



**DEPARTMENT OF HEALTH AND MENTAL HYGIENE (DHMH)  
REQUEST FOR PROPOSALS (RFP)**

**PHARMACY MANAGEMENT SYSTEM**

**SOLICITATION NO. DHMH/OPASS 17-17110**

**Issue Date: June 3, 2016**

**NOTICE**

A Prospective Offeror that has received this document from the DHMH 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**  
**DEPARTMENT OF HEALTH AND MENTAL HYGIENE (DHMH)**  
**RFP KEY INFORMATION SUMMARY SHEET**

<b>RFP Title:</b>	Pharmacy Management System
<b>RFP Number:</b>	DHMH/OPASS 17-17110
<b>RFP Issuing Department:</b>	Department of Health and Mental Hygiene (DHMH) 201 W Preston Street, Room 416D Baltimore, MD 21201
<b>RFP Issue Date:</b>	06/03/2016
<b>Proposals Due Date and Time:</b>	<b>Wednesday, July 6, 2016 at 2:00 PM Local Time</b>
<b>Questions Due Date and Time:</b>	<b>Monday, June 27, 2016 4:00 PM Local Time</b>
<b>Procurement Officer:</b>	Queen Davis Phone: 410-767-5335 Fax: 410-333-5958 e-mail: <a href="mailto:dhmh.solicitationquestions@maryland.gov">dhmh.solicitationquestions@maryland.gov</a>
<b>Contract Manager:</b>	Phil Hemler Phone: 410-767-6981 e-mail: <a href="mailto:Phil.Hemler@Maryland.gov">Phil.Hemler@Maryland.gov</a>
<b>Send Proposals (email submission preferred):</b>	<a href="mailto:Queen.Davis@Maryland.gov">Queen.Davis@Maryland.gov</a>
<b>Send Questions to:</b>	e-mail address: <a href="mailto:dhmh.solicitationquestions@maryland.gov">dhmh.solicitationquestions@maryland.gov</a>
<b>Contract Type</b>	Fixed Price
<b>Contract Duration</b>	1 year base period and two (2) one-year option periods
<b>MBE Subcontracting Goal:</b>	<b>0 %</b>
<b>VSBE Subcontracting Goal:</b>	<b>0 %</b>
<b>Small Business Reserve</b>	No
<b>Pre-Proposal Conference:</b>	Wednesday, June 15, 2016, 9:00am Local Time 201 W. Preston Street Baltimore, MD 21201 OR via remote access +1-415-655-0003 (US toll) OR +1-416-915-6530 (Canada toll), meeting number (access code): 642 607 166. See Attachment E for Directions and Response Form

**STATE OF MARYLAND**  
**NOTICE TO OFFERORS/BIDDERS/CONTRACTORS**

**Maryland Wants to Do Business with You**

Please let us know why you are not proposing. (Check all that apply).

- We do not offer the services/commodities requested.
- Busy with other commitments.
- Specifications are unclear or too restrictive.
- Timetable is unworkable.
- Bonding/Insurance requirements are prohibitive.
- Our experience with State of Maryland has not been satisfactory.
- Other (Please specify)

Additional Comments:

Please add suggestions for improvement here:

Name of commenter and Business (optional): \_\_\_\_\_

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

Bid/proposal Number: DHMH/OPASS 17-17110 Entitled: *Pharmacy Management System*

Your comments will help us improve the procurement process.

**Thank You.**

Please return your comments with your proposal. If you have chosen not to propose to this RFP, please e-mail this completed form to the Procurement Officer's e-mail address.

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## 1 GENERAL INFORMATION

### 1.1 Summary Statement

- 1.1.1 The Department of Health and Mental Hygiene (DHMH or the “Department”) is issuing this Request for Proposals (RFP) to provide acquisition and deployment of a turnkey, commercial off-the-shelf (COTS) pharmacy management system for the in-house pharmacies at the inpatient facilities run by DHMH. The pharmacy management system will replace the legacy pharmacy management system in these facilities and it will interface with the existing hospital management system (HMIS) for patient admissions/discharges and other patient demographic information. The new pharmacy management system will support all the functions of the in-house pharmacies.
- 1.1.2 It is the State’s intention to obtain products/services, as specified in this RFP, through a Contract between the successful Offeror and the State. See Section 1.4 for contract duration 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 products/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 the purposes of this RFP, the following abbreviations and terms have the meanings indicated. Not all terms will necessarily apply for this RFP.

Term	Definition
Access	The ability or the means necessary to read, write, modify, or communicate data/information or otherwise use any information system resource
Business Day	Monday through Friday (excluding State holidays)
COMAR	Code of Maryland Regulations available on-line at <a href="http://www.dsd.state.md.us">www.dsd.state.md.us</a>
Contract	The Contract awarded to the successful Offeror pursuant to this RFP, the form of which is attached to this RFP as Attachment A
Contract Manager	The State representative who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring the 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

Contractor	The Offeror awarded the Contract
Contractor Personnel	Employees and agents and Subcontractor employees and agents performing work at the direction of the Contractor under the terms of the Contract
Contractor's Point of Contact (POC)	Person designated at the time of Contract award by the Contractor as the single point of contact with the authority and knowledge to resolve Contract issues.
Data Breach	The unauthorized acquisition, use, modification or disclosure of Sensitive Data
Department of Health and Mental Hygiene (DHMH, or the Department)	The unit of the Executive Branch of Maryland State government issuing the RFP
eMaryland Marketplace (eMM)	Maryland's online procurement system
End User License Agreement or Enterprise License Agreement (EULA)	The terms of service governing access to and use of software services provided pursuant to this Contract
Fixed Price	Pricing option which places responsibility on the Contractor for the delivery of any products and the complete performance of any services in accordance with the RFP at a price that is not subject to adjustment
Handle Data	Collect, store, transmit, have access to data
Information System	A discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information
Information Technology (IT)	All electronic information-processing hardware and software, including: (a) Maintenance; (b) Telecommunications; and (c) Associated consulting services
Key Personnel	Contractor Personnel that, should they leave during the performance period, will, in the State's opinion, have a substantial negative impact on the Contractor's performance under the Contract. As provided in Section 1.23, Key Personnel may be identified after Contract award.
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
Maryland Department of General	

Services (DGS)	
Maryland Department of Information Technology (DoIT)	
Minority Business Enterprise (MBE)	A Minority Business Enterprise certified by the Maryland Department of Transportation under COMAR 21.11.03
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: <a href="http://www.dbm.maryland.gov">www.dbm.maryland.gov</a> – keyword: State Holidays
Notice to Proceed (NTP)	A written notice from the Procurement Officer that work on the Contract, project, or Work Order shall begin on a specified date. Additional NTPs may be issued by either the Procurement Officer or the Contract Manager regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date.
NTP Date	The date specified in an NTP for work on the Contract, project, or Work Order to begin
Offeror	An entity that submits a proposal in response to this RFP
Personally Identifiable Information (PII)	Any information about an individual maintained by the State, including (1) any information that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.
Point of Contact (POC)	The individual named as the person to coordinate on a particular topic
Procurement Officer	The State representative who is responsible for the Contract, determining scope issues and is the only State representative who can authorize changes to the Contract
Proposal	As appropriate, either or both an Offeror's Technical or Financial Proposal
Protected Health Information (PHI)	Information that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) that identifies the individual;

	or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual
Request for Proposals (RFP)	This Request for Proposals for the Department of Health and Mental Hygiene, including any amendments / addenda thereto
Security Incident	A violation or imminent threat of violation of computer security policies, Security Measures, acceptable use policies, or standard security practices. “Imminent threat of violation” is a situation in which the organization has a factual basis for believing that a specific incident is about to occur.
Security or Security Measures	The technology, policy and procedures that a) protects and b) controls access to networks, systems, and data
Sensitive Data	Means PII; PHI; information about an individual that (1) can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; (2) is linked or linkable to an individual, such as medical, educational, financial, and employment information; or other proprietary or confidential data as defined by the State, including but not limited to “personal information” under Md. Code Ann., Commercial Law § 14-3501(d) and Md. Code Ann., State Govt. § 10-1301(c)
State	The State of Maryland
Software	“Software” means the object code version of computer programs licensed pursuant to this Contract. Embedded code, firmware, internal code, microcode, and any other term referring to software that is necessary for proper operation is included in this definition of Software. Software includes all prior, current, and future versions of the Software and all maintenance updates and error corrections. Software also includes any upgrades, updates, bug fixes or modified versions or backup copies of the Software licensed to the State by Contractor or an authorized distributor.
Subcontractor	An agent, service provider, supplier, or vendor selected by the Contractor to provide subcontracted services or products under the direction of the Contractor or other Subcontractors, and including any direct or indirect Subcontractors of a Subcontractor. Subcontractors are

	subject to the same terms and conditions as the Contractor.
System	All services and activities necessary to fully support the Pharmacy Management System program as an Information System, described as services and/or products in this RFP, to include adding and processing orders, printing labels, generating reports, access to a help desk, and non-technical items such as dispensing medications and other manual processes.
Technical Safeguards	The technology and the policy and procedures for its use that protect Sensitive Data and control access to it
Total Evaluated Price	The Offeror's price as submitted on Attachment F – Price Sheet, upon which the Offeror's Financial Proposal will be evaluated. (see RFP Section 5.3)
Upgrade	<p>A new release of any component of the software provided by the Contractor containing major new features, functionality and/or performance improvements. An Upgrade would conventionally be indicated where the version number is changed by incrementing the numeric digits to the left of the decimal point, e.g., versions 1.0, 2.0, 3.0, and 4.0 would each typically be Upgrades to prior versions.</p> <p>All Upgrades and regulatory updates shall be provided at no additional cost to the State.</p>
Veteran-owned Small Business Enterprise (VSBE)	A business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13 and <a href="http://www.vetbiz.gov">http://www.vetbiz.gov</a> .
Work Order	A subset of work authorized by the Contract Manager performed under the general scope of this RFP, which is defined in advance of Contractor fulfillment, and which may not require a Contract Modification. Except as otherwise provided, any reference to the Contract shall be deemed to include reference to a Work Order.
Working Day(s)	Same as “Business Day”

**1.3 Contract Type**

The Contract shall be a fixed price contract as defined in COMAR 21.06.03.02 with software components as an Indefinite Quantity Contract with Firm Fixed Prices in accordance with 21.06.03.06.

**1.4 Contract Duration**

- 1.4.1 The Contract shall start from the date of mutual contract execution by the parties (“Effective Date”).
- 1.4.2 As of the NTP Date contained in a Notice to Proceed (NTP), 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.
- 1.4.3 The Contract resulting from this RFP shall be for one (1) year from the Effective Date. The State, at its sole option and discretion, may renew the term of the Contract through two (2) additional one-year renewal options for a total potential Contract length of up to three (3) years.
- 1.4.4 The Contractor’s obligations to pay invoices to subcontractors that provide products/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.
- 1.4.5 In accordance with BPW Advisory 1995-1, in the event there are unspent funds remaining on the Contract, prior to the Contract's expiration date the Procurement Officer may modify the Contract to extend the Contract beyond its expiration date for a period up to, but not exceeding, one-third of the base term of the Contract (e.g., eight-month extension on a two-year contract) for the performance of work within the Contract's scope of work. Notwithstanding anything to the contrary, no funds may be added to the Contract in connection with any such extension.

**1.5 Procurement Officer**

The sole point of contact in the State for purposes of this RFP prior to the award of a contract is the Procurement Officer as listed Key Information Summary Sheet.

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

**1.6 Contract Manager**

The Contract Manager for the Contract is listed in the Key Information Summary Sheet.

DHMH may change the Contract Manager at any time by written notice.

**1.7 Pre-proposal Conference**

- 1.7.1 A pre-proposal conference will be held at the time, date and location indicated on the Key Information Summary Sheet. Attendance at the pre-proposal conference is not mandatory, but all interested companies are encouraged to attend in order to facilitate better preparation of their proposals.
- 1.7.2 In order to accommodate Offerors whose offices are not located near Baltimore, Maryland, companies will be able to access the pre-proposal conference remotely. Remote access information/codes will be

emailed to those companies that request the information on the Pre-Proposal Conference Response Form (Attachment E).

- 1.7.3 For those attending the conference in person, seating at the pre-proposal conference will be limited to two (2) attendees per company. Attendees should bring a copy of the solicitation and a business card to help facilitate the sign-in process.
- 1.7.4 The pre-proposal conference will be summarized in writing. As promptly as is feasible subsequent to the pre-proposal conference, the attendance record and pre-proposal summary will be distributed via the same mechanism described for amendments and questions.
- 1.7.5 In order to assure adequate seating and other accommodations, including remote access information, at the pre-proposal conference, please e-mail the Pre-Proposal Conference Response Form (Attachment E) no later than the time and date indicated on the form. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please call the Procurement Officer no later than five (5) business days prior to the pre-proposal conference. The Department will make reasonable efforts to provide such special accommodation.

## **1.8 eMaryland Marketplace (eMM)**

- 1.8.1 eMaryland Marketplace (eMM) is an electronic commerce system administered by the Maryland Department of General Services (DGS). In addition to using the DHMH's website (<http://dhmh.maryland.gov/>) and possibly using other means for transmitting the RFP and associated materials, the RFP, pre-proposal conference summary and attendance sheet, Offerors' questions and the Procurement Officer's responses, addenda, and other solicitation related information will be made available via eMM.
- 1.8.2 In order to receive a contract award, a company must be registered on eMM. Guidelines can be found on the eMaryland Marketplace website at <http://emaryland.buyspeed.com>.

## **1.9 Questions**

- 1.9.1 All questions shall be submitted via e-mail to the Procurement Officer no later than the date and time indicated in the Key Information Summary Sheet. Please identify in the subject line the Solicitation Number and Title. Answers to all questions that are not clearly specific only to the requestor will be distributed via the same mechanism as for RFP amendments and posted on eMM.
- 1.9.2 Only answers that have been answered in writing by the State can be considered final and binding.

## **1.10 Procurement Method**

The Contract will be awarded in accordance with the Competitive Sealed Proposals procurement method as described in COMAR 21.05.03.

## **1.11 Proposals Due (Closing) Date and Time**

- 1.11.1 Proposals, in the number and form set forth in Section 4 "Proposal Format," must be received by the Procurement Officer no later than the date and time listed on the Key Information Summary Sheet in order to be considered. To minimize Offeror Proposal duplication costs, e-mail delivery of Proposals is strongly preferred.

- 1.11.2 Requests for extension of this date or time shall 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 by the Procurement Officer after the due date and time shall not be considered.
- 1.11.3 Proposals may be modified or withdrawn by written notice received by the Procurement Officer before the Proposals due time and date.
- 1.11.4 Proposals delivered by facsimile shall not be considered.
- 1.11.5 Companies not responding to this solicitation are requested to submit the “Notice to Offerors/Bidders/Contractors” form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements).

### **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**

- 1.14.1 Offerors should give specific attention to the clear identification of those portions of their proposals that they deem to be confidential, 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., General Provisions Article, (Also, see RFP Section 4.2.2.2 “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.
- 1.14.2 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**

A 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 products/services as specified in this RFP. See RFP Section 5 for further award information.

### **1.16 Oral Presentation**

Offerors determined to be reasonably susceptible will be required to make oral presentations to State representatives. During the oral presentations, the Offeror will be asked to provide a live demonstration of its software using business scenarios provided by DHMH. Each Offeror will be asked to demonstrate the same set of scenarios, which will include adding a new facility, adding a new unit, adding a new prescriber, admitting a patient, processing new medication orders with allergy alerts, and renewing medication orders.

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 the latest of the following: 180 days following the closing date for submission of proposals, best and final offers (if requested), or the date any protest concerning this RFP is finally resolved. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

### **1.18 Revisions to the RFP**

- 1.18.1 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 Department's procurement 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.
- 1.18.2 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, and may cause the Proposal to be deemed not susceptible for award.

### **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 Contract shall be subject to the provisions of COMAR 21.10 (Administrative and Civil Remedies).

**1.22 Offeror Responsibilities**

- 1.22.1 The successful Offeror shall be responsible for rendering products and services for which it has been selected as required by this RFP. All subcontractors shall be identified and a complete description of their role relative to the Proposal shall be included in the Offeror's Proposal.
- 1.22.2 If an Offeror that seeks to perform or provide the products/services required by this RFP is the subsidiary of another entity, all information submitted by the Offeror, such as 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.
- 1.22.3 Although experience and documentation of an Offeror's parent may be used to satisfy minimum qualifications, 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 actual Offeror's experience and qualifications. Instead, the Offeror will be evaluated on the extent to which the State determines that the experience and qualifications of the parent are transferred to and shared with the Offeror, any stated intent by the parent in its guarantee of performance for direct involvement in the performance of the Contract, and the value of the parent's participation as determined by the State.

**1.23 Substitution of Contractor Personnel****A. Contractor Personnel General Substitution Provisions**

The following provisions apply to all of the circumstances of Contractor Personnel substitution described in paragraph B of this section.

1. The Contractor shall demonstrate to the Contract Manager's satisfaction that the proposed substitute has qualifications at least equal to those of the Contractor Personnel proposed to be replaced.
2. The Contractor shall provide the Contract Manager with a substitution request that shall include:
  - a. A detailed explanation of the reason(s) for the substitution request;
  - b. The resume of the proposed substitute, signed by the substituting individual and his/her formal supervisor;
  - c. The official resume of the current personnel for comparison purposes; and
  - d. Evidence of any required credentials.
3. The Contract Manager may request additional information concerning the proposed substitution. In addition, the Contract Manager 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 Manager 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 Manager will not unreasonably withhold approval of a proposed Contractor Personnel replacement.

**B. Replacement Circumstances**

## 1. Directed Personnel Replacement

- a. The Contract Manager may direct the Contractor to replace any Contractor Personnel who, in the sole discretion of the Contract Manager, are perceived as being unqualified, non-productive, unable to fully perform the job duties, disruptive, or known, or reasonably believed, to have committed a major infraction(s) of law, Department policies, or Contract requirements. Normally, a directed personnel replacement will occur only after prior notification of problems with requested remediation, as described in paragraph 1.b.
- b. If deemed appropriate in the discretion of the Contract Manager, the Contract Manager shall give written notice of any Contractor Personnel performance issues to the Contractor, describing the problem and delineating the remediation requirement(s). The Contractor shall provide a written response to the remediation requirements in a Remediation Plan within ten (10) days of the date of the notice and shall immediately implement the Remediation Plan upon written acceptance by the Contract Manager. If the Contract Manager rejects the Remediation Plan, the Contractor shall revise and resubmit the plan to the Contract Manager within five (5) days, or in the timeframe set forth by the Contract Manager in writing.
- c. Should performance issues persist despite an approved Remediation Plan, the Contract Manager may 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 Contractor Personnel whose performance is at issue with a qualified substitute, including requiring the immediate removal of the Contractor Personnel at issue.
- d. Replacement or substitution of Contractor 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.
- e. If the Contract Manager determines to direct substitution under 1.23.B.1.a, if at all possible, at least fifteen (15) days advance notice shall be given to the Contractor. However, if the Contract Manager deems it necessary and in the State's best interests to remove the Contractor Personnel with less than fifteen (15) days' notice, the Contract Manager may direct the removal in a timeframe of less than fifteen (15) days, including immediate removal.

