

Maryland Department of Health
Standard Memorandum of Understanding (MOU)

Section I: Parties, Terms and Cost

A. Parties

This Memorandum of Understanding, dated _____, and entitled

_____ is hereby entered into by and between

_____,
a Unit of the Maryland Department of Health (MDH), hereinafter known as "the Department" and

_____,
a governmental entity of the State of Maryland, the Federal Government, another State government, **or** a municipal or local government, hereinafter known as "the Government".

B. Term and Cost

1. The services which are the subject of this MOU are to commence on or about _____, and terminate _____.
2. The total cost to the Department for the provision of the described services shall not exceed \$ _____ for this period of time.

C. Term and Cost of Renewal Option(s)

1. This MOU may be further renewed for the following period(s):

_____. (If none, write "none".)

2. The total cost to the Department for the provision of the described service shall not exceed \$ _____ for the option period(s).

D. *Maximum Total Cost of Base Term and Renewal Option(s)* (Sum of I B 2 and I C 2 amounts): _____.

Section II: Statement of Work

The detailed description of the specific services and products to be provided by the Government under this MOU are incorporated and made a part of this MOU, as Attachment A - Statement of Work.

Please Note: For MOU Staffing Agreements providing staff supervised by MDH, additional staff positions may not be added to this MOU without a formal modification. Furthermore, if any of the existing positions listed become vacant, the position may not be converted to a new position without formal modification. If any of the positions become vacant, the position may not be filled without approval by the MDH Office of the Secretary.

Section III: Budget and Billing

A. Detailed Budget

The detailed budget, to be incorporated and made a part of this MOU, is included as Attachment B – Detailed Budget with Supporting Justification.

The Government shall be bound to make expenditures as set forth in the budget unless the Department Agreement Monitor provides express written consent to make modifications to the submitted budget. However, a variance of 10% or \$25,000, whichever is less, from the initially stated line item within the budget from which the transfer is proposed, is permitted by the Government among itemized budget categories without the prior written approval of the Department Agreement Monitor, provided that the total amount of the budget does not change, there is no change in the statement of work, and the Department Agreement Monitor is notified in writing as soon as practicable.

B. Availability of Funding

1. The amount stated in Sec. I D above for this MOU is based on State General or Special Funding levels and any applicable Federal Funds (see Section IV F) available as of the approval date of the MOU. If applicable State, Special or Federal funding is reduced, this MOU may be reduced in scope so that available funding is not exceeded, or terminated under either Section III B 2 or IV L. 2.

2. 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 MOU succeeding the first fiscal period, this MOU 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 Department's rights or the Government's rights under any termination clause in this MOU. The effect of termination of the MOU hereunder will be to discharge both the Government and the Department from future performance of the MOU, but not from their rights and obligations existing at the time of termination. The Government shall be reimbursed for the reasonable value of any non-recurring cost incurred but not amortized in the price of the MOU. The Department shall notify the Government as soon as it has knowledge that funds may not be available for the continuation of this MOU for each succeeding fiscal period beyond the first.

C. Content of Invoices

As a condition of payment, the Government shall submit to the Department Agreement Monitor itemized invoices which state at least the following information:

1. Government name and remittance address;
2. Amount of invoice, including itemized amounts for costs for which payment is requested;
3. Dates or period covered by the invoice for costs incurred or services rendered;
4. Title of project or description of services rendered*;
5. MDH Control Number or ADPICS# or agency control number for the few agencies with delegation whose MOUs are not processed via OCMP;
6. Financial Agency Code**;
7. Program Cost Account (PCA) and Agency Object Codes**;
8. Transaction Code**; and
9. Federal Tax Identification Number.

* Each time the Government submits an invoice to the Department Agreement Monitor it must be supported by one or more Status Reports unless the invoice itself contains sufficient detail to permit the Department Agreement Monitor to conclude that the invoiced amount is appropriate and payment in that amount has

been earned under the terms of the MOU. A Status Report is not required when pricing is fixed price and tied to the acceptance of a specific deliverable.

** Only required if an inter-agency transfer credit processed in the Financial Management Information System (FMIS) is the method used to pay the Government, such as public State Universities and Maryland State Agencies.

D. Invoices: Payment Frequency and Required Supporting Documentation

1. Payment shall be made at the payment frequency as set forth below:

☐ a. Single lump-sum payment upon the Department Agreement Monitor's acceptance of completion of performance as defined in the Scope of Work.

