



MARYLAND HEALTH CARE COMMISSION

REQUEST FOR PROPOSALS

SOLICITATION NO. MHCC 12-015

Issue Date: April 16, 2012

Health Benefit Plan Performance Evaluation and Report Development

NOTICE

Prospective Offerors that have received this document from the Department of Health and Mental Hygiene's website or eMarylandMarketplace.com, or who have received this document from a source other than the Procurement Officer, and who wish to assure receipt of any changes or additional materials related to this RFP, should immediately contact the Procurement Officer and provide their name and mailing address so that addenda to the RFP or other communications can be sent to them.

Minority Business Enterprises Are Encouraged to Respond to this Solicitation

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

In order to help us improve the quality of State solicitations, and to make our procurement process more responsive and business friendly, we ask that you take a few minutes and provide comments and suggestions regarding the enclosed solicitation. Please return your comments with your proposals. If you have chosen not to respond on this Contract, please fax this completed form to: 410-358-8811 to the attention of the Procurement Officer.

Title: Health Benefit Plan Performance Evaluation – Report Development
Solicitation No: MHCC 12-015

1. If you have responded with a "no response", 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 Maryland Government is simply too complicated. (Explain in REMARKS section.)
 - We cannot be competitive. (Explain in REMARKS section.)
 - Time allotted for completion of the bid/proposals is insufficient.
 - Start-up time is insufficient.
 - Bonding/Insurance requirements are restrictive. (Explain in REMARKS section.)
 - Bid/Proposals requirements (other than specifications) are unreasonable or too risky. (Explain in REMARKS section.)
 - MBE 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 proposal, but wish to offer suggestions or express concerns, please use the Remarks section below. (Attach additional pages as needed.).

REMARKS:

Offeror Name: _____ Date: _____

Contact Person: _____ Phone (____) _____ - _____

Address: _____

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

Request For Proposals: Health Benefit Plan Performance Evaluation–Report Development

Solicitation Number: MHCC 12-015

Issue Date: April 16, 2012

RFP Issuing Office: Maryland Health Care Commission

Procurement Officer: Andrea Allen
Office Phone: (410) 764-3329
Fax: (410) 358-8811
e-mail: aallen@mhcc.state.md.us

Contract Monitor: Scharmaine A. Robinson
Office Phone: (410) 764-3483
Fax: (410) 358-1311
e-mail: srobinson@mhcc.state.md.us

Proposals are to be sent to: Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215
Attention: Sharon Wiggins

Pre-Proposal Conference: Thursday, April 26, 2012, 1:00 PM Local Time
4160 Patterson Avenue
Baltimore, Maryland 21215

Closing Date and Time: Wednesday, May 16, 2012, 4:00 pm Local Time

MBE Subcontracting Goal: 15 %

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SECTION 1 - GENERAL INFORMATION

1.1 Summary Statement

- 1.1.1 Health General Article, Section 19-101 et seq. directs the Maryland Health Care Commission (MHCC) to establish and implement a system to evaluate quality of care outcomes and performance measurement of commercial health benefit plans in a comparative and objective manner to: (a) assist commercial health benefit plans to improve the quality of care by establishing a common set of performance measures; and (b) disseminate the findings of commercial health benefit plans' performance for plan internal self-evaluation, to support purchasing decisions by employers large and small, state employees, and individuals, as well as to support policymakers and academic research.
- 1.1.2 MHCC is issuing this Request for Proposals to provide health benefit plan performance evaluation and report development services. Maryland commercial health benefit plans that meet the three criteria defined in COMAR 10.25.08.01 (<http://www.dsd.state.md.us/comar/searchall.aspx>), are required to annually submit quality and performance information to MHCC. This information shall include, but is not limited to: HEDIS, CAHPS, Maryland-specific performance data, MHCC designated eValue8 sections/questions, and proprietary or exclusive measurement tools designed to meet the requirements of the Affordable Care Act related to Qualified Health Plan performance measurement and reporting.
- 1.1.3 To obtain accurate data for inclusion in the reports, the report development Contractor (Contractor) shall work cooperatively with the other MHCC vendors responsible for the data gathered during the annual compliance audit of Maryland's commercial health benefit plans. These other MHCC vendors shall include a HEDIS audit vendor, a CAHPS survey vendor, and other vendors like an eValue8 Request-For-Information (RFI) vendor. MHCC will coordinate the data exchanges from the vendors to the Contractor. Annually, the audit vendors will provide the Contractor with final, validated HEDIS, CAHPS and eValue8 results for each of the audited health benefit plans. Also, the HEDIS vendor will provide the Contractor with final, validated results of the additional Maryland-specific measures being reported annually by Maryland's commercial health benefit plans.
- 1.1.4 Data reconciliation/coordination with other MHCC vendors, data analyses, writing, and editing will be required for each annual report produced (items A and B below), as well as graphic layout and design work for each public report produced (item b below). The Contractor shall use the information collected to create the following annual reports:
- A. A series of health benefit plan-specific performance reports for each reporting commercial health benefit plan which provides the detailed results for quality and performance measures prior to the public release of performance data.
 - B. Three static, .pdf document-style reports for public dissemination: the *Health Benefit Plan Performance Report*, the *Qualified Health Plan Performance Report*, and the *Health Benefit Plan Statistical Report*.
- 1.1.5 It is the MHCC's intention to obtain services, as specified in this Request for Proposals, from a Contract between the successful Offeror and the MHCC.
- 1.1.6 The MHCC intends to make "*a single award*" to the Offeror whose proposal is deemed to be the most advantageous to the MHCC.
- 1.1.7 Offerors, either directly or through their sub-contractor(s), must be able to provide all services and meet all of the requirements requested in this solicitation.

1.2 Abbreviations and Definitions

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

- a. **CAHPS** – Consumer Assessment of Healthcare Providers and Systems. A product of the Agency for Healthcare Research and Quality (AHRQ) that surveys member satisfaction with their experience of care.
- b. **COMAR** – Code of Maryland Regulations available on-line at www.dsd.state.md.us
- c. **Contract** – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of Attachment A.
- d. **Contract Monitor (CM)** – The State representative for this project that is primarily responsible for contract administration functions, including issuing written direction, compliance with terms and conditions, monitoring this project to ensure compliance with the terms and conditions of the contract, and in achieving on budget/on time/on target (e.g., within scope) completion of the project.
- e. **Contractor** – The selected Offeror that is awarded a Contract by the State.
- f. **DHMH** – Maryland Department of Health and Mental Hygiene.
- g. **EPO** – Exclusive Provider Organization.
- h. **eValue8** – A Request For Information (RFI) tool that surveys and assesses health benefit plan performance on various quality measures.
- i. **HEDIS** – Healthcare Effectiveness Data and Information Set. A product of the National Committee for Quality Assurance (NCQA).
- j. **HIE** – Health Information Exchange. The electronic movement of health-related information among organizations.
- k. **HMO** – Health Maintenance Organization.
- l. **MHCC** – Maryland Health Care Commission.
- m. **LAN** – Local Area Network.
- n. **Local Time** – Time in the Eastern Time Zone as observed by the State of Maryland.
- o. **MBE** – A Minority Business Enterprise certified by the Maryland Department of Transportation under COMAR 21.11.03.
- p. **Normal State Business Hours** - Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: www.dbm.maryland.gov - keyword State Holidays.
- q. **Notice to Proceed** – Letter from Contract Monitor to contractor stating the date the contractor can begin work subject to the conditions of the contract.
- r. **Offeror** – An entity that submits a proposal in response to this RFP.
- s. **POS** – Point of Service organization.
- t. **PPO** – Preferred Provider Organization.
- u. **Procurement Officer** – The State representative for the resulting Contract. The Procurement Officer is responsible for the Contract and is the only State representative that can authorize changes to the Contract. DHMH may change the Procurement Officer at any time by written notice to the Contractor.
- v. **PCMH** – Patient Centered Medical Home features a team of health care professionals led by a physician or nurse practitioner who provide comprehensive, coordinated care focusing on increased accessibility and prevention and wellness.

- w. **Regions within Maryland**- The regions within Maryland include the following:
1. **Western Maryland** – Garrett, Allegany, Washington, and Frederick Counties
 2. **Central Maryland** – Carroll, Howard, Anne Arundel, Baltimore, and Harford Counties, as well as Baltimore City
 3. **National Capital** – Montgomery and Prince George’s Counties
 4. **Southern Maryland** – Charles, Calvert and St. Mary’s Counties
 5. **Eastern Shore** – Cecil, Kent, Queen Anne’s, Talbot, Caroline, Dorchester, Wicomico, Somerset, and Worcester Counties
- x. **Request for Proposals (RFP)** – This Request for Proposals issued by the Maryland Health Commission, Office of Health Benefit Plan Quality and Performance, Center for Health Care Financing and Health Policy, Solicitation Number MHCC-12-015 dated April 16, 2012, including any amendments.
- y. **State** – “State” means the State of Maryland.
- z. **WAN** – Wide Area Network.

1.3 Contract Type

The Contract that results from this RFP shall be a Firm Fixed Price Contract as described in COMAR 21.06.03.02 with respect to the fixed work component (the *Health Benefit Plan Performance Report*, the *Qualified Health Plan Performance Report*, and the *Health Benefit Plan Statistical Report*) and an Indefinite Quantity Contract with firm fixed unit prices as described in COMAR 21.06.03.02 and 21.06.03.06 with respect to the annual Plan Specific Report series, and additional Unit Work.

1.4 Contract Duration

The Contract resulting from this RFP shall be for a period of five years beginning on or about June 1, 2012 and ending May 31, 2017. The Contractor shall provide services upon receipt of a Notice to Proceed from the Contract Monitor.

1.5 Procurement Officer

The sole point of contact in the State for purposes of this RFP prior to the award of any Contract is the Procurement Officer at the address listed below:

Andrea Allen
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215
Phone Number: 410-764-3329
Fax Number: 410-358-8811
E-mail: aallen@mhcc.state.md.us
(DHMH may change the Procurement Officer at any time by written notice.)

1.6 Contract Monitor

The Contract Monitor is:

Scharmaine A. Robinson
Maryland Health Care Commission

4160 Patterson Avenue
Baltimore, Maryland 21215
Phone Number: 410-764-3483
Fax Number: 410-358-1311
Email: srobinson@mhcc.state.md.us
(MHCC may change the Contract Monitor at any time by written notice.)

1.7 Pre-Proposal Conference

A pre-proposal conference (Conference) will be held on **Thursday, April 26, 2012** beginning at **1:00 pm**, at 4160 Patterson Avenue, Baltimore, MD 21215. Attendance at the pre-proposal conference is not mandatory, but all interested Offerors are encouraged to attend in order to facilitate better preparation of their proposals. In addition, attendance may facilitate the Offeror's understanding and ability to meet the State's Minority Business Enterprise (MBE) goals.

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

In order to assure adequate seating and other accommodations at the Pre-Proposal Conference, please e-mail, mail, or fax at (410) 358-8811 the Pre-Proposal Conference Response Form to the attention of the Procurement Officer with such notice no later than **4:00 PM on Monday, April 23, 2012**. The Pre-Proposal Conference Response Form is included as Attachment E to this RFP. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please call no later than Monday, April 23, 2012. MHCC will make a reasonable effort to provide such special accommodation.

1.8 eMarylandMarketplace

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

eMM is an electronic commerce portal administered by the Maryland Department of General Services. In addition to using the DHMH web site <http://www.dhmh.md.gov/procumnt/procopps.html> and possibly other means of transmission, the RFP, associated materials, summary of the pre-proposal conference, Offeror questions and Department responses, addenda, and other solicitation related information will be provided via eMM.

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

1.9 Questions

Written questions from prospective Offerors will be accepted by the Procurement Officer prior to the pre-proposal conference. If possible and appropriate, such questions will be answered at the pre-proposal conference. (No substantive question will be answered prior to the pre-proposal conference.) Questions may be submitted by mail, facsimile, or preferably by e-mail to the Procurement Officer. Questions, both oral and written, will also be accepted from prospective Offerors attending the Pre-Proposal Conference. If possible and appropriate, these questions will be answered at the Pre-Proposal Conference.

Questions will also be accepted subsequent to the Pre-Proposal Conference and should be submitted to the Procurement Officer in a timely manner prior to the proposal due date. Time permitting, answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be distributed to all vendors who are known to have received a copy of the RFP.

1.10 Proposals Due - Date and Time

An unbound original and five bound copies of each proposal (technical and financial) must be received by the Procurement Officer, at the address listed in sub-section 1.5, no later than **4:00 p.m. Local Time on Wednesday, May 16, 2012** in order to be considered. An electronic version (CD) of the original Technical Proposal; and a "PIA" (Public Information Act) version of the Technical Proposal in pdf. format, must be, enclosed with the original technical proposal. An electronic version (CD) of the original Financial Proposal and a "PIA" version in pdf. format, must be, enclosed with the original financial proposal. Ensure that the CDs are labeled as original or "PIA" with the RFP title, RFP number, and Offeror name and packaged with the original copy of the appropriate proposal (technical or financial). (See Section 4.3 Proposals)

Requests for extension of this date or time will not be granted. Offerors mailing proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02, proposals received by the Procurement Officer after the due date, **Wednesday, May 16, 2012 at 4:00 pm Local Time** will not be considered.

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

1.11 Access to Public Information Act Notice

An Offeror should give specific attention to the clear identification of those portions of its proposal that it considers confidential and/or proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Access to Public Records Act, Md. Code Ann., State Government Article, Title 10, Subtitle 6. (See Section 4.5.3.2 Claim of Confidentiality) This confidential and/or proprietary information should be identified by page and section number and placed after Title Page and before the Table of Contents.