### 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 hereto as Attachment A. Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary of the Technical Proposal. **The volume and severity of exceptions to the Contract terms, including the terms of the RFP, will be considered in the evaluation process, and may be grounds for finding an Offeror not reasonably susceptible for award.**

### 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 for informational purposes as Attachment C of this RFP. This Affidavit must be provided within five (5) Business Days of notification of recommended award. For purposes of completing Section "B" of this Affidavit (Certification of Registration or Qualification with the State Department of Assessments and Taxation), note that a business entity that is organized outside of the State of Maryland is considered to be a "foreign" business.

**1.27 Compliance with Laws/Arrearages**

- 1.27.1 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.
- 1.27.2 By submitting a response to this solicitation, the Offeror also represents that it is not in arrears in the payment of any obligations due to the State of Maryland, 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 award.

**1.28 Verification of Registration and Tax Payment**

- 1.28.1 Before a business entity can do business in the State of Maryland it must be registered with the Department of Assessments and Taxation, State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. The SDAT website is <http://sdatcert3.resiusa.org/ucc-charter/>.
- 1.28.2 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 the Department of Assessments and Taxation may disqualify an otherwise successful Offeror from final consideration and recommendation for 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:
- Falsify, conceal, or suppress a material fact by any scheme or device.
  - Make a false or fraudulent statement or representation of a material fact.
  - 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 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 \$200,000. The successful 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 and must include the business identification information as stated on the form and include the reason for the exemption. The COT/GAD X-10 form can be downloaded 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 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, Sections 8 "Prompt Pay Requirements" and 20.14.3 "MBE Prompt Pay Requirements" (see Attachment A), should an MBE goal apply to this RFP. Additional information is available on GOMA's website at: <http://goma.maryland.gov/Pages/Legislation-and-Policy.aspx>.

**1.32 Electronic Procurements Authorized**

- 1.32.1 Under COMAR 21.03.05, unless otherwise prohibited by law, a primary procurement unit 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.
- 1.32.2 Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or the Contract.
- 1.32.3 "Electronic means" refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes facsimile, e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://emaryland.buyspeed.com/bsol/>), and electronic data interchange.
- 1.32.4 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 1.32.5 of this subsection, the following transactions are authorized to be conducted by electronic means on the terms as authorized in COMAR21.03.05:
1. The Procurement Officer may conduct the procurement using eMM, e-mail, or facsimile to issue:
    - a. the solicitation (e.g., the RFP)
    - b. any amendments

- c. pre-Proposal conference documents
  - d. questions and responses
  - e. communications regarding the solicitation or Proposal to any Offeror or potential offeror
  - f. notices of award selection or non-selection
  - g. the Procurement Officer's decision on any solicitation protest or Contract claim
2. An Offeror or potential Offeror may use e-mail 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 Manager, and the Contractor may conduct day-to-day Contract administration, except as outlined in Section 1.32.5 of this subsection, utilizing e-mail, facsimile, or other electronic means if authorized by the Procurement Officer or Contract Manager.
- 1.32.5 The following transactions related to this procurement and any Contract awarded pursuant to it are *not authorized* to be conducted by electronic means:
- a. filing of protests;
  - b. filing of Contract claims;
  - c. submission of documents determined by the Department to require original signatures (e.g., Contract execution, Contract modifications); or
  - d. any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Offeror be provided in writing or hard copy.
- 1.32.6 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 Manager.

### **1.33 Minority Business Enterprise (MBE) Participation Goal**

There is no MBE subcontractor participation goal for this procurement.

### **1.34 Living Wage Requirements**

- 1.34.1 Maryland law requires that contractors meeting certain conditions pay a living wage to covered employees on State service contracts over \$100,000. Maryland Code Ann., State Finance and Procurement Article, § 18-101 et al. The Commissioner of Labor and Industry at the Department of Labor, Licensing and Regulation requires that a contractor subject to the Living Wage law submit payroll records for covered employees and a signed statement indicating that it paid a living wage to covered employees; or receive a waiver from Living Wage reporting requirements. See COMAR 21.11.10.05.

- 1.34.2 If subject to the Living Wage law, Contractor agrees that it will abide by all Living Wage law requirements, including but not limited to reporting requirements in COMAR 21.11.10.05. Contractor understands that failure of Contractor to provide such documents is a material breach of the terms and conditions and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions. 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>
- 1.34.3 Additional information regarding the State's living wage requirement is contained in Attachment G. Offerors must complete and submit the Maryland Living Wage Requirements Affidavit of Agreement (Attachment G-1) with their Proposals. If an Offeror fails to complete and submit the required documentation, the State may determine the Offeror to not be responsible under State law.
- 1.34.4 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 a Tier 2 Area of the State. 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. 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. See COMAR 21.11.10.07.
- 1.34.5 The Offeror shall identify in the Proposal the location from which services will be provided.
- NOTE: Whereas the Living Wage may change annually, the Contract price will not change because of a Living Wage change.

### **1.35 Federal Funding Acknowledgement**

The Contract does not contain federal funds.

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

- 1.36.1 Offerors shall complete and sign the Conflict of Interest Affidavit and Disclosure (Attachment I) and submit it with their Proposal. All Offerors are advised that if a Contract is awarded as a result of this solicitation, the 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.
- 1.36.2 Additionally, Contractors have an ongoing obligation to ensure that any necessary Contractor Personnel or Subcontractor Personnel have completed such agreements prior to providing services under the Contract. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08.
- 1.36.3 Contractors should be aware that the State Ethics Law, Md. Code Ann., General Provisions Article, Title 5, might limit the selected Contractor's ability to participate in future related procurements, depending upon specific circumstances.

- 1.36.4 By submitting a Conflict of Interest Affidavit and Disclosure, the Contractor shall be construed as certifying all Contractor Personnel and Subcontractors are also without a conflict of interest as defined in COMAR 21.05.08.08A.

### 1.37 Non-Disclosure Agreement

- 1.37.1 Non-Disclosure Agreement (Offeror)

This section does not apply to this solicitation.

- 1.37.2 Non-Disclosure Agreement (Contractor)

All 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 recommended award; however, to expedite processing, it is suggested that this document be completed and submitted with the Proposal.

### 1.38 HIPAA - Business Associate Agreement

Based on the determination by the Department 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 Non-Visual Access

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

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

**1.42 Location of the Performance of Services Disclosure**

This solicitation does not require a Location of the Performance of Services Disclosure.

**1.43 Department of Human Resources (DHR) Hiring Agreement**

This solicitation does not require a DHR Hiring Agreement.

**1.44 Purchasing and Recycling Electronic Products**

This section does not apply to this solicitation.

**1.45 Contract Extended To Include Other Non-State Governments or Agencies**

County, municipal, State entities that are not subject to DoIT's authority, including State non-executive branch entities, and non-State governments or agencies may purchase from the Contractor goods or services covered by this Contract at the same maximum prices to which the State would be subject under the resulting Contract. All such purchases:

- (1) Shall constitute Contracts between the Contractor and that government, agency or organization;
- (2) For non-State entities, shall not constitute purchases by the State or State agencies under this Contract;
- (3) For non-State entities, shall not be binding or enforceable against the State; and
- (4) May be subject to other terms and conditions agreed to by the Contractor and the purchaser. The Contractor bears the risk of determining whether or not a government, agency or organization with which the Contractor is dealing is a State entity.

**1.46 Retainage**

The Contractor shall invoice for Phase I implementation less fifteen percent (15 %) retainage for any charges not related to software licensing. The retainage shall be invoiced upon the satisfactory completion of Phase I at all of the facilities included in Phase I.

Definitions of Phase I and Phase II are explained in Section 3.2.3 – Implementation Approach.

## 2 COMPANY AND PERSONNEL QUALIFICATIONS

### 2.1 Offeror Minimum Qualifications

To be considered reasonably susceptible for award, an Offeror must provide proof with its Proposal that the following Minimum Qualifications have been met:

- 2.1.1 The Offeror shall have at least three (3) years' experience in implementing and supporting pharmacy management software for long term care, hospital or institutional facilities.

As proof of meeting this requirement, the Offeror shall provide with its Proposal three (3) references from the past five (5) years able to attest to the Offeror's experience in providing implementation and support of a pharmacy management system to long term care, hospital or institutional facilities.

- 2.2.2 The software proposed by the Offeror must meet the following basic qualifications:

- a. Must support a minimum of six (6) pharmacies, each of which may service multiple facilities;
- b. Must support Computerized Physician Order Entry (CPOE) for medication orders;
- c. Must provide the ability to print Medication Administration Records (MARs);
- d. Must interface with automated medication packaging and dispensing machines; and
- e. Must interface with Electronic Medical Records (EMR) systems.

### 2.2 Offeror Personnel Minimum Qualifications

This section not applicable to this solicitation.

### 2.3 Contractor Preferred Qualifications

This section not applicable to this solicitation.

### 2.4 Personnel Preferred Qualifications

This section not applicable to this solicitation.

### 3 SCOPE OF WORK

#### 3.1 Background and Purpose

DHMH is issuing this solicitation in order to obtain and deploy a turnkey, commercial off-the-shelf (COTS) pharmacy management system for the in-house pharmacies at the inpatient facilities run by DHMH. The pharmacy management system will replace the legacy pharmacy management system used in 4 of these 5 facilities, and it will interface with the existing hospital management system (HMIS ADT module) for patient admissions/discharges and other patient demographic information. The new pharmacy management system will support the functions of the in-house pharmacies either as described herein or as reasonably derived from the descriptions herein.

The awarded Offeror shall be able to perform all requirements as detailed in Section 3 of the RFP. Offerors shall be required to furnish satisfactory evidence that they meet or exceed all minimum qualifications listed in Section 2 of this RFP.

The purpose of this solicitation is to procure a state-of-the-art commercially available COTS application to support all functions of the in-house pharmacies.

The COTS software purchased by the State shall be operational (i.e., not under development) and generally available by the due date of the Proposal.

DHMH desires to have the implementation for the in-house pharmacies to be complete by December 31, 2016.

#### 3.2 Department / Project Background

##### 3.2.1 Department & Project Background

The Behavioral Health Administration (BHA) of DHMH operates five state psychiatric facilities with in-house pharmacies located throughout the State of Maryland. The new pharmacy management system will replace the legacy pharmacy management system used in 4 of these 5 facilities and it will interface with the existing hospital management system (HMIS ADT module) for patient admissions/discharges and other patient demographic information. The new pharmacy management system will support all the functions of the in-house pharmacies as described herein or as reasonably derived from the descriptions herein.

The four DHMH facilities with in-house pharmacies that will use the new pharmacy management system are Clifton T. Perkins Center in Jessup, Springfield Hospital Center in Sykesville, Spring Grove Hospital Center in Catonsville, and Thomas B. Finan Center in Cumberland. The Eastern Shore Hospital, located in Cambridge, has an Electronic Medical Records (EMR) system which provides more functionality than just a pharmacy management system, therefore, it will not be included in this RFP at this time.

Two Secure Evaluation & Therapeutic Treatment (SETT) units for people with intellectual disabilities are also in scope for this RFP, and should be considered "facilities" that are serviced by the Springfield Hospital pharmacy. These units are run by the Developmental Disabilities Administration (DDA) within DHMH and they receive their medications from one of the state psychiatric facility pharmacies, rather than a commercial pharmacy. These two units are included in the scope of this RFP in that they will be receiving medications dispensed by the new software.

Out of Scope: DHMH also operates six other in-patient facilities. These facilities use the HMIS ADT module for patient census information, but they purchase their medications from outside pharmacies, so they do not use the pharmacy management system and are therefore not included in the scope of this RFP.

Please refer to Appendix 1 for more information about all of the DHMH facilities included in this RFP.

### 3.2.2 Current Systems

The DHMH in-patient facilities currently use software developed by Advanced Institutional Management Software (AIMS) to manage their patient and pharmacy data. The AIMS software has two independent modules that together constitute the Hospital Management Information System (HMIS). The HMIS Admission/Discharge/Transfer (ADT) Module is used by all 11 facilities to record patient admissions, discharges, diagnoses and demographic information. The HMIS Pharmacy Module is used by 4 of the 5 DHMH in-house pharmacies to record patient medication orders and to dispense medication. The Eastern Shore Hospital uses an Electronic Medical Records (EMR) to dispense medications, as well as to maintain all patient census data.

The HMIS ADT Module was purchased from AIMS and implemented in 1987 for census, reporting and billing functions. DHMH purchased the HMIS Pharmacy Module from AIMS in 1999 as an add-on to the HMIS ADT Module. DHMH now owns and maintains the software for the HMIS ADT Module. However, DHMH does not own the source code for the HMIS Pharmacy Module. AIMS was eventually acquired by Netsmart, which owns the pharmacy software source code.

The HMIS Pharmacy Module interfaces with HMIS ADT Module for patient admission/discharge, diagnosis and demographic information. Pharmacy staff enter physician medication orders into the HMIS Pharmacy Module. A separately purchased reference database, Medi-Span, enables drug-drug interaction checks and drug-allergy checks based on therapeutic class classification. The HMIS Pharmacy Module generates labels and/or fill lists for both inpatient and discharge medication orders. It also interfaces with a Talyst OS-PAC (AutoPack) JV500 SL automated dispensing system at one facility. Lastly, the HMIS Pharmacy Module provides pre-programmed utilization reports and has limited ability to download drug usage data.

The HMIS ADT Module is housed on AS/400 minicomputers located at six remote hospital centers. These remote hospital minicomputers support from one to four facilities each and are connected over the State's wide area network. A seventh copy of the software is housed on an AS/400 located at DHMH headquarters in Baltimore. This seventh installation receives updates from all the HMIS ADT Modules at the facilities and is used for centralized reporting and billing.

The HMIS Pharmacy Module is installed on the same AS/400 machines as the HMIS ADT Module. The HMIS Pharmacy Module receives patient admission, discharge, diagnoses and demographic data from the HMIS ADT Module.

The current HMIS operating system is OS/400 V4 R5. Clients in this system connect to the AS/400's using IBM's Client Access 5.1 which allows for 5250 type terminal emulation sessions. All data stored on the AS/400's are in IBM's DB2 relational database and the application software is primarily RPG 400 and RPG II.

DHMH is currently transitioning the HMIS ADT and Pharmacy Modules' hardware to a single IBM POWER8 system using the IBM OS/7.2 operating system. All existing systems will be hosted as individual partitions on that single POWER8 system located in the Department's data center in

Baltimore. Backup and disaster recovery will be hosted on a second POWER8 system to be located at the Department's designated backup center.

Please refer to Appendix 2 for more information regarding the current processing and technical architecture of existing HMIS ADT and Pharmacy Modules. The new pharmacy management software will need to be integrated with the HMIS ADT module.

### 3.2.3 Implementation Approach

DHMH has developed a preliminary implementation approach which should be used as a basis for the Implementation Plan that will be submitted in the Offeror's Technical Proposal. The Offeror may modify this implementation approach if it feels that a different approach would be better for the proposed software. However, if the approach is modified, the Offeror must explain why a different approach was recommended.

DHMH plans to implement the new pharmacy management system on a pharmacy-by-pharmacy basis. The implementation approach has two phases outlined below.

#### **A. Phase I – Pharmacy Only Implementation**

Implement the pharmacy management system only within the pharmacy. Do not introduce CPOE and MARs generated from the system with Phase I. Perkins, Springfield, Spring Grove, and Finan Center will be converted to the new system in that order. The Finan Center will continue to use their Direct Physician Order Entry (DPOE) system in conjunction with the new pharmacy management system so they do not lose functionality during this phase. Refer to Appendix 2 for details on the current processing.

This approach allows DHMH to install the new pharmacy system as quickly as possible in the pharmacies with little disruption to the processing for the main hospital staff. It also allows DHMH to implement the new system with as little new hardware as possible.

#### **B. Phase II – Implement CPOE and MARs**

Phase II will implement CPOE and system-generated MARs from the pharmacy management system at Perkins, Springfield, Spring Grove, and Finan Center, in that order. It will require the Department to purchase PC's and laser printers for the nursing stations, and possibly for the prescribers to access, as well as extensive training for the prescriber and nursing staff. When each facility is prepared to proceed with Phase II, implementation services may be required from the Offeror. DHMH will issue a change order to the Contract for those services.

#### **C. Timeline**

DHMH desires Phase I implementation for the four facilities to be completed by December 31, 2016.

## **3.3 General Requirements**

### 3.3.1 Required Project Policies, Guidelines and Methodologies

The Contractor shall be required to comply with all applicable laws, regulations, policies, standards and guidelines affecting information technology projects, which may be created or changed periodically. It is the responsibility of the Contractor to ensure adherence and to remain abreast of new or revised laws,

regulations, policies, standards and guidelines affecting project execution. These may include, but are not limited to:

- A. The State of Maryland System Development Life Cycle (SDLC) methodology at: [www.DoIT.maryland.gov](http://www.DoIT.maryland.gov) - keyword: SDLC;
- B. The State of Maryland Information Technology Security Policy and Standards at: [www.DoIT.maryland.gov](http://www.DoIT.maryland.gov) - keyword: Security Policy;
- C. The State of Maryland Information Technology Non-Visual Standards at: <http://doit.maryland.gov/policies/Pages/ContractPolicies.aspx>
- D. The State of Maryland Information Technology Project Oversight at: [www.DoIT.maryland.gov](http://www.DoIT.maryland.gov) - keyword: IT Project Oversight;

3.3.2 Any IT services personnel provided under this RFP shall maintain any required professional certifications for the duration of the resulting Contract.

### 3.3.3 Transition-In Requirements

3.3.3.1 Project Kick-Off Meeting – See Section 3.8

3.3.3.2 Updated Implementation Plan – See Section 3.8

### 3.3.4 Transition-Out Requirements

The Offeror must conduct a Project Closing Meeting as defined in Section 3.7 – Deliverables and provide copies of all training materials and documentation

### 3.3.5 Export, Backup, Disaster Recovery (DR)

This section is not applicable to this solicitation.

### 3.3.6 Contractor-supplied Hardware, Software, and Materials

The Contractor shall supply the software as described in this RFP.

### 3.3.7 Custom Software

3.3.7.1 As described in the sample Contract (Attachment A), the State shall solely own any custom software, including, but not limited to application modules developed to integrate with a COTS, source-codes, maintenance updates, documentation, and configuration files, when developed under this Contract.

3.3.7.2 Upon a Contractor's voluntary or involuntary filing of bankruptcy or any other insolvency proceeding, Contractor's dissolution, Contractor's discontinuance of support of any software or system, the Contractor shall convey to the State all rights, title, and interests in all custom software, licenses, software source codes, and all associated Software Source Code Documentation that comprises any solutions proposed as a part of the Master Contract or Contract. These rights include, but are not limited to, the rights to use, and cause others to use on behalf of the State, said software, software documentation, licenses, software source codes, and Software Source Code Documentation.

### 3.3.8 Custom Source Code

3.3.8.1 For all custom software provided to the State pursuant to any Contract, the Contractor shall either provide the source code directly to the State in a form acceptable to the State, or deliver two copies of each software source code and software source code documentation to a State-approved escrow agent at no additional cost to the State following the terms set forth in the sample contract (Attachment A) and in Section 3.3.9 below.

3.3.8.2 The State shall have the right to audit custom software source code and corresponding software source code documentation for each software product that comprises the solution as represented by the Contractor. This audit shall be scheduled at any time that is convenient for the parties to be present. The State shall be provided with software or other tools required to view all software source code.

3.3.8.3 The Contractor shall provide the current source code and documentation for all custom software to the State at the time of Contract termination.

### 3.3.9 Source Code Escrow

This section is not expected to be applicable to this solicitation.

