability with serious self-injurious behavior, expertise in child behavioral health needs, and physical illness/behavioral health disorders;
  - (2) Have the capability to immediately respond to crisis calls; connect with the Maryland Crisis Hotline’s 800 telephone number and other identified Crisis Response Systems (Exhibit 5: MD Crisis Hotlines by County);
  - (3) Have the capability to handle directly calls in Spanish, as well as the capability of using the Language Line or interpreter service to address the needs of the PBHS consumer; and
  - (4) Have the capability to link calls from veterans to one of the Regional Resource Coordinators in the Maryland Commitment to Veterans Program.

#### **3.2.4.2 Grievance and Appeal Process**

- (a) The Contractor shall utilize DHMH approved policies and procedures for processing and tracking grievances and appeals, received telephonically or written, within DHMH established time frames.
- (b) The Contractor shall:
  - (1) Participate in any grievance or appeal procedure;
  - (2) Have a sufficient number of psychiatrists with mental health and substance use disorder expertise to review denials of service within a timely manner;
  - (3) Implement a tracking system to follow grievances and appeals through each stage of the system, including BHA review;
  - (4) Track and monitor in a database format all requests for grievances and appeals, and notifications of their resolution, which must be made available to the Department on request;
  - (5) Maintain sufficient staff trained to investigate and resolve all grievances within time frames established by the Department;
  - (6) Have an electronic documentation system that includes a complete description of the grievances and all of the steps in the grievance and appeal process, including participant notification;
  - (7) Utilize DHMH approved templates for participant notifications;
  - (8) Have the ability to aggregate and analyze grievance and appeal data and as requested by DHMH on an ad-hoc basis; and
  - (9) Provide witness testimony for State Fair Hearings as required by DHMH.

#### **3.2.4.3 Complaint Process**

- (a) The Contractor shall utilize Department approved policies and procedures for processing, investigating, resolving and tracking complaints received telephonically or written.
- (b) The Contractor shall:
  - (1) With advice or direction from the Department, develop and design a Complaints Management System to manage complaints on all aspects of the BHA’s service delivery system, including complaints related to the functioning of integrated services and access to care
  - (2) Using the Complaints Management System, track and manage all complaints submitted to the Contractor by participants, providers, and others;
  - (3) Forward all complaints not involving billing issues to the appropriate DHMH or DHMH delegated authority for investigation, with a copy to the BHA designee and track the results of the investigation;
  - (4) Provide administrative support to the BHA to review complaints on a regular basis;
  - (5) For all complaints involving billing, conduct an analysis of the provider’s billing and service record and present this information to the Medicaid designee with a copy to the BHA for further action;
  - (6) Have sufficient staff to receive, track, and monitor complaints; and
  - (7) Communicate with the complainant about the status of the complaint investigation.

### 3.2.5 Contractor Staffing Requirements

#### 3.2.5.1 Requirements

- (a) The Contractor shall employ and maintain a sufficient number of qualified staff with appropriate experience, located in Maryland and knowledgeable about the PBHS, to perform all the terms and functions of this RFP in the time periods prescribed by this RFP or by DHMH regulations as follows:
- (1) One full-time Chief Executive Officer (CEO) with a minimum of five years experience in Medicaid and with managing behavioral health services, including mental health and substance use disorders, who shall have responsibility for all functions of this contract;
  - (2) One full-time Chief Financial Officer (CFO) who has a minimum of five years of experience with managing the financial risks of a corporation, being responsible for financial planning, tracking expenditures, managing financial records and bank accounts.
  - (3) One full-time Medical Director who is a Maryland licensed physician, certified by the American Board of Psychiatry and Neurology, and who is responsible for oversight of clinical decision-making, and has a minimum of five years of experience in behavioral health managed care, including mental health and substance use disorders;
  - (4) One full-time Director of Quality Assurance who has a minimum of three years of experience in quality improvement and evaluation of health care service utilization;
  - (5) One full-time Director of Clinical Staff who is a licensed behavioral health professional with a minimum of five years experience in behavioral health managed care, including mental health and substance use disorders, and who has experience in supervising behavioral health professionals;
  - (6) One full-time Chief of Information Management with a minimum of a Master's degree in computer science, five years of senior management experience, and three years of experience in information technology, who will be responsible for hardware, software, data analytics and reporting;
  - (7) One part-time (.5 FTE or greater) Psychiatrist who is Maryland licensed and certified by the American Board of Psychiatry and Neurology in Child and Adolescent Psychiatry and who has a minimum of five years of experience after completion of residency in Psychiatry;
  - (8) One part-time or consulting Psychologist, as needed, with working knowledge and experience with serving children, adolescents, and adults, and experience of populations with developmental disabilities, and experience or knowledge of working with populations demonstrating self-injurious behaviors, and who is capable of reviewing authorization, utilization services, and psychological testing requests;
  - (9) One full-time Claims Manager, with a bachelor's degree, and with five years of experience with Medicaid/Medicare claims;
  - (10) One full-time Director of Provider Relations;
  - (11) Three full-time compliance staff to work with the Department, and as directed by the Contract Monitor to assist with cases referred to the DHMH OIG or the Office of the Attorney General MFCU;
  - (12) A minimum of five full-time staff to perform PBHS data system development and data analysis, who will be dedicated to this contract, with expertise in system, data analysis, and reporting, and who will have access to national or central company resources;
  - (13) One full-time, licensed mental health professional with Child and Adolescent experience to be the designated staff member to oversee 1915(i) SPA approved by DHMH, to be responsible for oversight and problem resolution for all tasks and issues associated with the SPA and to participate with DHMH in meetings and other activities involving operation of the SPA, including provider and public education and solicitation of public and interagency input into the SPA as needed;
  - (14) One full-time designated staff person to work with participant, family, and advocacy organizations.
- (b) The following positions need to be included in the proposed staffing plan providing the Department a quantifiable and qualitative proposal for staffing:
- (1) Psychiatrists (in addition to the staff mentioned in (a) (3) and (7) above, certified by the American Board of Psychiatry and Neurology, on contract, in consulting capacity or as an employee of the Contractor with expertise in the following areas: child and adolescent expertise, aging and elderly adult expertise, physician with special expertise in addiction medicine, who are available 24 hours per day, seven days per week for consultation and decision making;

- (2) Licensed clinical staff ( in addition to the staff mentioned in (a) (5), (8), and (13) with a minimum of three years of clinical experience, to serve as care managers, with experience and training in subspecialty areas to ensure adequate review and treatment planning including, children and adolescents, young adults, adults, families, elderly, veterans, forensically involved, deaf and hard of hearing, homeless, and those with co-existing conditions (developmental disabilities/behavioral health disorders, substance use disorder/mental illness, physical illness/behavioral health disorders);
  - (3) Dedicated clinical staff to work with CSAs/LAAs, and hospitals to monitor high utilization and at-risk users, for children, adolescents, younger and older adults;
  - (4) Provider relations staff capable and available to respond to provider inquiries within one business day;
  - (5) A designated liaison for the Traumatic Brain Injury (TBI) waiver to address authorization and claims issues;
  - (6) Staff in addition to the staff mentioned in (a) (4), (6), and (12) above to perform evaluation activities, including those related to participants and provider surveys, OMS, and other proposed evaluation activities; and
  - (7) Claims staff qualified to perform the duties required.
- (c) The Contractor shall make available to DHMH reasonable access to its staff, including liaisons who shall be available to attend scheduled meetings with DHMH and periodic meetings with participant/advocacy groups, or providers.
  - (d) The Contractor shall make available its CEO or representative approved by the Department for attendance at, and testimony before, legislative proceedings.
  - (e) The Contractor shall make available Management Staff with decision-making authority (CEO, CFO, Medical Director, Clinical Director, Quality Assurance Director, and Chief of Information Management, as appropriate) to attend meetings with DHMH staff, within 24 hours of notice.
  - (f) The Contractor shall assure that all clinical staff shall have sufficient training in and understanding of the PBHS, the services available, and the criteria for receiving such services.

### **3.2.6 Quality Management and Evaluation**

The Contractor shall develop, implement, and maintain a comprehensive internal Quality Management (QM) program that systematically monitors all aspects of the Contractor's operation.

#### **3.2.6.1 Quality Assurance Plan**

- (a) The Contractor shall operate its QM Program in accordance with its Quality Assurance Plan, which shall describe all aspects of its QM Program, include measurable goals and objectives, and address both clinical and non-clinical aspects of care.
- (b) The Contractor shall submit its Quality Assurance Plan annually to the Department.
- (c) On an ongoing basis, the Contractor shall look for opportunities for quality improvement and implement timely corrective action.
- (d) The Contractor shall meet a set of performance standards for quality management as determined by the Department (see **3.2.12** Liquidated Damages and Performance Standards).
- (e) The Contractor shall participate in audits of any aspect of its Contractor operations, as required by the Department, in the timeframes specified by the Department.
- (f) The Contractor shall participate with the Department in implementation of the Quality Assurance Plan for the 1915(i) SPA as set forth in Section 3.2.10, Special Projects/New Initiatives, of this RFP.

### **3.2.6.2 Evaluation**

#### Consumer Perception of Care (CPOC) Survey

The Contractor shall:

- (1) Develop annually, subject to the Department's approval, a CPOC consisting of 750 to 1000 adult surveys and 750 to 1000 surveys of parents/caregivers of children and adolescents.
- (2) Use as the basis for the CPOC materials specified by the Department, a data file provided by the Department and a sampling methodology approved by the Department.
- (3) Provide documentation to the Department detailing how the survey sample is selected and how survey data is analyzed.
- (4) Make recommendations to the Department for any changes to the survey tools or protocols to the survey methodology/administration.
- (5) Following each annual cycle of survey administration, provide summary documentation to the Department of all interviewer training, monitoring/supervision of survey implementation, and quality control mechanisms that were utilized throughout the survey administration and analysis processes.
- (6) Prior to survey administration, use available technological resources to enhance the accuracy of participant contact information (i.e., addresses and telephone numbers).

For current survey description and additional information on the CPOC:

<http://dhmh.maryland.gov/mha/SitePages/Description%20of%20Consumer%20and%20Provider%20Surveys.aspx>

### **3.2.7 Eligibility**

The Contractor shall maintain and utilize a participant enrollment system populated with data provided by the Department to verify active Program enrollment prior to authorizing or paying for any behavioral health services.

#### **3.2.7.1 Participant Eligibility Procedures**

- (a) For Medicaid participants the Contractor shall:
  - (1) Operate a system that electronically accepts Medicaid eligibility files from the MMIS on a daily basis;
  - (2) Determine whether a person requesting assistance, or for whom preauthorization is requested, is eligible for a specific service, pursuant to Medicaid policy;
  - (3) Refer individuals that have lost Medicaid eligibility to their local department of social services or local health department eligibility worker for assistance; and
  - (4) Verify during claims adjudication that the participant was eligible for behavioral health services on the date of service.
- (b) For Non-Medicaid participants, the Contractor shall:
  - (1) Determine approval for individuals to receive benefits for the uninsured by conducting a preliminary assessment and registration over a web based application, or the phone, to establish if an individual meets the uninsured criteria specified by the Department.
  - (2) Determine whether the uninsured participant has applied for health insurance through the Maryland Health Connection website and if not explain to provider or consumer how to apply for Medicaid, MCHP, or a QHP;
  - (3) Assign and maintain all approval spans for uninsured individuals in its system; and
  - (4) In the event that the individual does not meet uninsured criteria, inform the provider, consumer or individual requesting benefits for the uninsured that a CSA/LAA review of the determination may be requested.

#### **3.2.7.2 Provider Eligibility Procedures**

The Contractor shall:

- (a) Operate a system that electronically accepts Medicaid provider files from the Maryland MMIS on a daily basis;
- (b) Determine whether the provider is eligible for payment of a specific service, pursuant to Medicaid policy; and
- (c) Verify during claims adjudication that the provider was eligible for payment of behavioral health services on the date of service.

### **3.2.8 Claims Processing**

- (a) Develop and maintain an accurate, efficient claims processing system to receive and adjudicate claims for medically necessary behavioral health services and submit claims to the Department for purposes of drawing down federal funds and;
- (b) If the ASO pays for services from the state-only bank account and later determines individual is eligible for Medicaid, the ASO will process the claim through MMIS to draw down federal funds at which time the ASO would replenish the State bank account, as Federal rules allow Medicaid coverage to be applied retroactively for up to three months prior to the month of application provided the individual would have been eligible for coverage during the retroactive period had s/he applied at that time;
- (c) Rapidly implement through its system new Federal and State laws, regulations, and policies related to claims processing without additional cost to the State;
- (d) Pay providers for Medicaid services directly from the State Bank Account held by the Maryland Medicaid Program and pay providers for services for the uninsured and non-Medicaid covered services from the State Bank Account held by the BHA;
- (e) Submit weekly to the Department an electronic file containing a listing of the expenditures made to the providers broken out by Medicaid and non-Medicaid covered expenditures, as well as reports summarizing the weekly claims paid by service category and fiscal year of service and by CSA and fiscal year of service;
- (f) For each bank account, reconcile the net totals on the claims reports to the check register and electronic fund transfer register for each weekly claim submission and provide reconciliation documentation to the Department weekly;
- (g) Provide the State with a monthly end-of-month reconciliation of each checking account including a list of outstanding checks;
- (h) Ensure that funds for claims payments under this Contract remain in two separate claims payment accounts (one for Medicaid and one for no-Medicaid) and that these accounts are kept separate from all other funds held by the Contractor;
- (i) Use funds in the two claims payment accounts only for paying claims under this contract;
- (j) Provide to the State separate weekly requests for reimbursement for each account with the detailed claim processing report in a state-approved format;
- (k) Link system authorizations to claims processing to ensure that only authorized services are approved for claims payment;
- (l) Process authorizations and claims at no cost to the providers within the FFS BHA;
- (m) Accept and process paper and electronic claims submitted on HIPAA-compliant paper billing forms or on HIPAA compliant 837/835 electronic format;

- (n) By way of a secure environment:
- (i) Verify participant eligibility and information on all claim transactions submitted;
  - (ii) Verify provider eligibility and information on all claim transactions submitted;
  - (iii) Maintain clear billing instructions for providers;
  - (iv) Verify any and all third party insurance billing information;
  - (v) Verify authorization of claims as required by the Department;
  - (vi) Have the ability to process claims using the Maryland Medicaid provider number and the National Provider Identifier (NPI) number;
  - (vii) Implement system edits to ensure compliance with all BHA and Medicaid policies and requirements;
  - (viii) Have the ability to classify source of payment by participant eligibility;
  - (ix) Accept zero dollar encounter claims for those services identified by the Department as required for the reporting of such services;
  - (x) Have the ability to pay multiple rates for the same procedure code based on provider type and modifier codes, e.g., payment of enhanced rates for the provision of Evidence Based Practices (EBP) services for approved providers or differential rates for providers based on provider qualifications (psychiatrists versus other licensed professionals versus outpatient mental health centers);
  - (xi) Have the ability to collect data regarding physician administered or dispensed drugs; (i.e. National Drug Code (NDC) Directory);
  - (xii) Provide the Department with online access to information regarding the Contractor's claims processing system edits and criteria;
  - (xiii) Allocate administrative cost in order to claim FFP for all Contractor functions related to the management of Medicaid;
  - (xiv) Develop a web portal to accept direct data entry of claims at no additional cost to the providers;
  - (xv) During pre-transition, accept claims payment history from 2001 from the prior BH ASO and retain throughout the duration of contract;
  - (xvi) During pre-transition, accept and load two years claims/encounter history on SUD services from the Department into the claims system for use during adjudication;
  - (xvii) During pre-transition, accept active authorization information on SUD treatment services so that those services will be covered from the Go-live date;
  - (xviii) Accept claims file in a format that is to be defined by the Department;
  - (xix) Accept encounter file (for certain services) in a format that is to be defined by the Department;
  - (xx) Provide safeguards against unnecessary and inappropriate submission of duplicate claims;
  - (xxi) Within five (5) working days of receipt of an electronic claim lacking sufficient information to process, return the claim to the provider that submitted it with an explanation of the reason that the claim was returned;
  - (xxii) Receive and utilize the eligibility decision date in the adjudication of claims for retroactively-eligible participants so that a claim meets the timely filing limits if the claim is submitted within 12 months of the decision date or notice of eligibility;
  - (xxiii) File all Medicaid services electronically;
  - (xxiv) Process 100 percent of electronic claims within 14 calendar days of receipt;
  - (xxv) Provide, upon request and via Contractor website, documentation that can be downloaded, regarding the procedures and processes for appealing the Contractor's complete or partial denial of any claim;
  - (xxvi) Assign to each claim a unique transaction identifier that indicates the date the claim was received by the Contractor and the input source (paper, electronic media, web portal);
  - (xxvii) Make, at a minimum, weekly payments to providers consistent with requirements of the Department, including receipt of EFT payments;
  - (xxviii) Have the capacity to perform automated electronic mass adjustments processed in a batch format whereby a retroactive rate change, eligibility change, or any other change can be reprocessed ensuring correct provider payment or other adjustments in the claims payment format designated by the Department;