1.12 Duration of Offer

Proposals submitted in response to this RFP are irrevocable for 120 days following the closing date of proposals or of Best and Final Offers (BAFOs), if requested. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

1.13 Revisions to the RFP

If it becomes necessary to revise this RFP before the due date for proposals, amendments will be provided to all prospective Offerors who were sent this RFP or otherwise are known by the Procurement Officer to have obtained this RFP. In addition, amendments to the RFP will be posted on <http://mhcc.dhmv.maryland.gov/procurement/Pages/bidboard.aspx>, DHMV Current Procurements web page and through eMarylandMarketplace. Amendments made after the due date for proposals will be sent only to those Offerors who submitted a timely proposal.

Acknowledgment of the receipt of all amendments to this RFP issued before the proposal due date must accompany the Offeror's proposal in the Transmittal Letter accompanying the Technical Proposal submittal. Acknowledgement of the receipt of amendments to the RFP issued after the proposal due date shall be in the manner specified in the amendment notice. Failure to acknowledge receipt of amendments does not relieve the Offeror from complying with all terms of any such amendment.

1.14 Cancellations; Discussions

The MHCC reserves the right to cancel this RFP, accept or reject any and all proposals (in whole or in part) received in response to this RFP, to waive or permit cure of minor irregularities, and to conduct discussions with all qualified

or potentially qualified Offerors in any manner necessary to serve the best interests of the MHCC. The MHCC also reserves the right, in its sole discretion, to award a Contract based upon the written proposals received without prior discussions or negotiations.

1.15 Oral Presentation

Offerors may be required to make oral presentations to MHCC representatives. Offerors must confirm in writing any substantive oral clarification of, or change in, their proposals made in the course of discussions. Any such written clarification or change then becomes part of the Offeror's proposal and are binding if the Contract is awarded. The Procurement Officer will notify Offerors of the time and place of oral presentations. Typically, oral presentations occur approximately two weeks after the proposal due date.

1.16 Incurred Expenses

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

1.17 Economy of Preparation

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

1.18 Protests/Disputes

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

1.19 Multiple or Alternate Proposals

Multiple proposals will not be accepted.

1.20 Public Information Act Notice

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

1.21 Offeror Responsibilities

The selected Offeror shall be responsible for all products and services required by this RFP. All subcontractors must be identified and a complete description of their role relative to the proposals must be included in the Offeror's proposal. Additional information regarding MBE subcontractors is provided under paragraph 1.25. If an Offeror that seeks to perform or provide the services required by this RFP is a subsidiary of another entity, all information submitted by the Offeror, such as, but not limited to, references and financial reports shall pertain exclusively to the Offeror unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's proposal must contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.

1.22 Mandatory Contractual Terms

By submitting an offer in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached herein as **Attachment A**. **Any exceptions to this RFP or the Contract must be raised prior to proposal submission. Changes to the solicitation or Contract made by the Offeror may result in rejection of the Offeror's proposal.**

1.23 Bid/Proposal Affidavit

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

1.24 Contract Affidavit

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete a Contract Affidavit. A copy of this Affidavit is included as **Attachment C** of this RFP. This Affidavit must be provided within five business days of notification of proposed Contract award, however, to speed processing the Offeror is urged to include it with the Technical Proposal.

1.25 Minority Business Enterprises

A minimum overall MBE subcontractor participation goal of **15%** has been established for the services resulting from this contract. See **Attachment D**.

1.25.1 **Attachment D** – Minority Business Enterprise participation, instructions, and forms are provided to assist offerors. An offeror must include with its proposal a completed MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D1**) whereby:

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

If a bidder or offeror fails to submit Attachment D1 with the bid or offer as required, the Procurement Officer shall deem the bid non-responsive and consider the next lowest bid or the offeror shall be deemed not reasonably susceptible of being selected for contract award.

1.25.2 Offerors are responsible for verifying that each of the MBE(s) selected to meet the subcontracting goal and subsequently identified in **Attachment D1** is appropriately certified and has the correct NAICS codes allowing it to perform the intended work.

1.25.3 Within ten (10) working days from notification that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee must provide the following documentation to the Procurement Officer.

- (a) Outreach Efforts Compliance Statement (**Attachment D2**)
- (b) Subcontractor Project Participation Certification (**Attachment D3**)

- (c) If the apparent awardee believes a waiver (in whole or in part) of the overall MBE goal or of any sub goal is necessary, it must submit a fully documented waiver request that complies with COMAR 21.11.03.11.
- (d) Any other documentation required by the Procurement Officer to ascertain Bidder or Offeror responsibility in connection with the certified MBE participation goal.

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

1.25.4 A current directory of certified MBEs is available through the Maryland State Department of Transportation (MDOT), Office of Minority Business Enterprise, 7201 Corporate Center Drive, P.O. Box 548, Hanover, Maryland 21076. The phone numbers are (410) 865-1269, 1-800-544-6056, or TTY (410) 865-1342. The directory is also available at the MDOT website at <http://www.mdot.state.md.us>. The most current and up-to-date information on MBEs is available via this website. **Only MDOT certified MBEs may be used to meet the MBE subcontracting goals.**

1.25.5 The Contractor, once awarded a contract, will be responsible for submitting, or requiring its subcontractor(s) to submit the following forms to provide the State with ongoing monitoring of MBE Participation:

- (a) **Attachment D4** (MBE Participation Prime Contract Paid/Unpaid MBE Invoice Report).
- (b) **Attachment D5** (MBE Participation Subcontractor/Contractor Unpaid MBE Invoice Report).

1.26 Arrearages

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

1.27 Procurement Method

This Contract will be awarded in accordance with the competitive sealed proposals process under COMAR 21.05.03.

1.28 Verification of Registration and Tax Payment

Before a corporation can do business in the State it must be registered with the Department of Assessments and Taxation.

Address: State Office Building, Room 803
301 West Preston Street
Baltimore, Maryland 21201

Web Address: <http://www.dat.state.md.us/sdatweb/datanote.html>

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

1.29 False Statements

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

- A. In connection with a procurement contract a person may not willfully:

- Falsify, conceal, or suppress a material fact by any scheme or device;
- Make a false or fraudulent statement or representation of a material fact; or
- Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.
- A person may not aid or conspire with another person to commit an act under subsection (a) of this section.

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

1.30 Payments by Electronic Funds Transfer

By submitting a response to this solicitation, the Offeror agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. The selected Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption. The COT/GAD X-10 form can be downloaded at: <http://compnet.comp.state.md.us/gad/pdf/GADX-10.pdf>>

1.31 Living Wage Requirements

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

Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier area. The specific living wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State Contract pursuant to §18-102(d) of the State Finance and Procurement Article shall assign the tier based upon where the recipients of the services are located.

The Contract resulting from this solicitation will be determined to be a Tier 1 Contract or a Tier 2 Contract depending on the location(s) from which the Contractor provides 50% or more of the services. The Offeror must identify in its Technical Proposal the location(s) from which services will be provided.

- If the Contractor provides 50% or more of the services from a location(s) in a Tier 1 jurisdiction(s) the Contract will be a Tier 1 Contract.
- If the Contractor provides 50% or more of the services from a location(s) in a Tier 2 jurisdiction(s), the Contract will be a Tier 2 Contract.

If the Contractor provides more than 50% of the services from an out-of-State location, then the Contract will be deemed to be a Tier 1 contract. The Offeror must identify in its Technical Proposal the location(s) from which 50% or more of the Contract services will be provided.

Information pertaining to reporting obligations may be found by going to the DLLR Website <http://www.dllr.state.md.us/> and clicking on Living Wage.

1.32 Prompt Payment Policy

This procurement and the contracts to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs 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 Code of Maryland Regulations (COMAR) 21.01.01.03 and 21.11.03.01 et seq., the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The successful Offeror must comply with the prompt payment requirements as outlined in sub-section 31 of the contract resulting from this solicitation (see Attachment A). Additional information is available on the GOMA website at:

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

1.33 Conflict of Interest Affidavit and Disclosure

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

1.34 Electronic Procurements Authorized

- A. Under COMAR 21.03.05, unless otherwise prohibited by law, DHMH may conduct procurement transactions by electronic means, including the solicitation, bidding, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.
- B. Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the bidder/offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or the Contract.
- C. "Electronic means" refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes facsimile, e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., eMarylandMarketplace.com), and electronic data interchange.
- D. In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., § 1.29 "Payments by Electronic Funds Transfer") and subject to the exclusions noted in section E of this subsection, the following transactions are authorized to be conducted by electronic means on the terms described:
 1. The Procurement Officer may conduct the procurement using eMM, e-mail or facsimile to issue:
 - (a) the solicitation (e.g., the RFP or the IFB);
 - (b) any amendments;
 - (c) pre-proposal conference documents;
 - (d) questions and responses;
 - (e) communications regarding the solicitation or proposal to any Offeror or potential Offeror including requests for clarification, explanation, or removal of elements of an Offeror's proposal deemed not acceptable;
 - (f) notices of award selection or non-selection; and
 - (g) the Procurement Officer's decision on any bid protest or Contract claim.

2. An Offeror or potential Offeror may use e-mail or facsimile to:
 - (a) ask questions regarding the solicitation;
 - (b) reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer's request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer;
 - (c) request a debriefing; or
 - (d) submit a "No Bid Response" to the solicitation.
3. The Procurement Officer, the State's Contract Monitor and the Contractor may conduct day-to-day Contract administration, except as outlined in section E of this subsection utilizing e-mail, facsimile, or other electronic means if authorized by the Procurement Officer or Contract Monitor.

E. The following transactions related to this procurement and any Contract awarded pursuant to it are *not authorized* to be conducted by electronic means:

1. submission of initial bids or proposals;
2. filing of bid protests;
3. filing of Contract claims;
4. submission of documents determined by DHMH to require original signatures (e.g., Contract execution, Contract modifications, etc); or
5. any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor, Bidder or Offeror be provided in writing or hard copy.

F. Any facsimile or electronic 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.

1.35 Non-Disclosure Agreement

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

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SECTION 2 – OFFEROR MINIMUM QUALIFICATIONS

None.

SECTION 3 – SCOPE OF WORK

3.1 Purpose

- 3.1.1 The MHCC is issuing this solicitation for the purposes outlined in sub-section 1.1 of this RFP.
- 3.1.2 For 2012 reporting, all carriers have been authorized to combine performance data for their HMO and POS products, their HMO and EPO products, as well as their EPO and PPO products. Health benefit plans' POS and PPO product combinations have been authorized for carrier(s) on a case-by-case basis. Eight HMO/POS and six PPO health benefit plans are known to be required to submit performance results in their 2012 reporting. Authorization to report any product combination is subject to future change. The number and type of health benefit plans that are required to submit performance results are also subject to change from year to year based on whether health benefit plans meet the three criteria identified in COMAR 10.25.08.

3.2 Scope of Work - Requirements

The number of plan specific reports produced in a contract year may vary. The MHCC will determine each contract year whether to authorize a report(s) for the following contract year with payment only made to the Contractor for reports authorized by MHCC for that contract year.

3.2.1 Kick-Off Meeting

No later than thirty (30) days after contract award, the Contractor shall attend the first annual Project Kick-off Meeting at MHCC's headquarters. At the Project Kick-off Meeting the Contractor must present an **updated** Work Plan, two potential themes for the layout of the annual reports, other creative ideas for the layout of the reports, and draft vignettes of high-level descriptions of each of the health benefit plans in Maryland.

3.2.2 Work Plan

The Work Plan shall include:

1. A time-phased schedule by task for meeting the proposed requirements
2. The projected total hours for all deliverables of this contract.
3. A Work Breakdown Structure (WBS) including a detailed management plan with milestones and associated deliverables, proposed start and finish task dates, and project work effort requirements to meet the required end dates for each of the publications as set forth in the Timeline for Deliverables table below (Section 3.4.4.3). The Work Plan shall address the timing of submission of initial drafts for each publication, including the proposed MHCC review period for the initial draft and Contractor revision period for each iteration; and proposed final approval and acceptance periods by the Contract Monitor for each publication

Specifically, this section shall include:

- a) A scheduling matrix (Gantt Chart) of proposed staff assignments, in hours, for meeting each deliverable and the overall requirements set forth in this RFP, which should sum to the total staff hours that will be allocated to this contract;
- b) A list of proposed staff with the specific hours dedicated to each task related to this contract that will be performed during the contract period by the staff member listed;
- c) A list of proposed staff with the percent of their total work time that will be dedicated to this

contract during the contract period; e.g., 50% for someone who will spend half of his or her time working as the project manager on this contract.

4. Specific goals which can be clearly divided into a committee structure and reflect the general purpose of each committee;
5. Issues, problems and/or unmet opportunities;
6. Specific, measurable objective statements of how each goal will be reached;
7. Specific activities that have an identified timeframe;
8. Specific tasks required to complete each activity;
9. A brief discussion of the information needs of targeted users of the health benefit plan performance reports and how they will be addressed, as well as proposed solutions addressing any difficulties or obstacles posed in developing the performance reports.