### 3.3.10 Data

3.3.10.1 Data, databases and derived data products created, collected, manipulated, or directly purchased as part of a RFP shall become the property of the State. The purchasing State agency is considered the custodian of the data and shall determine the use, access, distribution and other conditions based on appropriate State statutes and regulations.

3.3.10.2 Licensed and/or copyrighted data shall be governed by the terms and conditions identified in the Contract or the license.

### 3.3.11 Travel Reimbursement

The Offeror must include all travel expenses in its Financial Proposal. There will be no additional reimbursement for travel expenses. Please refer to Section 4.3 Financial Proposal for the requirements for identifying expected travel expenses in the Financial Proposal.

### 3.3.12 CONTRACTOR RESPONSIBILITIES

The Contractor shall provide:

- a. Its pharmacy management system software and any other modules of its software required to meet the functional / business requirements identified in Section 3.3.13,
- b. All configuration and implementation support required to successfully implement the software in all facilities identified in this RFP per the Contractor's Implementation Plan as agreed to by DHMH, and
- c. On-going support for the duration of the Contract. The support requirements are defined in Section 3.3.15 Non-Functional, Non-Technical Requirements.

### 3.3.13 FUNCTIONAL / BUSINESS REQUIREMENTS

**The functional and business requirements for the pharmacy management system are documented in Appendix 5.**

### 3.3.14 TECHNICAL REQUIREMENTS

The solution proposed by the Offeror must support the functional and business requirements defined in Section 3.3 with reasonable response times and processing speeds. The Offeror must specify the hardware and supporting software required to support its proposed solution.

The Department intends to establish Development, Test, Training, Pre-Production and Production environments for the pharmacy management system. The Offeror should include in its Financial Proposal additional costs, if any, for licensing these environments.

### 3.3.15 NON-FUNCTIONAL, NON-TECHNICAL REQUIREMENTS

#### 3.3.15.1 Reporting

The Offeror's Project Manager shall provide Status Reports to the DHMH Contract Manager on a weekly basis.

#### 3.3.15.2 Support and Upgrades

The Contractor shall provide remote support for DHMH users and IT staff for the duration of the Contract. The Contractor shall respond to critical issues within two (2) hours, and to non-critical issues within forty-eight (48) hours. Support includes answering questions, resolving problems, and providing updates to the software as applies under the terms of the Contract. Contractor shall perform Upgrades to the system to stay in compliance with all relevant standards, laws and regulations. Offeror must describe its support model, including any Upgrades in the Technical Proposal.

#### 3.3.15.3 Documentation

The Contractor shall provide sufficient user documentation, technical documentation and documentation of the software data structures to assist in data extract and reporting functions. The Contractor shall provide current documentation and updates as necessary for the duration of the Contract. The Offeror must provide a description of all documentation furnished in the Technical Proposal.

#### 3.3.15.4 Training

- A. The Contractor shall provide on-site hands-on training for all DHMH Pharmacy staff not be more than eight (8) weeks before Go-Live at each pharmacy.
- B. The Contractor shall provide appropriate technical/administration training for up to 10 DHMH IT staff as a part of its Proposal.
- C. DHMH shall furnish the facility and equipment for hands-on training. Contractor shall furnish all training materials. Go-Live
- D. Department staff shall have the opportunity to practice work in a training environment prior to Go-Live.

- E. In addition, the Offeror shall provide training materials for new Pharmacy and IT staff during the Contract period of performance. The preferred training method for new staff is access to on-line training modules.
- F. The Offeror must describe its training model in its Technical Proposal. See Appendix 1 facility information for the quantities of pharmacy staff that require training.

#### 3.3.15.5 Data Conversion

- A. The Contractor shall perform conversion of current patient data and all current active medication orders as part of Go-Live for each pharmacy. The scope of data conversion shall also include conversion of all historical patient and medication order data that is stored in the HMIS Pharmacy Module. The Department will extract data from existing tables into a staging table, the form of which is agreed upon by the Contractor and DHMH.
- B. The Contractor shall be responsible for loading data into the pharmacy management system.
- C. Transformations and loading processes developed by the Contractor shall be automated and repeatable.
- D. Data cleansing is the primary responsibility of DHMH.
- E. The Offeror must describe its support for data conversion in the Technical Proposal.

#### 3.3.15.6 Implementation Support

- A. Each pharmacy shall be converted independently, with the requirements set forth in Section 3.8 deliverables. Go-Live
- B. The Contractor shall assist the Department to establish separate Development, Test, Training, Pre-Production and Production environments on State-owned hardware. DHMH will be responsible for provisioning the servers and connectivity for each environment. Contractor shall provide an installation guide and installation consultation as Contractor and DHMH jointly collaborate on the task of installing and validating the software installation into each environment.
- C. The Contractor shall be responsible for assisting the State in identifying the configuration updates and hardening required to the hardware in preparation for these environments.
- D. The Contractor shall reset training data in the training environment prior to each training session.
- E. The Contractor shall establish a mechanism for migrating the software configurations from the Test environment without re-configuring the software in the Production environment.
- F. After each implementation, the Contractor shall furnish 30 days of “hyper care” of intensive support for the new users of the system, to augment users’ knowledge and to quickly resolve issues identified during this 30 day period.
- G. After all of the following is true, the Contractor shall schedule a final Project Closing Meeting (see 3.12.3):
  - 1. the final pharmacy system has been deployed, and
  - 2. Pharmacy management system is running in production at all pharmacies for 30 days, and
  - 3. all known errors documented, and

4. the State accepts all remaining errors or outstanding items.
- H. The Contractor shall track all issues (problems and requests) reported by system users.
- I. Starting with each pharmacy's Go-Live, the Contractor shall provide a weekly report of issues by pharmacy, including their status and projected resolution date.

### 3.4 Security Requirements

- 3.4.1 Additional security requirements may be established in a Work Order.
- 3.4.2 The Contractor shall perform the requirements in this section and shall cause its Subcontractors to also perform these requirements, as appropriate.
- 3.4.3 Information Technology
  - 3.4.3.1 The Contractor agrees that it and Contractor Personnel shall (i) abide by all applicable federal, State and local laws, rules and regulations concerning Security of Information Systems and Information Technology security and (ii) comply with and adhere to the State IT Security Policy and Standards as each may be amended or revised from time to time. 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.
  - 3.4.4 The State shall, at its discretion, have the right to review and assess the Contractor's compliance to the security requirements and standards defined in the Contract.
- 3.4.5 Contractor Personnel
  - 3.4.5.1 Contractor Personnel shall display his or her company ID badge in a visual location at all times while on State premises. Upon request of authorized State personnel, each such Contractor Personnel shall provide additional photo identification.
  - 3.4.5.2 At all times at any facility, the Contractor Personnel shall cooperate with State site requirements that include but are not limited to being prepared to be escorted at all times and providing information for State badge issuance.
  - 3.4.5.3 Contractor shall remove any Contractor Personnel from working on the Contract where the State determines, at its sole discretion, that said Contractor Personnel has not adhered to the Security requirements specified herein.
  - 3.4.5.4 The State reserves the right to request that the Contractor submit proof of employment authorization of non-United States Citizens, prior to commencement of work under the Contract.
- 3.4.6 Security Clearance / Criminal Background Check
  - A. A criminal background check for any Contractor Personnel providing any service shall be completed prior to each Contractor Personnel providing any services under the Contract.
  - B. The Contractor shall obtain at its own expense a Criminal Justice Information System (CJIS) State and federal criminal background check, including fingerprinting, for all Contractor Personnel listed in sub-paragraph A. This check may be performed by a public or private entity.

- C. The Contractor shall provide certification to the Department that the Contractor has completed the required criminal background check described in this RFP for each required Contractor Personnel prior to assignment, and that the Contractor Personnel have successfully passed this check.
- D. The Contractor may not assign an employee with a criminal record unless prior written approval is obtained from the Contract Manager. The Contract Manager reserves the right to reject any individual based upon the results of the background check. Decisions of the Contract Manager as to acceptability of a candidate are final. The State reserves the right to refuse any individual Contractor Personnel to work on State premises, based upon certain specified criminal convictions, as specified by the State.

#### 3.4.7 On-site Security Requirement(s)

3.4.7.1 For the conditions noted below, Contractor Personnel may be barred from entrance or leaving any site until such time that the State's conditions and queries are satisfied.

- A. Contractor Personnel may be subject to random security checks when entering and leaving State secured areas. The State reserves the right to require Contractor Personnel to be accompanied while in secured premises.
- B. Some State sites, especially those premises of the Department of Public Safety and Correctional Services, require each person entering the premises to document and inventory items (such as tools and equipment) being brought onto the site, and to submit to a physical search of his or her person. Therefore, the Contractor Personnel shall always have available an inventory list of tools being brought onto a site and be prepared to present the inventory list to the State staff or an officer upon arrival for review, as well as present the tools or equipment for inspection. Before leaving the site, the Contractor Personnel will again present the inventory list and the tools or equipment for inspection. Upon both entering the site and leaving the site, State staff or a correctional or police officer may search Contractor Personnel.

3.4.7.2 Any Contractor Personnel 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.

3.4.7.3 Further, Contractor Personnel shall not violate Md. Code Ann., Criminal Law Art. Section 9-410 through 9-417 and such other security policies of the agency that controls the facility to which the Contractor Personnel seeks access. The failure of any of the Contractor Personnel to comply with any provision of the Contract is sufficient grounds for the State to immediately terminate the Contract for default.

#### 3.4.8 Data Protection and Controls

The Contractor shall apply the relevant Data Protection and Controls requirements below to the State's system implementation.

3.4.8.1 Administrative, physical and technical safeguards shall be implemented to protect State data that are no less rigorous than accepted industry practices for information security such as those listed below (see 3.4.8.2), and all such safeguards, including the manner in which State data is collected, accessed, used, stored, processed, disposed of and disclosed shall comply with applicable data protection and privacy laws as well as the terms and conditions of this Contract.

3.4.8.2 To ensure appropriate data protection safeguards are in place, at minimum, the Contractor shall implement and maintain the following controls at all times throughout the term of the Contract (the Contractor may augment this list with additional controls):

1. Help the State establish separate production, test, and training environments for systems supporting the services provided under this Contract and ensure that production data is not replicated in test and/or training environment(s) unless it has been previously anonymized or otherwise modified to protect the confidentiality of Sensitive Data elements. The Contractor shall ensure the appropriate separation of production and non-production environments by applying the data protection and control requirements listed in Section 3.4.8.
2. Apply software hardening procedures as recommended by Center for Internet Security (CIS) guides, Security Technical Implementation Guides (STIG), or similar industry best practices to reduce the surface of vulnerability, eliminating as many security risks as possible and document what is not feasible and/or not performed according to best practices. Any hardening practices not implemented shall be documented with a plan of action and milestones including any compensating control. These procedures may include but are not limited to removal of unnecessary software, disabling or removing unnecessary services, removal of unnecessary usernames or logins, and the deactivation of unneeded features in the system configuration files.
3. Ensure that State data is not comingled with non-State data through the proper application of compartmentalization security measures.
4. Apply data encryption to protect Sensitive Data at all times, including but not limited to when at rest and also when archived for backup purposes. For all State data the Contractor manages or controls, data encryption shall be applied to such data in transit over untrusted networks. Encryption algorithms which are utilized for this purpose must comply with current Federal Information Processing Standards (FIPS), “Security Requirements for Cryptographic Modules”, FIPS PUB 140-2:  
<http://csrc.nist.gov/publications/fips/fips140-2/fips1402.pdf>  
<http://csrc.nist.gov/groups/STM/cmvp/documents/140-1/1401vend.htm>
5. Enable appropriate logging parameters to monitor user access activities, authorized and failed access attempts, system exceptions, and critical information security events as recommended by the operating system and application manufacturers and information security standards, including Maryland Department of Information Technology’s Information Security Policy.
6. The Contractor shall:
  - A. Ensure system and network environments are separated by properly configured and updated firewalls.
  - B. Restrict network connections between trusted and untrusted networks by physically and/or logically isolating systems from unsolicited and unauthenticated network traffic.
  - C. By default “deny all” and only allow access by exception.

- D. Review at regular intervals (no less than yearly) the aforementioned network connections, documenting and confirming the business justification for the use of all service, protocols, and ports allowed, including the rationale or compensating controls implemented for those protocols considered insecure but necessary.
7. The State may perform regular vulnerability testing of operating system, application, and network devices. Such testing is expected to identify outdated software versions; missing software patches; device or software misconfigurations; and to validate compliance with or deviations from the security policy applicable to this Contract, as identified in 3.4.8.2 item 2. Contractor shall evaluate all identified vulnerabilities associated with its software for potential adverse effect on security and integrity and remediate the vulnerability no later than 30 days following the earlier of vulnerability's identification or public disclosure, or document why remediation action is unnecessary or unsuitable.
  8. Enforce strong user authentication and password control measures to minimize the opportunity for unauthorized access through compromise of the user access controls. At a minimum, the implemented measures should be consistent with the most current State of Maryland Department of Information Technology's Information Security Policy (<http://doit.maryland.gov/support/Pages/SecurityPolicies.aspx>), including specific requirements for password length, complexity, history, and account lockout.
  9. Ensure Sensitive Data is not processed, transferred, or stored outside of the United States.
  10. Ensure Contractor's Personnel shall not connect any of its own equipment to a State LAN/WAN without prior written approval by the State, which may be revoked at any time for any reason. The Contractor shall complete any necessary paperwork as directed and coordinated with the Contract Manager to obtain approval by the State to connect Contractor-owned equipment to a State LAN/WAN.

#### 3.4.8.3 Access to Security Logs and Reports

The Contractor shall establish security logs and reports associated with the software.

Reports shall include user access, user access IP address, user access history and security logs for all State files related to this Contract.

### 3.5 Labor Categories and Qualifications

THIS SECTION IS NOT APPLICABLE TO THIS RFP.

### 3.6 Performance and Personnel

#### 3.6.1 Work Hours

- A. Business Hours Support: The collective assigned Contractor Personnel shall provide remote support during core business hours (8:00 AM to 5:00 PM, Eastern Standard Time), Monday through Friday except for State holidays, Service Reduction days, and Furlough days observed by the Department. Contractor Personnel may also be required to provide occasional support outside of core business hours, including evenings, overnight, and weekends, to support: specific efforts and emergencies to

resolve system repair or restoration. The support requirements are defined in Section 3.3.15 Non-Functional, Non-Technical Requirements.

### **3.7 Problem Escalation Procedure**

- 3.7.1 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.
- 3.7.2 The Contractor shall provide contact information to the Contract Manager, as well as to other State personnel, as directed should the Contract Manager not be available.
- 3.7.3 The Contractor must provide the PEP no later than ten (10) Business Days after notice of recommended award. 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:
- A. The process for establishing the existence of a problem;
  - B. 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;
  - C. Circumstances in which the escalation will occur in less than the normal timeframe;
  - D. The nature of feedback on resolution progress, including the frequency of feedback to be provided to the State;
  - E. Identification of, and contact information for, progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;
  - F. Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays) and on an emergency basis; and
  - G. A process for updating and notifying the Contract Manager of any changes to the PEP.
- 3.7.4 Nothing in this section shall be construed to limit any rights of the Contract Manager or the State which may be allowed by the Contract or applicable law.

### **3.8 Deliverables**

- 3.8.1 Deliverable Submission
- 3.8.1.1 For every deliverable, the Contractor shall request the Contract Manager confirm receipt of that deliverable by sending an e-mail identifying the deliverable name and date of receipt.
  - 3.8.1.2 For every deliverable, the Contractor shall submit by e-mail an Agency Deliverable Product Acceptance Form (DPAF), provided as Attachment R, to the Contract Manager in MS Word (2007 or greater).
  - 3.8.1.3 Unless specified otherwise, written deliverables shall be compatible with Microsoft Office, Microsoft Project and/or Microsoft Visio versions 2007 or later. At the Contract Manager's discretion, the Contract Manager may request one hard copy of a written deliverable.

3.8.1.4 A standard deliverable review cycle will be elaborated and agreed-upon between the State and the Contractor. This review process is entered into when the Contractor completes a deliverable.

### 3.8.2 Deliverable Acceptance

3.8.2.1 A final deliverable shall satisfy the scope and requirements of this RFP for that deliverable, including the quality and acceptance criteria for a final deliverable as defined in Section 3.8.4 Deliverable Descriptions/Acceptance Criteria.

3.8.2.2 The Contract Manager shall review a final deliverable to determine compliance with the acceptance criteria as defined for that deliverable. The Contract Manager is responsible for coordinating comments and input from various team members and stakeholders. The Contract Manager is responsible for providing clear guidance and direction to the Contractor in the event of divergent feedback from various team members.

3.8.2.3 The Contract Manager will issue to the Contractor a notice of acceptance or rejection of the deliverable in the DPAF (Attachment R). Following the return of the DPAF indicating “Accepted” and signed by the Contract Manager, the Contractor shall submit a proper invoice in accordance with the procedures in Section 3.12 Invoicing. The invoice must be accompanied by a copy of the executed DPAF or payment may be withheld.

3.8.2.4 In the event of rejection, the Contract Manager will formally communicate in writing any deliverable deficiencies or non-conformities to the Contractor, describing in those deficiencies what shall be corrected prior to acceptance of the deliverable in sufficient detail for the Contractor to address the deficiencies. The Contractor shall correct deficiencies and resubmit the corrected deliverable for acceptance within the agreed-upon time period for correction.

### 3.8.3 Minimum Deliverable Quality

The Contractor shall subject each deliverable to its internal quality-control process prior to submitting the deliverable to the State.

Each deliverable shall meet the following minimum acceptance criteria:

- a. Be presented in a format appropriate for the subject matter and depth of discussion.
- b. Be organized in a manner that presents a logical flow of the deliverable’s content.
- c. Represent factual information reasonably expected to have been known at the time of submittal.
- d. In each section of the deliverable, include only information relevant to that section of the deliverable.
- e. Contain content and presentation consistent with industry best practices in terms of deliverable completeness, clarity, and quality.
- f. Meets the acceptance criteria applicable to that deliverable, including any State policies, functional or non-functional requirements, or industry standards.
- g. Contains no structural errors such as poor grammar, misspellings or incorrect punctuation.

A draft written deliverable may contain limited structural errors such as incorrect punctuation, and shall represent a significant level of completeness toward the associated final written deliverable. The draft written deliverable shall otherwise comply with minimum deliverable quality criteria above.

## 3.8.4 Deliverable Descriptions / Acceptance Criteria

The Contractor may suggest other subtasks, artifacts, or deliverables to improve the quality and success of the assigned tasks.