☐ b. If payment will be made other than as a single lump-sum payment, the payments will be made at the following frequency:

☐ Monthly

☐ Quarterly

☐ Other, described as follows:

2. All payments will be made by the Department upon acceptance by the Department Agreement Monitor of a proper Government invoice and adequate supporting documentation, in electronic or hard copy fashion. Supporting documentation shall be adequate, as determined by the Department Agreement Monitor, to enable verification of amounts billed by the Government. Supporting documentation consists of the following:

a. Documentation of Expenditures Incurred During the Billing Period

1. *Actual salary and fringe benefits costs:* A payroll expenditure report that provides a detailed breakout of actual total salary and fringe benefit costs paid or incurred during the billing period, itemized by individual name and, if feasible, individual's title. Such a payroll expenditure report shall be either certified or attested to by an appropriate Government representative as an accurate and true representation of salary and benefits, as related to each individual, paid during the billing period and charged on invoices submitted to the Department.

2. If applicable, in addition to the foregoing, the Government shall provide documentation as set forth in either (A) or (B) below:

A. For Salary/Benefits billed based on actual effort performed during billing period: Documentation of actual hours worked or actual percentage of total effort spent, during the billing period and related to this MOU. Such documentation shall be either certified or attested to by an appropriate Government representative as an accurate and true representation of each individual's actual hours worked or actual percentage of total effort expended, as related to this MOU, incurred during the billing period and charged on invoices submitted to the Department.

B. For Salary/Benefits billed as Fixed Percentage of actuals: Certified effort reports shall be provided that attest to the level of effort expended on services provided as a part of this MOU, for each individual billed under this MOU. Such reports shall be provided semi-annually or more frequently if applicable, for each individual billed.

3. *Consultant/Subcontractor Costs:* Paid consultant/subcontractor invoices for which reimbursement is being requested.

4. *Other Direct Costs:* Itemized detail of travel expenses incurred by individuals or other direct costs (e.g., supplies) billed by the Government and related to this MOU. The itemized detail of such expenditures may be provided in a report from the Government's general ledger or accounts payable system. If provided in such a manner, such documentation shall be either certified or attested to by an appropriate Government representative as a report from the Government's general ledger or accounts payable system that represents actual expenditures paid, as related to this MOU, incurred during the billing period and charged on invoices submitted to the Department. If such a report is not submitted to fulfill this requirement, the Government must submit individual's expense vouchers, copies of related invoices paid or other receipts for any individual costs exceeding \$500.

5. *Additional Requested Documentation:* If the Department has concerns regarding an amount billed on an invoice, the Department Agreement Monitor may request additional support documentation from the Government such as invoices, travel expense vouchers, or other receipts.

b. Documentation of Deliverables and Services Provided During the Billing Period

- 1.) All deliverables due during the period billed shall be presented to the Department Agreement Monitor upon submission of the invoice, if not previously provided. This includes deliverables due from the Government or its subcontractors for services provided under the MOU, as any acceptance criteria may be identified in the Scope of Work.
- 2.) If for certain tasks, or in general, there are no deliverables due, the Department Agreement Monitor may request additional documentation to confirm delivery of services provided during the billing period.
3. The Department may withhold payment of an invoice until the Department receives and approves all supporting documentation, including any additional documentation requested.

E. *Billing Addresses*

Invoices are to be sent to the Department Agreement Monitor identified in Sec. V.

If identified below, a copy (which shall be marked 'copy') shall also be sent to:

(Individual Name and Title)

(Street and Room Address)

(City, State and Zip Code)

(e-mail)

Section IV: Mandatory Provisions

A. Nondiscrimination in Employment

The Government agrees:

1. Not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry, genetic information, or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as reasonably to preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test;
2. To include a provision similar to that contained in Subsection 1 above in any underlying subcontract except a subcontract for supplies or raw materials MOU; and
3. 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.

B. Equal Access

The Government shall provide equal access to public services to individuals with limited English proficiency in compliance with MD. Code Ann., State Government Article, §10-1101 *et seq.*, and Policy Guidance issued by the Office of Civil Rights, Department of Health and Human Services, and MDH Policy 01.02.05.

C. Subcontracting

1. Unless otherwise provided in Attachment B (the Budget), the Government may not during the term of this MOU or any renewals or extensions of this MOU, assign or subcontract all or any part of this MOU without the prior written consent of the Department Agreement Monitor.
2. The Government shall itself perform work at a value of not less than fifty percent (50%) of the total amount agreed upon to be paid by the Department to the Government under the terms of this MOU, including the cost of commodity acquisition. The Government shall assure that all subcontractors shall be bound by the provisions contained in this MOU between the parties.