3.2.3 **Graphic Design**

The Contractor shall provide or secure the services of professional graphic designers for work on the three public reports. MHCC's Contract Monitor will make final determinations on the style and content of each report. The Contractor shall also be required to incorporate text, design, content and graphic edits made by MHCC. The Contractor shall be required to submit at least two samples from prior work for other clients using the proposed graphics designer. These samples developed for other projects shall also include suggestions for adapting that material for the MHCC report development project. Samples shall include report cover page(s) and content page(s) including charts and graphs. In addition, the Contractor shall include a general description of proposed form, format and content for the 2012 reports. The Contractor must have the knowledge and experience-based vision to demonstrate how the content of each report will meet the information needs and comprehension abilities of MHCC's target audiences.

3.2.4 **Reports**

Annually, based on the approved Work Plan, MHCC will authorize its other audit and performance evaluation vendors to share health benefit plan performance information with the Contractor who shall create individualized ***Health Benefit Plan-Specific Reports***, as well as three additional reports for public dissemination: the ***Health Benefit Plan Performance Report, Qualified Health Plan Performance Report, and Health Benefit Plan Statistical Report***.

3.2.4.1 Prior to the release of any public reports, the Contractor shall develop and issue a copy of the respective ***Health Benefit Plan-Specific Reports*** to each participating commercial health benefit plan to review for accuracy. These reports shall contain the results of each health benefit plan's own performance on each reported measure. Changes that are identified by the health benefit plans' representative(s) and approved by the Contract Monitor shall be incorporated into the final report(s) by the Contractor prior to public release of the report(s).

3.2.4.2 The Contractor shall develop the ***Health Benefit Plan Performance Report*** as a stylistically creative publication annually. This report will serve Maryland consumers' and employers' information needs by communicating complex, statistical content comparing health benefit plans' performance in a quantitative manner and written for consumers at a fourth grade reading comprehension level in order to support purchasers in making knowledgeable choices among competing health plans. The Contractor shall divide the report based on the NCQA's Healthcare Effectiveness Data and Information Set (HEDIS) domains of related information, or other consumer interest categories designated by the MHCC. Consumer interest categories shall include, but are not limited to, major chronic conditions including heart disease, diabetes, hypertension,

asthma, Chronic Obstructive Pulmonary Disease (COPD), and mood disorders; general prevention and wellness measures, including child, adolescent, and adult immunizations, worksite wellness program results, and women's health services.

- 3.2.4.3 The ***Qualified Health Plan (QHP) Performance Report*** shall be designed and developed by the Contractor once the Maryland Health Benefit Exchange becomes operational under the Affordable Care Act, and the Essential Health Benefits are defined to measure QHP performance. This is currently scheduled for January 1, 2014. The Contractor shall also develop this report as a stylistically creative publication similar to the *Health Benefit Plan Performance Report* except that the QHP Report shall focus solely on the performance of QHPs participating in the Maryland Health Benefit Exchange. Although the current approach to health benefit plan performance measurement and reporting will serve as the benchmark for QHP measurement and reporting, the measurement set and reporting format shall be modified by the Contractor to meet the needs of a more diverse audience. The health benefit plan-specific data related to the production of the QHP Performance Report shall become a contract requirement in future years, not sooner than 2015, as data collection will begin in 2014.
- 3.2.4.4 The Contractor shall also develop the ***Health Benefit Plan Statistical Report*** as a stylistically creative publication including a significantly more detailed, comprehensive account of health benefit plans' performance compared to the less detailed account of health benefit plan performance found in the Health Benefit Plan Performance Report. This statistical report shall be compartmentalized into smaller categories of data. Each compartment in the statistical report shall be organized such that it is a ***stand-alone .pdf report***, the goal of which is to make downloading smaller portions of a very large publication possible. The statistical report should serve to further engage and inform all interested individuals, including consumers, employers, healthcare providers, researchers, policy makers, and others, on the detailed, health benefit plan-specific indicators of quality and performance.

The information in these public reports is frequently used by government officials in order to monitor and evaluate the efforts of commercial health benefit plans in meeting public health goals in areas such as childhood immunizations and mammography screening (among others) by comparing commercial health benefit plans' performance in Maryland and/or regions within Maryland to that of commercial health benefit plans in both the Mid-Atlantic region and throughout the United States. The content and format of the reports will change at the request of the Contract Monitor based on the need to provide an accurate representation of Maryland's overall performance. For these public reports, the Contractor shall:

- A. Develop text that briefly but comprehensively explains the importance of each performance measure in the public reports;
- B. Address complex issues such as clinical and statistical significance in consumer-friendly language;
- C. Create ADA 508 compliant and .pdf formatted documents optimized for web viewing with bookmarks that divide each of the reports in a meaningful way;
- D. Utilize and present data in tabular and/or graphic formats from any/all of the three aforementioned performance measurement tools (HEDIS, CAHPS and eValue8 performance measurement tools);
- E. Display each plan's performance results, on a measure-by-measure basis, compared to the average performance of all commercial health benefit plans in Maryland, and/or regions within Maryland, and/or the Mid-Atlantic region and/or the United States. For every instance in which measures and plans have remained stable, a minimum of the prior three consecutive years of data shall be reported as indicators showing statistically significant health benefit plan performance trends over time.

The Contractor shall derive health benefit plan performance data, which will be designated by the MHCC, from any or all of the three nationally recognized health benefit plan performance measurement tools

identified below, or other measurement tools that may be available to report on health benefit plan specific quality and performance. The three measurement tools used by health benefit plans in Maryland are:

- A. National Committee for Quality Assurance’s Healthcare Effectiveness Data and Information Set (HEDIS). The five (5) HEDIS domains of related information include Screening and preventive care, Treatment and management of care, Satisfaction with the experience of care, Utilization and relative resource use, and Health benefit plan descriptive information.
- B. Agency for Healthcare Research and Quality’s Consumer Assessment of Healthcare Providers and Systems (CAHPS) 4.0H Adult Version survey. The CAHPS measure categories include Overall ratings, Composite care scores, and Composite carrier scores.
- C. National Business Coalition on Health/MidAtlantic Business Group on Health’s eValue8 request for information tool. The eValue8 categories include Consumer engagement, Provider measurement, Pharmaceutical management, Prevention and health promotion, Chronic disease management, Behavioral health, and Health benefit plan profile.

The Contractor shall obtain accurate, comparable HEDIS, CAHPS and eValue8 data to use as regional and national comparisons in the reports during the contract period. These data have been deemed acceptable to have a one year lag, such as the HEDIS and CAHPS data found within the National Committee for Quality Assurance’s *Quality Compass* tool. Alternate proposed sources of comparative data by the Contractor MUST be deemed acceptable by MHCC. Please note that MHCC considers the Mid-Atlantic region to be: DC, DE, MD, NJ, PA, VA, and WV. This grouping of states is not consistent with how NCQA defines the Mid-Atlantic Region in *Quality Compass*, thus necessitating a special analysis of the regional data.

3.2.5 Unit Work: Ad Hoc Analysis

The Contractor shall perform ad hoc analyses at the direction of the Commission during the term of the contract. Unit work shall include, but is not limited to, creating text and accompanying tables at the request of MHCC for placement on a dashboard, or for visuals or print for a public meeting or press conference.

3.3 Deliverables

3.3.1 Kick off Meeting

No later than thirty (30) days after contract award, the Contractor shall attend the first annual Project Kick-off Meeting at MHCC’s headquarters.

3.3.2 Work Plan:

No later than 30 days after contract award, the Contractor shall present a proposed Work Plan (See Section 3.2.2). Any changes to approved Work Plan shall require approval by the Contract Monitor. The first activity of the contract is to finalize the proposed Work Plan details and dates. Once the Work Plan is approved by the Contract Monitor and adopted by the Commission, the Contract Monitor will use the dates in the plan to determine contract compliance. The Work Plan proposed review timeframes do not limit the number of draft iterations that will be required for the Contractor to produce a document compliant with the requirements set forth in this RFP and acceptable to the Contract Monitor.

3.3.3 Reports

3.3.3.1 All performance reports shall be submitted to MHCC on a compact disc in MS Word or other software specified by MHCC as well as in a “camera ready” format suitable for printing.

3.3.3.2 The Contractor shall prepare and deliver each deliverable required to fulfill this contract on storage media. Reports shall be in MS Word format. Tables shall be in MS Excel format. However, MHCC reserves the right to request data in an alternate format. Additionally, to preserve the final version of each health plan’s performance report, the Contractor shall create a .pdf file of each deliverable. All final files used to create the deliverables shall be stored and submitted on CD.

3.3.3.3 The Contractor shall use CD-R disk(s) with identifying information written directly on the screen-printed (coated) side of the disk or on a label adhered to the front cover of the jewel case. Identifying information shall include the following:

- Title of Project;
- Title of Data Set or Report;
- Date Prepared; OR
- Date Revised;
- Date Received-leave this line blank, MHCC staff will insert the date
- Prepared For: Maryland Health Care Commission

Index: list all files contained on the disk. If space allows, place a label on the back of the jewel case identifying the files.

3.3.3.4 The Contractor shall submit the final, MHCC approved version of reports on health benefit plan performance to MHCC no later than 12:00 pm on the dates listed in the table below. These deliverable due dates are projected dates based on the open enrollment period for the majority of employers and are subject to change.

3.3.4 Deliverable Schedule

3.3.4.1 The Timeline for Deliverables table below represents the billing schedule for services rendered during the course of the contract. The Contractor shall bill MHCC after acceptance by MHCC of each deliverable, as specified. The Contractor shall propose dollar values for each component of the billing/payment schedule below and submit that document to MHCC for approval at contract initiation. This document will become the payment schedule utilized when the Contractor bills for services during the course of the contract.

3.3.4.2 MHCC reserves the right to reduce or withhold contract payment in the event the Contractor does not provide MHCC 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. Any such action on the part of MHCC, or dispute of such action by the Contractor, shall be in accordance with the provisions of Md. Code Ann. St. Fin. & Proc. §15-215 through §15-223 and with COMAR 21.10.02.

3.3.4.3 Timeline for Deliverables table:

Deliverables	Contract Yr 1 June 1, 2012 – May 31, 2013	Contract Yr 2 June 1, 2013 – May 31, 2014	Contract Yr 3 June 1, 2014 – May 31, 2015	Contract Yr 4 June 1, 2015 – May 31, 2016	Contract Yr 5 June 1, 2016 – May 31, 2017
Kick-off: Updated Work Plan	June 30, 2012	June 30, 2013	June 30, 2014	June 30, 2015	June 30, 2016
Health Benefit Plan-Specific Performance Report Series (static report documents)	Aug 1, 2012	Aug 1, 2013	Aug 1, 2014	Aug 1, 2015	Aug 1, 2016

Health Benefit Plan Performance Report-1 st draft (static report document)	Aug 15, 2012	Aug 15, 2013	Aug 15, 2014	Aug 15, 2015	Aug 15, 2016
Qualified Health Plan Performance Report-1 st draft (static report document)			Aug 15, 2014	Aug 15, 2015	Aug 15, 2016
Health Benefit Plan Performance Report-2 nd draft (static report document)	Sept 15, 2012	Sept 15, 2013	Sept 15, 2014	Sept 15, 2015	Sept 15, 2016
Qualified Health Plan Performance Report-2 nd draft (static report document)			Sept 15, 2014	Sept 15, 2015	Sept 15, 2016
Health Benefit Plan Performance Report-3 rd draft (static report document)	Oct 1, 2012	Oct 1, 2013	Oct 1, 2014	Oct 1, 2015	Oct 1, 2016
Qualified Health Plan Performance Report-3 rd draft (static report document)			Oct 1, 2014	Oct 1, 2015	Oct 1, 2016
Health Benefit Plan Statistical Report-1 st draft (static report document)	Oct 15, 2012	Oct 15, 2013	Oct 31, 2014	Oct 31, 2015	Oct 31, 2016
Health Benefit Plan Statistical Report-2 nd draft (static report document)	Oct 31, 2012	Oct 31, 2013	Oct 31, 2014	Oct 31, 2015	Oct 31, 2016
Health Benefit Plan Statistical Report-3 rd draft (static report document)	Nov 15, 2012	Nov 15, 2013	Nov 15, 2014	Nov 15, 2015	Nov 15, 2016

3.3.5 Unit Work: Ad Hoc Analyses

The Contractor shall perform ad hoc analyses per sub-section 3.2.5. Such work will be considered unit work, subject to the provisions noted in Attachment F – Financial Proposal. MHCC’s Contract Monitor will give written notification and approval to the Contractor prior to the performance of the requested services

3.3.6 Other Requirements

The number and type of health benefit plans that are required to report on quality and performance could change due to new entrants, consolidations and mergers, or market abandonment. As a result of this potential variability, work shall be priced based on an all-inclusive fixed price per health benefit plan participant.

3.4 Personnel

3.4.1 Definitions As Used in This Section:

- (i) “**Contract Monitor**” means the Contract Monitor previously identified in this solicitation, and/or a person designated in writing by the Contract Monitor or the Department or agency to act for the Contract Monitor concerning Contractor personnel substitution issues.
- (ii) “**Day**” or “**Days**” means calendar day or days.
- (iii) “**Extraordinary Personal Circumstance**” means any circumstance in an individual’s personal life that reasonably requires immediate and continuous attention for more than 15 days that precludes the individual from performing his/her job duties under this Contract. Examples of such circumstances might include but are not limited to: a sudden leave of absence to care for a family member that is injured, sick or incapacitated; the death of a family member, including the need to attend to the estate or other affairs of the deceased or his/her dependents; substantial damage to, or destruction of the individual’s home that causes a major disruption in the individual’s normal living circumstances; criminal or civil proceedings against the individual or a family member; jury duty; military service call-up; etc.
- (iv) “**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.
- (v) “**Sudden**” means when the Contractor has less than 30 days’ prior notice of a circumstance beyond its control that will require the replacement of any key personnel working under the Contract.