ID #	Deliverable Description	Acceptance Criteria	Due Date / Frequency
3.7.4.1	Project Kick-Off Meeting	Meeting held with key project personnel from both Contractor and the Department	Delivery: NTP + 2 weeks
3.7.4.2	Updated Implementation Plan	Implementation Plan provided in Proposal updated as necessary.	Delivery: NTP + 1 week
3.7.4.3	Integrated Project Schedule	Microsoft Project schedule demonstrating tasks, task estimates, resource assignments, and dependencies for both Department and Contractor personnel, with tasks no less than 8 hours and no greater than 80 hours.	Initial Delivery: NTP+ 2 weeks Updates: Weekly
3.7.4.4	System Blueprint	Proposed configuration of software with indication of satisfaction of requirements	As per project schedule
3.7.4.5	System Delivery and State Acceptance in Perkins Pharmacy	System working in production for the pharmacy. Data successfully converted from HMIS Pharmacy Module. All pharmacy staff and required IT staff fully trained and all necessary documentation provided to pharmacy and IT staff. Perkins pharmacist signs off on System Acceptance per above criteria.	As per project schedule
3.7.4.6	Post Go-Live Assessment	Post Go-Live Assessment includes lessons learned from first implementation and modifications to training materials and implementation strategy for remaining pharmacies. Meeting held with appropriate project staff to	As per project schedule

		review Post Go-Live Assessment.	
3.7.4.7	System Delivery and State Acceptance in Springfield Pharmacy	System working in production for the pharmacy. Data successfully converted from HMIS Pharmacy Module. All pharmacy staff and required IT staff fully trained and all necessary documentation provided to pharmacy and IT staff. Springfield pharmacist signs off on System Acceptance per above criteria.	As per project schedule
3.7.4.8	System Delivery and State Acceptance in Spring Grove Pharmacy	System working in production for the pharmacy. Data successfully converted from HMIS Pharmacy Module. All pharmacy staff and required IT staff fully trained and all necessary documentation provided to pharmacy and IT staff. Spring Grove pharmacist signs off on System Acceptance per above criteria.	As per project schedule
3.7.4.9	System Delivery and State Acceptance in Finan Pharmacy	System working in production for the pharmacy. Data successfully converted from HMIS Pharmacy Module. All pharmacy staff and required IT staff fully trained and all necessary documentation provided to pharmacy and IT staff. Finan Center pharmacist signs off on System Acceptance per above criteria.	As per project schedule
3.7.4.10	Project Closing Meeting	Meeting with key Contractor and DHMH staff to review project and explain on-going support model and verify that Contractor has provided DHMH with all current system documentation. Pharmacy management system must be running in production at all	As per project schedule, but at least 30 days after System Delivery and State Acceptance at Finan Center.

		pharmacies for 30 days with all known errors documented and all major errors fixed.	
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**3.9 Service Level Agreement (SLA)**

Service Level Agreements are not defined for this RFP.

**3.10 Work Order Process**

- A. Additional services will be provided via a Work Order process. . Work shall not begin in advance of a fully executed Work Order. A Work Order may be issued for fixed price pricing.
- B. The Contract Manager shall e-mail a Work Order Request (See Attachment S) to the Contractor to provide services or resources that are within the scope of this RFP. The Work Order Request will include:
  - 1. Technical requirements and description of the service or resources needed
  - 2. Performance objectives and/or deliverables, as applicable
  - 3. Due date and time for submitting a response to the request, and
  - 4. Required place(s) where work must be performed
- C. The Contractor shall e-mail a response to the Contract Manager within the specified time and include at a minimum:
  - 1. A response that details the Contractor’s understanding of the work;
  - 2. A price to complete the Work Order Request using the format provided in Attachment S.
  - 3. A description of proposed resources required to perform the requested tasks, with labor categories listed in accordance with Attachment F.
  - 4. An explanation of how tasks shall be completed. This description shall include proposed subcontractors and related tasks.
  - 5. State-furnished information, work site, and/or access to equipment, facilities, or personnel
  - 6. The proposed personnel resources, including any subcontractor personnel, to complete the task.
- D. For a fixed price Work Order, the Contract Manager will review the response and will confirm the proposed prices are acceptable.
- E. The Contract Manager may contact the Contractor to obtain additional information, clarification or revision to the Work Order, and will provide the Work Order to the Procurement Officer for a determination of compliance with the Contract and a determination whether a change order is appropriate. Written Procurement Officer approval is required before Work Order execution by the State.
- F. Proposed personnel on any type of Work Order shall be approved by the Contract Manager. The Contractor shall furnish resumes of proposed personnel specifying the labor category(ies) proposed.

The Contract Manager shall have the option to interview the proposed personnel and, in the event of an interview or not, shall notify the Contractor of acceptance or denial of the personnel.

- G. Performance of services under a Work Order shall commence consistent with an NTP issued by the Contract Manager for such Work Order.

### **3.11 Insurance Requirements**

- 3.11.1 The Contractor and all of its Subcontractors, shall maintain the insurance coverages outlined below for the duration of the Contract, including option periods, if exercised. The coverage limits set forth are the minimum required.
- 3.11.2 Any insurance furnished as a condition of this Contract shall be issued by a company authorized to business in this State.
- 3.11.3 The recommended awardee must provide a certificate(s) of insurance with the prescribed coverages, limits and requirements set forth in this Section 3.11 "Insurance Requirements," within five (5) Business Days from notice of recommended award. During the period of performance for multi-year contracts the Contractor shall update certificates of insurance annually, or as otherwise directed by the Contract Manager.
- 3.11.4 The following type(s) of insurance and minimum amount(s) of coverage are required:
- 3.11.4.1 General Liability - 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.
  - 3.11.4.2 Errors and Omissions/Professional Liability - The Contractor shall maintain Errors and Omissions/Professional Liability insurance with minimum limits of \$1,000,000 per occurrence.
  - 3.11.4.3 Employee Theft Insurance - The Contractor shall maintain Employee Theft Insurance with minimum limits of \$1,000,000 per occurrence.
  - 3.11.4.4 Worker's 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.
  - 3.11.4.5 Automobile and/or Commercial Truck Insurance - 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.
- 3.11.5 State Inclusion on Insurance

The State shall be listed as an additional insured on all 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 Manager, by certified mail, not less than 45 days' advance notice of any non-renewal, cancellation, or expiration. In the event the Contract Manager receives a notice of non-renewal, the Contractor shall provide the Contract

Manager 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.

#### 3.11.6 Subcontractor Insurance

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

### 3.12 Invoicing

3.12.1 All invoices shall be submitted by the Contractor within 30 days of delivery of products/services and shall include, at the minimum, the following information:

- a. Name and address of the Department being billed
- b. Contractor name
- c. Products(s) and/or service(s) purchased listed separately including the amount for each individual charge
- d. Supporting Documentation
- e. E-mail address/phone number of Contractor's POC
- f. Remittance address
- g. Federal taxpayer identification or (if owned by an individual) Contractor's social security number
- h. Invoice period, invoice date, invoice number and amount due; and
- i. Purchase Order # being billed

3.12.2 Invoices submitted without the required information will not be processed for payment until the Contractor provides the required information. Invoicing shall be accompanied by signed notice(s) of acceptance for all invoices submitted for payment. Payment of invoices will be withheld if a signed DPAF (Attachment R) is not submitted.

3.12.3 Payment will only be made upon completion and acceptance of the deliverables as defined in Section 3.8. See Section 1.46. The Contractor may invoice for the retainage once the Project Closing Meeting has been conducted and the Contract Monitor has signed the DPAF (Attachment R) indicating acceptance of the information presented at the meeting.

3.12.4 The State is generally exempt from federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. The Contractor; however, is not exempt from such sales and use taxes and may be liable for the same.

3.12.5 Invoicing shall be submitted monthly.

#### 3.12.6 FIXED PRICE INVOICE SUBMISSION PROCEDURE

A. This procedure consists of the following requirements and steps:

- B. A proper invoice shall identify DHMH as the recipient and contain the following information: date of invoice, Contract number, deliverable description, deliverable number (e.g., “3.8.4.1.”), period of performance covered by the invoice, a total invoice amount, and a Contractor point of contact with telephone number.
  - C. The Contractor shall e-mail the original of each invoice and signed DPAF (Attachment R), for each deliverable being invoiced to the DHMH at e-mail address: [Phil.Hemler@Maryland.gov](mailto:Phil.Hemler@Maryland.gov), the Contract Manager.
  - D. Invoices for final payment shall be clearly marked as “FINAL” and submitted when all work requirements have been completed and no further charges are to be incurred under the Contract. In no event shall any invoice be submitted later than 60 calendar days from the Contract termination date. Any final monthly invoice shall include all charges for data retention.
- 3.12.7 For the purposes of this Contract an amount will not be deemed due and payable if:
- A. The amount invoiced is inconsistent with the Contract.
  - B. The proper invoice has not been received by the party or office specified in the Contract.
  - C. The invoice or performance is in dispute or the Contractor has failed to otherwise comply with the provisions of the Contract.
  - D. The item or services have not been accepted.
  - E. The quantity of items delivered is less than the quantity ordered.
  - F. The items or services do not meet the quality requirements of the Contract
  - G. If the Contract provides for progress payments, the proper invoice for the progress payment has not been submitted pursuant to the schedule.
  - H. If the Contract provides for withholding a retainage and the invoice is for the retainage, all stipulated conditions for release of the retainage have not been met.
  - I. The Contractor has not submitted satisfactory documentation or other evidence reasonably required by the Procurement Officer or by the contract concerning performance under the contract and compliance with its provisions.

### 3.13 SOC 2 Type II Audit Report

SOC 2 Type II Audit Reports do not apply to a pharmacy management system that is hosted in DHMH’s data center.

## 4 PROPOSAL FORMAT

### 4.1 Two-Part Submission

Offerors shall submit Proposals in separate volumes:

- a) Volume I – TECHNICAL PROPOSAL
- b) Volume II – FINANCIAL PROPOSAL

### 4.2 Volume I – Technical Proposal

**Note: Provide no pricing information in the Technical Proposal (Volume I). Include pricing information only in the Financial Proposal (Volume II).**

#### 4.2.1 Format of Technical Proposal

The Technical Proposal will include all items detailed below. In addition to the following instructions, responses in the Offeror's Technical Proposal must reference the RFP's organization and section numbering (ex. "Section 3.2.1 Response"). This proposal organization will allow direct mapping between Offeror responses and RFP requirements by Section number and will aid in the evaluation process.

4.2.2 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:

##### 4.2.2.1 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.

##### 4.2.2.2 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. 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 and an explanation for each claim shall be included (see Section 1.14 "Public Information Act Notice").

##### 4.2.2.3 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 its Proposal and the requirements as stated in this RFP. The Transmittal Letter should include the following:

- A. Name and address of the Offeror;
- B. Name, title, e-mail address, and telephone number of primary contact for the Offeror;
- C. Solicitation Title and Solicitation Number that the Proposal is in response to;
- D. Signature, typed name, and title of an individual authorized to commit the Offeror to its Proposal;

- E. Federal Employer Identification Number (FEIN) of the Offeror, or if a single individual, that individual's Social Security Number (SSN);
- F. Offeror's eMM number;
- G. Offeror's MBE certification number (if applicable);
- H. 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 4.2.2.4); and
- I. Acknowledgement of all addenda to this RFP issued before the Proposal due date.

#### 4.2.2.4 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 Offeror shall include a summary of the following information in the Executive Summary:

- Description of the proposed software, including current capabilities and future plans for enhancements
- Implementation Approach for installing and integrating the software at the DHMH pharmacies
- Description of the Offeror's post-implementation support model
- Description of the commercial arrangements
- The value proposition of the Offeror's product, and
- The differentiators that distinguish the Offeror's product from its competitors.

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. Acceptance or rejection of exceptions is within the sole discretion of the State. If there are no assumptions, the Offeror shall so state.

#### 4.2.2.5 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."

#### 4.2.2.6 Offeror Technical Response to RFP Requirements and Proposed Project Plan (Submit under TAB E)

- a. The Offeror shall provide a detailed description of its software, including all modules required to meet DHMH's requirements, the technology stack, and architecture of its products.
- b. The Offeror shall address each Scope of Work requirement (Section 3) 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). The Offeror shall complete the matrix of Functional / Business Requirements provided in Appendix 5 – Functional / Business Requirements. The completed matrix must be submitted in electronic form in the

Functional-Business Requirements spreadsheet provided with this RFP as a part of the Technical Proposal.

- c. The Offeror may describe any additional functionality, beyond those requirements defined by DHMH that its software offers. The Offeror may describe other modules of its product with potential to meet DHMH's current or future needs. For any recommendation of modules not explicitly requested by DHMH, the Offeror shall include the pricing of those modules in the Options tab in the Financial Proposal Spreadsheet included with the Offeror's Financial Proposal. Any recommended software will not be included in the total evaluation price.
- d. The Offeror shall identify recommendations for hardware and equipment (servers, printers, workstations, etc.) that will be required to support their software for the Phase I implementation. The Offeror shall complete the Hardware Guidance Spreadsheet described in Appendix 6 – Hardware Guidance from Offeror. The spreadsheet must be submitted in electronic format as a part of the Offeror's Technical Proposal.
- e. The Offeror shall describe the roadmap for its product(s) – what enhancements, modifications, releases are planned.
- f. The Offeror shall provide the following system integration information:
  - i. Architecture and method for HMIS ADT Module integration (current DHMH requirement). The Offeror may assume that the HMIS ADT Module will be hosted on an IBM POWER8 located at DHMH headquarters in Baltimore for this architecture
  - ii. Architecture and method for EMR integration, including any known EMR integration limitations
- g. The Offeror shall provide a preliminary Project Plan which includes the following:
  - i. Mobilization Plan / Recommendations, which covers the time from Contract execution to Project Kick-off
  - ii. Phase I Implementation Plan
    1. Overview approach for implementing the new pharmacy management system in all four pharmacies
    2. Work Plan, with milestones, for the full cycle implementation at one pharmacy for Phase I
    3. Data Conversion Plan, including approach and level of effort that will be provided, and the Department's responsibilities for Data Conversion.
  - iii. Phase I Resources
    1. Roles, responsibilities, and estimated hours for Offeror resources to complete all Phase I tasks
    2. Roles, responsibilities, estimated hours/utilization for DHMH resources to complete all Phase I tasks
- h. The Offeror shall define its training and support model, specifically including the following information:
  - i. Support offered during the "hyper-care" period, which is the first 30 days after the system goes live at each pharmacy.

- ii. Support offered & the commercial arrangements for “steady state operations”, which begins once a pharmacy is up for 30 days. The Offeror shall also identify the recommended DHMH resources, skills and utilization required to support its software once the system has been live for 30 days.
  - iii. DHMH’s eligibility for enhancements and upgrades.
  - iv. Training assets and services, both for the initial implementation project and the availability of any future/on-going training that the Offeror is including in this Proposal.
  - v. System documentation that will be provided by the Offeror.
- i. The Offeror shall provide a draft Problem Escalation Procedure (PEP) that includes, at a minimum, titles of individuals to be contacted by the Department’s Contract Manager 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 shall be submitted as indicated in RFP Section 3.7.
  - j. The Offeror may include any additional information or materials that it feels is pertinent to the Proposal.
  - k. Completed Appendix 5 – Functional / Business Requirements.
  - l. Completed Appendix 6 – Hardware Guidance from Offerors.

#### 4.2.2.7 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.

#### 4.2.2.8 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.

#### 4.2.2.9 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 products/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 products/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 products/services provided.

The Department reserves the right to request additional references or utilize references not provided by an Offeror. Points of contact must be accessible and knowledgeable regarding Offeror performance.

#### 4.2.2.10 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 products/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 products/services 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.

#### 4.2.2.11 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.

#### 4.2.2.12 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 3.10. See Section 3.10 for the required insurance certificate submission for the apparent awardee.

#### 4.2.2.13 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. This list shall include a full description of the duties each subcontractor will perform. See Section 4.2.2.7 for additional Offeror requirements related to subcontractors.

#### 4.2.2.14 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 court, case name, complaint number, and a brief description of the final ruling or determination; 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.

#### 4.2.2.15 Economic Benefit Factors (Submit under TAB N)

#### 4.2.3 Additional Required Technical Submissions (Submit under TAB O)

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 4.2.2.

For e-mail submissions, submit one (1) copy of each with original signatures. For paper submissions, submit two (2) copies of each with original signatures. All signatures must be clearly visible.

- A. Completed Bid/Proposal Affidavit (Attachment B).
- B. Completed Maryland Living Wage Requirements Affidavit of Agreement (Attachment G-1).
- C. Completed Conflict of Interest Affidavit and Disclosure (Attachment I).

#### 4.2.4 Additional Required Submissions (Submit under Tab P)

**IMPORTANT!** Offerors shall furnish any and all agreements the Offeror expects the State to sign in order to use the Offeror's or Subcontractor(s) services under this Contract. This includes physical copies of all agreements referenced and incorporated in primary documents.

- 4.2.4.1 Copy of any software licensing agreement for any software proposed to be licensed to the State under this Contract (e.g., EULA, Enterprise License Agreements, Professional Service agreement, Master Agreement),

**4.3 Volume II – Financial Proposal**

The Financial Proposal shall contain all price information in the format specified in Attachment F. The Offeror shall complete the Price Sheet only as provided in the Price Sheet Instructions and the Price Sheet itself.

**4.4 Proposal Packaging**

*DHMH strongly desires e-mail delivery of Proposals.*

- 4.4.1 Separate e-mails will be submitted for the Technical and Financial proposals. The subject lines of the e-mails shall be: Volume I - Technical Proposal for DHMH/OPASS 17-17110 - Pharmacy Management System and Volume II - Financial Proposal for DHMH/OPASS 17-17110 - Pharmacy Management System respectively. Each e-mail shall contain the submission documents detailed in section 4.
- 4.4.2 The Technical Proposal e-mail(s) shall be in Microsoft Word format (version 2007 or greater). Provide no pricing information in the Technical Proposal (Volume I). Include pricing information only in the Financial Proposal (Volume II). A second version of Volume I in searchable Adobe .pdf format shall be submitted to support 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”).
- 4.4.3 The Financial Proposal e-mail shall include one file attachment containing all submission documents detailed in section 4.3, with password protection. DHMH will contact Offerors for the password to open each file. Each file shall be encrypted with the same password. A second electronic version of Volume II in searchable Adobe .pdf format shall be submitted to support 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”). Each .pdf format shall be packaged with the appropriate Volume.
- 4.4.4 DHMH can only accept e-mails that are less than or equal to 25MB. If a submission exceeds this size, split the submission into two or more parts and include the appropriate part number in the subject (e.g., part 1 of 2) after the subject line information above.
- 4.4.5 An Offeror wishing to deliver a hard copy (paper) Proposal shall contact the Procurement Officer for instructions.

**4.5 Proposal Delivery**

- 4.5.1 Offerors may submit proposals using electronic means as described below to the address provided in the Key Information Summary Sheet.
- A. Electronic means includes e-mail, as requested by the Procurement Officer. If the Proposal is to be submitted electronically, it must be submitted in MS Word and PDF formats, with sections in Excel formats as specified. Any single e-mail must be no more than 25 Mb in size (See Sections 4.4 for additional labeling and packaging instructions).
- 4.5.2 The Procurement Officer must receive all Technical and Financial Proposal material by the RFP due date and time specified in the Key Information Summary Sheet. If submitted via e-mail, the date and time of submission is determined by the date and time of arrival in the Procurement Officer’s e-mail

box. Requests for extension of this date or time will not be granted. Except as provided in COMAR 21.05.03.02F, Proposals received by the Procurement Officer after the due date will not be considered.

## 5 EVALUATION CRITERIA AND 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 sub-criteria within each criterion have equal weight.

#### 5.2.1 Offeror's Technical Response to RFP Functional Requirements and Project Plan (See RFP § 4.2.2.6)

The ability of the Offeror's software to meet DHMH's functional requirements, will carry the most weight in evaluating the Technical Proposal. The Offeror must be clear in the Technical Proposal how the proposed software meets each requirement. In addition, the quality of the Project Plan will be an important factor in evaluating the Technical Proposal.

#### 5.2.2 Offeror Qualifications and Capabilities (See RFP § 4.2.2.8 – 4.4.2.14)

The Offeror's Proposal must demonstrate that the Offeror's personnel have successfully implemented the proposed software in facilities with similar requirements in a timely manner.

