STATE OF MARYLAND

PREVENTION AND HEALTH PROMOTION DEPARTMENT (PHPA)

REQUEST FOR PROPOSALS (RFP)

COMPUTER-ASSISTED TELEPHONE INTERVIEWING DATA COLLECTION FOR THE MARYLAND BEHAVIORAL RISK FACTOR SURVEILLANCE SYSTEM (BRFSS)

OPASS # 20-18349

REVISED ISSUE DATE: 7/1/2019

NOTICE

A Prospective Offeror that has received this document from a source other than eMarylandMarketplace (eMM) https://emaryland.buyspeed.com/bso/ should register on eMM. See **Section 4.2**.

MINORITY BUSINESS ENTERPRISES ARE ENCOURAGED TO RESPOND TO THIS SOLICITATION.

VENDOR FEEDBACK FORM

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

Title: CATI Data Collection for BRFSS
Solicitation No: 20-18349

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

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

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

REMARKS:

_____

_____

Vendor Name: _____ Date: _____

Contact Person: _____ Phone (____) _____ - _____

Address: _____

E-mail Address: _____

STATE OF MARYLAND

PREVENTION AND HEALTH PROMOTION DEPARTMENT (PHPA)

KEY INFORMATION SUMMARY SHEET

Request for Proposals	Services: Computer-Assisted Telephone Interviewing Data Collection For The Maryland Behavioral Risk Factor Surveillance System (BRFSS)
Solicitation Number:	20-18349
RFP Issue Date:	7/1/2019
RFP Issuing Office:	Department of Health - Prevention and Health Promotion
Procurement Officer: **e-mail:** **Office Phone:**	Dana Dembrow Office of Procurement and Support Services 201 W. Preston Street, 4th Floor mdh.solicitationquestions@maryland.gov 410-767-0974
Proposals are to be sent to:	Maryland Department of Health Office of Procurement and Support Services 201 W. Preston Street, Room 416B Baltimore, MD 21201 Attention: Jessica Fields
Pre-Proposal Conference:	Previously held on Monday 5/21/2019 10:00 am Local Time 300 W. Preston Street, Room 409 See **Attachment A** for directions and instructions.
Questions Due Date and Time	Monday 7/15/2019 COB
Proposal Due (Closing) Date and Time:	Monday 7/22/2019 2:00pm Local Time Offerors are reminded that a completed Feedback Form is requested if a no-bid decision is made (see **page iv**).
MBE Subcontracting Goal:	20% with no subgoals
VSBE Subcontracting Goal:	1%
Contract Type:	Indefinite quantity with fixed unit prices
Contract Duration:	Five (5) year base period with zero option periods
Primary Place of Performance:	Address determined by Offeror
SBR Designation:	No
Federal Funding:	Yes

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1 Minimum Qualifications

1.1 Offeror Minimum Qualifications

There are no Offeror Minimum Qualifications for this procurement.

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2 Contractor Requirements: Scope of Work

2.1 Summary Statement

2.1.1 The Department") is issuing this Request for Proposals (RFP) in order to provide multi-mode Computer-Assisted Telephone Interviewing (CATI) data collection, interviewer monitoring, quality control, and data processing for the Maryland Behavioral Risk Factor Surveillance System (BRFSS) program. The telephone survey will be conducted monthly using standard methodology provided by the Centers for Disease Control and Prevention (CDC). Deliverable services include: provision of monthly data sets containing survey responses and record identifying information in a format acceptable to the Department and to CDC, provision of measures of quality control, validation of collected data, and other measures of interviewer performance and survey efficiency.

2.1.2 It is the State's intention to obtain goods and services, as specified in this RFP, from a Contract between the selected Offeror and the State.

2.1.3 The Department intends to make a single award as a result of this RFP. See RFP **Section 4.9 Award Basis** for more Contract award information.

2.1.4 An Offeror, either directly or through its subcontractor(s), must be able to provide all goods and services and meet all of the requirements requested in this solicitation and the successful Offeror (the Contractor) shall remain responsible for Contract performance regardless of subcontractor participation in the work.

2.1.5 A Contract award does not ensure a Contractor will receive all or any State business under the Contract.

2.2 Background and Purpose

Lifestyle choices and behavioral patterns have long been known to affect public health and contribute to the leading causes of death and disease in the United States. In 1981, the Centers for Disease Control and Prevention (CDC), in collaboration with selected states, initiated a telephone-based Behavioral Risk Factor Surveillance System (BRFSS) to monitor health risk behaviors and health outcomes. By 1993, participation in the BRFSS expanded to include all 50 States, the District of Columbia, and the territories of Guam, Puerto Rico, and the Virgin Islands.

The Department is issuing this solicitation to collect population-based health risk behavior and disease prevalence estimates, which are critical for supporting disease prevention and health promotion activities in the public and private sectors. Data collected through the Maryland BRFSS program are used to: (1) characterize health behaviors of Maryland residents; (2) ascertain the prevalence of health risk behaviors contributing to illness and death; (3) compare health risk behavior and health outcome prevalence(s) among geographic areas and specific population groups; (4) identify populations at increased risk of disease; and (5) provide data to be used by the Department, local health departments, universities, and other public and private entities for health planning, policy development, and public health interventions.

2.2.1 State Staff and Roles

2.2.2.1. The State Contract Monitor will serve as the State Project Manager and the primary point of contact for communications with the Contractor, which will include discussion of survey

design and implementation, project progress, timelines, deliverables, and other relevant topics. The State Project Manager will provide:

2.2.2.2. The annual number of land line and cell phone surveys to be conducted by the Contractor, no later than November 1 of the preceding year;

2.2.2.3. Survey design information and a draft questionnaire, no later than 60 calendar days prior to implementation;

2.2.2.4. The number of call-back surveys to be conducted by the Contractor, no later than 60 calendar days prior to implementation;

2.2.2.5. The target number of completed surveys for each call-back survey, no later than 60 days prior to implementation;

2.2.2.6. Call-back survey design information and a draft call-back survey questionnaire for each call-back survey, no later than 60 calendar days prior to implementation;

2.2.2.7. Updates to survey and call-back survey questionnaires for adoption by the Contractor, upon availability from the CDC or Department;

2.2.2.8. Data collection protocols for surveys and call-back surveys, upon availability from the CDC or Department;

2.2.2.9. Updates to data collection protocols for surveys and call-back survey for adoption by the Contractor, upon availability from the CDC or Department;

2.2.2.10. Confirmation that invoices and Contract deliverables have been received, within 1 business day of receipt;

2.2.2.11. Notification of acceptance or non-acceptance of invoices and Contract deliverables, including reasons for non-acceptance, within 1 Business Day of receipt unless a longer time is required to determine whether the Contractor has met all criteria for specified deliverables; and

2.2.2.12. All other relevant information, as it becomes available.

2.2.3 Other State Responsibilities

2.2.3.1. The State is responsible for providing required information and documentation to facilitate the Contractor's performance of the work and will provide such additional assistance and services as is specifically set forth.

2.3 Responsibilities and Tasks

2.3.1 Overview

The Contractor will perform CATI data collection in English and Spanish, interviewer monitoring, quality control, and processing of Maryland BRFSS data during the Contract period. The general services requested are: conduct telephone interviews; monitor interviewer performance; implement quality control measures; validate the data collected from the interviews; process and submit end-of-the-month and end-of-the-year data; provide staff training; provide high quality customer service to prospective survey respondents; and provide support to the Department, as needed.

The telephone survey will be conducted among Maryland's non-institutionalized population ages 18 years and older. The telephone survey will be conducted monthly using standard methodology provided by the

CDC. Contract deliverables include monthly data sets containing responses to the BRFSS and other record-identifying information in a format acceptable to the Department and the CDC (which will be provided to the Contractor), measures of quality control, validation of the data collected, and other measures of interviewer performance and survey efficiency.

The Contractor shall complete up to 20,000 interviews per year. The survey year aligns with the calendar year, and data collection shall occur from January 1 through December 31 each year. Interviews are conducted for samples of both land line and cell phone numbers, with up to 75% of completed interviews conducted by cell phone.

The annual number of land line and cell phone surveys to be conducted by the Contractor will be specified by the Department no later than November 1 of the preceding year. The average annual number of surveys collected in recent years has been 15,000 interviews; however, the actual annual number of surveys collected has been as high as 18,500 interviews. The anticipated cell phone allocation is between 50% and 75% of all interviews.

As funding for each Contract year is contingent upon approval and receipt of funds from multiple sources, it is possible fewer surveys will be planned for a given survey year. If this happens, the Contractor shall complete a reduced number of interviews but no fewer than 5,000 interviews per year.

The total number of land line and cell phone interviews completed by the Contractor in a given survey year may not exceed the number of land line and cell phone interviews specified by the Department for that survey year unless agreed upon in advance by the Department.

Each interview shall include a minimum of 125 and a maximum of 150 questions. In some cases, respondents may not be eligible to answer certain questions. Additional questions may be required by the CDC or the Department as mid-year additions after the start of data collection. The average interview length will be approximately 25 minutes. The survey design will be updated annually. Depending on the number of questions in an annual survey, a split design format which includes as many as three different configurations of the questions may be required. The Department shall provide survey design information (including the number of survey versions to collect) and a draft questionnaire to the Contractor 60 calendar days prior to implementation.

In addition, the Department may elect to conduct up to 2 call-back surveys year. Call-back surveys are conducted on a subset of respondents to the BRFSS survey which meet specified criteria. Call-back surveys are collected in every month of the year unless the Department or CDC provides alternate timeframes for data collection. The Department shall inform the Contractor of the need to collect call-back surveys no later than 60 calendar days prior to implementation; implementation typically begins on January 1.

The Contractor shall collect no fewer than 400 and no more than 1,000 interviews for each annual call-back survey. The total number of call-back interviews completed by the Contractor in a given survey year may not exceed the number of call-back interviews specified by the Department for that call-back survey in that survey year unless agreed upon in advance by the Department.

The Contractor shall recruit prospective participants using protocols provided by the Department or the CDC. The number of questions included in call-back surveys may vary; however, a typical call-back survey includes between 100 and 150 questions. The Department shall provide the target number of respondents and a draft of call-back survey questions to the Contractor no later than 60 calendar days

prior to implementation. The Contractor shall be responsible for start-up activities for call-back surveys including CATI programming and pre-testing of call-back surveys.

The Contractor shall update CATI programming and data collection methods to accommodate revisions to BRFSS survey and to call-back survey instruments and protocols (including changes to the recruitment script, calling protocol, question wording, skip patterns, and other changes) as requested by the Department or the CDC.

The Contractor shall be responsible for start-up activities, including CATI programming and pre-testing of the BRFSS surveys in November and December prior to each survey year, and for the delivery of complete and incomplete interviews in January for the previous survey year. For example, the Contractor shall be responsible for start-up activities including CATI programming and pre-testing of the 2020 BRFSS survey instrument and questions during November and December 2019. The Contractor shall conduct the 2020 survey between January and December 2020. During November and December 2020, the Contractor shall conduct the survey for those months and also undertake start-up activities for the 2021 survey. The Contractor shall be responsible for delivering all complete and incomplete interviews of the 2020 BRFSS survey by the fourth week of January 2021. The same timeframe shall be repeated for the remaining years of the Contract.

At the end of the Contract, if a contractor other than the incumbent Contractor is selected, the incumbent Contractor may be conducting interviews in November and December of the last Contract year while the new contractor is setting up the survey for the first year of the following contract period.

2.3.2 Work Plan

2.3.2.1. The Contractor shall provide a preliminary work plan for the first contract year detailing dates and deliverables for each of the services to be performed.

2.3.2.2. The work plan for the first Contract year shall be submitted to the Department for approval within 10 calendar days of Contract Commencement. New annual work plans for the remaining Contract years shall be submitted to the Department for approval no later than September 1 of the preceding calendar year. (i.e. the work plan for the 2021 survey shall be submitted to the Department no later than September 1 of 2020, and so on.)

2.3.3 Sampling Frame

2.3.3.1. The Contractor shall, in accordance with a sampling frame provided by the Department, implement a list-assisted disproportionate stratified random probability sample to produce 8.3% of the annual target number of completed land line and cell phone interviews per month, totaling the annual number of land line and cell phone interviews specified by the Department for each year.