3.4.2 Continuous Performance of Key Personnel:

- (i) Unless substitution is approved per sections 3.4.3 - 3.4.5 of this section, key personnel shall be the same personnel proposed in the Contractor’s technical proposal, which will be incorporated into the Contract by reference. Such identified key personnel shall perform continuously for the duration of the Contract, or such lesser duration as specified in the technical proposal. Key personnel may not be removed by the Contractor from working under this Contract as described in the RFP or the Contractor’s technical proposal without the prior written concurrence of the Contract Monitor.
- (ii) If the Contract is task order based, the following provisions apply to key personnel identified in each task order proposal and agreement.

3.4.3 Key Staff General Substitution Provisions:

- 3.4.3.1 All personnel described in the Contractor’s proposal, or identified at the initiation of the contract, including those of its subcontractor, shall perform continuously for the duration of the contract, and for so long as performance is satisfactory to MHCC’s Contract Monitor. The Contractor or subcontractor may not substitute personnel, other than by reason of an individual’s death, sudden illness, or termination of employment, without the prior written approval of the Contract Monitor. To replace any personnel specified in the Contractor’s proposal, the Contractor shall submit the resumes of the proposed substitute personnel to the Contract Monitor for approval at least two weeks prior to

the effective date of substitution. All proposed substitute personnel shall have qualifications at least equal to those of the replaced personnel, and shall be approved by the Contract Monitor.

3.4.3.2 The Contract Monitor will give written notice of performance issues to the Contractor, clearly describing the problem and delineating remediation requirement(s). The Contractor shall respond with a written remediation plan within three business days and implement the plan immediately upon receipt of the written acceptance by the Contract Monitor. If performance issues persist, the MHCC Contract Monitor may give written notice or request the immediate removal of person(s) whose performance is at issue, including the project manager, and determine whether a substitution is required.

3.4.3.3 The following provisions apply to all of the circumstances of staff substitution described in the “Replacement Circumstances” section 3.4.4 below:

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

3.4.4 Replacement Circumstances

3.4.4.1 Voluntary Staff Replacement

To voluntarily replace any key staff, the Contractor shall submit a substitution request as described in section 3.4.3 of this section to the Contract Monitor at least 15 days prior to the intended date of change. Except in a circumstance described in section 3.4. 4.2 of this clause, a substitution may not occur unless and until the Contract Monitor approves the substitution in writing.

3.4.4.2 Staff Replacement Due to Vacancy

The Contractor shall replace key staff whenever a vacancy occurs due to the sudden termination, resignation or leave of absence due to an Extraordinary Personal Circumstance of such staff, Incapacitating injury, illness or physical condition, or death. (A termination or resignation with

30 days or more advance notice shall be treated as a Voluntary Staff Replacement as per section 3.4.4.1 of this clause.)

Under any of the above 3.4.4 circumstances, the Contractor shall identify a suitable replacement and provide the same information or items required under Section 3.4.4 of this section within 15 days of the sooner of the actual vacancy occurrence or from when it was first learned by the Contractor that the vacancy would be occurring.

3.4.4.3 Staff Replacement Due to an Indeterminate Absence

If any key staff has been absent from his/her job for a period of 10 days due to injury, illness, or other physical condition, leave of absence under a family medical leave or Extraordinary Personal Circumstance and it is not known or reasonably anticipated that the individual will be returning to work within the next 20 days to fully resume his/her job duties, before the 25th day of continuous absence the Contractor shall identify a suitable replacement and provide the same information or items required under section 3.4.4

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

3.4.4.4 Directed Staff Replacement

- a. The Contract Monitor may direct the Contractor to replace any staff that is perceived as being unqualified, non-productive, unable to fully perform his/her job duties due to full or partial Incapacity or Extraordinary Personal Circumstance, disruptive, or that has committed a major infraction(s) of law or agency or Contract requirements. Normally a directed replacement would only occur after prior notification of problems with requested remediation, as described in 3.4.4.4-b, below. If after such remediation the Contract Monitor determines that the staff performance has not improved to the level necessary to continue under the Contract, if at all possible at least 15 days' replacement notification will be provided. However, if the Contract Monitor deems it necessary to remove the offending individual with less than 15 days' notice, the Contract Monitor can direct the removal in a timeframe of less than 15 days, to include immediate removal.

In circumstances of directed removal, the Contractor shall, in accordance with section 3.4.4 of this section provide a suitable replacement for approval within 15 days of the notification of the need for removal, or the actual removal, if that occurs first.

- b. If deemed appropriate in the discretion of the Contract Monitor, the Contract Monitor shall give written notice of any personnel performance issues to the Contractor, describing the problem and delineating the remediation requirement(s). The Contractor shall provide a written Remediation Plan within 10 days of the date of notice and implement the Remediation Plan immediately upon written acceptance by the Contract Monitor, or revise and resubmit the plan to the Contract Monitor within 5 days, as directed in writing by the Contract Monitor.

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

Replacement or substitution of personnel under this section shall be in addition to and not in lieu of the State's remedies under the Contract.

3.5 Problem Escalation Procedure

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

The Successful Offeror shall provide contact information to the Contract Monitor as well as other personnel should the Contract Monitor not be available.

The Successful Offeror must provide a Problem Escalation Procedure no less than 10 days prior to the beginning of the contract, and within 10 days after the start of each contract year (and within 10 days after any change in circumstance which changes the Procedure). The Problem Escalation Procedure shall detail how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. Details shall include:

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

3.6 Security Requirements

3.6.1 Employee Identification

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

3.6.2 Information Technology

- (a) Contractors shall comply with and adhere to the State IT Security Policy and Standards. These policies may be revised from time to time and the Contractor shall comply with all such revisions. Updated and

revised versions of the State IT Policy and Standards are available online at: www.doit.maryland.gov – keyword: Security Policy.

- (b) The Contractor shall not connect any of its own equipment to a State LAN/WAN without prior written approval by the State. The Contractor shall complete any necessary paperwork as directed and coordinated with the Contract Monitor to obtain approval by the State to connect Contractor-owned equipment to a State LAN/WAN.

3.7 MBE Reports

- 3.7.1 In the event that there is an MBE Goal, the Contractor and its MBE subcontractors shall provide the following MBE Monthly Reports:
 - (a) **Attachment D4**, 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 D5**, the MBE Participation Subcontractor Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the MBE Liaison Officer.

3.8 Invoicing and Payment Type

3.8.1 Invoice Format

- A. Invoices submitted without all required information will not be processed for payment until the Contractor provides the required information. All invoices must include the following information:
 - Name, address and federal tax identification number of the Contractor;
 - Remittance address;
 - Invoice period (i.e., the period during which services covered by the invoice were performed);
 - Invoice date and invoice number;
 - Amount due;
 - Purchase order number(s) being billed.
- B. A pre-authorized representative of the Contractor must sign each invoice. Invoices submitted without the required information will not be processed for payment until the Contractor provides the required information. The Contractor's Account Manager shall be the authorized representative that signs each invoice, but the Contractor may choose a different individual, so long as the Contractor notifies the Contract Manager of the designated representative's name, phone number and e-mail address within 15 business days of contract execution.

3.8.2 Invoice Timing and Procedure

- A. An invoice may not be submitted by the Contractor until the MHCC Contract Monitor (or a designee) has accepted that the applicable Milestone or Deliverable item has been successfully completed or achieved. Prior to the submission of an invoice, the Contractor shall submit a written notice to the Contract Monitor that the Milestone or Deliverable item has been completed. Such notice shall include at a minimum:
 - Identification of Milestone or Deliverable item.
 - An expenditures report or detailed billing report that provides a description of the work performed toward completion of the Milestone or Deliverable item and identification of the person performing the work.

- A Certification Notice from an authorized representative of the Contractor that the work has been completely performed as described in the expenditures or detailed billing report. This individual should be the same person who signs invoices submitted to the Department and should be authorized to bind the Contractor to the certification of the work.
- B. By signing and dating the Certification Notice received from the Contractor, the MHCC Contract Monitor agrees and accepts the Certification Notice and the Contractor is then authorized to proceed with invoicing MHCC.
- C. The Contractor shall be paid progress payments based on successful completion of the following Milestones or Deliverable items:
 1. Planning and Preparation for the December Kickoff Meeting
 2. Development and delivery of the annual series of Health Benefit Plan Specific Reports
 3. Development and delivery of annual Draft(s) of the Health Benefit Plan Performance Report
 4. Development and delivery of annual Draft(s) of the Qualified Health Plan Performance Report
 5. Development and delivery of annual Draft(s) of the Health Benefit Plan Statistical Report
 6. Unit Work-Ad Hoc Analysis

3.8.3 Administrative and Travel Expenses

There shall not be any reimbursement for travel, parking and mileage by the State under the terms of the Contract. Nor shall the State pay for administrative or clerical services; such services must be accounted for in the Contractor's fully-loaded labor rates.

3.8.4 Contractor shall have a process for resolving billing errors.

3.8.5 Payments will be made as "progress" payments as set forth herein. In no case will any payment be viewed as a partial payment.

3.8.6 Excluded services

Reimbursement for travel, parking and mileage will not be paid by the State under the terms of the Contract. The State will not pay for administrative or clerical services; such services must be accounted for in the Contractor's fully-loaded labor rates.

3.8.7 Labor Categories

All labor rates provided by the Offeror for the labor categories outlined in the price proposal (ATTACHMENT F), shall be fully loaded labor rates including direct and indirect charges.

3.8.8 Funds for any contract resulting from this RFP are dependent upon appropriations from the Maryland General Assembly.

3.8.9 The MHCC reserves the right to reduce or withhold contract payment (see terms set forth in this Section above) in the event the contractor does not provide the MHCC with all required deliverables within the time frame specified in the contract or in the event that the contractor otherwise materially breaches the terms and conditions of the contract until such time as the contractor brings itself into full compliance with the contract. Any action on the part of the MHCC, 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 - 15-223 and with COMAR 21.10.02.

3.9 Insurance Requirement

- 3.9.1 The Contractor shall maintain Commercial General Liability Insurance with limits sufficient to cover losses resulting from, or arising out of, Contractor action or inaction in the performance of the Contract by the Contractor, its agents, servants, employees, or subcontractors, but no less than a Combined Single Limit for Bodily Injury, Property Damage and Personal and Advertising Injury Liability of \$1,000,000 per occurrence and \$3,000,000 aggregate.
- 3.9.2 The Contractor shall maintain Errors and Omissions/Professional Liability insurance with minimum limits of \$3,000,000 per occurrence.
- 3.9.3 Upon execution of a Contract with the State, Contractor shall provide the Contract Monitor with current certificates of insurance, and shall update such certificates from time to time, as directed by the Contract Monitor. Such copy of the Contractor's current certificate of insurance shall contain at minimum the following:
- a. Workers' Compensation – The Contractor shall maintain such insurance as necessary and/or as required under Worker's Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act.
 - b. Commercial General Liability as required in section 3.9.1.
 - c. Errors and Omissions/Professional Liability as required in section 3.9.2.
- 3.9.4 The State shall be named as an additional named insured on the policies with the exception of Worker's Compensation Insurance and Professional Liability Insurance. Certificates of insurance evidencing coverage shall be provided prior to the commencement of any activities in the Contract. All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Contract Monitor, by certified mail, not less than sixty (60) days' advance notice of any non-renewal, cancellation, or expiration. In the event the Contract Monitor receives a notice of non-renewal, the Contractor shall provide the Contract Monitor with an insurance policy from another carrier at least thirty (30) days prior to the expiration of the insurance policy then in effect. All insurance policies shall be with a company licensed by the State to do business and to provide such policies.
- 3.9.5 The Contractor shall require that any subcontractors obtain and maintain similar levels of insurance and shall provide the Contract Monitor with the same documentation as is required of the Contractor.

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SECTION 4 – PROPOSAL FORMAT

4.1 Two Part Submission

Offerors shall submit proposals in separate volumes:

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

4.2 Transmittal Letter

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

- The name, title, address, telephone number and e-mail address of the person authorized to bind the offeror to the contract, who will receive all official notices concerning this RFP;
- The name, title, address, telephone number and e-mail address of a secondary person, who will receive all official notices concerning this RFP; in the event that the first is unavailable.
- The Offeror's Federal Tax Identification Number or Social Security Number.
- eMaryland Marketplace Number

4.3 Proposals

4.3.1. Volume I-Technical Proposal and Volume II-Financial Proposal shall be sealed separately from one another. Each Volume shall contain an unbound original, so identified, and five (5) copies. The two sealed Volumes shall be submitted to the Procurement Officer (see sub-section 1.5) prior to the date and time for receipt of proposals (see sub-section 1.10). The two sealed Volumes shall also be submitted together under one label bearing:

- a. The RFP title and number,
- b. Name and address of the Offeror,
- c. The volume number (I or II), and
- d. Closing date and time for receipt of proposals

4.3.2. An electronic version of Volume I- Technical Proposal and Volume II- Financial Proposal, both in searchable pdf format, shall also be submitted as separate files for each "Volume", labeled Volume I-Technical Proposal and Volume II-Financial Proposal with the unbound originals, technical or financial volumes, as appropriate. Electronic media is to be submitted on CD and shall bear a label on the outside containing the RFP number and name, the name of the Offeror and the volume number.