#### 5.2.3 Quality of Support Model (See RFP § 4.2.2.6)

The quality of the Offeror's support model, both in the critical first 30 days after implementation at each pharmacy, and for the remainder of the contract period is an important factor in evaluating the Technical Proposal.

#### 5.2.4 Content and reasonableness of software licenses (see RFP § 4.2.4)

### 5.3 Financial Proposal Evaluation Criteria

5.3.1 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 Evaluated Price within the stated guidelines set forth in this RFP and as submitted on Attachment F - Price Sheet.

5.3.2 For proposals submitted via e-mail, DHMH will contact Offerors for the password to access financial proposal data. DHMH will only contact those Offerors with proposals that are reasonably susceptible for award. Offerors that are unable to provide a password that opens the financial submission will be deemed not susceptible for award; subsequent submissions of content will not be allowed.

### 5.4 Reciprocal Preference

5.4.1 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. COMAR 21.05.01.04 requires that procuring units apply a reciprocal preference under the following conditions:

- 5.4.2 The most advantageous offer is from a responsible Offeror whose headquarters, principal base of operations, or principal site that will primarily provide the products/services required under this RFP is in another state.
- 5.4.3 The other state gives a preference to its resident businesses through law, policy, or practice; and
- 5.4.4 The preference does not conflict with a Federal law or grant affecting the procurement Contract.
- 5.4.5 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

- 5.5.1.1 The Contract will be awarded in accordance with the Competitive Sealed Proposals (CSP) method found at COMAR 21.05.03. The CSP 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.
- 5.5.1.2 In either case (i.e., with or without discussions), the State may determine an Offeror to be not responsible and/or an Offeror's Proposal to be not reasonably susceptible of being selected for award at any time after the initial closing date for receipt of Proposals and prior to Contract award. If the State finds an Offeror to be not responsible and/or an Offeror's Technical Proposal to be not reasonably susceptible of being selected for award, that Offeror's Financial Proposal will be returned if the Financial Proposal is unopened at the time of the determination.

### 5.5.2 Selection Process Sequence

- 5.5.2.1 Technical Proposals are evaluated for technical merit and ranked. During this review, oral presentations and discussions will 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.
- 5.5.2.2 Please refer to Section 1.16 Oral Presentations for details regarding the format of the discussion.
- 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 Recommended Award

Upon receipt of notice of recommended 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. Non-Disclosure Agreement (Attachment J),
- D. HIPAA Business Associate Agreement (Attachment K), and
- E. Evidence of meeting insurance certificate requirements (See Section 3.11)
- F. PEP (See Section 3.7), within ten (10) Working Days

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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 recommended 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 mutual Contract execution, 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 recommended award.

### **ATTACHMENT D – Minority Business Enterprise Forms**

These documents are not required for this solicitation, therefore they have not been included in the RFP.

### **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 Price Sheet**

The Price Sheet must be completed and submitted with the Financial Proposal.

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

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

### **ATTACHMENT H – Federal Funds Attachment**

These documents are not required for this solicitation, therefore they have not been included in the RFP.

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

**ATTACHMENT L – Mercury Affidavit**

These documents are not required for this solicitation, therefore they have not been included in the RFP.

**ATTACHMENT M – Veteran-Owned Small Business Enterprise Forms**

These documents are not required for this solicitation, therefore they have not been included in the RFP.

**ATTACHMENT N – Location of the Performance of Services Disclosure**

This document is not required for this solicitation, therefore they have not been included in the RFP.

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

This document is not required for this solicitation, therefore they have not been included in the RFP.

**ATTACHMENT P – Non-Disclosure Agreement (Offeror)**

This document is not required, therefore it has not been included in the RFP.

**ATTACHMENT Q – Labor Classification Personnel Resume Summary**

This document is not required for this solicitation, therefore it has not been included in the RFP.

**ATTACHMENT R – Agency Deliverable Product Acceptance Form (DPAF)**

If required, this Attachment is to be completed upon deliverable acceptance by the State.

**ATTACHMENT S – Sample Work Order**

If required, this Attachment is to be completed by the State for any additional work under the general scope of this contract.

**APPENDIX 1 – Facility Information**

This document describes each pharmacy included in the scope of this RFP. It also provides statistics for the size of each facility, number of medication orders, etc.

**APPENDIX 2 – Current Processing and Technical Architecture**

This Appendix depicts the current processing flows and technical architecture of the HMIS ADT and Pharmacy modules.

**APPENDIX 3 – Minimum Data Requirements for Patients**

This document lists the minimum data requirements for patients in the pharmacy management system.

**APPENDIX 4 – Sample Forms**

This Appendix provides some of the MAR and other forms currently in use at the facilities.

**APPENDIX 5 – Functional / Business Requirements**

This Appendix provides the functional and business requirements for the pharmacy management system.

**ATTACHMENT A - CONTRACT**

## DEPARTMENT OF HEALTH AND MENTAL HYGIENE (DHMH)

“Pharmacy Management System”

DHMH/OPASS 17-17110

THIS CONTRACT (the “Contract”) is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_ and, on behalf of the STATE OF MARYLAND, the MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE (DHMH).

IN CONSIDERATION of the following, the parties agree as follows:

**1. Definitions**

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

- 1.1. “COMAR” means the Code of Maryland Regulations available on-line at [www.dsd.state.md.us](http://www.dsd.state.md.us).
- 1.2. “Contract” means this contract for Pharmacy Management System.
- 1.3. “Contractor” means \_\_\_\_\_, whose principal business address is: \_\_\_\_\_.
- 1.4. “Contract Manager” means the individual identified in Section 1.6 of the Request for Proposals (RFP), or a successor designated by the Department.
- 1.5. “Department” means the Department of Health and Mental Hygiene (DHMH).
- 1.6. “eMM” means eMaryland Marketplace.
- 1.7. “Financial Proposal” means the Contractor’s financial proposal dated \_\_\_\_\_.
- 1.8. “Minority Business Enterprise” (MBE) means an entity meeting the definition at COMAR 21.0 1.02.01B(54), which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- 1.9. “Procurement Officer” means the person identified in Section 1.5 of the RFP or a successor designated by the Department.
- 1.10. “Proposal” collectively refers to the Technical Proposal and Financial Proposal.
- 1.11. “RFP” means the Request for Proposals for Pharmacy Management System, Solicitation # DHMH/OPASS 17-17110 and any amendments thereto issued in writing by the State.
- 1.12. “Software” means the object code version of computer programs licensed pursuant to this Contract. Embedded code, firmware, internal code, microcode, and any other term referring to software that is necessary for proper operation is included in this definition of Software. Software includes all prior, current, and future versions of the Software and all maintenance updates and error corrections. “Software” also includes any upgrades, updates, bug fixes or modified versions or backup copies of the Software licensed to the State by Contractor or an authorized distributor.
- 1.13. “State” means the State of Maryland.
- 1.14. “Technical Proposal” means the Contractor’s technical proposal dated \_\_\_\_\_.
- 1.15. “Veteran-owned Small Business Enterprise” (VSBE) means 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.

**2. Scope of Contract**

- 2.1. The Contractor shall provide products and services as described in the RFP.
- 2.2. These products and services shall be provided in accordance with the terms and conditions of this Contract and the following Exhibits, which are attached and incorporated herein by reference. If there are any inconsistencies between this Contract and Exhibits A through C, the terms of this Contract shall control. If there is any conflict among the exhibits, the following order of precedence shall determine the prevailing provision.

Exhibit A – The RFP

Exhibit B – The Contract Affidavit dated \_\_\_\_\_.

Exhibit C – The Proposal.

Exhibit D –Service Provider’s Terms of Service (TOS) dated \_\_\_\_\_

**3. Period of Performance**

- 3.1. The Contract shall start as of the date of full execution by the parties (the “Effective Date”). From this date, the Contract shall be for a period of one (1) year beginning <<begin date>> and ending on <<end date>>.
- 3.2. The Contractor shall provide products and services under this Contract as of the date provided in a written Notice to Proceed.
- 3.3. Audit, confidentiality, document retention, Work Product (see §5.2) retention, warranty and indemnification obligations under this Contract and any other obligations specifically identified shall survive expiration or termination of the Contract.
- 3.4. In its sole discretion, the Department shall have the right to exercise an option to extend the Contract for two (2) one year renewal periods.

**4. Consideration and Payment**

- 4.1. In consideration of the satisfactory performance of the Contract, the Department shall promptly process a proper invoice for payment in accordance with the terms of this Contract.
- 4.2. The total payment for products and services provided under a fixed price contract or the fixed price element of a combined fixed price – time and materials contract, shall be the firm fixed price submitted by the Contractor in its Financial Proposal. For time and materials contracts, or contracts which include both fixed price and time and materials elements, total payments to the Contractor for the time and materials portion may not exceed \$<<amount entered at Contract award>> (the “NTE Amount”). The Contractor shall notify the Contract Manager, in writing, at least 60 days before time and material obligations are expected to reach the NTE Amount. The Contractor shall have no obligation to perform the time and materials requirements under this Contract after payments reach the NTE Amount. The cessation of the Contractor’s obligation to perform under this paragraph 4.2 is expressly conditioned on the following: that prior to the NTE Amount being reached, the Contractor shall: (i) give the notice required under this paragraph 4.2; (ii) promptly consult with the Department and cooperate in good faith with the Department to establish a plan of action to assure that every reasonable effort has been undertaken by the Contractor to complete critical work in progress prior to the date the NTE Amount will be reached; and (iii) secure data bases, 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.
- 4.3. The Contractor shall submit invoices as required in the RFP. Invoices that contain both fixed price and time and material items must clearly identify the items to either fixed price or time and material billing. Invoices for third-party software support and maintenance will be paid on a monthly basis. Each invoice must include the Contractor’s Federal Tax Identification Number: <<enter the Contractor Tax ID number>>. The Contractor’s eMM identification number is <<enter the Contractor’s eMM ID number>>. Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the Department’s receipt of a proper invoice from the Contractor. Charges for late payment of invoices other than as prescribed by Title 15, Subtitle 1, of the State

Finance and Procurement Article, Annotated Code of Maryland, as from time-to-time amended, are prohibited. Invoices shall be submitted to the Contract Manager. The final payment under this Contract will not be made until after certification is received from the Comptroller of the State that all taxes have been paid

- 4.4. 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.

## **5. Patents, Copyrights, Intellectual Property**

- 5.1. If the Contractor furnishes any design, device, material, process, or other item, which is covered by a patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items.
- 5.2. Except as provided in Section 5.4 of this Contract, the Contractor agrees that all documents and materials, including but not limited to, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, software, graphics, mechanical, artwork, computations and data prepared by or for the Contractor for purposes of this Contract (Work Product) shall become and remain the sole and exclusive property of the State and shall be available to the Department at any time. The Department shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.
- 5.3. Except as provided in Section 5.4 of this Contract, the Contractor agrees that at all times during the term of this Contract and thereafter, the Work Product shall be "works made for hire" as that term is interpreted under U.S. copyright law and shall be owned by the State. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such Work Product. In the event any Work Product is or may not be considered a work made for hire under applicable law, Contractor assigns and transfers to the State the entire right, title and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof. Contractor shall execute all documents and perform such other proper acts as the State may deem necessary to secure for it the rights pursuant to this section.
- 5.4. Notwithstanding anything to the contrary in this Contract, to the extent (i) the Work Product incorporates any commercial-off-the shelf software (COTS) and/or any Pre-Existing Intellectual Property or (ii) any COTS and/or Pre-Existing Intellectual Property (other than a computer's operating system, supported internet browser, browser accessibility software or hardware if needed by the user, and software required to access a commonly-available data transmission tool or export format) is required to access, install, build, compile or otherwise use the Work Product (such COTS and Pre-Existing Intellectual Property individually and collectively referred to herein as "Third-party Intellectual Property," which shall be the sole property of Contractor or its third-party licensors, as applicable), Contractor hereby grants, on behalf of itself and any third-party licensors, to the State a royalty-free, paid-up, non-exclusive, unrestricted, unconditional, irrevocable, worldwide right and license, with the right to use, execute, reproduce, display, perform, distribute copies of internally, modify and prepare derivative works based upon, such Third-party Intellectual Property as may be necessary for the State to use the Work Product for the purposes for which such Work Product was designed and intended. "Pre-Existing Intellectual Property" means any program, utility or tool owned by Contractor or its third-party licensors that was created by Contractor or its third-party licensors independently from its performance of this Contract and not solely using funds from this Contract.
- 5.5. Subject to the terms of Section 6, Contractor shall defend, indemnify, and hold harmless the State, including, but not limited to, the Department and its agents, officers, and employees, from and against any and all claims, costs, losses, damages, liabilities, judgments and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with any claim the Work Product or any Third-party Intellectual Property infringes, misappropriates or otherwise violates any Third-party Intellectual Property rights. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's

prior written consent, which consent may be withheld in the State's sole and absolute discretion. Contractor shall be entitled to control the defense or settlement of such claim (with counsel reasonably satisfactory to the State), provided that the State will, upon requesting indemnification hereunder: (a) provide reasonable cooperation to Contractor in connection with the defense or settlement of any such claim, at Contractor's expense; and (b) be entitled to participate in the defense of any such claim. Contractor's obligations under this section will not apply to the extent any Third-party Intellectual Property infringes, misappropriates or otherwise violates any third party intellectual rights as a result of modifications made by the State in violation of the license granted to the State pursuant to section 5.4; provided that such infringement, misappropriation or violation would not have occurred absent such modification.

- 5.6. Without limiting Contractor's obligations under Section 5.5, if all or any part of the Work Product or any Third Party Intellectual Property is held, or Contractor or the State reasonably determines that it could be held, to infringe, misappropriate or otherwise violate any third party intellectual property right, Contractor (after consultation with the State and at no cost to the State): (a) shall procure for the State the right to continue using the item in accordance with its rights under this Contract; (b) replace the item with an item that does not infringe, misappropriate or otherwise violate any third party intellectual property rights and, in the State's sole and absolute determination, complies with the item's specifications, and all rights of use and/or ownership set forth in this Contract; or (c) modify the item so that it no longer infringes, misappropriates or otherwise violates any third party intellectual property right and, in the State's sole and absolute determination, complies with the item's specifications and all rights of use and/or ownership set forth in this Contract.
- 5.7. Except for any Pre-Existing Intellectual Property and Third-Party Intellectual Property, Contractor shall not acquire any right, title or interest (including any intellectual property rights subsisting therein) in or to any goods, software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the State to the Contractor. Notwithstanding anything to the contrary herein, the State may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a separate writing executed by the Contractor and an authorized representative of the State.
- 5.8. Contractor, on behalf of itself and its subcontractors, hereby agrees not to incorporate, link, distribute or use any Third-party Intellectual Property in such a way that: (a) creates, purports to create or has the potential to create, obligations with respect to any State software (including any deliverable hereunder), including without limitation the distribution or disclosure of any source code; or (b) grants, purports to grant, or has the potential to grant to any third-party any rights to or immunities under any State intellectual property or proprietary rights. Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall incorporate, link, distribute or use, in conjunction with the Work Product, any code or software licensed under the GNU General Public License ("GPL"), Lesser General Public License ("LGPL"), Affero GPL ("AGPL"), European Community Public License ("ECPL"), Mozilla, or any other open source license, in any manner that could cause or could be interpreted or asserted to cause any State software (or any modifications thereto) to become subject to the terms of the GPL, LGPL, AGPL, ECPL, Mozilla or such other open source software.
- 5.9. Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall use any software or technology in a manner that will cause any patents, copyrights or other intellectual property which are owned or controlled by the State or any of its affiliates (or for which the State or any of its subcontractors has received license rights) to become subject to any encumbrance or terms and conditions of any third-party or open source license (including, without limitation, any open source license listed on <http://www.opensource.org/licenses/alphabetical>) (each an "Open Source License"). These restrictions, limitations, exclusions and conditions shall apply even if the State or any of its subcontractors becomes aware of or fails to act in a manner to address any violation or failure to comply therewith. No act by the State or any of its subcontractors that is undertaken under this Contract as to any software or technology shall be construed as intending to cause any patents, copyrights or other intellectual property that are owned or controlled by the State (or for which the State has received license rights) to become subject to any encumbrance or terms and conditions of any Open Source License.
- 5.10. The Contractor shall report to the Department, promptly and in written detail, each notice or claim of copyright

infringement received by the Contractor with respect to all Work Product delivered under this Contract.

## 6. Indemnification

- 6.1. Contractor shall indemnify, defend, and hold the State, its directors, officers, employees and agents harmless from third-party liability for tangible property damage, bodily injury and death, and for fraud or willful misconduct of Contractor, including all related defense costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties) arising from or relating to the performance of the Contractor or its subcontractors under this Contract.
- 6.2. The State has no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim or action of any character is brought by any person not party to this Contract against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.
- 6.3. The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.
- 6.4. The Contractor shall immediately notify the Procurement Officer of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from or relating to the Contractor's obligations under the Contract, and will cooperate, assist, and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of or relating to the Contractor's performance under this Contract.
- 6.5. Section 6 shall survive expiration of this Contract.

## 7. Limitations of Liability

- 7.1. Contractor shall be liable for any loss or damage to the State occasioned by the acts or omissions of Contractor, its subcontractors, agents or employees, including but not limited to personal injury; physical loss; or violations of the Patents, Copyrights, Intellectual Property sections of this Contract, as follows:
  - 7.1.1. For infringement of patents, trademarks, trade secrets and copyrights as provided in Section 5 ("Patents, Copyrights, Intellectual Property") of this Contract;
  - 7.1.2. Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and
  - 7.1.3. For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract where liability is not otherwise set forth as being "without limitation," and regardless of the basis on which the claim is made, Contractor's liability shall not exceed **two (2) times the value of the Contract**. Third-party claims arising under Section 6 ("Indemnification") of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor's liability for third-party claims arising under Section 6 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 6.
  - 7.1.4. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that all Subcontractors shall be held to be agents of Contractor.

## 8. Prompt Pay Requirements

- 8.1. If the Contractor withholds payment of an undisputed amount to its subcontractor, the State, 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 to the Contractor;

- (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.
- 8.2. 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 (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.
- 8.3. 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 subcontractor under this Contract, 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.
- 8.4. 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 program.

#### **9. Risk of Loss; Transfer of Title**

Risk of loss for conforming supplies, equipment and materials specified as deliverables to the State hereunder shall remain with the Contractor until the supplies, equipment, materials and other deliverables are received and accepted by the State. Title of all such deliverables passes to the State upon acceptance by the State, subject to the State’s payment for the same in accordance with the terms of this Contract.

#### **10. Source Code Escrow**

- 10.1. The State will be named as a beneficiary under an escrow agreement (“Escrow Agreement”) that shall be entered into between the Contractor and an escrow agent (“Escrow Agent”) within 30 days of the date hereof pursuant to which Contractor shall deliver a Source Code Escrow Package to Escrow Agent. The term “Source Code Escrow Package” means: a) a complete copy in machine-readable form of the source code and executable code of the software licensed to the State under the Contract; b) a complete copy of any existing design documentation and user documentation; and/or c) complete instructions for compiling and linking every part of the source code into executable code for purposes of enabling verification of the completeness of the source code as provided below. The Escrow Agreement shall govern the maintenance and release of the Source Code Escrow Package, and Contractor agrees to update, enhance, or otherwise modify such Source Code Escrow Package promptly upon each release of a new version of any component thereof. Contractor shall pay all fees and expenses charged by Escrow Agent, including, but not limited to, fees and expenses related to the State being a named beneficiary under the Escrow Agreement. The State shall treat the Source Code Escrow Package as Contractor’s confidential information. Under all circumstances, the Source Code Escrow Package shall remain the property of Contractor. The State shall only use the Source Code Escrow Package as contemplated in the Contract (including, but not limited to confidentiality provisions and usage restrictions). The Escrow Agent shall maintain the Source Code Escrow Package in a repository located in the United States.
- 10.2. In the event that the Escrow Agent either ceases providing escrow services to Contractor or Contractor determines in its reasonable business judgment that the Escrow Agent is no longer providing acceptable services, Contractor shall replace the Escrow Agent with another escrow agent, using an agreement which provides the State with rights no less advantageous than those in the Escrow Agreement. In such case, the new escrow agent shall be substituted in all ways for the incumbent Escrow Agent with respect to Section 10.1 above and all references herein to Escrow Agent shall be deemed to include such substitute escrow agent.
- 10.3. Contractor shall inform the State of the availability of an escrow for any third party software solutions it provides to the State.