2.3.3.2. The sample design shall be a list-assisted (with address matching for advance letters, also called lead letters or pre-notification letters), random-digit-dial (RDD) sample of telephone-equipped households and cell phone users. The Contractor shall:

2.3.3.2.1. Collaborate with the Department and the CDC to construct the survey sample by communicating size of the land line and cell phone samples needed and identify other issues as appropriate;

2.3.3.2.2. Generate sample by the following procedure unless CDC or the Department determines an updated method is preferable:

2.3.3.2.2.1. Maintain up-to-date lists of potential telephone numbers

2.3.3.2.2.2. Order the list in ascending numerical order and divide into blocks of 100 numbers each

2.3.3.2.2.3. Utilize cross-reference directories to determine which of these blocks contain at least one listed residential number (i.e. one-plus blocks);

2.3.3.2.2.4. Combine one-plus blocks to create the sampling frame from which the numbers are systematically sampled;

2.3.3.2.2.5. Generate sample quarterly, providing separate samples for use in each month of the quarter (i.e. generate monthly samples for January, February, and March on one occasion; generate monthly samples for April, May, and June on another occasion; generate monthly samples for July, August, and September on a third occasion; and generate monthly samples for October, November, and December on a fourth occasion.)

2.3.3.2.2.6. Assess the correct sample size needed each quarter to meet but not exceed the number of completed interviews requested by the Department annually.

2.3.3.2.3. Generate sample records using the following distribution from the following geographic strata:

2.3.3.2.3.1. Urban: 53% from the following jurisdictions: Anne Arundel, Baltimore, Carroll, Harford, Howard, Montgomery, Prince George's counties, and Baltimore City.

2.3.3.2.3.2. Rural 1: 31% from the following jurisdictions: Allegany, Calvert, Cecil, Charles, Frederick, St. Mary's, Washington, Wicomico, and Worcester counties.

2.3.3.2.3.3. Rural 2: 16% the following jurisdictions: Caroline, Dorchester, Garrett, Kent, Queen Anne's, Somerset, and Talbot counties.

2.3.3.3. Unless instructed otherwise by the Department, the Contractor shall undertake all activities required to send advance letters to prospective land line and cell phone respondents on behalf of the Department. The Department shall provide a template for advance letters by December 1 of the preceding year. The Contractor shall personalize advance letters to each selected household for landline call samples and to each selected person for cell phone call samples using information obtained from address-matching of telephone numbers. The

Contractor shall send advance letters in compliance with CDC guidelines and Department preferences, which shall be provided by the Department. Advance letters must be sent by the 23rd day of the preceding month to addresses matching phone numbers selected for each month's sample. In the event of mid-year addition of advance letters after a period of not providing advance letters, the Department shall provide a template for advance letters to the Contractor no later than 30 days prior to implementation.

2.3.4 Questionnaires and CATI Construction

2.3.4.1. The Contractor shall:

2.3.4.1.1. Program the Maryland BRFSS CATI software annually to include core BRFSS questionnaire and standard modules given to the Contractor by the Department and/or CDC by December 1 of the preceding year for the next survey year (January 1-December 31) for landline, cell phone, and call-back surveys (in English and Spanish), to include skip patterns, response ranges, and response categories.

2.3.4.1.2. Program State-added questions given to the Contractor by the Department into the CATI software by December 1st for the next survey year (January 1-December 31) for landline and cell phone surveys (in English and Spanish), skip patterns, response ranges and response categories to the BRFSS CATI software annually (total number of core and State added questions cannot exceed 150).

2.3.4.1.3. Pretest the length and skip patterns of the survey.

2.3.4.1.4. Ensure CATI software construction adheres to Telephone Consumer Protection ACT (TCPA) requirements and Federal Communications Commission (FCC) requirements, which provide restrictions for cell phone dialing including but not limited to manual dialing of cell phone surveys, and any other applicable federal and state requirements. (Please refer to a summary of TCPA rules provided by the FCC at https://transition.fcc.gov/cgb/policy/TCPA-Rules.pdf and any updated information made available by the FCC).

2.3.4.1.5. Provide a demo version of the CATI software to the Contract Monitor for review and approval no later than December 1 of each year (for January 1 survey implementation). The Contractor shall address any concerns identified by the Contract Monitor and shall submit updated demo software to the Contract Monitor for review and approval no later than December 15 of each year (for January 1 survey implementation).

2.3.4.1.6. Provide item-by-item coding and construction of the record layout within 30 days of survey implementation.

2.3.4.1.6.1. Item-by-item coding instructions for State-added questions not originating in the CDC's draft questionnaire will be provided by the Department as part of the State-added questions given to the Contractor. The Contractor will use this information to code State-added questions in the CATI system.

2.3.4.1.6.2. Item-by-item coding instructions for the core questions and standard modules will be provided by the CDC in the BRFSS questionnaire provided to

the Contractor. The Contractor will use this information to code all core questions and standard modules selected by the Department in the CATI system.

2.3.4.1.7. Annually, provide cognitive testing of at least one new State-added question module provided by the Department which includes a minimum of two and a maximum of six questions.

2.3.4.1.7.1. Cognitive testing shall include but is not limited to:

2.3.4.1.7.1.1. A minimum of 30 adult Maryland residents representing a wide distribution of ages, race/ethnicity groups, gender, and other demographic groups as designated by the Department should be included in the cognitive testing respondent pool. The respondent pool must be of sufficient size to reasonably identify cognition issues with question wording (see 2.3.3.1.7.1.5 below).

2.3.4.1.7.1.2. Cognitive testing administration must reflect the type of survey being tested; in this case, telephone interviewing.

2.3.4.1.7.1.3. Cognitive test interviews must include structured probing to determine respondent comprehension, memory retrieval, judgment formation, and response mapping.

2.3.4.1.7.1.4. Structured probing must include comprehension probing (e.g. “What does the term X mean to you?”), paraphrasing (e.g. “Can you repeat the question in your own words?”), and/or general probes (e.g. “How did you arrive at that answer?” “Was that hard or easy to answer?”) Additional probing should be completed to address unanticipated responses.

2.3.4.1.7.1.5. Cognitive testing services must accommodate up to three rounds of testing, if appropriate. The first round of testing will produce initial feedback regarding respondent cognition of module questions. The second round of testing will assess respondent cognition of question modifications made in response to initial feedback, if any. A third round of testing shall be completed as required by the Department to address any issues remaining after completion of the second round of testing. Each round of testing must include a respondent pool of sufficient size to reasonably identify cognition issues with question wording (see 2.3.4.1.7.1.1 above); the respondent pool for each round of testing must meet the criteria described above.

2.3.4.1.7.2. A report of cognitive testing outcomes will include: subject demographics, cognitive interviewing methodology, cognitive interview findings, and recommendations for question changes, to be provided to the Department no more than 30 calendar days after a cognitive testing request is made by the Department.

2.3.4.1.8. Pretest up to 20 new closed-format State-added questions annually.

2.3.4.1.9. All questionnaire programming and testing shall be completed by December 1 prior to the start of the next survey year (January 1-December 31).

2.3.4.1.10. Modify questionnaire content and CATI software programming to accommodate additional question modules up to two times per year after survey implementation (for up to 30 new questions). Modify existing survey questionnaires and CATI software programming to update the interviewer script, questions, response options, or other items as requested by the Department or CDC. In a typical year, no mid-year modifications are required.

2.3.4.1.11. Record dates, times, and codes for all call attempts to all phone numbers using the current standard disposition codes as designated annually by the CDC and provided annually by the Department, which the Contractor will code into the CATI system, as referenced in Section 2.3.8 Data Reporting and Coding item 2.3.8.1.2.

2.3.4.1.12. Develop a methodology for scheduling appointments as referenced in the most up-to-date BRFSS protocol provided by CDC (an example is available at https://www.cdc.gov/brfss/data_documentation/pdf/UserguideJune2013.pdf). The Contractor shall provide a copy to the Contract Monitor for review and approval within 30 days of Contract commencement.

2.3.4.1.13. Develop a methodology for documenting and reporting all call attempts and all call backs in accordance with the most up-to-date BRFSS protocol provided by CDC (see link in 2.3.4.1.12). The Contractor shall provide a copy to the Department for review and approval within 30 days of Contract commencement.

2.3.5 Data Collection

2.3.5.1. The Contractor shall conduct between 417 and up to 1,667 completed telephone interviews per month for a total of between 5,000 and up to 20,000 interviews per year (in English and Spanish as appropriate) using the questionnaire supplied by the Department and the most up-to-date methodology supplied by the CDC ((see link in 2.3.3.1.12)).

2.3.5.1.1. Data collection shall take place every calendar month of the year. (All references to “month” in this document refer to calendar month.)

2.3.5.1.2. Each month, conduct at least 5% each of the total number of landline, cell phone, and call-back survey interviews required in a year. If fewer than 8% of the total yearly number are conducted in a calendar month, the difference must be made up in the next month of data collection.

2.3.5.1.3. To ensure seasonally representative data, a minimum of 18% of total completed annual interviews must be collected each quarter.

2.3.5.2. Interviews shall be conducted every month of the year in both English and Spanish. Interview language will be based on respondent need.

2.3.5.3. Telephone calls shall be conducted using the BRFSS Callback Rules and Disposition Codes specified by CDC. The Department and/or CDC will provide the Contractor with an updated copy of the BRFSS Callback Rules and Disposition Codes annually. Up to 15 call attempts will be made for land line telephones and up to 8 call attempts will be made for cell phones. No more than 3 calls will be made per calling occasion.

2.3.5.3.1. For land line surveys, 20% of calling attempts will be made on weekdays before 5:00 p.m. Eastern Time and 80% of calling attempts will be made on weeknights after 5:00 p.m. Eastern Time and on weekends.

2.3.5.3.2. For cell phone surveys, call attempts will be distributed equally between weekdays before 5:00 p.m. Eastern Time, weeknights after 5:00 p.m. Eastern Time, and weekends.

2.3.5.3.3. Call schedules shall be changed to accommodate holidays and special events.

2.3.5.3.4. Respondent requests for specific callback/appointment times shall be accommodated whenever possible. Exceptions will be made if the call center is scheduled to be closed during the requested callback time or no trained Maryland BRFSS survey interviewers will be available during the requested time.

2.3.5.3.5. Selected respondents who provided a soft refusal (defined by American Association for Public Opinion Research in http://www.aapor.org/AAPOR_Main/media/MainSiteFiles/RefusalTF_FINAL090814.pdf) for participation shall be called one additional time by a supervisor or different interviewer and given the opportunity to complete the survey. This call shall be made approximately 48 hours after the initial soft refusal. Refusal conversion rates shall be calculated by the Contractor and provided to the Department as specified in Section 2.3.8 Data Reporting and Coding item 2.3.8.1.3 (5).

2.3.5.4. Calls shall be made no earlier than 9:00 a.m. Eastern Time and no later than 9:00 p.m. Eastern Time. The Department will notify the Contractor if later start times or earlier end times are required; the Contractor shall adopt any such changes within 30 calendar days.

2.3.5.5. Respondents to the land line survey shall be randomly selected within each household according to approved CDC procedures for the BRFSS survey, which will be given to the Contractor by the Department and/or CDC.

2.3.5.6. Respondents to landline surveys will be randomly selected among adults age 18 and older in each household according to the most up-to-date calling protocol provided by CDC. In cases where the selected respondent is not available at the time of selection, the Contractor shall make at least 3 interview attempts on separate occasions.

2.3.5.7. If a respondent who refuses to participate hangs up twice, his or her phone number shall be removed from the list of potential respondents.

2.3.5.8. The Contractor shall send an appointment reminder to prospective cell phone survey respondents who indicate availability for a callback at a specific time and date after receiving verbal permission. The timing of appointment reminders shall be 1 day before the day of the scheduled appointment. The format for appointment reminders shall be text message (also called SMS message) or a suitable alternate format approved by the Department and consistent with CDC protocols. The Contractor must provide a template for appointment reminders to the Department for review and approval no later than December 15, 2019. The Contractor must provide advance written notice of any changes in appointment reminder format or content to the Department for review and approval no later than 10 Business Days prior to implementation.