4.3.3. A second electronic version of Volume I and Volume II in searchable pdf format shall be submitted on CD for Public Information Act (PIA) requests. This copy shall be redacted so that confidential and/or proprietary information has been removed (see sub-section 1.11).

- 4.3.4. All pages of both proposal volumes shall be consecutively numbered from beginning (Page 1) to end (Page “x”). **The proposal must address items in the RFP in the order presented preceded by the section and page number to which the proposal language applies.**
- 4.3.5. Proposals and modifications will be shown only to State employees, members of the Evaluation Committee, or other persons, deemed by the Department to have a legitimate interest in them.

4.4 Delivery

Offerors shall either mail or hand-deliver proposals.

- 4.4.1. For U.S. Postal Service deliveries, any proposal that has been received at the appropriate mailroom, or typical place of mail receipt, for the respective procuring unit by the time and date listed in the RFP will be deemed to be timely. If a vendor chooses to use the United States Postal Service for delivery, the Department recommends that it use Express Mail, Priority Mail, or Certified Mail only as these are the only forms for which both the date and time of receipt can be verified by the Department. A vendor using first class mail will not be able to prove a timely delivery at the mailroom and it could take several days for an item sent by first class mail to make its way by normal internal mail to the procuring unit.
- 4.4.2. Hand-delivery includes delivery by commercial carrier acting as agent for the Offeror. For any type of direct (non-mail) delivery, Offerors are advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery.
- 4.4.3. After receipt, a Register of Proposals will be prepared that identifies each Offeror. The register of proposals will be open to inspection only after the procurement officer makes a determination recommending the award of the contract.

4.5 Volume I – Technical Proposal

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

4.5.1 Format of Technical Proposal

Inside a sealed package described in **Section 4.3**, above, the unbound original, five (5) copies and the **electronic versions** shall be provided. The RFP sections are numbered for ease of reference. **Section 4.5.3** sets forth the order of information to be provided in the Technical Proposal, e.g., section 1 “Title and Table of Contents,” section 2 “Claim of Confidentiality,” section 3 “Transmittal Letter,” section 4 “Executive Summary,” etc. In addition to the instructions below, the Offeror’s Technical Proposal should be organized and numbered in the same manner as this RFP. This proposal organization will allow State officials and the Evaluation Committee to “map” Offeror responses directly to RFP requirements by section number and will aid in the evaluation process.

4.5.2 Additional Required Technical Submissions

The following documents shall be included in the Technical Proposal; each in its own Section:

- a. Minimum Qualifications Documentation (Section 2)
- b. Completed Bid/Proposal Affidavit - Attachment B

- c. Completed Minority Business Participation Form - Attachment D-1 (in a separately sealed envelope) (only if an MBE subcontracting goal is required)
- d. Completed Living Wage Affidavit - Attachment G-1
- e. Conflict of Interest Affidavit and Discloser (Attachment H)

Please note that the following documents are not required to be submitted with the proposal:

- a. signed Contract (**Attachment A**),
- b. a completed Contract Affidavit (**Attachment C**),
- c. a signed Non-Disclosure Agreement (**Award**) (**Attachment I**)

These documents will be required to be completed and submitted by the successful Offeror within five (5) business days from notification by the Procurement Officer that the Offeror has been determined to be the apparent awardee.

4.5.3 The Technical Proposal shall include the following in this order:

4.5.3.1 Title and Table of Contents

The Technical Proposal should begin with a title page bearing the name and address of the Offeror and the name and number of this RFP. A table of contents shall follow the title page for the Technical Proposal organized by Section, sub-section and page number.

4.5.3.2 Claim of Confidentiality

Information which is claimed to be confidential is to be noted by reference and included after the Title page and before the Table of Contents, and if applicable, also in the Offeror's Financial Proposal. An explanation for each claim of confidentiality shall be included (see sub-section 1.11).

4.5.3.3 Transmittal Letter

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

4.5.3.4 Executive Summary

Offerors shall condense and highlight the contents of the technical proposal in a separate section titled "Executive Summary". Offerors shall clearly demonstrate an understanding of the objectives and goals of the Department as well as an understanding of the Scope of Work. This section should also include an analysis of the effort and resources, which will be needed to realize the Department's objectives.

The summary shall also identify any exceptions Offerors have taken to the requirements of this RFP, the Contract (**Attachment A**), or any other attachments. Exceptions to terms and conditions may result in having the proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award. If no exceptions to terms and conditions are made, the summary shall so state.

4.5.3.5 Proposed Work Plan

Offerors shall submit a detailed Work Plan with a Work Breakdown Structure as described in the prior Section 3.2.2 of this RFP.

In addition, a detailed description regarding how the Offeror will **acquire, analyze, and present** the data, as well as describe how the comparisons are equivalent to those comparisons made in prior reports (this may entail purchasing the relevant data from companies such as NCQA, HealthLeaders-Interstudy, Weis Ratings, or A.M. Best) especially the following essential data used as comparative references in the annual *Health Benefit Plan Performance Report*, the *Qualified Health Plan Performance Report* and the *Health Benefit Plan Statistical Report*:

1. Accreditation (NCQA and/or URAC) status of health benefit plans;
2. Regional and national HEDIS, CAHPS and/or eValue8 data;
3. Health benefit plans' financial ratings (for possible use in all publications);

Also, Offerors shall describe in detail in their technical proposals the quality control measures it will use in order to ensure timely and accurate completion of each report. The Offeror shall include its quality assurance protocol for numeric tables, graphic charts, and all written text for comprehension, accuracy of content, spelling and grammatical errors. The Contractor shall review all reports in paper and electronic form for formatting errors. The quality control measures on this project shall include, but are not limited to MHCC's review of draft documents noting errors or required changes. Next, MHCC will send the document back to the Contractor for revision. The Contractor will then provide the Contract Monitor a revised document using "Track Changes" and the document shall be returned with a notation that each requested change was made unless the proposed change remains in "Track Changes" with a "New Comment" indicating why the change was not made.

Offerors shall give a definitive description of the proposed plan to meet the requirements of the RFP, i.e., a Work Plan. It shall include the specific methodology and techniques to be used by offerors in providing the required services as outlined in **Section 3** of the RFP under **sub-section 3.2 Scope of Work-Requirements**. The description shall include an outline of the overall management concepts employed by the Offeror and a project management plan, including project control mechanisms and overall timelines. Product deadlines considered contract deliverables must be clearly identified in the Work Plan.

Previous content of the public reports can be found on the MHCC website at:

<http://mhcc.dhmh.maryland.gov/healthplan/Pages/healthplanquality/default.aspx>. To prepare their technical proposal, Offerors should refer to the reports developed in 2008, 2009, 2010 and 2011 as examples of general content, but should understand that the overall appearance and presentation of this content will change in 2012 and succeeding years. MHCC is particularly interested in presenting the information as it relates to chronic illness, in dashboard formats, including trending data. Ancillary information that is needed by consumers will also be included; e.g., the process for appealing decisions and filing complaints and information on different aspects of managed care delivery systems and networks. Past reports have included information about prescription drug costs and formularies, managed behavioral health organizations, tips on member management of personal health care, the emergence of the Health Information Exchange (HIE) and the Patient Centered Medical Home (PCMH) programs.

The 2012 Quality and Performance Reporting Requirements (QPRR) provides a list of HEDIS, CAHPS and MHCC-specific measures required for reporting and/or targeted for quality improvement. These requirements are updated annually by the Commission and reflect the list of measures for mandated reporting as well as those selected by consensus for quality improvement initiatives. The measurement set adjusts annually based on changes to the HEDIS, CAHPS, and eValue8 measurement tools. A copy of the 2012 QPRR can be found on the MHCC website at http://mhcc.maryland.gov/hmo/reportingrequirements/health_benefit_plan_reporting_reqs_2012.pdf.

4.5.3.6 Corporate Qualifications and Capabilities

Offerors shall include information on recent corporate experience with similar projects and/or services. Offerors shall describe how their organization can meet the requirements of this RFP and shall include the following:

- a. An overview of the Offeror's recent experience and capabilities providing similar services. This description shall include:
 - (i) The number of years the Offeror has provided these services;
 - (ii) The number of clients and geographic locations that the Offeror currently serves.
 - (iii) Offeror's recognition of and compliance with licensure or certification requirements as a corporate entity (see Section 2). Section of Proposal containing documentation should be identified here.
- b. The names and titles of key management personnel directly involved with supervising the services rendered and tasks performed under this Contract.
- c. At least three references who are capable of documenting the Offeror's ability to provide the services specified in this RFP. Each reference shall be from a client for whom the Offeror provided service within the past five years and shall include the following information:
 - (i) Name of client organization
 - (ii) Name, title, telephone number and e-mail address, if available, of point of contact for client organization
 - (iii) Role in managing or providing project oversight
 - (iv) Value, type, duration, and services provided

MHCC reserves the right to request additional references or use references not provided by an Offeror.

- d. Offerors must include in their proposal a commonly accepted method to prove its fiscal integrity. Some acceptable methods include but are not limited to one or more of the following:
 - (i) Dunn and Bradstreet Rating
 - (ii) Standard and Poor's Rating
 - (iii) Recently audited (or best available) financial statements
 - (iv) Lines of credit
 - (v) Evidence of a successful financial track record, and
 - (vi) Evidence of adequate working capital
- e. The Offeror's process for resolving billing errors.
- f. Corporate organizational chart that identifies the complete structure of the company including any parent company, headquarters, regional offices or subsidiaries of the Offeror.
- g. Complete list of any subcontractors other than those used to meet a Minority Business Enterprise subcontracting goal. This list shall include a full description of the duties each subcontractor will perform including the names of individuals for each task to be performed and why/how they were deemed the most qualified for this project.
- h. Legal Action Summary. This summary shall include:

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

i. Past State Experience

As part of its offer, each Offeror is to provide a list of all contracts with any entity of the State of Maryland that it is currently performing or that have been completed within the last 5 years. For each identified contract the Offeror is to provide:

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

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

4.5.3.7 Ability and Experience

- (i) In submitting a proposal, each Offeror must demonstrate its ability and/or that of its subcontractors to analyze performance measurement data sets which are similar, if not identical, to the HEDIS, CAHPS and eValue8 data sets; and provide appropriate references.
- (ii) The project manager must have at least five (5) consecutive years of relevant experience working with HEDIS, CAHPS and/or eValue8 data as well as experience with the development of public health reports.
- (iii) The research statistician must have at least five (5) consecutive years of relevant experience working with HEDIS, CAHPS and/or eValue8 data as well as experience with the development of public health reports.
- (iv) The analyst must have at least three (3) consecutive years of relevant experience working with HEDIS, CAHPS and/or eValue8 data as well as experience with the development of public health reports.
- (v) The graphic designer must have at least three (3) consecutive years of relevant experience with the development of public reports in general and/or public health reports in particular.

4.5.3.8 Experience and Qualifications of Proposed Staff

- a. The Offeror must provide resumes and other evidence that assigned staff have direct experience and qualifications related to the performance of their duties as detailed in the work plan. **Demonstrated knowledge of HEDIS, CAHPS and/or eValue8 and project management experience is required of the project manager, as well as all staff assigned to data analysis, drafting, review and approval of report content.** All subcontractors must be identified and a detailed description of their contributing role and that of each of their employees relative to the requirements of the RFP must be included in the proposal. All subcontractor staff **assigned to data analysis, drafting, review and approval of report content must have demonstrated knowledge of HEDIS, CAHPS and/or eValue8.**
- b. The individual resumes included in this section for the proposed personnel assigned to the project by the prime contractor or subcontractor must describe the level of experience related to the tasks assigned to them in the Work Plan. Identified personnel may not be substituted and are subject to the requirements stated in the RFP. Letters of intended commitment to work on the project from all key personnel, including subcontractors, must be included with the proposal. The resumes of the proposed staff shall adhere to the following format:
 1. Name
 2. Current position and years with organization
 3. Proposed position or responsibilities related to this contract
 4. Description of previous experience related to the tasks assigned from the Work Plan
 5. Educational training

Offerors are required to provide an Organizational Chart outlining personnel and their related duties. Include job titles and the hours each individual will spend on each of their assigned tasks. Offerors using job titles other than those commonly used by industry must provide a crosswalk.

4.5.3.9 Problem Escalation Procedure

The Offeror must explain, as per the requirements in Section 3.5. how problems with work under the Contract will be escalated in order to resolve all issues in a timely manner.

4.5.3.10 Economic Benefit Factors

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

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

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

As applicable, for the full duration of the contract, including any renewal period, or until the commitment is satisfied, the contractor shall provide to the procurement officer or other designated agency personnel reports of the actual attainment of each benefit listed in response to this section.

These benefit attainment reports shall be provided quarterly, unless elsewhere in these specifications a different reporting frequency is stated.

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

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

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

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

- The contract dollars to be recycled into Maryland's economy in support of the contract, through the use of Maryland subcontractors, suppliers and joint venture partners.
- The number and types of jobs for Maryland residents resulting from the contract. Indicate job classifications, number of employees in each classification and the aggregate payroll to which the contractor has committed, including contractual commitments at both prime and, if applicable, subcontract levels.
- Tax revenues to be generated for Maryland and its political subdivisions as a result of the contract. Indicate tax category (sales taxes, payroll taxes, inventory taxes and estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from the contract.
- Subcontract dollars committed to Maryland small businesses and MBEs.
- Other benefits to the Maryland economy which the Offeror promises will result from awarding the contract to the Offeror, including contractual commitments. Describe the benefit, its value to the Maryland economy, and how it will result from, or because of the contract award. Offerors may commit to benefits that are not directly attributable to the contract, but for which the contract award may serve as a catalyst or impetus.