10.4. In addition to the rights and obligations contained in the Escrow Agreement referenced in Section 10.1, the State shall have the Software Escrow Package released by the Escrow Agent to the State's possession immediately upon any voluntary or involuntary filing of bankruptcy or any other insolvency proceeding, including but not limited to a general assignment for the benefit of including but not limited to a general assignment for the benefit of creditors, the appointment of a receiver for business or assets; creditors, the appointment of a receiver for business or assets; Contractor's dissolution or liquidation, voluntary or otherwise; the State has compelling reasons to believe that such events will cause Contractor to fail to meet its obligations in the foreseeable future; or Contractor's discontinuance of support or failure to support in accordance with this Contract any software system or if the Contractor is otherwise unable or unwilling to provide the Source Code Escrow Package. This condition will also be considered met if after repeated e-mail and phone requests by the State for service, the State makes a request for service in writing to the Contractor's last known address served by certified signed receipt required mail delivery by U.S. Post Office or by a nationally recognized (in the United States) overnight carrier, and the Contractor remains unresponsive, meaning that the Contractor is unable to acknowledge message receipt, unwilling or otherwise unable to satisfy the request for a period longer than 45 days from attempt to deliver the written request.

#### **11. Loss of Data**

In the event of loss of any State data or records where such loss is due to the intentional act, omission, or negligence of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for recreating such lost data in the manner and on the schedule set by the Contract Manager. The Contractor shall ensure that all data is backed up and is recoverable by the Contractor. In accordance with prevailing federal or state law or regulations, the Contractor shall report the loss of non-public data as directed in Section 16.17.

#### **12. Markings**

The Contractor shall not affix (or permit any third party to affix), without the Department's consent, any restrictive markings upon any Work Product and if such markings are affixed, the Department shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

#### **13. Exclusive Use and Ownership**

Contractor shall not use, sell, sub-lease, assign, give, or otherwise transfer to any third party any other information or material provided to Contractor by the Department or developed by Contractor relating to the Contract, except that Contractor may provide said information to any of its officers, employees and subcontractors who Contractor requires to have said information for fulfillment of Contractor's obligations hereunder. Each officer, employee and/or subcontractor to whom any of the Department's confidential information is to be disclosed shall be advised by Contractor of and bound by the confidentiality and intellectual property terms of this Contract.

#### **14. Confidentiality**

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

#### **15. Parent Company Guarantee (If Applicable)**

[Corporate name of 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 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 Parent Company]" further agrees that if the State brings any claim, action, suit or proceeding against "[Contractor]", "[Corporate name of Parent Company]" may be named as a party, in its capacity as Absolute Guarantor.

## **16. General Terms and Conditions**

Unless otherwise noted, the General Terms and Conditions are mandatory Contract Terms and cannot and will not be revised.

### **16.1. Pre-Existing Regulations**

In accordance with the provisions of Section 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, 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.

### **16.2. Maryland Law Prevails**

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

### **16.3. Multi-year Contracts contingent upon Appropriations**

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 of Maryland 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.

### **16.4. Cost and Price Certification**

- 16.4.1. The Contractor, by submitting cost or price information certifies that, to the best of its knowledge, the information submitted is accurate, complete, and current as of a mutually determined specified date prior to the conclusion of any price discussions or negotiations for:
- (1) A negotiated contract, if the total contract price is expected to exceed \$100,000, or a smaller amount set by the Procurement Officer; or
  - (2) A change order or contract modification, expected to exceed \$100,000, or a smaller amount set by the Procurement Officer.
- 16.4.2. The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date agreed upon between the parties, was inaccurate, incomplete, or not current.

**16.5. Contract Modifications**

The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. Pursuant to COMAR 21.10.04, the Contractor must assert in writing its right to an adjustment under this section 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 Section 16.8, Disputes. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

**16.6. Termination for Default**

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 of Maryland shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

**16.7. 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. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12 (A)(2).

**16.8. Disputes**

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

**16.9. Living Wage**

If a Contractor subject to the Living Wage law fails to submit all records required under COMAR 21.11.10.05 to the Commissioner of Labor and Industry at the Department of Labor, Licensing and Regulation, the Department may withhold payment of any invoice or retainage. The Department may require certification from the Commissioner on a quarterly basis that such records were properly submitted.

**16.10. Non-Hiring of Employees**

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

#### **16.11. 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 person with a disability, sexual orientation, or any otherwise unlawful use of characteristics; (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.

#### **16.12. Commercial Non-Discrimination**

- 16.12.1. As a condition of entering into this Agreement, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry, national origin, sex, age, marital status, sexual orientation, disability, or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.
- 16.12.2. As a condition of entering into this Agreement, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past 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 under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Agreement and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions.

#### **16.13. Subcontracting and 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 State, , each at the State's sole and absolute discretion. Any such subcontract or assignment shall include the terms of this Contract and any other terms and conditions that the State deems necessary to protect its interests. The State

shall not be responsible for the fulfillment of the Contractor's obligations to any subcontractors.

#### **16.14. Minority Business Enterprise Participation**

There is no Minority Business Enterprise subcontractor participation goal for this Contract.

#### **16.16. Veteran Owned Small Business Enterprise Participation**

There is no VSBE subcontractor participation goal for this procurement.

#### **16.17. Security Requirements and Incident Response**

- 16.17.1. The Contractor agrees to abide by all applicable federal, State and local laws concerning information security and comply with current State and Department information security policy, currently found at <http://doit.maryland.gov/Publications/DoITSecurityPolicy.pdf>.
- 16.17.2. The Contractor agrees to notify the Department when any Contractor system that may access, process, or store State data or Work Product is subject to unintended access or attack. Unintended access or attack includes compromise by a computer malware, malicious search engine, credential compromise or access by an individual or automated program due to a failure to secure a system or adhere to established security procedures.
- 16.17.3. The Contractor further agrees to notify the Department within twenty-four (24) hours of the discovery of the unintended access or attack by providing notice via written or electronic correspondence to the Contract Manager, Department chief information officer and Department chief information security officer.
- 16.17.4. The Contractor agrees to notify the Department within two (2) hours if there is a threat to Contractor's product as it pertains to the use, disclosure, and security of the Department's data.
- 16.17.5. If an unauthorized use or disclosure of any personally identifiable information (PII), protected health information (PHI) or other private/confidential data (collectively "Sensitive Data") occurs, the Contractor must provide written notice to the Department within one (1) business day after Contractor's discovery of such use or disclosure and thereafter all information the State (or State Department) requests concerning such unauthorized use or disclosure.
- 16.17.6. The Contractor, within one day of discovery, shall report to the Department any improper or non-authorized use or disclosure of Sensitive Data. Contractor's report shall identify:
  - (a) the nature of the unauthorized use or disclosure;
  - (b) the Sensitive Data used or disclosed,
  - (c) who made the unauthorized use or received the unauthorized disclosure;
  - (d) what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and
  - (e) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure.
  - (f) The Contractor shall provide such other information, including a written report, as reasonably requested by the State.
- 16.17.7. The Contractor agrees to comply with all applicable laws that require the notification of individuals in the event of unauthorized release of PII or other event requiring notification. In the event of a breach of any of the Contractor's security obligations or other event requiring notification under applicable law, the Contractor agrees to assume responsibility for informing all such individuals in accordance with applicable law and to indemnify, hold harmless and defend the State (or State Department) and its officials and employees from and against any claims, damages, or other harm related to such security obligation breach or other event requiring the notification.

16.17.8. This Section shall survive expiration or termination of this Contract.

#### **16.18. Suspension of Work**

The Procurement Officer 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.

#### **16.19. Nonvisual Accessibility Warranty**

16.19.1. The Contractor warrants that the information technology to be provided under the Contract.

- (a) provides equivalent access for effective use by both visual and non-visual means;
- (b) will present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use;
- (c) 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
- (d) is available, whenever possible, without modification for compatibility with software and hardware for non-visual access.

16.19.2. The Contractor further warrants that the cost, if any, of modifying the information technology for compatibility with software and hardware used for non-visual access does not increase the cost of the information technology by more than five percent. For purposes of this Contract, the phrase "equivalent access" means the ability to receive, use and manipulate information and operate controls necessary to access and use information technology by non-visual means. Examples of equivalent access include keyboard controls used for input and synthesized speech, Braille, or other audible or tactile means used for output.

#### **16.20. Compliance with Laws/Arrearages**

The Contractor hereby represents and warrants that:

- 16.20.1 It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- 16.20.2 It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- 16.20.3 It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and,
- 16.20.4 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.

#### **16.21. Contingent Fee Prohibition**

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or bona fide agent working for the Contractor to solicit or secure this Contract, and that it has not paid or agreed to pay any person, partnership, corporation or other entity, other than a bona fide employee or bona fide agent, any fee or other consideration contingent on the making of this Contract.

#### **16.22. Delays and Extensions of Time**

The Contractor agrees to perform this Contract continuously and diligently. No charges or claims for damages shall be made by the Contractor for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract. Time extensions will be granted only for excusable

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

#### **16.23. Financial Disclosure**

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

#### **16.24. Political Contribution Disclosure**

The Contractor shall comply with the provisions of Article 33, Sections 14-101 through 14-108 of the Annotated Code of Maryland, which require that every person that enters into contracts, leases, or other agreements with the State of Maryland, a county or an incorporated municipality or their agencies, during a calendar year under which the person receives in the aggregate \$200,000 or more, shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

#### **16.25. Retention of Records and Audit**

16.25.1. The Contractor shall retain and maintain all records and documents in any way relating to this Contract for three (3) years after close out of this Contract and final payment by the State under this Contract, or any applicable statute of limitations, prevailing federal or State law or regulation, or condition of award, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or the Procurement Officer's designee, at all reasonable times. The Contractor shall, upon request by the Department, surrender all and every copy of documents needed by the State, including, but not limited to itemized billing documentation containing the dates, hours spent and work performed by the Contractor and its subcontractors under the Contract. The Contractor agrees to cooperate fully in any audit conducted by or on behalf of the State, including, by way of example only, making records and employees available as, where, and to the extent requested by the State and by assisting the auditors in reconciling any audit variances. Contractor shall not be compensated for providing any such cooperation and assistance. All records related in any way to the Contract are to be retained for the entire time provided under this section.

16.25.2. This provision shall survive expiration of this Contract.

#### **16.26 Compliance with federal Health Insurance Portability and Accountability Act (HIPAA) and State Confidentiality Law**

16.26.1. 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.
- 16.26.2. 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. 164.504 and in the form as required by the Department.
- 16.26.3. 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.

## 17. Administrative Information

### 17.1. Procurement Officer and Contract Manager

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

### 17.2. Notices

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

If to the State:

Phil Hemler  
Department of Health and Mental Hygiene (DHMH)  
201 W Preston St, Room 414  
Baltimore, MD 21201  
Phone Number: 410-767-6981  
E-Mail: Phil.Hemler@Maryland.gov

With a copy to:

Queen Davis  
Department of Health and Mental Hygiene (DHMH)  
201 W Preston St, Room 416D  
Baltimore, MD 21201

Phone Number: 410-767-5335

E-Mail: Queen.Davis@Maryland.gov

If to the Contractor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attn: \_\_\_\_\_

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 (DHMH)

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

\_\_\_\_\_  
By Van T. Mitchell, Secretary, Maryland Department of  
Health and Mental Hygiene

\_\_\_\_\_  
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 quotes 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;
- (9) Been convicted of a violation of one or more of the following provisions of the Internal Revenue Code:
  - (a) §7201, Attempt to Evade or Defeat Tax;
  - (b) §7203, Willful Failure to File Return, Supply Information, or Pay Tax,
  - (c) §7205, Fraudulent Withholding Exemption Certificate or Failure to Supply Information;
  - (d) §7206, Fraud and False Statements, or
  - (e) §7207 Fraudulent Returns, Statements, or Other Documents;
- (10) Been convicted of a violation of 18 U.S.C. §286 Conspiracy to Defraud the Government with Respect to Claims, 18 U.S.C. §287, False, Fictitious, or Fraudulent Claims, or 18 U.S.C. §371, Conspiracy to Defraud the United States;
- (11) Been convicted of a violation of the Tax-General Article, Title 13, Subtitle 7 or Subtitle 10, Annotated Code of Maryland;
- (12) Been found to have willfully or knowingly violated State Prevailing Wage Laws as provided in the State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland, if:
  - (a) A court:
    - (i) Made the finding; and
    - (ii) Decision became final; or
  - (b) The finding was:
    - (i) Made in a contested case under the Maryland Administrative Procedure act; and
    - (ii) Not overturned on judicial review;

(13) Been found to have willfully or knowingly violated State Living Wage Laws as provided in the State Finance and Procurement Article, Title 18, Annotated Code of Maryland, if:

- (a) A court:
  - (i) Made the finding; and
  - (ii) Decision became final; or
- (b) The finding was:
  - (i) Made in a contested case under the Maryland Administrative Procedure act; and
  - (ii) Not overturned on judicial review;

(14) Been found to have willfully or knowingly violated the Labor and Employment Article, Title 3, Subtitles 3, 4, or 5, or Title 5, Annotated Code of Maryland, if:

- (a) A court:
  - (i) Made the finding; and
  - (ii) Decision became final; or
- (b) The finding was:
  - (i) Made in a contested case under the Maryland Administrative Procedure act; and
  - (ii) Not overturned on judicial review; or

(15) 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)—(14 above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

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**E. AFFIRMATION REGARDING DEBARMENT**

**I FURTHER AFFIRM THAT:**

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

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F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

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

Any claims of environmental attributes made relating to a product or service included in the bid or proposal are consistent with the Federal Trade Commission’s Guides for the Use of Environmental Marketing Claims as provided in 16 CFR §260, that apply to claims about the environmental attributes of a product, package or service in connection with the marketing, offering for sale, or sale of such item or service.

**N. 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, Title 14, Annotated Code of Maryland, which requires that every person that enters into a contract for a procurement with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a 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. Additional information is available on the State Board of Elections website: [http://www.elections.state.md.us/campaign\\_finance/index.html](http://www.elections.state.md.us/campaign_finance/index.html).

#### 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:
    - The dangers of drug and alcohol abuse in the workplace;
    - The business's policy of maintaining a drug and alcohol free workplace;
    - Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
    - 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:

Abide by the terms of the statement; and

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:

Take appropriate personnel action against an employee, up to and including termination; or

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:

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**

The Minority Business Enterprise (MBE) subcontractor participation goal for this solicitation is 0%.

**ATTACHMENT E - PRE-PROPOSAL CONFERENCE RESPONSE FORM**Solicitation Number DHMH/OPASS 17-17110  
Pharmacy Management System

**A Pre-proposal conference will be held at 9:00am on Wednesday, June 15, 2016 at DHMH's office at 201 W. Preston Street, Baltimore, MD 21201.** The conference will be held in **Conference Room L-2**, which is located in the back of the Lobby. The main entrance of the building is located off the plaza between 201 and 301 W. Preston Street. Parking is available on the opposite side of the street of the 201 W. Preston Street building. **All persons entering the building are required to provide government-issued photo identification.** After providing your identification to the security guard, please proceed up one level to the Lobby. **(See Directions Below)**

For those unable to attend in person, DHMH will provide conference call access. To dial into the meeting, please call +1-415-655-0003 (US toll) OR +1-416-915-6530 (Canada toll), meeting number (access code): 642 607 166.

Please return this form by Friday, May 10, 2016 advising whether or not you plan to attend, either remotely or in person. Return this form to the Procurement Officer via e-mail:

Queen Davis  
DHMH, 201 West Preston Street, Room 416D  
Baltimore, MD 21201  
E-mail: [Queen.Davis@Maryland.gov](mailto:Queen.Davis@Maryland.gov)

Please indicate:

Yes, the following representatives will be in attendance in person:

- 1.
- 2.
- 3.

Yes, the following representatives will be in attendance via remote access:

- 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"):

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Signature

Title

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Name of Firm (please print)

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**FROM THE NORTH OR SOUTH ON I-95**

Take the exit for Route I-395 (Downtown Baltimore), staying in the right lane. Continue going straight using the Martin Luther King, Jr. Blvd. off-ramp. Go approximately two (2) miles and turn left at Eutaw Street. Make the next right onto Preston Street. About halfway down the block on the left is a **paid** visitor's parking lot. The O'Connor Building is across the street (tan building).

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**FROM THE NORTH ON I-83**

Follow I-83 to the North Avenue exit. Make a left onto North Avenue. Immediately after you cross the bridge, make a right onto Howard Street. Proceed on Howard Street for almost a half-mile and make a right onto Preston Street (Armory on right corner). Take the second right to the **paid** visitor's parking lot. The O'Connor Building is across the street (tan building).

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**FROM THE WEST ON I-70**

Take I-70 East to I-695 South toward Glen Burnie. Follow I-695 South to I-95 North. Follow I-95 to the exit for Route I-395 North. Take the exit for Route I-395 (Downtown Baltimore), staying in the right lane. Continue going straight using the Martin Luther King, Jr. Blvd. off-ramp. Go approximately two (2) miles and turn left at Eutaw Street. Make the next right onto Preston Street. About halfway down the block on the left is a **paid** visitor's parking lot. The O'Connor Building is across the street (tan building).

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**FROM ANNAPOLIS AND VICINITY ON I-97**

Follow I-97 North toward Baltimore. Exit at the Baltimore Beltway (I-695) West toward Towson. Continue on I-695 to I-95 North. Take the exit for Route I-395 (Downtown Baltimore), staying in the right lane. Continue going straight using the Martin Luther King, Jr. Blvd. off-ramp. Go approximately two (2) miles and turn left at Eutaw Street. Make the next right onto Preston Street. About halfway down the block on the left is a **paid** visitor's parking lot. The O'Connor Building is across the street (tan building).

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**BALTIMORE METRO**

The Baltimore Metro runs from Charles Center to Owings Mills. Get off the Subway at the State Center stop. Take the escalator, or elevator, to the top, and you will be on West Preston Street.

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**LIGHT RAIL**

A light rail line connects Timonium, Baltimore and Glen Burnie. Get off of the Light rail at the Cultural Center Station. Perpendicular to the station is West Preston Street, with the Armory on the right corner and the 201 building on the left corner.