2.3.6 Interviewer Training

2.3.6.1. The Contractor shall provide:

2.3.6.1.1. Training on administering general telephone interviews and BRFSS-specific telephone interviews in English and Spanish to the Contractor's staff. Interviewers must be fluent in the language of the interviews they are conducting (i.e. interviewers administering Spanish surveys must be fluent in Spanish).

2.3.6.1.2. Supervision and monitoring of English and Spanish interviewers to ensure they are conducting interviews according to the most up-to-date CDC/BRFSS protocol (see link in 2.3.4.1.12). Supervisors must be fluent in the language of the interviews they are monitoring (i.e. supervisors monitoring Spanish interviews must be fluent in Spanish).

2.3.6.1.3. Copies of all training materials to the Department annually by December 15 for the next survey year. For example, copies of training materials for the 2021 survey are due no later than December 15, 2020. Documentation of changes to training materials shall be provided within 5 Business Days of implementing changes.

2.3.7 Data Security and Data Confidentiality

2.3.7.1. The Contractor shall:

2.3.7.1.1. Provide a plan for securely storing and backing up survey data to the Department for review and approval within 10 Business Days of Contract commencement.

2.3.7.1.2. Provide assurance and documentation that respondent identification and interview content is and will remain confidential based on CDC/BRFSS protocol to the Department within 10 days of Contract commencement.

2.3.7.1.3. Provide reports and data to the Department and the CDC with respondent identifiers removed (i.e., telephone number) within monthly requested timeframes to be provided by CDC and the Department.

2.3.7.1.4. Require all interviewers to sign a confidentiality agreement to ensure data protection and non-disclosure. An original confidentiality form signed by each interviewer shall be kept on file by the Contractor.

2.3.7.2. The Contractor shall abide by the electronic monitoring laws for the State of Maryland by:

2.3.7.2.1. Obtaining two-party consent before conducting the interview; that is, consent from both the listener (interviewee) and recorder (interviewer);

2.3.7.2.2. Including a statement at the beginning of the interview that says, "This call may be monitored or recorded for quality control purposes," even if that specific call is not being monitored or recorded; and

2.3.7.2.3. Complying with an additional State laws if enacted during the Contract period.

2.3.8 Data Reporting and Coding

2.3.8.1. The Contractor shall prepare a monthly report (submitted to the Department within 10 calendar days following the end of each month) that includes the following information separately for the land line and the cell phone calling samples:

2.3.8.1.1. Counts of completed interviews: overall, by geographic strata, and by survey split.

2.3.8.1.2. Counts of the number and percentage of call dispositions, using the current standard disposition codes as designated annually by the CDC and provided annually by the Department, which the Contractor will code into the CATI system, such as:

1100	Complete
1200	Partial complete
2111	Household level refusal (landline telephone only)
2112	Selected respondent refusal
2120	Break off/termination within questionnaire
2210	Selected respondent never available
2320	Selected respondent physically or mentally unable to complete interview
2330	Language barrier, selected respondent
3100	Unknown if eligible
3130	No answer
3140	Answering device, unknown whether eligible
3150	Telecommunication barrier
3200	Household, not known if respondent eligible
3322	Physical or mental impairment (household level)
3330	Language barrier (household level)
3700	On never call list
4100	Out of sample
4200	Fax/data/modem
4300	Nonworking number/ disconnected
4400	Technological Barrier

4430 Call forwarding / pager
4460 Landline telephone (cell phone only)
4500 Non-residence
4900 Miscellaneous, non-eligible
5050 Unknown whether eligible
5100 Appointment
5111 Household level refusal (landline telephone only)
5112 Selected Respondent refusal: hang up or termination
5120 Break off / termination in questionnaire
5121 Call dropped
5130 No answer
5140 Answering device, unknown whether eligible
5150 Telecommunication barrier
5200 Fax/data/modem
5300 Possible nonworking
5320 Physical or mental impairment
5330 Language barrier
5400 Technological barrier
5550 Busy
5560 Unsafe location/ activity for interview
5700 Supervisor attention
5900 Null attempt

2.3.8.1.3. Response rates using formulas provided by the Department, including the:

1. AAPOR#4 rate
2. Overall response rate
3. Cooperation Rate
4. Refusal Rate
5. Refusal Conversion Rate

2.3.8.1.4. Average time per completed interview;

2.3.8.1.5. Number of call backs attempted to households resulting in no answer or busy dispositions;

2.3.8.1.6. Interview ID number and telephone number for all completed interviews;

2.3.8.1.7. Distribution of completed interviews by age, race/ethnicity, sex, and interview language;

2.3.8.1.8. Monthly sample distribution breakdown by geographic strata (Urban/Rural 1/Rural 2); and

2.3.8.1.9. Monthly and quarterly data files generated by the editing program supplied annually by the CDC. The Contractor shall provide data files shall in multiple formats including SAS, ASCII, and XPORT. Data shall be submitted to both the Department and the Centers for Disease Control and Prevention within timeframes designated by the CDC and no later than 30 days after completion of calling for each monthly/quarterly sample.

2.3.8.2. The Contractor shall provide the Department with access to a secured website no later than January 30, 2020. The website shall:

2.3.8.2.1. Require a user ID and password for access.

2.3.8.2.2. Include:

2.3.8.2.2.1. All deliverables, including information required in the monthly report (see Data Reporting and Coding items 2.3.9.1.1. through 2.3.8.1.8);
2.3.8.2.2.2. Data files (see Data Reporting and Coding item 2.3.8.1.9);
2.3.8.2.2.3. Copy of the current survey; and
2.3.8.2.2.4. Contact information for Contractor's staff

2.3.9 Validations

2.3.9.1. The Contractor shall:

2.3.9.1.1. Validate at least 5% of all completed interviews each month (at least 2 records per interviewer), in accordance with procedures provided by the Contractor and approved by the Department (see 2.3.6. Interviewer Training and Data Security and Confidentiality item 2.3.7.2.2). Supervisory monitoring of at least 10% of interviews may be substituted for validation interviews.

2.3.9.1.1.1. Validation interviews must consist of at least 20 questions and will require a 5-minute phone call, on average.

2.3.9.1.1.2. Interviewers cannot validate their own interviews.

2.3.9.1.1.3. The original interviewer IDs and original record identification numbers shall be included in each final validation file.

2.3.9.1.1.4. Respondent identifiers shall be removed when monthly validations are complete.

2.3.9.1.2. Provide a database of validated interviews including the original Interviewer ID numbers in a format acceptable to the Department within 30 days following the end of the calendar month in which the interviews were completed.

2.3.9.1.3. Retract any records in each monthly data set that contain errors or flagged values for verification; and

2.3.9.1.4. Correct data errors and resubmit corrected data file to the Department and the CDC via the CDC Secure BRFSS Data Portal.

2.3.10 Data Processing Requirements

2.3.10.1. The Contractor shall:

2.3.10.1.1. Format data into a single ASCII file that is acceptable to both the CDC and the Department (CDC will define the record layout, which will be given to the

Contractor). The record length of the data file (part of the record layout) will be defined by the CDC each year and provided to the Contractor. The data file shall contain the following information about all phone numbers called:

2.3.10.1.1.1. Completed interviews;
2.3.10.1.1.2. Incomplete interviews;
2.3.10.1.1.3. Original Interviewer ID;
2.3.10.1.1.4. Final disposition codes for all phone numbers selected in the sample; and

2.3.10.1.1.5. An end-of-the-file marker and all CDC required fields that supply record identifier information, sample selection probabilities, and number of call backs. Identification of these fields will be supplied by the Department and are subject to change each year.

2.3.10.1.2. Deliver both the final data file and error report to the Department and to the CDC within requested timeframes, not to exceed 30 days after the start of the following month.

2.3.10.1.2.1. The CDC will provide a computer program for data edits and error-checking (e.g., ONE-EDITS). The Contractor shall use this editing program to prepare the monthly data file for submission to CDC. The CDC may provide the new annual editing program after the first monthly data file is due; however, delayed receipt of this editing program shall not delay data file submission. The Contractor shall resubmit all such data files upon receipt of the editing program provided by CDC.

2.3.10.1.2.2. Monthly data files shall conform to the record layout defined by the CDC each year which will be provided to the Contractor. The editing program shall be used to identify inconsistent, inappropriate, or incorrect responses and shall be run against each data file. The data-checking program will produce a final monthly data file and error report.

2.3.10.1.3. Finalize the monthly data set and submit electronically complete and incomplete records together in the same data file along with complete quality control reports to the Department within 2 weeks after the end of each month.

2.3.10.1.3.1. The Contractor shall provide data according to coding instructions (to be supplied) in multiple specified formats (e.g. ASCII, XPORT, and SAS format) and shall submit data securely via the CDC's designated program or website.

2.3.10.1.3.2. The Contractor shall maintain backup copies in ASCII format of each monthly data file for 2 years from the date of collection.

2.3.11 Data Use

2.3.11.1. The Department shall be named as sole owner of all data sets as indicated in the Rights to Records clause (Attachment M. Contract, section 5).

2.3.11.2. Use, analysis, report, and dissemination of data collected under this Contract are prohibited without prior written approval from the Department. Any party requesting data from the Contractor shall be referred to the Department.

2.3.11.3. Per CDC requirements, state and territorial health departments are the owners of the data sets. Data collectors which are contracted by health departments have NO data rights and should not share or publish from state data sets without written permission. Data collectors should not retain sample or data files beyond the time that is necessary to finalize data and meet the requirement for maintaining backup copies of the monthly data file (see Data Processing Requirements item 2.3.9.1.3.2). During the time period data sets are retained by data collectors, all security requirements for data storage and firewalls must be met and include most current BRFSS OMB approval.

2.3.11.4. The above requirements do not limit the ability of the Contractor to work with these data to carry out the requirements of this Contract.

2.3.12 Technical and Informational Support

2.3.12.1. The Contractor shall provide technical, consultative, and informational assistance to the Department from 9:00 a.m. Eastern Time to 5:00 p.m. Eastern Time Monday through Friday for any issues relating to this Contract.

2.3.12.2. The primary method of contact shall be through e-mail and phone. If the primary means of contact fails, a secondary alternative (e.g., direct phone line or answering service) must be available and in place.

2.3.12.3. The Contractor shall respond to requests for technical support within one Business Day.

2.3.13 Correction of Errors

2.3.13.1. In the event that a systematic error is discovered in the sampling, questionnaire, or CATI construction; interviewer training; data collection; interviewer performance and quality control measures; or data processing requirements, the Contractor shall:

2.3.13.1.1. Notify the Department of the error as soon as possible, but no later than one Business Day after discovery;

2.3.13.1.2. Correct the error at no cost to the Department within 30 calendar days of discovery; and

2.3.13.1.3. Provide documentation to the Department of the time, date, and nature of occurrence and the time, date, and measures of correction within 30 calendar days of discovery.

2.3.13.2. If the Department or the CDC finds errors when reviewing the data sets, the Contractor shall:

2.3.13.2.1. Respond to the Department's notification of an error within 24 hours and to the Department's satisfaction; and

2.3.13.2.2. Correct the error within 48 hours, at no cost to the Department and to the Department's satisfaction.

2.3.14 Services for Survey Respondents

2.3.14.1. When phone calls are placed to potential respondents, the setup shall read "Maryland Department of Health" (or alternate text approved the Department) on the caller ID and include a Department phone number to be provided by the Department.

2.3.14.2. The Contractor shall set up a caller ID screening system so that participants may call back and go through a comprehensive menu with information about the survey, Contractor, Contract Monitor, and Institutional Review Board (IRB) officials. The system shall:

2.3.14.2.1. Provide enough information to callers to help them validate the survey;

2.3.14.2.2. Enable callers to remove their telephone numbers if they prefer not to participate in the survey; and

2.3.14.2.3. Enable callers to reach a representative or voicemail within one minute to request their telephone number be removed.

2.3.14.3. The Contractor shall respond to concerns of current, former, and prospective survey respondents within 24 hours and resolve all issues within 48 hours at no cost to the Department and to the Department's satisfaction.

2.3.15 Call History

2.3.15.1. The Contractor shall provide a telephone call history monthly to the Department of participants who complain about being called to participate in the survey and/or request that their phone number be removed. The history shall include a complete list of every call made to the participant including date, disposition code, and final resolution of the call.

2.3.16 Communications with the Department

2.3.16.1. The Department Contract Monitor shall serve as the main point of contact for the Contractor for all contractual issues. The primary means of communication will be via email and telephone; however, face-to-face meetings such as annual site visits will be scheduled if appropriate and feasible.