- (xxix) Electronically submit paid claims to MMIS within seven (7) working days of the date the claim was paid by the Contractor;
  - (xxx) Submit paid behavioral health claims weekly to Department using the 837 I or P formats;
  - (xxxii) Submit claims using the Department's MMEE web portal(See EXHIBIT 7);
  - (xxxiii) Submit data which corresponds to participant eligibility and provider eligibility data in MMIS;
  - (xxxiv) If necessary, translate procedure codes prior to submission to MMIS;
  - (xxxv) Provide safeguards to prohibit unnecessary and inappropriate submission of duplicate claims; electronically retrieve and process a weekly payment advice file from Department and report any differences between claims submitted for payment by the Contractor to MMIS and claims paid by MMIS within 5 business days from the time the 835 file is made available.
  - (xxxvi) Retract payments from providers when it is subsequently found that the Contractor processed a claim in error or there was no documentation to substantiate the claims;
  - (xxxvii) Void and resubmit claims to MMIS when appropriate;
  - (xxxviii) Cost avoid and prevent payment of services when the Program provides information on third party insurance coverage, including Medicare:
    - a. The Medicaid program adjudicates cross-over claims from Medicare
    - b. The Contractor pays for claims that are part of the Medicaid behavioral health service package but not covered by Medicare such as PRP and OPT services;
  - (xxxviii) Immediately notify the Department and providers of any connectivity problems that cause interference with normal business practice;
  - (xxxix) Issue IRS 1099 Forms annually to providers;
  - (xl) Generate explanation of payments (remittance) as appropriate for each provider in electronic format (or paper if provider requests);
  - (xli) Provide the Department with remote access to the Contractor systems for up to 10 Department staff for on-line, real time access to the claims and authorization system; and
  - (xlii) Adjudicate all claims in either electronic (97 %) or paper (3%) format a minimum of 10 million claims annually (total claims processed in FY13= 7.13 Million).
- (o) For **Non-Medicaid** claims, the Contractor shall process claims:
- (1) For individuals for whom emergency petitions have been filed and who have no other source of payment emergency room, evaluation and transportation charges, if hospitalization is needed when the hospital where the evaluation occurs cannot admit the individual;
  - (2) Transportation services for emergency transport in psychiatric emergencies which require storing and management of associated paperwork;
  - (3) Emergency petition claims and associated storing and management of associated paperwork;
  - (4) Covered services for the eligible Uninsured;
  - (5) Non-Medicaid covered services.
- (p) The Baltimore Capitation Project. Set up a system to pay a monthly capitation rate for specialty mental health services with edits to not pay other BH claims while receiving this monthly capitation rate.
- (q) In addition to any other damages available or arising under this contract, the Contractor shall be liable for incorrectly paid claims in all cases in which the Contractor's actions were solely responsible. The Contractor liability for provider claims shall be imposed in all instances in which the Contractor makes an incorrect payment as a result of failing to adhere to the requirements of the contract including:
- (1) When the Contractor pays a claim for a provider who is a non-eligible provider or who does not have an active provider number in the MMIS;
  - (2) When the Contractor makes an erroneous recipient eligibility determination and pays a claim for which the recipient is not eligible.
  - (3) When the Contractor denies disputed claims that it has not resolved, which results in a failure to enter them into MMIS in time for processing within federal timely filing edits.
  - (4) When the Contractor pays an incorrect amount for a claim.
- (r) The Contractor shall be responsible for uncollected FFP under the contract where the failure to collect those funds is within its control and shall notify DHMH in writing, within 30 working days, if unable to resolve FFP issues without State assistance. Failure to notify the State will result in the Contractor's liability for the uncollected federal funds. The Contractor shall maintain documentation of its efforts in resolving claims edit issues between the Contractor and MMIS.

### 3.2.9.1 System Requirements

- (a) The Contractor shall not connect any of its own equipment to the Department's LAN/WAN without prior written approval by the Department.
- (b) To ensure the system is protected by administrative, technical and physical controls, the Contractor shall comply with the DHMH "Information Technology Security Policy and Standards" including encryption of agency data at rest and in transit (See: <http://employeecentral.dhmh.maryland.gov/infosec/pdf/DHMH-INFO-TECH-SEC-2013-ver-3.0-3-19-2013.pdf>,
- (c) The Contractor shall maintain the system and apply all patches and updates to keep the system up-to-date.
- (d) The Contractor shall provide a Disaster Recovery Plan for the claim processing system, which shall include backup, and recovery procedures, which shall:
  - (1) Allow recovery of the system and all adjudicated claims data up to the moment of a disaster;
  - (2) Successfully resume data collection within 24 hours of any disaster; and include:
    - i. Objectives of the Plan;
    - ii. What situations and conditions are covered by the Plan;
    - iii. Technical considerations;
    - iv. Roles and responsibilities of Contractor staff;
    - v. How and when to notify the Department's Contract Monitor;
    - vi. Recovery procedures; and
    - vii. Procedures for deactivating the Plan.
- (e) The Contractor shall ensure the secure protection, backup and disaster recovery measures are in place and operational within 15 days prior to the claim processing system start-up date and for the duration of the contract, and shall ensure the integrity of the data and availability to the Department.
- (f) The Contractor shall follow DHMH security policy, standards and requirements for the disposal of confidential data, including the shredding of paper records and the destruction of magnetic or other storage media. (See "Storage Media Disposal" in the DHMH "Information Technology Security Policy and Standards" <http://employeecentral.dhmh.maryland.gov/infosec/pdf/DHMH-INFO-TECH-SEC-2013-ver-3.0-3-19-2013.pdf>,
- (g) The Contractor shall provide for physical and electronic security of all protected health information generated or acquired by the Contractor in implementation of the contract, in compliance with HIPAA, as set forth in Part IV, paragraph 44, 42 CFR Part2, and consistent with the business associate agreement executed between the parties (see Attachment K).
- (h) The Contractor shall provide within 30 days of contract award, and maintain for the entire contract term, a Department-approved information security plan On-site Security requirement(s):
- (i) The Contractor shall acknowledge that any employee or agent of the Contractor or any Subcontractor who enters the premises of a facility under the jurisdiction of the Department may be searched, fingerprinted (for the purpose of a criminal history background check), photographed and required to wear an identification card issued by the Department.
- (j) The Contractor, its employees and agents and Subcontractor employees and agents shall not violate Md. Code Ann., Criminal Law Art. Section 9-410 through 9-417 and such other security regulations of the Department about which they may be informed from time to time.

- (k) The Contractor acknowledges that the failure of any of the Contractor's or Subcontractor's employees or agents to comply with any security provision of the Contract that results from award of this solicitation is sufficient grounds for the Department to immediately terminate for default in accordance with Part IV, 2.14, paragraph 13 of Attachment K.

#### Security Access Requirements

- (a) To the extent any Contractor or Subcontractor employees are required to provide services on site at any State facility, the Contractor shall provide and complete all necessary paperwork for security access to sign on at the State's site, including conduct and provision to the State of State and Federal criminal background checks, fingerprinting, for each individual performing service on site at a State facility.
- (b) The Contractor shall conduct and provide the results of annual criminal background checks to the Department, upon the Department's request.
- (c) The Contractor acknowledges that the Department may refuse to allow any individual employee to work on State premises, based upon information provided in a background check.
- (d) The Contractor shall ensure that its personnel shall ensure adhere to State site requirements.

#### System Maintenance

The Contractor shall perform software maintenance and system changes for the component parts of the Contractor's MIS, as requested by the Department and as follows:

- (a) The various types of maintenance support shall include:
  - (1) Conversion of historical records;
  - (2) Activities necessary to provide for continuous effective and efficient operation of the Contractor's MIS to keep it ready and fit to perform at the standard and condition for which it was approved;
  - (3) Activities necessary to ensure that all data, files, and programs are current and that errors are minimal;
  - (4) Activities related to file growth and partitioning, with no archiving of records;
  - (5) LAN administration and maintenance to ensure performance standards are met.
  - (6) Maintenance of current, BHA approved versions of licensed software, and accommodation of reasonable changes in numbers of users;
  - (7) Maintenance of the integrity and confidentiality of all Personal Health Information in accordance with State of Maryland and Federal laws and regulations, and the highest State data security standards;
  - (8) File maintenance activities for updates to all files;
  - (9) Scheduling, during hours least disruptive to users accessing the system, ongoing tasks to ensure system tuning, performance, response time, database stability, and processing;
  - (10) Adherence to system parameters, including the frequency, number, and media of reports;
  - (11) Changing edit disposition parameters for established edit or audit criteria;
  - (12) Addition of new values and changes to existing system tables
- (b) The Contractor shall make software changes, as directed by the Department, when the Department determines that additional requirements need to be met or that a change to existing file structures or current processing is needed.
  - (1) Implementation of capabilities not specified in this RFP or agreed to during the transition;
  - (2) Implementation of edits and audits not defined in the operational system accepted by the Department;
  - (3) Changes to established reports, screens, or tape formats, such as sort sequence, new data elements, or report items; and
  - (4) Acceptance of a new input form.

#### System Change Process

The Contractor shall be required to comply with all applicable laws, regulations, policies, standards and guidelines affecting information technology (IT) projects, which may be created or changed periodically. The Contractor shall adhere to and remain abreast of current, new, and revised laws, regulations, policies, standards and guidelines affecting project execution.

The vendor shall follow the State of Maryland's policies, guidelines and methodologies, which can be found at <http://doit.maryland.gov/policies/Pages/ContractPolicies.aspx> under "Policies and Guidance." These may include:

- A. The State's System Development Life Cycle (SDLC) methodology
- B. The State Information Technology Security Policy and Standards
- C. The State Information Technology Project Oversight
- D. The State of Maryland Enterprise Architecture
- E. The Contractor shall follow the project management methodologies that are consistent with the Project Management Institute's Project Management Body of Knowledge Guide. Contractor's staff and sub-Contractors are to follow a consistent methodology for all activities.

A) The system change management process provides a mechanism to request, evaluate, prioritize, and coordinate system changes. System changes can be defined as defects or enhancements. A defect or enhancement may be identified by the Department, system user or vendor and are defined as follows:

(1) Defects

Defects are defined as system bugs or deficiencies, such as when the system produces results that are not consistent with the approved requirements. Defects shall be fixed by the vendor without additional cost to the Department. Defects prioritized as urgent and high are required to have a scheduled deployment date that is mutually agreed upon between the Department and vendor.

(2) Enhancements

Enhancements are system modifications deemed necessary by the Department that are not defects. Enhancements are change request items that are routed through the Change Control Workgroup, (CCW), with approved changes being incorporated into the core project requirements and design. To be considered for payment, the Contract Monitor's approval is required prior to the vendor starting work on the change request. Prior to approval, the vendor shall submit a change request form that includes the following:

- a. Tracking number;
- b. Priority;
- c. Title;
- d. Description;
- e. Cost;
- f. Hours breakdown by labor type;
- g. Target implementation date; and,
- h. Signature line for Contract Monitor's approval.

(3) Defects and enhancements shall be documented by the vendor in a tracking system. The tracking system shall include a tracking number, title, short description, system(s) or component(s) impacted, resolution, reported by, date reported, assigned developer, target implementation date, hours breakdown by resource type (e.g. business analyst, developer, tester, etc.), cost, priority, deployed date and other information as agreed upon with the Department.

- (4) Defects and enhancements that are included in a release are required to be included in the release notes. The vendor shall inform the Department of deployed defects and enhancements. Monthly reporting of the status of defects and enhancements shall include the relevant information from the tracking system.
- (5) Defects and enhancements are categorized and prioritized by the Department as follows:
  - a. *Urgent* – critical system functionality is impacted, resulting in impact to users and/or business functions
  - b. *High* – important system functionality is impacted preventing efficient operations for the business functions
  - c. *Medium* – important but not urgent
  - d. *Low* – cosmetic changes, not-important and not-urgent

**B) Root Cause Analysis (RCA)**

Department shall be notified immediately of any unscheduled downtime. At a minimum, the Contractor shall contact the Contract Monitor and Project Manager. The Contractor shall maintain a chronology of the incident and provide updates, as agreed upon with the Department. The Department shall be notified immediately of restoration of the system. The Contractor shall provide an initial impact assessment via email to the Contract Monitor that includes the following:

- a. Start and end time of the outage;
- b. Business impact metrics, as available; and,
- c. Recommended communications to the system users, if any.

Any unscheduled downtime shall also be documented in a Root Cause Analysis (RCA), delivered to the Contract Monitor within 3 business days of the start of the occurrence. The Contractor shall include the following in the RCA:

- a. Problem description;
- b. Chronology of events with start and end times;
- c. Findings and root cause description;
- d. Corrective actions;
- e. Corrective action implementation dates; and
- f. A chart to include the following:

Enhancement/Defect to be corrected	Level of Urgency	# days to complete	Liquidated damage assessment	Estimated Cost per day

**C) Corrective Action Plan (CAP)**

The Department may issue a request for a Corrective Action Plan (CAP) to address vendor performance issues. The Contractor shall deliver the CAP to the Contract Monitor within 3 business days of the request from the Department. The Contractor shall include the following in the CAP:

- a. Background information;
- b. Problem definition statement;
- c. Findings and root cause description;
- d. Corrective actions;
- e. Corrective action implementation dates; and
- f. Include a chart describing:

Enhancement/Defect to be corrected	Level of Urgency	# days to complete	Liquidated damage assessment	Estimated Cost per day

### 3.2.9.2 System Abilities

- (a) The Contractor's information system shall be the primary tool utilized by the Contractor to manage, monitor, and provide reports on essential system functions, based on requirements established by the Department, including:
- (1) Eligibility determination and enrollment;
  - (2) Assessment and clinical data;
  - (3) Service authorization;
  - (4) Provider network;
  - (5) Service utilization and expenditure by funding sources (e.g., Medicaid, State-Only, Non-Medicaid, grant funded, Uninsured);
  - (6) Claims processing, payment and federal funds reimbursement; and
  - (7) Quality and outcome reporting.
- (b) The Contractor shall:
- (1) Collect and maintain all data to complete any requirements contained in the following sections of this RFP: Provider Management and Maintenance, Participant Outreach and Training; Authorizations and Utilization Management; Quality Management and Evaluation; Claims Processing and Payment; and Special Projects/New Initiatives.
  - (2) Collect and maintain all data required by CMS-1500 and Form UB-04 (CMS 1450); or any revisions of these forms;
  - (3) Ensure the integrity and confidentiality of all data in accordance with State of Maryland and Federal laws and regulations, and the State Data Security Standards;
  - (4) Have the ability to electronically warehouse PBHS claims, authorizations, OMS, participant eligibility, provider, and Medicaid pharmacy data files since July 2001 in a secure manner;
  - (5) Build, if necessary, maintain, modify, and support a web-based secure, interactive authorization and data reporting system with a point and click interface that complies with state and federal confidentiality requirements and enables end users to quickly learn the system and access information;
  - (6) Through a secure FTP server, make the detail claims, authorization (including auxiliary data, e.g., Outcomes Measurement System data), provider, participant eligibility, pharmacy, FFP and any other data files available to the Department and its designees on a regularly scheduled basis in a format that is compatible with the historical PBHS data sets as well as acceptable to the Department;
  - (7) Have edits in place to ensure that information collected is validated;;
  - (8) Respond to ad hoc data requests in the time frame specified by the Department and produce reports that are validated against previously published data or any other comparable information, before confirming and distributing the reports to the Department;
  - (9) Implement a quality assurance and improvement system, based on available or collectible PBHS data, which includes, at a minimum, fraud control (e.g., edits governing combination of services and number of services), provider evaluation, cost control and effectiveness, measures of how often evidence-based and promising practices are followed (this will require an augmentation in coding to differentiate whether the services performed individually and collectively equate to an evidence-based and/or promising practice) and outcomes measurement subsystems.;
  - (10) Utilize system software and hardware platforms that are expandable and that have the capacity to adapt to change based on State or Federal requirements or Departmental policy changes; and
  - (11) Implement computer system security measures, including system's backup and disaster recovery procedures for all services.

### 3.2.9.3 Data Capabilities

The Contractor shall:

- (a) Collect and maintain all data to complete any required reports as indicated in Exhibit 6 (Reports to be Made Available), as well as other reports as required.
- (b) Implement data collection systems and expansions pursuant to Department timelines, to collect data necessary to complete all Federal reporting elements required by the Substance Abuse and Mental Health Services Administration (SAMHSA), or its successor, including, but not limited to:
  - (1) The Uniform Reporting System (URS) tables [www.nri-inc.org/projects/SDICC/urs\\_forms.cfm](http://www.nri-inc.org/projects/SDICC/urs_forms.cfm) Client Level Data <http://www.nri-inc.org/projects/SDICC/Forms/CLD2013Manual.pdf>, the National Outcomes Measures (NOMS), Maintenance of Effort (MOE), and all other Federal Block Grant requirements like the Substance Use Treatment Episode Data Set (TEDS)
  - (2) [http://www.dasis.samhsa.gov/dasis2/stss\\_user\\_guide.pdf](http://www.dasis.samhsa.gov/dasis2/stss_user_guide.pdf)
  - (3) [http://www.dasis.samhsa.gov/dasis2/manuals/teds\\_adm\\_manual.pdf](http://www.dasis.samhsa.gov/dasis2/manuals/teds_adm_manual.pdf) &
  - (4) [http://www.dasis.samhsa.gov/dasis2/manuals/teds\\_manual.pdf](http://www.dasis.samhsa.gov/dasis2/manuals/teds_manual.pdf);
- (c) Provide the Department with a documented data dictionary, including definitions of all recorded data elements;
- (d) Collect data as required for State reporting purposes (e.g., StateStat; selected data elements currently collected under the Statewide Maryland Automated Records Tracking (SMART) system, as detailed in SMART Data Elements and Reports; OMS service utilization, expenditures, and questionnaire completion rates);
- (e) As described in 3.2.5.1(a)(12), employ five dedicated local staff with expertise in reporting and data analysis that, when necessary, and if applicable, will have access to national or central company resources;
- (f) In addition, to the information required in 3.2.2.2(a), maintain the following PBHS Provider Network information:
  - (1) Provider identifiers;
  - (2) Provider/clinical expertise (e.g., treating individuals with co-occurring conditions, trauma informed care);
  - (3) Disability population access; and
  - (4) Evidence Based Practice (EBP) or promising practices offered (e.g., Cognitive Behavioral Therapy, Supported Employment (SE), Assertive Community Treatment);
- (g) Develop any forms needed to collect the data required under the Contract;
- (h) Develop and implement, in collaboration with the Department and other partners, a system to obtain and integrate BHA client specific information on participants utilizing FFS and non-FFS contractually/grant funded services with information from the State Psychiatric Facility data, and the Forensic Tracking system data;
- (i) Develop and implement a system to collect data on veterans, including basic demographics, combat participation status, service requests, and service utilization.