**ATTACHMENT F - FINANCIAL PROPOSAL PRICING INSTRUCTIONS**

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

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

- A) All Unit and Extended Prices must be clearly entered in dollars and cents, e.g., \$24.15.
- B) All Unit Prices must be the actual price per unit the State will pay for the specific item or service identified in this RFP and may not be contingent on any other factor or condition in any manner.
- C) All calculations shall be rounded to the nearest cent, i.e., .344 shall be .34 and .345 shall be .35.
- D) Any goods or services required through this RFP and proposed by the vendor at No Cost to the State must be clearly entered in the Unit Price, if appropriate, and Extended Price with \$0.00.
- G) It is imperative that the prices included on the Financial Proposal Spreadsheet have been entered correctly and calculated accurately by the Offeror and that the respective total prices agree with the entries on the spreadsheet. 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) 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 Spreadsheet.
- I) All Financial Proposal prices entered in the Financial Proposal Spreadsheet 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.
- K) Failure to adhere to any of these instructions may result in the Proposal being determined not reasonably susceptible of being selected for award.
- L) Offeror must submit Software & Support costs for years 1-3, as well as the cost of Integration Services in the electronic Financial Proposal Spreadsheet provided with the RFP.
- M) The Offeror attests that the costs identified in the electronic Financial Proposal Spreadsheet are the authorized costs proposed.
- N) If the Offeror wishes to modify the Financial Proposal format, they must notify DHMH Procurement Officer in writing at the email address specified on the Key Information Sheet within 10 days of the RFP Issue Date. If DHMH agrees to the modification, we will update the Financial Proposal Spreadsheet and send to it all Offerors.

- O) Offeror must specify additional costs related to establishing non-production environments.
- P) Offeror must identify all assumptions on which this Financial Proposal is based.

**ATTACHMENT F – PRICE SHEET**

PRICE SHEET (FIXED PRICE) FOR RFP # DHMH/OPASS 17-17110

Please submit pricing information in the Financial Proposal Spreadsheet (DHMH\_Pharmacy\_Attachment\_F\_PriceSheet.xls).

**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.

**ATTACHMENT G-1 Maryland Living Wage Requirements Affidavit of Agreement**

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

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

Address \_\_\_\_\_

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

**If the Contract Is Exempt from the Living Wage Law**

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

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

**If the Contract Is a Living Wage Contract**

A. The Undersigned, being an authorized representative of the above-named Contractor, hereby affirms its commitment to comply with Title 18, State Finance and Procurement Article, Annotated Code of Maryland and, if required, to submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Bidder/Offeror agrees to pay covered employees who are subject to living wage at least the living wage rate in effect at the time service is provided for hours spent on State contract activities, and to ensure that its subcontractors who are not exempt also pay the required living wage rate to their covered employees who are subject to the living wage for hours spent on a State contract for services. The Contractor agrees to comply with, and ensure its subcontractors comply with, the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate established by the Commissioner of Labor and Industry, automatically upon the effective date of the revised wage rate.

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

- The employee(s) proposed to work on the contract will spend less than one-half of the employee’s time during any work week on the contract
- The employee(s) proposed to work on the contract is 17 years of age or younger during the duration of the contract; or
- The employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

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

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

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

\_\_\_\_\_  
Title

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

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

**(submit with Bid/Proposal)**

**ATTACHMENT H - FEDERAL FUNDS ATTACHMENT**

This solicitation does not include a Federal Funds Attachment.

**ATTACHMENT I - CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE**

Reference COMAR 21.05.08.08

**(Submit with Bid/Proposal)**

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

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

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

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

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

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

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

(Authorized Representative and Affiant)

**ATTACHMENT J - NON-DISCLOSURE AGREEMENT (CONTRACTOR)**

THIS NON-DISCLOSURE AGREEMENT (“Agreement”) is made by and between the State of Maryland (the “State”), acting by and through (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 Pharmacy Management System Solicitation # DHMH/OPASS 17-17110; 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 solicitation 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. 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 means (1) any and all information provided by or made available by the State to the Contractor in connection with the Contract and (2) any and all personally identifiable information (PII) (including but not limited to personal information as defined in Md. Ann. Code, State Govt. § 10-1301(c)) and protected health information (PHI) that is provided by a person or entity to the Contractor in connection with this Contract. 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 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 Contract or who will otherwise have a role in performing any aspect of the Contract, 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 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: \_\_\_\_\_

DHMH

By: \_\_\_\_\_ (SEAL)

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

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

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

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

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

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

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



**NON-DISCLOSURE AGREEMENT – ATTACHMENT J-2**

**CERTIFICATION TO ACCOMPANY RETURN OF CONFIDENTIAL INFORMATION**

I AFFIRM THAT:

To the best of my knowledge, information, and belief, and upon due inquiry, I hereby certify that: (i) all Confidential Information which is the subject matter of that certain Non-Disclosure Agreement by and between the State of Maryland and \_\_\_\_\_ (“Contractor”) dated \_\_\_\_\_, 20\_\_\_\_ (“Agreement”) is attached hereto and is hereby returned to the State in accordance with the terms and conditions of the Agreement; and (ii) I am legally authorized to bind the Contractor to this affirmation.

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

DATE: \_\_\_\_\_

NAME OF CONTRACTOR: \_\_\_\_\_

BY: \_\_\_\_\_

(Signature)

TITLE: \_\_\_\_\_

(Authorized Representative and Affiant)

**ATTACHMENT K - HIPAA BUSINESS ASSOCIATE AGREEMENT****BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (the “Agreement”) is made by and between the Department of Health and Mental Hygiene (the “Department”) 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 Department of Health and Mental Hygiene.
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 Pharmacy Management System, Solicitation # DHMH/OPASS 17-17110, 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

- 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: \_\_\_\_\_

**ATTACHMENT K-1**

**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 Department of Health and Mental Hygiene and \_\_\_\_\_ (Business Associate).

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

Description of the breach:

\_\_\_\_\_  
\_\_\_\_\_

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

Does the breach involve 500 or more individuals? Yes/No If yes, do the people live in multiple states? Yes/No

Number of individuals affected by the breach: \_\_\_\_\_

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

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

\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

Contact information to ask questions or learn additional information:

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

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

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

\_\_\_\_\_

E-mail Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**ATTACHMENT L - MERCURY AFFIDAVIT**

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

**ATTACHMENT M - VETERAN-OWNED SMALL BUSINESS ENTERPRISE**

The Veteran-Owned Small Business Enterprise (VSBE) subcontractor participation goal for this solicitation is 0%.

**ATTACHMENT N - LOCATION OF THE PERFORMANCE OF SERVICES DISCLOSURE**

This solicitation does not require a Location of the Performance of Services Disclosure.

**ATTACHMENT O - DHR HIRING AGREEMENT**

This solicitation does not require a DHR Hiring Agreement.

**Attachment P - NON-DISCLOSURE AGREEMENT (OFFEROR)**

This document is not required for this solicitation.

**ATTACHMENT Q - LABOR CLASSIFICATION PERSONNEL RESUME SUMMARY**

This document is not required for this solicitation.

**ATTACHMENT R - AGENCY DELIVERABLE PRODUCT ACCEPTANCE FORM**

Agency Name: Department of Health and Mental Hygiene

RFP Title: Pharmacy Management System

Contract Manager: Phil Hemler, 410-767-6981

To: Contractor Name

The following deliverable, as required by Project Number (RFP #): DHMH/OPASS 17-17110 has been received and reviewed in accordance with the RFP.

Title of deliverable: \_\_\_\_\_

RFP Contract Reference Number: Section # \_\_\_\_\_

Deliverable Reference ID # \_\_\_\_\_

This deliverable:

Is accepted as delivered.

Is rejected for the reason(s) indicated below.

REASON(S) FOR REJECTING DELIVERABLE:

OTHER COMMENTS:

\_\_\_\_\_  
Contract Manager Signature

\_\_\_\_\_  
Date Signed

**ATTACHMENT S - SAMPLE WORK ORDER**

WORK ORDER	Work Order #	Contract #

This Work Order is issued under the provisions of the Contract. The services authorized are within the scope of services set forth in the *Purpose* of the Work Order.

Purpose

Statement of Work

Requirements:

Deliverable(s), Acceptance Criteria and Due Date(s):

Deliverables are subject to review and approval by DHMH prior to payment.

*(Attach additional sheets if necessary)*

Start Date		End Date	
------------	--	----------	--

Cost

Description for Task / Deliverables	Quantity (if applicable)	Labor Hours (Hrs.)	Labor Rate	Estimate Total
1.			\$	\$
2.			\$	\$
*Include WBS, schedule and response to requirements.		DHMH shall pay an amount not to exceed		\$

Contractor		Agency Approval	
(Signature) Contractor Authorized Representative (Date)		(Signature) Contract Manager (Date)	
POC	(Print Name)	Contract Manager	(Print Name)
Telephone No.		Telephone No.	
E-mail:		E-mail:	

**APPENDIX 1 – FACILITY INFORMATION**

This section provides more information about the DHMH facilities that are included in this RFP.

## **Descriptions of DHMH Facilities with a Pharmacy**

### **Clifton T. Perkins Center**

The Perkins Center is a maximum security psychiatric hospital located in Jessup. Some patients stay for short periods, while others may stay for 20 years or more. Perkins houses a Secure Evaluation & Therapeutic Treatment (SETT) unit for people with intellectual disabilities and court involvement in one wing. The SETT unit is serviced by Springfield Hospital Center, not Perkins.

### **Springfield Hospital Center**

Springfield Hospital has a campus setting with many buildings and is located in Sykesville. The facility has several different types of units with different dispensing requirements (unit dosing, 30 day, etc.). The Springfield pharmacy utilizes a Talyst OS-PAC (AutoPack) JV500 SL automated dispensing system machine for packaging medications for each patient and it provides medications for two SETT units – one located on the grounds of Springfield Hospital and one located at the Clifton T. Perkins Center in Jessup. The SETT units are run by Developmental Disabilities Administration (DDA), while Springfield and the other facilities with an in-house pharmacy are run by Behavioral Health Administration (BHA). DDA and BHA are different divisions in DHMH.

The State of Maryland is currently in the process of building a new data center on the grounds of the Springfield Hospital Center. DHMH intends to place a HMIS backup computer at the new data center.

### **Sykesville & Jessup SETTS**

The Secure Evaluation & Therapeutic Treatment (SETT) Program provides evaluation and assessment services, as well as active treatment to people with intellectual disabilities and court involvement within a secure and safe environment. The Developmental Disabilities Administration (DDA) of DHMH operates two SETT Units – one located on the grounds of Springfield Hospital Center and one in Clifton T. Perkins Hospital. These Units do not have an in-house pharmacy, but they receive their medications from the Springfield Hospital Center's pharmacy.

### **Spring Grove Hospital Center**

Spring Grove has a campus setting with many buildings and is located in Catonsville. The facility has several different types of units with different dispensing requirements (unit dosing, 30 day, etc.). Spring Grove is the largest DHMH facility.

### **Thomas B. Finan Center**

The Thomas B. Finan Center is located in Cumberland. The facility utilizes a system developed in-house to allow physicians to enter orders and staff to create/modify/print MARs and other medication forms. This system utilizes Access and is used as a front and back end to the existing pharmacy module used by the other pharmacies. The existing pharmacy module is used for dispensing medications.

### **Eastern Shore Hospital**

The Eastern Shore Hospital has 80 beds and is located in Cambridge. The facility uses an EMR for patient census data and for a pharmacy management system. It does not use existing pharmacy module used by the other facilities and is not included in the scope of this RFP at this point.

**Statistics for DHMH Facilities with a Pharmacy**

Statistic	Clifton T. Perkins Jessup	Springfield Hospital Sykesville	SETT Units in Sykesville & Jessup	Spring Grove Hospital Catonsville, MD	Thomas B. Finan Center Cumberland, MD
Number of Beds (approx.)	250	250	35	350	80
Monthly Census*	258	267	30	410	74
Monthly Discharges	5	14	5	24	3
New Orders per Month	920	1,342	Unknown	1,891	491
Change Orders per Month	162	82	Unknown	137	1,179
Discontinue Orders per Month	836	1,227	Unknown	1,822	375
Renew Orders per Month	4,428	4,680	Unknown	4,865	3,427
STAT Dispenses per Month	624	1,545	Unknown	1,434	Unknown
Active Orders Per Patient	16	17	Unknown	15	17
Total Number of Patients in Current System	1,666	8,937	Unknown	10,479	3,450
Total Number of Orders in Current System (with D/C)	144,690	359,355	Unknown	408,495	124,341
Number of Orders Per Patient in Current System (with D/C)	87	40	Unknown	39	36
Pharmacy Staff	6	12	N/A	12	4
Total Staff using New Pharmacy System (assuming CPOE & printing MARs)	25 prescribers 110 nursing staff	25-30 prescribers 180 nursing staff	2 prescribers Unknown # of nursing staff	25-30 prescribers 179 nursing staff	5-10 prescribers 62 nursing staff
Number of Nursing/Medication Stations	10	11	Unknown	14	4

**NOTE:**

These statistics are approximations of average monthly orders and patients. They are “ballpark” figures and are current as of February 2016.

\*Monthly Census includes any patient that was active at some point during the month.

**APPENDIX 2 – CURRENT PROCESSING AND TECHNICAL ARCHITECTURE**

Appendix 2 – Current Processing and Technical Architecture provides more detailed information about the configuration of the current HMIS ADT and Pharmacy modules.

The following diagrams are included in this Appendix:

**Figure APP2-1** depicts the basic processing of medication orders at the Perkins, Springfield and Spring Grove pharmacies.

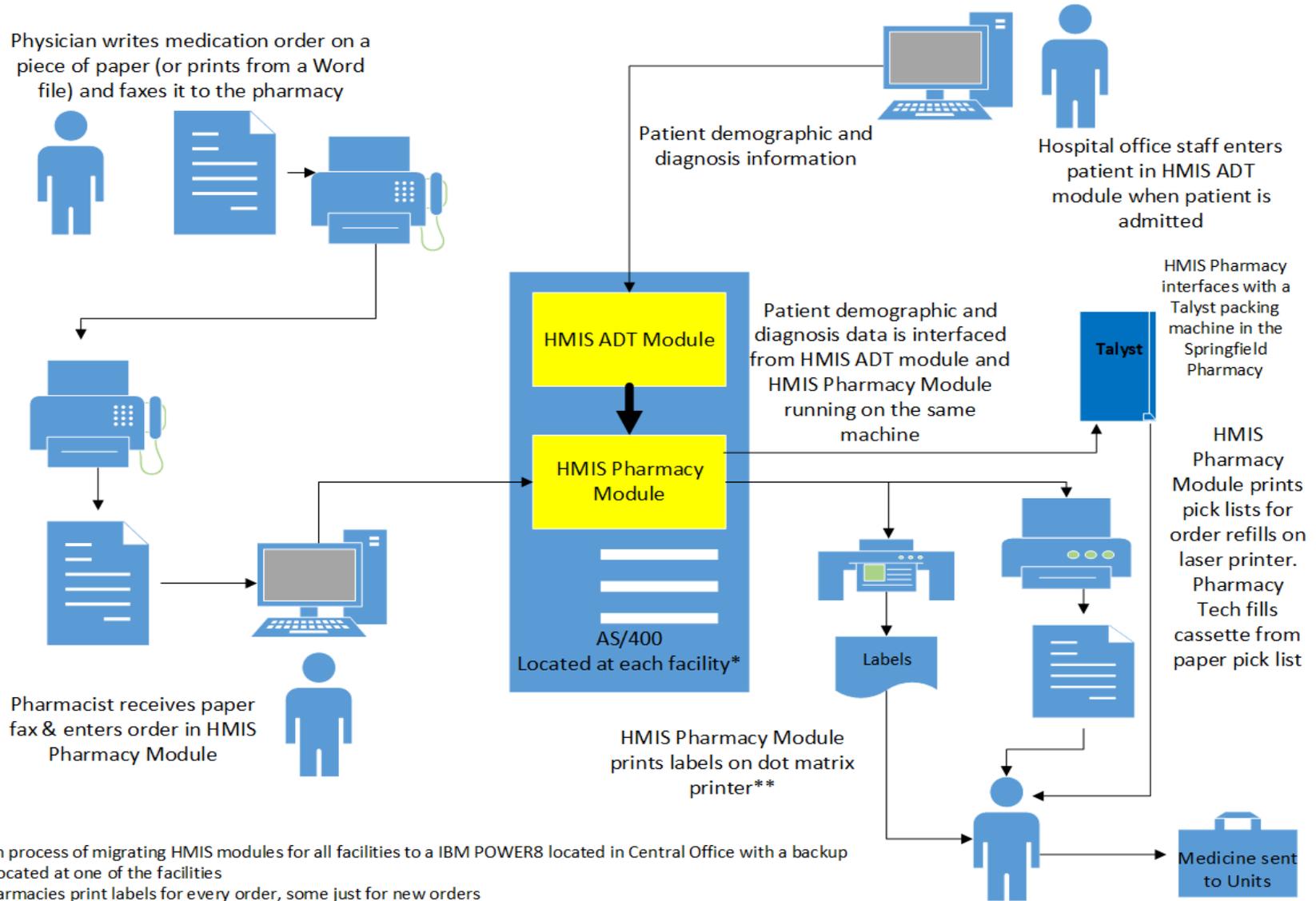
**Figure APP2-2** depicts the basic processing of medication orders at the Finan Center pharmacy. The Finan Center has a system called Direct Physician Order Entry (DPOE) which was developed in-house to allow prescribers to enter orders on-line and to allow medical staff to print Medication Administration Records and other similar documents. The DPOE system utilizes an Access database and is hosted on a windows server located at the facility. The pharmacy at the Finan Center uses the HMIS Pharmacy Module to record medication orders and track which medications were dispensed.

**Figure APP-3** depicts the current HMIS technical architecture, with the HMIS ADT and Pharmacy software installed on several AS/400's. This is how the system is configured as of March 2016.

**Figure APP-4** depicts the HMIS technical architecture in the near future. DHMH is currently in the process of migrating the HMIS software to one IBM POWER8 located in the central office. This diagram depicts the HMIS technical architecture once that migration is complete. DHMH expects to have migrated the HMIS system to the new hardware by the time the new pharmacy system is installed.