D. Data – Ownership and Use

1. The Department retains all ownership rights associated with data that the Department may provide to the Government. The Government shall not use, sell, sub-lease, assign, give, or otherwise transfer to any third party such data, except that the Government may provide such data to its officers, employees and subcontractors required to have such data for fulfillment of the Government's obligations under this MOU. The Government's officers, employees and subcontractors receiving such data shall be advised by the Government of the Department's ownership rights and be bound by the Department's ownership rights.
2. The Government retains all ownership rights associated with data that it created prior to or outside of this MOU.
3. All data created or generated by the Government in the performance of this MOU shall be the sole property of the Department and shall be available to the Department at any time for the Department's use without restriction and without compensation to the Government other than the compensation specifically provided by this MOU.
4. The Department shall have the exclusive right to use, duplicate, disclose and publish any data that may be created or generated by the Government in connection with this MOU. The Department hereby grants to the Government the right to use or duplicate data created or generated by the Government in support of internal, non-commercial analysis and academic or other educational purposes subject to the terms and conditions of Section IV(E)(4).
5. In accordance with Executive Order 01.01.2021.09 there is a State Chief Data Officer. Further, MDH has appointed a Data Officer and established a Data Office, This agreement is classified as a data related agreement and therefore subject to the MDH Data Use Policy 01.06.01.

E. Research Results – Ownership, Licenses to Use, Publication and Commercialization

1. Research Results means all inventions, discoveries, copyrightable works, software, policy recommendations, tangible materials and information that are conceived of, first reduced to practice, collected or created in the performance of this MOU.

2. Ownership – The Department will own all rights, title to and interests in any and all Research Results that are created, conceived of, reduced to practice or authored solely by Department employees. Subject to the ownership of the U.S. Government, if applicable, the Government will own all rights, title to and interests in any and all Research Results that are created, conceived of, reduced to practice or authored solely by Government employees. The Department and Government will jointly own all rights, title to and interests in any and all Research Results that are created, conceived of, reduced to practice or authored jointly by Department and Government employees.
3. License to use - Each Party agrees to grant and hereby grants to the other Party a nonexclusive, nontransferable, non-assignable, royalty-free right and license to use Research Results in support of internal, non-commercial analysis and academic or other educational purposes.
4. Disclosure or publication - The Department and the Government recognize that Research Results may have merit worthy of disclosure or publication. At the same time, the Parties recognize that they may have competing interests in the publication of proprietary, sensitive or confidential Research Results. The Parties agree that either party may be permitted to propose the disclosure or publication of de-identified Research Results in discussions at public symposia or professional meetings, and to publish same in journals, theses, dissertations or other publications or presentations. The Parties further agree that the Party proposing the disclosure or publication will provide the other Party a copy of any proposed publication or presentation 60 days in advance for review and comment. In the event the Parties are unable to agree to the proposed disclosure or publication, the matter shall be referred to the signatories to this MOU, or their successors or superiors, for resolution.
5. Commercialization - In the case where there is a prospective publicly beneficial commercial use(s) of jointly developed Research Results and a Party or the Parties desires to develop this commercial use, then in such case, Department and Government shall negotiate in good faith reasonable terms and conditions agreeable to both Department and Government to allow the Parties to enter into a commercial licensing agreement.

F. *Federal Funding Acknowledgment*

1. This MOU **does** ☐ or **does not** ☐ contain federal funds.

2. If contained, the source of these federal funds is:

_____.

The amount of federal funds allocated for this MOU, is
\$ _____

_____ % of all funds budgeted for this MOU as identified
which represents _____ in
Section I D.

The Catalog of Federal Domestic Assistance (CFDA) number is
_____.

The Federal Award Identification Number (FAIN) is _____.

The Data Universal Numbering System (DUNS) Number is _____.

3. There **are** ☐ or **are not** ☐ programmatic conditions that also apply to this MOU, regardless of the type of funding. If applied, these conditions are also identified in Section VI and provided as attachments.

G. *Debarment Affirmation*

1. If Federal funds support the activities of this MOU (see paragraph F herein), the Government acknowledges, per the United States Office of Management & Budget's Uniform Guidance section 2 CFR 200.214, Suspension and Debarment, the following obligations of Federal granting agencies regarding debarment and suspension:

"Non-federal entities are subject to the non-procurement debarment and suspension regulations implementing Executive order 12549 and 12689, 2 CFR part 180. These regulations restrict awards, subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities."

2. The Government also acknowledges and agrees to comply with the requirements of Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland.

H. Document Retention and Inspection

The Government shall retain all records and documents relating to this MOU for a period in accordance with any applicable statute of limitations or federal retention requirements. At a minimum, all records and documents related to this MOU shall be retained for a period of five years after the final payment by the Department or expiration of the term of any federal grant identified in Section IV, whichever is longer, and shall make them available for inspection and audit until any audit is completed by authorized representatives of the Department. All records related in any way to the MOU are to be retained for the entire time period. In addition, in the event of an audit, the Government shall provide assistance to the Department, without additional compensation, to identify, investigate and reconcile any audit discrepancies or variances. This provision shall survive expiration or termination of the MOU.