4.5.3.11 Offeror Technical Response to RFP Requirements

If the State is seeking Offeror agreement to a requirement(s), Offerors shall state agreement or disagreement. Offerors shall address each major section in their technical proposals and describe how their proposed services will meet the requirement(s). Any paragraph in the technical proposal that responds to a work requirement shall include an explanation of how the work will be done. Offerors must bear in mind that any exception to a requirement, term or condition may result in having their proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award.

4.5.3.12 Certificate of Insurance

The Offeror shall provide a copy of the Offeror's current certificate(s) of insurance with the prescribed limits set forth in Section 3.9. "Insurance Requirement." The successful Offeror must provide a certificate of insurance naming the State as an additional insured, if required, within five (5) business days from notification by the Procurement Officer that the Offeror has been determined to be the apparent awardee.

4.6 Volume II - Financial Proposal

Under separate sealed cover from the Technical Proposal and clearly identified in the format requirements identified in Section 4.3, the Contractor shall submit an original unbound copy, five (5) copies, and an electronic version in pdf format of the Financial Proposal. The Financial Proposal shall contain all price information in the format specified in **Attachment F**. Complete the price sheets only as provided in the Financial Proposal Instructions.

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SECTION 5– EVALUATION CRITERIA AND SELECTION PROCEDURE

5.1 Evaluation Criteria

Evaluation of proposals will be based on the criteria set forth below. The Contract resulting from this RFP will be awarded to the Offeror that is most advantageous to the State considering price and the technical factors set forth herein. In making this determination, technical factors will receive greater weight than financial factors.

5.2 Technical Criteria

The criteria to be applied to each Technical Proposal are listed in descending order of importance.

5.2.1 Proposed Work Plan (Ref. 4.5.3.6)

5.2.2 Experience and Qualifications of the Proposed Staff (Ref. 4.5.3.8)

5.2.3 Corporate Qualifications (Ref. 4.5.3.7)

5.2.4 Executive Summary (Ref. Section 4.5.3.5)

5.2.5 Economic Benefit to State of Maryland (Ref. Section 4.5.3.9)

5.3 Financial Criteria

All qualified Offerors will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on their total price proposed within the stated guidelines (as submitted on **Attachment F**—Financial Proposal Form).

5.4 Reciprocal Preference

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

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

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

5.5 Selection Procedures

5.5.1 In General

The Contract will be awarded in accordance with the competitive sealed proposals process found at COMAR 21.05.03. The competitive sealed proposals method allows for discussions and revision of proposals during these discussions; thus, the State may hold discussions with all Offerors judged reasonably susceptible of being selected for award, or potentially so. However, the State also reserves the right to make an award without holding discussions.

In either case, the State may determine an Offeror to be not responsible and/or an Offeror's proposal to be not reasonably susceptible of being selected for award at any time after the initial closing date for receipt of proposals and prior to contract award. If the State finds an Offeror to be not responsible and/or an Offeror's technical proposal to be not reasonably susceptible of being selected for award that Offeror's financial proposal will be returned if still unopened.

Proposals are usually evaluated by a committee, which then makes a recommendation for award to the Procurement Officer. However, the Procurement Officer may evaluate proposals without a committee and recommend an Offeror for award. In either case, the Procurement Officer, with the concurrence of the agency head or designee, will make the final determination for award.

5.5.2 Selection Process Sequence

5.5.2.1 A determination is made that MBE form D-1 is included and is properly completed.

5.5.2.2 Technical proposals are evaluated for technical merit and ranked. During this review, oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the MHCC's requirements and the Offeror's ability to perform and to facilitate arrival at a Contract that is most advantageous to the State. For scheduling purposes, Offerors should be prepared to make an oral presentation and participate in discussions within two weeks of the delivery of proposals to the State. Qualified Offerors will be contacted by MHCC as soon as discussions are scheduled.

5.5.2.3 Offerors must confirm in writing any substantive oral clarification of, or change in, their proposals made in the course of discussions. Any such written clarification or change then becomes part of the Offeror's proposal. Proposals are given a final review and ranked.

5.5.2.4 The financial proposal of each qualified Offeror will be evaluated separately from the technical evaluation. After a review of the financial proposals of qualified Offerors, the evaluation committee or Procurement Officer may again conduct discussions to further evaluate the Offeror's entire proposal.

5.5.2.5 When in the best interest of the State, the Procurement Officer may permit Offerors who have submitted acceptable proposals to revise their initial proposals and submit, in writing, best and final offers (BAFOs). However, the State may make an award without issuing a BAFO.

5.5.3 Award Determination

Upon completion of all discussions and negotiations, reference checks, and site visits (if any), the Procurement Officer will recommend award of the Contract to the responsible Offeror whose proposal is determined to be the most advantageous to the State considering technical evaluation factors and price factors as set forth in this RFP.

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SECTION 6 - ATTACHMENTS

ATTACHMENT A – STATE CONTRACT

This is the Contract used by MHCC. It is provided with the RFP for informational purposes and is not required to be signed at proposal submission time. Upon notification of recommendation for award, a completed contract will be sent to the selected Offeror for signature. The selected Offeror must return three (3) executed copies of the Contract within **five (5) working days** after receipt. Upon award, a fully-executed copy will be sent to the Contractor.

ATTACHMENT B – BID/PROPOSAL AFFIDAVIT

This form must be completed and submitted with the Offeror's technical proposal.

ATTACHMENT C – CONTRACT AFFIDAVIT

This document is not required at the time of proposal submission, but may be submitted to expedite processing. If not received with the proposal, it must be submitted by the selected Offeror to the Procurement Officer with the Contract (see Attachment A).

ATTACHMENT D – MINORITY BUSINESS ENTERPRISE FORMS

This attachment includes the MBE subcontracting goal statement, instructions, and MBE Attachments D1 through D6. Attachment D1 must be completed and submitted with the Offeror's technical proposal in a separately sealed envelope. Attachments D2 and D3 are required to be submitted within **ten (10) days** of receiving notification of recommendation for award.

ATTACHMENT E – PRE-PROPOSAL CONFERENCE RESPONSE FORM

It is requested that this form be completed and submitted as described in RFP section 1.7 by those potential Offerors who plan on attending the conference.

ATTACHMENT F – FINANCIAL PROPOSAL INSTRUCTIONS AND FORMS

Financial Proposal forms must be completed and submitted as the Financial Proposal. (See Section 4)

ATTACHMENT G – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS

ATTACHMENT G-1 – MARYLAND LIVING WAGE AFFIDAVIT OF AGREEMENT

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

ATTACHMENT H – CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

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

ATTACHMENT I - NON-DISCLOSURE AGREEMENT (AWARD)

This document is not required at the time of proposal submission, but may be submitted to expedite processing. If not received with the proposal, it must be submitted by the selected Offeror to the Procurement Officer with the Contract (see Attachment A).

ATTACHMENT A – STANDARD CONTRACT

TITLE

THIS CONTRACT (the “Contract”) is made this ____ day of ____, ____ by and between ____ (the “Contractor”) and the STATE OF MARYLAND, acting through the MARYLAND HEALTH CARE COMMISSION (the “Department”).

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

1. Definitions

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

- 1.1 “COMAR” means Code of Maryland Regulations.
- 1.2 “Contract Monitor” means the individual identified in sub-section 1.6 of the RFP.
- 1.3 “Contractor” means ____ whose principal business address is ____ and whose principal office in Maryland is ____.
- 1.4 “Department” means the Maryland Department of Health and Mental Hygiene and any of its Agencies, Offices, Administrations, Facilities or Commissions.
- 1.5 “MHCC” means the Maryland Health Care Commission.
- 1.5 “Financial Proposal” means the Contractor’s Financial Proposal dated ____.
- 1.6 “Procurement Officer” means the individual identified in sub-section 1.5 of the RFP.
- 1.7 ”RFP” means the Request for Proposals titled Health Benefit Plan Performance Evaluation – Report Development, Solicitation # MHCC 12-015 and any addenda thereto issued in writing by the State.
- 1.8 “State” means the State of Maryland.
- 1.9 “Technical Proposal” means the Contractor’s Technical Proposal, dated ____.

2. Scope of Work

- 2.1 The Contractor shall provide all deliverables as defined in the RFP Section 3. These services shall be provided in accordance with the terms and conditions of this Contract and the following Exhibits, which are attached hereto and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A – The RFP

Exhibit B – The Technical Proposal

Exhibit C – The Financial Proposal

Exhibit D - State Contract Affidavit, executed by the Contractor and dated ____.

Exhibit E – Blanket Purchase Order M00B24____.

- 2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract or the RFP. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.
- 2.3 Modifications to this Contract may be made provided (a) the modifications are made in writing; (b) all parties sign the modifications; and (c) approval by the required agencies, as described in COMAR, Title 21, is obtained.

3. Period of Performance.

The Contract resulting from this RFP shall be for a period of five (5) years beginning on **June 1, 2012 and ending May 31, 2017**. The Contractor shall provide services upon receipt of official notification of award.

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 rates specified in Attachment F, Contractor's Financial Proposal. Except with the express written consent of the Procurement Officer, payment to the Contractor, pursuant to this Contract, shall not exceed \$_____.

Contractor shall notify the Contract Monitor, in writing, at least 60 days before payments reach the 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: (i) 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 ii) secure data bases, systems, platforms and/or applications which the Contractor is working on so that no damage or vulnerabilities to any of the same will exist due to the existence of any such unfinished work.

- 4.2 Payments to the Contractor shall be made no later than thirty (30) days after the Department's receipt of a proper invoice for services provided by the Contractor, acceptance by the Department of services provided by the Contractor, and pursuant to the conditions outlined in Section 4 of this Contract. Each invoice for services rendered must include the Contractor's Federal Tax Identification Number which is _____. Charges for late payment of invoices other than as prescribed by Md. Code Ann., State Finance and Procurement Article, Title 15, Subtitle 1, are prohibited. Invoices shall be submitted to the Contract Monitor. Electronic funds transfer shall be used by the State to pay Contractor pursuant to this Contract and any other State payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.
- 4.3 In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer.

4.4 Contractor's eMarylandMarketplace vendor ID number is _____.

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 for hire for the State, the Contractor hereby relinquishes, transfers, and assigns to the State all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.

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

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

6. Exclusive Use

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

7. Patents, Copyrights, 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 attorney fees that a court finally awards, provided the State (i) promptly notifies the Contractor in writing of the claim; and (ii) 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. Public Information

- 8.1 Subject to the Maryland Public Information Act and any other applicable laws, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided 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 Offerors should give specific attention to the identification of those portions of their proposals that they deem to be confidential, proprietary information or trade secrets and provide any justification why such materials, upon request, should not be disclosed by the State under the Access to Public Records Act, Md. Code Ann., State Government Article, Title 10, Subtitle 6.

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

11. Non-Hiring of Employees

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

12. Disputes

This Contract shall be subject to the provisions of the 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 30 days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within 30 days of the filing of a notice of claim, but no later than the date of final payment under the Contract, the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

13. Maryland Law

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

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

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

14. Nondiscrimination in Employment

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

15. Contingent Fee Prohibition

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

16. Non-availability of Funding

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made

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

17. Termination for Cause

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

18. Termination for Convenience

The performance of work under this Contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract; provided, however, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12 (A)(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 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 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of the State certain specified information to include disclosure of beneficial ownership of the business.

23. Political Contribution Disclosure

The Contractor shall comply with Md. Code Ann., Election Law Article, §§14-101 - 14-108, which requires that every person that enters into contracts, leases, or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$100,000 or more, shall, file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

24. Documents Retention and Inspection Clause

The Contractor and sub-contractors shall retain and maintain all records and documents relating to this contract for a period of five (5) years after final payment by the State hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the procurement officer or designee, at all reasonable times.

If the Contractor supplies services to a State residential health care facility under the Mental Hygiene Administration, the Family Health Administration, the Alcohol and Drug Abuse Administration, or the Developmental Disabilities Administration, the Contractor agrees, in addition to the requirements above:

- 24.1 That pursuant to 42 Code of Federal Regulations (C.F.R.) Part 420, the Secretary of Health and Human Services, and the Comptroller General of the United States, or their duly-authorized representatives, shall be granted access to the Contractor's contract, books, documents and records necessary to verify the cost of the services provided under this contract, until the expiration of four (4) years after the services are furnished under this contract; and
- 24.2 That similar access will be allowed to the books, documents and records of any organization related to the Contractor or controlled by the Contractor (as those terms are defined in 42 C.F.R. (420.301) if that organization is sub-contracting to provide services with a value of \$10,000 or more in a twelve (12) month period to be reimbursed through funds provided by this contract.

25. Compliance with Laws

The Contractor hereby represents and warrants that:

- 25.1 It is qualified to do business in the State and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- 25.2 It is not in arrears with respect to the payment of any monies due and owing the State, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- 25.3 It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and,
- 25.4 It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

26. Cost and Price Certification

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

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 or offer, was inaccurate, incomplete, or not current.