### Current Pharmacy System Processing Diagram At Perkins, Springfield and Spring Grove

Figure  
APP2-1



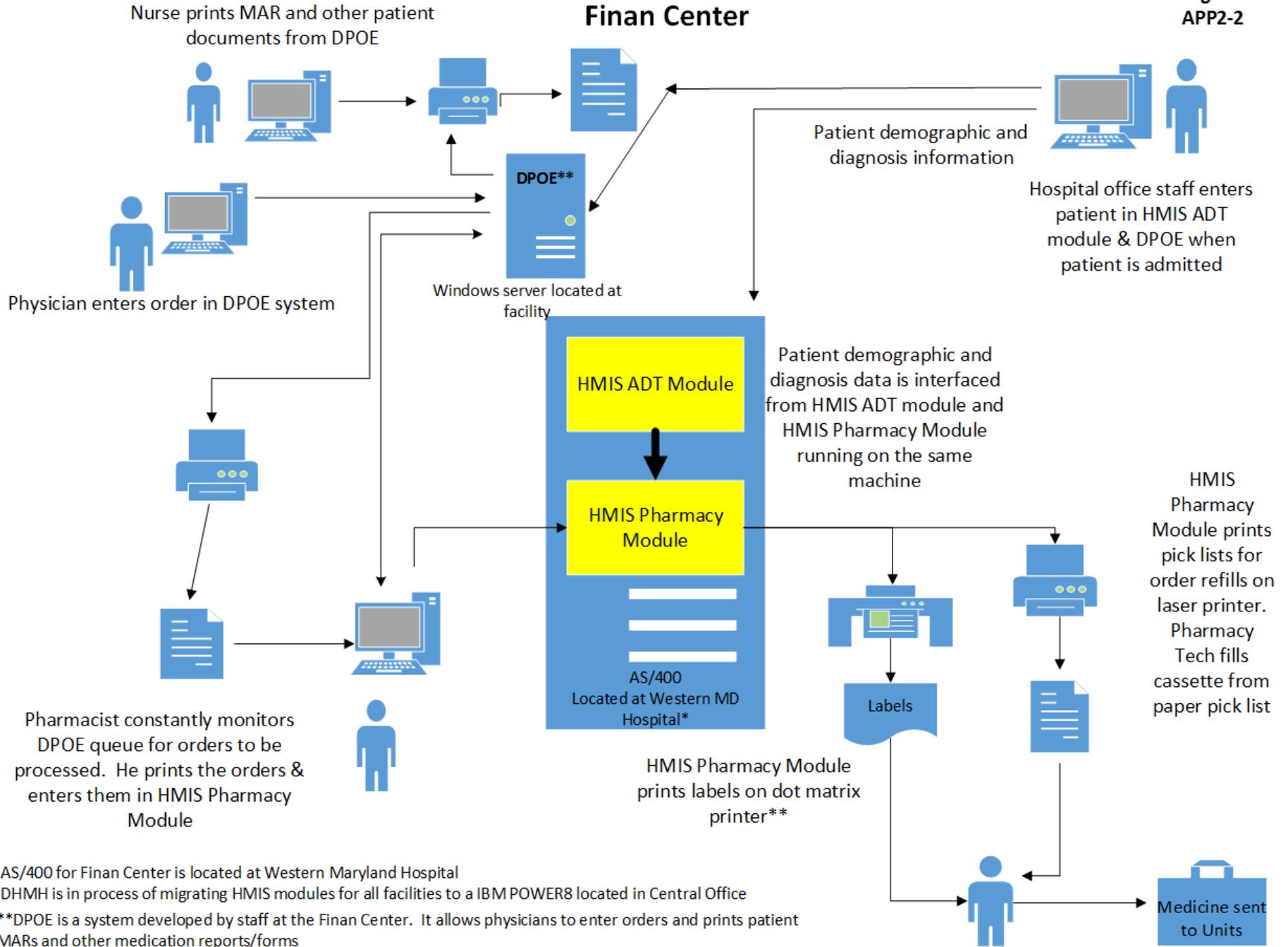
\* DHMH is in process of migrating HMIS modules for all facilities to a IBM POWER8 located in Central Office with a backup machine located at one of the facilities

\*\* Some pharmacies print labels for every order, some just for new orders

# Current Pharmacy System Processing Diagram

Figure APP2-2

## Finan Center



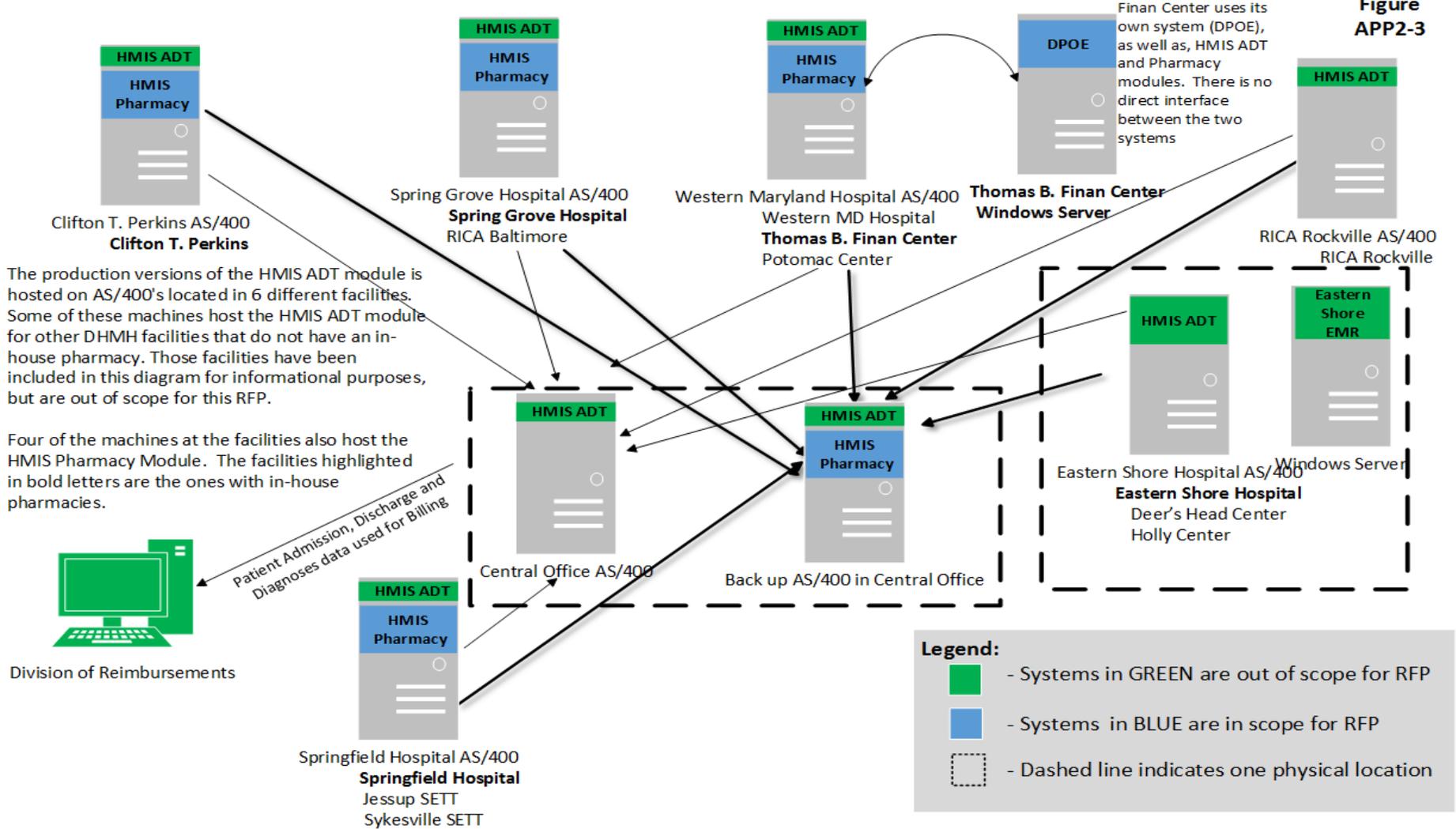
\* AS/400 for Finan Center is located at Western Maryland Hospital

DHMH is in process of migrating HMIS modules for all facilities to a IBM POWER8 located in Central Office

\*\*DPOE is a system developed by staff at the Finan Center. It allows physicians to enter orders and prints patient MARs and other medication reports/forms

**Current HMIS ADT & Pharmacy Systems Technical Architecture Diagram**

**Figure APP2-3**



The production versions of the HMIS ADT module is hosted on AS/400's located in 6 different facilities. Some of these machines host the HMIS ADT module for other DHMH facilities that do not have an in-house pharmacy. Those facilities have been included in this diagram for informational purposes, but are out of scope for this RFP.

Four of the machines at the facilities also host the HMIS Pharmacy Module. The facilities highlighted in bold letters are the ones with in-house pharmacies.

Division of Reimbursements

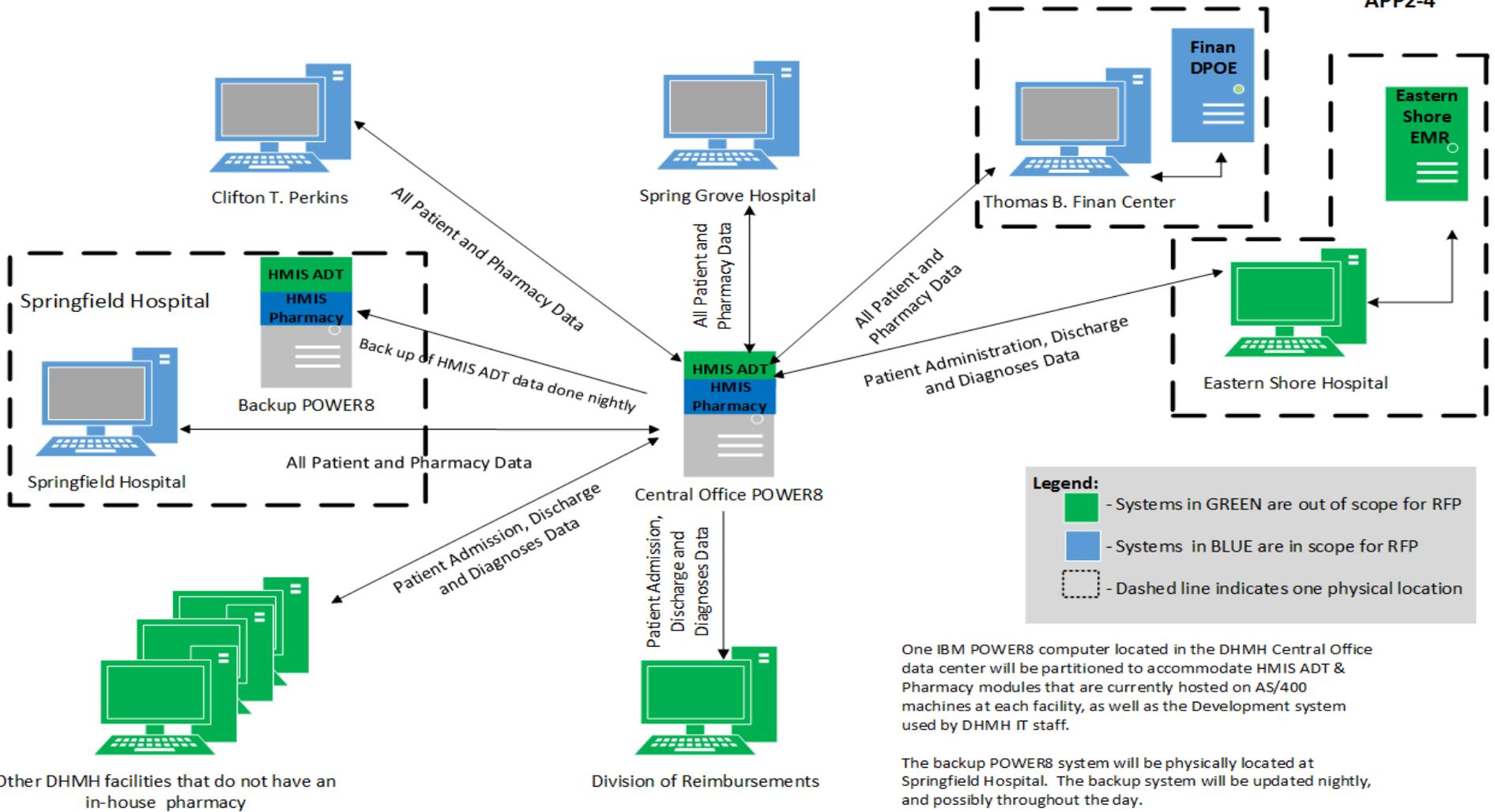
Patient Admission, Discharge and Diagnoses data used for Billing

Finan Center uses its own system (DPOE), as well as, HMIS ADT and Pharmacy modules. There is no direct interface between the two systems

Backup programs run at each facility every night. One backup of all the data for HMIS ADT & Pharmacy modules is stored on a tape at the facility. A second backup of all the same data is transmitted to the Backup system at the Central Office. The "end of day" program creates a file of all admissions, discharges and changes to patient data in the HMIS ADT module for their facility. The file is stored on the AS/400 at the facility until the next morning. Every weekday morning, DHMH Central Office staff runs a program which transfers the file to the Central Office AS/400. The Central Office staff verifies that the data looks correct, then applies those changes to the HMIS ADT module on the Central Office computer. This module maintains data on all the facilities and is used for billing & reporting.

**Near Future State HMIS ADT & Pharmacy Systems Technical Architecture Diagram**

Figure APP2-4



As of March 2016, DHMH is in the process of migrating the HMIS ADT and Pharmacy modules currently hosted on AS/400's located at the facilities to a partitioned POWER8 located at the Central Office. The facilities will access the HMIS software on the POWER8 via the Maryland Network. It is anticipated that this will be the system architecture in place by the time that the new pharmacy management system is implemented.

## APPENDIX 3 – MINIMUM DATA REQUIREMENTS FOR PATIENTS

### **Minimum Data Requirements for Patient Information includes:**

ID Number (internally generated, unique number)

First, Middle & Last Name

Address

Birthdate

Gender

Date Admitted

Facility

Unit

Room

Bed

Height

Weight (in kilos) – maintain history of changes

Psychiatric Doctor

Somatic Doctor

Allergies/Adverse Reactions (multiple) & Date allergy was identified

Diagnoses (multiple) – maintain history of changes

Diagnosing Doctor

Diagnosing Date

**APPENDIX 4 – SAMPLE FORMS**

Appendix 4 – Sample Forms includes representative versions of the MAR and other forms that the Pharmacy Management System must generate. The exact definition of these forms/reports will be defined during Phase II implementation of the software. These forms are samples of forms and reports used in the current system and are representative of the forms/reports required for the new system to generate. There may be additional forms required.







EHR Number: 590

Page 1 of 1

			94520	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31		
Haldol	PO	qidprn																																		
5mg																																				
agitation																																				
halperidol		OD 10/30/15 RD																																		
Imodium	PO		95791	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31		
1 cap																																				
Loose BMs																																				
Give after each loose BM																																				
Not to exceed 8 caps in 24 hrs.																																				
loperamide		OD 12/09/15 RD																																		
FluMist			95922	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31		
1 Spray	each nostril	daily X1	0800																																	
Influenza prophylaxis																																				
after consent signed																																				
notify pharmacy when given																																				
Influenza vaccine live intranasal		OD 12/13/15 RD																																		

Allergies: NKDA

February 2016

PPD:

Tet/Diphth:

Test

John

Thomas B. Finan Center  
Cumberland MD  
Medication Administration Record  
For PRN Medications And Pain Management  
Form 69 Revised 05/23/05



Test

REIMB:

Case Number: 0  
John

HMIS:

<b>ALLERGIES:</b>	MONTH: _____ YEAR: _____
-------------------	--------------------------

ROUTINE MEDICATIONS				HOURL	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31		
START DATE	INITIAL	RENEWAL DATE	STOP DATE/TIME																																		
MEDICATION																																					
START DATE	INITIAL	RENEWAL DATE	STOP DATE/TIME																																		
MEDICATION																																					
START DATE	INITIAL	RENEWAL DATE	STOP DATE/TIME																																		
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START DATE	INITIAL	RENEWAL DATE	STOP DATE/TIME																																		
MEDICATION																																					



**MEDICATION  
ADMINISTRATION RECORD  
(MAR)**

PR-NU-1100  
REV 11/04 (Side 1 of 2)  
Medication

ALLERGIES:	MONTH: _____ YEAR: _____
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				hour	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31		
START DATE	INITIAL	RENEWAL DATE	STOP DATE/TIME																																		
Insulin				SITE																																	
				VERIFY																																	
START DATE	INITIAL	RENEWAL DATE	STOP DATE/TIME																																		
Insulin				SITE																																	
				VERIFY																																	
START DATE	INITIAL	RENEWAL DATE	STOP DATE/TIME																																		
Insulin				SITE																																	
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START DATE	INITIAL	RENEWAL DATE	STOP DATE/TIME																																		
				SITE																																	
				VERIFY																																	
START DATE	INITIAL	RENEWAL DATE	STOP DATE/TIME																																		
				SITE																																	
				VERIFY																																	
START DATE	INITIAL	RENEWAL DATE	STOP DATE/TIME																																		
Finger Stick				SITE																																	
Finger Stick Blood Glucose normal Range-60-100 mg/dl. Unless otherwise specified by physician order, a physician must be notified of all results that fall outside of this range.				VERIFY																																	



**INSULIN ADMINISTRATION/  
GLUCOSE MONITORING RECORD**

PR-NU-1101  
REV 9/09 (Side 1 of 2)  
Medication

ALLERGIES:	MONTH: _____	YEAR: _____
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ROUTINE TREATMENTS				HOUR	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31				
START DATE	INITIAL	RENEWAL DATE	STOP DATE																																				
TREATMENT																																							
START DATE	INITIAL	RENEWAL DATE	STOP DATE																																				
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START DATE	INITIAL	RENEWAL DATE	STOP DATE																																				
TREATMENT																																							



**NURSING  
TREATMENT RECORD**

**APPENDIX 5 – FUNCTIONAL / BUSINESS REQUIREMENTS**

The functional and business requirements for the pharmacy management system are included in the spreadsheet **DHMH\_Pharmacy\_Appendix\_5\_FBRequirements.xls**. The Offeror shall respond to each requirement according to the instructions included in this Appendix. The completed spreadsheet must be submitted in electronic form as a part of the Offeror's Technical Proposal.

**Offeror Response Instructions**

The functional requirements included in this RFP identify desired functions and features of the pharmacy management system. The functions that are identified as "required" are vital components of the pharmacy software. The software must meet these requirements. The functions marked as "desirable" are ones that the pharmacy system should support, but are not as vital. Those identified as "future requirement" are ones that the pharmacies do not need immediately, but anticipate to be vital in the future.

For each item in the table, Offerors are to enter one of the following response codes. If the solution involves multiple integrated components proposed by the Offeror, the code is to be entered irrespective of which Offeror's systems or modules will be used to provide and perform the particular function.

**RESPONSE CODES**

Response Code (Note 1)		Definition
<b>E</b>	<b><u>E</u>xisting</b>	Function is operational in the current generally available and installed production version of the Offeror's system(s). All items in this category can be demonstrated and function as expected by DHMH without limitation.
<b>G</b>	<b>Conf<u>i</u>guration or Report</b>	Function will be met by the entry of facility-defined configuration, business rule or code entry in of the systems' code tables or the running of a report. No programming change to the Offeror's software is required. It is anticipated that work in this category will be completed as part of system setup during the implementation. The writing and execution of configuration changes and development of reports can be demonstrated to DHMH.
<b>D</b>	<b>In <u>D</u>evelopment</b>	Function is currently (at the time of the Proposal) in development or in Beta test as part of the base system, and will be included in the system when installed. Items in this category may or may not be able to be demonstrated to DHMH.
<b>M</b>	<b><u>M</u>odification</b>	Function will be met by programming change to the base software and will be included in the installed system. All work in this category shall be performed by the Contractor at no cost to DHMH, and will become part of the base package and supported through all future releases of the system. Items in this category may not be able to be demonstrated to the DHMH. <b>The details of any modification must be clearly specified in the Technical Proposal.</b>
<b>C</b>	<b><u>C</u>ustomization</b>	Function will be met by a specific customization or programming change to the Offeror's system at a pre-defined cost. All work in this category shall be performed by the Contractor as part of the implementation. <b>The details of any customization must be clearly specified in the Technical Proposal, and also detailed in the Financial Proposal.</b>
<b>X</b>	<b>e<u>X</u>cluded</b>	The function cannot be met by the proposed system.

**Notes:**

1. Any items with missing response codes will be coded as eXcluded.

**APPENDIX 6 – HARDWARE GUIDANCE FROM OFFERORS**

This information in this Appendix is intended to provide DHMH with information on the hardware required to support the Offeror's systems. The Offeror must complete the information in the spreadsheet

**DHMH\_Pharmacy\_Appendix\_6\_HWGuidance.xls.**