#### **3.2.9.4 Reports**

The Contractor shall:

- (a) Produce reports according to schedule in Exhibit 6: Reports to Be Available based on major service categories (i.e., mental health services, substance use services, and combined services);
- (b) Maintain a reporting platform that contains prebuilt interactive reports made available in the menu structure so that end users can access and generate the reports based on their access privileges, as well as customize filter conditions to select important data elements;
- (c) Make reports available at the individual jurisdiction and CSA/LAA levels;

- (d) Control access to the reporting system using log-on identifiers and passwords, with various security levels implemented for a minimum of three (3) user categories (i.e., Department, CSA/LHD, and provider);
- (e) Maintain for each system user a reporting history;
- (f) Maintain a system that enables the end user to download/export the reports, at a minimum, to Excel and .pdf formats and print the reports from any standard browser;
- (g) As directed by the Department, produce additional provider specific reports incorporating appropriate clinical quality measures to enable the providers to deliver quality care that is effective, efficient and participant-centered;
- (h) Refresh data for pre-built reports on a schedule developed by the BHA;
- (i) Produce reports in addition to those available on the reporting platform (i.e. PBHS Quarterly Report). (Copies of these reports can be viewed on the Department's website <http://dhmh.maryland.gov/mha/SitePages/reports.aspx>);
- (j) Respond to ad hoc data requests in the time frame specified by the Department and validate the reports for accuracy before distribution to the Department;
- (k) Prepare and submit reports on a schedule established by the Department which identifies data to document ability to meet service level requirements in compliance with contract requirements, and the items requiring resolution. .
- (l) Make available written technical descriptions, in user friendly formats, of the methodologies used to develop reports, including data elements used in the reports, as well as the programming code used to generate the reports.

### **3.2.9.5 Data Sharing**

The Contractor shall create a MIS that:

- (a) Utilizes unique identifiers for each participant, provider, and claim that are compatible with the unique identifiers established by Medicaid, which will allow for the identification of participants, claims or providers in the existing Contractor data sets, and continue to assign unique identifiers based on this system to each new participant, provider, and claim;
- (b) Maintain data interfaces with trading partners through secure (encrypted) process including the following: MMIS, State Psychiatric Facility Hospital Management System (HMIS), Community Service Agencies (CSA/LAA), Pharmacy Benefits Manager (PBM), Department of Public Safety and Corrections (DPSCS), Developmental Disabilities Administration (DDA), Maryland State Department of Education (MSDE), Chesapeake Regional Information System for Our Patients (CRISP), DHR, DJS, Health Information Exchange (HIE), and have the capacity to exchange data with these entities over telephone lines or dedicated data lines or through secure File Transfer Protocol (FTP) sites;
- (c) Receives data daily from the MMIS that includes, but is not limited to, MA eligibility files, provider files, and the 835;
- (d) Submits (837I and 837P) and receives (835) HIPAA compliant electronic claims information to and from MMIS (see Exhibit 7);
- (e) Submits weekly an electronic file, in a format that can be edited, to the Department containing a listing of the expenditures made to the providers, as well as reports summarizing the weekly claims paid by service category and fiscal year of service and by CSA/LAA and fiscal year of service;
- (f) Exchanges data with providers and MCOs in electronic formats, including facsimiles, as is appropriate to maintain the confidentiality of the data;

- (g) Exchanges data with PBHS providers MCOs, and ACOs to improve coordination of care and service delivery;
- (h) Makes rolling twelve months, Medicaid pharmacy data accessible, viewable and printable by behavioral health providers, MCOs, primary care providers, and LAA/CSAs in conjunction with authorization system;
- (i) Performs data integrity checks and data analyses to support evaluation and quality improvement activities;
- (j) Supply data in formats approved by the Department; and
- (k) If the Contractor uses proprietary software in the implementation of its reporting system, provide at least 100 licenses granting access to the reporting system.

### **3.2.10 Special Projects/New Initiatives**

DHMH maintains special projects as listed below and, at the time of this RFP writing, is applying for or waiting for approval of new initiatives. The projects listed below are in varying stages of implementation or application, as described within each paragraph. The Medicaid only and BHA only managed projects are noted within each section while some paragraphs overlap both agencies and are noted as such. The Contractor shall implement and maintain the following and other similar special projects and initiatives:

#### **3.2.10.1 Maryland's Commitment to Veterans (MCV) (Non-Medicaid)**

In 2008, Maryland's Commitment to Veterans (MCV) was established to coordinate, provide and fund behavioral health services. Regional Resource Coordinators (RRC) cover the entire state coordinating behavioral health services either with the VA Maryland Health Care System or DHMH, if VA services are not available within two weeks.

The Contractor shall:

- (a) Screen for veteran status and service era during client intake. Designate certain veterans as a special population in system that allows for their care to be paid for.
- (b) Implement a system to collect veteran data that includes total number of veterans served by jurisdiction (county) and basic demographics, service era, including funds spent on services by jurisdiction. Separate monthly report includes veteran name and contact information.
- (c) Screen providers for veteran status or experience working with veterans and report quarterly. Report includes provider name and contact information.
- (d) Disseminate MCV updates and veteran training opportunities with providers. Educate staff about MCV and work with MCV to develop a system of warm hand offs of veteran or family member to MCV or Contractor as needed.

#### **3.2.10.2 Outcomes Measurement System (OMS) (Medicaid and Non-Medicaid)**

In 2006, MHA, in collaboration with the University of Maryland and the prior Contractor, implemented an OMS. This system allows for the collection of BHA defined information through use of questionnaires. Information is collected on the majority of individuals age 6-64 utilizing the outpatient mental health clinics, FQHC clinics, and Health Services Cost Review Commission (HSCRC) mental health clinics at intake, every six months thereafter, and upon discharge. Participants and/or caregivers of children provide self-reports on a series of items contained in a questionnaire administered by a clinician. Authorization for services is tied to entry of the questionnaire into the Contractor web-based authorization system. Data analysis and mechanisms for different levels of access to data by several different constituencies (BHA, CSAs, LAAs, Providers, public) is available through the OMS Datamart. The Contractor shall:

- (a) Implement the existing web-based OMS that is integrated into the Contractor's authorization system for outpatient services for OMS-involved populations and providers;
- (b) Ensure that the OMS shall have the capacity to expand for additional changes in the questionnaires, and expand to include other services and/or provider types which may include additional questions regarding substance use for individuals receiving those services;
- (c) Have available a web-based authorization system that can automatically direct providers, based on certain participant eligibility characteristics, to the OMS workflow in which responses to questionnaires can be entered into the system, and, with, completion of all mandatory items, trigger authorization for a bundled set of services;
- (d) Train providers on the system for capturing the OMS data;
- (e) Migrate existing OMS data to the Contractor system;
- (f) Utilize scientifically tested instruments approved by the Department to assess psychiatric symptoms for adults and children and adolescents, and shall assume costs for use of any instruments;
- (g) Produce data and analyses on data collected as of the last assessment within a twelve-month period (FY, CY, and Rolling 12-months), as well as analyses of comparisons of individual changes in assessments over time;
- (h) Provide BHA with documentation of definitions and code used to produce analyses;
- (i) Evaluate the integrity of the information in submitted questionnaires;
- (j) Design, host, maintain, and refresh quarterly a publicly-accessible web-based system with analyses, presentations, and functionality at least equivalent to the current OMS Datamart; which includes the capacity for enhancements to the current system, methodology, and analyses;
- (k) Allow, through the system the public to access state, jurisdictional (e.g., county and Baltimore City), and LAA/CSA-level analyses based on both the participants' most recent OMS within the period of analysis and changes in OMS performance over time;
- (l) Design, host, maintain, and refresh quarterly a secure web-based system, with similar features as the public site, to allow providers, CSAs, LAAs and BHA (and its designees) to access provider-level data, limit Provider access to participants being served by that provider and CSA and LAA access to data for participants whose jurisdiction of residence at the time of the analysis period is with the CSA/LAA. BHA and its designees shall have access to all provider-level data;
- (m) Provide the Department with access to all Provider-level data;
- (n) Propose recommendations annually for further utilization and analysis of OMS data either alone or in conjunction with other data within the PBHS, to improve care, coordination, and delivery of services and better utilize public funds; and
- (o) Produce each month a cumulative file, including all historical records, of OMS interviews and selected authorization information in a format acceptable to the Department.

### **3.2.10.3 DORS System Integration (Non-Medicaid)**

In 2005, MHA and DORS engaged national consultants and convened an interagency workgroup with joint stakeholders and constituencies to realign policy regulations and protocols related to Supported Employment (SE) initiative consistent with evidence-based and recovery-oriented principles and practices and to streamline SE

administrative processes across both agencies. The project has an integrated application for participants to be authorized for SE services from the PBHS and DORS through the Contractor's web-based authorization system.

The Contractor shall:

- (a) Implement a web-based portal that is integrated with the Contractor's authorization system for SE and that serves as a single point of entry for application, referral, and eligibility determination for participants and providers requesting SE services in the PBHS;
- (b) Grant and maintain controlled, individualized guest access, with attestation of participant consent, to approximately 50 identified DORS counselors statewide in order to verify DORS applications and referrals, as well as PBHS SE eligibility and authorization status, by means of real-time notification of the disposition of the SE authorization request and ongoing access to the Contractor's authorization system;
- (c) Ensure the web-based platform includes safeguards to protect the confidentiality of information;
- (d) Design, develop, and implement a web-based system, with functionality as detailed below, that reduces administrative burden and duplication of effort for providers and DORS counselors and expedites SE service delivery for participants;
- (e) Ensure that the system has the capacity to expand for additional future changes;
- (f) Include within the web-based platform for SE authorization, an embedded DORS application which captures additional data elements and which pre-populates from existing data fields both within and external to the SE authorization workflow. (Data elements shall be provided by BHA and DORS and will be similar, but not limited to, those in current use as indicated in the DORS application located at the following site: [http://www.dors.state.md.us/NR/rdonlyres/0868B333-BA02-4FDF-BF64-92D3C46C582D/0/HR\\_DORS\\_Employment\\_Application.pdf](http://www.dors.state.md.us/NR/rdonlyres/0868B333-BA02-4FDF-BF64-92D3C46C582D/0/HR_DORS_Employment_Application.pdf));
- (g) Permit identified DORS counselors to search, view, and print authorization requests for SE PRP services, outpatient treatment services, Individual Rehabilitation Plans (IRP), Individual Treatment Plans (ITP), and OMS data;
- (h) Designate a liaison to DORS, who will reconcile issues related to DORS counselor guest access and system connectivity, including log-in and password assignment.
- (i) Respond to inquiries from DORS representatives within two business days. Meet with designated Department and DORS representatives at a minimum frequency of twice annually, and at the request of the Department and DORS, to review progress on this initiative.

#### **3.2.10.4 Maryland Ticket to Work (Non-Medicaid)**

The Ticket to Work and Self-Sufficiency Program, established under the aegis of the Ticket to Work and Work Incentives Improvement Act of 1999, and administered by the SSA, is a federally sponsored employment initiative designed for individuals with disabilities who are Social Security participants and who are interested in returning to work. The Maryland Ticket to Work Program connects selected CSAs and the respective SE program within those jurisdictions, into a single Maryland Mental Health Employment Network (MMHEN) consortium, under the auspices of the Ticket-to-Work program.

The Contractor shall:

- (1) Develop and maintain a system that shall permit the provider and the CSA to register the assignment of tickets, to develop Individual Work Plans (IWPs), and monitor the achievement of employment milestones;
- (2) Have a web-based platform with the capacity to:

- a. Identify SE providers that participate in the MMHEN and those participants enrolled with these providers;
  - b. Record and track registration of ticket assignment by participant;
  - c. Record and track participant wages and method of wage determination;
  - d. Record and print IWP;
  - e. Track and report Ticket payment status;
  - f. As requested by the Department, run PBHS file against Unemployment Insurance (UI) wage data-output reports for all ticket holders and all participants;
  - g. Update monthly bill file for ticket holders identified in UI files;
  - h. Run the PBHS file against SSA vendor's Ticket to Work file to identify ticket holders not yet identified in PBHS file;
- (3) Produce paper and electronic reports that detail provider, participant, and other selected data items for participants in service with MMHEN providers whose tickets have been assigned to the MMHEN filtered by provider and time period as necessary;
  - (4) Produce paper and electronic reports that detail provider, participant, and other selected data items for participants in service with MMHEN providers whose tickets have not been assigned to the MMHEN filtered by provider and time period as necessary;
  - (5) Produce paper and electronic reports for providers not enrolled in the MMHEN that detail provider, participant, and other selected data items for participants in service for employed participants whose tickets could potentially be assigned to the MMHEN filtered by provider and time period as necessary; and
  - (6) Report eligible participants, eligible participant months, by participant, by provider, by date.

### **3.2.10.5 Data Link (Non-Medicaid)**

MHA, DPSCS and the CSAs developed and implemented a data sharing initiative to promote continuity of care for individuals with serious mental illness who are detained in the detention center. The ASO receives data daily from DPSS of all individuals that have been detained and processed at the local detention centers in the past 24 hour period; have been incarcerated in one of the State correctional facilities; or have been remanded to the Department of Parole and Probation.

Data is compared against Medicaid eligibility data, utilizing agreed points to identify a detainee as a match. Once a match is identified, the ASO looks for mental health authorizations and paid Medicaid pharmacy claims within the calendar year. Information is uploaded in the DPSCS Electronic Health System where it can be viewed by authorized medical staff to address medical and mental health needs. Data is shared with the local CSA to assist with coordinating care for the individual while detained and upon release.

The Contractor shall:

- (a) Have the capacity to accept data forwarded from the DPSCS on a daily basis, including information about all individuals arrested, booked, detained, incarcerated, or released to the community in the previous 24 hours throughout the State.
- (b) Upon the receipt of the daily electronic transmission, identify participants on the DPSCS file with a matching PBHS current or historical record and, for the identified individuals, send PBHS authorization information and MA pharmacy information to local detention centers, CSAs, LAAs, and DPSCS.

### **3.2.10.6 Medicaid Emergency Psychiatric Demonstration (Medicaid)**

- (a) In State Fiscal Year 2013, CMS approved Maryland's application for the Medicaid Emergency Psychiatric Demonstration, established under Section 2707 of the Affordable Care Act, to test whether Medicaid programs can support higher quality care at a lower total cost by reimbursing private psychiatric hospitals for certain services for which Medicaid reimbursement has historically been unavailable. The demonstration provides federal Medicaid matching funds to enable private psychiatric hospitals, also known as IMDs, to receive Medicaid reimbursement for treatment of psychiatric emergencies, provided to Medicaid enrollees

aged 21 to 64 who have an acute need for treatment. The demonstration is a three-year waiver, beginning in July 1, 2012 and ending in 2015.

- (b) BHA is the administering agency for the Demonstration. All deliverables are required as part of the ongoing implementation and management of this Demonstration.
- (c) Deliverables Related to This Demonstration -The Contractor shall:
  - (1) Be thoroughly familiar with the Demonstration, its amendments and the regulations which sets forth processes for delivering and obtaining Demonstration services.
  - (2) As described in Part I, Section 6.2 (Utilization Management System), determine medical necessity as described in the Demonstration term and conditions.
  - (3) As described in Part I, Section 6.2 (Utilization Management System), review, and as indicated, authorize individual services based upon medical necessity criteria.
  - (4) As described in Part I, Section 6.3 (Claims Processing and Payment), after providers of Demonstration services have submitted a claim to the Contractor, review the claim and reimburse or deny the claim.
  - (5) Provide reports as required by CMS on services provided and expenditures, admissions, discharges, average length of stay, re-hospitalization, avoidable somatic complications, referral sources, and discharge planning, with categories including individual demographics.
  - (6) Track data monthly with respect to population served (with additional attention to race/ethnicity, gender, locality) and service utilization;
  - (7) Track, verify, and submit claims for payment on a quarterly basis to CMS or its designee using processes outside the CMS Form-64 Quarterly Expense report.
  - (8) Participate in routine communication between the Department and CMS to ensure successful operation of the Demonstration.

### **3.2.10.7 Medicaid 1915(i) SPA for Children, Youth, and Families (Proposed under Medicaid)**

In FY 2007, CMS approved Maryland's application for a 1915(c) Waiver of the Psychiatric Residential Treatment Facility (PRTF) level of care to enable the provision of home and community-based services for children and youth with emotional disturbances. This special CMS project, the Alternatives to PRTF Demonstration Project, was closed to enrollment of new participants on September 30, 2012 and the last participants will have completed the program not later than September 30, 2014. As a result, this 1915 (c) waiver is not a subject of this RFP. However, in order to sustain and refine the approach undertaken in the initial PRTF Demonstration Project, Maryland has applied for a 1915(i) SPA for a similar population with a similar but enriched and specialized service mix. The Contractor in this procurement will deliver a broad range of specialized functions to support the ongoing implementation of this 1915(i) SPA. In addition to the full range of Medicaid somatic and behavioral health services available to all Medicaid eligible individuals, the participants in the 1915(i) SPA have access to a number of specialized services not otherwise available to Medicaid participants. These specialized services are described in the 1915(i) SPA a targeted case management SPA and include the following:

- (1) Care Coordination;
  - (2) Child and Family Team Participation;
  - (3) Intensive In-Home Services;
  - (4) Mobile Crisis Response Services;
  - (5) Community-Based Respite Care;
  - (6) Out-of-Home Respite Care;
  - (7) Peer-to-Peer Support;
  - (8) Expressive and Experiential Behavioral Services;
  - (9) Behavioral Health Consultation to Health Care Professionals; and
  - (10) Customized Goods & Services.
- (a) The BHA is the administering agency for the 1915(i) SPA under the delegated authority of Medicaid, which retains ultimate responsibility for the SPA. The Department is currently developing the SPA application and will develop regulations thereafter. The Department expects that the SPA will be fully operational when the contract solicited by this procurement begins.

