



# **MARYLAND DEPARTMENT OF HEALTH**

## **INVITATION FOR BIDS (IFB)**

**SOLICITATION NO. MDH/OPASS 19-18052**

**Issue Date: April 09, 2019**

### **PSYCHIATRY SERVICES FOR BEHAVIORAL HEALTH ADMINISTRATION (BHA) FACILITIES AND DEER'S HEAD HOSPITAL CENTER**

#### **NOTICE**

A Prospective Bidder that has received this document from a source other than eMaryland Marketplace (eMM) <https://emaryland.buyspeed.com/bsol/> should register on eMM. See **Section 1.8.**

**Minority Business Enterprises Are Encouraged to Respond to this Solicitation**

**STATE OF MARYLAND**  
**NO BID NOTICE/VENDOR FEEDBACK FORM**

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

**Title: PSYCHIATRY SERVICES FOR BEHAVIORAL HEALTH ADMINISTRATION (BHA)  
FACILITIES AND DEER'S HEAD HOSPITAL CENTER**

**Solicitation No: MDH/OPASS 19-18052**

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

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

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

REMARKS:

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

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

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

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

**STATE OF MARYLAND  
MARYLAND DEPARTMENT OF HEALTH (MDH)  
IFB KEY INFORMATION SUMMARY SHEET**

**Invitation for Bids:** Services: Psychiatry Services for BHA Facilities and Deer's Head Hospital Center

**Solicitation Number:** MDH/OPASS 19-18052

**IFB Issue Date:** April 09, 2019

**IFB Issuing Office:** MARYLAND DEPARTMENT OF HEALTH

**Procurement Officer:** Dana Dembrow  
Procurement Officer  
Maryland Department of Health  
Office of Procurement and Support Services  
201 West Preston Street – Room 416A  
Baltimore, Maryland 21201  
Phone: (410)767-0974 - Fax: (410) 333-5958  
E-mail: MDH.solicitationquestions@maryland.gov

**Contract Monitor:** John Robison, Director of Behavioral Health Facilities  
Behavioral Health Administration  
55 Wade Ave., Dix Building  
Baltimore, MD 21228  
Phone: (401)402-8452 Fax: (410)402-8441  
E-mail: john.robison@maryland.gov

**Bids are to be sent to:** MDH/Office of Procurement and Support Services  
201 West Preston Street  
Room: 416A  
Baltimore, MD 21201  
Attention: Tearson Buckner

**Pre-Bid Conference:** April 18, 2019 at 10:00 a.m. Local Time  
Maryland Department of Health  
Lower Level Conference- Room L-3  
201 West Preston Street  
Baltimore, Maryland 21201

**Bid Due (Closing) Date and Time:** ~~May 08, 2019 at 2:00 p.m. Local Time~~  
May 23, 2019 at 2 :00 p.m. Local Time

<b>Public Bid Opening:</b>	<del>May 09, 2019 at 2:15 p.m. Local Time</del> <u>May 23, 2019 at 2:15 p.m. Local Time</u> Maryland Department of Health 201 West Preston Street Room: 505 Baltimore, MD 21201
<b>MBE Subcontracting Goal:</b>	0 %
<b>VSBE Subcontracting Goal:</b>	0 %
<b>Contract Type:</b>	Indefinite Quantity with Fixed Unit Prices
<b>Contract Duration</b> (See section 1.4)	Two years with one additional one-year renewal option
<b>Anticipated Contract</b> <b>Commencement Date</b> (See Section 1.4)	7/1/2019
<b>Contract Awards</b>	Unlimited Number of Awards per Facility except for Known Springfield <u>and Deer's Head</u> Assignments (See section 1.2 definition and Sections 1.1.3 and 1.15)
<b>Assignment Awards</b>	Right of First Refusal by Price per Facility, except for Known Springfield <u>and Deer's Head</u> Assignments. (See section 1.15)
<b>Primary Place of Performance</b>	<u>Deer's Head Hospital Center and</u> The BHA Facilities identified in Section 1.2.2 and Attachment P
<b>SBR Designation</b>	No
<b>Federal Funding</b>	No

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## **SECTION 1 - GENERAL INFORMATION**

### **1.1 Summary Statement**

- 1.1.1 The Maryland Department of Health (MDH or the Department) is issuing this Invitation for Bids (IFB) in order to procure the services defined in Section 3, as specified in this IFB, from a contract between the successful bidder(s) and the Maryland Department of Health: to obtain vendors to provide 1) a known level of psychiatric services at the Springfield **and Deer's Head** Hospital Centers (Known Springfield **and Deer's Head** Assignments - See Section 1.2 definitions) and 2) an unknown level, as needed, of psychiatric services at one or more of the BHA Facilities listed in Attachment P, including Springfield for other than the Known Springfield Assignment.
- 1.1.2 It is the State's intention to obtain goods and services, as specified in this IFB, from a Contract between the selected Bidder(s) and the Department. The anticipated duration of services to be provided under this Contract is two (2) years with one, one-year renewal option, to be exercised at the sole discretion of the Department. See Section 1.4 for more information.
- 1.1.3 The Department intends to make a single awards for **each of** the Known Springfield **and Deer's Head** Assignments and an unlimited number of awards per Facility for all unknown, as needed psychiatric Assignments, including at Springfield for other than the Known Springfield Assignment. See IFB Section 1.15 for more information on how Contract awards will be made and how Assignment selection will be made.
- 1.1.4 A Bidder, either directly, ~~or~~ through its subcontractor(s), **or by referral of an Independent Contractor Psychiatrist(s), (see Section 1.2 definition).** must be able to provide all goods and services and meet all of the requirements requested in this solicitation for each Facility for which it submits a Bid and the successful Bidder (the Contractor) shall remain responsible for Contract performance **of its employees and regardless of subcontractor(s) and shall share responsibility for Contract performance as described in the Section 1.2 definitions and Section 3.4, if participation in the work includes the use of Independent Contractor Psychiatrists.**

### **1.2 Abbreviations and Definitions**

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

- 1) **Assignment** – Each occasion when a psychiatrist is needed at any of the seven BHA Facilities on either a full-time or part-time basis, and either for a definite or indefinite period of time within the duration of the Contract.
- 2) **BHA Facility(ies)** – Any of the following seven Behavioral Health Administration Facilities:
  - Clifton T. Perkins Hospital Center,
  - Eastern Shore Hospital Center,
  - Finan Center,
  - Spring Grove Hospital Center,
  - Springfield Hospital Center,
  - Regional Institute for Children and Adolescents – Baltimore, and
  - John L. Gildner Regional Institute for Children and Adolescents.

A listing of the BHA Facilities, including addresses and telephone numbers, the number of operating beds and the type of residents being served, is provided in Attachment P.



- 3) **Bid** – A statement of price offered by a Bidder in response to an IFB.
- 4) **Bid Price Form** or **Bid Form** – The Attachment F – Bid Form.
- 5) **Bidder** – An entity that submits a Bid in response to this IFB.
- 6) **Business Day(s)** – The official working days of the week to include Monday through Friday. Official working days exclude State Holidays (see definition of “Normal State Business Hours” below).
- 7) **COMAR** – Code of Maryland Regulations available on-line at [www.dsd.state.md.us/COMAR/ComarHome.html](http://www.dsd.state.md.us/COMAR/ComarHome.html).
- 8) **Contract** – The Contract awarded to the successful Bidders pursuant to this IFB. The Contract will be in the form of **Attachment A**.
- 9) **Contract Commencement** - The date the Contract is signed by the Department following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required. See Section 1.4.
- 10) **Contract Monitor (CM)** – The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor’s responsibilities. The Department may change the Contract Monitor at any time by written notice to the Contractor.
- 11) **Contract Start-up Period** - The period of time, if any, between Contract Commencement and the Notice to Proceed (Go-Live) Date. During this period, the Contractor shall perform all activities necessary for it to be fully prepared to begin the services required by this IFB as of the Notice to Proceed Date.
- 12) **Contractor(s)** – Each Bidder that is awarded a Contract by the State.
- 13) **Contractor Staffing Agency** – A Bidder awarded a Contract that does not directly perform work under the Contract, but instead recruits, screens, and refers Independent Contractor Psychiatrists (see Definition) to directly perform work under the Contract. It is acknowledged that Independent Contractor Psychiatrists are neither employees nor subcontractors of the Contractor Staffing Agency. However, in its agency agreement with the Independent Contractor Psychiatrist the Contractor Staffing Agency shall require that the Independent Contractor Psychiatrist possesses all insurance required in Section 3.4 in his/her name and shall verify such insurance is in place before submitted any Independent Contractor Psychiatrist to work under the Contract. By accepting an award from the Department and signing a Contract, the Contractor Staffing Agency affirms that it will exercise due diligence in referring only Independent Contractor Psychiatrists that are legally authorized and appear to be capable and willing to perform medical services in compliance with the requirements of the IFB and Contract, and is aware of and has indicated his/her willingness to abide by all other applicable provisions of the IFB and Contract.
- 14) **Credentialing** – The process of verifying a physician’s education, professional certifications, licenses, and work history by hospital staff. This vetting is a common practice in the healthcare industry and is addressed fully in COMAR 10.07.01.24.
- 15) **Declination to Provide Services** – Written notice from a person in a position of authority for a Contractor that the Contractor: A. Is not able to find a candidate for a given Occasion of Need Assignment or is not

interested in trying to fulfill a given Occasion of Need Assignment; B. Is not interested in trying to fulfill any Occasion of Need Assignment which might arise for one or more Facilities for which it has Contracts for a stated duration of time; during this stated period of non-participation this Contractor will not be contacted for any Occasion of Need Assignment; or C. Wishes to permanently relinquish its Contract for one or more Facilities.

- 16) **Deer's Head Hospital Center – A long-term and chronic-care, non-BHA hospital operated by the Department and located in Salisbury, Md., that is licensed and accredited for the treatment and rehabilitation of the chronically ill. (See Attachment P.)**
- 17) **Department**– Maryland Department of Health.
- 18) **Emergent/Emergency** - The sudden onset of acute signs or symptoms of sufficient severity that threaten or could permanently damage health or result in a serious medical complication if treatment is delayed, up to and including death. Emergent/Emergency conditions should be addressed as soon as possible.
- 19) **eMM** – eMaryland Marketplace (see IFB Section 1.8).
- 20) **Facility** – See the definition of BHA Facility above (#2).
- 21) **Facility Assignment Manager** – The individual at each Facility who will provide guidance and direction to the Contractor concerning any psychiatrist placed at the Facility under this Contract, including, but not limited to, approving requested schedule variations, providing assessments of the professional competency of psychiatrists, and approving invoices.
- 22) **Go-Live Date** – The date, as specified in the Notice to Proceed, when the Contractors must begin providing all services required by this solicitation. See Section 1.4.
- 23) **Immediately** - Clinical documentation must occur before performing any other health related procedure, examination, etc., except for other intervening Emergency circumstances.
- 24) **Independent Contractor Psychiatrist - A licensed psychiatrist that performs work under the Contract through referral by a Contractor Staffing Agency (See definition). By accepting an Assignment at any Facility, this psychiatrist agrees to cooperate with the Contractor Staffing Agency concerning non-clinical aspects of the Contract. Concerning clinical aspects of the Contract, the Independent Contractor Psychiatrist is totally responsible for his/her professional conduct, judgement and actions or inaction. Moreover, the Independent Contractor Psychiatrist is responsible for having and maintaining insurance coverage as described in Section 3.4.**
- 25) **Invitation for Bids (IFB)** – This Invitation for Bids solicitation issued by the Maryland Department of Health, with the Solicitation Number and date of issuance indicated in the IFB Key Information Summary Sheet, including any amendments thereto.
- 26) **Known Deer's Head Assignment** – Typically, four (4) to eight (8) hours per week of psychiatry services as described in Section 3 of this IFB to be provided on-site at the Deer's Head Hospital Center as of the Notice to Proceed Date and continuing for the duration of the Contract. Occasionally, as directed by the Facility Assignment Manager, more than eight hours of services may be required in a given week.
- 27) **Known Springfield Assignment** - Twelve hours per week of psychiatry services as described in Section 3 of this IFB to be provided on-site at the Springfield Hospital Center as of the Notice to Proceed Date and continuing for the duration of the Contract. Occasionally, as directed by the Facility Assignment Manager, more than twelve hours of services may be required in a given week.

- 28) **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.
- 29) **MDH** – Maryland Department of Health
- 30) **Minority Business Enterprise (MBE)** – Any legal entity certified as defined at COMAR 21.01.02.01B (54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- 31) **Normal On-Duty Hours (also On-Duty (Normal Hours))** - A physician duty level that denotes the individual is at work providing patient care during Normal State Business Hours.
- 32) **Normal State Business Hours** - Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: [www.dbm.maryland.gov](http://www.dbm.maryland.gov) – keyword: State Holidays.
- 33) **Notice to Proceed (NTP)** – A written notice from the Procurement Officer that, subject to the conditions of the Contract, work under the Contract is to begin as of a specified date. The start date listed in the NTP is the Go-Live Date and is the official start date of the Contract for the actual delivery of services as described in this solicitation. After Contract Commencement, additional NTPs may be issued by either the Procurement Officer or the Department Contract Monitor regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date.
- 34) **Notice to Proceed Date** – Has the same meaning as Go-Live-Date.
- 35) **Occasion of Need** – Has the same meaning as “Assignment” above (#1).
- 36) **On-Duty** - A physician duty level that denotes the individual is at work and ready to provide patient care, whether or not the psychiatrist reports for work during Normal State Business Hours (On-Duty (Normal Hours) or except for Deer’s Head Hospital Center, for coverage provided outside of Normal State Business Hours (during nights, weekends, and holidays) (Optional On-Duty).
- 37) **Optional On-Duty - Except for Deer’s Head Hospital Center, aA** physician duty level that denotes the individual is at work providing patient care outside of Normal State Business Hours. During Optional On-Duty times, the On-Duty psychiatrist represents the only physician on hospital's grounds.
- 38) **Procurement Officer** – Prior to the award of any Contract, the sole point of contact in the State for purposes of this solicitation. After Contract award, the Procurement Officer has responsibilities as detailed in the Contract (Attachment A), including being the only State representative who can authorize changes to the Contract. The Department may change the Procurement Officer at any time by written notice to the Contractor.
- 39) **State** – The State of Maryland.
- 40) **Subcontractor(s)** - A business or person that carries out work for the Contractor and must comply with all the Contract requirements.
- 41) **Total Bid Price** - The Bidder’s total price for services in response to this solicitation for each of the Known Springfield and Deer’s Head Assignments, included in the Bid in Attachment F – Bid Form, and used solely in determining the recommended Known Springfield Assignment awardee (See IFB Section 1.15.5)
- 42) **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.

### **1.3 Contract Type**

The Contract resulting from this solicitation shall be an indefinite quantity contract with firm fixed unit prices as defined in COMAR 21.06.03.02.A(1) (firm fixed price) and COMAR 21.06.03.06.A(2) (indefinite quantity).

### **1.4 Contract Duration**

- 1.4.1 The Contract that results from this solicitation shall commence as of the date the Contract is signed by the Department following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required (“Contract Commencement”).
- 1.4.2 The period of time from the date of Contract Commencement through the Go-Live Date (see Section 1.2 definition and Section 1.4.3) will be the Contract “Start-up Period.” During the Start-up Period, the Contractor shall perform start-up activities such as are necessary to enable the Contractor to begin the successful performance of Contract activities as of the Go-Live Date. No compensation will be paid to the Contractor for any activities it performs during the Start-up Period.
- 1.4.3 As of the Go-Live Date contained in a Notice to Proceed (see Section 1.2 definition), anticipated to be on or about July 1, 2019, the Contractor shall perform all activities required by the Contract, including the requirements of this solicitation, for the compensation described in its Bid.
- 1.4.4 The duration of the Contract, including the Known Springfield and Deer’s Head Assignments, will be for the period of time from Contract Commencement to the Go-Live Date (the Start-Up Period as described in Section 1.4.2) plus two (2) years from the Go-Live Date for the provision of all services required by the Contract and the requirements of this solicitation. In addition, the Department has the unilateral right to renew (extend) the Contract for one additional one-year period, to commence at the expiration of the two-years base Contract,
- 1.4.5 The Contractor’s obligations to pay invoices to subcontractors that provided services during the Contract term, as well as the audit, confidentiality, document retention, and indemnification obligations of the Contract (see Attachment A) shall survive expiration or termination of the Contract and continue in effect until all such obligations are satisfied.

## **1.5 Procurement Officer, Contract Officer and Procurement Coordinator**

### **1.5.1 Procurement Officer**

The sole points of contact in the State for purposes of this solicitation prior to the award of any Contract is the Procurement Officer at the address listed below or the Contract Officer identified in Section 1.5.2 acting on behalf of the Procurement Officer:

Dana Dembrow  
Procurement Officer  
Maryland Department of Health  
Office of Procurement and Support Services  
201 West Preston Street  
Baltimore, MD 21201  
Phone: (410) 767- 0974  
Fax: (410) 333-5958  
E-mail: MDH.solicitationquestions@maryland.gov

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

### **1.5.2 Contract Officer**

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

Tearson Buckner  
Contract Officer  
Maryland Department of Health  
Office of Procurement and Support Services  
201 West Preston Street  
Baltimore, MD 21201  
Phone: (410) 767- 5892  
Fax: (410) 333-5958  
E-mail: tearsa.buckner@maryland.gov

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

### **1.5.3 Procurement Coordinator**

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

Tom Lewis  
Behavioral Health Administration  
55 Wade Avenue – Dix Building  
Catonsville, MD 21228  
Phone: (410) 402-8431  
Fax: (410) 402-8441  
E-mail: Tom.Lewis@maryland.gov

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

## **1.6 Contract Monitor and Facility Assignment Manager**

### **1.6.1 The Contract Monitor is:**

John Robison, Director of Behavioral Health Facilities  
Behavioral Health Administration  
55 Wade Ave., Dix Building  
Catonsville, MD 21228  
Phone: (410)-402-8452  
Fax: (410)-402-8441  
E-mail: [john.robison@maryland.gov](mailto:john.robison@maryland.gov)

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

1.6.2 While the overall Contract Monitor is identified in Section 1.6.1, with each Occasion of Need Assignment and for the separate Known Springfield **and Deer's Head** Assignments, the Contract Monitor will identify a Facility Assignment Manager who will provide on-site day-to-day monitoring of the performance of the Contractor at that Facility. The Contract Monitor may change a Facility Assignment Manager at any time by written notice.

## **1.7 Pre-Bid Conference**

A Pre-Bid Conference (the Conference) will be held at the date, time, and location indicated in the IFB Key Information Summary Sheet.

Attendance at the Conference is not mandatory, but all interested parties are encouraged to attend in order to facilitate better preparation of their Bids. If the solicitation includes an MBE goal, failure to attend the Conference will be taken into consideration as part of the evaluation of a Bidder's good faith effort if there is a waiver request.

It is highly recommended that ALL Prime Contractors bring their intended subcontractors to the Conference/Site Visit to ensure that all parties understand the requirements of the Contract and the MBE Goal.

MBE subcontractors are encouraged to attend the Conference to market their participation to potential prime contractors.

Following the Conference, the attendance record and summary of the Conference will be distributed via the same mechanism described for amendments and questions (see Sections 1.8, eMaryland Marketplace, 1.9 Questions, and 1.18 Revisions to the IFB).

Attendees should bring a copy of the solicitation and a business card to help facilitate the sign-in process.