2.3.16.2. The Contractor shall participate in monthly check-in calls with the Department to provide progress updates, address concerns, and discuss new items pertaining to survey design and implementation.

2.3.16.3. The Contractor shall acknowledge the Department's inquiries, general requests, and meeting invitations within two Business Days. As stated in section 2.3.11.3 Technical and Informational Support, technical support requests must be responded to within one Business Day.

2.4 Deliverables

2.4.1 Deliverable Submission

A. For every deliverable, the Contractor shall request the Department's Contract Monitor confirm receipt of that deliverable by sending an e-mail identifying the deliverable name and date of receipt.

B. Unless specified otherwise, written deliverables shall be compatible with Microsoft Office, Microsoft Project or Microsoft Visio within two (2) versions of the current version. At the Contract Monitor's discretion, the Contract Monitor may request one hard copy of a written deliverable.

For any written deliverable, the Contract Monitor may request a draft version of the deliverable, to comply with the minimum deliverable quality criteria listed in **Section 2.4.3 Minimum Deliverable Quality**. Drafts of each final deliverable, except status reports, are required at least two weeks in advance of when the final deliverables are due (with the exception of deliverables due at the beginning of the project where this lead time is not possible, or where draft delivery date is explicitly specified). Draft versions of a deliverable shall comply with the minimum deliverable quality criteria listed in **Section 2.4.3 Minimum Deliverable Quality**.

2.4.2 Deliverable Acceptance

A. A final deliverable shall satisfy the scope and requirements of this RFP for that deliverable, including the quality and acceptance criteria for a final deliverable as defined in **Section 2.4.4 Deliverable Descriptions/Acceptance Criteria**.

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

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

2.4.3 Minimum Deliverable Quality

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

Each deliverable shall meet the following minimum acceptance criteria:

A. Be presented in a format appropriate for the subject matter and depth of discussion.

B. Be organized in a manner that presents a logical flow of the deliverable's content.

C. Represents factual information reasonably expected to have been known at the time of submittal.

D. In each section of the deliverable, includes only information relevant to that section of the deliverable.

E. Contains content and presentation consistent with industry best practices in terms of deliverable completeness, clarity, and quality.

F. Meets the acceptance criteria applicable to that deliverable, including any State policies, functional or non-functional requirements, or industry standards.

G. Contains no structural errors such as poor grammar, misspellings or incorrect punctuation.

H. Contains the date, author, and page numbers. When applicable for a deliverable, a revision table must be included.

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

2.4.4 Deliverable Descriptions/Acceptance Criteria

In addition to the items identified in the table below, the Contractor may suggest other subtasks, artifacts, or deliverables to improve the quality and success of the assigned tasks.

Deliverables Summary Table*

ID #	Deliverable Description	Acceptance Criteria	Due Date / Frequency
Section 2.3			
Work Plan items 2.3.2.1 and 2.3.2.2	Annual work plan	Work plan addresses all components of data collection (including preparatory activities such as CATI programming and finalization activities such as data submission) per the Contract and includes timelines for completion of each activity by the Contractor, and content and timelines are consistent with Contract requirements.	Year 1 – due within 10 calendar days of Contract commencement Years 2-5 – due by September 1 of the preceding year

ID #	Deliverable Description	Acceptance Criteria	Due Date / Frequency
Sampling Frame item 2.3.3.3	Advance letters to prospective respondents for land line and cell phone calling	Contractor provides documentation to confirm that advance letters are mailed to all prospective respondents with an available address, language of advance letters is consistent with the template provided by the Department and is customized for each recipient, and mailing occurs on time every month.	By the 23rd day of the preceding month for each month in which calling occurs
Questionnaires and CATI Construction item 2.3.4.1.5	Demo version of CATI software, with updates if requested	Demo version of CATI software includes all required core sections and all optional and State-added sections requested by the Department, the Department identifies fewer than 20 errors in initial CATI programming, and the Contractor corrects all errors to the satisfaction of the Department.	Annually by December 1; updates as requested annually by December 15
Questionnaires and CATI Construction item 2.3.4.1.6	Item-by-item coding and construction of the record layout	The record layout includes all variables collected, indicates the location of survey version (split) and other markers necessary for data processing and use, correctly identifies the location of all State-added variables within the data file, and is consistent with CDC requirements.	Annually no later than 30 days after survey implementation
Questionnaires and CATI Construction item 2.3.4.1.7.2	Report of cognitive testing outcomes including subject demographics, cognitive interviewing methodology, cognitive interview findings, and recommendations for question changes	Cognitive testing report includes all requested data, narratives, and recommendations; methodology is consistent with contract requirements and industry practices for cognitive interviewing.	Within 30 calendar days of cognitive testing request by Contract Monitor

ID #	Deliverable Description	Acceptance Criteria	Due Date / Frequency
Questionnaires and CATI Construction item 2.3.4.1.12	Methodology for scheduling appointments	Methodology is consistent with the most up-to-date CDC protocol for scheduling appointments for BRFSS survey completion.	Within 30 calendar days of Contract commencement
Questionnaires and CATI Construction item 2.3.4.1.13	Methodology for retrieval of call attempts and call backs	Methodology is consistent with the most up-to-date CDC protocol for BRFSS call attempts and call backs.	Within 30 days of Contract commencement
Data Collection item 2.3.5.8	Template for appointment reminders	Template is consistent with the most up-to-date CDC protocols for BRFSS appointment reminders.	No later than December 15, 2019; notification of changes to format or content is due no later than 10 Business Days prior to implementation
Interviewer Training item 2.3.6.1.3	Copies of all interviewer training materials and documentation of changes to training materials	Training materials are consistent with the most up-to-date CDC protocols for BRFSS interviewing.	Due annually by December 15 for the next survey year; documentation of changes to training materials shall be provided within 5 Business Days of implementing changes
Data Security and Data Confidentiality item 2.3.7.1.1	Plan for securely storing and backing up survey data	Plan is consistent with the most up-to-date CDC protocols and Department requirements for backing up BRFSS survey data	Within 10 Business Days of Contract commencement
Data Security and Data Confidentiality item 2.3.7.1.2	Assurance and documentation that respondent identification and interview content is and will remain confidential	Assurance and documentation are consistent with the most up-to-date CDC protocols for BRFSS respondent identification and interview content confidentiality	Within 10 days of Contract commencement
Data Security and Data Confidentiality item 2.3.7.1.3	Monthly data and reports (also due to CDC)	Data and reports are submitted with respondent identifiers removed and in the format required by CDC	Monthly as requested by CDC and the Department

ID #	Deliverable Description	Acceptance Criteria	Due Date / Frequency
Data Security and Data Confidentiality item 2.3.7.1.4	Documentation that all interviewers have signed a confidentiality agreement prior to initiating Maryland BRFSS interviewing.	Written confirmation of number of interviewers collecting Maryland BRFSS interviews and confirmation that 100% have signed the confidentiality agreement.	Confirmation for interviewers on staff due prior to the launch of each annual survey. Confirmation for each new interviewer due prior their first call/ interview.
Data Reporting and Coding items 2.3.8.1.1 through 2.3.8.1.8	Monthly report of completed interviews, call statistics, average interview length, response rates, sample distribution breakdown by geographic strata (Urban/Rural 1/Rural 2), respondent demographics as specified in the Contract for land line and for cell phone calling samples	All requested items are provided, and information is up-to-date and accurate.	Within 10 calendar days following the end of each month
Data Reporting and Coding item 2.3.8.1.9	Monthly and quarterly data files in multiple formats as requested by the Department or CDC, such as SAS, ASCII, and XPORT	Data files are correctly formatted, complete, accurate, and submitted within CDC requested timeframes.	Due to Contract Monitor and to the Centers for Disease Control and Prevention (CDC) within timeframes designated by the CDC and no later than 30 days after completion of calling for each monthly/quarterly sample.
Data Reporting and Coding item 2.3.8.2	Access to a secured website including all deliverables including data files	Website is operational, all security requirements are met, and all deliverables are provided.	Website shall be operational no later than January 30, 2020

ID #	Deliverable Description	Acceptance Criteria	Due Date / Frequency
Validations item 2.3.9.1.2	A database of validated interviews in a format acceptable to the Department	Database includes all requested items and is formatted per the Department's preference; alternately, documentation of the number of interviews conducted for that month and the number of percent of interviews monitored by a supervisor.	Within 30 days following the end of each calendar month in which interviews were completed
Correction of Errors item 2.3.13.1	Notification, correction, and documentation of systematic errors discovered by the Contractor	All information required by Contract is provided; additional information requested by the Department for each situation is provided.	Notification within 1 business day of discovery; correction within 30 calendar days of discovery; documentation within 30 calendar days of discovery
Correction of Errors item 2.3.13.2	Response and correction of errors identified by the Department or CDC	Issue is acknowledged by Contractor; Contractor provides documentation of how issue was addressed and any impacts to Maryland BRFSS.	Response within 24 hours of notification by the Department or CDC; correction within 48 hours of notification by the Department or CDC
Section 2.3 Services for Survey Respondents item 2.3.13.3	Resolution and documentation from constituent concerns about the survey	Contractor notifies the Department about any issues reported which may impact more respondents than the one who cited the concern and provides documentation of how the issue was addressed to include any impacts to Maryland BRFSS	Within 48 hours of notification by the respondent

*The deliverables summary table may not list every contractually-required deliverable. Offerors and Contractors should read the RFP thoroughly for all Contract requirements and deliverables.

2.5 Service Level Agreement (SLA)

This section in inapplicable to this RFP.

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3 Contractor Requirements: General

3.1 Contract Initiation Requirements

A. Contractor shall schedule and hold a kickoff meeting within 10 Business Days of NTP Date. At the kickoff, the Contractor shall furnish an updated Project Schedule describing the activities for the Contractor, the State, and any third parties for fully transitioning to the Contractor's Solution.

Refer to sections 2.2.1 Project Goals, 2.3 Responsibilities and Tasks, and 2.4.4 Deliverable Descriptions/Acceptance Criteria for additional Contract transition requirements.

1) Work Plan (2.3.2.1 and 2.3.2.2)
2) Data Security and Data Confidentiality (2.3.7.1.1)
3) Data Security and Data Confidentiality (2.3.7.1.2)

3.2 End of Contract Transition

If the incumbent Contractor is not awarded the Contract for the term that follows the completion of the Contract, then the incumbent Contractor shall conduct the BRFSS survey for December of the expiration year and deliver the complete and incomplete interviews conducted for the entire expiration year to the Department by January of the following year. In December of the expiration year, the incumbent Contractor shall work with the new contractor to facilitate a transition that will enable the new contractor to conduct the BRFSS survey starting January of the following year.

3.2.1 If the incumbent Contractor is not awarded the Contract for the term that follows the completion of the Contract, then the incumbent Contractor shall conduct the BRFSS survey for December of the expiration year and deliver the complete and incomplete interviews conducted for the entire expiration year to the Department by January of the following year. In December of the expiration year, the incumbent Contractor shall work with the new Contractor to facilitate a transition that will enable the new Contractor to conduct the BRFSS survey starting January of the following year.

3.2.2 The Contractor shall provide transition assistance as requested by the State to facilitate the orderly transfer of services to the State or a follow-on contractor, for a period up to 60 days prior to Contract end date, or the termination thereof. Such transition efforts shall consist, not by way of limitation, of:

A. Provide additional services and support as requested to successfully complete the transition; and

B. Maintain the services called for by the Contract at the required level of proficiency.

3.2.3 The Contractor shall work toward a prompt and timely transition, proceeding in accordance with the directions of the Contract Monitor. The Contract Monitor may provide the Contractor with additional instructions to meet specific transition requirements prior to the end of the Contract.

3.2.4 The Contractor shall ensure that all necessary knowledge and materials for the tasks completed are transferred to the custody of State personnel or a third party, as directed by the Contract Monitor.