- (b) Deliverables Related to the 1915(i): The Contractor shall:
- (1) Be thoroughly familiar with the policies and procedures set forth in the proposed or approved SPA, the COMAR regulations that govern it, and any subsequent amendments or modifications that affect its operation;
  - (2) Designate one staff member, approved by the Department, to be the liaison with responsibility for oversight and problem resolution for all tasks and issues associated with the SPA and to participate with the Department in meetings and other activities involving operation of the SPA, including provider and public education and soliciting public and interagency input to the SPA as needed. (See Section 3.2.5 Contractor Staffing Requirements);
  - (3) Register providers of the specialized SPA services listed above to enable their provision of services for youth and families served under the SPA;
  - (4) Provide support to State and local authorities in conducting provider recruitment and management activities to assure adequate availability and accessibility of the specialized SPA services across the entire State as needed;
  - (5) Maintain up-to-date credentialing of specialized SPA service providers, with special emphasis on more non-traditional or unlicensed provider types; (e.g. expressive and experiential behavioral services, peer to peer services, care coordination, intensive in-home services) to assure that providers continuously meet the qualifications, certifications, and other standards for participation set forth in the SPA;
  - (6) As previously referenced in Section 3.2.3 Authorization and Utilization Management, jointly determine with the CSAs, medical eligibility for admission using the Needs Based Eligibility criteria described in the approved SPA and regulations that govern it;
  - (7) Review and authorize requests for specialized SPA services using medical necessity criteria developed by the Department;
  - (8) Assure that the Plans of Care for each individual SPA recipient reflect all behavioral health services authorized not just specialized SPA services listed above, and develop a mechanism to assure that individual participants are actively engaged in mental health treatment with a licensed mental health professional as required for a condition of enrollment by the SPA;
  - (9) As previously referenced in Section 3.2.3 Authorization and Utilization Management, conduct on site compliance audits of the specialized SPA providers consistent with the requirements of CMS and the policies of the DHMH Waiver Quality Council;
  - (10) Audit, as necessary, every specialized provider consistent with CMS policy on other home and community based waivers;
  - (11) Process all claims for SPA services consistent with policies set forth for all Medicaid claims elsewhere in this RFP; and
  - (12) As previously referenced in Section 3.2.6 Quality Management & Evaluation participate in the discovery, implementation, and corrective action processes of the SPA Quality Assurance Plan when appropriate, including the receipt, clinical response, data aggregation, and development of reports of Reportable Events submitted concerning individuals enrolled in the SPA consistent with the DHMH Reportable Events Policy.

### **3.2.10.8 Health Home State Plan Amendment (Medicaid)**

In State fiscal year 2014, CMS approved Maryland's SPA to initiate a Health Home, as established under Section 2703 of the Affordable Care Act. The focus of the health home initiative will be reducing avoidable hospitalizations and ER visits, while simultaneously improving somatic and behavioral health outcomes. The program will target three populations with serious chronic health needs. This includes individuals with SPMI, children with SED, and individuals diagnosed with an opioid substance use disorder and at risk for an additional chronic condition. The risk factors include current tobacco, alcohol, or other non-opioid substance use, or a history of tobacco, alcohol, or other non-opioid dependence. Several behavioral health provider types will serve as Health Homes, including psychiatric rehabilitation programs, mobile treatment providers, and opioid treatment programs. The Health Home will be paid a per-member, per month flat fee. All Health Home participants will have access to all services that are a part of the regular public behavioral health system, as well as the somatic health system.

- (a) The Health Home Program will be administered by the Department. All deliverables are required as part of the ongoing implementation and management of this initiative.
- (b) Deliverables Related to This Initiative -The Contractor shall:
  - (1) Be thoroughly familiar with the Health Home, its amendments and the regulations which sets forth processes for delivering and obtaining related services;
  - (2) Review claims data to identify potentially-eligible participants who could benefit from Health Home services, including individuals with a qualifying diagnosis who experience frequent emergency department usage, hospitalization, or increases in level of care.
  - (3) Assist the Department in the identification, outreach, and referral of potential participants among their own participants;
  - (4) Upon obtaining participant consent, refer individuals to a Health Home near their residence, at which point the Health Home may outreach to participant directly;
  - (5) Assist the Department in monitoring Health Home providers to ensure their services meet Maryland's Health Home standards as well as CMS' Health Home core functional requirements stated above.
  - (6) Conduct oversight activities, which may include medical chart and care management record review, site audits, and team composition analysis;
  - (7) Assist the Department in collecting and evaluating data regarding emergency department utilization and hospital admissions among Health Home participants to determine the effectiveness of the program in reducing avoidable hospital usage; and
  - (8) Assist the Department in publicizing provider training and education opportunities for Health Home providers, such as webinars, regional meetings, and/or training sessions to foster shared learning, information sharing, and problem solving.

**3.2.10.9 Avatar Project (Non-Medicaid)**

The Avatar project is designed to provide clinical services to participants via an online virtual world environment, similar to that used in computer gaming, whereby the participant and clinician both create an avatar, who then participate in clinical services, such as group and individual counseling, and recovery support services, such as self-help group meetings. This online method creates an immersive experience equal to, and potentially better than that which is accessed in a physical office or treatment center. It also provides access to services for many who may not be able to access services otherwise due to physical handicaps, transportation, stigma, or other barriers to seeking services. The increased access, anonymity and safety created by the use of this online method of service delivery results in improved engagement and retention for the participants.

- (a) The Contractor shall become thoroughly familiar with the unique aspects of the Avatar project;
- (b) The Contractor shall register and track participants utilizing this service;
- (c) The Contractor shall develop and provide customized data reports for the project that identify Avatar patients separately, and enable the Department to measure outcomes compared to traditional patients, cost compared to traditional patients, demographics compared to traditional patients, and other specialized reports as requested.

**3.2.10.10 Access to Recovery Grant**

- (a) The Contractor shall become thoroughly familiar with the Access to Recovery grant (RecoveryNet), specifically as it relates to required data collection and provider voucher reimbursement requirements;
- (b) The Contractor shall manage the Department's RecoveryNet program data collection and accounts payable operations and provide limited fiscal reporting, including the following:
  - (1) Collection of participant and provider data elements from providers as required by the grant;
  - (2) Payment of RecoveryNet vouchers to approved providers, in accordance with voucher reimbursement requirements;

- (3) Uploading data to SAMHSA in the manner prescribed by conditions of grant award;
- (4) Making payments as a cosignatory with the BHA Fiscal Officer from a Department M and T Bank account established for the purpose of payment of vouchers and participant invoices for services rendered for the RecoveryNet Program; and
- (5) Address and resolve payment issues in a timely manner.

### **3.2.10.10 Pre-Admission Screening and Resident Review**

The PASRR process ensures that individuals with mental illness or mental retardation are not inappropriately placed in nursing facilities. A preadmission screening (Level I screen) for mental illness or mental retardation is typically completed by a hospital or nursing facility. If an individual is identified as having a mental illness, a Level II evaluation is completed by the Adult Evaluation and Review Services (AERS), and a recommendation is provided. The State Mental Health Authority is responsible for reviewing the Level I screen and Level II recommendation and determining if admission to a nursing facility is appropriate. In Calendar Year 2012 the State Mental Health Authority reviewed 287 PASRR requests for more information on the PASRR see this link:

<https://mmcp.dhmdh.maryland.gov/longtermcare/SitePages/Nursing%20Home%20Services.aspx>

The Contractor shall:

- (a) Following the requirements of 42 CFR Part 483 and the Department's policy, review PASRR requests, including Level I screens and Level II recommendations, and complete the State Mental Health Authority's PASRR determination within 3 business days of a completed request.
- (b) Communicate the determination to AERS, and requesting facility.
- (c) Employ staff to perform this function who are licensed health care professionals with documented professional experience within behavioral health, somatic health, or long-term care settings and who possess the following requisite knowledge, skills, and abilities:
  - (1) Demonstrated proficiency in the identification and recognition of complex symptoms and the differential diagnoses of behavioral health disorders, somatic illnesses, organic disorders, and dementia;
  - (2) Demonstrated ability to assess and evaluate the relative impact and interrelationship of comorbid somatic and behavioral health conditions on the individual's ability to function within community-based or long-term care settings and to engage in chronic disease self-management; and
  - (3) Ability to interpret and apply Federal Regulation requirements regarding the PASRR process.

### **3.2.10.11 Projects in Planning Stages**

- (a) Medicaid Reimbursement for Peer Support. The Department convened a Policy Academy in 2013 with the goal of expanding recovery support services in Maryland, and obtaining approval for Medicaid Reimbursement for providing Certified Peer Support Services.
- (b) Medicaid Special Authority for Services for Youth and Young Adults of Transition Age. Maryland commenced a federally funded demonstration project in late 2009 with the objective of developing a specialized service model for youth and young adults between the ages of 16 and 26 years old who have psychiatric disorders and are moving from the adolescent care system into adulthood, with or without the support of family members. The model developed includes a specialized form of care coordination called "transition facilitation", combined with access to traditional services in addition to evidence-based Supported Employment services and Assertive Community Treatment when needed. Additional components of the model include young adult peer support and access to a small participant directed program of customized goods and services. In order to sustain and refine the model developed in the initial "Healthy Transitions Initiative" demonstration project at the end of federal support in 2014, the BHA has identified a need to develop a SPA or other specialized funding authority to deliver and expand these innovative services through the Medicaid Program.

In addition to the above referenced demonstration project, a number of other specialized providers have historically been funded by the BHA around the State and the unique issues of these programs need to be considered in behavioral health care reform.

It is anticipated that the provisions of the ACA will increase the number of young adults who are covered by health insurance in general and by Medicaid in particular. Among the latter group are included young adults exiting the State's child welfare foster care system and the provision that extends their eligibility to Medicaid to age 26. Data on this child welfare sub-population suggest clear patterns of very high utilization of behavioral health care, a fact that is also true to a lesser extent for all young adults in this age group.

(d) The Department is interested in promoting promising practices through use of technology:

The Contractor shall provide a plan describing how it will work with the Department in the identification and evaluation of proven and promising technological methodologies that would support the operation and success of a recovery oriented behavioral health system. Potential technology applications may include, but not be limited to, email, text messaging, social media applications such as Facebook and Twitter, specialized web portals such as chat rooms, and secure therapeutic networks. Activities to be supported by these technologies should include, but not be limited to, information dissemination, consumer and family help and support, appointment reminder, activity reminder and monitoring, medication reminder and monitoring, on-line personal health and advanced directive applications, and therapeutic telemedicine services.

The Contractor shall also work with the Department in the process of facilitating and providing incentives for the procurement and utilization of electronic health records by the provider community, including the electronic exchange of registration, authorization, and other required data streams.

(e) Deliverables Related to these Special Projects - The Contractor shall:

- (1) Provide a designated coordinator to these projects as previously outlined in 3.2.5 Contractor Staffing Requirements to work with the Department in all aspects of design and implementation of these special projects;
- (2) Be thoroughly familiar with the issues involved in providing behavioral health services to these projects and assist all providers serving these populations; and
- (3) Develop customized data runs to track utilization trends both for these special demonstration projects and to support service improvement for these populations system-wide.

### **3.2.11 Contract Transition**

The Contractor shall work cooperatively with the Department and a new contractor at both the beginning and end of this Contract to ensure an efficient and timely transition of contract responsibilities with minimal disruption of service to participants and providers.

#### **3.2.11.1 Beginning of Contract Transition**

The Contractor shall work cooperatively with the Department and the previous contractor at the beginning of this Contract to ensure an efficient and timely transition of contract responsibilities with minimal disruption of service to participants and providers.

The Contractor shall:

- (a) Review with DHMH all functional specifications before system implementation, including, but not limited to, authorizations, OMS, DORS, Ticket to Work, , data reporting, rates according to DHMH service matrix, and claims payment;
- (b) Prior to the implementation of the contract, develop a streamlined credentialing process, to facilitate enrollment for providers rendering services to Medicaid participants;

- (c) During the pre-transition phase receive from the Department, using Connect:Direct (see Exhibit 7), a Department-approved provider network file that contains all behavioral health providers enrolled with the Department;
- (d) During the pre-transition phase receive eligibility data from the Department from Medicaid and uninsured eligibility information from the prior BH ASO;
- (e) Provide a description of its process to implement the new Contract that assures participants will continue to receive services uninterrupted and providers will be paid according to current payment schedule, including transition procedures with the existing vendor and DHMH for the exchange of authorization and claims payment information, eligibility files, data, ad hoc reports, audit reports, federal fund collections;
- (f) Manage and continue the existing authorizations (including inpatient) from the previous Contractor and MCOs until the authorization period is exhausted, and perform concurrent reviews as needed;
- (g) Perform full testing and approval by DHMH of the authorization system prior to the Go-Live date;
- (h) Develop a detailed timetable that includes enhanced staffing during start-up phase, system changes to reflect Maryland's requirements for provider enrollment, authorization of services, data, and identification of required information and decisions needed from the State, to successfully transition and start up the new contract;
- (i) After DHMH approval, at least 60 days prior to start up, communicate to service providers detailing Contractor's system's requirement for authorization and claims payment;
- (j) Establish training programs, both on-site and web-based, for providers to learn of new system requirements;
- (k) In its start-up plan, identify the national and local personnel who will direct and implement the contract with a timeline identifying the amount of and length of time devoted to this contract;
- (l) Manage and resolve any outstanding claims payment, audits, FFP collections, and appeals previously managed by the previous contractor;
- (m) Receive current and historical data that includes authorization, claims, MCO SUD encounter data, case management records, eligibility, FFP, and pharmacy data in a format specified by the Department.

### **3.2.11.2 End of Contract Transition**

- (a) The Contractor shall work cooperatively with the Department and a new contractor at the end of this Contract to ensure an efficient and timely transition of contract responsibilities with minimal disruption of service to participants and providers.
- (b) At least 6 months prior to the scheduled expiration of the contract, the Contractor shall develop and provide to the Department a detailed Full Operations Resources report describing which resources (i.e., systems, software, equipment, materials, staffing, etc.) would be required by the Department and/or another contractor to take over the requirements specified in the RFP/Contract.
- (c) During the exit transition period, which shall begin at least 60 days prior to the last day the Contractor is responsible for the requirements of the contract resulting from this RFP, the Contractor shall work cooperatively with the Department and the new contractor and provide program information and details specified by the Department. Both the program information and the working relationship between the Contractor and the new contractor will be defined by the Department.
- (d) The Contractor shall prepare and submit, within 10 days of notification by the Department, an Exit Transition Plan and Schedule of Activities, which must be approved by the Department, to facilitate the transfer of responsibilities, information, computer systems, software and documentation, and other material-related to the Contract to a new contractor and/or the Department.
- (e) The Contractor shall include in its exit transition plan:
  - a. The Contractor's tasks, subtasks, and schedule for all transition activities;
  - b. An organizational chart and staffing matrix of the Contractors staff (titles, phone, fax) responsible for transition activities;

- c. A detailed explanation of how the Contractor will begin work with a new vendor (if applicable);
- (f) The Contractor shall work cooperatively with the Department and the new contractor to provide Department-authorized information required during this transition period and time frames for submission. The Contractor shall work closely and cooperatively with the Department and the new contractor to transfer appropriate software, hardware, records, telephone numbers and lines, equipment, Post Office Box, and other requirements deemed necessary by the Department.
- (g) The Contractor shall work closely and cooperatively with the Department and the new contractor to ensure uninterrupted and efficient services to participants, providers, and the Department during the transition period.
- (h) The contractor shall provide to the Department all current authorizations, current claims payment or MCO encounter data, FFP status reports, current case management records, summaries of active audits and appeals, current eligibility files, and current and historical data files.
- (i) The Contractor shall provide a crosswalk to translate any vendor specific codes, including, but not limited to, rates, provider identification and type, service categories.
- (j) The Contractor shall provide written technical descriptions for the methodology used to develop reports, the field, as well as the programming codes used in the reports.
- (k) The Contractor shall make descriptions and definitions available in terms that are easily understood and in user-friendly formats.
- (l) The Contractor shall be available beyond the termination of this contract for the defense of any services performed as part of this RFP including providing documents and witnesses. These services shall be provided at no additional cost.

### **3.2.12 Liquidated Damages and Performance Standards**

(a) Implementation:

If the Contractor does not meet the Go-Live date, the Contractor shall, in lieu of actual damages, pay the Department as fixed, agreed and liquidated damages the amount of \$25,000 per calendar day from the Go-Live date until the Contractor becomes operational to the point of service where 837/835 files, eligibility files, and provider files are accepted for operations and claims payment, priority reports, bank and financial reports are available. The liquidated damages assessed under this paragraph (a) shall be deducted from the current month's Service Fee.

(b) Downtime:

If the system goes down for any amount of time, the Contractor shall, in lieu of actual damages, pay the Department as fixed, agreed and liquidated damages the amount of \$1000 per downtime occurrence, up to a daily maximum of four occurrences and \$4,000. Any single occurrence that exceeds four hours will be assessed the daily maximum. The liquidated damages for downtime occurrences shall be deducted from the current month's Service Fee. In addition, if the system falls below 99.50% availability the following liquidated damages will occur:

- (1) Beginning on the Go-Live date, and with respect solely to Technical Solution components in Contractors direct control, availability of the Technical Solution each month will be 99.50% ("Availability") where, for purposes of this contract:

“Availability” means an end user is able to access the operating-system and Contractor-supported application layers of the Technical Solution via Contractor-managed web servers, web/application servers, and/or database servers in accordance with the Technical Solution. In addition, Remittance Advice (RA) files shall be available to the end user. The most current RA file shall be available by 6:00 a.m. each Monday morning via the Contractor-managed web servers, web/application servers, and/or database servers. Availability is calculated per month by formula:

$$x = \frac{(n - y) * 100}{n}$$

- x = Availability percentage
- n = total hours per calendar month
- y = hours the Technical Solution was not available solely because of an act or omission by Contractor.