In order to assure adequate seating and other accommodations at the Conference, please e-mail or fax the Pre-Bid Conference Response Form (**Attachment E**) to the attention of the Procurement Coordinator at least five (5) Business Days prior to the Pre-Bid Conference date. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please notify the Procurement Coordinator at least five (5) Business Days prior to the Pre-Bid Conference date. The Department will make a reasonable effort to provide such special accommodation.

## **1.8 eMarylandMarketplace**

eMM is the electronic commerce system for the State of Maryland. In addition to using the MDH website <http://MDH.maryland.gov/OPASS/Pages/Home.aspx> and possibly other means for transmitting the IFB and

associated materials, the IFB, Conference summary and attendance sheet, Bidder questions and the Procurement Officer's responses, addenda, and other solicitation-related information will be made available via eMM.

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

## **1.9 Questions**

Written questions from prospective Bidders will be accepted by the Procurement Officer prior to the Conference. If possible and appropriate, such questions will be answered at the Conference. (No substantive question will be answered prior to the Conference.) Questions to the Procurement Officer shall be submitted via e-mail to the Procurement Officer's e-mail address indicated in the IFB Key Information Summary Sheet (near the beginning of the solicitation, after the Title Page and Notice to Vendors). Please identify in the subject line the Solicitation Number and Title. Questions, both oral and written, will also be accepted from prospective Bidders attending the Conference. If possible and appropriate, these questions will be answered at the Conference.

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

## **1.10 Procurement Method**

Contracts will be awarded in accordance with the Competitive Sealed Bidding method under COMAR 21.05.02.

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

Bids, in the number and form set forth in Section 4.4 "Required Bid Submissions," must be received by the Procurement Officer no later than the Bid Due date and time indicated in the IFB Key Information Summary Sheet in order to be considered.

Requests for extension of this time or date will not be granted.

Bidders submitting Bids should allow sufficient delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.02.10, Bids received after the due date and time listed in the Key Information Summary Sheet will not be considered.

Bids may be modified or withdrawn by written notice received by the Procurement Officer before the time and date set forth in the Key Information Summary Sheet.

**Bids may not be submitted by e-mail or facsimile.** Bids will be opened publicly at the date and time indicated on the Key Information Summary Sheet.

Potential bidders not responding to this solicitation are requested to submit the "No Bid Notice/Vendor Feedback" form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements). (See page ii.)

## **1.12 Multiple or Alternate Bids**

Multiple and/or alternate Bids will not be accepted. Submitting a Bid for multiple Facilities is not considered to be submitting Multiple Bids.

## **1.13 Receipt, Opening and Recording of Bids**

- 1.13.1 **Receipt.** Upon receipt, each Bid and any timely modification(s) to a Bid shall be stored in a secure place until the time and date set for Bid opening. Before Bid opening, the State may not disclose the identity of any Bidder.
- 1.13.2 **Opening and Recording.** Bids shall be opened publicly, at the time, date, and place designated in the IFB Key Information Summary Sheet. The name of each Bidder, the Total Bid Price, and such other information as is deemed appropriate shall be read aloud or otherwise made available and recorded at the time of Bid opening.

## **1.14 Confidentiality of Bids/Public Information Act Notice**

The Bidder should give specific attention to the clear identification of those portions of its Bid that it considers confidential and/or proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act (PIA), Md. Code Ann., General Provisions Article, Title 4. This information should be identified by page number and placed in the Transmittal Letter with the Bid.

The Bids shall be tabulated, or a Bid abstract made. The opened Bids shall be available for public inspection at a reasonable time after Bid opening, but in any case, before contract award, except to the extent the Bidder designates trade secrets or other proprietary data to be confidential as set forth in this solicitation. Material so designated as confidential shall accompany the Bid and shall be readily separable from the Bid in order to facilitate public inspection of the non-confidential portion of the Bid, including the Total Bid Price.

For requests for information made under the PIA, the Procurement Officer shall examine the Bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. Nondisclosure is permissible only if approved by the Office of the Attorney General.

## **1.15 Award Basis and Occasion of Need Assignments**

### **1.15.1 Contract Awards**

1.15.1.1 A single award will be made to the responsible Bidder with the lowest responsive Total Bid Price for each of the Known Springfield and Deer's Head Assignments (See Section 1.2 definition.) A responsible Bidder is one that satisfies the Minimum Qualifications described in Section 2 of this IFB and additionally is determined by the Procurement Officer to satisfy the requirements of COMAR 21.01.02.01.B (77), 21.05.02 13. D and 21.06.01. A responsive Bid satisfies the requirements of COMAR 21.01.02.01.B. (78).

1.15.1.2 For other than the Known Springfield and Deer's Head Assignments described in Section 1.15.1.1, a Contract shall be awarded to each responsible Bidder submitting a responsive Bid for one or more of the BHA Facilities listed in Attachment P for providing the unknown level of services specified in this IFB. Except for the single award for each of the Known Springfield and Deer's Head Assignments, there will be no limitation on the



total number of Contracts that can be awarded under this IFB, either to an individual BHA Facility, or in aggregate among all seven BHA Facilities.

1.15.1.3 However, aside from each of the Known Springfield and Deer's Head Assignments, receiving a Contract award does not assure any Contractor that it will be given the opportunity to place a psychiatrist (fulfill an Occasion of Need Assignment) at any of the Facilities for which it submitted a Bid. Instead, the procedures described in 1.15.2 will be followed to determine which Contractor is awarded a given Occasion of Need Assignment.

1.15.1.4 Award of a contract will not be final and complete until after: (1) the Contractor submits complete and satisfactory documentation required under the Contract and/or documentation required by the Procurement Officer; and (2) the Contract is signed by the Department following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required.

### **1.15.2 Awarding of Occasion of Need (Usage) Assignments Other Than the Known Springfield and Deer's Head Assignments.**

The procedure described in this section will apply in all Occasion of Need situations other than for each of the Known Springfield and Deer's Head Assignments for which a single award will be made as described in Section 1.15.1.1.

*1.15.2.1 Typical Assignment Award Scenario.* As described in 1.15.1.2, an unlimited number of awards will be made for each Facility. For such multiple Contract awards, the Contractor with the lowest Bid Price for each award scenario described in 1.15.3 and on the Price Form, Attachment F, will be given the right of first refusal to provide the requested services. If that Contractor is unwilling or unable to perform the requested services, the Contractor with the next lowest Bid price for that award scenario will be asked to provide the requested services, and so forth.

*1.15.2.2 Occasion of Need Notice.* There will be two types of notification of an Occasion of Need Assignment, Initial and Official.

1.15.2.2.1 Initial Occasion of Need Notice. Whenever a Facility determines it will need a full or part-time psychiatrist(s), it will provide email notification to all Facility Contractors of the need, including the expected start date, the number of psychiatrists needed or typical number of hours per week if only part-time psychiatry services is needed, and the expected duration of the Assignment. This Initial Notice is given so all Contractors have the same advance notice of an Occasion of Need Assignment.

Contractors may not respond to this Initial Occasion of Need Notice except to: 1. Acknowledge receipt of the Notice; and 2: Preemptively give a Declination to Provide Services (See Section 1.2 Definition) Notice. If any Contractor provides a Declination to Provide Services, typically by email to the Contract Monitor, that Contractor will be bypassed for the duration of the Declination whenever Official Notice of a given placement need is communicated.

1.15.2.2.2 Official Occasion of Need Notice. This is a formal notification to a Contractor that it is being solicited to provide psychiatric services for a given Facility for a given duration. Only one Contractor at a time will be given an Official Notice to provide psychiatric services. An Official Notice will also start the exclusive response timeframe as described in Section 1.15.3 (7 days, 2 Business Days, 1 Business Day, or 4 hours) that each Contractor will be afforded in reverse order of their Bid Price, starting with the lowest priced Contractor for a given Facility and a given response timeframe.

1.15.2.2.2.1 Contractors will have the Occasion of Need Response Timeframes described in section 1.15.3 to provide a definitive answer as to whether they will or will not fulfill a given Occasion of Need Assignment. However, Contractors do not need to take the full allotted time to respond. Once a Contractor receives an Official Occasion of Need Notice, any time within the applicable Response Timeframes described in Section 1.15.3 Contractor can provide a definite response to either accept or decline the Assignment.

1.15.2.2.2.1.1 If the Contractor accepts the Assignment, the procedure described in Section 3.2.2.9 is followed to ensure that Contractor is able to provide a psychiatrist acceptable to the requesting Facility.

1.15.2.2.2.1.2 If the Contractor declines the opportunity to provide a psychiatrist for a given Occasion of Need Assignment, the next Contractor in order of Bid price for that Facility and the applicable Response Timeframe will be offered the Assignment. Moreover, if by the end of a given Occasion of Need Response Timeframe a Contractor has not provided a definitive answer of whether it will fulfill the Assignment, the lack of response will be construed to be a Declination of the Assignment and the Assignment will be offered to the next Contractor in order of its Bid Price, or the next Contractor in order of its Bid Price that did not provide a Declination to Provide Services when it received the Initial Occasion of Need Notice as described in Section 1.15.2.2.1. This process will continue until a Contractor accepts the Occasion of Need Assignment or all Contractors have declined the Assignment, in which case the procedures described in Sections 1.15.2.2.3 or 1.15.2.2.4 will be employed.

1.15.2.2.2.1.3 If a Contractor accepts an Assignment but ultimately is unable to provide a psychiatrist acceptable to the requesting Facility following the process described in Section 3.2.2.9, the Occasion of Need fulfillment process as described in this Section 1.15.2.2 may be re-initiated beginning with the next Contractor in line after the Contractor that was unable to fulfill the Assignment.

1.15.2.2.2.2 The Occasion of Need lead times described in 1.15.3 apply when the Initial Occasion of Need Notice described in Section 1.15.2.2.1 is given to all Contractors for the requesting Facility. Although each Contractor for a given Facility will receive the same Initial Occasion of Need Notice and the same number of days to respond to an Official Occasion of Need Notice as described in Section 1.15.2.2.2, of necessity each successive Contractor officially offered the opportunity to place a psychiatrist will have less advance lead time to place a psychiatrist, as herein illustrated.

For a Long-Range Occasion of Need, the lowest priced Bidder for the Facility with the need has at least 90 days' advance notice of the need for a psychiatrist and will have up to 7 days to identify a candidate to fulfill the need or to decline the Assignment. If this lowest priced Bidder takes the full 7 days to decline the Assignment offer, the next lowest Bidder in line will now have 7 fewer days (but at least 83 days) before the Assignment is to begin to fulfill the Need. If this 2<sup>nd</sup> lowest Bidder again takes the full allotted 7 days to decline the Occasion of Need placement, the 3<sup>rd</sup> lowest Bidder in line will now have 7 fewer days than Bidder # 2 and 14 fewer days than Bidder #1 (but at least 76 days) before the Assignment is to begin, a 4<sup>th</sup> lowest Bidder will have 7 fewer days than Bidder # 3 (but at least 69 days), etc. So, while each Contractor is afforded 7 days to either identify a candidate to fulfill the Need or decline to do so, as each successive Bidder uses some or all of its allotted 7-day response timeframe, each lower ranked, higher priced Bidder has less time before an acceptable candidate has to begin work. The Initial Occasion of Need Notice is issued to try to compensate for this progressively diminishing advance fulfillment lead time, although it is realized that Contractors ranked lower in the Bid price order may not initiate any recruitment efforts unless and until they receive an Official Occasion of Need Notice.

This same concept is re-stated as follows using dates and assuming the initial notice was issued exactly 90 days before the needed psychiatrist is to begin providing services.

A psychiatrist is needed at a given Facility as of July 1<sup>st</sup> of a given Contract year. 90 days prior to July 1<sup>st</sup> is April 2<sup>nd</sup> of that year. The lowest priced Bidder is given official notice of the Occasion of Need on April 2<sup>nd</sup>. If this lowest priced Bidder takes 7 days to decline the Assignment, the 2<sup>nd</sup> lowest Bidder will be offered the Assignment on April 9<sup>th</sup>, but the Assignment is still due to start on July 1<sup>st</sup>, or 83 days later. If this 2<sup>nd</sup> lowest priced Bidder takes the full 7 days to decline the Assignment, it will be offered to the 3<sup>rd</sup> lowest priced Bidder on April 16<sup>th</sup>, 76 days prior to July 1<sup>st</sup>. If it is necessary to offer the Assignment to a 4<sup>th</sup> lowest bidder, that Bidder would receive the official notice of the Assignment on April 23<sup>rd</sup>, 69 days prior to July 1<sup>st</sup>.

1.15.2.2.3 Extraordinary Assignment Award Scenarios. If all Contractors for a given Facility have declined to accept a given Occasion of Need Assignment, all Contractors for this Facility may simultaneously be re-solicited to fulfill the Assignment. If any Facility Contractor now accepts the Assignment within a stated, short term response period,

despite having earlier declined it, the Assignment may be awarded to whichever Facility Contractor agrees to accept the Assignment, or, if more than 1 Contractor now accepts the Assignment, to the lowest priced Contractor.

1.15.2.2.4 Failure to Satisfy an Occasion of Need Assignment. If despite all efforts under 1.15.2.2.1 through 1.15.2.2.5 No Contractor accepts a given Occasion of Need Assignment, the Facility at issue may try to satisfy the Occasion of Need Assignment other than through the use of this Contract, in any fashion that the Department may deem necessary or appropriate, including conducting a normal or, if justified, emergency procurement, or entering into an Interagency Agreement.

### **1.15.3 Occasion of Need Response Timeframes**

There will be four (4) types of Assignments, Long-Range, Normal, Expedited, and Urgent, and associated response timeframes as described hereafter.

*1.15.3.1 Long Range Assignments and Response Timeframe.* A Long-Range Assignment is an Occasion of Need that is known at least 90 days in advance. i.e., one or more psychiatrists is needed on either a full-time or part-time basis at least 90 days after the Initial Occasion of Need Notice is communicated to the Contractors. Each Contractor will have up to 7 days to respond to a Long-Range service request before a request is made to the next subsequent Contractor.

*1.15.3.2 Normal Assignments and Response Timeframe.* A Normal Assignment is an Occasion of Need that is known between 30 and 89 days in advance. i.e., one or more psychiatrists is needed on either a full-time or part-time basis at least 30 days after the Initial Occasion of Need Notice is communicated to the Contractors. Each Contractor will have 2 full Business Days to respond to a Normal service request before a request is made to the next subsequent Contractor.

*1.15.3.3 Expedited Assignments and Response Timeframe.* An Expedited Assignment is an Occasion of Need that is known between 10 and 29 days in advance. i.e., one or more psychiatrists is needed on either a full-time or part-time basis at least 10 days after the Initial Occasion of Need Notice is communicated to the Contractors. Each Contractor will have 1 full Business Day to respond to an Expedited service request before a request is made to the next subsequent Contractor.

*1.15.3.4. Urgent Assignments and Response Timeframe.* An Urgent Assignment is an Occasion of Need that is known 9 or fewer days in advance. i.e., one or more psychiatrists is needed on either a full-time or part-time basis less than 10 days after the Initial Occasion of Need Notice is communicated to Contractors, including at once. Each Contractor will have 4 hours to respond to an Urgent service request before a request is made to the next subsequent Contractor.

Normally, an Urgent Assignment request will not be communicated to any Contractor prior to 8 a.m. or after 5 p.m. on any Business Day. Further, if an Urgent Assignment request is communicated to a Contractor after 1 p.m. on a given Business Day, normally that Contractor would have up to a total of 4 hours between the two Business Days to respond with an acceptance or declination of the Assignment. However, for any Occasion of Need which becomes known to the Contract Monitor with less than 3 days' notice, the hours of communication may be extended to 7 a.m. to 7 p.m. and include non-Business Days. Accordingly, any Bidder that provides any Urgent Assignment Bid at any Facility must provide contact information that the Contract Monitor may use during the extended contact hours and days. If the Contract Monitor cannot contact a live person using a given Contractor's provided extended hours contact information or does not receive some type of live, recorded, or electronic response from a contacted Contractor within 30 minutes of the Contract Monitor initiating an extended hours Urgent Assignment notification, that Contractor will be bypassed, and communication will be initiated with the next Contractor in contact order.

#### 1.15.4 Suspension or Elimination from Participating in the Occasion of Need Assignment Process

*1.15.4.1 Suspension from Participation.* Suspension from participation means that the suspended Contractor will not receive an Initial or Official Occasion of Need Notice, may not respond if it learns of an Occasion of Need Assignment situation, and will not be selected for an award even if it does submit a response.

For any of the following reasons or as otherwise described in this IFB, a Contractor may be suspended from participating in the Occasion of Need Assignment process. The duration of any such suspension will be between two and six months as determined appropriate by the Contract Monitor.

- A. Failure to respond to three consecutive Official Occasion of Need Notices to provide a psychiatrist candidate or five failure-to-respond situations in a twelve-month period. **Failure to respond** means that the Contractor does not provide any response to an Official Occasion of Need Notice described in 1.15.2.2.2, either to offer a psychiatrist candidate to fulfill the need or with a Declination to Provide Services, as described in 1.15.2.2.1.
- B. Two occasions when the Contractor is notified it is awarded a given Occasion of Need Assignment but fails to provide all required documentation of the credentials of the candidate psychiatrist, including a criminal background check and Medicaid/Medicare participation authorization within the required timeframe contained in Section 3.2.2.9.
- C. Two occasions when the Contractor is notified it is awarded a given Occasion of Need Assignment, but a proposed psychiatrist candidate is rejected by the Contract Monitor because the psychiatrist candidate lacks proper credentials, does not pass a criminal background check, is the subject of any disciplinary action by any licensing board or authority or Medicare or Medicaid, or for any other reason related to the professional capacity to provide services or questionable morale character.
- D. Two occasions when a psychiatrist provided by the Contractor is terminated as described in Section 3.2.2.6.1.2
- E. The duration of any period of time stated by the Contractor in a Declination to Provide Services.

*1.15.4.2 Elimination from Participation.* (Elimination from Participation means Contract termination in accordance with clause 17 of Attachment A)

- A. Two occasions when a psychiatrist provided by the Contractor is terminated as described in Section 3.2.2.6.1.3
- B. Two instances when a psychiatrist provided by the Contractor is determined not to meet professional standards in peer reviews, as described in Section 3.2.1.5.
- C. Any instance when the Contractor has knowingly invoiced for services it has not provided.
- D. Any instance when the Contractor has falsified a candidate psychiatrist's credentials, criminal background check, or other information pertaining to the professional capability, character, or temperament.
- E. Any instance of inappropriate interaction of a psychiatrist with a patient or staff of a Facility
- F. Any other reason described elsewhere in this IFB.

#### 1.15.5 Known Springfield and Deer's Head Assignments Special Pricing and Contingency Circumstances

**1.15.5.1** Whereas for the most part this IFB will result in Contract awards for an unknown level of need or duration for psychiatry services at the various BHA Facilities, as per the Known Springfield Assignment and **Known Deer's Head Assignment** definitions in Section 1.2, there will be a separate, single awards for **typically** 12 hours per week

of psychiatry services at the Springfield Hospital Center and typically 4-8 hours per week of psychiatry services at the Deer's Head Hospital Center . Because both the level of need and duration for each of the Springfield and Deer's Head awards are known, these Assignments are separately priced.