3.2.5 The Contractor shall support end-of-Contract transition efforts with technical and project support to include but not be limited to:

A. The Contractor shall provide a draft Transition-Out Plan 120 Business Days in advance of Contract end date.

B. The Transition-Out Plan shall address at a minimum the following areas:

1) Any staffing concerns/issues related to the closeout of the Contract;

2) Communications and reporting process between the Contractor, the Department and the Contract Monitor;

3) Security and system access review and closeout;

4) Any hardware/software inventory or licensing including transfer of any point of contact for required software licenses to the Department or a designee;

5) Any final training/orientation of Department staff;

6) Connectivity services provided, activities and approximate timelines required for Transition-Out;

7) Knowledge transfer, to include:

a) A working knowledge of the current system environments as well as the general business practices of the Department;

b) Review with the Department the procedures and practices that support the business process and current system environments;

c) Working knowledge of all technical and functional matters associated with the Solution, its architecture, data file structure, interfaces, any batch programs, and any hardware or software tools utilized in the performance of the Contract;

d) Documentation that lists and describes all hardware and software tools utilized in the performance of the Contract;

e) A working knowledge of various utilities and corollary software products used in support and operation of the Solution;

8) Plans to complete tasks and any unfinished work items (including open change requests, and known bug/issues); and

9) Any risk factors with the timing and the Transition-Out schedule and transition process. The Contractor shall document any risk factors and suggested solutions.

C. The Contractor shall ensure all documentation and data including, but not limited to, System Documentation and current operating procedures, is current and complete with a hard and soft copy in a format prescribed by the Contract Monitor.

D. The Contractor shall provide copies of any current daily and weekly back-ups to the Department or a third party as directed by the Contract Monitor as of the final date of transition, but no later than the final date of the Contract.

E. Access to any data or configurations of the furnished product and services shall be available after the expiration of the Contract as described in **Section 3.2.5**.

3.2.6 Return and Maintenance of State Data

A. Upon termination or the expiration of the Contract Term, the Contractor shall: (a) return to the State all State data in either the form it was provided to the Contractor or in a mutually agreed format along with the schema necessary to read such data; (b) preserve, maintain, and protect all State data until the earlier of a direction by the State to delete such data or the expiration of 90 days ("the retention period") from the date of termination or expiration of the Contract term; (c) after the retention period, the Contractor shall securely dispose of and permanently delete all State data in all of its forms, such as disk, CD/DVD, backup tape and paper such that it is not recoverable, according to National Institute of Standards and Technology (NIST)-approved methods with certificates of destruction to be provided to the State; and (d) prepare an accurate accounting from which the State may reconcile all outstanding accounts. The final monthly invoice for the services provided hereunder shall include all charges for the 90-day data retention period.

B. During any period of service suspension, the Contractor shall maintain all State data in its then existing form, unless otherwise directed in writing by the Contract Monitor.

C. In addition to the foregoing, the State shall be entitled to any post-termination/expiration assistance generally made available by Contractor with respect to the services.

3.3 Invoicing

3.3.1 General

A. The Contractor shall send the original of each invoice and signed authorization to invoice to the Contract Monitor at:

Linda Carter
Maryland Department of Health
201 W. Preston St., 3rd Floor
Baltimore, MD 21201

B. The Contractor shall additionally email a courtesy copy of each invoice to the Contract Monitor at: Linda.Carter1@Maryland.gov.

C. All invoices for services shall be verified by the Contractor as accurate at the time of submission.

D. An invoice not satisfying the requirements of a Proper Invoice (as defined at COMAR 21.06.09.01 and .02) cannot be processed for payment. To be considered a Proper Invoice, invoices must include the following information, without error:

1) Contractor name and address;

2) Remittance address;

3) Federal taxpayer identification (FEIN) number, social security number, as appropriate;

4) Invoice period (i.e. time period during which services covered by invoice were performed);

5) Invoice date;

6) Invoice number;

7) State assigned Contract number;

8) State assigned (Blanket) Purchase Order number(s);

9) Goods or services provided;

10) Amount due; and

11) Any additional documentation required by regulation or the Contract.

E. Invoices that contain both fixed price and time and material items shall clearly identify each item as either fixed price or time and material billing.

F. The Department reserves the right to reduce or withhold Contract payment in the event the Contractor does not provide the Department with all required deliverables within the time frame specified in the Contract or otherwise breaches the terms and conditions of the Contract until such time as the Contractor brings itself into full compliance with the Contract.

G. Any action on the part of the Department, or dispute of action by the Contractor, shall be in accordance with the provisions of Md. Code Ann., State Finance and Procurement Article §§ 15-215 through 15-223 and with COMAR 21.10.04.

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

I. Invoices for final payment shall be clearly marked as "FINAL" and submitted when all work requirements have been completed and no further charges are to be incurred under the Contract. In no event shall any invoice be submitted later than 60 calendar days from the Contract termination date.

3.3.2 Invoice Submission Schedule

The Contractor shall submit invoices in accordance with the following schedule:

A. For items of work for which there is annual pricing, see **Attachment B**– Financial Proposal Form, those items shall be billed in equal monthly installments for the applicable Contract year in the month following the performance of the services.

3.3.3 For the purposes of the Contract an amount will not be deemed due and payable if:

A. The amount invoiced is inconsistent with the Contract;

B. The proper invoice has not been received by the party or office specified in the Contract;

C. The invoice or performance is in dispute or the Contractor has failed to otherwise comply with the provisions of the Contract;

D. The item or services have not been accepted;

E. The quantity of items delivered is less than the quantity ordered;

F. The items or services do not meet the quality requirements of the Contract;

G. If the Contract provides for progress payments, the proper invoice for the progress payment has not been submitted pursuant to the schedule;

H. If the Contract provides for withholding a retainage and the invoice is for the retainage, all stipulated conditions for release of the retainage have not been met; or

I. The Contractor has not submitted satisfactory documentation or other evidence reasonably required by the Procurement Officer or by the Contract concerning performance under the Contract and compliance with its provisions.

3.3.4 Travel Reimbursement

Travel will not be reimbursed under this RFP.

3.4 Liquidated Damages

3.4.1 MBE Liquidated Damages

MBE liquidated damages are identified in Attachment M.

3.4.2 Liquidated Damages other than MBE

THIS SECTION IS INAPPLICABLE TO THIS RFP.

3.5 Disaster Recovery and Data

The following requirements apply to the Contract:

3.5.1 Redundancy, Data Backup and Disaster Recovery

A. Unless specified otherwise in the RFP, Contractor shall maintain or cause to be maintained disaster avoidance procedures designed to safeguard State data and other confidential information, Contractor's processing capability and the availability of hosted services, in each case throughout the Contract term. Any force majeure provisions of the Contract do not limit the Contractor's obligations under this provision.

B. The Contractor shall have robust contingency and disaster recovery (DR) plans in place to ensure that the services provided under the Contract will be maintained in the event of disruption to the Contractor/subcontractor's operations (including, but not limited to, disruption to information technology systems), however caused.

   1) The Contractor shall furnish a DR site.

   2) The DR site shall be at least 100 miles from the primary operations site, and have the capacity to take over complete production volume in case the primary site becomes unresponsive.

C. The contingency and DR plans must be designed to ensure that services under the Contract are restored after a disruption within twenty-four (24) hours from notification and a recovery point objective of one (1) hour or less prior to the outage in order to avoid unacceptable consequences due to the unavailability of services.

D. The Contractor shall test the contingency/DR plans at least twice annually to identify any changes that need to be made to the plan(s) to ensure a minimum interruption of service. Coordination shall be made with the State to ensure limited system downtime when testing is conducted. At least one (1) annual test shall include backup media restoration and failover/fallback operations at the DR location. The Contractor shall send the Contract Monitor a notice of completion following completion of DR testing.

E. Such contingency and DR plans shall be available for the Department to inspect and practically test at any reasonable time, and subject to regular updating, revising, and testing throughout the term of the Contract.

3.5.2 Data Export/Import

A. The Contractor shall, at no additional cost or charge to the State, in an industry standard/non-proprietary format:

1) perform a full or partial import/export of State data within 24 hours of a request; or

2) provide to the State the ability to import/export data at will and provide the State with any access and instructions which are needed for the State to import or export data.

B. Any import or export shall be in a secure format per the Security Requirements.

3.5.3 Data Ownership and Access

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

B. Public jurisdiction user accounts and public jurisdiction data shall not be accessed, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of the Contract, including as necessary to perform the services hereunder or (4) at the State's written request.

C. The Contractor shall limit access to and possession of State data to only Contractor Personnel whose responsibilities reasonably require such access or possession and shall train such Contractor Personnel on the confidentiality obligations set forth herein.

D. At no time shall any data or processes – that either belong to or are intended for the use of the State or its officers, agents or employees – be copied, disclosed or retained by the Contractor or any party related to the Contractor for subsequent use in any transaction that does not include the State.

E. The Contractor shall not use any information collected in connection with the services furnished under the Contract for any purpose other than fulfilling such services.

3.5.4 Provisions in Sections 3.5.1 – 3.5.3 shall survive expiration or termination of the Contract. Additionally, the Contractor shall flow down the provisions of Sections 3.5.1-3.5.3 (or the substance thereof) in all subcontracts.

3.6 Insurance Requirements

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

3.6.1 The following type(s) of insurance and minimum amount(s) of coverage are required:

A. Commercial General Liability - of $1,000,000 combined single limit per occurrence for bodily injury, property damage, and personal and advertising injury and $3,000,000 annual aggregate. The minimum limits required herein may be satisfied through any combination of primary and umbrella/excess liability policies.

B. Errors and Omissions/Professional Liability - $1,000,000 per combined single limit per claim and $3,000,000 annual aggregate.

C. Crime Insurance/Employee Theft Insurance - to cover employee theft with a minimum single loss limit of $1,000,000 per loss, and a minimum single loss retention not to exceed $10,000. The State of Maryland and the Department should be added as a "loss payee."

D. Cyber Security / Data Breach Insurance – (For any service offering hosted by the Contractor) ten million dollars ($10,000,000) per occurrence. The coverage must be valid at all locations where work is performed or data or other information concerning the State's claimants or employers is processed or stored.

E. Worker's Compensation - The Contractor shall maintain such insurance as necessary or as required under Workers' Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act, to not be less than. one million dollars ($1,000,000) per occurrence (unless a state's law requires a greater amount of coverage). Coverage must be valid in all states where work is performed.

F. Automobile or Commercial Truck Insurance - The Contractor shall maintain Automobile or Commercial Truck Insurance (including owned, leased, hired, and non-owned vehicles) as appropriate with Liability, Collision, and PIP limits no less than those required by the State where the vehicle(s) is registered, but in no case less than those required by the State of Maryland.

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

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

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

3.6.5 The recommended awardee must provide current certificate(s) of insurance with the prescribed coverages, limits and requirements set forth in this section within five (5) Business Days from notice of recommended award. During the period of performance for multi-year contracts, the Contractor shall provide certificates of insurance annually, or as otherwise directed by the Contract Monitor.

3.6.6 Subcontractor Insurance

The Contractor shall require any subcontractors to obtain and maintain comparable levels of coverage and shall provide the Contract Monitor with the same documentation as is required of the Contractor.

3.7 Security Requirements

The following requirements are applicable to the Contract:

3.7.1 Employee Identification

A. Contractor Personnel shall display his or her company ID badge in a visible location at all times while on State premises. Upon request of authorized State personnel, each Contractor Personnel shall provide additional photo identification.

B. Contractor Personnel shall cooperate with State site requirements, including but not limited to, being prepared to be escorted at all times, and providing information for State badge issuance.

C. Contractor shall remove any Contractor Personnel from working on the Contract where the State determines, in its sole discretion, that Contractor Personnel has not adhered to the Security requirements specified herein.

D. The State reserves the right to request that the Contractor submit proof of employment authorization of non-United States Citizens, prior to commencement of work under the Contract.

3.7.2 Criminal Background Check

A. A criminal background check for each Contractor Personnel providing any services shall be completed prior to each Contractor Personnel providing any services under the Contract. The Contractor shall obtain at its own expense a Criminal Justice Information System (CJIS) State and federal criminal background check, including fingerprinting, for all Contractor Personnel listed in sub-paragraph A. This check may be performed by a public or private entity.

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

C. Persons with a criminal record may not perform services under the Contract unless prior written approval is obtained from the Contract Monitor. The Contract Monitor reserves the right to reject any individual based upon the results of the background check. Decisions of the Contract Monitor as to acceptability of a candidate are final. The State reserves the right to refuse any individual Contractor Personnel to work on State premises, based upon certain specified criminal convictions, as specified by the State.