- (2) The calculation of “y” excludes lack of Availability:
  - (a) Caused by ISDN-connectivity testing that Contractor periodically conducts;
  - (b) Caused by the application and testing of corrective releases, workarounds, or customizations initiated by DHMH;
  - (c) Caused by improperly formatted or configured RA files and/or invalid data in the RA files;
  - (d) Caused by hardware failures on either or both of the DHMH-provided routers; and
  - (e) During Contractor Maintenance Windows, which are defined as the period on Sundays between 2:00 a.m. and 8:00 a.m., EST. The Contractor shall get prior written approval, such approval not to be unreasonably withheld, from the Department should any downtime be required during the Scheduled Maintenance window.
- (3) “Technical Solution components in Contractor’s direct control” is limited to:
  - a. Contractor-provided database and application server software applications;
  - b. Contractor-provided hardware;
  - c. DHMH-provided hardware that is supported by Contractor;
  - d. Connectivity between the Contractor network and the ISP circuit termination point on router at Contractor; and
  - e. Connectivity between the Contractor network and State’s Local Exchange Carrier (LEC), but not connectivity between router on DHMH premises and the LEC.
- (4) If Contractor fails to meet the Availability specified in subsections (1) – (3), above, DHMH’s remedy will be a deduction from the ensuing month’s Service Fee in accordance with the following percentages:

AVAILABILITY	DEDUCTION
<99.50 to 95.00%	5%
<95.00 to 90.00%	10%
<90.00%	15%

The Deduction shall not be less than the Prorated Amount computed as:

$$x = (r / n) * y$$

x = Prorated Amount

r = monthly rate

n = total hours per calendar month

y = hours the technical solution was not available as detailed above

- (c) Liquidated Damages for failure to satisfy-Performance Standards: The Contractor shall submit reports with the monthly invoice detailing the measurements for the month against the performance standards in this

paragraph by the 15<sup>th</sup> of the following month. For any month in which the Contractor fails to meet one or more of the performance standards, the Contractor shall, in lieu of actual damages, pay the Department as fixed, agreed and liquidated damages the amount of 0.5% of the monthly invoice for each standard not met. The liquidated damages shall be a deduction from the ensuing month's Service Fee.

Section	Standard	Measurement	Damages
3.2.1.1	Enter behavioral health individual providers through eMedicaid within 3 business days (See EXHIBIT 7: Connectivity to DHMH File Exchange System) and maintain provider network data in the Program's Medicaid Management Information System (MMIS).  For behavioral health providers requiring site visits (EXHIBIT 2: Medicaid Provider Enrollment BH Site Visit Matrix), enroll provider into MMIS within 3 business days with a pending status and forward the application to Medicaid to perform the site visit and Medicaid will complete enrollment process.	100% of providers are registered within 3 business days	0.5% of monthly administrative service fees
3.2.1.1	For Non-Medicaid providers, process the registration application of any OHCQ licensed, certified, or approved provider, within thirty (30) calendar days of receipt of the completed registration application and all supporting documentation; verify that the provider meets the appropriate qualifications and assurances for the type of service applied for.	100% of Non-Medicaid providers are registered within 30 calendar days of receipt of completed registration	0.5% of monthly administrative service fees
3.2.3.1 and 3.2.4.1	Operate a toll free Authorization telephone number that providers and participants can access 8am to 6pm. Additionally, the Contractor shall have the capacity to process inpatient authorization requests 24 hours per day, 7 days per week. The staffing of this line should be such that 95% of all calls must be answered within 3 rings or 15 seconds or less, a call pick up system which places the call in a queue may be used (answering machines, recorded messages and busy signals are not acceptable) and has less than a 3% abandoned call rate. For 95% of the incoming calls, the on hold time standard is 95% of 2 minutes or less.	100% of call center operations meet the associated standard	0.5% of monthly administrative service fees
3.2.4.2	Maintain sufficient staff trained to investigate and resolve all grievances within the following time frames: Urgent, clinical issues: within 24 hours of receipt or by the close of the next business day; Non-urgent clinical issues: within 5 days of receipt; Non-clinical issues: within 30 days of receipt.	100% of grievances meet the associated standard	0.5% of monthly administrative service fees
3.2.5.1	The Contractor shall at all times maintain staffing levels at 90 percent of the proposed staffing plan set forth in the proposal. If the contract necessitates lower staff levels, the Contractor may request a modified staffing plan for Departmental approval.	Monthly, 100% of the associated standard that staffing levels are met	0.5% of monthly administrative service fees

3.2.8.1	Provide all safeguards to prohibit unnecessary and inappropriate submission of duplicate claims, e.g., each submission instantaneously becomes part of a participant's payment history; Within two working days of receipt of an electronic claim lacking sufficient information to process, return the claim to the provider that submitted it with an explanation of the reason that the claim was returned; Receive and utilize the eligibility decision date in the adjudication of claims for retroactively- eligible participants so that a claim meets the timely filing limits if the claim is submitted within 12 months of the decision date or notice of eligibility.	100% of claims meet the associated standard listed in this line item	0.5% of monthly administrative service fees
3.2.8.1	Process 100 percent of electronic claims within 14 calendar days of receipt.	100% of the associated standard to process electronic claims	0.5% of monthly administrative service fees
3.2.8.1	Electronically submit paid claims to MMIS within seven working days of the date the claim was paid by the Contractor.	100% of the associated standard to submit paid claims to MMIS	0.5% of monthly administrative service fees
3.2.8.1	Electronically retrieve and process weekly payment advice file from Department and report any differences within 5 business days from the time the 835 file is made available.	100% of the associated standard for payment advice	0.5% of monthly administrative service fees
3.2.8	Receives data daily from the MMIS that includes, but is not limited to, MA eligibility files, provider files, electronic FFS billing files, and claims files.	100% of the associated standard daily receipt of data from MMIS	0.5% of monthly administrative service fees

(d) Liquidated Damages for Failure to Satisfy Outcome Based Standards:

Beginning in year 3, the Department will employ the use of HEDIS measures for outcome performance. HEDIS allows for standardized measurement; standardized reporting; and accurate, objective side-by-side comparisons. The results for Maryland can be compared to the HEDIS measures for other states.

Starting in the eighteenth month following the Go-Live date, the Contractor shall submit reports with the monthly invoice detailing the measurements for the month against the seven outcome standards in the following table. After 24 months, the average for each outcome standard shall be established for year two. Similar averages shall be established for year three and any option year.

It is expected that for each measure, the population will fall at or above the referenced HEDIS measurement. In any year in which the Contractor fails to meet one or more of the outcome standards, the Contractor shall, in lieu of actual damages, pay the Department as fixed, agreed and liquidated damages the amount of .0714% of the invoice amounts for the preceding twelve months for each outcome standard not met. In this way, the liquidated damages amount is capped at .5% of the total Contract. The liquidated damage amount shall be a deduction from the ensuing month's Service Fee.

Type	Standard	Measurement
State Specific	The percentage of people in the specialty behavioral health system who have a PCP visit within a year.	70%

HEDIS	Adherence to Antipsychotic Medications for Individuals With Schizophrenia (SAA).	50 <sup>th</sup> percentile
HEDIS	Follow-Up Care for Children Prescribed ADHD Medication (ADD).	50 <sup>th</sup> percentile
HEDIS	Antidepressant Medication Management (AMM).	50 <sup>th</sup> percentile
HEDIS	Plan All-Cause Readmission * This measure will be available in HEDIS 2015	50 <sup>th</sup> percentile
HEDIS	Mental Health Utilization – Inpatient Utilization	50 <sup>th</sup> percentile
HEDIS	Initiation and Engagement of Alcohol and Other Drug Dependence Treatment	50 <sup>th</sup> percentile

- (e) **Liquidated Damages For Failure to Deliver RCA or CAP.** If the Contractor fails to deliver a RCA within 3 business days of the start of the occurrence, the Contractor shall, in lieu of actual damages, pay the Department as fixed, agreed and liquidated damages the amount of \$500 per calendar day until the RCA is delivered. Additionally, if the Contractor fails to deliver a CAP within 3 business days of the request from the Department, the Contractor shall, in lieu of actual damages, pay the Department as fixed, agreed and liquidated damages the sum of \$500 per calendar day until the CAP is delivered. The liquidated damages under this paragraph (e) shall be deducted from the current month's Service Fee.

Note: The liquidated damages provided for in this section are cumulative. Additionally, the liquidated damages are in addition to and not in substitution for DHMH's other rights under the contract, including the right to terminate the contract.

### **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](http://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 \$1,000,000 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 recommendation for Contract award, 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 listed as an additional insured on the policies with the exception of Worker's Compensation Insurance and Professional Liability Insurance. 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:

Invoices are due by the 15th of the month following the month in which services were performed.

## 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.

## 3.9 SOC 2 Type II Audit Report

The Contractor shall have an annual audit performed by an independent audit firm of its handling of the Department's critical functions and/or sensitive information, which is identified as IT systems that communicate or process Protected Health Information or Personally Identifiable Information pursuant to the policy requirements in the current agency Information Security Policies (collectively referred to as the "Information Functions and/or Processes"). Such audits shall be performed in accordance with audit guidance: *Reporting on Controls at a Service Organization Relevant to Security, Availability, Processing Integrity, Confidentiality, or Privacy (SOC 2)* as published by the American Institute of Certified Public Accountants (AICPA) and as updated from time to time, or according to the most current audit guidance promulgated by the AICPA or similarly-recognized professional organization, as agreed to by the Department, to assess the security of outsourced client functions or data (collectively, the "Guidance") as follows:

- i. The type of audit to be performed in accordance with the Guidance is a SOC 2 Type II Report. The SOC 2 Report shall be completed annually at the following intervals: Reports to be completed 18 months from the contract start date to cover the first 12 months and every 12 months thereafter.
- ii. The SOC 2 Report shall report on a description of the Contractor's system and the suitability of the design and operating effectiveness of controls of the Information Functions and/or Processes relevant to the following trust principles: Confidentiality, Integrity, Availability and Auditability in accordance with agency Information Security Policies (<http://doit.maryland.gov/support/Pages/SecurityPolicies.aspx>) and in conformance with generally acceptable information security practices and promulgated by the National Institutes of Science Technology (NIST) information security body of work.
- iii. The SOC 2 Report shall include work performed by subcontractors that provide essential support to the Contractor for the Information Functions and/or Processes for the services provided to the Department under the Contract. The Contractor shall ensure the performance of the SOC 2 Audits includes its subcontractor(s).
- iv. All SOC 2 Audits, including the SOC 2 Audits of Contractor's subcontractors, shall be performed at the Contractor's expense.
- v. The Contractor shall promptly provide a complete copy of the final SOC 2 Report to the Department's Contract Manager upon completion of each SOC 2 Audit engagement.
- vi. The Contractor shall provide to the Department's Contract Manager, within 30 calendar days of the issuance of the final SOC 2 Report, a documented corrective action plan which addresses each audit finding or exception contained in the SOC 2 Report. The corrective action plan shall identify in detail the remedial action to be taken by the Contractor along with the date(s) when each remedial action is to be implemented.
- vii. If the Contractor currently has an annual information security assessment performed that includes the operations, systems, and repositories of the Information Functions and/or Processes services being provided by the Contractor to the Department under the Contract, and if that assessment generally conforms to the content and objective of the Guidance, the Department will determine in consultation with appropriate State government technology and audit authorities whether the Contractor's current audits are acceptable in lieu of the SOC 2 Report(s).
- viii. If the Contractor fails during the Contract term to obtain an annual SOC 2 Report by March 1 for the preceding calendar year, the Department shall have the right to retain an independent audit firm to perform an audit engagement to issue a SOC 2 Report of the Information Functions and/or Processes being hosted by the Contractor. The Contractor agrees to allow the independent audit firm to access its facility/ies for purposes of conducting this audit engagement(s), and provide reasonable support to the independent audit firm in the performance of the engagement. The Department will invoice the Contractor for the expense of the SOC 2 Audit(s), or deduct the cost from future payments to the Contractor.

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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. It is preferred, but not required, that the name, email address, and telephone number of the Offeror be included on the outside of the packaging for each volume. Each Volume shall contain an unbound original, so identified, and four (4) copies. Unless the resulting package will be too unwieldy, the State’s preference is for the two (2) sealed Volumes to be submitted together in a single package including a label bearing:

- The RFP title and number,
- Name and address of the Offeror, and
- Closing date and time for receipt of Proposals

To the Procurement Officer (see Section 1.5) 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 or DVD)) of the Technical Proposal in Microsoft Word format must be enclosed with the original Technical Proposal. An electronic version (CD or DVD) of the Financial Proposal in Microsoft Word or Microsoft Excel format must be enclosed with the original Financial Proposal. CD/DVDs must be labeled on the outside with the RFP title and number, name of the Offeror, and volume number. CD/DVDs 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 or DVD 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**

Offerors may either mail or hand-deliver Proposals.

4.3.1 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, four (4) copies, and the electronic version shall be provided. The RFP sections are numbered for ease of reference. Section 4.4.2 sets forth the order of information to be provided in the Technical Proposal, e.g., Section 4.4.2.1 “Title and Table of Contents,” Section 4.4.2.2 “Claim of Confidentiality,” Section 4.4.2.3 “Transmittal Letter,” Section 4.4.2.4 “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 (see RFP Section 5.1) to “map” Offeror responses directly to RFP requirements by Section number and will aid in the evaluation process.

**4.4.2 The Technical Proposal** shall include the following documents and information in the order specified as follows. Each section of the Technical Proposal shall be separated by a TAB as detailed below:

#### **4.4.2.1 Title Page and Table of Contents (Submit under TAB A)**

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.

#### **4.4.2.2 Claim of Confidentiality (If applicable, submit under TAB A-1)**

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”). The entire Proposal cannot be given a blanket confidentiality designation. Any confidentiality designation must apply to specific sections, pages, or portions of pages of the Proposal.

#### **4.4.2.3 Transmittal Letter (Submit under TAB B)**

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 and address of the Offeror;
- Name, title, e-mail address, and telephone number of primary contact for the Offeror;
- Solicitation Title and Solicitation Number that the Proposal is in response to;

- Signature, typed name, and title of an individual authorized to commit the Offeror to its Proposal;
- Federal Employer Identification Number (FEIN) of the Offeror, or if a single individual, that individual’s 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 4.4.2.4); and
- Acknowledgement of all addenda to this RFP.

**4.4.2.4 Executive Summary (Submit under TAB C)**

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) for which the Offeror is proposing to provide services (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.

**4.4.2.5 Minimum Qualifications Documentation (If applicable, Submit under TAB D)**

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

**4.4.2.6 Offeror Technical Response to RFP Requirements and Proposed Work Plan (Submit under TAB E)**

- a. The Offeror shall address each Scope of Work requirement (Section 3.2) in its Technical Proposal and describe how its proposed services, including the services of any proposed subcontractor(s), 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, e.g., a Work Plan. The Work Plan 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) from 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. The Offeror shall give a definite description of the proposed pre and post contract transition plan. The transition plan shall include specific methodology and contract timelines and deliverables for both pre and post contract transition.
- f. The Offeror shall include a detailed disaster recovery plan.

#### **4.4.2.7 Experience and Qualifications of Proposed Staff (Submit under TAB F)**

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, including any staff of proposed subcontractor(s), as detailed in the Work Plan. The Offeror shall include individual resumes for the key personnel, including key personnel for any proposed subcontractor(s), 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 letters from any proposed subcontractor(s), shall be included in this section.

The Offeror shall 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.

#### **4.4.2.8 Offeror Qualifications and Capabilities (Submit under TAB G)**

The Offeror shall include information on past 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 headquarters or regional management personnel who may be involved with supervising the services to be performed under this Contract;
- d. The Offeror's process for resolving billing errors; and
- e. An organizational chart that identifies the complete structure of the Offeror including any parent company, headquarters, regional offices, and subsidiaries of the Offeror.

#### **4.4.2.9 References (Submit under TAB H)**

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.

#### **4.4.2.10 List of Current or Prior State Contracts (Submit under TAB I)**

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.

#### **4.4.2.11 Financial Capability (Submit under TAB J)**

An Offeror must include in its Proposal a commonly-accepted method to prove its fiscal integrity. If available the Offeror shall include Financial Statements, preferably a Profit and Loss (P&L) statement 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.

#### **4.4.2.12 Certificate of Insurance (Submit under TAB K)**

The Offeror shall provide a copy of its current certificate of insurance showing the types and limits of insurance in effect as of the Proposal submission date. The current insurance types and limits do not have to be the same as described in Section 3.4. See Section 5.6 for the required insurance certificate submission for the recommended Offeror.

#### **4.4.2.13 Subcontractors (Submit under TAB L)**

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. See Section 4.4.2.6 and 4.4.2.7 for additional Offeror requirements related to Subcontractors.

#### **4.4.2.14 Legal Action Summary (Submit under TAB M)**

This summary shall include:

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

#### **4.4.2.15 Economic Benefit Factors (Submit under TAB N)**

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. See COMAR 21.05.03.03A(3).

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 Offeror 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.

#### **4.4.3 Additional Required Technical Submissions (Submit under TAB O)**

**4.4.3.1** The following documents shall be completed, signed, and included in the Technical Proposal, under TAB O that follows the material submitted in response to Section 4.4.2.

- a. Completed Bid/Proposal Affidavit (**Attachment B**).
- b. Completed Maryland Living Wage Requirements Affidavit of Agreement (**Attachment G-1**).

**4.4.3.2** **\*If Required**, the following documents shall be completed, signed, and included in the Technical Proposal, under TAB O that follows the material submitted in response to Section 4.4.2. \*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**.
- f. Completed Location of the Performance of Services Disclosure (**Attachment N**) \*see **Section 1.42**.

<b>4.5 Volume II – Financial Proposal</b>
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Under separate sealed cover from the Technical Proposal and clearly identified in the format identified in Section 4.2 “Proposals,” the Offeror shall submit an original unbound copy, four (4) copies, and an electronic version in Microsoft Word or Microsoft Excel 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.

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

### **5.1 Evaluation Committee**

Evaluation of Proposals will be performed in accordance with COMAR 21.05.03 by a committee established for that purpose and based on the evaluation criteria set forth below. The Evaluation Committee will review Proposals, participate in Offeror oral presentations and discussions, and provide input to the Procurement Officer. The Department reserves the right to utilize the services of individuals outside of the established Evaluation Committee for advice and assistance, as deemed appropriate.