I. Maryland Law

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

J. Compliance with Laws

The Government represents and warrants that it shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this MOU.

K. Information Technology

The Government agrees to abide by all applicable federal, State and local laws concerning information security and comply with current State and Department of Information Technology information security policy currently found at <https://doit.maryland.gov/Documents/Maryland%20IT%20Security%20Manual%20v1.2.pdf> The Government agrees to notify the Department's Agreement Monitor within twenty-four hours of the discovery of any unauthorized access of any Government system that accesses, processes or stores Department data or works created as a deliverable under this MOU.

L. Termination

1. Termination for Cause

If the Government fails to fulfill its obligations under this MOU properly and on time, or otherwise violates any provision of the MOU, the Department may terminate the MOU by written notice to the Government. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Government shall, at the Department's option, become the Department's property, however, nothing in this section will alter the ownership rights of each party as provided in Section IV(D)&(E). The Department shall pay the Government fair and equitable compensation for satisfactory performance prior to receipt of notice of termination for cause, less the amount of damages caused by the Government's breach. If the damages are more than the compensation payable to the Government, the Government will remain liable after termination and the Department can affirmatively collect damages. This provision may be subject to the limitations set forth by law in the Maryland Tort Claims Act, Maryland Code, State Government Article, Title 12.

2. Termination for Convenience

The performance of work under this MOU may be terminated by the Department in accordance with this clause in whole, or from time to time in part, whenever the Department shall determine that such termination is in the best interest of the Department. The Department will pay all reasonable costs associated with this MOU that the Government has incurred up to the date of termination, and all reasonable costs associated with termination of the MOU. In the event of a Termination for Convenience, the Government shall receive sixty (60) days' advance notice of the termination.

M. Ownership of Property Acquired

The Government shall obtain prior written approval of the Department Agreement Monitor for any purchase of assets with funds paid under this MOU, excluding ordinary office supplies, unless such purchase is described in the Government's Budget. Title to equipment purchased with funds available under this MOU having an acquisition cost of \$500 or more per unit and a useful life of more than one year ("Capital Equipment") shall vest in the Department upon acquisition.

All Capital Equipment purchased with funds from this MOU shall be used primarily for work under this MOU. Prior written approval of the Department Agreement Monitor shall be required for use of the equipment, on a non-

interference basis, for other work of the Government. The Government shall use all reasonable effort to care for and maintain the equipment. Upon termination of this MOU, the Department Agreement Monitor shall determine what disposition shall be made of the equipment and shall so notify the Government within thirty (30) days. The Government Agreement Monitor shall report its acquisition of Capital Equipment covered by this MOU to the Department Agreement Monitor annually for MOUs that last three or more years and upon completion of the MOU or the last renewal of this MOU.

N. Modifications to this MOU

Modifications to this MOU must be made only in writing and be signed by the authorized representative of each Party.

Section V: Representatives

The Department Agreement Monitor is the primary point of contact within the Department for matters relating to this MOU. The Department Agreement Monitor shall contact the Government Agreement Monitor immediately if the Department is unable to fulfill any of the requirements of, or has any questions regarding the provisions of the MOU. The Agreement Monitor for the Department shall be:

Name

Title

Business Address

Business Telephone Number & Email Address

The Government Agreement Monitor is the primary point of contact within the Government for matters relating to this MOU. The Government Agreement Monitor shall contact the Department Agreement Monitor immediately if the Government is unable to fulfill any of the requirements of, or has any questions regarding the provisions of the MOU. The Agreement Monitor for the Government shall be:

Name
Title
Business Address
Business Telephone Number & Email Address

Section VI: Schedule of Attachments Incorporated by Reference

Both parties hereby agree that the documents described below are attached to this MOU and hereby incorporated into and made an integral part of this MOU:

Title of Document(s)

Attachment A - Statement of Work *(required)*

Attachment B - Detailed Line-Item Budget with Supporting Justification *(required)*

Additional Attachments *(optional)*:

Section VII: Signatures

In acknowledgment of the foregoing description of the services and requirements of this MOU, these authorized signatories of the Department and the Government do hereby attest to their acceptance of the terms and conditions of this MOU, entitled

For the Government

For the Department

BY: _____
Secretary, Maryland Department of Health

Or

BY: _____ BY: _____
Signature Signature of Designee

Title (Type or Print) Title (Type or Print)

Date of Signing Date of Signing

eMMA Vendor # _____

OCMP # _____

BPO # _____

FEIN # _____