D. The CJIS criminal record check of each Contractor Personnel who will work on State premises shall be reviewed by the Contractor for convictions of any of the following crimes described in the Annotated Code of Maryland, Criminal Law Article:

1) §§ 6-101 through 6-104, 6-201 through 6-205, 6-409 (various crimes against property);

2) any crime within Title 7, Subtitle 1 (various crimes involving theft);

3) §§ 7-301 through 7-303, 7-313 through 7-317 (various crimes involving telecommunications and electronics);

4) §§ 8-201 through 8-302, 8-501 through 8-523 (various crimes involving fraud);

5) §§9-101 through 9-417, 9-601 through 9-604, 9-701 through 9-706.1 (various crimes against public administration); or

6) a crime of violence as defined in CL § 14-101(a).

E. Contractor Personnel with access to systems supporting the State or to State data who have been convicted of a felony or of a crime involving telecommunications and electronics from the above list of crimes shall not be permitted to work on State premises under the Contract; Contractor Personnel who have been convicted within the past five (5) years of a misdemeanor from the above list of crimes shall not be permitted to work on State premises.

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

3.7.3 On-Site Security Requirement(s)

THIS SECTION IS INAPPLICABLE TO THIS RFP.

3.7.4 Information Technology

The Contractor shall:

1) Implement administrative, physical, and technical safeguards to protect State data that are no less rigorous than accepted industry best practices for information security such as those listed below (see **Section 3.7.5**);

2) Ensure that all such safeguards, including the manner in which State data is collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws as well as the terms and conditions of the Contract; and

3) The Contractor, and Contractor Personnel, shall (i) abide by all applicable federal, State and local laws, rules and regulations concerning security of Information Systems and Information Technology and (ii) comply with and adhere to the State IT Security Policy and Standards as each may be amended or revised from time to time. Updated and revised versions of the State IT Policy and Standards are available online at: www.doit.maryland.gov – keyword: Security Policy.

3.7.5 Data Protection and Controls

A. Contractor shall ensure a secure environment for all State data and any hardware and software (including but not limited to servers, network and data components) provided or used in connection with the performance of the Contract and shall apply or cause application of appropriate controls so as to maintain such a secure environment ("Security Best Practices"). Such Security Best Practices shall comply with an accepted industry standard, such as the NIST cybersecurity framework.

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

1) Establish separate production, test, and training environments for systems supporting the services provided under the Contract and ensure that production data is not replicated in test or training environment(s) unless it has been previously anonymized or otherwise modified to protect the confidentiality of Sensitive Data elements. The Contractor shall ensure the appropriate separation of production and

non-production environments by applying the data protection and control requirements listed in **Section 3.7.5**.

2) Apply hardware and software hardening procedures as recommended by Center for Internet Security (CIS) guides https://www.cisecurity.org/, Security Technical Implementation Guides (STIG) http://iase.disa.mil/Pages/index.aspx, or similar industry best practices to reduce the systems' surface of vulnerability, eliminating as many security risks as possible and documenting what is not feasible or not performed according to best practices. Any hardening practices not implemented shall be documented with a plan of action and milestones including any compensating control. These procedures may include but are not limited to removal of unnecessary software, disabling or removing unnecessary services, removal of unnecessary usernames or logins, and the deactivation of unneeded features in the Contractor's system configuration files.

3) Ensure that State data is not comingled with non-State data through the proper application of compartmentalization security measures.

4) Apply data encryption to protect Sensitive Data at all times, including in transit, at rest, and also when archived for backup purposes. Unless otherwise directed, the Contractor is responsible for the encryption of all Sensitive Data.

5) For all State data the Contractor manages or controls, data encryption shall be applied to such data in transit over untrusted networks.

6) Encryption algorithms which are utilized for encrypting data shall comply with current Federal Information Processing Standards (FIPS), "Security Requirements for Cryptographic Modules," FIPS PUB 140-2:

   http://csrc.nist.gov/publications/fips/fips140-2/fips1402.pdf

   http://csrc.nist.gov/groups/STM/cmvp/documents/140-1/1401vend.htm

7) Enable appropriate logging parameters to monitor user access activities, authorized and failed access attempts, system exceptions, and critical information security events as recommended by the operating system and application manufacturers and information security standards, including Maryland Department of Information Technology's Information Security Policy.

8) Retain the aforementioned logs and review them at least daily to identify suspicious or questionable activity for investigation and documentation as to their cause and remediation, if required. The Department shall have the right to inspect these policies and procedures and the Contractor or subcontractor's performance to confirm the effectiveness of these measures for the services being provided under the Contract.

9) Ensure system and network environments are separated by properly configured and updated firewalls.

10) Restrict network connections between trusted and untrusted networks by physically or logically isolating systems from unsolicited and unauthenticated network traffic.

11) By default "deny all" and only allow access by exception.

12) Review, at least annually, the aforementioned network connections, documenting and confirming the business justification for the use of all service, protocols, and

ports allowed, including the rationale or compensating controls implemented for those protocols considered insecure but necessary.

13) Perform regular vulnerability testing of operating system, application, and network devices. Such testing is expected to identify outdated software versions; missing software patches; device or software misconfigurations; and to validate compliance with or deviations from the security policies applicable to the Contract. Contractor shall evaluate all identified vulnerabilities for potential adverse effect on security and integrity and remediate the vulnerability no later than 30 days following the earlier of vulnerability's identification or public disclosure, or document why remediation action is unnecessary or unsuitable. The Department shall have the right to inspect the Contractor's policies and procedures and the results of vulnerability testing to confirm the effectiveness of these measures for the services being provided under the Contract.

14) Enforce strong user authentication and password control measures to minimize the opportunity for unauthorized access through compromise of the user access controls. At a minimum, the implemented measures should be consistent with the most current Maryland Department of Information Technology's Information Security Policy (http://doit.maryland.gov/support/Pages/SecurityPolicies.aspx), including specific requirements for password length, complexity, history, and account lockout.

15) Ensure State data is not processed, transferred, or stored outside of the United States ("U.S."). The Contractor shall provide its services to the State and the State's end users solely from data centers in the U.S. Unless granted an exception in writing by the State, the Contractor shall not allow Contractor Personnel to store State data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. The Contractor shall permit its Contractor Personnel to access State data remotely only as required to provide technical support.

16) Ensure Contractor's Personnel shall not connect any of its own equipment to a State LAN/WAN without prior written approval by the State, which may be revoked at any time for any reason. The Contractor shall complete any necessary paperwork as directed and coordinated with the Contract Monitor to obtain approval by the State to connect Contractor -owned equipment to a State LAN/WAN.

17) Ensure that anti-virus and anti-malware software is installed and maintained on all systems supporting the services provided under the Contract; that the anti-virus and anti-malware software is automatically updated; and that the software is configured to actively scan and detect threats to the system for remediation. The Contractor shall perform routine vulnerability scans and take corrective actions for any findings.

18) Conduct regular external vulnerability testing designed to examine the service provider's security profile from the Internet without benefit of access to internal systems and networks behind the external security perimeter. Evaluate all identified vulnerabilities on Internet-facing devices for potential adverse effect on the service's security and integrity and remediate the vulnerability promptly or document why remediation action is unnecessary or unsuitable. The Department shall have the right to inspect these policies and procedures and the performance of

vulnerability testing to confirm the effectiveness of these measures for the services being provided under the Contract.

3.7.6 Security Plan

A. The Contractor shall protect State data according to a written security policy ("Security Plan") no less rigorous than that of the State, and shall supply a copy of such policy to the State for validation, with any appropriate updates, on an annual basis.

B. The Security Plan shall detail the steps and processes employed by the Contractor as well as the features and characteristics which will ensure compliance with the security requirements of the Contract.

3.7.7 Security Incident Response

A. The Contractor shall notify the Department in accordance with **Section 3.7.7A-D** when any Contractor system that may access, process, or store State data or State systems experiences a Security Incident or a Data Breach as follows:

1) notify the Department within twenty-four (24) hours of the discovery of a Security Incident by providing notice via written or electronic correspondence to the Contract Monitor, Department chief information officer and Department chief information security officer;

2) notify the Department within two (2) hours if there is a threat to Contractor's Solution as it pertains to the use, disclosure, and security of State data; and

3) provide written notice to the Department within one (1) Business Day after Contractor's discovery of unauthorized use or disclosure of State data and thereafter all information the State (or Department) requests concerning such unauthorized use or disclosure.

B. Contractor's notice shall identify:

1) the nature of the unauthorized use or disclosure;

2) the State data used or disclosed,

3) who made the unauthorized use or received the unauthorized disclosure;

4) what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and

5) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure.

6) The Contractor shall provide such other information, including a written report, as reasonably requested by the State.

C. The Contractor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the Contract. Discussing Security Incidents with the State should be handled on an urgent as-needed basis, as part of Contractor communication and mitigation processes as mutually agreed upon, defined by law or contained in the Contract.

D. The Contractor shall comply with all applicable laws that require the notification of individuals in the event of unauthorized release of State data or other event requiring

notification, and, where notification is required, assume responsibility for informing all such individuals in accordance with applicable law and to indemnify and hold harmless the State (or Department) and its officials and employees from and against any claims, damages, and actions related to the event requiring notification.

3.7.8 Data Breach Responsibilities

A. If the Contractor reasonably believes or has actual knowledge of a Data Breach, the Contractor shall, unless otherwise directed:

1) Notify the appropriate State-identified contact within 24 hours by telephone in accordance with the agreed upon security plan or security procedures unless a shorter time is required by applicable law;

2) Cooperate with the State to investigate and resolve the data breach;

3) Promptly implement commercially reasonable remedial measures to remedy the Data Breach; and

4) Document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services.

B. If a Data Breach is a direct result of the Contractor's breach of its Contract obligation to encrypt State data or otherwise prevent its release, the Contractor shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifications to individuals, regulators or others required by State law; (3) a credit monitoring service required by State or federal law; (4) a website or a toll-free number and call center for affected individuals required by State law; and (5) complete all corrective actions as reasonably determined by Contractor based on root cause; all [(1) through (5)] subject to the Contract's limitation of liability.

3.7.9 The State shall, at its discretion, have the right to review and assess the Contractor's compliance to the security requirements and standards defined in the Contract.

3.7.10 Provisions in **Sections 3.7.1-3.7.8** shall survive expiration or termination of the Contract. Additionally, the Contractor shall flow down the provisions of **Sections 3.7.4-3.7.** (or the substance thereof) in all subcontracts.

3.8 Problem Escalation Procedure

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

3.8.2 The Contractor shall provide contact information to the Contract Monitor, as well as to other State personnel as directed should the Contract Monitor not be available.

3.8.3 The Contractor must provide the PEP no later than ten (10) Business Days after notice of recommended award. The PEP, including any revisions thereto, must also be provided within ten (10) Business Days after the start of each Contract year and within ten (10) Business Days after any change in circumstance which changes the PEP. The PEP shall detail how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. The PEP shall include:

A. The process for establishing the existence of a problem;

B. Names, titles, and contact information for progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;

C. For each individual listed in the Contractor's PEP, the maximum amount of time a problem will remain unresolved with that individual before the problem escalates to the next contact person listed in the Contractor's PEP;

D. Expedited escalation procedures and any circumstances that would trigger expediting them;

E. The method of providing feedback on resolution progress, including the frequency of feedback to be provided to the State;

F. Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays) and on an emergency basis; and

G. A process for updating and notifying the Contract Monitor of any changes to the PEP.

3.8.4 Nothing in this section shall be construed to limit any rights of the Contract Monitor or the State which may be allowed by the Contract or applicable law.

3.9 SOC 2 Type 2 Audit Report

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

3.10 Experience and Personnel

3.10.1 Preferred Offeror Experience

The following experience is expected and will be evaluated as part of the Technical Proposal:

A. The Offeror should have three years of experience in the past five years conducting BRFSS interviews in at least three U.S. jurisdictions. As proof of meeting this requirement, the Offeror should provide with its proposal three references from three U.S. jurisdictions from the past five years able to attest to the Offeror's experience and success in providing these services.

3.10.2 Personnel Experience

THIS SECTION IS INAPPLICABLE TO THIS RFP.