### **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 Offeror’s Technical Response to RFP Requirements and Work Plan (See RFP § 4.4.2.6)**

The State prefers an Offeror’s response to work requirements in the RFP that illustrates a comprehensive understanding of work requirements and mastery of the subject matter, including an explanation of how the work will be done. Proposals which include limited responses to work requirements such as “concur” or “will comply” will receive a lower ranking than those Proposals that demonstrate an understanding of the work requirements and include plans to meet or exceed them.

#### **5.2.2 Experience and Qualifications of Proposed Staff (See RFP § 4.4.2.7)**

#### **5.2.3 Offeror Qualifications and Capabilities, including proposed Subcontractors (See RFP § 4.4.2.8 – 4.4.2.14)**

#### **5.2.4 Economic Benefit to State of Maryland (See RFP § 4.4.2.15)**

### **5.3 Financial Proposal Evaluation Criteria**

All Qualified Offerors (see Section 5.5.2.4) will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on the Total Proposal 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 (e.g., 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. Technical 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 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 most advantageous Proposal 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, signed if applicable with original signatures, and submitted by the recommended awardee within five (5) Business Days, unless noted otherwise. Submit three (3) copies of each of the following documents:

- a. Contract (**Attachment A**),
- b. Contract Affidavit (**Attachment C**),
- c. MBE **Attachments D-2 and D-3**, within ten (10) Working Days, if applicable; \*see **Section 1.33**,
- d. MBE Waiver Justification within ten (10) Working Days, usually including **Attachment D-6**, if a waiver has been requested (if applicable; \*see **Section 1.33**),
- e. Non-Disclosure Agreement (**Attachment J**), if applicable; \*see **Section 1.37**,
- f. HIPAA Business Associate Agreement (**Attachment K**), if applicable; \*see **Section 1.38**,
- g. VSBE **Attachments M-2 and M-3**, if applicable \*see **Section 1.41**,
- h. DHR Hiring Agreement, **Attachment O**, if applicable \*see **Section 1.43**, and
- i. copy of a current Certificate of Insurance with the prescribed limits set forth in Section 3.4 “Insurance Requirements,” listing the State as an additional insured, if applicable; \*see **Section 3.4**.

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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, usually 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 in the Financial Proposal package.

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

Attachment G-1 Living Wage Affidavit of Agreement 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 – Location of the Performance of Services Disclosure**

If required (see Section 1.42), this Attachment must be completed and submitted with the Technical Proposal.

**ATTACHMENT O – Department of Human Resources (DHR) Hiring Agreement**

If required (see Section 1.43), this Attachment is to be completed and submitted within five (5) Business Days of receiving notification of recommendation for award.

**Administrative Services Organization for Maryland Public Behavioral Health System**

THIS CONTRACT (the “Contract”) is made this (“X<sup>th</sup>”) 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 Administrative Service Organization (Contractor) for Maryland’s Public Behavioral Health System 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 (Technical and Financial)

- 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 term of this Contract begins on the date the Contract is signed by the Department following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required. The Contractor shall provide services under this Contract as of the Go-Live date contained in the written Notice to Proceed. From this Go-Live date, the Contract shall be for a period of approximately three years beginning January 1, 2015 and ending on December 31, 2017
- 3.2 Further, this Contract may be extended for two periods of one year each at the sole discretion of the Department and at the prices quoted in the Financial Proposal for Option Years.
- 3.3 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.

10.2 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.

10.3 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.

10.4 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.

10.5 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.

10.6 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 Procurement Officer, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Procurement Officer 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 and Procurement Officer**

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: Michael Howard, CPPB  
Procurement Officer  
Maryland Department of Health and Mental Hygiene  
Office of Procurement and Support Services  
201 West Preston Street, Room 416B  
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 O). 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.

### **39. Liquidated Damages**

- 39.1 The Contract requires the Contractor to make good faith efforts to comply with the Minority Business Enterprise (“MBE”) Program and Contract provisions. The State and the Contractor acknowledge and agree that the State will incur economic damages and losses, including, but not limited to, loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources, if the Contractor does not make good faith efforts to comply with the requirements of the MBE Program and pertinent MBE Contract provisions. The parties further acknowledge and agree that the damages the State might reasonably be anticipated to accrue as a result of such lack of compliance are difficult or impossible to ascertain with precision and that liquidated damages represent a fair, reasonable, and appropriate estimation of damages.

Upon a determination by the State that the Contractor failed to make good faith efforts to comply with one or more of the specified MBE Program requirements or pertinent MBE Contract provisions and without the State being required to present any evidence of the amount or character of actual damages sustained, the Contractor agrees to pay liquidated damages to the State at the rates set forth below. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty. The Contractor expressly agrees that the State may withhold payment on any invoices as an offset against liquidated damages owed. The Contractor further agrees that for each specified violation, the agreed-upon liquidated damages are reasonably proximate to the loss the State is anticipated to incur as a result of each violation.

- 39.1.1 Failure to submit each monthly payment report in full compliance with COMAR 21.11.03.13B(3):

\$ 35.00 per day until the monthly report is submitted as required.

39.1.2 Failure to include in its agreements with MBE subcontractors a provision requiring submission of payment reports in full compliance with COMAR 21.11.03.13B(4): \$90.00 per MBE subcontractor.

39.1.3 Failure to comply with COMAR 21.11.03.12 in terminating, canceling, or changing the scope of work/value of a contract with an MBE subcontractor and/or amendment of the MBE participation schedule: the difference between the dollar value of the MBE participation commitment on the MBE participation schedule for that specific MBE firm and the dollar value of the work performed by that MBE firm for the Contract.

39.1.4 Failure to meet the Contractor's total MBE participation goal and subgoal commitments: the difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually achieved.

39.1.5 Failure to promptly pay all undisputed amounts to a subcontractor in full compliance with the prompt payment provisions of the Contract: \$100.00 per day until the undisputed amount due to the MBE subcontractor is paid.

39.2 Notwithstanding the assessment or availability of liquidated damages, the State reserves the right to terminate the Contract and to exercise any and all other rights or remedies which may be available under the Contract or which otherwise may be available at law or in equity.

**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 #)

**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):

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**D. AFFIRMATION REGARDING OTHER CONVICTIONS**

I FURTHER AFFIRM THAT:

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

- (1) Been convicted under state or federal statute of:
  - (a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
  - (b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;
- (2) Been convicted of any criminal violation of a state or federal antitrust statute;
- (3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of Bids/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).

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**F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES**

I FURTHER AFFIRM THAT:

(1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to 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):

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**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. CERTIFICATION REGARDING INVESTMENTS IN IRAN**

(1) The undersigned certifies that, in accordance with State Finance and Procurement Article, §17-705, Annotated Code of Maryland:

(a) It 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 State Finance and Procurement Article, §17-702, Annotated Code of Maryland; and

(b) It is not engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland.

2. The undersigned is unable to make the above certification regarding its investment activities in Iran due to the following activities: \_\_\_\_\_

**L. CONFLICT MINERALS ORIGINATED IN THE DEMOCRATIC REPUBLIC OF CONGO (FOR SUPPLIES AND SERVICES CONTRACTS)**

**I FURTHER AFFIRM THAT:**

The business has complied with the provisions of State Finance and Procurement Article, §14-413, Annotated Code of Maryland governing proper disclosure of certain information regarding conflict minerals originating in the Democratic Republic of Congo or its neighboring countries as required by federal law.

**M. 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**

### **PURPOSE**

The Contractor shall structure its procedures for the performance of the work required in this Contract to attempt to achieve the Minority Business Enterprise (MBE) subcontractor participation goal stated in this solicitation. MBE performance shall be in accordance with this Attachment and as set forth in COMAR 21.11.03. The Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this Attachment.

In order to attempt to meet the MBE subcontractor participation goal using MBE subcontractors, all Bidders/Offerors shall comply with the requirements of COMAR 21.11.03.09 and shall:

- ❑ Identify specific work categories within the scope of the solicitation appropriate for subcontracting;
- ❑ Solicit certified MBEs in writing at least 10 days before Bids or Proposals are due, describing the identified work categories and providing instructions on how to provide a quote on the subcontracts;
- ❑ Attempt to make personal contact with the certified MBEs solicited and to document those attempts;
- ❑ Assist certified MBEs in fulfilling, or seeking a waiver of any bonding requirements; and
- ❑ Attend Pre-Bid/Proposal Conferences or other meetings that the Department schedules to publicize contracting opportunities for certified MBEs.

### **MBE GOAL AND SUB GOALS**

An MBE subcontract participation goal of 18% of the total contract dollar amount has been established for this procurement, as set forth in RFP Section 1.33. The Contractor, including an MBE prime contractor, shall attempt to achieve the MBE subcontracting goal and any subgoals established for this Contract by subcontracting to one or more MDOT-certified MBEs a sufficient portion of the Bidder/Offeror's scope of work that results in total MBE payments that meet or exceed the MBE subcontractor participation goals and, if applicable, subgoals.

### **SOLICITATION AND CONTRACT FORMATION**

◆ A Bidder/Offeror must include with its Bid/Proposal a completed MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1**) whereby:

- (1) the Bidder/Offeror acknowledges the certified MBE subcontractor participation goal and any subgoals, and commits to make a good faith effort to achieve the goal and any subgoals or requests a full or partial waiver, and affirms that MBE subcontractors were treated fairly in the solicitation process; and
- (2) the Bidder/Offeror responds to the expected degree of MBE subcontractor participation as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of Bid/Proposal submission. The Bidder/Offeror shall specify the percentage of contract value associated with each MBE subcontractor identified on the MBE Participation Schedule (**Attachment D-1**).

If the Bidder/Offeror specifies a range for a proposed MBE subcontractor, only the lowest amount in the range can be considered for MBE commitment purposes. Ex: If a range of "5-15%" is proposed for a MBE subcontractor, only "5%" can be considered for purposes of totaling the actual MBE commitment for that particular MBE subcontractor. It is suggested that the Bidder/Offeror provide a specific percentage, and not a percentage range, for each MBE subcontractor proposed.

- (3) **SEPARATE FORMS (ATTACHMENT D-1) ARE REQUIRED FOR EACH SERVICE CATEGORY FOR WHICH A BID/PROPOSAL IS SUBMITTED.**

- ◆ *If a Bidder/Offeror fails to submit a completed **Attachment D-1** with the Bid/Proposal, the Procurement Officer shall deem the Bid non-responsive or shall determine that the Proposal is not reasonably susceptible of being selected for award.*
- ◆ Within 10 Working Days from notification that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee shall provide the following documentation to the Procurement Officer:
  - a) Outreach Efforts Compliance Statement (**Attachment D-2**)
  - b) Subcontractor Project Participation Certification (**Attachment D-3**)
  - c) If the recommended awardee has requested a waiver (in whole or in part) of the overall MBE goal, it shall submit a fully documented waiver request that complies with COMAR 21.11.03.11, and usually the Minority Contractor Unavailability Certificate (**Attachment D-6**).
  - d) Any other documentation required by the Procurement Officer to ascertain Bidder/Offeror responsibility in connection with the certified MBE participation goal.

**NOTE: If the apparent awardee fails to return each completed document within the required time, the Procurement Officer may determine that the apparent awardee is not responsible and therefore not eligible for Contract award. If the Contract has already been awarded, the award is voidable.**

## MBE REPORTING INSTRUCTIONS

### **The Contractor shall:**

1. Submit by the 10<sup>th</sup> of each month to the Department's Contract Monitor or designee a Prime Contractor Paid/Unpaid MBE Invoice Report (Attachment D-4) listing any unpaid invoices, over 30 days old, received from any certified MBE subcontractor, the amount of each invoice, and the reason payment has not been made.
2. Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors shall submit by the 10<sup>th</sup> of each month to the Department's Contract Monitor or a designee a Subcontractor Paid/Unpaid MBE Invoice Report (Attachment D-5) that identifies the Contract and lists all payments received from the Contractor under this Contract in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices.
3. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the Contract, the type of work performed by each subcontractor, and the actual dollar value of work performed. Subcontract agreements must be retained by the Contractor and furnished to the Procurement Officer upon request.
4. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. The Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the Contract.
5. At the sole option of the Department, upon completion of the Contract and before final payment and/or release of any retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

### ATTACHMENTS

- A. MDOT Certified MBE Utilization and Fair Solicitation Affidavit – Attachment D-1 (must be submitted with the Bid/Proposal)
- B. Outreach Efforts Compliance Statement – Attachment D-2 (must be submitted within 10 Working Days of notification of apparent award or actual award, whichever is earlier)
- C. Subcontractor Project Participation Certification – Attachment D-3 (must be submitted within 10 Working Days of notification of apparent award or actual award, whichever is earlier)
- D. Prime Contractor Paid/Unpaid MBE Invoice Report – Attachment D-4 (must be submitted by the 10<sup>th</sup> of each month by the Prime Contractor)
- E. Subcontractor Paid/Unpaid MBE Invoice Report – Attachment D-5 (must be submitted by the 10<sup>th</sup> of each month by the Subcontractor)
- F. Minority Contractor Unavailability Certificate – Attachment D-6 (if a waiver has been requested, Attachment D-6 usually must be submitted within 10 Working Days of notification of apparent award or actual award whichever is earlier)

## MDOT Certified MBE Utilization and Fair Solicitation Affidavit

(submit with Bid/Proposal)

This document **MUST BE** included with the Bid/Proposal. If the Bidder/Offeror fails to complete and submit this form with the Bid/Proposal, the Procurement Officer shall deem the Bid non-responsive or shall determine that the Proposal is not reasonably susceptible of being selected for award.

In conjunction with the Bid/Proposal submitted in response to Solicitation No. OPASS 14-13835 I affirm the following:

1.  I acknowledge and intend to meet the overall certified Minority Business Enterprise (MBE) participation goal of 18 percent and, if specified in the solicitation, the following subgoals (complete for only those subgoals that apply):

_N/A_ percent African-American	_N/A_ percent Asian-American
_N/A_ percent Hispanic-American	_N/A_ percent Woman-Owned

Therefore, I will not be seeking a waiver pursuant to COMAR 21.11.03.11.

### OR

- I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver in whole or in part of the overall goal and/or subgoals. Within 10 Working Days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.03.11. If this request is for a partial waiver, I have identified the portion of the MBE goal that I intend to meet in this Attachment D-1.
2. I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 Working Days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier.
- (a) Outreach Efforts Compliance Statement (Attachment D2);
  - (b) Subcontractor Project Participation Certification (Attachment D3); and
  - (c) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain Bidder/Offeror responsibility in connection with the certified MBE participation goal.

I understand that if I fail to return each completed document within the required time, the Procurement Officer may determine that I am not responsible and therefore not eligible for Contract award. If the Contract has already been awarded, the award is voidable.

3. In the solicitation of subcontract quotes, MBE subcontractors were provided not less than the same information and amount of time to respond as were non-MBE subcontractors.
4. Set forth below are the (i) certified MBEs I intend to use and (ii) the percentage of the total Contract amount allocated to each MBE for this project and the work activity(ies) each MBE will provide under the Contract. I hereby affirm that the MBE firms are only providing those work activities for which they are MDOT certified.

**MBE Subcontractor Participation Schedule**

<b>Prime Contractor:</b> (Firm Name, Address, Phone)	<b>Project Description:</b>
<b>Solicitation Number:</b> (enter Solicitation #)	

**List Information For Each Certified MBE Subcontractor On This Project**

<b>Minority Firm Name</b>	<b>MBE Certification Number</b>
<b>FEIN</b> Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	
Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	
<b>Minority Firm Name</b>	<b>MBE Certification Number</b>
<b>FEIN</b> Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	
Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	
<b>Minority Firm Name</b>	<b>MBE Certification Number</b>
<b>FEIN</b> Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	
Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	
<b>Minority Firm Name</b>	<b>MBE Certification Number</b>
<b>FEIN</b> Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	
Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	

Continue on a separate page, if needed.

**SUMMARY**

Total <i>African-American</i> MBE Participation:	_____ % of total Contract value
Total <i>Asian American</i> MBE Participation:	_____ % of total Contract value
Total <i>Hispanic American</i> MBE Participation:	_____ % of total Contract value
Total <i>Woman-Owned</i> MBE Participation:	_____ % of total Contract value
Total <i>Other</i> Participation:	_____ % of total Contract value
<b>Total All MBE Participation:</b>	_____ % of total Contract value

**Note:** The percentages entered above must reflect the actual percentage of total Contract value committed to be paid to MBE subcontractor(s). (e.g., if the total MBE commitment is 25% of the total Contract value, the subgroup percentages listed above should total 25%).

Notwithstanding any subgoals established above, the Contractor is encouraged to use a diverse group of subcontractors and suppliers from any/all of the various MBE classifications to meet the remainder of the overall MBE participation goal.

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

_____ Bidder/Offeror Name <i>(PLEASE PRINT OR TYPE)</i>	_____ Signature of Affiant
	Name: _____
	Title: _____
	Date: _____

**SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL**

## Outreach Efforts Compliance Statement

**Complete and submit this form within 10 working days of notification of apparent award or actual award, whichever is earlier.**

In conjunction with the Bid/Proposal submitted in response to Solicitation No. \_\_\_\_\_, the Bidder/Offeror states the following:

1. Bidder/Offeror identified opportunities to subcontract in these specific work categories.
2. Attached to this form are copies of written solicitations (with instructions) used to solicit MDOT certified MBEs for these subcontract opportunities.
3. Bidder/Offeror made the following attempts to contact personally the solicited MDOT certified MBEs.
4. Select ONE of the following:
  - a.  This project does not involve bonding requirements.

**OR**

  - b.  Bidder/Offeror assisted MDOT certified MBEs to fulfill or seek waiver of bonding requirements (*describe efforts*).

5. Select ONE of the following:
  - a.  Bidder/Offeror did/did not attend the Pre-Bid/Proposal Conference.

**OR**

  - b.  No Pre-Bid/Proposal Conference was held.