**1.15.5.2. For Deer's Head, the price on the Price Form (Attachment F) projects that 6 hours per week of psychiatry services will be needed and asks for pricing for each possible year of the Contract. Once a Bidder enters hourly rate pricing for each possible Contract Year for Deer's Head, an embedded formula in the Price Form will extend these prices and calculate a Deer's Head Total Bid Price. The responsible Bidder with the lowest responsive Deer's Head Total Bid Price will be awarded the Known Deer's Head Assignment.**

1.15.5.3. **For Springfield**, on the Price Form (Attachment F), there are three separate Springfield pricing sections for each Contract Year, including the Option Year. One price is for the specific, recurring 12 hours per week of psychiatry services as described in Section 1.15.1.1, 3.2.2.10 and 3.2.2.11. The second price is to provide any type of psychiatric services at Springfield that may be needed during the term of this Contract aside from the recurring 12 hours a week of needed services. i.e., this second price is to cover any contingency need for psychiatry services at Springfield other than the known 12 hours a week, the same as the prices being asked for all other Facilities.

The third price is the same as the second price, except that it is contingent upon the Contractor also winning the award to provide the 12 hours per week of psychiatry services. i.e., this price only applies to a given Contractor if that Contractor is also selected to provide the 12 hours per week of required psychiatry services. This third price will be used to determine this Known Springfield Assignment Contractor's price ranking position for any Occasion of Need Assignment at Springfield.

For price one, the known 12 hours a week of needed psychiatry services, the responsible Bidder with the lowest responsive Total Bid Price - the lowest priced Bidder - will receive the Contract award. The Bidder with the lowest Total Bid Price shall begin providing the needed 12 hours per week of services as of the NTP Date and shall continue providing services for the full duration of the Contract, including if the renewal option is exercised.

1.15.5.4~~2~~ Even though only one Contractor is expected to provide the required 12 hours per week of psychiatric services at Springfield, **and only one Contractor is expected to provide the required 4-8 hours per week of psychiatric services at Deer's Head**, all Bidders for the Known Springfield **and Deer's Head** Assignments that are determined to be responsible and to have submitted a responsive Bid will be invited to sign a contract to provide the required services for its Bid price(s) in the unlikely event that this single awarded Contractor is terminated for cause or convenience in accordance with clauses 17 or 18 of Attachment A. In such event, all other Bidders that have signed Contracts will be contacted in the reverse order of their Known Springfield or **Known Deer's Head** Assignment Bid price, **respectively**, to see if they are able to still provide these services for the remainder of the original Contract term and/or the one-year option period at their original Bid price(s). Each Contractor for these services will be contacted in the reverse order of their Bid prices until either one is willing to provide the services for its Bid price or until all Bidders have declined to do so.

## **1.16 Tie Bids**

Tie Bids will be decided pursuant to COMAR 21.05.02.14.

## **1.17 Duration of Bid**

Bids submitted in response to this IFB are irrevocable for the latter of the following: 120 days following the Bid due date and time or the date any protest concerning this IFB is finally resolved. This period may be extended at the Procurement Officer's request only with the Bidder's written agreement.

### **1.18 Revisions to the IFB**

If the IFB is revised before the due date for Bids, the Department will post any addenda to the IFB on eMM and shall endeavor to provide such addenda to all prospective Bidders that were sent this IFB or are otherwise known by the Procurement Officer to have obtained this IFB. It remains the responsibility of all prospective Bidders to check eMM for any addenda issued prior to the submission of Bids.

Bidders shall acknowledge the receipt of all addenda to this IFB before the Bid due date. Failure to acknowledge receipt of an addendum does not relieve the Bidder from complying with the terms, additions, deletions, or corrections set forth in the addendum, and may cause the Bid to be rejected as being non-responsive to the requirements of the IFB.

### **1.19 Cancellations**

The State reserves the right to cancel this IFB, or accept or reject any and all Bids, in whole or in part, received in response to this IFB and to waive or permit the cure of minor irregularities.

In the event a government entity proposes and receives the recommendation for award, the procurement may be cancelled, and the award processed in accordance with COMAR 21.01.03.01A(4).

If the services that are the subject of the IFB are currently being provided under an interagency agreement with a public institution of higher education and the State determines that the services can be provided most cost effectively by the public institution of higher education, then the IFB may be cancelled in accordance with Md. Code Ann., State Finance and Procurement Art., § 3-207(b)(2).

### **1.20 Incurred Expenses**

The State will not be responsible for any costs incurred by any Bidder in preparing and submitting a Bid or in performing any other activities related to submitting a Bid in response to this solicitation.

### **1.21 Protest/Disputes**

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

### **1.22 Bidder Responsibilities**

Bidders must be able to provide all goods and services and meet all of the requirements requested in this solicitation and the successful Bidder shall be responsible for Contract performance including any subcontractor participation **and the conduct of Independent Contractor Psychiatrists.**

If applicable, subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate Attachment(s) to this IFB (see **Section 1.33** “Minority Business Enterprise Goal and Subgoals” and **Section 1.41** “Veteran-Owned Small Business Enterprise Goal”).

If the Bidder is the subsidiary of another entity, all information submitted by the Bidder, 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 Bidder, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Bidder’s Bid shall contain an explicit statement, signed

by an authorized representative of the parent organization, stating that the parent organization will guarantee the performance of the subsidiary.

A parental guarantee of the performance of the Bidder under this Section will not automatically result in crediting the Bidder with the experience or qualifications of the parent. Instead, the Bidder's responsibility, including whether it is determined to satisfy any Bidder Minimum Qualifications, will be assessed to the extent to which the State determines that the experience and qualifications of the parent are applicable to and shared with the Bidder, any stated intent by the parent to be directly involved in the performance of the Contract, and the value of the parent's participation as determined by the State.

### **1.23 Substitution of Personnel**

**The provisions of this Section apply to psychiatrists that are employees of the Contractor or any subcontractor. These provisions do not apply to a Contractor that is a sole practitioner or a partnership type of practice offering his/her or their own services or an Independent Contractor Psychiatrist.**

1.23.1 If the solicitation requires that a particular individual or personnel be designated by the Bidder to work on the Contract, any substitution of personnel after the Contract has commenced must be approved in writing by the Contract Monitor prior to the substitution. If the Contractor substitutes personnel without the prior written approval of the Contract Monitor, the Contract may be terminated for default which shall be in addition to, and not in lieu of, the State's remedies under the Contract or which otherwise may be available at law or in equity.

1.23.2 **Each psychiatrist provided by a Contractor to perform services under this Contract shall be considered to be a Key Personnel and thus subject to the following Key Personnel provision.**

1.23.3 **Continuous Performance of Key Personnel.** When Key Personnel are identified for the Contract, the following apply:

- A. Key Personnel shall be available to perform Contract requirements as of the NTP Date. Unless explicitly authorized by the Contract Monitor or specified in the Contract, Key Personnel shall be assigned to the State of Maryland as a dedicated resource.
- B. Key Personnel shall perform continuously for the duration of the Contract, or such lesser duration as specified in the Technical Proposal. Key Personnel may not be removed by the Contractor from working under the Contract without the prior written approval of the Contract Monitor.
- C. The provisions of this section apply to Key Personnel identified in any Task Order proposal and agreement, if issued, and any Work Order Request and Work Order, if issued.

1.23.4 **Definitions.** For the purposes of this section, the following definitions apply:

- A. **Extraordinary Personal Event** – means any of: leave under the Family Medical Leave Act; an Incapacitating injury or Incapacitating illness; or other circumstances that in the sole discretion of the State warrant an extended leave of absence, such as extended jury duty or extended military service that precludes the individual from performing his/her job duties under the Contract.
- B. **Incapacitating** – means any health circumstance that substantially impairs the ability of an individual to perform the job duties described for that individual's position in the RFP or the Contractor's Technical Proposal.

1.23.5 **Contractor Personnel General Substitution Provisions.** The following provisions apply to all of the circumstances of Contractor Personnel substitution described under **Replacement Circumstances**.

- A. The Contractor shall demonstrate to the Contract Monitor's satisfaction that the proposed substitute has qualifications at least equal to those of the Contractor Personnel proposed to be replaced.
- B. The Contractor shall provide the Contract Monitor with a substitution request that shall include:

- 1) A detailed explanation of the reason(s) for the substitution request;
  - 2) The resume of the proposed substitute, signed by the substituting individual and his/her formal supervisor;
  - 3) The official resume of the current personnel for comparison purposes; and
  - 4) Evidence of any required credentials.
- C. The Contract Monitor may request additional information concerning the proposed substitution and may interview the proposed substitute personnel prior to deciding whether to approve the substitution request.
- D. The Contract Monitor will notify the Contractor in writing of: (i) the acceptance or denial, or (ii) contingent or temporary approval for a specified time limit, of the requested substitution. The Contract Monitor will not unreasonably withhold approval of a proposed Contractor Personnel replacement.

#### 1.23.6 Replacement Circumstances.

##### A. Directed Personnel Replacement

- 1) The Contract Monitor may direct the Contractor to replace any Contractor Personnel who, in the sole discretion of the Contract Monitor, 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 **Replacement Circumstance A.2**.
- 2) If deemed appropriate in the discretion of the Contract Monitor, the Contract Monitor may 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 Monitor. If the Contract Monitor rejects the Remediation Plan, the Contractor shall revise and resubmit the plan to the Contract Monitor within five (5) days, or in the timeframe set forth by the Contract Monitor in writing.
- 3) Should performance issues persist despite an approved Remediation Plan, the Contract Monitor 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.
- 4) 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.
- 5) If the Contract Monitor determines to direct substitution under **Replacement Circumstances A.1**, if at all possible, at least fifteen (15) days advance notice shall be given to the Contractor. However, if the Contract Monitor deems it necessary and in the State's best interests to remove the Contractor Personnel with less than fifteen (15) days' notice, the Contract Monitor may direct the removal in a timeframe of less than fifteen (15) days, including immediate removal.
- 6) In circumstances of directed removal, the Contractor shall, in accordance with paragraph **Replacement Circumstances A.1** of this section, provide a suitable replacement for approval within fifteen (15) days of the notification of the need for removal, or the actual removal, whichever occurs first.

##### B. Key Personnel Replacement



- 1) To replace any Key Personnel in a circumstance other than as described in **Key Personnel Replacement.B**, including transfers and promotions, the Contractor shall submit a substitution request as described in **Contractor Personnel General Substitution Provisions** to the Contract Monitor at least fifteen (15) days prior to the intended date of change. A substitution may not occur unless and until the Contract Monitor approves the substitution in writing.
- 2) Key Personnel Replacement Due to Sudden Vacancy
  - a) The Contractor shall replace Key Personnel whenever a sudden vacancy occurs (e.g., Extraordinary Personal Event, death, resignation, termination). A termination or resignation with thirty (30) days or more advance notice shall be treated as a replacement under **Replacement Circumstances.B.1**.
  - b) Under any of the circumstances set forth in this paragraph B, the Contractor shall identify a suitable replacement and provide the same information and items required under **Contractor Personnel General Substitution Provisions** within fifteen (15) days of the actual vacancy occurrence or from when the Contractor first knew or should have known that the vacancy would be occurring, whichever is earlier.
- 3) Key Personnel Replacement Due to an Indeterminate Absence
  - a) If any Key Personnel has been absent from his/her job for a period of ten (10) days and it is not known or reasonably anticipated that the individual will be returning to work within the next twenty (20) days to fully resume all job duties, before the 25th day of continuous absence, the Contractor shall identify a suitable replacement and provide the same information and items to the Contract Monitor as required under **Contractor Personnel General Substitution Provisions**.
  - b) However, if this person is available to return to work and fully perform all job duties before a replacement has been authorized by the Contract Monitor the Contract Monitor may, at his/her sole discretion, authorize the original personnel to continue to work under the Contract, or authorize the replacement personnel to replace the original personnel, notwithstanding the original personnel's ability to return.

## **1.24 Acceptance of Terms and Conditions**

By submitting a Bid in response to this IFB, the Bidder, if selected for award, shall be deemed to have accepted the terms and conditions of this IFB and the Contract, attached herein as **Attachment A**. Any exceptions to this IFB or the Contract must be raised prior to Bid submission. **Changes to the solicitation, including the Bid Form or Contract, made by the Bidder may result in Bid rejection.**

## **1.25 Bid/Proposal Affidavit**

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

## **1.26 Contract Affidavit**

All Bidders are advised that if a Contract is awarded as a result of this solicitation, the successful Bidder will be required to complete a Contract Affidavit. A copy of this Affidavit is included for informational purposes as **Attachment C** of this IFB. 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 a “foreign” business.

### **1.27 Compliance with Laws/Arrearages**

By submitting a Bid in response to this IFB, the Bidder, if selected for award, agrees that it will comply with all federal, State, and local laws applicable to its activities and obligations under the Contract.

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

### **1.28 Verification of Registration and Tax Payment**

Before a business entity can do business in the State it must be registered with the State Department of Assessments and Taxation (SDAT). SDAT is located at State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. For registration information, visit <https://www.egov.maryland.gov/businessexpress>.

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

### **1.29 False Statements**

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

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

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

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

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

### **1.30 Payments by Electronic Funds Transfer**

By submitting a response to this solicitation, the Bidder 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 selected Bidder shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State Comptroller’s Office for approval at the address specified on the COT/GAD X-10 form, must include the business identification information as stated on the form, and must include the reason for the exemption. The COT/GAD X-10 form may be downloaded from the Comptroller’s website at:

[http://comptroller.marylandtaxes.com/Vendor\\_Services/Accounting\\_Information/Static\\_Files/GADX10Form20150615.pdf](http://comptroller.marylandtaxes.com/Vendor_Services/Accounting_Information/Static_Files/GADX10Form20150615.pdf).

### **1.31 Prompt Payment Policy**

This procurement and the Contract(s) to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Small, Minority & Women Business Affairs (GOSBA) 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 shall comply with the prompt payment requirements outlined in the Contract "Prompt Payment" clause (see **Attachment A**). Additional information is available on GOSBA's website at: <http://www.gomdsmbiz.maryland.gov/documents/legislation/promptpaymentfaqs.pdf>

### **1.32 Electronic Procurements Authorized**

- A. Under COMAR 21.03.05, unless otherwise prohibited by law, the Department may conduct procurement transactions by electronic means, including the solicitation, bidding, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.
- B. Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Bidder to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or the Contract. In the case of electronic transactions authorized by this IFB, electronic records and signatures by an authorized representative satisfy a requirement for written submission and signatures.
- C. "Electronic means" refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes facsimile, e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://emaryland.buyspeed.com/bso/>), and electronic data interchange.
- D. In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., § 1.30 "Payments by Electronic Funds Transfer"), the following transactions are authorized to be conducted by electronic means on the terms authorized in COMAR 21.03.05:
  - 1. The Procurement Officer may conduct the procurement using eMM, e-mail, or facsimile to issue:
    - (a) the IFB;
    - (b) any amendments;
    - (c) pre-Bid conference documents;
    - (d) questions and responses;
    - (e) communications regarding the solicitation or Bid to any Bidder or potential Bidder;
    - (f) notices of award selection or non-selection; and
    - (g) the Procurement Officer's decision on any Bid protest or Contract claim.
  - 2. A Bidder or potential Bidder may use e-mail or facsimile to:
    - (a) ask questions regarding the solicitation;
    - (b) reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer's request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer;
    - (c) submit a "No Bid Notice/Vendor Feedback Form" to the solicitation.

3. The Procurement Officer, the Contract Monitor, and the Contractor may conduct day-to-day Contract administration, except as outlined in Section E of this subsection utilizing e-mail, facsimile, or other electronic means if authorized by the Procurement Officer or Contract Monitor.
- E. The following transactions related to this procurement and any Contract awarded pursuant to it are *not authorized* to be conducted by electronic means:
1. submission of initial Bids;
  2. filing of Bid Protests;
  3. filing of Contract Claims;
  4. submission of documents determined by the Department to require original signatures (e.g., Contract execution, Contract modifications); or
  5. any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Bidder be provided in writing or hard copy.
- F. Any facsimile or e-mail transmission is only authorized to the facsimile numbers or e-mail addresses for the identified person as provided in the solicitation, the Contract, or in the direction from the Procurement Officer or Contract Monitor.

### **1.33 Minority Business Enterprise Goal and Subgoals**

There is no MBE subcontractor participation goal for this procurement.

### **1.34 Living Wage Requirements**

Maryland law requires that Contractors meeting certain conditions pay a living wage to covered employees on State service contracts over \$100,000. Maryland Code, State Finance and Procurement, § 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.

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>.

Additional information regarding the State's living wage requirement is contained in **Attachment G**. Bidders must complete and submit the Maryland Living Wage Requirements Affidavit of Agreement (**Attachment G-1**) with their Bids. If a Bidder fails to complete and submit the required documentation, the State may determine a Bidder to be not responsible under State law.

Contractors and subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier area. The specific living wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State.

- 1) The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State Contract pursuant to §18-102(d) of the State Finance and Procurement Article shall assign the tier based upon where the recipients of the services are located.

The Contract resulting from this solicitation will be determined to be a Tier 1 Contract or a Tier 2 Contract depending on the location(s) from which the Contractor provides 50% or more of the services.

- 2) If the Contractor provides 50% or more of the services from a location(s) in a Tier 1 jurisdiction(s) the Contract will be a Tier 1 Contract. (For bidding purposes, Spring Grove, RICA-Baltimore, JL Gildner-RICA and C.T. Perkins are located in Tier 1 jurisdictions and Bidder's Bid prices for these four Facilities should be priced sufficiently to pay a Tier 1 Living Wage.)
- 3) If the Contractor provides 50% or more of the services from a location(s) in a Tier 2 jurisdiction(s), the Contract will be a Tier 2 Contract. (For bidding purposes, Finan, Springfield and Eastern Shore Hospital Center are located in Tier 2 jurisdictions and Bidder's Bid prices for these three Facilities should be priced sufficiently to pay a Tier 2 Living Wage.)

**NOTE:** Whereas the Living Wage may change annually, the Contract price may not be changed because of a Living Wage change. The Contractor shall be responsible for any wage/rate increase during the term of the Contract and such increase may not be passed on to the State.

#### **1.35 Federal Funding Acknowledgement**

This Contract does not contain federal funds.

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

A Conflict of Interest Affidavit and Disclosure is not required for this solicitation.

#### **1.37 Non-Disclosure Agreement**

A Non-Disclosure Agreement is not required for this solicitation.

#### **1.38 HIPAA - Business Associate Agreement**

A HIPAA- Business Associate Agreement is not required for this solicitation.

#### **1.39 Nonvisual Access**

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

#### **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 Goal**

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

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

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

#### **1.43 Department of Human Services (DHS) Hiring Agreement**

This solicitation does not require a DHS Hiring Agreement.

#### **1.44 Small Business Reserve (SBR) Procurement**

This solicitation is not designated as a Small Business Reserve (SBR) Procurement.

#### **1.45 Maryland Healthy Working Families Act Requirements**

On February 11, 2018, the Maryland Healthy Working Families Act went into effect. All bidders should be aware of how this Act could affect your potential contract award with the State of Maryland. See the Department of Labor, Licensing and Regulations web site for Maryland Healthy Working Families Act Information:

<http://dllr.maryland.gov/paidleave/>.