3.11 Substitution of Personnel

3.11.1 Continuous Performance of Key Personnel

When Key Personnel are identified for the Contract, the following apply:

A. Key Personnel shall be available to perform Contract requirements as of the NTP Date. Unless explicitly authorized by the Contract Monitor or specified in the Contract, Key Personnel shall be assigned to the State of Maryland as a dedicated resource.

B. Key Personnel shall perform continuously for the duration of the Contract, or such lesser duration as specified in the Technical Proposal. Key Personnel may not be removed by the Contractor from working under the Contract without the prior written approval of the Contract Monitor.

C. The provisions of this section apply to Key Personnel identified in any Task Order proposal and agreement, if issued, and any Work Order Request and Work Order, if issued.

3.11.2 Definitions

For the purposes of this section, the following definitions apply:

A. **Extraordinary Personal Event** – means any of: leave under the Family Medical Leave Act; an Incapacitating injury or Incapacitating illness; or other circumstances that in the sole discretion of the State warrant an extended leave of absence, such as extended jury duty or extended military service that precludes the individual from performing his/her job duties under the Contract.

B. **Incapacitating** – means any health circumstance that substantially impairs the ability of an individual to perform the job duties described for that individual's position in the RFP or the Contractor's Technical Proposal.

3.11.3 Contractor Personnel General Substitution Provisions

The following provisions apply to all of the circumstances of Contractor Personnel substitution described in **Section 3.11.4**.

A. The Contractor shall demonstrate to the Contract Monitor's satisfaction that the proposed substitute has qualifications at least equal to those of the Contractor Personnel proposed to be replaced.

B. The Contractor shall provide the Contract Monitor with a substitution request that shall include:

1) A detailed explanation of the reason(s) for the substitution request;

2) The resume of the proposed substitute, signed by the substituting individual and his/her formal supervisor;

3) The official resume of the current personnel for comparison purposes; and

4) Evidence of any required credentials.

C. The Contract Monitor may request additional information concerning the proposed substitution and may interview the proposed substitute personnel prior to deciding whether to approve the substitution request.

D. The Contract Monitor will notify the Contractor in writing of: (i) the acceptance or denial, or (ii) contingent or temporary approval for a specified time limit, of the requested substitution. The Contract Monitor will not unreasonably withhold approval of a proposed Contractor Personnel replacement.

3.11.4 Replacement Circumstances

A. Directed Personnel Replacement

1) The Contract Monitor may direct the Contractor to replace any Contractor Personnel who, in the sole discretion of the Contract Monitor, are perceived as being unqualified, non-productive, unable to fully perform the job duties, disruptive, or known, or reasonably believed, to have committed a major infraction(s) of law, Department policies, or Contract requirements. Normally, a directed personnel replacement will occur only after prior notification of problems with requested remediation, as described in paragraph **3.11.4.A.2**.

2) If deemed appropriate in the discretion of the Contract Monitor, the Contract Monitor may give written notice of any Contractor Personnel performance issues to the Contractor, describing the problem and delineating the remediation requirement(s). The Contractor shall provide a written response to the remediation requirements in a Remediation Plan within ten (10) days of the date of the notice and shall immediately implement the Remediation Plan upon written acceptance by the Contract Monitor. If the Contract Monitor rejects the Remediation Plan, the Contractor shall revise and resubmit the plan to the Contract Monitor within five (5) days, or in the timeframe set forth by the Contract Monitor in writing.

3) Should performance issues persist despite an approved Remediation Plan, the Contract Monitor may give written notice of the continuing performance issues and either request a new Remediation Plan within a specified time limit or direct the substitution of Contractor Personnel whose performance is at issue with a qualified substitute, including requiring the immediate removal of the Contractor Personnel at issue.

4) Replacement or substitution of Contractor Personnel under this section shall be in addition to, and not in lieu of, the State's remedies under the Contract or which otherwise may be available at law or in equity.

5) If the Contract Monitor determines to direct substitution under **3.11.4.A.1**, if at all possible, at least fifteen (15) days advance notice shall be given to the Contractor. However, if the Contract Monitor deems it necessary and in the State's best interests to remove the Contractor Personnel with less than fifteen (15) days' notice, the Contract Monitor may direct the removal in a timeframe of less than fifteen (15) days, including immediate removal.

6) In circumstances of directed removal, the Contractor shall, in accordance with paragraph **3.11.4.A.1** of this section, provide a suitable replacement for approval within fifteen (15) days of the notification of the need for removal, or the actual removal, whichever occurs first.

B. Key Personnel Replacement

1) To replace any Key Personnel in a circumstance other than as described in **3.11.4.B**, including transfers and promotions, the Contractor shall submit a substitution request as described in **Section 3.11.3** to the Contract Monitor at least fifteen (15) days prior to the intended date of change. A substitution may not occur unless and until the Contract Monitor approves the substitution in writing.

2) Key Personnel Replacement Due to Sudden Vacancy

a) The Contractor shall replace Key Personnel whenever a sudden vacancy occurs (e.g., Extraordinary Personal Event, death, resignation, termination). A termination or resignation with thirty (30) days or more advance notice shall be treated as a replacement under **Section 3.11.4.B.1**.

b) Under any of the circumstances set forth in this paragraph B, the Contractor shall identify a suitable replacement and provide the same information and items required under **Section 3.11.3** within fifteen (15) days of the actual vacancy occurrence or from when the Contractor first knew or should have known that the vacancy would be occurring, whichever is earlier.

3) Key Personnel Replacement Due to an Indeterminate Absence

a) If any Key Personnel has been absent from his/her job for a period of ten (10) days and it is not known or reasonably anticipated that the individual will be returning to work within the next twenty (20) days to fully resume all job duties, before the 25th day of continuous absence, the Contractor shall identify a suitable replacement and provide the same information and items to the Contract Monitor as required under **Section 3.11.3**.

b) However, if this person is available to return to work and fully perform all job duties before a replacement has been authorized by the Contract Monitor the Contract Monitor may, at his/her sole discretion, authorize the original personnel to continue to work under the Contract, or authorize the replacement personnel to replace the original personnel, notwithstanding the original personnel's ability to return.

3.11.5 Substitution Prior to and Within 30 Days After Contract Execution

Prior to Contract execution or within thirty (30) days after Contract execution, the Offeror may not substitute proposed Key Personnel except under the following circumstances (a) for actual full-time personnel employed directly by the Offeror: the vacancy occurs due to the sudden termination, resignation, or approved leave of absence due to an Extraordinary Personal Event, or the death of such personnel; and (b) for any temporary staff, subcontractors or 1099 contractors: the vacancy occurs due to an Incapacitating event or the death of such personnel. To qualify for such substitution, the Offeror must demonstrate to the State's satisfaction the event necessitating substitution. Proposed substitutions shall be of equal caliber or higher, in the State's sole discretion. Proposed substitutes deemed by the State to be less qualified than the originally proposed individual may be grounds for pre-award disqualification or post-award termination.

3.12 Minority Business Enterprise (MBE) Reports

If this solicitation includes an MBE Goal (see **Section 4.26**), the Contractor shall:

A. Submit the following reports by the 10th of each month to the Contract Monitor and the Department's MBE Liaison Officer:

1) A Prime Contractor Paid/Unpaid MBE Invoice Report (**Attachment D-4A**) listing any unpaid invoices, over 45 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made; and

2) (If Applicable) An MBE Prime Contractor Report (**Attachment D-4B**) identifying an MBE prime's self-performing work to be counted towards the MBE participation goals.

B. Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit an MBE Subcontractor Paid/Unpaid Invoice Report (**Attachment D-5**) by the 10th of each month to the Contract Monitor and the Department's MBE Liaison Officer that identifies the Contract and lists all payments to the MBE subcontractor received from the Contractor in the preceding reporting period month, as well as any outstanding invoices, and the amounts of those invoices.

C. 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, type of work performed by each, and actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.

D. 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.

E. Upon completion of the Contract and before final payment and release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

3.13 Veteran Small Business Enterprise (VSBE) Reports

If this solicitation includes a VSBE Goal (see **Section 4.27**), the Contractor shall:

A. Submit the following reports by the 10th of the month following the reporting period to the Contract Monitor and the Department VSBE representative:

1) VSBE Participation Prime Contractor Paid/Unpaid VSBE Invoice Report (**Attachment E-3**) listing any unpaid invoices, over 45 days old, received from any VSBE subcontractor, the amount of each invoice and the reason payment has not been made; and

2) **Attachment E-4**, the VSBE Participation Subcontractor Paid/Unpaid VSBE Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the VSBE Liaison Officer.

B. Include in its agreements with its VSBE subcontractors a requirement that those subcontractors submit monthly by the 10th of the month following the reporting period to the Contract Monitor and Department VSBE representative a report that identifies the prime contract and lists all payments received from Contractor in the preceding reporting period month, as well as any outstanding invoices, and the amount of those invoices (**Attachment E-4**).

C. Maintain such records as are necessary to confirm compliance with its VSBE participation obligations. These records must indicate the identity of VSBE and non-VSBE subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed. The subcontract agreement documenting the work performed by all VSBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.

D. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the VSBE participation obligations. The Contractor must retain all records concerning VSBE participation and make them available for State inspection for three years after final completion of the Contract.

E. At the option of the Department, upon completion of the Contract and before final payment and release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from VSBE subcontractors.

3.14 Work Orders

THIS SECTION IS INAPPLICABLE TO THIS RFP.

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4 Procurement Instructions

4.1 Pre-Proposal Conference

4.1.1 A pre-Proposal conference (Conference) will be held at the date, time, and location indicated on the Key Information Summary Sheet.

4.1.2 Attendance at the Conference is not mandatory, but all interested parties are encouraged to attend in order to facilitate better preparation of their Proposals.

4.1.3 Following the Conference, the attendance record and summary of the Conference will be distributed via the same mechanism described for amendments and questions (see **Section 4.2.1** eMM).

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

4.1.5 In order to assure adequate seating and other accommodations at the Conference, please e-mail the Pre-Proposal Conference Response Form (**Attachment A**) no later than the time and date indicated on the form. In addition, if there is a need for sign language interpretation or other special accommodations due to a disability, please notify the Procurement Officer at least five (5) Business Days prior to the Conference date. The Department will make a reasonable effort to provide such special accommodation.

4.1.6 Seating at the Conference will be limited to two (2) attendees per vendor.

4.2 eMaryland Marketplace (eMM)

4.2.1 eMM is the electronic commerce system for the State of Maryland. The RFP, Conference summary and attendance sheet, Offerors' questions and the Procurement Officer's responses, addenda, and other solicitation-related information will be made available via eMM.

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

4.3 Questions

4.3.1 All questions, including concerns regarding any applicable MBE or VSBE participation goals, shall identify in the subject line the Solicitation Number and Title (20-18349- Computer-Assisted Telephone Interviewing Data Collection for the Maryland Behavioral Risk Factor Surveillance System (BRFSS)), and shall be submitted in writing via e-mail to the Procurement Officer at least five (5) days prior to the Proposal due date. The Procurement Officer, based on the availability of time to research and communicate an answer, shall decide whether an answer can be given before the Proposal due date.

4.3.2 Answers to all questions that are not clearly specific only to the requestor will be distributed via the same mechanism as for RFP amendments, and posted on eMM.

4.3.3 The statements and interpretations contained in responses to any questions, whether responded to verbally or in writing, are not binding on the Department unless it issues an amendment in writing.

4.4 Procurement Method

A Contract will be awarded in accordance with the Competitive Sealed Proposals method under COMAR 21.05.03.

4.5 Proposal Due (Closing) Date and Time

4.5.1 Proposals, in the number and form set forth in **Section 5 Proposal Format**, must be received by the Procurement Officer no later than the Proposal due date and time indicated on the Key Information Summary Sheet in order to be considered.

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

4.5.3 Offerors submitting Proposals should allow sufficient delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02.F and 21.05.02.10, Proposals received after the due date and time listed in the Key Information Summary Sheet will not be considered.

4.5.4 The date and time of an e-mail submission is determined by the date and time of arrival in the e-mail address indicated on the Key Information Summary Sheet.

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

4.5.6 Proposals may not be submitted by facsimile. Proposals will not be opened publicly.

4.5.7 Potential Offerors not responding to this solicitation are requested to submit the "Notice to Vendors" form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements).

4.6 Multiple or Alternate Proposals

Multiple or alternate Proposals will not be accepted.