\_\_\_\_\_ By: \_\_\_\_\_  
 Bidder/Offeror Printed Name                      Signature

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

## Subcontractor Project Participation Certification

*Please complete and submit one form for each MDOT certified MBE listed on Attachment D-1 within 10 Working Days of notification of apparent award.*

\_\_\_\_\_ (*prime contractor*) has entered into a Contract with \_\_\_\_\_  
 (*subcontractor*) to provide services in connection with the Solicitation described below.

Prime Contractor Address and Phone	Project Description
Project Number	Total Contract Amount \$
Minority Firm Name	MBE Certification Number
Address	FEIN
Work To Be Performed	
Percentage of Total Contract	
Total Subcontract Amount \$	

The undersigned Prime Contractor and Subcontractor hereby certify and agree that they have 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 Business Enterprise in its Bid/Proposal;
- (2) fail to notify the certified Minority Business Enterprise before execution of the Contract of its inclusion of 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.

**PRIME CONTRACTOR SIGNATURE**

**SUBCONTRACTOR SIGNATURE**

By: \_\_\_\_\_  
 Name, Title  
 Date

By: \_\_\_\_\_  
 Name, Title  
 Date

This form is to be completed monthly by the prime contractor.

**Attachment D-4**

**Maryland Department of Health and Mental Hygiene  
Minority Business Enterprise Participation  
Prime Contractor Paid/Unpaid MBE Invoice Report**

Report #: _____  Reporting Period (Month/Year): _____  <b>Report is due to the MBE Liaison by the 10<sup>th</sup> of the month following the month the services were provided.</b>  <b>Note: Please number reports in sequence</b>	Contract #: _____ Contracting Unit: _____ Contract Amount: _____ MBE Subcontract Amt: _____ Project Begin Date: _____ Project End Date: _____ Services Provided: _____
--	--

Prime Contractor:		Contact Person:																																					
Address:																																							
City:		State:	ZIP:																																				
Phone:	Fax:	E-mail:																																					
Subcontractor Name:		Contact Person:																																					
Phone:	Fax:																																						
Subcontractor Services Provided:																																							
<b>List all payments made to MBE subcontractor named above during this reporting period:</b>  <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:5%;"></th> <th style="width:30%; text-align: center;"><u>Invoice#</u></th> <th style="width:30%; text-align: center;"><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> <tr> <td colspan="2"><b>Total Dollars Paid: \$</b></td> <td>_____</td> </tr> </tbody> </table>			<u>Invoice#</u>	<u>Amount</u>	1.			2.			3.			4.			<b>Total Dollars Paid: \$</b>		_____	<b>List dates and amounts of any outstanding invoices:</b>  <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:5%;"></th> <th style="width:30%; text-align: center;"><u>Invoice #</u></th> <th style="width:30%; text-align: center;"><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> <tr> <td colspan="2"><b>Total Dollars Unpaid: \$</b></td> <td>_____</td> </tr> </tbody> </table>			<u>Invoice #</u>	<u>Amount</u>	1.			2.			3.			4.			<b>Total Dollars Unpaid: \$</b>		_____
	<u>Invoice#</u>	<u>Amount</u>																																					
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<b>Total Dollars Paid: \$</b>		_____																																					
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2.																																							
3.																																							
4.																																							
<b>Total Dollars Unpaid: \$</b>		_____																																					

\*\*If more than one MBE subcontractor is used for this contract, you must use separate D-4 forms for each subcontractor.  
**\*\*Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):**

_____ Contract Monitor _____ Contracting Unit Department of Health and Mental Hygiene _____ _____ _____
--

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 (Required)

This form must be completed monthly by all MBE subcontractors.

**Minority Business Enterprise Participation  
Subcontractor Paid/Unpaid MBE Invoice Report**

Report#: _____  Reporting Period (Month/Year): _____  <b>Report is due by the 10<sup>th</sup> of the month following the month the services were performed.</b>	Contract # _____ Contracting Unit: _____ MBE Subcontract Amount: _____ Project Begin Date: _____ Project End Date: _____ Services Provided: _____
---	--

MBE Subcontractor Name: _____																																
MDOT Certification #: _____																																
Contact Person: _____		E-mail: _____																														
Address: _____																																
City: _____	State: _____	ZIP: _____																														
Phone: _____	Fax: _____																															
<b>Subcontractor Services Provided:</b>																																
<b>List all payments received from Prime Contractor during reporting period indicated above.</b>  <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:60%;"></th> <th style="width:20%; text-align: center;"><u>Date</u></th> <th style="width:20%; text-align: center;"><u>Invoice Amt</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td><b>Total Dollars Paid: \$</b> _____</td> <td></td> <td></td> </tr> </tbody> </table>			<u>Date</u>	<u>Invoice Amt</u>	1.			2.			3.			<b>Total Dollars Paid: \$</b> _____			<b>List dates and amounts of any unpaid invoices over 30 days old.</b>  <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:60%;"></th> <th style="width:20%; text-align: center;"><u>Date</u></th> <th style="width:20%; text-align: center;"><u>Invoice Amt</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td><b>Total Dollars Unpaid: \$</b> _____</td> <td></td> <td></td> </tr> </tbody> </table>		<u>Date</u>	<u>Invoice Amt</u>	1.			2.			3.			<b>Total Dollars Unpaid: \$</b> _____		
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	<u>Date</u>	<u>Invoice Amt</u>																														
1.																																
2.																																
3.																																
<b>Total Dollars Unpaid: \$</b> _____																																
Prime Contractor: _____		Contact Person: _____																														

**\*\*Return one copy of this form to the following address (electronic copy with signature & date is preferred):**

_____ Contract Monitor _____ Contracting Unit Department of Health and Mental Hygiene _____ _____ _____ _____
---

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
(Required)

**MARYLAND DEPARTMENT OF HEALTH & MENTAL HYGIENE**  
**Code of Maryland Regulations (COMAR)**  
**Title 21, State Procurement Regulations**  
*(regarding a waiver to a Minority Business Enterprise subcontracting goal)*

**NOTE: Below is an excerpt only. Full text of COMAR Title 21 may be found at the website of the Secretary of State, Division of State Documents, at: <http://www.dsd.state.md.us/comar/>.**

**COMAR 21.11.03.11 - Waiver.**

A. If, for any reason, the apparent successful Bidder/Offeror is unable to achieve the contract goal for each certified MBE classification specified as having a subcontract goal or the overall MBE contract goal, the Bidder/Offeror may request, in writing, a waiver to include the following:

(1) A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBEs, including the work to be performed by each MBE classification if an MBE subgoal has been specified, in order to increase the likelihood of achieving the stated goal;

(2) A detailed statement of the efforts made to contact and negotiate with certified MBEs, and if appropriate, by certified MBE classification, including:

(a) The names, addresses, dates, telephone numbers, and classification of certified MBEs contacted, and

(b) A description of the information provided to certified MBEs regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed;

(3) As to each certified MBE that placed a subcontract quotation or offer that the apparent successful Bidder/Offeror considers not to be acceptable, a detailed statement of the reasons for this conclusion;

(4) A list of certified MBEs including, if applicable, certified MBEs in each MBE classification, found to be unavailable, which shall be accompanied by the Minority Contractor Unavailability Certificate (Attachment D-6) signed by the certified MBE, or a statement from the apparent successful Bidder/Offeror that the certified MBE refused to give the written verification;

(5) The record of the apparent successful Bidder/Offeror's compliance with the outreach efforts required under Regulation .09C(2)(a)—(e) of this chapter; and

(6) If the request for a waiver is for a certain MBE classification within an overall MBE goal, the Bidder/Offeror shall demonstrate reasonable efforts to meet the overall MBE goal with other MBE classification or classifications.

B. A waiver of a certified MBE contract goal may be granted only upon a reasonable demonstration by the Bidder/Offeror that certified MBE subcontract participation was unable to be obtained, or was unable to be obtained at a reasonable price or in the appropriate MBE classifications, and if the agency head or designee determines that the public interest is served by a waiver. In making a determination under this section, the agency head or designee may consider engineering estimates, catalogue prices, general market availability, and availability of certified MBEs in the area in which the work is to be performed, other Bids/Proposals and subcontract Bids/Proposal substantiating significant variances between certified MBE and non-MBE cost of participation, and their impact on the overall cost of the contract to the State and any other relevant factor.

C. An agency head may waive any of the provisions of Regulations .09—.10 of this chapter for a sole source, expedited, or emergency procurement in which the public interest cannot reasonably accommodate use of those procedures.

D. When a waiver is granted, except waivers under §C of this regulation, one copy of the waiver determination and the reasons for the determination shall be kept by the MBE liaison officer with another copy forwarded to the Office of Minority Affairs.

**MINORITY CONTRACTOR UNAVAILABILITY CERTIFICATE**

**Section I (to be completed by PRIME CONTRACTOR)**

I hereby certify that the firm of \_\_\_\_\_  
 (Name of Prime Contractor)

located at \_\_\_\_\_,  
 (Number) (Street) (City) (State) (Zip)

on \_\_\_\_\_ contacted certified minority business enterprise, \_\_\_\_\_  
 (Date) (Name of Minority Business)

\_\_\_\_\_ located at \_\_\_\_\_,  
 (Number) (Street) (City) (State) (Zip)

seeking to obtain a bid for work/service for project number \_\_\_\_\_, project name \_\_\_\_\_

List below the type of work/ service requested:

Indicate the type of bid sought, \_\_\_\_\_. The minority business enterprise identified above is either unavailable for the work /service in relation to project number \_\_\_\_\_, or is unable to prepare a quote for the following reasons(s):

The statements contained above are, to the best of my knowledge and belief, true and accurate.

\_\_\_\_\_  
 (Name) (Title)

\_\_\_\_\_  
 (Number) (Street) (City) (State) (Zip)

\_\_\_\_\_  
 (Signature) (Date)

**Note:** Certified minority business enterprise must complete Section II below.

**Section II (to be completed by CERTIFIED MINORITY BUSINESS ENTERPRISE)**

I hereby certify that the firm of \_\_\_\_\_ MBE Cert.# \_\_\_\_\_  
(Name of MBE Firm)

located at \_\_\_\_\_  
(Number) (Street) (City) (State) (Zip)

was offered the opportunity to bid on project number \_\_\_\_\_, ON \_\_\_\_\_  
(Date)

by \_\_\_\_\_  
(Prime Contractor's Name) (Prime Contractor Official's Name) (Title)

The statements contained in Section I and Section II of this document are, to the best of my knowledge and belief, true and accurate.

\_\_\_\_\_  
(Name) (Title) (Phone)

\_\_\_\_\_  
(Signature) (Fax Number)

**ATTACHMENT E – PRE-PROPOSAL CONFERENCE RESPONSE FORM**

**Solicitation Number OPASS 14-13835**

Administrative Service Organization (Contractor) for Maryland’s Public Behavioral Health System

A Pre-Proposal Conference will be held at **10:00 a.m. Local Time** on **Tuesday, February 18, 2014**, at **300 W. Preston Street, Auditorium, Baltimore, MD 21201**. Please return this form (Attachment E) by **Monday, February 17, 2014**, advising whether or not you plan to attend.

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

Sabrina Lewis  
Maryland Department of Health and Mental Hygiene  
Office of Procurement and Support Services  
201 West Preston Street Baltimore, MD 21201  
DHMH Office of Procurement  
Phone: (410) 767-1695  
Fax: (410) 333-7897  
E-mail: [sabrina.lewis@maryland.gov](mailto:sabrina.lewis@maryland.gov)

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 PROPOSAL 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, e.g., .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.

**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.

**Part 1. Medicaid enrollees:** The Offeror shall submit a Per Recipient Per Month administrative fee for the fulfillment of all Medicaid services as detailed in Section 3.0 “Scope of Work.”

Offerors should complete the “Total Annual Cost” by using the following formula:  $A \times B \times C = D$ .

	A	B	C	D
	<b>Per Member Per Month Administrative Fee</b>	<b>Enrollment</b>	<b>Months in CY</b>	<b>Total Annual Cost</b>
Contract Year 1	\$	1,088,000	<b>12</b>	\$
Contract Year 2	\$	1,128,677	<b>12</b>	\$
Contract Year 3	\$	1,156,494	<b>12</b>	\$
Option Year 1	\$	1,185,380	<b>12</b>	\$
Option Year 2	\$	1,207,779	<b>12</b>	\$
<b>TOTAL</b>				\$

There is no guarantee of any minimum or maximum number of participants under this contract. The actual number of participants may change at any time during the term of the contract or option years. The Contractor shall be paid based on the actual number of participants eligible for behavioral health services included on the eligibility file as of the last day of each calendar month multiplied by the Per Recipient Per Month administrative fee specified in Column A of this Financial Proposal Sheet.

**Part 2. Non-Medicaid Services:** The Offeror should submit a fixed price cost for the fulfillment of all Non-Medicaid services as detailed in Section 3.0 “Scope of Work”.

	A
	<b>Total Annual Cost</b>
Contract Year 1	\$
Contract Year 2	\$
Contract Year 3	\$
Option Year 1	\$
Option Year 2	\$
<b>TOTAL</b>	\$

**Part 3. Cost Based Pool.** There will be a cost-based pool of funds in the contract equal to 5000 hours from which the Contractor can draw for reporting (outside of contractually required reports and staff) and configuration efforts that fall outside of existing requests. DHMH will identify a single point of contact and chain of control through which communication will be channeled and all new requests or issues shall be channeled in writing through the DHMH contract monitor. These funds will be accessed only with direct approval from DHMH, and any covered efforts must follow the Change Control Workgroup process.

Offerors should complete the “Total Annual Cost” by using the formula  $A \times B = C$ .

	A	B	C
	Hours	Rate	Total Annual Cost
Contract Year 1	5000	\$	\$
Contract Year 2	5000	\$	\$
Contract Year 3	5000	\$	\$
Option Year 1	5000	\$	\$
Option Year 2	5000	\$	\$
<b>TOTAL</b>	25,000		\$

There is no guarantee of any minimum or maximum number of hours.

**Financial Proposal Summary:**

Offerors should enter TOTAL in Part 1 Medicaid Column D, TOTAL in Part 2 Non-Medicaid Column A, and TOTAL in Part 3 Cost Based Pool then sum for Financial Proposal TOTAL.

A	B
TOTAL Part1 Medicaid	\$
TOTAL Part 2 Non-Medicaid	\$
TOTAL Part 3 Cost Based Pool	\$
TOTAL	\$

The Financial Proposal Total shall be used in the ranking of Financial Proposals. There is no guarantee of any minimum or maximum. Note that liquidated damages shall be assessed and deducted as set forth in Section 3.2.12 .

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 of Agreement**

(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

A Summary of Certain Federal Fund Requirements and Restrictions  
[Details of particular laws, which may levy a penalty for noncompliance,  
are available from the Department of Health and Mental Hygiene.]

1. Form and rule enclosed: 18 U.S.C. 1913 and Section 1352 of P.L. 101-121 require that all *prospective* and present sub-grantees (this includes all levels of funding) who receive more than \$100,000 in federal funds must submit the form "Certification Against Lobbying." It assures, generally, that recipients will not lobby federal entities with federal funds, and that, as is required, they will disclose other lobbying on form SF- LLL.
2. Form and instructions enclosed: "Form LLL, Disclosure of Lobbying Activities" must be submitted by those receiving more than \$100,000 in federal funds, to disclose any lobbying of federal entities (a) with profits from federal contracts or (b) funded with nonfederal funds.
3. Form and summary of Act enclosed: Sub-recipients of federal funds on any level must complete a "Certification Regarding Environmental Tobacco Smoke," required by Public Law 103-227, the Pro-Children Act of 1994. Such law prohibits smoking in any portion of any indoor facility owned or leased or contracted for regular provision of health, day care, early childhood development, education, or library services for children under the age of 18. Such language must be included in the conditions of award (they are included in the certification, which may be part of such conditions.) This does not apply to those solely receiving Medicaid or Medicare, or facilities where WIC coupons are redeemed.
4. In addition, federal law requires that:
  - A) OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations requires that grantees (both recipients and sub-recipients) which expend a total of \$300,000 or more (*\$500,000 for fiscal years ending after December 31, 2003*) in federal assistance shall have a single or program-specific audit conducted for that year in accordance with the provisions of the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156 and the Office of Management and Budget (OBM) Circular A-133. All sub-grantee audit reports, performed in compliance with the aforementioned Circular shall be forwarded within 30 days of report issuance to the DHMH, External Audit Division, Spring Grove Hospital-Tuerk Bldg., 55 Wade Avenue, Baltimore, MD 21228.
  - B) All sub-recipients of federal funds comply with Sections 503 and 504 of the Rehabilitation Act of 1973, the conditions of which are summarized in item (C).
  - C) Recipients of \$10,000 or more (on any level) must include in their contract language the requirements of Sections 503 (language specified) and 504 referenced in item (B).

Section 503 of the Rehabilitation Act of 1973, as amended, requires recipients to take affirmative action to employ and advance in employment qualified disabled people. An affirmative action program must be prepared and maintained by all contractors with 50 or more employees and one or more federal contracts of \$50,000 or more.

This clause must appear in subcontracts of \$10,000 or more:

- a) The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based

upon their physical or mental handicap in all upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

- b) The contractor agrees to comply with the rules, regulations, and relevant orders of the secretary of labor issued pursuant to the act.
- c) In the event of the contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the secretary of labor issued pursuant to the act.
- d) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the director, provided by or through the contracting office. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- e) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- f) The contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the [federal] secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 791 et seq.) prohibits discrimination on the basis of handicap in all federally assisted programs and activities. It requires the analysis and making of any changes needed in three general areas of operation-programs, activities, and facilities and employment. It states, among other things, that:

*Grantees that provide health ... services should undertake tasks such as ensuring emergency treatment for the hearing impaired and making certain that persons with impaired sensory or speaking skills are not denied effective notice with regard to benefits, services, and waivers of rights or consents to treatments.*

- D) All sub-recipients comply with Title VI of the Civil Rights Act of 1964 that they must not discriminate in participation by race, color, or national origin.
- E) All sub-recipients of federal funds from SAMHSA (Substance Abuse and Mental Health Services Administration) or NIH (National Institute of Health) are prohibited from paying any direct salary at a rate more than Executive Level 1 per year. (This includes, but is not limited to, sub-recipients of the Substance Abuse Prevention and Treatment and the Community Mental Health Block Grants and NIH research grants.)
- F) There may be no discrimination on the basis of age, according to the requirements of the Age Discrimination Act of 1975.
- G) For any education program, as required by Title IX of the Education Amendments of 1972, there may be no discrimination on the basis of sex.