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## **SECTION 2 – MINIMUM QUALIFICATIONS**

### **2.1 Bidder Minimum Qualifications**

As required by Section 4.4.2, the Bidder must provide proof with its Bid that the following Minimum Qualifications have been met:

- 2.1.1 The Bidder, including an individual psychiatrist bidding on behalf of his/her self **or a partnership type practice**, shall have at least one (1) psychiatrist who is available to work under the Contract by meeting the below criteria:
- 2.1.1.1 Is an American Medical Association (AMA) Board certified physician;
- 2.1.1.2 Is licensed to practice medicine in the State of Maryland in the specialty field of psychiatry;
- 2.1.1.3 Is American Board of Medical Specialties (ABMS) or National Board of Physicians and Surgeons (NBPAS) eligible in psychiatry.
- 2.1.2 As proof of meeting the Minimum Qualifications in 2.1.1, the Bidder shall submit with its Bid a complete Curriculum Vitae (CV) for at least one psychiatrist containing an entry that reflects **at least one of the following circumstances**:
- A. ~~The~~ **each** psychiatrist's current employment with the Bidder.
- B. **A** letter of intended commitment to work under the Contract **as either an employee of the Bidder or as a subcontractor**.
- C. ~~or a~~ **A** statement that a psychiatrist is bidding to provide services him/her self.
- D. **One or more of the psychiatrists in a partnership practice**.
- E. **An Independent Contractor Psychiatrist that either has indicated a willingness to accept an Assignment under the Contract or that has been placed with a different customer by the Bidder within the past 6 months.**
- For any of circumstances A through E, above, ,and documentation must be submitted** of the requirements listed in 2.1.1.1-2.1.1.3, namely, a copy of AMA Board certification, license to practice medicine in the State of Maryland, and documentation of ABMS or NBPAS eligibility in psychiatry.
- 2.1.3 Neither the Bidder nor the psychiatrist submitted as evidence of meeting the requirements of 2.1.1 may appear on the List of Excluded Individuals and Entities (LEIE) found on the U.S. Department of Health and Human Services (HHS) website at <http://exclusions.oig.hhs.gov>.

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## **SECTION 3 – SCOPE OF WORK**

### **3.1 Background and Purpose**

#### 3.1.1 Purpose

The Department is issuing this solicitation for the purpose of obtaining Contractors, **including Contractor Staffing Agencies and** individual psychiatrists **or members of a partnership practice** who may offer their own services, who may assign psychiatrists, to provide psychiatric services at the BHA Facilities, both on a regular, recurring part-time basis at the Springfield **and Deer's Head** Hospital Centers (the Known Springfield **and Deer's Head** Assignments), and an indeterminate future, as needed basis, at the 7 BHA Facilities, including Springfield.

#### 3.1.2 Background

The BHA Facilities are State of Maryland psychiatric hospitals or residential treatment centers providing comprehensive psychiatric services to our clients **and Deer's Head is a chronic health care Facility that also needs to provide occasional psychiatric services to some residents.** Due to a shortage of psychiatrists to staff the Facilities' psychiatric units, the Facilities must sometimes rely on locum-tenens **or other type of** contractors to provide the needed psychiatrists.

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

Unless otherwise stated in this IFB, all IFB requirements, including the requirements of all Attachments, apply to any and all services provided under this Contract, including the Known Springfield **and Deer's Head** Assignments.

#### **3.2.1 General Requirements.** Each psychiatrist assigned to work under the Contract shall:

- 3.2.1.1 Meet all qualifications listed in Section 2.1.1 and provide the associated documentation as listed in Section 2.1.2 to the Contract Monitor prior to attending Facility orientation training as described in Section 3.2.1.4 or performing services at the Facility; (See Section 3.2.2.9 for more information on qualifications documentation timeframes.)
- 3.2.1.2 Be enrolled with the Center for Medicare and Medicaid Services (CMS) as a certified physician provider as evidenced by a hard copy print out from the Novitas Provider Enrollment Status Inquiry Tool that verifies psychiatrists' status with CMS. This tool is available at the following link:

[http://www.novitas-solutions.com/webcenter/portal/MedicareJL/pagebyid?contentId=00004864&\\_afLoop=224816693832000#!%40%40%3F\\_afLoop%3D224816693832000%26contentId%3D00004864%26\\_adf.ctrl-state%3Dj554w9bwt\\_106](http://www.novitas-solutions.com/webcenter/portal/MedicareJL/pagebyid?contentId=00004864&_afLoop=224816693832000#!%40%40%3F_afLoop%3D224816693832000%26contentId%3D00004864%26_adf.ctrl-state%3Dj554w9bwt_106)

In the event the Federal Government switches Contractors and Novitas-Solutions no longer provides this service, the Contractor will provide similar proof from the succeeding vendor or from CMS directly.

- 3.2.1.2.1 For the full duration of providing any services under this Contract, neither the Contractor nor any psychiatrist shall appear on the List of Excluded Individuals and Entities (LEIE) found on the HHS website at <http://exclusions.oig.hhs.gov>. Neither the Contractor nor a psychiatrist who appears on the LEIE may perform work under the Contract unless and until the listing has the notation "satisfactory resolution."



- 3.2.1.2.2 The appearance on the LEIE of the Contractor or any of its personnel assigned to work under the Contract, or the Contractor or any psychiatrist being sanctioned by HHS for corporate compliance or cited for a violation, shall be considered a material breach of this Contract which may result in a termination of the Contract for default or the termination of a psychiatrist. The termination of a Contract shall be in addition to, not in lieu of, any additional rights that the State may have in Contract, at law, or in equity.
- 3.2.1.3 Complete the Facility's credentialing process prior to attending Facility orientation training as described in Section 3.2.1.4 or providing psychiatry services at the Facility. Also, no less than 10 days before the intended date for a psychiatrist to begin working under the Contract an Emergency Contact Information Form shall be completed, signed by the Contractor and submitted to the Facility Human Resources (HR) Department with a copy to the Facility Assignment Manager and Contract Monitor;
- 3.2.1.4 Successfully complete the single, combined BHA Facility and Department of Psychiatry orientation training prior to providing psychiatry services at the Facility, **or, as applicable, required Deer's Head training;**
- 3.2.1.4.1 If any Contractor-provided psychiatrist fails to complete orientation training, including failing to pass such training, the Contractor will not be paid for any time such psychiatrist spent in Orientation training.
- 3.2.1.4.2 For Assignments of more than 1 year's duration, psychiatrists may also be required to attend additional training within 2 weeks before or after the anniversary date of when the psychiatrist began working under the Contract at a given Facility.
- 3.2.1.4.3 For some Assignments, psychiatrists may also be required to attend a departmental and unit-specific orientation before working independently. The orientation program shall be tailored to meet the unique needs and legal/regulatory requirements of the Contractor.
- 3.2.1.4.4 Per Section 3.6.1 a (9), time spent by a psychiatrist attending orientation and any other training may be invoiced by the Contractor at the same rate as the Contractor charges for the normal On-Duty services of that Psychiatrist.
- 3.2.1.5 At any time while providing services under this Contract, be subject to the peer review process as established by the Facility for all members of the medical staff. If conducted, a peer review will be done by Facility psychiatric staff or other appropriate psychiatrist(s). No Contractor provided psychiatrist will be used to conduct a peer review of any other psychiatrist, either a psychiatrist on a Facility staff or one provided by another Contractor.
- 3.2.1.5.1 If any Contractor-provided psychiatrist is judged not to meet professional standards, at the option of the respective Facility Assignment Manager the below-standards psychiatrist may be:
- A. Permitted to continue working at the Facility while completing remedial training and/or skill enhancement activities provided by the Facility or approved by the Facility Assignment Manager;
  - B. Suspended from providing additional services while completing remedial training and/or skill enhancement activities provided by the Facility or approved by the Facility Assignment Manager; or
  - C. Barred from continuing to work under the Contract.
- 3.2.1.5.2 If a below-standards psychiatrist is barred from providing further services at the Facility:
- A. The below-standards psychiatrist or other Contractor staff shall Immediately update any patient records with any treatment information that had not yet been entered in the Patient record.
  - B. The Contractor shall return any keys, equipment, policy manuals, or any and all other Faculty provided

material(s) as described in Section 3.10.

- C. **If other than a sole practitioner or partnership practice**, the Contractor shall attempt to replace that psychiatrist within 30 days. If the Contractor is unable to provide a qualified replacement within this timeframe, the Occasion of Need Assignment process described in Section 1.15.2 will be followed, whereby other Contractors will be given the opportunity to provide a replacement psychiatrist.

- 3.2.1.5.3 The Contractor may not invoice the Facility for any time a psychiatrist spends attending remedial training due to a failure to meet professional standards peer review.
- 3.2.1.6 Comply with all MDH and Facility policies and procedures and the bylaws of the medical staff;
- 3.2.1.7 Ensure that Psychiatric Evaluations are based on the Diagnostic and Statistical Manual V (DSM-V) or current DSM version in use by MDH.
- 3.2.1.8 Report any of the following circumstances that occur while performing services under the Contract to both the Contractor and the Facility Assignment Manager within 1 Business Day of the occurrence or other below-indicated time-frame, unless physically prevented from doing so, such as being hospitalized or incarcerated.
- 3.2.1.8.1 Suspension, revocation, forfeiture, or expiration of his/her license to practice medicine and/or psychiatry in Maryland.
- 3.2.1.8.2 Suspension, revocation, forfeiture, or expiration of his/her license to practice medicine and/or psychiatry in any state other than Maryland or country other than the United States, within 5 Business Days of the occurrence.
- 3.2.1.8.3 Suspension, revocation, forfeiture, or expiration of his/her privilege to practice medicine and/or psychiatry in any hospital or medical-related facility in Maryland or adjoining States, including Washington, D. C., within 5 Business Days of the occurrence.
- 3.2.1.8.4 Being charged with, arrested, or convicted of any criminal activity.
- 3.2.1.8.5 Receiving notice of the filing of a civil lawsuit concerning medical malpractice or a disciplinary action proceeding by a licensing board, within 3 Business Days of the notice receipt.
- 3.2.1.8.6 Being positively diagnosed with any mental or physical disorder that might impair his/her ability to properly fulfill the requirements of this Contract, within 5 Business Days of the diagnoses.

### **3.2.2 Description of Services**

#### **3.2.2.1 Staffing Levels**

- 3.2.2.1.1 Aside from the Known Springfield and Deer's Head Assignments described in Sections 1.2, 1.1.3 and 1.15.1.1, it is anticipated that four types of staffing might be provided under this Contract.
- A. Permanent Full-time (at least 40 hours per week) for a duration of from 6 months to 2 years (3 years if the renewal option is exercised)
  - B. Temporary Full-time (at least 40 hours per week) for a duration of less than 6 months
  - C. Permanent Part-time (less than 40 hours per week) for a duration from 6 months to 2 years (3 years if the renewal option is exercised)

D. Temporary Part-time (less than 40 hours per week) for a duration of less than 6 months.

3.2.2.1.2 A. The Contractors shall provide full or part-time staff psychiatrists, based on Facility needs, who shall work the schedules detailed in an Occasion of Need Notice

B. Other than the Known Springfield and Deer's Head Assignment awards described in Sections 1.2, 1.1.3 and 1.15.1.1, there is no guarantee of any usage under the Contract, either as a minimum or maximum. i.e., the 7 BHA Facilities may not need to use this Contract at all, or one or more of these Facilities, including all 7, may use the Contract, including extensively.

Once a candidate is placed at the Facility, no leave time of a week or more can be taken without the Facility Assignment Manager's approval. The Facility will not reimburse the Contractor for any leave time; only actual work hours, including attendance at required orientation training, are eligible for payment.

C. Full time is defined as 40 hours per week.

3.2.2.1.3 A. The Contract Monitor will communicate required staffing levels to the Contractor by phone, fax, or email, as the needs of the Facilities warrant.

B. Any staffing changes proposed by the Contractor shall be communicated in writing to the Contractor Monitor as soon as possible, but no less than thirty (30) calendar days before the proposed staffing change is to occur unless due to termination of an employee. Any substitution of personnel must meet requirements in Section 1.23.

C. The State reserves the right to accept or reject any staff substitution proposed by the Contractor.

3.2.2.2 *Staff Psychiatrists.* Psychiatric and other medical services provided under this Contract shall be provided in accordance with all applicable licensure, certification, and accreditation standards, including those of the State of Maryland, Maryland Department of Health, Office of Health Care Quality; the Joint Commission (formerly the Joint Commission on Accreditation of Healthcare Organizations [JCAHO]); and all applicable existing and pending State and Federal licenses.

3.2.2.2.1 Each psychiatrist assigned to work as a staff psychiatrist at a specified Facility under the Contract shall perform a full-range of psychiatric services, which may include some or all of the following, as well as activities not listed in this Section.

- A. Function as the treatment team leader in coordinating clinical services to assigned patients and advising other health care support staff of appropriate treatment techniques needed for individual cases;
- B. Provide full psychiatric services to assigned patients as directed by the Facility Clinical Director;
- C. Provide direct patient care back up for unit psychiatrists when an in-house psychiatrist needs assistance covering units;
- D. Provide medication management;
- E. Provide individual, family, and group therapy;
- F. Order necessary lab tests, review results, and assess and modify patient treatment accordingly;
- G. Screen for medical complaints and medical emergencies and make necessary referrals to the hospital's primary care physicians, contracted specialty, or outside hospital services;

- H. Lead morning rounds with unit nursing staff;
- I. Review patient records and complete medical record documentation on patients in a timely manner to ensure documentation adequacy and compliance with hospital procedures or bylaws;
- J. Attend medical staff meetings and other meetings and participate in diagnostic and treatment discussions, lectures, seminars, and case presentations; and Clinical Forensic Review Board meetings in reviewing patient treatments;
- K. Discuss and make recommendations regarding patient care, treatment, services, and management problems to help identify the most challenging patients and care for those patients;
- L. Assist in developing multidimensional treatment, behavioral management, and follow-up plans;
- M. Provide guidance in consultation and clinical case conferences for patients who present difficult/complex management and treatment issues, patients requiring emergency medication, seclusion, restraint, or one-on-one observation.
- N. Meet with patients and their families to discuss treatment plans and address concerns;
- O. Attend to patients and answer questions regarding patient grievances and management variance reports;
- P. Support unit and hospital Performance Improvement initiatives;
- Q. Perform/provide the following on assigned unit patients on an as-needed basis:
  - (1) Clinical risk assessments;
  - (2) Forensic Review Board Reports;
  - (3) Certification and Administrative hearings;
  - (4) Guardianship applications;
  - (5) Clinical Review Panels; and
  - (6) Testimony in court or administrative tribunal as necessary. In the event Contractor staff is required to travel to a court or hearing site that is not on the grounds of the Facility where the staff is assigned to work, the affected staff may be reimbursed for mileage as described in Sections 3.2.2.4.5 and 3.6.1.
- R. Conduct Initial Psychiatric Evaluation:
  - (1) Shall conduct or review a complete psychiatric evaluation of all patients on the assigned unit in accordance with Facility policy. Upon being awarded an Occasion of Need Assignment for the first time at a given Facility, including the Known Springfield Assignment **and possibly the Known Deer's Head Assignment**, the awarded Contractor will be provided with the psychiatric evaluation policy for that Facility. This evaluation shall include:
    - (a) Interviews with patients, interdisciplinary team members, family members (if possible), unit staff, and other significant persons;
    - (b) Discussions and review of reports pertaining to the patient's socio-educational and other family histories, previous diagnoses, and other appropriate considerations;
    - (c) Development of a differential diagnosis and identification of a relevant psychiatric Individual Plan of Care to include the prescriptions of clinically appropriate medication, as needed; and

(d) Provision of informed consent for treatment.

- (2) Shall perform psychiatric re-evaluations of all patients assigned in accordance with Facility policy.
- (3) Shall document each psychiatric evaluation in the patient's medical record and, in conjunction with other clinical team members, develop an Individual Plan of Care for each patient under his/her care in accordance with timelines established by hospital policy. (Also see section 3.2.2.5 on patient medical records documentation.)

S. Conduct Emergency and Interim Psychiatric Consultation and Evaluation:

- (1) Shall respond to Emergency psychiatric consultation and evaluation requests from the patients under care, unit staff, or the Contract Monitor within one Business Day of the request or less as determined by clinical circumstances, medical standards of care, Facility policy, accrediting body standards and/or State regulations.
- (2) The following must be performed concurrently with the response to the request for consultation and/or evaluation:
  - (a) A complete mental status examination;
  - (b) Development and/or adjustment to patient's medication and treatment plans as appropriate; and
  - (c) Documenting clinical actions in the clinical record Immediately. (See Section 1.2 Definition of Immediately.)

T. Attend and lead Individual Plan of Care (IPOC) meetings, provide treatment recommendations as needed, and assist with the development of clinically appropriate psychiatric and behavior treatment plans that include psychoactive medication in coordination with all members of the clinical treatment team.

U. Review medical records and offer appropriate guidance to staff regarding admissions, discharges, and transfers based on the review of medical records.

**3.2.2.3 Optional On-Duty Services:** Duties during the Optional On-Duty (see Section 1.2 definition) period will consist of responding to somatic and psychiatric situations when called by any of the units and providing routine care within the scope of their specialty. Any patients requiring somatic care beyond basic routine care will be transported to the local acute care facility identified by the Facility, via ambulance.

**3.2.2.3.1 Optional On-Duty Hours.** Optional On-Duty hours covering nights, weekends, and holidays may be available to the psychiatrist if they wish to work the additional hours. To work Optional On-Duty hours, a psychiatrist may communicate his or her willingness to work Optional On-Duty hours to the Clinical Director who will establish an Optional On-Duty schedule in consultation with the Facility Assignment Manager or Contract Monitor. Any Optional On-Duty hours worked by psychiatrists shall be billed at the "Optional On-Duty Hourly Rate – Price E -as bid on Attachment F.)

**3.2.2.3.2** For psychiatrists who provide Optional On-Duty coverage at the Facility, a private area is available for the psychiatrist's use during the period of service.

**3.2.2.3.3** Optional On-Duty coverage is limited to nights, weekends, and holidays. An Optional On-Duty shift consists of 13.5 hours and may not be split between multiple psychiatrists.

**3.2.2.4 Work Schedule.** The Facility Assignment Manager shall assign the daily and hourly schedule to be worked by

the psychiatrist and notify the Contractor of that Assignment.

3.2.2.4.1 Lunch. During every eight (8) hour work day the psychiatrist must take at least one (1) 30 to 60-minute meal break. The breaks represent uncompensated time, and the Contractor shall not bill for them.

3.2.2.4.2 Holidays. Psychiatrists assigned by the Contractor will not work on State holidays unless they have agreed to work as the Facility's Optional On-Duty physician.

3.2.2.4.3 Service Reduction Days represent regularly scheduled unpaid leave for full-time, salaried State employees. Service reduction days will not impact psychiatrists assigned by the Contractor. On these days the psychiatrist will work their normal 8.5-hour (or 9 hours if a 60-minute lunch is taken) shift. The billing rate for service reduction days is the same as a regular work day.

3.2.2.4.4 Overtime: The psychiatrist assigned by the Contractor shall not work more than eight (8) hours a day or forty (40) hours per week unless prior written authorization has been obtained from the Contract Monitor. Exceptions exist for those psychiatrists who choose to work the optional weekend, evening and holiday Optional On-Duty shifts. Any Optional On-Duty hours worked by psychiatrists shall be billed at the Optional On-Duty rate as bid on Attachment F.

3.2.2.4.5 The assigned psychiatrist shall not be eligible to be paid for any time expended for work performed outside of the designated BHA Facility or Deer's Head, except that if the Contract Monitor requires the presence of the psychiatrist off site, for the purpose of training or court appearance. For example, the psychiatrist shall be entitled to receive mileage reimbursement for either one-way or round-trip travel to the nearest mile, as described in Section 3.2.2.4.5.1, to such required off-site location, but shall not otherwise be entitled to any travel compensation. In either case of paying only one-way or round-trip mileage, mileage will only be paid for the distance that exceeds the psychiatrist's normal commuting distance. E.g., If the psychiatrist's normal round-trip commute is 20 miles (10 miles each way), and the psychiatrist travels a total of 50 miles to an off-site location, the reimbursement will be for 30 miles – 50 miles less 20 miles.