27. Subcontracting; Assignment

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

28. Liability

- 28.1 For breach of this Contract, negligence, misrepresentation or any other contract or tort claim, Contractor shall be liable as follows:
 - a. For infringement of patents, copyrights, trademarks, service marks and/or trade secrets, as provided in Section 7 of this Contract;
 - b. Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property;
 - c. For all other claims, damages, losses, costs, expenses, suits or actions in any way related to this Contract, regardless of the form, Contractor's liability shall be limited to three (3) times the total dollar amount of the Contract value up to the date of settlement or final award of any such claim. Third party claims, arising under Section 10, "Indemnification", of this Contract, are included in this limitation of liability only if the State is immune from liability. Contractor's liability for third party claims arising under Section 10 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 10.

29. Parent Company Guarantee (If Applicable)

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

30. Commercial Non-Discrimination

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

31. Prompt Pay Requirements

- 31.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the Department, at its option and in its sole discretion, may take one or more of the following actions:
- a. Not process further payments to the contractor until payment to the subcontractor is verified;
 - b. Suspend all or some of the contract work without affecting the completion date(s) for the contract work;

- c. Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;
- d. Place a payment for an undisputed amount in an interest-bearing escrow account; or
- e. Take other or further actions as appropriate to resolve the withheld payment.

31.2 An “undisputed amount” means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute. Such “undisputed amounts” include, without limitation:

- a. Retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor; and
- b. An amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.

31.3 An act, failure to act, or decision of a Procurement Officer or a representative of the Department, concerning a withheld payment between the Contractor and a subcontractor under this provision, may not:

- a. Affect the rights of the contracting parties under any other provision of law;
- b. Be used as evidence on the merits of a dispute between the Department and the contractor in any other proceeding; or
- c. Result in liability against or prejudice the rights of the Department.

31.4 The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise 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 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 30 days and invoices for which the subcontractor has not been paid.

- c. If the Department determines that the Contractor is in noncompliance 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, the Department may then:
 - 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 this Directive regarding the payment of undisputed amounts.
- e. Upon completion of the Contract, but before final payment or release of retainage or both, the Contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

32. Contract Monitor

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

33. Notices

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

If to the State: Andrea Allen
 Procurement Officer
 Maryland Health Care Commission
 4160 Patterson Avenue
 Baltimore, MD 21215

If to the Contractor: _____

32.3 As required in paragraph 12 of this Attachment A, notice of claims or disputes are to be sent to the Procurement Officer identified in Section 1, sub-section 1.5 of this RFP. Such notices shall be in writing and either delivered personally or sent by certified or registered mail, postage prepaid.

32.4 Incorporation by Reference

This contract, identified as Attachment A, consists of the entire RFP document MHCC 12-015 all Parts, including all Exhibits, Appendices and Addenda, and the successful Offeror's entire final proposal including both the financial and the technical elements dated _____ (technical element) and _____ (financial element), which are incorporated into this contract by reference.

Note: Incorporation by reference does not necessarily create a public record permissible for disclosure.

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

FOR THE CONTRACTOR

FOR THE STATE OF MARYLAND
DEPARTMENT OF HEALTH AND MENTAL
HYGIENE
MARYLAND HEALTH CARE COMMISSION

By:

By: Ben Steffen, Interim Executive Director

Date

or designee:

Date

Approved for form and legal sufficiency this _____ day of _____, _____

Assistant Attorney General

APPROVED BY BPW: _____
(Date)

(BPW Item #)

ATTACHMENT B – BID/PROPOSAL AFFIDAVIT

A. AUTHORITY

I HEREBY AFFIRM THAT:

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

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in §19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. "Discrimination" means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendor's, supplier's, or commercial customer's employees or owners. "Discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination". Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the bidder 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 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 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 or proposal and:

- (1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority proposal;
- (2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the bid or 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 or 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 submitted by the bidder on this project, and terminate any contract awarded based on the bid.

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 or 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 or proposals for a public or private contract;

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

(9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B and C and subsections D(1)—(8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

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

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

(1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and

(2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

G. SUB-CONTRACT 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 or offer that is being submitted;
- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or 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 or offer is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

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

K. ACKNOWLEDGEMENT

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

Revised August, 2011

ATTACHMENT C - CONTRACT AFFIDAVIT

A. AUTHORITY

I HEREBY AFFIRM THAT:

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

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

I FURTHER AFFIRM THAT:

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

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

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

Name and Department ID

Number: _____ Address: _____

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

Name and Department ID Number: _____

Address: _____.

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, §§14-101 — 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the

State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

E. DRUG AND ALCOHOL FREE WORKPLACE

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

I CERTIFY THAT:

- (1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.
- (2) By submission of its bid or offer, 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 _____, 20____, 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)

Revised August, 2011

ATTACHMENT D – MINORITY BUSINESS ENTERPRISE

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

DEFINITIONS

As used in this Attachment, the following words have the meanings indicated.

- ◆ “Certification” means a determination made by the Maryland Department of Transportation that a legal entity is a minority business enterprise.
- ◆ “MBE Liaison” is the employee designated to administer this Department’s MBE program.
- ◆ “Minority Business Enterprise” or “MBE” means any legal entity, other than a joint venture, organized to engage in commercial transactions, that is:
 - (1) at least 51 percent owned and controlled by one or more individuals who are socially and economically disadvantaged; and
 - (2) managed by, and the daily business operations of which are controlled by, one or more of the socially and economically disadvantaged individuals who own it.

Note: A minority business enterprise also includes a not-for-profit entity organized to promote the interests of physically or mentally disabled individuals. An MBE **must** be certified by the Maryland Department of Transportation (MDOT) in order to have its contract participation counted under the Department’s MBE program.

MINORITY BUSINESS ENTERPRISE INSTRUCTIONS AND FORMS D1 through D5

A. MBE Participation Goals and Subgoals

The Contractor shall achieve the MBE subcontracting goal and any subgoals established for this contract, by subcontracting to one or more MDOT-certified Minority Business Enterprises a sufficient portion of the contract’s scope of work that results in total MBE payments that meet or exceed the MBE participation goal.

If awarded the Contract:

- A prime contractor – including an MBE or certified Small Business Reserve (SBR) prime contractor – must accomplish an amount of work not less than the MBE participation goal with certified MBE subcontractors.
- A prime contractor comprising a joint venture that includes MBE partner(s) must accomplish the MBE participation goal with certified MBE subcontractors.

B. Solicitation and contract formation

1. Instructions for Submission of Bid or Proposal:

a. **The bidder or offeror must include the following affidavit with its bid or proposal:**

- 1) A completed MDOT Certified MBE Utilization and Fair Solicitation Affidavit (Attachment D1) whereby the bidder or offeror acknowledges the certified MBE participation goal and commits to make a good faith effort to achieve the goal or requests a waiver, and affirms that MBE subcontractors were treated fairly in the solicitation process. Pursuant to COMAR 21.11.03.09C(2), bidders or offerors, including bidders or offerors that are certified MBEs shall:

(a) identify specific work categories within the scope of the procurement appropriate for subcontracting; (b) solicit certified MBEs in writing at least ten (10) days before bids or proposals are due, describing the identified work categories and providing instructions on how to bid on the subcontracts; (c) attempt to make personal contact with the certified MBEs solicited and to document these attempts; (d) assist certified MBEs to fulfill, or to seek waiver of, bonding requirements; and (e) attend prebid or other meetings the procurement agency schedules to publicize contracting opportunities to certified MBEs.

Additionally, the bidder or offeror identifies the specific commitment of certified Minority Business Enterprises at the time of submission by listing each MBE subcontractor to be used on the contract and specifying the specific percentage of contract value (not range) associated with each subcontractor. **Attachment D1 shall become part of the final contract, therefore, any changes (additions and/or deletions) must be submitted to the Procurement Officer in writing for approval.**

NOTE: The failure of a bidder or offeror to complete and submit the MDOT Certified MBE Utilization and Fair Solicitation Affidavit shall result in a determination that the bid is non-responsive or that the offeror is not reasonably susceptible of being selected for contract award.

- 2) **Within 10 working days from notification** that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee must provide the following documentation to the Procurement Officer.
 - a) Outreach Efforts Compliance Statement (**Attachment D2**)
 - b) Subcontractor Project Participation Statement (**Attachment D3**)
 - c) If the apparent awardee has requested a waiver (in whole or in part) of the overall MBE goal or of any subgoal as part of the previously submitted Attachment D-1, it must submit documentation supporting the waiver request that complies with COMAR 21.11.03.11.
 - d) Any other documentation required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

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

C. Contract Administration Requirements:

Prime Contractor shall:

1. **Attachment D4:** Submit monthly to the Department's Contract Monitor or designee a report listing all unpaid invoices over 30 days old received from a certified MBE subcontractor working under the contract, the amount of each invoice and the reason payment has not been made. For informational purposes only, a sample prime contractor unpaid invoice report is attached.
2. **Attachment D5:** Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit monthly to the Department's Contract Monitor or designee a report that identifies the prime contract and lists all payments received from the Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices. For informational purposes only, a sample MBE Subcontractor Paid/Unpaid Invoice report is attached.

3. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed.
4. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the contract.
5. **COMAR 21.11.03.13F**: A procurement agency may, upon completion of a contract, and before final payment and/or release of retainage or both, require that a prime contractor on any contract having an MBE subcontract goal, submit a final report, in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

D. Minority Business Enterprise Participation Forms

The following forms are samples for your use in identifying and completing the MBE documentation requirements.

Revised February 2012

MDOT Certified MBE Utilization and Fair Solicitation Affidavit

(submit with bid or offer)

This document **MUST BE** included with the bid or offer. If the Bidder or Offeror fails to complete and submit this form with the bid or offer as required, the procurement officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

In conjunction with the bid or offer submitted in response to Solicitation No. **MHCC 12-015**, I affirm the following:

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

_____ Percent African American
 _____ Percent Hispanic American

_____ Percent Asian American
 _____ Percent Woman-Owned

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

OR

- I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.03.11.

- 2. I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 working days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier.
 - (a) Outreach Efforts Compliance Statement (Attachment D2)
 - (b) Subcontractor Project Participation Certification (Attachment D3)
 - (c) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

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

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

Prime Contractor: (Firm Name, Address, Phone)	Project Description:
Project Number: MHCC 12-015	

List Information For Each Certified MBE Subcontractor On This Project

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

Continue on a separate page, if needed.

SUMMARY

Total <i>African-American</i> MBE Participation:	_____ %
Total <i>Asian American</i> MBE Participation:	_____ %
Total <i>Hispanic American</i> MBE Participation:	_____ %
Total Woman-Owned MBE Participation:	_____ %
Total <i>Other</i> Participation:	_____ %
Total <i>All MBE</i> Participation:	_____ %

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

Bidder/Offeror Name

(PLEASE PRINT OR TYPE)

Signature of Affiant

Name: _____

Title: _____

Date: _____

SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL

Outreach Efforts Compliance Statement

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

In conjunction with the bid or offer submitted in response to Solicitation No. MHCC 12-015, Bidder/Offeror states the following:

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

- 5. Select ONE of the following:
 - a. Bidder/Offeror did/did not attend the pre-bid/proposal conference.
 - OR**
 - b. No pre-bid/proposal conference was held.

_____ By: _____
 Bidder/Offeror Printed Name Signature

Address: _____

Subcontractor Project Participation Certification

Please complete and submit one form for each MDOT certified MBE listed on Attachment D1 within 10 working days of notification of apparent award.

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

Prime Contractor Address and Phone	Project Description
Project Number MHCC 12-015	Total Contract Amount \$
Minority Firm Name	MBE Certification Number
Work To Be Performed	
Percentage of Total Contract	
Total Subcontract Amount \$	

The undersigned Prime Contractor and Subcontractor hereby certify and agree that they have fully complied with the State Minority Business Enterprise law, State Finance and Procurement Article §14-308(a)(2), Annotated Code of Maryland which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a bid or proposal and:

- (1) fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority business enterprise in its bid or proposal;
- (2) fail to notify the certified minority business enterprise before execution of the contract of its inclusion of the bid or 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 or proposal.

PRIME CONTRACTOR SIGNATURE

SUBCONTRACTOR SIGNATURE

By: _____
Name, Title
Date

By: _____
Name, Title
Date

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

Attachment D4

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

Report #: _____	Contract #: MHCC 12-015
Reporting Period (Month/Year): _____	Contracting Unit: _____
Report is due to the MBE Officer by the 10th of the month following the month the services were provided.	Contract Amount: _____
	MBE Subcontract Amt: _____
	Project Begin Date: _____
	Project End Date: _____
	Services Provided: _____
Note: Please number reports in sequence	

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

**If more than one MBE subcontractor is used for this contract, you must use separate D-5 forms.

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

Andrea Allen
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215
Email: <mailto:aallen@mhcc.state.md.us?subject=Prime Contractor Paid/Unpaid MBE Invoice Report>

Signature: _____ Date: _____
(Required)

This form must be completed by
MBE subcontractor

ATTACHMENT D5

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

Report#: _____	Contract #: MHCC 12-015
Reporting Period (Month/Year): _____	Contracting Unit:
Report is due by the 10th of the month following the month the services were performed.	MBE Subcontract Amount:
	Project Begin Date:
	Project End Date:
	Services Provided:

MBE Subcontractor Name:		
MDOT Certification #:		
Contact Person:	Email:	
Address:		
City: Baltimore	State:	ZIP:
Phone:	FAX:	
Subcontractor Services Provided:		
List all payments received from Prime Contractor during reporting period indicated above.		List dates and amounts of any unpaid invoices over 30 days old.
<u>Invoice Amt</u>	<u>Date</u>	<u>Invoice Amt</u>
1.		1.
2.		2.
3.		3.
Total Dollars Paid: \$ _____		Total Dollars Unpaid: \$ _____
Prime Contractor:		Contact Person:

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

Andrea Allen
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215
Email: <mailto:aallen@mhcc.state.md.us?subject=Prime Contractor Paid/Unpaid MBE Invoice Report>

Signature: _____ Date: _____
(Required)

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

COMAR 21.11.03.11 - Waiver.