- H) For research projects, a form for Protection of Human Subjects (Assurance/ Certification/ Declaration) should be completed by each level funded, assuring that either: (1) there are no human subjects involved, or that (2) an Institutional Review Board (IRB) has given its formal approval before human subjects are involved in research. [This is normally done during the application process rather than after the award is made, as with other assurances and certifications.]
- I) In addition, there are conditions, requirements, and restrictions which apply only to specific sources of federal funding. These should be included in your grant/contract documents when applicable.

**U.S. Department of Health and Human Services**

**CERTIFICATION REGARDING LOBBYING**  
**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Award No.	Organizational Entry
Name and Title of Official Signing for Organizational Entry	Telephone No. Of Signing Official
Signature of Above Official	Date Signed



**INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether sub-awardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or sub-award recipient. Identify the tier of the sub-awardee, e.g., the first sub-awardee of the prime is the 1st tier. Sub-awards include but are not limited to subcontracts, sub-grants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Sub-awardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
10. (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form and print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

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Public Health Service  
Health Resources and  
Service Administration  
Rockville, MD 20857

**CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE**

Public Law 103-227, also known as the Pro Children Act of 1994, Part C Environmental Tobacco Smoke, requires that smoking not be permitted in any portion of any indoor facility owned, or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated or maintained with such Federal funds. The law does not apply to children's services provided in private residences, portions of facilities used for inpatient drug or alcohol treatment, service providers whose sole sources of applicable Federal funds is Medicare or Medicaid, or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing this certification, the offeror/contractor (for acquisitions) or applicant/grantee (for grants) certifies that the submitting organization will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

The submitting organization further agrees that it will require the language of this certification be included in any sub-awards which contain provisions for children's services and that all sub-recipients shall certify accordingly.

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Signature of Authorized Certifying Individual

**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 Administrative Services Organization for Maryland’s Public Behavioral Health System Solicitation # DHMH OPASS 14-13835; 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-1**

**LIST OF CONTRACTOR'S EMPLOYEES AND AGENTS WHO WILL BE GIVEN ACCESS TO  
THE CONFIDENTIAL INFORMATION**

<b>Printed Name and Address of Individual/Agent</b>	<b>Employee (E) or Agent (A)</b>	<b>Signature</b>	<b>Date</b>
_____	_____	_____	_____
_____	_____	_____	_____
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_____	_____	_____	_____

**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)

**BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (the “Agreement”) is made by and between the Medicaid, Office of Health Services, a unit of the Maryland Department of Health and Mental Hygiene (herein referred to as “Covered Entity”) and \_\_\_\_\_ (**Insert Name of Contractor**) (hereinafter known as “Business Associate”). Covered Entity and Business Associate shall collectively be known herein as the “Parties.”

WHEREAS, Covered Entity has 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 privacy regulations (45 C.F.R. Parts 160 and 164) and security regulations (45 C.F.R. Parts 160, 162, and 164), 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. Ann. Code, 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:

**DEFINITIONS.**

- A. Catch-all definition. The following terms used in this Agreement, whether capitalized or not, shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.
- B. Specific definitions:
  - 1. Business Associate. “Business Associate” shall generally have the same meaning as the term “business associate” at 45 C.F.R. 160.103, and in reference to the party to this agreement, shall mean (**Insert Name of Contractor**).

2. Covered Entity. “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 C.F.R. § 160.103, and in reference to the party to this agreement, shall mean Medicaid Office of Health Services
3. HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Parts 160 and Part 164.
4. Protected Health Information (“PHI”). Protected Health Information or “PHI” shall generally have the same meaning as the term “protected health information” at 45 C.F.R. § 160.103.

#### **PERMITTED USES AND DISCLOSURES OF PHI BY BUSINESS ASSOCIATE.**

- A. Business Associate may only use or disclose PHI as necessary to perform the services set forth in the Underlying Agreement or as required by law.
- B. Business Associate agrees to make uses and disclosures and requests for PHI consistent with Covered Entity’s policies and procedures regarding minimum necessary use of PHI.
- C. Business Associate may not use or disclose PHI in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered Entity.
- D. Business Associate may, if directed to do so in writing by Covered Entity, create a limited data set, as defined at 45 CFR 164.514(e)(2) , for use in public health, research, or health care operations. Any such limited data sets shall omit any of the identifying information listed in 45 CFR § 164.514(e)(2). Business Associate will enter into a valid, HIPAA-compliant Data Use Agreement, as described in 45 CFR § 164.514(e)(4), with the limited data set recipient. Business Associate will report any material breach or violation of the data use agreement to Covered Entity immediately after it becomes aware of any such material breach or violation.
- E. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration, or legal responsibilities of the 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 the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- F. The Business Associate shall not directly or indirectly receive remuneration in exchange for any PHI of an Individual pursuant to §§13405(d)(1) and (2) of the HITECH Act. This prohibition does not apply to the State’s payment of Business Associate for its performance pursuant to the Underlying Agreement.
- G. The Business Associate shall comply with the limitations on marketing and fundraising communications provided in §13406 of the HITECH Act in connection with any PHI of Individuals.

#### **DUTIES OF BUSINESS ASSOCIATE RELATIVE TO PHI.**

- A. Business Associate agrees that it will not use or disclose PHI other than as permitted or required by the Agreement or as Required by Law;
- B. Business Associate agrees to use appropriate administrative, technical and physical safeguards to protect the privacy of PHI.
- C. Business Associate agrees to use appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI, to prevent use or disclosure of PHI other than as provided for by the Agreement;
- D.
  - 1. Business Associate agrees to Report to Covered Entity any use or disclosure of PHI not provided for by the Agreement of which it becomes aware, including breaches of unsecured PHI as required by 45 C.F.R. § 164.410, and any Security Incident of which it becomes aware without reasonable delay, and in no case later than fifteen calendar days after the use or disclosure;
  - 2. If the use or disclosure amounts to a breach of unsecured PHI, the Business Associate shall ensure its report:
    - A. Is made to Covered Entity without unreasonable delay and in no case later than fifteen (15) 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 fifteen (15) 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;
    - B. Includes the names of the Individuals whose Unsecured PHI has been, or is reasonably believed to have been, the subject of a Breach;
    - C. Is in substantially the same form as **ATTACHMENT K-1** attached hereto; and
    - D. Includes a draft letter for the Covered Entity to utilize to notify the affected 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:
      - i) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
      - ii) 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);
      - iii) Any steps the affected Individuals should take to protect themselves from potential harm resulting from the Breach;

- iv) 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
  - v) Contact procedures for the affected 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. To the extent permitted by the Underlying Agreement, Business Associate may use agents and subcontractors. In accordance with 45 C.F.R. §§ 164.502(e)(1)(ii) and 164.308(b)(2) shall ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information, Business Associate must enter into Business Associate Agreements with subcontractors as required by HIPAA;
- F. Business Associate agrees it will make available PHI in a designated record set to the Covered Entity, or, as directed by the Covered Entity, to an individual, as necessary to satisfy Covered Entity's obligations under 45 C.F.R. § 164.524, including, if requested, a copy in electronic format;
- G. Business Associate agrees it will make any amendment(s) to PHI in a designated record set as directed or agreed to by the Covered Entity pursuant to 45 C.F.R. § 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 C.F.R. § 164.526;
- H. Business Associate agrees to maintain and make available the information required to provide an accounting of disclosures to the Covered Entity or, as directed by the Covered Entity, to an individual, as necessary to satisfy Covered Entity's obligations under 45 C.F.R. § 164.528;
- I. To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s);
- J. Business Associate agrees to make its internal practices, books, and records, including PHI, available to the Covered Entity and/or the Secretary for purposes of determining compliance with the HIPAA Rules.
- K. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

#### 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, **Administrative Services Organization for Maryland's Public Behavioral Health System** Solicitation # **DHMH OPASS 14-13835** and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or the PHI created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, in accordance with the termination provisions in this Section

IV, or on the date the Covered Entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner. If it is impossible to return or destroy all of the PHI provided by Covered Entity to Business Associate, or the PHI created or received by Business Associate on behalf of Covered Entity, Business Associate's obligations under this contract shall be ongoing with respect to that information, unless and until a separate written agreement regarding that information is entered into with Covered Entity.

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; or
2. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and Covered entity determines or reasonably believes that cure is not possible.

C. Effect of Termination.

1. Upon termination of this Agreement, for any reason, Business Associate shall return or, if agreed to by Covered Entity, destroy all PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that the Business Associate still maintains in any form. Business Associate shall retain no copies of the PHI. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.
2. 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.

D. Survival. The obligations of Business Associate under this Section shall survive the termination of this 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, not in lieu of, any action for damages and/or any other remedy Covered Entity may have for breach of any part of this Agreement or the Underlying Agreement or which may be available to Covered Entity at law or in equity.

## **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 HIPAA rules and any other applicable law.

## **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 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 PHI, 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 and Security Rules.
- B. Regulatory References. A reference in this Agreement to a section in the HIPAA Rules 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:

Ramiek James, Esq.  
Privacy Officer and Compliance Analyst  
Department of Health & Mental Hygiene  
Office of the Inspector General  
201 W. Preston Street, Floor 5  
Baltimore, MD 21201-2301  
Phone: (410) 767-5411

(Or insert the name and contact information of the HIPAA contact person within the appropriate DHMH covered health care entity)

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: \_\_\_\_\_

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

F. Severability. If any term contained in this Agreement 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 Agreement, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.

G. Terms. All of the terms of this Agreement are contractual and not merely recitals and none may be amended or modified except by a writing executed by all parties hereto.

H. Priority. This Agreement supersedes and renders null and void any and all prior written or oral undertakings or agreements between the parties regarding the subject matter hereof.

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

**COVERED ENTITY:**

**BUSINESS ASSOCIATE:**

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

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

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

**FORM OF NOTIFICATION TO COVERED ENTITY OF  
BREACH OF UNSECURED PHI**

This notification is made pursuant to Section III.2.D(3) of the Business Associate Agreement between (enter the name of procuring unit), 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:

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Date of the breach: \_\_\_\_\_ Date of discovery of the breach:

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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):

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

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Contact information to ask questions or learn additional information:

Name:

\_\_\_\_\_

Title:

\_\_\_\_\_

Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Email Address:

\_\_\_\_\_

Phone Number:

\_\_\_\_\_

Rev. 08/01/2013

**ATTACHMENT L – MERCURY AFFIDAVIT**

This solicitation does not include the procurement of products known to likely include mercury as a component.

## VSBE Utilization Affidavit and Subcontractor Participation Schedule

(submit with Bid/Proposal)

This document **MUST BE** included with the Bid/Proposal. If the Bidder/Offeror fails to complete and submit this form with the Bid/Proposal, the procurement officer may determine that the Bid is non-responsive or that the Proposal is not reasonably susceptible of being selected for award.

In conjunction with the Bid/Proposal submitted in response to Solicitation No. DHMH OPASS 14-13835, I affirm the following:

1.  I acknowledge and intend to meet the overall verified VSBE participation goal of 2%. Therefore, I will not be seeking a waiver.

### OR

- I conclude that I am unable to achieve the VSBE participation goal. I hereby request a waiver, in whole or in part, of the overall goal. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.13.07. If this request is for a partial waiver, I have identified the portion of the VSBE goal that I intend to meet.
2. I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 days of receiving notice of the apparent award or from the date of conditional award (per COMAR 21.11.13.06), whichever is earlier.
  - (a) Subcontractor Project Participation Statement (**Attachment M-2**); and
  - (b) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain Bidder/Offeror responsibility in connection with the VSBE participation goal.

I understand that if I fail to return each completed document within the required time, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.

3. In the solicitation of subcontract quotations or offers, VSBE subcontractors were provided not less than the same information and amount of time to respond as were non-VSBE subcontractors.
4. Set forth below are the (i) verified VSBEs I intend to use and (ii) the percentage of the total contract amount allocated to each VSBE for this project. I hereby affirm that the VSBE firms are only providing those products and services for which they are verified.

**VSBE Subcontractor Participation Schedule**

Prime Contractor (Firm Name, Address, Phone):	Project Description:
Project Number: DHMH OPASS ____ - _____	

List Information For Each Verified VSBE Subcontractor On This Project

Name of Veteran-Owned Firm:	DUNS Number:
	Description of work to be performed:
Percentage of Total Contract:	
Name of Veteran-Owned Firm:	DUNS Number:
	Description of work to be performed:
Percentage of Total Contract:	
Name of Veteran-Owned Firm:	DUNS Number:
	Description of work to be performed:
Percentage of Total Contract:	
Name of Veteran-Owned Firm:	DUNS Number:
	Description of work to be performed:
Percentage of Total Contract:	

Continue on a separate page, if needed.

**SUMMARY**

**TOTAL VSBE Participation:** \_\_\_\_\_%

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

\_\_\_\_\_  
Bidder/Offeror Name  
(PLEASE PRINT OR TYPE)

\_\_\_\_\_  
Signature of Affiant

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

Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**VSBE Subcontractor Participation Statement**

*Please complete and submit one form for each verified VSBE listed on Attachment M-1  
within 10 working days of notification of apparent award*

\_\_\_\_\_ (prime contractor) has entered into a contract with  
\_\_\_\_\_ (subcontractor) to provide services in connection with the Solicitation  
described below.

Prime Contractor (Firm Name, Address, Phone):	Project Description:
Project Number: _____	Total Contract Amount: \$
Name of Veteran-Owned Firm:	DUNS Number:
Address:	FEIN:
Work to Be Performed:	
Percentage of Total Contract:	Total Subcontract Amount: \$

The undersigned Prime Contractor and Subcontractor hereby certify and agree that they have fully complied with the State Veteran-Owned Small Business Enterprise law, State Finance and Procurement Article, Title 14, Subtitle 6, Annotated Code of Maryland.

**PRIME CONTRACTOR SIGNATURE**

**SUBCONTRACTOR SIGNATURE**

By: \_\_\_\_\_  
\_\_\_\_\_  
Name, Title  
Date

By: \_\_\_\_\_  
\_\_\_\_\_  
Name, Title  
Date

This form is to be completed monthly by the prime contractor.

**Attachment M-3**

**Maryland Department of Health and Mental Hygiene  
Veterans Small Business Enterprise (VSBE) Participation  
Prime Contractor Paid/Unpaid VSBE Invoice Report**

Report #: _____	Contract #: _____
Reporting Period (Month/Year): _____	Contracting Unit: _____
<b>Report is due to the Contract Monitor by the 10<sup>th</sup> of the month following the month the services were provided.</b>	Contract Amount: _____
	VSBE Subcontract Amt: _____
	Project Begin Date: _____
	Project End Date: _____
	Services Provided: _____
<b>Note: Please number reports in sequence</b>	

Prime Contractor:		Contact Person:	
Address:			
City:		State:	ZIP:
Phone:	Fax:	E-mail:	
Subcontractor Name:		Contact Person:	
Phone:	Fax:		
Subcontractor Services Provided:			
<b>List all payments made to VSBE subcontractor named above during this reporting period:</b>		<b>List dates and amounts of any outstanding invoices:</b>	
	<u>Invoice#</u>	<u>Amount</u>	
1.			1. <u>Invoice #</u>
2.			2. <u>Amount</u>
3.			3.
4.			4.
<b>Total Dollars Paid: \$</b> _____		<b>Total Dollars Unpaid: \$</b> _____	

\*\*If more than one VSBE subcontractor is used for this contract, you must use separate M-3 forms for each subcontractor.

**\*\*Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):**

_____ Contract Monitor
_____ Contracting Unit
Department of Health and Mental Hygiene
_____
_____
_____

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

This form must be completed monthly  
by all VSBE subcontractors.

**ATTACHMENT M-4**

**Veterans Small Business Enterprise Participation  
Subcontractor Paid/Unpaid VSBE Invoice Report**

Report#: _____	Contract #
Reporting Period (Month/Year): _____	Contracting Unit:
<b>Report is due by the 10<sup>th</sup> of the month following the month the services were performed.</b>	VSBE Subcontract Amount:
	Project Begin Date:
	Project End Date:
	Services Provided:

VSBE Subcontractor Name:		
Department of Veterans Affairs Certification #:		
Contact Person:	E-mail:	
Address:		
City:	State:	ZIP:
Phone:	Fax:	
<b>Subcontractor Services Provided:</b>		
<b>List all payments received from Prime Contractor during reporting period indicated above.</b>		<b>List dates and amounts of any unpaid invoices over 30 days old.</b>
<u>Invoice Amt</u>	<u>Date</u>	<u>Invoice Amt</u>
1.		1.
2.		2.
3.		3.
<b>Total Dollars Paid: \$</b> _____		<b>Total Dollars Unpaid: \$</b> _____
Prime Contractor:		Contact Person:

**\*\*Return one copy of this form to the following address (electronic copy with signature & date is preferred):**

_____ Contract Monitor
_____ Contracting Unit
Department of Health and Mental Hygiene
_____
_____
_____

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
(Required)

**ATTACHMENT N – 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 O – DHR HIRING AGREEMENT**

\_\_\_\_\_  
**Agency Control Number**

**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 shall:**

1. Notify the Department of all job openings that exist or result from the Procurement Contract.
2. Declare the Department the “first source” in identifying and hiring Candidates for those openings.
3. Work with the Department to develop training programs that will enable Candidates to qualify for and secure employment with the Contractor.
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. Submit biannual reports (for the duration of the Contract) listing the number of all job openings and the total number of individuals interviewed and hired under the Procurement Contract. The report shall also include 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.”
2. Refer screened and qualified Candidates to the Contractor’s designated contact person.
3. 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**