3.2.2.4.5.1 Round-trip reimbursement will be paid if the psychiatrist travels:

- A. From the Facility to an off-site location and returns to the Facility the same day.
- B. From the Facility to an off-site location but does not return to the Facility the same day and the distance to return to the psychiatrist's home or place of lodging is greater than the distance to the Facility.

3.2.2.4.5.2 Only one-way reimbursement will be paid if the psychiatrist travels from an off-site location, including the psychiatrist's home or place of lodging to another off-site location and returns to an off-site location the same day if the starting and ending off-site locations are closer to the destination off-site location than is the Facility.

3.2.2.5 *Documentation Requirements for Psychiatrists:*

3.2.2.5.1 Each psychiatrist working under the Contract shall:

3.2.2.5.1.1 Document in the patient's medical record the results of all evaluations, including recommended diagnostic treatment and other appropriate information. All documentation in the patient's medical record shall be in accordance with standards of practice for psychiatrists, and in accordance with the Facility's policy and procedures available for review on-site at the Facility.

3.2.2.5.1.2 Complete a written progress note in the medical record for any and all actions he/she takes in the clinical care of a patient no later than seven days after the action occurrence. However, for an emergency response situation the medical record documentation shall be done Immediately, as described in Section 3.2.2.2.1. Q.

3.2.2.5.1.3 Complete all other documentation and forms in accordance with the Facility's bylaws, policies and standard procedures.

3.2.2.5.2 All forms, evaluations, and other documents developed by any psychiatrist working under the Contract shall remain the property of the Facility.

*3.2.2.6 Effects of Psychiatrist or Contractor Non-performance:*

3.2.2.6.1 Multiple Terminations Within Six Months. If during any six-month period of the Contract more than one psychiatrist assigned to work under the Contract by the same Contractor is terminated due to any of the reasons described under Sections 3.2.2.6.2, 3. or 8, general poor performance, including but not limited to, failing a peer review, multiple failures to make timely or accurate entries in patient medical records, a single failure to make an appropriate patient medical record entry of a significant nature that did or reasonably could have resulted in serious harm to a patient, not meeting qualifications, or any other legitimate reason, the Contract Monitor may take one of the following actions with the Contractor that made the placements:

1. Downgrade that Contractor to a right of first refusal priority level (rank) subsequent to the priority that that Contractor might have enjoyed except for the termination of prior placements, assigning to that Contractor whatever priority status the Contract Monitor may determine, in the Contract Monitor's sole and absolute discretion and regardless of the pricing offered;
2. Suspend that Contractor from participating in future Assignments for 2-6 months as described in Section 1.15.4.1; or
3. Terminate that Contractor's Contract, as described in Section 1.15.4.2.

3.2.2.6.2 Psychiatrist Termination for Deficient Performance: The Failure by any psychiatrist working under the Contract to perform required services under this Contract, including but not limited to the following deficiencies, is grounds for termination of that psychiatrist:

- A. An incident of failure to perform psychiatric services in a life-threatening or other Emergency situation; and/or
- B. Three or more incidents of failure to perform psychiatric services, whether or not in a life-threatening situation, during a six-month period.

3.2.2.6.3 Psychiatrist Termination for Unacceptable Behavior: A psychiatrist assigned to work under the Contract will be terminated and request will be made for a replacement if the Facility Assignment Manager or Contract Monitor finds that the psychiatrist:

- A. Is unable to provide service due to intoxication;
- B. Is under the influence of a controlled substance;
- C. Exhibits inappropriate behavior with patients;
- D. Conceals an adverse medical condition that could be transmitted to patients or Facility staff; or
- E. Violates any of the Facility's policies or procedures, which are available on site at the Facility.

3.2.2.6.4 Psychiatrist Termination for Missing Work: Each psychiatrist working under the Contract shall report to the Facility for orientation and thereafter, assuming a successful orientation, at his or her scheduled time. The

Facility Assignment Manager and/or Contract Monitor will closely monitor orientation attendance and the scheduled hours. If a deviation from regularly scheduled work hours is needed, prior approval shall be requested from the Facility Assignment Manager or Contract Monitor. Failure of the assigned psychiatrist to appear at the scheduled days and times, failure to respond for Emergency consultation as requested, or failure to respond in a timely manner to psychiatric service requests are each a basis for termination of the psychiatrist.

3.2.2.6.5 Corrective Action Plans for Unacceptable Performance in Lieu of Termination: Incidents of unacceptable performance will be documented by the Facility Assignment Manager, and a copy will be provided to the Contractor and Contract Monitor, and when deemed appropriate by the Contract Monitor, to the Procurement Officer. Within two Business Days of receipt of a documented incident of failure to perform or unsatisfactory performance, for situations which do not merit prompt termination of a psychiatrist or Contractor, the Contractor shall submit to the Facility Assignment Manager and/or Contract Monitor a corrective action plan. This plan shall include the timeframe for completing the corrective action. The Facility Assignment Manager and/or Contract Monitor will approve or reject the plan within two Business Days after consultation with the Chief Executive Officer of the Facility.

The failure of the Contractor to respond with a Corrective Action Plan within five (5) Business Days in any given situation, if a submitted Corrective Action Plan is judged by the Facility Assignment Manager or Contract Monitor to be inadequate and within 10 days from the initial notice of the unacceptable performance has not been revised so that it is acceptable to these Department personnel, or if there are more than three (3) situations involving unacceptable performance during any twelve (12) month period, will be considered a material breach of Contract and may result in a termination of the Contract for cause.

3.2.2.6.6 Procedure for Replacement of Terminated Psychiatrist or One Who Resigns: Typically, upon the termination of a psychiatrist provided under this Contract, including if a psychiatrist has ceased to be employed by a Contractor or if a Independent Contractor Psychiatrist resigns, the Contractor that provided the psychiatrist will be afforded the opportunity to provide a replacement psychiatrist within 7 Business Days. However, the Contract Monitor may decide to re-initiate the Occasion of Need Assignment process described in Section 1.15.2 but by-passing the Contractor that provided the terminated/resigned psychiatrist from that process.

3.2.2.6.7 Partial List of Actions Leading to Contractor Termination: A Contractor's Contract will be terminated if that Contractor:

- A. Was aware of any of the circumstances described in 3.2.2.6.2 or 3 in advance and allowed the violation to occur, including being complicit with any such violation,
- B. Became aware after-the-fact but took no action to prevent the continuation or repetition of a prohibited act, or when appropriate rectify the violation, or actively sought to conceal a violation; or
- C. Failed to substantially comply with a plan of corrective action in the time frame set by the Contract Monitor.

3.2.2.6.8 Psychiatrist or Contractor Termination for Failure to Report: For any of the circumstances described in Section 3.2.1.8 that are to be reported by a psychiatrist to a Facility Assignment Manager, the Contractor shall confirm that the psychiatrist reported the occurrence as required, and if not, the Contractor shall make the report within 2 Business Days of learning of the failure of the psychiatrist to make the report. Based upon the reported circumstance(s) the Contract Monitor may determine that the psychiatrist being reported should stop providing services at the Facility – be terminated, either immediately or as of a date as determined by the Contract Monitor. If neither the psychiatrist nor the Contractor reported a Section 3.2.1.8 occurrence, the Contractor also may be terminated for default.



3.2.2.6.9 **Termination of a Sole Practitioner or Partnership Practice.**

**3.2.2.6.9.1 If a sole practitioner Contractor is terminated, the Contract with that psychiatrist is terminated for the remainder of the Contract.**

**3.2.2.6.9.2 If one or more of the psychiatrists in a partnership practice is terminated, depending upon the number of psychiatrists in the partnership practice, the Contract Monitor can take any of the actions described in Section 3.2.2.6.1.**

3.2.2.7 *Contractor Responsibilities and Allowances*

3.2.2.7.1 Contractors Not Obligated to Respond: **Aside from the Known Springfield and Deer's Head Assignments,** No Contractor is obligated to assign psychiatrists under this Contract. As described in Section 1.15.2, Contractors awarded Contracts under this IFB will be given the opportunity to offer psychiatrist candidates for Occasion of Need Assignments at BHA Facilities. As described in Section 1.15.2.1, any Contractor can issue a Declination to Provide Services for a specific Occasion of Need Assignment, at a given Facility and/or for a stated time duration.

3.2.2.7.2 Required Psychiatrist Verifications: Contractors that do participate in the Occasion of Need Assignment process shall use their best effort to identify qualified psychiatrists acceptable to the Facility. Prior to proposing a psychiatrist, Contractors shall verify the following:

- A. All Maryland licensure requirements;
- B. A clean criminal background;
- C. Eligibility to participate in Medicare and Medicaid, as specified in Section 3.2.1.2; and
- D. American Board of Medical Specialties or National Board of Physicians and Surgeons certification in psychiatry.

**As per Section 3.2.1.8, any change in any of the foregoing verifications shall be promptly reported to the Contract Monitor.**

3.2.2.7.3 Payments to the Contractor: The Contractor will pay the assigned psychiatrists for their services actually performed at the Facility and maintain documentation of all payroll records. Any travel and other expenses of the assigned psychiatrists will be the responsibility of the Contractor or the psychiatrists and not the Facility; only payments for hours worked including participating in required orientation or training or off-site trials or legal proceedings, will be the responsibility of the Facility and will be paid to the Contractor and not the psychiatrists.

3.2.2.7.4 Psychiatrist Required Medical Clearances: The Contractor shall ensure that any psychiatrist referred to the Facility receives a medical examination by a licensed physician that includes a urinalysis, blood tests for measles, mumps and rubella antibodies, Hepatitis b profile, tuberculosis skin test, and periodic drug screening. The Contractor shall document the results of such examinations and testing and maintain the documentation for a period of three years beyond the expiration of the Contract. Psychiatrists assigned to work under the Contract may not perform such examinations or tests upon themselves. In addition, the involved Facility may also request that some or all such medical documentation be provided to the Facility to be retained there. Detailed medical requirements are as follows.

3.2.2.7.4.1 Provide a written medical clearance from a licensed physician that states the psychiatrist is free from active, reportable, air borne communicable diseases and any impairment which would hinder the performance of the tasks and responsibilities assigned to this position. The medical clearance must certify that the psychiatrist is able to perform the duties associated with the applicable job description for his or her position.

This documentation shall be provided to the respective Facility HR Department with a copy to the Facility Assignment Manager at least ten (10) days before the expected start date of the Assignment or for the Known Springfield Assignment, ten (10) days before the NTP Date.

- 3.2.2.7.4.2 Complete an annual Tuberculosis Screen Test (TST) or provide documentation of receipt of a TST completed elsewhere in the last 12 months. This documentation shall be provided to the infection control unit at the Facility where the psychiatrist will be working, with a copy to the Facility Assignment Manager and shall be repeated no less than 330 days and not more than 365 days from the date of the previous test, for the duration of the Contract. The psychiatrist's initial documentation shall be provided as described in 3.2.2.7.4.1.

In the event that the psychiatrist has a positive TST Screen, he/she will be required to provide documentation of a negative Chest X-ray. An initial Chest X-ray will only be good for a period of three (3) months. After the three (3) month period, another Chest X-ray will be required. If the 3-month chest X-ray does **not** evidence signs of tuberculosis, the psychiatrist will no longer be required to complete further Chest X-rays unless he or she begins to demonstrate symptoms. In the event that the psychiatrist has a Chest X-ray, the psychiatrist will be required to complete a Self Screen Symptom Review annually in place of the required TST. This documentation will be maintained in the Facility infection control unit. The psychiatrist may not provide services under the Contract if the psychiatrist's tuberculosis is active. Some BHA Facilities may provide a Chest X-ray for the psychiatrist free of charge. Otherwise, Chest X-rays are the responsibility of the Contractor.

- 3.2.2.7.4.3 Provide documentation of the psychiatrist's Measles, Mumps, Rubella, and Varicella (MMRV) vaccination or a record of a positive titer result. This documentation shall be provided as described in Section 3.2.2.7.3.1 and will be maintained in the Facility infection control unit. Some BHA Facilities may provide a titer test for the psychiatrist free of charge. Otherwise, titer tests are the responsibility of the Contractor.

- 3.2.2.7.4.4 Provide documentation of a psychiatrist's Hepatitis B vaccination, positive titer result or a signed Declination Form. In conjunction with the Joint Commission accreditation regarding Hepatitis B and the various policies of the MHA Facilities, all healthcare contractors, staff or contractual, must be offered the Hepatitis B vaccination series, but the contractor has the right to decline. In the case that a psychiatrist declines the vaccine, a Declination Form shall be signed. A copy of a Hepatitis Vaccination, positive titer result, or a Declination Form shall be provided as described in Section 3.2.2.7.3.1 and will be maintained in the Facility infection control unit.

- 3.2.2.7.4.5 Provide proof of a negative Drug Screen through an accredited screener for all personnel servicing this Contract. This shall be a seven (7) panel screen and will be at the cost of the Contractor. All results shall be submitted to the Facility HR Department with a copy to the Facility Assignment Manager no less than ten (10) days before the intended date for this psychiatrist to begin working under the Contract.

*3.2.2.8 Facility's Responsibilities:* The Facility will:

- 3.2.2.8.1 Give the Contractor as much advance notice as possible via phone, fax, or email, of the need for psychiatrist personnel, as detailed in Section 1.15. Once this request is submitted, the Contractor shall notify the Contract Monitor by phone, fax, or email within the time frames described in Section 1.15.3 whether the staffing needs for each occasion can be met. The Contractor shall attempt to talk to an actual person about the availability of required personnel rather than leaving voice messages or faxes.
- 3.2.2.8.2 Provide a detailed job description to the psychiatrist, listing the job description, expectations, and duties required by this Contract. This job description must be signed and dated by the psychiatrist prior to working at a Facility. A copy must be supplied to the Facility HR Department and the Contract Monitor by no less than ten (10) days before the intended date for this psychiatrist to begin working under the Contract.

- 3.2.2.8.3 Supply the psychiatrist with a unit coverage schedule; usual and customary equipment and supplies, including communication/computer equipment utilized in the provision of the required psychiatric services; suitable practice environment that complies with acceptable ethical and procedural standards; and, as necessary, appropriately trained support staff, all so as to enable the psychiatrist to perform psychiatric services on comparable terms as other psychiatrists at the Facility.
- 3.2.2.8.4 Provide all forms for evaluations, medication reviews, and other documents as deemed necessary by the Clinical Director.
- 3.2.2.8.5 Give the psychiatrist a Facility orientation to include review of relevant Facility policies and procedures needed to perform the required duties and responsibilities.
- 3.2.2.8.6 Give each psychiatrist all necessary I.D. card(s) and keys essential for working at the Facility.
- 3.2.2.8.7 Document all incidents of failure to perform by each psychiatrist and provide a copy of all incidents of failure to perform or unsatisfactory performance to the Contract Monitor, Procurement Officer, and Contractor (not to include patient's protected health information).
- 3.2.2.8.8 For Assignments of at least 1 year's duration, conduct a performance/competency review approximately six months after the commencement of services. For Assignments of at least 18 months' duration, conduct such a review within two (2) weeks before or after the anniversary date of the previous review, as scheduled by the Facility Assignment Manager. Psychiatrists will receive no less than two (2) Business Days' advance notice of any such review.
- 3.2.2.9 *Timeframes for Psychiatrist Credential Documentation and Acceptance or Rejection Other Than the Known Springfield and Deer's Head Assignments*
- 3.2.2.9.1 Upon written notification by the Contract Monitor that a given Contractor is being awarded a specific Occasion of Need Assignment, that Contractor must submit the name of the intended (candidate) psychiatrist(s) and all credential documentation as described in Section 2.1.1, 2.1.2 and 3.2.1.1 no later than 3 full Business Days after such award notification.
- 3.2.2.9.2 The Contract Monitor will review each applicant with the Facility Clinical Director and will notify the awarded Contractor within five Business Days of receipt of the credential documentation described in 3.2.2.9.1 of one of the following conclusions:
- 3.2.2.9.2.1 The acceptability of the identified psychiatrist to fulfill the Occasion of Need Assignment. In this event the Contract Monitor or applicable Facility Assignment Manager will arrange with the awarded Contractor when the psychiatrist will attend Facility orientation training and a tentative work start date subject to the psychiatrist passing the orientation training.
- 3.2.2.9.2.2 That the submitted documentation is inadequate/incomplete and must be augmented with additional information within 3 Business Days. When the additional documentation is received, within 2 Business Days the Contract Monitor will either accept or reject the candidate psychiatrist as described in 3.2.2.9.2.1 and 3.2.2.9.2.3. If the Contractor fails to provide the required additional documentation within 3 Business Days, the Contract Monitor may either give the Contractor more time to provide the required documentation or may reject the candidate.
- 3.2.2.9.2.3 The unacceptability (rejection) of the identified psychiatrist to fulfill the Occasion of Need Assignment. If a candidate psychiatrist is rejected, the Contract Monitor will explain why the psychiatrist is not acceptable and either request a replacement to be provided within five Business Days or commence the Assignment fulfillment process again as described in 1.15.2 and 1.15.3, starting with the next contractor in line. i.e., this Contractor will be bypassed in the Occasion of Need Assignment process due to its previous inability to

provide an acceptable psychiatrist candidate.

3.2.2.10 Timeframes for Psychiatrist Credential Documentation and Acceptance or Rejection for the Known Springfield **and Deer's Head** Assignments and Springfield **and Deer's Head** Scheduling Requirements

3.2.2.10.1 Upon written notification by either the Procurement Officer or the Contract Monitor that a given Contractor is being awarded the Known Springfield **and Deer's Head** Assignments, that Contractor must submit the name of the intended (candidate) psychiatrist(s) and all credential documentation as described in Sections 2.1.1, 2.1.2 and 3.2.1.1 no less than 15 calendar days prior to the NTP Date.

3.2.2.10.2 The Contract Monitor will review each applicant with the Facility Clinical Director and will notify the awarded Contractor within five Business Days of receipt of the credential documentation described in 3.2.2.10.1 of one of the following conclusions:

3.2.2.10.2.1 The acceptability of the identified psychiatrist(s) to fulfill the Known Springfield Assignment. In this event the Contract Monitor or applicable Facility Assignment Manager will arrange with the awarded Contractor when the psychiatrist(s) will attend Facility orientation training and a tentative work start date subject to the psychiatrist passing the orientation training.

3.2.2.10.2.2 That the submitted documentation is inadequate/incomplete and must be augmented with additional information within 3 Business Days. When the additional documentation is received, within 2 Business Days the Contract Monitor will either accept or reject the candidate psychiatrist(s) as described in 3.2.2.10.2.1 and 3.2.2.10.2.3. If the Contractor fails to provide the required additional documentation within 3 Business Days, the Contract Monitor may either give the Contractor more time to provide the required documentation or may reject the candidate.

3.2.2.10.2.3 The unacceptability (rejection) of the identified psychiatrist(s) to fulfill the Known Springfield **or Deer's Head** Assignment. If a candidate psychiatrist is rejected, the Contract Monitor will explain why the psychiatrist is not acceptable and either request a replacement to be provided within five Business Days or reject this Contractor for this Assignment and contact the next lowest priced Bidder for the Known Springfield **or Deer's Head** Assignment (the Bidder with the second lowest Total Bid Price) and give it the opportunity to satisfy this Assignment. i.e., the process described in 3.2.2.10.1 and 3.2.2.10.2 will be repeated. If necessary, this process will be repeated until a candidate psychiatrist is accepted or all Contractors for the Known Springfield **or Deer's Head** Assignment have been rejected.