- A. If, for any reason, the apparent successful bidder or offeror is unable to achieve the contract goal for certified MBE participation, the bidder or offeror may request, in writing, a waiver to include the following:
- (1) A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBEs in order to increase the likelihood of achieving the stated goal;
 - (2) A detailed statement of the efforts made to contact and negotiate with certified MBEs including:
 - (a) The names, addresses, dates, and telephone numbers of certified MBEs contacted, and
 - (b) A description of the information provided to certified MBEs regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed;
 - (3) As to each certified MBE that placed a subcontract quotation or offer that the apparent successful bidder or offeror considers not to be acceptable, a detailed statement of the reasons for this conclusion;
 - (4) A list of minority subcontractors found to be unavailable. This list should be accompanied by an MBE unavailability certification (MBE Attachment D6) signed by the minority business enterprise, or a statement from the apparent successful bidder or offeror that the minority business refused to give the written certification: and
 - (5) The record of the apparent successful bidder or offeror's compliance with the outreach efforts required under Regulation .09B(2)(b).

A waiver may only be granted upon a reasonable demonstration by that MBE participation could not be obtained or could not be obtained at a reasonable price.

If the waiver request is determined not to meet this standard, the bidder or offeror will be found non-responsive (bid) or not reasonably susceptible for award (proposal) and removed from further consideration.

- B. A waiver of a certified MBE contract goal may be granted only upon reasonable demonstration by the bidder or offeror that certified MBE participation was unable to be obtained or was unable to be obtained at a reasonable price and if the agency head or designee determines that the public interest is served by a waiver. In making a determination under this section, the agency head or designee may consider engineering estimates, catalogue prices, general market availability, and availability of certified MBEs in the area in which the work is to be performed, other bids or offers and subcontract bids or offers substantiating significant variances between certified MBE and non-MBE cost of participation, and their impact on the overall cost of the contract to the State and any other relevant factor.
- C. An agency head may waive any of the provisions of Regulations .09-.10 for a sole source, expedited, or emergency procurement in which the public interest cannot reasonably accommodate use of those procedures.
- D. When a waiver is granted, except waivers under Section C, one copy of the waiver determination and the reasons for the determination shall be kept by the MBE Liaison Officer with another copy forwarded to the Office of Minority Affairs.

MINORITY CONTRACTOR UNAVAILABILITY CERTIFICATE

Section I (to be completed by PRIME CONTRACTOR)

I hereby certify that the firm of _____
Name of Prime Contractor)

located at _____,
(Number) (Street) (City) (State) (Zip)

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

_____ located at _____,
(Number) (Street) (City) (State) (Zip)

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

List below the type of work/ service requested:

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

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

(Name) (Title)

(Number) (Street) (City) (State) (Zip)

(Signature) (Date)

Note: Certified minority business enterprise must complete Section II on reverse side.

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

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

located at _____
(Number) (Street) (City) (State) (Zip)

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

by _____
(Prime Contractor's Name) (Prime Contractor Official's Name) (Title)

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

(Name) (Title) (Phone)

(Signature) (Fax Number)

ATTACHMENT E – PRE-PROPOSAL CONFERENCE RESPONSE FORM

**Solicitation Number – MHCC 12-015
Health Benefit Plan Performance Evaluation–Report Development**

A Pre-Proposal Conference will be held at 1:00 PM, on Thursday, April 26, 2012, at 4160 Patterson Avenue, Baltimore, MD 21215, Room 100. Please return this form by Monday, April 23, 2012, advising us of your intentions to attend.

Return via e-mail or fax this form to the Point of Contact:

Andrea Allen
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21201
Email: <mailto:aallen@mhcc.state.md.us>
Fax # (410) 358-8811

Please indicate:

Yes, the following representatives will be in attendance:

1. _____
2. _____
3. _____

No, we will not be in attendance.

Signature

Title

Name of Firm (please print)

FINANCIAL INSTRUCTION FORM

Instructions

In order to assist Offerors in the preparation of their financial proposal and to comply with the requirements of this solicitation, Financial Proposal Instructions and a Financial Proposal Form have been prepared. Offerors shall submit their financial proposal on the form in accordance with the instructions on the form and as specified herein. Do not alter the forms or the financial proposal may be rejected. The Financial Proposal Form is to be signed and dated, where requested, by an individual who is authorized to bind the Offeror to all proposed prices entered on the Financial Proposal Form.

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

- A) All Unit and Extended Prices must be clearly entered in dollars and cents, e.g., \$24.15. Make your decimal points clear and distinct.
- B) All Unit Prices must be the actual unit price the State shall pay for the specific item or service identified in this RFP and may not be contingent on any other factor or condition in any manner.
- C) All calculations shall be rounded to the nearest cent, i.e. .344 shall be 34 and .345 shall be 35.
- D) Every blank in the Financial Proposal Form shall be filled in. Any blanks may result in the bid being rejected. Any changes or corrections made to the Financial Proposal Form by the Offeror prior to submission shall be initialed and dated.
- F) Except as instructed on the form, nothing shall be entered on the Financial Proposal Form that alters or proposes conditions or contingencies on the prices.
- G) It is imperative that the prices included on the Financial Proposal Form have been entered correctly and calculated accurately by the Offeror and that the respective total prices agree with the entries on the Financial Proposal Form. Any incorrect entries or inaccurate calculations by the Offeror will be treated as provided in COMAR 21.05.03.03E.

Financial Proposal Form

The Financial Proposal shall contain all price information in the format specified on these pages. Complete the price sheets only as provided in the Financial Proposal Instructions. Do not amend, alter or leave blank any items on the Financial Proposal Form. Failure to adhere to any of these instructions may result in the proposal being rejected by the Department.

Financial Table 1: Fixed Work Prices for Deliverables – Public Reports:

Fixed Deliverables	Contract Yr 1 June 1, 2012 – May 31, 2013	Contract Yr 2 June 1, 2013 – May 31, 2014	Contract Yr 3 June 1, 2014 – May 31, 2015	Contract Yr 4 June 1, 2015 – May 31, 2016	Contract Yr 5 June 1, 2016 – May 31, 2017
Kick-off Meeting: Updated Work Plan with WBS	\$	\$	\$	\$	\$
Health Benefit Plan Performance Report	\$	\$	\$	\$	\$
Qualified Health Plan Performance Report	--	--	\$	\$	\$
Health Benefit Plan Statistical Report	\$	\$	\$	\$	\$
Annual Total – Public Reports (Sum Totals in each Column)	\$	\$	\$	\$	\$

Financial Table 2: Variable Work Prices for Deliverables – Health Benefit Plan-Specific Reports:

Variable Deliverables	Contract Yr 1 June 1, 2012 – May 31, 2013	Contract Yr 2 June 1, 2013 – May 31, 2014	Contract Yr 3 June 1, 2014 – May 31, 2015	Contract Yr 4 June 1, 2015 – May 31, 2016	Contract Yr 5 June 1, 2016 – May 31, 2017
Price Per Individualized Health Benefit Plan-Specific Report (A)	\$	\$	\$	\$	\$
Estimated Number of Participating Health Benefit Plans (B)	8	10	12	14	16
Annual Total – Health Benefit Plan-Specific Reports (A*B)	\$	\$	\$	\$	\$

Financial Table 3: Unit Work Price for ad hoc work:

Professional Category	Estimated Hours (E)	Unit Work Price (H)	Total (E x H)
Project Manager	40	\$	\$
Research Statistician	40	\$	\$
Annual Total – Unit Work			\$

NOTE #1: The Offeror shall plan for 40 hours of discretionary, ad hoc unit work annually by the Project Manager and/or a Research Statistician. This unit work will be at the discretion of MHCC. The Offeror shall submit a fully loaded fixed hourly rate, which shall be charged for any unit work, requested by the MHCC. The rate of unit work shall include all indirect costs, overhead, out-of-pocket costs, etc., the Offeror expects to incur in connection with the resulting contract other than travel costs. In-State travel costs (including travel to Washington, D.C.) for unit work will not be reimbursed. Out-of-State travel costs for unit work will be reimbursed only for out-of-state travel that has received the prior written approval of the Contract Monitor, and then only up to the maximum rates allowed by State employees. Travel time, however, is not reimbursable.

Total Contract Price Being Proposed:

	Contract Yr 1 June 1, 2012 – May 31, 2013	Contract Yr 2 June 1, 2013 – May 31, 2014	Contract Yr 3 June 1, 2014 – May 31, 2015	Contract Yr 4 June 1, 2015 – May 31, 2016	Contract Yr 5 June 1, 2016 – May 31, 2017
Annual Total-Public Reports (from Financial Table 1)	\$	\$	\$	\$	\$
Annual Total-Health Benefit Plan-Specific Reports (from Financial Table 2)	\$	\$	\$	\$	\$
Annual Total-Unit Work (from Financial Table 3)	\$	\$	\$	\$	\$
Annual Subtotal (Sum totals in each column)	\$	\$	\$	\$	\$
GRAND TOTAL (Sum Annual Subtotals)	\$ (Basis of Award)				

NOTE #2: The Commission intends to make a Single Award as a result of this solicitation. The Contract that results from this RFP shall be a combination Firm Fixed Price Contract as described in COMAR 21.06.03.02 with respect to

the Fixed Work services and an Indefinite Quantity Contract with Firm Fixed Unit Prices as described in COMAR 21.06.03.02 & 21.06.03.06 with respect to the Unit Work/Variable Price services.

NOTE #3: The “Total Contract Price” specified above is based on model quantities for the Variable Price Work and Unit Work services and will be used solely for price evaluation, comparison and selection for recommendation for award. The quantities indicated for Estimated Hours of Unit Work are not a guarantee of any minimum or maximum amounts under this contract and may change at any time during the term of the contract. The actual amount to be paid to the Contractor will be calculated using 1) the Firm Fixed Prices specified on the Financial Proposal Sheet for the Fixed Work/Variable Work services, and 2) the actual number of hours authorized and accepted by the Commission for Unit Work.

NOTE #4: All Proposed prices entered above are to be fully-loaded prices that include all costs/expenses associated with the provision of services as required by this RFP. The Proposed prices shall include, but are not limited to: Labor, Profit/Overhead, General Operating and all other expenses except as expressly excluded in the RFP specifications. No other amounts will be paid to the Contractor.

Authorized Representative Signature Date

Printed Name of Authorized Representative

Title of Authorized Representative

Company Name

Company Address

FEIN

eMM #

Telephone #:

Fax #:

ATTACHMENT G – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS

Living Wage Requirements for Service Contracts

- A. This contract is subject to the Living Wage requirements in the Md. Code Ann., State Finance and Procurement Article, Title 18, and the regulations proposed by the Commissioner of Labor and Industry. The Living Wage generally applies to a Contractor or Subcontractor who performs work on a State contract for services 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 the 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 of Labor and Industry 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 the Md. Code Ann., State Finance and Procurement Article, §18-103(c), shall not lower an employee's wage rate below the minimum wage set at 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 of Labor and Industry.
- 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 and Finance 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 at <http://www.dllr.state.md.us/labor/> and clicking on Living Wage.

ATTACHMENT G-1 - MARYLAND LIVING WAGE AFFIDAVIT OF AGREEMENT

Contract No. _____ Tier _____

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 our commitment to comply with the Md. Code Ann., State Finance and Procurement Article, Title 18 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/are 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.

Authorized Representative Signature Date

Printed Name of Authorized Representative

Title of Authorized Representative

Witness Signature Date

Printed Name of Witness

Submit This Affidavit with Bid/Proposal

ATTACHMENT H – CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

Reference COMAR 21.05.08.08

- A. "Conflict of interest" means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.
- B. "Person" has the meaning stated in COMAR 21.01.02.01B(64) and includes an Offeror, Contractor, consultant, or subcontractor or sub-consultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a bid or offer is made.
- C. The Offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.
- D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain in detail—attach additional sheets if necessary):
- E. The Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the Offeror shall immediately make a full disclosure in writing to the procurement officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the Offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the Contractor shall continue performance until notified by the procurement officer of any contrary action to be taken.

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

Date: _____ By: _____
(Authorized Representative and Affiant)

SUBMIT THIS AFFIDAVIT WITH THE TECHNICAL RESPONSE

ATTACHMENT I – NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT (the “Agreement”) is made this _____ day of _____, 20_____, by and between the State of Maryland (the “State”), acting by and through its Maryland Health Care Commission (the “Department”) and _____ (the “Contractor”).

RECITALS

WHEREAS, the Contractor has been awarded a contract (the “Contract”) following the solicitation for Request for Proposals (“RFP”) Health Benefit Plan Performance Evaluation and Report Development, Solicitation # MHCC 12-015; and

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

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

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

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

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

Contractor: <INSERT NAME>

Maryland Health Care Commission:

By: _____ (SEAL)

By: _____ (SEAL)

Printed Name and Title

Printed Name and Title

Date

Date

EXHIBIT A

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

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

EXHIBIT B

CERTIFICATION TO ACCOMPANY RETURN OF CONFIDENTIAL INFORMATION

I AFFIRM THAT:

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

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

DATE: _____

NAME OF CONTRACTOR: _____

BY: _____
(Signature)

TITLE: _____
(Authorized Representative and Affiant)