3.2.2.11 Known Springfield Assignment Scheduling Requirements: No fewer than five (5) Business Days before the NTP Date, the Contractor shall submit its proposed twelve (12)-hour-per week schedule to the Facility Assignment Manager for approval. Any subsequent changes to the Contractor's schedule shall also be approved in advance in writing by the Facility Assignment Manager. The Contractor shall also obtain approval from the Facility Assignment Manager for all scheduled absences no fewer than five (5) Business Days before the absence is scheduled. The Contractor shall give the Facility Assignment Manager as much notice as possible under the circumstances for any unscheduled absence.

3.2.2.12 **Known Deer's Head Assignment Scheduling Requirements: No fewer than five (5) Business Days before the NTP Date, the Contractor shall submit its proposed four (4) to eight (8) hours-per week schedule to the Facility Assignment Manager for approval. Any subsequent changes to the Contractor's schedule shall also be approved in advance in writing by the Facility Assignment Manager.**

**The Contractor shall also obtain approval from the Facility Assignment Manager for all scheduled absences no fewer than five (5) Business Days before the absence is scheduled. The Contractor shall give the Facility Assignment Manager as much notice as possible under the circumstances for any unscheduled absence.**

The Facility Assignment Manager will inform the Contractor with as much lead time as possible as to the specific number (4-8) of hours of service to be provided in a given week. However, the Facility Assignment Manager can approve a psychiatrist to work more than the anticipated number of hours in a week if circumstances indicate additional time is needed to perform all needed services.

### **3.3 Security Requirements**

#### **3.3.1 Employee Identification**

- (a) Contractor Personnel shall display his or her company ID badge in a visible location at all times while on State premises. Upon request of authorized State personnel, each Contractor Personnel shall provide additional photo identification.
- (b) Contractor Personnel shall cooperate with State site requirements, including but not limited to, being prepared to be escorted at all times and providing information for badge issuance.
- (c) Contractor shall remove any Contractor Personnel from working on the Contract where the State determines, in its sole discretion, that Contractor Personnel has not adhered to the Security requirements specified herein.
- (d) 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.

#### **3.3.2 Criminal Background Check**

The Contractor shall obtain from all psychiatrists or other Contractor Personnel assigned to work on the Contract a signed statement permitting a criminal background check.

The Contractor shall secure at its own expense a Maryland State Police and/or FBI background check and provide the Contract Monitor with completed checks on the above-listed personnel assigned to work under the Contract prior to assignment. At a minimum, these background checks must contain all convictions and probation before judgment (PBJ) pleadings within the State of Maryland. This check may be performed by a public or private entity.

The Contractor shall provide certification to the Department that the Contractor has completed the required criminal background check described in this IFB for each required Contractor Personnel prior to assignment, and that the Contractor Personnel have successfully passed this check.

The Contractor may not assign an individual whose background check reflects any criminal activity to work under this Contract unless prior written approval is obtained from the Contract Monitor. The Contract Monitor reserves the right to reject any individual based upon the results of the background check. Decisions of the Contract Monitor as to acceptability of a candidate are final. The State reserves the right to refuse individual Contractor Personnel to work on State premises, based upon certain specific criminal convictions, as specified by the State.

A particular on-site location covered by the Contract may require more restrictive conditions regarding the nature of prior criminal convictions that would result in Contractor Personnel not being permitted to work on those premises. Upon receipt of a location's more restrictive conditions regarding criminal convictions, the Contractor shall provide an updated certification regarding the Contractor Personnel working at or assigned to those premises.

As required by Section 3.2.1.8, any psychiatrist assigned to work under the Contract shall be obligated by the Contractor to inform the Contractor promptly of any arrest or any change in criminal history occurring subsequent to the initial criminal background check, and the Contractor shall disclose all such information promptly to the Facility Assignment Manager and Contract Monitor.

### **3.4 Insurance Requirements**

The Contractor, or as applicable an Independent Contractor Psychiatrist, shall maintain, at a minimum, the insurance coverages outlined below, or any minimum requirements established by law if higher, for the duration of the Contract, including option periods, if exercised:

3.4.1 The following types(s) of insurance and minimum amount(s) of coverage are required:

- a) Commercial General Liability Insurance 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, with a limit of \$1,000,000 per occurrence and \$2,000,000 aggregate.
- b) Each psychiatrist offered to be assigned to work at a Facility shall maintain, individually or through the contractor, Errors and Omissions/Professional Liability insurance, to include cyber liability coverage, with a limit of at least \$1,000,000 per claim and \$3,000,000 annual aggregate.
- c) 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
- d) The Contractor shall maintain Crime Insurance/Employee Theft Insurance to cover employee theft with minimum single loss limit of \$1,000,000 per loss, and a single loss retention not to exceed \$10,000. Such crime insurance shall have the State of Maryland and the Department added as Loss Payees.
- e) Workers' Compensation – Except for Independent Contractor Psychiatrists or sole practitioners or partnership practices, ~~The~~ Contractor shall maintain such insurance as necessary or as required under the Workers' Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act, to not be less than one million dollars (\$1,000,000) per occurrence (unless a state's law requires a greater amount of coverage). Coverage must be valid in all states where work is performed.

3.4.2 The State shall be listed as an additional insured on the faces of the certificates associated with the coverages listed above, including umbrella policies, excluding Worker's Compensation Insurance and professional liability,

3.4.3 All insurance policies shall be endorsed to include a clause that requires the insurance carrier provide the Procurement Officer, by certified mail, not less than 30 days' advance notice of any non-renewal, cancellation, or expiration. The Contractor shall notify the Procurement Officer in writing, if policies are cancelled or not renewed within five (5) days of learning of such cancellation or nonrenewal. The Contractor shall provide evidence of replacement insurance coverage to the Procurement Officer at least 15 days prior to the expiration of the insurance policy then in effect.

3.4.4 Any insurance furnished as a condition of the Contract shall be issued by a company authorized to do business in the State.

- 3.4.5 The recommended awardee must provide current certificate(s) of insurance within the prescribed coverages, limits, and requirements as set forth in this section within five (5) Business Days from notice of recommended award. During the period of performance for multi-year contracts, the Contractor shall provide certificates of insurance annually, or as otherwise directed by the Contract Monitor.
- 3.4.7 The Contractor shall require that any subcontractors to obtain and maintain comparable levels of coverage and shall provide the Contract Monitor with the same documentation as is required of the Contractor.

### **3.5 Problem Escalation Procedure**

- 3.5.1 The Contractor must provide and maintain a Problem Escalation Procedure (PEP) for both routine and Emergency situations. The PEP must state how the Contractor will address problem situations as they occur during the performance of the Contract, especially problems that are not resolved to the satisfaction of the State within appropriate timeframes.
- 3.5.2 The Contractor shall provide contact information to the Contract Monitor, as well as to other State personnel, as directed should the Contract Monitor not be available.
- 3.5.3 The Contractor must provide the PEP no later than ten (10) Business Days after notice of recommended award or after the date of the Notice to Proceed, whichever is earlier. The PEP, including any revisions thereto, must also be provided within ten (10) Business Days after the start of each Contract year and within ten (10) Business Days after any change in circumstance which changes the PEP. The PEP shall detail how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. The PEP shall include:
- The process for establishing the existence of a problem;
  - Names, titles, and contact information for progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;
  - For each individual listed in the Contractor's PEP, the maximum amount of time a problem will remain unresolved with that individual before the problem escalates to the next contact person listed in the Contractor's PEP;
  - Expedited escalation procedures and any circumstances that would trigger expedited escalation procedures;
  - The method of providing feedback on resolution progress, including the frequency of feedback to be provided to the State;
  - Contact information for persons responsible for resolving issues after Normal State Business Hours (e.g., evenings, weekends, holidays, etc.) and on an Emergency basis; and
  - A process for updating and notifying the Contract Monitor of any changes to the PEP.
- 3.5.4 Nothing in this section shall be construed to limit any rights of the Contract Monitor or the State which may be allowed by the Contract or applicable law.

### **3.6 Invoicing**

#### **3.6.1 General**

- (a) All invoices for services shall be signed by the Contractor and submitted to the Contract Monitor. All invoices shall include the following information:
- 1) Contractor name and address;
  - 2) Remittance address;

- 3) Federal taxpayer identification number (or if sole proprietorship, the individual's social security number);
- 4) Invoice period (i.e. time period during which services covered by invoice were performed);
- 5) Invoice date;
- 6) Invoice number;
- 7) State assigned Contract number;
- 8) State assigned (Blanket) Purchase Order number(s);
- 9) Services provided, which shall be evidenced by a timesheet showing the name of the psychiatrist and a daily record of the actual hours worked recorded to the tenth of an hour. Payment is made only for actual hours worked, including attending training, orientation and legal proceedings such as court and hearing appearances; no payments will be made for any leave or time off (See Section 3.6.1 b).
- 10) Total Amount due, with subtotals, as appropriate, for regular On-Duty hours, Optional On-Duty hours, training, orientation, and legal proceedings, and as described in Sections 3.2.2.4.5, 3.6.1.b.2 and 3.6.1.d, mileage reimbursement to the nearest mile.

Some Facilities may have additional invoicing requirements, such as, including a work log sheet that describes the services/treatments provided, the patient's name, hospital I.D. number, case number and hours spent including time of day. The Contractor shall comply with the specific invoicing requirements of each respective Facility for which it provides services.

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

- (b) 1) All invoices shall be submitted every two weeks and include a work log sheet that describes the training, orientation or legal proceeding attended and/or services provided (without disclosure of patient identification or protected health information) and hospital I.D. number. Each invoice shall reflect the dates and times (e.g., 8 a.m.-12 p.m. and 1 p.m.-6:30 p.m.) of the hours worked by each psychiatrist and shall be accompanied by Contractor timesheets for each psychiatrist who worked under the Contract during the invoiced period. Invoices shall be at the hourly rate as bid on Attachment F (the Bid Form) for the applicable Response Timeframe described in Section 1.15.3 for actual hours worked and as per section 3.6.1.a.10, shall be rounded to the nearest tenth of an hour. However, for any Assignment other than the Known Springfield or Deer's Head Assignment that runs more than 6 months, as of the start of the seventh month and continuing for the remaining duration of the Assignment, the billing shall be at the Contractor's hourly bid rate for a Long-Term Assignment, regardless of the Response Timeframe pricing the Assignment was awarded under.

2) If a psychiatrist works any Optional On-Duty (Outside Normal Hours) shift, as described in Item K of the Bid Pricing Instructions (Attachment F), the Contractor shall invoice the lower of its Optional On-Duty (Outside Normal Hours) Bid rate on the Bid Form or the lowest of its four "On-Duty (Normal Hours)" rates for the same Facility for the same Contract year. If the Contractor submits an invoice with an Optional On-Duty (Outside Normal Hours) rate that exceeds the permitted billing rate as described above in this paragraph and in Item K of the Bid Pricing Instructions (Attachment F), payment will be made at the hourly rate as described in Item K of the Bid Pricing Instructions (Attachment F.) i.e., payment for all such hours worked will be reduced to the lowest hourly rate as described above in this paragraph and in Section K of the Bid Pricing Instructions

3) If a Contractor is invoicing for mileage reimbursement, as permitted by Section 3.6.1.d and 3.2.2.4.5, the invoice must be accompanied by the name of the psychiatrist who did the traveling, the reason for the travel, the distance, to the nearest mile, the psychiatrist traveled or would have traveled from the building where the Facility head (Superintendent, Director, Chief Executive Officer, etc.) is located to the location of off-site training, orientation, legal proceeding, etc.



4) Any variances between the Contractor's reported number of hours and the Department's scheduling records shall be reconciled to the Department's satisfaction based on the hours reflected in the scheduling records as the accepted number for billing purposes, provided that the Department informs Contractor of such variance. The Department shall endeavor to inform the Contractor of any variances within 30 days of invoice submission.

- (c) The Department reserves the right to reduce or withhold Contract payment in the event the Contractor does not provide the Department with all required deliverables within the time frame specified in the Contract or in the event that the Contractor otherwise materially breaches the terms and conditions of the Contract until such time as the Contractor brings itself into full compliance with the Contract. For example, the Contractor shall be obligated to satisfy the "Living Wage" provision of the Contract, if applicable, which allows for withholding of payment under certain circumstances. Any action on the part of the Department, or dispute of action by the Contractor, shall be in accordance with the provisions of Md. Code Ann., State Finance and Procurement Article §§ 15-215 through 15-223 and with COMAR 21.10.02.
- (d) The Contractor will be paid mileage reimbursement for any required travel by a psychiatrist off site from the Facility where the psychiatrist is assigned to work. The mileage reimbursement will be at the rate that is paid to State employees as published by the Maryland Department of Budget and Management on its website. In addition, reimbursement will also be made for any tolls or parking expenses incurred by a psychiatrist in attending an approved off-site activity.

### **3.6.2 Invoice Submission Schedule**

- (a) The Contractor may submit invoices as described in 3.6.1. b. Invoices for a given month shall be submitted not later than by the 10<sup>th</sup> and 25<sup>th</sup> days of the month following the month in which services were delivered.
- (b) Invoices for any of the BHA Facilities must be addressed to:

Office of Finance and Fiscal Management  
Behavioral Health Administration  
55 Wade Avenue – Dix Building  
Catonsville, MD 21228  
Attention: Tom Lewis

#### **(c) Invoices for Deer's Head must be addressed to:**

**Accounts Payable**  
**Deer's Head Hospital Center**  
**351 Deer's Head Hospital Road**  
**Salisbury, Maryland 21801**

## **3.7 MBE Reports**

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

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

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

### **3.8 VSBE Reports**

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

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

### **3.9 SOC 2 Type 2 Audit Report**

A SOC 2 Type 2 Report is not a Contractor requirement for this Contract.

### **3.10 End of Contract Transition**

#### **3.10.1 Returning Keys**

The Contractor shall return any keys issued by a Facility to the Facility Assignment Manager upon termination or expiration of the term of this Contract. All keys that are lost, stolen or not returned within five (5) days after termination or expiration of the Contract will be charged to the Contractor at a cost of \$2.50 per key. The appropriate amount for unreturned keys will be deducted from the Contractor's next or last, as appropriate, bill after the five (5) day return time has elapsed and the key(s) has not been returned.

#### **3.10.2 Returning Other State Items**

Aside from keys, the Contractor shall return any and all other equipment, supplies, policy documents, manuals, materials, patient records, etc. that is the property of the State that was provided by a Facility to help the Contractor properly perform under the Contract. All such items shall either be returned on or before the last day of its Contract or at a later date agreed to in writing by the Contract Monitor.

The failure of the Contractor to return State property will result in either or both of a delay in making final payment to the Contractor or a deduction from the final payment of an amount judged by the Contract Monitor to be a reasonable approximation of the value of the non-retuned item(s).

#### **3.10.3 Completion of Patient Records**

As of the last day of its Contract, the Contractor shall ensure that all patient medical records are current in terms of containing up-to-date entries on all procedures, assessments, treatment plans, etc. for each patient under the care of Contractor staff. Final payment under the Contract will not be made until all patient files are complete.

#### **3.10.4 Transition**

The Contractor shall cooperate in the orderly transition of services from the Contract awarded under this solicitation to any subsequent contract for similar services. The transition period shall begin ninety (90) days before the Contract end date, or the end date of any final exercised option or contract extension. The Contractor shall work toward a prompt and timely transition, proceeding in accordance with the directions of the Contract Monitor. **The Contract Monitor may provide the Contractor with additional instructions to meet specific transition requirements prior to the end of Contract.**

### **3.11 Personnel Work-time Preference**

- 3.11.1 Staff assigned full time to the Contract should not have other job duties, other than for occasional exigencies. Staff assigned part time to the Contract should not have other job duties that in combination with the assignment to this Contract exceed a full-time equivalency.
- 3.11.2 Exceptions to the preferences in Section 3.11.1 must be approved in writing by the Contract Monitor.

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## **SECTION 4 – BID FORMAT**

### **4.1 One Part Submission**

Each Bidder shall submit with its Bid all Required Bid Submissions (see IFB Section 4.4) in a single sealed package/envelope.

### **4.2 Labeling**

Each Bidder is required to label the sealed Bid with the IFB title and number, name and address of the Bidder, and closing date and time for receipt of the Bids.

### **4.3 Bid Price Form**

The Bid shall contain all price information in the format specified on the Bid Form (**Attachment F**). The Bidder shall complete the Bid Form only as provided in the Bid Pricing Instructions and the Bid Form. Do not amend, alter, or leave blank any items on the Bid Form relating to a Facility for which the Bidder is submitting a Bid or include additional clarifying or contingent language on or attached to the Bid Form. If option years are included, Bidders must submit Bids for each option year. Failure to adhere to any of these instructions may result in the Bid being determined to be non-responsive and rejected by the Department.

### **4.4 Required Bid Submissions**

Bidders shall include the following with their Bid:

#### **4.4.1 Transmittal Letter:**

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

- Name and address of the Bidder;
- Name, title, e-mail address, and telephone number of primary contact for the Bidder;
- Solicitation Title and Solicitation Number that the Bid is in response to;
- Signature, typed name, and title of an individual authorized to commit the Bidder to its Bid;
- Federal Employer Identification Number (FEIN) of the Bidder, or if a single individual, that individual's Social Security Number (SSN);
- Bidder's eMM number;
- Bidder's MBE certification number (if applicable);
- Acceptance of all State IFB and Contract terms and conditions (see Section 1.24); and
- Acknowledgement of all addenda to this IFB.

Any information which is claimed to be confidential is to be noted by reference and included after the Transmittal Letter. An explanation for each claim of confidentiality shall be included (see Section 1.14 "Confidentiality of Bids").

In addition, the Transmittal Letter shall indicate whether the Bidder is the subsidiary of another entity, and if so, whether all information submitted by the Bidder pertains exclusively to the Bidder. If not, the subsidiary Bidder shall include a guarantee of performance from its parent organization as part of its Executive Summary (see RFP Section 1.22 for more information).

#### 4.4.2 **Minimum Qualifications Documentation:**

The Bidder shall submit any Minimum Qualifications documentation that may be required, as set forth in Section 2 “Bidder Minimum Qualifications.” If references are required in Section 2, those references shall be submitted in this Section and shall contain the information described in both Section 2 and Section 4.4.5.

#### 4.4.3 **Completed Required Attachments:** Submit three (3) copies of each with original signatures:

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

#### 4.4.4 **Additional Documents \*If Required:** Submit three (3) copies of each with original signatures, if required. \* See appropriate IFB Section to determine whether the document is required for this procurement:

- a. A Signed Statement from the Bidder’s Parent Organization Guaranteeing Performance of the Bidder. **\*see Section 1.22**
- b. Completed MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) **\*see Section 1.33.**
- c. Completed Federal Funds Attachment (**Attachment H**) **\*see Section 1.35.**
- d. Completed Conflict of Interest Affidavit and Disclosure (**Attachment I**) **\*see Section 1.36.**
- e. Completed Mercury Affidavit (**Attachment L**) **\*see Section 1.40.**
- f. Completed Veteran-Owned Small Business Enterprise (VSBE) Utilization Affidavit and Prime/Subcontractor Participation Schedule. (**Attachment M-1**) **\*see Section 1.41.**
- g. Completed Location of the Performance of Services Disclosure (**Attachment N**) **\*see Section 1.42.**

#### 4.4.5 **References:**

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

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

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

#### 4.4.6 **List of Current or Prior State Contracts:**

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

- a. The State contracting entity;
- b. A brief description of the services/goods provided;
- c. The dollar value of the contract;
- d. The term of the contract;
- e. The State employee contact person (name, title, telephone number, and, if possible, e-mail address); and
- f. Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised.

Information obtained regarding the Bidder's level of performance on State contracts will be used by the Procurement Officer to determine responsibility of the Bidder.

#### **4.4.7 Financial Capabilities:**

The Bidder must include in its Bid a commonly-accepted method to prove fiscal integrity. If available, the Bidder 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 Bidder may supplement its response to this Section by including one or more of the following with its response:

- 1) Dun & Bradstreet Rating;
- 2) Standard and Poor's Rating;
- 3) Lines of credit;
- 4) Evidence of a successful financial track record; and
- 5) Evidence of adequate working capital.

#### **4.4.8 Certificate of Insurance:**

The Bidder shall provide a copy of its current certificate of insurance. The recommended awardee must provide a certificate of insurance with the prescribed limits set forth in Section 3.4 "Insurance Requirements," naming the State as an additional insured if required, within five (5) Business Days from notification by the Procurement Officer that the Bidder has been determined to be the apparent awardee.

#### **4.4.9 Subcontractors:**

The Bidder shall provide a complete list of all subcontractors that will work on the Contract if the Bidder receives an award, including those utilized in meeting the MBE and/or VSBE subcontracting goal, if applicable. This list shall include a full description of the duties each subcontractor will perform and why/how each subcontractor was deemed the most qualified for this project. If applicable, subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate attachment(s) of this IFB.

#### **4.4.10 Legal Action Summary:**

This summary shall include:

- i. A statement as to whether there are any outstanding legal actions or potential claims against the Bidder and a brief description of any action;
- ii. A brief description of any settled or closed legal actions or claims against the Bidder over the past five (5) years;
- iii. A description of any judgments against the Bidder within the past five (5) years, including the court, case name, complaint number, and a brief description of the final ruling or determination; and

- iv. In instances where litigation is on-going and the Bidder has been directed not to disclose information by the court, provide the name of the judge and location of the court.

If a Bidder responds to this section with a generic statement such as, “See 10K” or “See SEC filing”:

- The referenced document must be included with the Bid submission.
- The location within the document where the requested information can be found should be specifically noted.
- The information contained in the indicated section should be responsive to the information requested under this section. A generic statement in the document to the effect that there often are what might be called nuisance lawsuits filed against the Bidder will only be sufficient if it is a true statement. i.e., the Bidder is asserting that in its opinion no lawsuit filed against it is noteworthy.

## **4.5 Delivery**

Bidders may either mail or hand-deliver Bids.

- 4.5.1 For U.S. Postal Service deliveries, any bid that has been received at the appropriate mail room, or typical place of mail receipt for the respective procuring unit by the time and date listed in the IFB will be deemed to be timely. If a Bidder chooses to use the U.S. Postal Service for delivery, the Department recommends that it use Express Mail, Priority Mail, or Certified Mail or another form for which both the date and time of receipt can be independently verified by the Department. It could take several days for an item sent by first class mail to make its way by normal internal mail to the procuring unit and a Bidder using first class mail will not be able to prove a timely delivery at the mailroom.
- 4.5.2 Hand-delivery includes delivery by commercial carrier acting as agent for the Bidder. For any type of direct (non-mail) delivery, a Bidder is advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery.

## **4.6 Documents Required upon Notice of Recommendation for Contract Award**

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

- a. signed Contract (**Attachment A**),
- b. completed Contract Affidavit (**Attachment C**),
- c. completed MBE **Attachments D-2 and D-3A/B**, within ten (10) Business Days, if applicable; \*see **Section 1.33**,
- d. MBE Waiver Justification within ten (10) Business Days (see **MBE Waiver Guidance and forms in Attachments D-1B and D-1C**), if a waiver has been requested (if applicable; \*see **Section 1.33**),
- e. signed Non-Disclosure Agreement (**Attachment J**), if applicable; \*see **Section 1.37**,
- f. signed HIPAA Business Associate Agreement (**Attachment K**), if applicable; \*see **Section 1.38**,
- h. completed VSBE **Attachment M-2**, if applicable \*see **Section 1.41**,
- i. completed DHS Hiring Agreement, **Attachment O**, if applicable \*see **Section 1.43**, and
- j. copy of a current Certificate of Insurance with the prescribed limits set forth in Section 3.4 “Insurance Requirements,” listing the State as an additional insured, if applicable; \*see **Section 3.4**.

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## **SECTION 5 – BID EVALUATION AND AWARD**

### **5.1 Bid Evaluation Criteria**

A. As described in Section 1.15.1.1, Bids for the Known Springfield Assignment will be evaluated based on the Total Bid Price, as per COMAR 21.05.02.13 and the Section 1.2 definition. All responsible Bidders for the Known Springfield Assignment will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on the Total Bid Price as submitted on the **Attachment F – Bid Form**.

B. As described in Section 1.15.1.2, for other than the Known Springfield Assignment all responsible Bidders will also be ranked from the lowest to the highest price for each Facility and each type of Occasion of Need Response Timeframe as described in Section 1.15.3. However, all responsible Bidders will receive awards and the Bid rankings will be used to determine the order in which Bidders are contacted with the opportunity to provide a psychiatrist for a given Assignment.

### **5.2 Reciprocal Preference**

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

- a) The Maryland resident business is a responsible Bidder;
- b) The lowest responsive Bid is from a responsible Bidder whose principal office or principal base of operations is in another state;
- c) The other state gives a preference to its resident businesses through law, policy, or practice; and
- d) The preference does not conflict with a federal law or grant affecting the procurement Contract.

5.2.2 The preference given shall be identical to the preference that the other state, through law, policy, or practice gives to its resident businesses.

### **5.3 Award Determination**

For the Known Springfield **and Deer's Head** Assignments, award will be made to the responsible Bidder who submits to the State the responsive Bid that has the lowest Total Bid Price. For the unknown assignments, award will be made to all responsible Bidders submitting responsive Bids per location, as listed in Attachment P.

### **5.4 Documents Required Upon Notice of Recommendation for Contract Award**

Upon receipt of a Notification of Recommendation for Contract award, the apparent awardees shall complete and furnish the documents and attestations as directed in this IFB.

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## **IFB ATTACHMENTS**

### **ATTACHMENT A – Contract**

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

### **ATTACHMENT B – Bid/Proposal Affidavit**

This Attachment must be completed and submitted with the Bid.

### **ATTACHMENT C – Contract Affidavit**

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

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

If required (see Section 1.33), these Attachments include the MBE subcontracting goal statement, instructions, and MBE Attachments D-1 through D-5. Attachment D-1 must be properly completed and submitted with the Bidder's Bid or the Bid will be deemed non-responsive and rejected. Within 10 Business Days of receiving notification of recommendation for Contract award, the Bidder must submit Attachments D-2 and D-3A/B.

### **ATTACHMENT E – Pre-Bid Conference Response Form**

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

### **ATTACHMENT F – Bid Form Instructions and Bid Form**

The Bid Form must be completed and submitted with the Bid.

### **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 Bid.

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

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

### **ATTACHMENT I – Conflict of Interest Affidavit and Disclosure**

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

### **ATTACHMENT J – Non-Disclosure Agreement**

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

### **ATTACHMENT K – HIPAA Business Associate Agreement**

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

### **ATTACHMENT L – Mercury Affidavit**

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

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

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

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

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

**ATTACHMENT O – Department of Human Services (DHS) Hiring Agreement**

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

**ATTACHMENT P - Listing of BHA Facilities and Deer's Head**

This Attachment is provided for informational purposes to assist Bidders in preparing their Bids.

## ATTACHMENT A – CONTRACT

### Psychiatry Services for the Behavioral Health Administration (BHA) Facilities and Deer's Head Hospital Center

THIS CONTRACT (the “Contract”) is made this (“X<sup>th</sup>”) day of (month), (year) by and between (Contractor’s name) and the STATE OF MARYLAND, acting through the Maryland Department of Health (MDH) and the Behavioral Health Administration (BHA)..

In consideration of the promises and the covenants herein contained, the adequacy and sufficiency of which is duly acknowledged by the parties, the parties agree as follows:

#### 1. Definitions

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

- 1.1 “Bid” means the Contractor’s Bid dated (Bid date).
- 1.2 “COMAR” means Code of Maryland Regulations.
- 1.3 “Contract” means this agreement between (Contractor’s name) and the State of Maryland, acting through the Maryland Department of Health (MDH) and the Behavioral Health Administration.
- 1.4 “Contract Monitor” means the Department employee identified in Section 1.6 of the IFB as the Contract Monitor.
- 1.5 “Contractor” means (Contractor’s name) whose principal business address is (Contractor’s primary address) and whose principal office in Maryland is (Contractor’s local address).
- 1.6 “Department” means the Maryland Department of Health.
- 1.7 “IFB” means the Invitation for Bids for Psychiatry Services for the Seven Behavioral Health Administration Facilities and Deer’s Head, MDH/OPASS 19-18052, and any addenda thereto issued in writing by the State.
- 1.8 “Procurement Officer” means the Department employee identified in Section 1.5 of the IFB as the Procurement Officer.
- 1.9 “State” means the State of Maryland.

#### 2. Scope of Contract

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

Exhibit A – The IFB

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

Exhibit C – The Bid

- 2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract or the IFB. No other order, statement, or conduct of the Procurement Officer or any

other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

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

### **3. Period of Performance.**

- 3.1 The term of this Contract begins on the date the Contract is signed by the Department following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required. The Contractor shall provide services under this Contract as of the Go-Live Date contained in the written Notice to Proceed. From this Go-Live date, the Contract shall be for a period of approximately two (2) years beginning approximately July 1, 2019 and ending on June 30, 2021. In addition, the Department has the exclusive right to renew this Contract for a period of one (1) year following the expiration of the initial two-year term.
- 3.2 Audit, confidentiality, document retention, and indemnification obligations under this Contract shall survive expiration or termination of the Contract.

### **4. Consideration and Payment**

- 4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the Department shall pay the Contractor in accordance with the terms of this Contract and at the prices quoted in the Financial Proposal. Unless properly modified (see above Section 2.3), payment to the Contractor pursuant to this Contract, including the base term and any option exercised by the State, shall not exceed \$

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

- 4.2 Unless a payment is unauthorized, deferred, delayed, or setoff under COMAR 21.02.07, payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the State's receipt of a proper invoice from the Contractor. The Contractor may be eligible to receive late payment interest at the rate of 9% per annum if: (1) The Contractor submits an invoice for the late payment interest within thirty days after the date of the State's payment of the amount on which the interest accrued; and (2) A Contract claim has not been filed under State Finance and Procurement Article, Title 15, Subtitle 2, Annotated Code of Maryland. The

State is not liable for interest: (1) accruing more than one year after the 31st day after the agency receives the proper invoice; or (2) on any amount representing unpaid interest. Charges for late payment of invoices are authorized only as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable. Each invoice for services rendered must include the Contractor's Federal Tax Identification or Social Security Number for a Contractor who is an individual which is ----- . Charges for late payment of invoices other than as prescribed at Md. Code Ann., State Finance and Procurement Article, §15-104 are prohibited. Invoices shall be submitted to the Contract Manager. Electronic funds transfer shall be used by the State to pay Contractor pursuant to this Contract and any other State payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.

4.3 In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer.

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

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

## **5. Rights to Records**

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

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

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

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

5.5 Upon termination of the Contract, the Contractor, at its own expense, shall deliver any equipment, software or other property provided by the State to the place designated by the Procurement Officer.

## **6. Exclusive Use**

6.1 The State shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable

of being copyrighted, the State shall be the copyright owner and Contractor may copyright material connected with this project only with the express written approval of the State.

- 6.2 Except as may otherwise be set forth in this Contract, 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 confidentiality and intellectual property terms substantively equivalent to those of this Contract.

## **7. Patents, Copyrights, and Intellectual Property**

- 7.1 If the Contractor furnishes any design, device, material, process, or other item, which is covered by a patent, trademark or service mark, or copyright or which is proprietary to, or a trade secret of, another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items.
- 7.2 The Contractor will defend or settle, at its own expense, any claim or suit against the State alleging that any such item furnished by the Contractor infringes any patent, trademark, service mark, copyright, or trade secret. If a third party claims that a product infringes that party's patent, trademark, service mark, trade secret, or copyright, the Contractor will defend the State against that claim at Contractor's expense and will pay all damages, costs, and attorneys' fees that a court finally awards, provided the State: (a) promptly notifies the Contractor in writing of the claim; and (b) allows Contractor to control and cooperates with Contractor in, the defense and any related settlement negotiations. The obligations of this paragraph are in addition to those stated in Section 7.3 below.
- 7.3 If any products furnished by the Contractor become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement, the Contractor will, at its option and expense: (a) procure for the State the right to continue using the applicable item; (b) replace the product with a non-infringing product substantially complying with the item's specifications; or (c) modify the item so that it becomes non-infringing and performs in a substantially similar manner to the original item.

## **8. Confidential or Proprietary Information and Documentation**

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

## **9. Loss of Data**

In the event of loss of any State data or records where such loss is due to the intentional act or omission or negligence of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for recreating such lost

data in the manner and on the schedule set by the Contract Monitor. The Contractor shall ensure that all data is backed up and recoverable by the Contractor. Contractor shall use its best efforts to assure that at no time shall any actions undertaken by the Contractor under this Contract (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms, and/or applications with which the Contractor is working hereunder.

## **10. Indemnification**

- 10.1 The Contractor shall hold harmless and indemnify the State from and against any and all losses, damages, claims, suits, actions, liabilities, and/or expenses, including, without limitation, attorneys' fees and disbursements of any character that arise from, are in connection with or are attributable to the performance or nonperformance of the Contractor or its subcontractors under this Contract.
- 10.2 This indemnification clause shall not be construed to mean that the Contractor shall indemnify the State against liability for any losses, damages, claims, suits, actions, liabilities, and/or expenses that are attributable to the sole negligence of the State or the State's employees.
- 10.3 The State has no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim, or action of any character is brought by any person not party to this Contract against the Contractor or its subcontractors as a result of or relating to the Contractor's performance under this Contract.
- 10.4 The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's performance under this Contract.
- 10.5 The Contractor shall immediately notify the Procurement Officer of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from, or relating to, the Contractor's obligations under the Contract, and will cooperate, assist, and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of, or relating to, the Contractor's performance under this Contract.
- 10.6 This Section 10 shall survive termination of this Contract.

## **11. Non-Hiring of Employees**

No official or employee of the State, as defined under Md. Code Ann., General Provisions Article, § 5-101, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall, during the pendency and term of this Contract and while serving as an official or employee of the State, become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

## **12. Disputes**

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

## **13. Maryland Law**

- 13.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.
- 13.2 The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland), does not apply to this Contract or to any purchase order or Notice to Proceed issued under this Contract, or any software, or any software license required hereunder.
- 13.3 Any and all references to the Maryland Code, Annotated contained in this Contract shall be construed to refer to such Code sections as are from time to time amended.

#### **14. Nondiscrimination in Employment**

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

#### **15. Contingent Fee Prohibition**

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

#### **16. Non-availability of Funding**

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

#### **17. Termination for Cause**

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



## **18. Termination for Convenience**

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

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

The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays, interruptions, interferences, or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

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

## **20. Suspension of Work**

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

## **21. Pre-Existing Regulations**

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

## **22. Financial Disclosure**

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

## **23. Political Contribution Disclosure**

The Contractor shall comply with Md. Code Ann., Election Law Article, Title 14, which requires that every person that enters into a procurement contract 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 or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 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).

## **24. Documents Retention and Inspection Clause**

The Contractor and subcontractors shall retain and maintain all records and documents relating to this Contract for a period of five (5) years after final payment by the State hereunder or any applicable statute of limitations or federal retention requirements (such as HIPAA), whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section. In the event of any audit, the Contractor shall provide assistance to the State, without additional compensation, to identify, investigate, and reconcile any audit discrepancies and/or variances. This Section 24 shall survive expiration or termination of the Contract.

## **25. Right to Audit**

- 25.1 The State reserves the right, at its sole discretion and at any time, to perform an audit of the Contractor's and/or subcontractor's performance under this Contract. An audit is defined as a planned and documented independent activity performed by qualified personnel including but not limited to State and federal auditors, to determine by investigation, examination, or evaluation of objective evidence from data, statements, records, operations and performance practices (financial or otherwise) the Contractor's compliance with the Contract, including but not limited to adequacy and compliance with established procedures and internal controls over the Contract services being performed for the State.
- 25.2 Upon three (3) Business Days' notice, the Contractor and/or any subcontractors shall provide the State reasonable access to their respective records to verify conformance to the terms of the Contract. The Department may conduct these audits with any or all of its own internal resources or by securing the services of a third-party accounting or audit firm, solely at the Department's election. The Department may copy, at its own expense, any record related to the services performed and provided under this Contract.
- 25.3 The right to audit shall include any of the Contractor's subcontractors including but not limited to any lower tier subcontractor(s) that provide essential support to the Contract services. The Contractor and/or subcontractor(s) shall ensure the Department has the right to audit such subcontractor(s).
- 25.4 The Contractor and/or subcontractors shall cooperate with Department and Department's designated accountant or auditor and shall provide the necessary assistance for the Department or Department's designated accountant or auditor to conduct the audit.
- 25.5 This Section shall survive expiration or termination of the Contract.

## **26. Compliance with Laws**

The Contractor hereby represents and warrants that:

- 26.1 It is qualified to do business in the State and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- 26.2 It is not in arrears with respect to the payment of any monies due and owing the State, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;

- 26.3 It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- 26.4 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.

## **27. Cost and Price Certification**

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

The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date of its Bid/Proposal, was inaccurate, incomplete, or not current.

## **28. Subcontracting; Assignment**

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

## **29. Liability**

For breach of this Contract, negligence, misrepresentation, or any other contract or tort claim, Contractor shall be liable as follows:

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

## **30. Commercial Nondiscrimination**

- 30.1 As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described at Md. Code Ann., State Finance and Procurement Article, Title 19. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual's refusal to submit to a genetic test or make available the results of a genetic test or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit

lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

- 30.2 The Contractor shall include the above Commercial Nondiscrimination clause, or similar clause approved by the Department, in all subcontracts.
- 30.3 As a condition of entering into this Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Md. Code Ann., State Finance and Procurement Article, Title 19, as amended from time to time, Contractor agrees to provide within sixty (60) days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth at Md. Code Ann., State Finance and Procurement Article, Title 19, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

### **31. Prompt Pay Requirements**

- 31.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the Department, at its option and in its sole discretion, may take one or more of the following actions:
- a. Not process further payments to the contractor until payment to the subcontractor is verified;
  - b. Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
  - c. Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;
  - d. Place a payment for an undisputed amount in an interest-bearing escrow account; or
  - e. Take other or further actions as appropriate to resolve the withheld payment.
- 31.2 An "undisputed amount" means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute. Such "undisputed amounts" include, without limitation:
- a. Retainage which had been withheld and is, by the terms of the Contract between the Contractor and subcontractor, due to be distributed to the subcontractor; and
  - b. An amount withheld because of issues arising out of a Contract or occurrence unrelated to the Contract under which the amount is withheld.
- 31.3 An act, failure to act, or decision of a Procurement Officer or a representative of the Department, concerning a withheld payment between the Contractor and a subcontractor under this provision, may not:
- a. Affect the rights of the contracting parties under any other provision of law;
  - b. Be used as evidence on the merits of a dispute between the Department and the contractor in any other proceeding; or
  - c. Result in liability against or prejudice the rights of the Department.
- 31.4 The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise (MBE) program.

- 31.5 To ensure compliance with certified MBE subcontract participation goals, the Department may, consistent with COMAR 21.11.03.13, take the following measures:
- a. Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule.
  - b. This verification may include, as appropriate:
    - i. Inspecting any relevant records of the Contractor;
    - ii. Inspecting the jobsite; and
    - iii. Interviewing subcontractors and workers.
    - iv. Verification shall include a review of:
      - (a) The Contractor's monthly report listing unpaid invoices over thirty (30) days old from certified MBE subcontractors and the reason for nonpayment; and
      - (b) The monthly report of each certified MBE subcontractor, which lists payments received from the Contractor in the preceding thirty (30) days and invoices for which the subcontractor has not been paid.
  - c. If the Department determines that the Contractor is not in compliance with certified MBE participation goals, then the Department will notify the Contractor in writing of its findings, and will require the Contractor to take appropriate corrective action. Corrective action may include, but is not limited to, requiring the Contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.
  - d. If the Department determines that the Contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that the Department requires, then the Department may:
    - i. Terminate the contract;
    - ii. Refer the matter to the Office of the Attorney General for appropriate action; or
    - iii. Initiate any other specific remedy identified by the contract, including the contractual remedies required by any applicable laws, regulations, and directives regarding the payment of undisputed amounts.
  - e. Upon completion of the Contract, but before final payment or release of retainage or both, the Contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from, MBE subcontractors.

## **32. 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 agency may withhold payment of any invoice or retainage. The agency may require certification from the Commissioner on a quarterly basis that such records were properly submitted.

## **33. Use of Estimated Quantities**

Unless specifically indicated otherwise in the State's solicitation or other controlling documents related to the Scope of Work, any sample amounts provided are estimates only and the Department does not guarantee a minimum or maximum number of units or usage in the performance of this Contract.

## **34. Contract Monitor and Procurement Officer**

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

## **35. 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: **Dana Dembrow**  
**Procurement Officer**  
**Maryland Department of Health**  
**Office of Procurement and Support Services**  
**201 West Preston Street – Room 416A**  
**Baltimore, Maryland 21201**  
**Phone: (410) 767-0974 Fax: (410) 333-5958**  
**E-mail: dhdm.solicitationquestions@maryland.gov**

If to the Contractor: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### **36. Parent Company Guarantee**

(Corporate name of Contractor's Parent Company) hereby guarantees absolutely the full, prompt, and complete performance by (Contractor) of all the terms, conditions and obligations contained in this Contract, as it may be amended from time to time, including any and all exhibits that are now or may become incorporated hereunto, and other obligations of every nature and kind that now or may in the future arise out of or in connection with this Contract, including any and all financial commitments, obligations, and liabilities. (Corporate name of Contractor's Parent Company) may not transfer this absolute guaranty to any other person or entity without the prior express written approval of the State, which approval the State may grant, withhold, or qualify in its sole and absolute subjective discretion. (Corporate name of Contractor's Parent Company) further agrees that if the State brings any claim, action, suit or proceeding against (Contractor), (Corporate name of Contractor's Parent Company) may be named as a party, in its capacity as Absolute Guarantor.

### **37. Compliance with HIPAA and State Confidentiality Law**

37.1 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.

37.2 If in connection with the procurement or at any time during the term of the Contract, the Department determines that functions to be performed in accordance with the scope of work set forth in the solicitation constitute business associate functions as defined in HIPAA, the Contractor acknowledges its obligation to

execute a business associate agreement as required by HIPAA regulations at 45 C.F.R. 164.501 and in the form required by the Department.

- 37.3 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; created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and 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.

**38. Limited English Proficiency**

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

**39. Miscellaneous**

- 39.1 Any provision of this Contract which contemplates performance or observance subsequent to any termination or expiration of this Contract shall survive termination or expiration of this Contract and continue in full force and effect.
- 39.2 If any term contained in this Contract is held or finally determined to be invalid, illegal, or unenforceable in any respect, in whole or in part, such term shall be severed from this Contract, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.

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

CONTRACTOR

STATE OF MARYLAND  
MARYLAND DEPARTMENT OF HEALTH

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

By: Robert L. Neall, Secretary  
Or designee: \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
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 Bids/Proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in § 19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. "Discrimination" means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual's refusal to submit to a genetic test or make available the results of a genetic test, 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 four (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 Bid/Proposal;
- (2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the Bid/Proposal;
- (3) Fail to use the certified minority business enterprise in the performance of the contract; or
- (4) Pay the certified minority business enterprise solely for the use of its name in the Bid/Proposal.

Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the Bid/Proposal submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the Bid/Proposal.



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

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

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

**C. AFFIRMATION REGARDING BRIBERY CONVICTIONS**

**I FURTHER AFFIRM THAT:**

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, § 6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_.

**D. AFFIRMATION REGARDING OTHER CONVICTIONS**

**I FURTHER AFFIRM THAT:**

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

(1) Been convicted under state or federal statute of:

- (a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
- (b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;

(2) Been convicted of any criminal violation of a state or federal antitrust statute;

(3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of Bids/Proposals for a public or private contract;

(4) Been convicted of a violation of the State Minority Business Enterprise Law, § 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(5) Been convicted of a violation of § 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)— (5) above;

(7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of Bids/Proposals for a public or private contract;

(8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract;

(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) §7205, 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, State Department of Assessments and Taxation, and 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. PROHIBITING DISCRIMINATORY BOYCOTTS OF ISRAEL**

**I FURTHER AFFIRM THAT:**

In preparing its bid/proposal on this project, the Bidder/Offeror has considered all bids/proposals submitted from qualified, potential subcontractors and suppliers, and has not, in the solicitation, selection, or commercial treatment of any subcontractor, vendor, or supplier, refused to transact or terminated business activities, or taken other actions intended to limit commercial relations, with a person or entity on the basis of Israeli national origin, or residence or incorporation in Israel and its territories. The Bidder/Offeror also has not retaliated against any person or other entity for reporting such refusal, termination, or commercially limiting actions. Without limiting any other provision of the solicitation for bids/proposals for this project, it is understood and agreed that, if this certification is false, such false certification will constitute 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.

**N. 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.

**O. ACKNOWLEDGEMENT**

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

**SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL**

## 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 procurement contract 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 or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31.

## E. DRUG AND ALCOHOL FREE WORKPLACE

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

### I CERTIFY THAT:

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



- (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
- (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

(g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §E(2)(b), above;

(h) Notify its employees in the statement required by §E(2)(b), above, that as a condition of continued employment on the contract, the employee shall:

- (i) Abide by the terms of the statement; and
- (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

(i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;

(j) Within 30 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:

- (i) Take appropriate personnel action against an employee, up to and including termination; or
- (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

(k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §E(2)(a)—(j), above.

(3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

(4) I acknowledge and agree that:

(a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;

(b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and

(c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

## F. CERTAIN AFFIRMATIONS VALID

### I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Bid/Proposal Affidavit dated \_\_\_\_\_, 201\_\_\_\_, and executed by

me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

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

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

By: \_\_\_\_\_ (printed name of Authorized Representative and Affiant)

\_\_\_\_\_ (signature of Authorized Representative and Affiant)

## **ATTACHMENTS D – MINORITY BUSINESS ENTERPRISE FORMS**

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

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

**Solicitation Number MDH/OPASS 19-18052**

**Psychiatry Services for the Behavioral Health Administration (BHA) Facilities and Deer's Head Hospital Center**

A Pre-Bid Conference will be held at the date, time, and location indicated in the IFB Key Information Summary Sheet (near the beginning of the solicitation, after the Title Page and Notice to Vendors).

Please return this form at least five (5) Business Days prior to the Pre-Proposal Conference date, advising whether or not you plan to attend. The completed form should be returned via e-mail or fax to the Procurement Coordinator. The Procurement Coordinator's contact information is provided in Section 1.5.3.

Please indicate:

\_\_\_\_\_ Yes, the following representatives will be in attendance:

- 1.
- 2.
- 3.

\_\_\_\_\_ No, we will not be in attendance.

Please specify whether any reasonable accommodations are requested (see IFB § 1.7 "Pre-Bid Conference"):

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name of Firm (please print)

## ATTACHMENT F – BID PRICING INSTRUCTIONS

In order to assist Bidders in the preparation of their Bid and to comply with the requirements of this solicitation, Bid Pricing Instructions and a Bid Form have been prepared. Bidders shall submit their Bid on the Bid Form in accordance with the instructions on the Bid Form and as specified herein. Do not alter the Bid Form or the Bid Form may be rejected. The Bid Form is to be signed and dated, where requested, by an individual who is authorized to bind the Bidder to the prices entered on the Bid Form.

The Bid Form is used to calculate the Bidder's TOTAL BID PRICE. Follow these instructions carefully when completing your Bid Form:

- A) All Unit and Extended Prices must be clearly entered in dollars and cents, e.g., \$24.15. Make your decimal points clear and distinct.
- B) All Unit Prices must be the actual price per unit the State will pay for the specific item or service identified in this IFB 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 IFB and proposed by the vendor at **No Cost to the State** must be clearly entered in the Unit Price, if appropriate, and Extended Price with **\$0.00**.
- E) Every blank in every Bid Form shall be filled in. Any blanks may result in the Bid being regarded as non-responsive and thus rejected. Any changes or corrections made to the Bid Form by the Bidder prior to submission shall be initialed and dated.
- F) Except as instructed on the Bid Form, nothing shall be entered on or attached to the Bid Form that alters or proposes conditions or contingencies on the prices. Alterations and/or conditions usually render the Bid non-responsive, which means it will be rejected.
- G) It is imperative that the prices included on the Bid Form have been entered correctly and calculated accurately by the Bidder and that the respective total prices agree with the entries on the Bid Form. Any incorrect entries or inaccurate calculations by the Bidder will be treated as provided in COMAR 21.05.03.03E and 21.05.02.12 and may cause the Bid to be rejected.
- H) If option years are included, Bidders 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 IFB at the prices entered in the Bid Form.
- I) All Bid prices entered below are to be fully loaded prices that include all costs/expenses associated with the provision of services as required by the IFB. The Bid price shall include, but is not limited to, all: labor, profit/overhead, general operating, administrative, and all other expenses and costs necessary to perform the work set forth in the solicitation. No other amounts will be paid to the Contractor. If labor rates are requested, those amounts shall be fully-loaded rates; no overtime amounts will be paid.
- J) Unless indicated elsewhere in the IFB, sample amounts used for calculations on the Bid Form are typically estimates for bidding purposes only. The Department does not guarantee a minimum or maximum number of units or usage in the performance of this Contract.
- K) The "Optional On-Duty Hourly Rate" rate quoted by Bidders on the Bid Form as Price E may not exceed the lowest hourly rate for that Bidder for the same Facility for the same Contract year. i.e., the lowest of the four hourly rates (Permanent Full-time; Temporary Full-time; Permanent Part-time; and Temporary Part-time) quoted by each Bidder for the same Facility for the same Contract year. If a Bidder does quote an Optional On-Duty Hourly Rate for a given Facility that is higher than the lowest hourly rate for that Bidder for the same Facility for

the same Contract year, if a psychiatrist works any Optional On-Duty hours, payment for all such hours worked will be reduced to the lowest hourly rate as described above in this Section K of the Bid Pricing Instructions

- L. Failure to adhere to any of these instructions may result in the Bid being determined non-responsive and rejected by the Department.

## INSTRUCTIONS ON HOW TO COMPLETE THE FINANCIAL PROPOSAL ATTACHMENT F

### **On-Duty (Normal Hours) Pricing**

This IFB is designed to allow prospective bidders maximum flexibility in offering pricing to the State for the provision of psychiatrists at one or more BHA facilities.

Please note that at the bottom of Attachment F are ~~nine (9)~~ **ten (10)** tabs, ~~nine (9)~~ **eight (8)** of which these instructions apply to - all but the Known Springfield **and Deer's Head** Assignments pricing.

**If you wish to offer the same pricing irrespective of location of need for BHA psychiatrists, simply complete only the first tab.**

It will not be necessary for you to complete the pricing forms for each individual facility, except for the Known Springfield **and Deer's Head** Assignments. (To submit a Bid for the Known Springfield **or Deer's Head** Assignments, the Known Springfield Assignment **and/or Known Deer's Head Assignment** price forms must be completed and submitted.)

On the other hand, should you wish to offer services for only certain BHA facilities, or if you wish to offer different pricing for different BHA facilities, you should pull up the tab for each facility for which you wish to offer services and complete the pricing information for that facility.

Whether you wish to bid on only one facility or more than one, it is not necessary for you to offer different pricing depending on the category of service indicated on the pricing sheet.

You may simply repeat the same price in each category of services if you wish to do so.

For each facility, pricing is first requested based upon the "Occasion of Need Response Timeframes" as set forth in Sec. 1.15.3 of the IFB as follows:

1.15.3.1: "Long-Range Assignment," namely, at least 90 days advance notice of need;

1.15.3.2: "Normal Assignment," namely, 30-89 days advance notice of need;

1.15.3.3: "Expedited Assignment," namely, 10-29 days advance notice of need; and

1.15.3.4: "Urgent Assignment," namely, fewer than 10 days advance notice of need.

Within each of the foregoing "Occasion of Need Response Timeframes," there are four categories of "Staffing Level and Duration," under Sec. 3.2.2 of the IFB as follows:

A. Permanent Full-time;

B. Temporary Full-time;

C. Permanent Part-time; and

D. Temporary Part-time.

Again, bidders are free to offer the same pricing regardless of Occasion of Need Response Timeframes and/or Staffing Level and Duration, but those bidders who wish to offer variable pricing depending on these factors are enabled by the Pricing Proposal form to do so.

### **Option On-Duty Hours Pricing**

**Except for Deer's Head Hospital Center.** Bidders may offer pricing for all Facilities or each individual Facility for work during "Optional On-Duty" hours for work outside of normal business hours (Normal On-Duty Hours).

(See IFB Sec. 1.2, Definition Nos. ~~342~~ and ~~353~~.)

Optional On-Duty Hours only apply to psychiatrists already working at a given facility.

Per Section 3.6.1.b.2, the lowest price quoted for a given facility regardless of Occasion of Need Response Timeframe or Staffing Level and Duration will apply unless a lower rate is entered on the price form for a given Facility for a given Contract year.

Quoting a lower rate on the Price Form for Optional On-Duty Hours than the lowest rate quoted for the 16 Normal On-Duty prices requested on the Price Form (Prices A-D for each of the 4 Occasion of Need Response Timeframes), will enhance the likelihood that a given psychiatrist working under this Contract will be invited to provide services outside of normal business hours.



## ATTACHMENT F – BID FORMS

### BID FORMS

There are ~~ten (10)~~ ~~nine (9)~~ separate **Excel File Bid Forms** available for this procurement and an instruction sheet as identified below. Bidders can Bid on whichever of these Bid Forms they choose, from 1 to all ~~9~~10. Each submitted Bid shall contain all price information in the format specified in the respective separate **Excel File Bid Form**. Do not amend, alter or leave blank any items on any of the Bid Forms that a Bidder chooses to complete and submit. If option years are included, Bidders must submit Bids for each option year. Failure to adhere to any of these instructions may result in the bid being determined non-responsive and rejected by the Department.

Psychiatry Services Bid Form All Facilities

**Psychiatry Services Bid Form Deer's Head**

Psychiatry Services Bid Form Eastern Shore

Psychiatry Services Bid Form Finan

Psychiatry Services Bid Form Perkins

Psychiatry Services Bid Form RICA Balt

Psychiatry Services Bid Form RICA Rock

Psychiatry Services Bid Form Springfield

Psychiatry Services Bid Form Spring Grove

Psychiatry Services Bid Form Springfield Known

## **ATTACHMENT G – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS**

### **Living Wage Requirements for Service Contracts**

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

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

## Maryland Living Wage Requirements Affidavit of Agreement

(submit with Bid/Proposal)

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

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

Address \_\_\_\_\_

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

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

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

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

### If the Contract Is a Living Wage Contract

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

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

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

- ☐ The employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

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

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

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

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

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

\_\_\_\_\_  
Date

**SUBMIT THIS AFFIDAVIT 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**

This solicitation does not require a Conflict of Interest Affidavit and Disclosure.

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

This solicitation does not require a Non-Disclosure Agreement.



## **ATTACHMENT K – HIPAA BUSINESS ASSOCIATE AGREEMENT**

This solicitation does not require a HIPAA Business Associate Agreement.

## **ATTACHMENT L – MERCURY AFFIDAVIT**

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

## **ATTACHMENTS M – VETERAN-OWNED SMALL BUSINESS ENTERPRISE**

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

## ATTACHMENT N – LOCATION OF THE PERFORMANCE OF SERVICES DISCLOSURE

(submit with Bid/Proposal)

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

1. At the time of Bid/Proposal submission, the Bidder/Offeror and/or its proposed subcontractors:

\_\_\_\_ have plans

\_\_\_\_ have **no** plans

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

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

a. Location(s) services will be performed:

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

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

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

Bidder/Offeror Name: \_\_\_\_\_

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

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

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

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

## **ATTACHMENT O – DHS HIRING AGREEMENT**

This solicitation does not require a DHS Hiring Agreement.

<p align="center"><b>ATTACHMENT P - LISTING OF <u>DEER'S HEAD AND BHA</u> FACILITIES, NUMBER OF OPERATING BEDS AND TYPE OF RESIDENTS</b></p>
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**Deer's Head Hospital Center**  
**351 Hospital Drive**  
**Salisbury, Md. 21801**

**Deer's Head includes an in-patient chronic disease/acute hospital, an 80-bed nursing home facility, an out-patient kidney dialysis facility and an outpatient physical/occupational therapy facility.**

Eastern Shore Hospital Center - 80 operating Beds  
P.O. Box 800  
5262 Woods Road  
Cambridge, Maryland 21613  
410-221-2300

Clifton T. Perkins Hospital Center - 287 operating Beds  
8450 Dorsey Run Road  
Jessup, Maryland 20794  
410-724-3000  
(Perkins is Maryland's only maximum security forensic psychiatric hospital serving adults with serious charges.)

Spring Grove Hospital Center - 377 operating beds  
55 Wade Avenue  
Catonsville, Maryland 21228  
410-402-7300

Springfield Hospital Center - 220 operating beds  
6655 Sykesville Road  
Sykesville, Maryland 21784  
410-970-7000

Thomas B. Finan Hospital Center - 88 operating beds  
P.O. Box 1722  
10102 Country Club Road, SE  
Cumberland, Maryland 21501-1722  
301-777-2405

JLG RICA- Rockville - 53 operating beds  
15000 Broshart Road  
Rockville, Maryland 20850  
301-251-6820

RICA-Baltimore - 45 operating beds  
605 South Chapel Gate Lane  
Baltimore, Maryland 21229  
410-368-7800

(The RICAs are community-based residential treatment and special educational Facilities serving children aged 12 to 18 who have severe emotional disabilities.)

The **BHA** Facilities other than Perkins and the RICAs are regional psychiatric hospitals serving adults, the majority of which are forensic patients with lesser charges than those at Clifton T. Perkins Hospital Center.