4.7 Economy of Preparation

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

4.8 Public Information Act Notice

4.8.1 The 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., General Provisions Article, Title 4 (See also RFP **Section 5.3.2.B** "Claim of Confidentiality"). This information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical Proposal and if applicable, separately in the Financial Proposal.

4.8.2 Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information must be disclosed.

4.9 Award Basis

A Contract shall be awarded to the responsible Offeror(s) submitting the Proposal that has been determined to be the most advantageous to the State, considering price and evaluation factors set forth in this RFP (see COMAR 21.05.03.03F), for providing the goods and services as specified in this RFP. See RFP **Section 6** for further award information.

4.10 Oral Presentation

Offerors may be required to make oral presentations to State representatives. Oral presentations are considered part of the Technical Proposal. Offerors must confirm in writing any substantive oral clarification of, or change in, their Proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror's Proposal. The Procurement Officer will notify Offerors of the time and place of oral presentations.

4.11 Duration of Proposal

Proposals submitted in response to this RFP are irrevocable for the latest of the following: 120 days following the Proposal due date and time, best and final offers if requested (see **Section 6.5.2**), or the date any protest concerning this RFP is finally resolved. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

4.12 Revisions to the RFP

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

4.12.2 Acknowledgment of the receipt of all addenda to this RFP issued before the Proposal due date shall be included in the Transmittal Letter accompanying the Offeror's Technical Proposal.

4.12.3 Addenda made after the due date for Proposals will be sent only to those Offerors that remain under award consideration as of the issuance date of the addenda.

4.12.4 Acknowledgement of the receipt of addenda to the RFP issued after the Proposal due date shall be in the manner specified in the addendum notice.

4.12.5 Failure to acknowledge receipt of an addendum does not relieve the Offeror from complying with the terms, additions, deletions, or corrections set forth in the addendum, and may cause the Proposal to be deemed not reasonably susceptible of being selected for award.

4.13 Cancellations

4.13.1 The State reserves the right to cancel this RFP, accept or reject any and all Proposals, in whole or in part, received in response to this RFP, waive or permit the cure of minor irregularities, and conduct discussions with all qualified or potentially qualified Offerors in any manner necessary to serve the best interests of the State.

4.13.2 The State reserves the right, in its sole discretion, to award a Contract based upon the written Proposals received without discussions or negotiations.

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

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

4.14 Incurred Expenses

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

4.15 Protest/Disputes

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

4.16 Offeror Responsibilities

4.16.1 Offerors must be able to provide all goods and services and meet all of the requirements requested in this solicitation and the successful Offeror shall be responsible for Contract performance including any subcontractor participation.

4.16.2 All subcontractors shall be identified and a complete description of their role relative to the Proposal shall be included in the Offeror's Proposal. If applicable, subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate Attachment(s) to this RFP (see **Section 4.26** "Minority Participation Goal" and **Section 4.27** "VSBE Goal").

4.16.3 If the Offeror is the subsidiary of another entity, all information submitted by the Offeror, including but not limited to references, financial reports, or experience and documentation (e.g. insurance policies, bonds, letters of credit) used to meet minimum qualifications, if any, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's Proposal shall contain an explicit statement, signed by an authorized representative of the parent organization, stating that the parent organization will guarantee the performance of the subsidiary.

4.16.4 A parental guarantee of the performance of the Offeror under this Section will not automatically result in crediting the Offeror with the experience or qualifications of the parent under any evaluation criteria pertaining to the actual Offeror's experience and qualifications. Instead, the Offeror will be evaluated on the extent to which the State determines that the experience and qualifications of the parent are applicable to and shared with the Offeror, any stated intent by the parent to be directly involved in the performance of the Contract, and the value of the parent's participation as determined by the State.

4.17 Acceptance of Terms and Conditions

By submitting a Proposal in response to this RFP, the Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached hereto as **Attachment M**. Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary of the Technical Proposal. **All exceptions will be taken into consideration when evaluating the Offeror's Proposal. The Department reserves the right to accept or reject any exceptions.**

4.18 Proposal Affidavit

A Proposal submitted by the Offeror must be accompanied by a completed Proposal Affidavit. A copy of this Affidavit is included as **Attachment C** of this RFP.

4.19 Contract Affidavit

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete a Contract Affidavit. A copy of this Affidavit is included for informational purposes as **Attachment N** of this RFP. This Affidavit must be provided within five (5) Business Days of notification of recommended award. For purposes of completing Section "B" of this Affidavit (Certification of Registration or Qualification with the State Department of Assessments and Taxation), a business entity that is organized outside of the State of Maryland is considered a "foreign" business.

4.20 Compliance with Laws/Arrearages

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

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

4.21 Verification of Registration and Tax Payment

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

It is strongly recommended that any potential Offeror complete registration prior to the Proposal due date and time. The Offeror's failure to complete registration with SDAT may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

4.22 False Statements

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

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

A. Falsify, conceal, or suppress a material fact by any scheme or device.

B. Make a false or fraudulent statement or representation of a material fact.

C. Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.

4.22.2 A person may not aid or conspire with another person to commit an act under **Section 4.22.1**.

4.22.3 A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding $20,000 or imprisonment not exceeding five (5) years or both.

4.23 Payments by Electronic Funds Transfer

By submitting a Proposal in response to this solicitation, the Offeror, if selected for award:

4.23.1 Agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller's Office grants an exemption. Payment by EFT is mandatory for contracts exceeding $200,000. The successful Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form.

4.23.2 Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form, must include the business identification information as stated on the form, and must include the reason for the exemption. The COT/GAD X-10 form may be downloaded from the Comptroller's website at: http://comptroller.marylandtaxes.com/Vendor_Services/Accounting_Information/Static_Files/GADX10Form20150615.pdf.

4.24 Prompt Payment Policy

This procurement and the Contract(s) to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Small, Minority & Women Business Affairs (GOSBA) and dated August 1, 2008. Promulgated pursuant to Md. Code Ann., State Finance and Procurement Article, §§ 11-201, 13-205(a), and Title 14, Subtitle 3, and COMAR 21.01.01.03 and 21.11.03.01, the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The Contractor shall comply with the prompt payment requirements outlined in the Contract, Section 31 "Prompt Pay Requirements" (see **Attachment M**), should an MBE goal apply to this RFP. Additional information is available on GOSBA's website at: http://www.gomdsmallbiz.maryland.gov/documents/legislation/promptpaymentfaqs.pdf.

4.25 Electronic Procurements Authorized

4.25.1 Under COMAR 21.03.05, unless otherwise prohibited by law, the Department may conduct procurement transactions by electronic means, including the solicitation, proposing, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.

4.25.2 Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or Contract. In the case of electronic transactions authorized by this RFP, electronic records and signatures by an authorized representative satisfy a requirement for written submission and signatures.

4.25.3 "Electronic means" refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., https://emaryland.buyspeed.com/bso/), and electronic data interchange.

4.25.4 In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., RFP § 4.23 describing payments by Electronic Funds Transfer), the following transactions are authorized to be conducted by electronic means on the terms as authorized in COMAR 21.03.05:

A. The Procurement Officer may conduct the procurement using eMM or e-mail to issue:

1) The RFP;

2) Any amendments and requests for best and final offers;

3) Pre-Proposal conference documents;

4) Questions and responses;

5) Communications regarding the solicitation or Proposal to any Offeror or potential Offeror;

6) Notices of award selection or non-selection; and

7) The Procurement Officer's decision on any Proposal protest or Contract claim.

B. The Offeror or potential Offeror may use e-mail to:

1) Ask questions regarding the solicitation;

2) 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 and;

3) Submit a "No Proposal Response" to the RFP.

C. The Procurement Officer, the Contract Monitor, and the Contractor may conduct day-to-day Contract administration, except as outlined in **Section 4.25.5** of this subsection, utilizing e-mail or other electronic means if authorized by the Procurement Officer or Contract Monitor.

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

A. Submission of initial Proposals;

B. Filing of protests;

C. Filing of Contract claims;

D. Submission of documents determined by the Department to require original signatures (e.g., Contract execution, Contract modifications); or

E. Any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Offeror be provided in writing or hard copy.

4.25.6 Any e-mail transmission is only authorized to the 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.

4.26 MBE Participation Goal

4.26.1 Establishment of Goal and Subgoals

An overall MBE subcontractor participation goal as identified in the Key Information Summary Sheet has been established for this procurement, representing a percentage of the total Contract dollar value, including all renewal option terms, if any, has been established for this procurement.

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

By submitting a response to this solicitation, the Offeror acknowledges the overall MBE subcontractor participation goal and subgoals and commits to achieving the overall goal and subgoals by utilizing certified minority business enterprises or requests a full or partial waiver of the overall goal and subgoals.

An Offeror that does not commit to meeting the entire MBE participation goal outlined in this Section 4.26 must submit a request for waiver with its proposal submission that is supported by good faith efforts documentation to meet the MBE goal made prior to submission of its proposal as outlined in Attachment D-1B, Waiver Guidance. Failure of an Offeror to properly complete, sign, and submit Attachment D-1A at the time it submits its Technical Response(s) to the RFP will result in the State's rejection of the Offeror's Proposal for the applicable Service Category. This failure is not curable.

4.26.2 Attachments.

A. D-1 to D-5 – The following Minority Business Enterprise participation instructions, and forms are provided to assist Offerors:

1. Attachment D-1A MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (must be submitted with Proposal)
2. Attachment D-1B Waiver Guidance
3. Attachment D-1C Good Faith Efforts Documentation to Support Waiver Request
4. Attachment D-2 Outreach Efforts Compliance Statement
5. Attachment D-3A MBE Subcontractor Project Participation Certification
6. Attachment D-3B MBE Prime Project Participation Certification
7. Attachment D-4A Prime Contractor Paid/Unpaid MBE Invoice Report
8. Attachment D-4B MBE Prime Contractor Report
9. Attachment D-5 Subcontractor Paid/Unpaid MBE Invoice Report

B. The Offeror shall include with its Proposal a completed MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) whereby:

1. The Offeror acknowledges the certified MBE participation goal and commits to make a good faith effort to achieve the goal and any applicable subgoals, or requests a waiver, and affirms that MBE subcontractors were treated fairly in the solicitation process; and

2. 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 Proposal submission. The Offeror shall specify the percentage of total contract value associated with each MBE subcontractor identified on the MBE participation schedule, including any work performed by the MBE prime (including a prime participating as a joint venture) to be counted towards meeting the MBE participation goals.

3. The Offeror requesting a waiver should review **Attachment D-1B** (Waiver Guidance) and **D-1C** (Good Faith Efforts Documentation to Support Waiver Request) prior to submitting its request.

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

4.26.3 Offerors are responsible for verifying that each MBE (including any MBE prime and MBE prime participating in a joint venture) selected to meet the goal and any subgoals and subsequently identified in **Attachment D-1A** is appropriately certified and has the correct NAICS codes allowing it to perform the committed work.

4.26.4 Within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, the Offeror must provide the following documentation to the Procurement Officer.

A. Outreach Efforts Compliance Statement (**Attachment D-2**);

B. MBE Subcontractor/Prime Project Participation Certification (**Attachment D-3A/3B**); and

C. Any other documentation required by the Procurement Officer to ascertain Offeror responsibility in connection with the certified MBE subcontractor participation goal or any applicable subgoals.

D. Further, if the recommended awardee believes a waiver (in whole or in part) of the overall MBE goal or of any applicable subgoal is necessary, the recommended awardee must submit a fully-documented waiver request that complies with COMAR 21.11.03.11.

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

4.26.5 A current directory of certified MBEs is available through the Maryland State Department of Transportation (MDOT), Office of Minority Business Enterprise, 7201 Corporate Center Drive, Hanover, Maryland 21076. The phone numbers are (410) 865-1269, 1-800-544-6056, or TTY (410) 865-1342. The directory is also available on the MDOT website at http://mbe.mdot.maryland.gov/directory/. 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.**

4.26.6 The Offeror that requested a waiver of the goal or any of the applicable subgoals will be responsible for submitting the Good Faith Efforts Documentation to Support Waiver Request (**Attachment D-1C**) and all documentation within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, as required in COMAR 21.11.03.11.

4.26.7 All documents, including the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (**Attachment D-1A**), completed and submitted by the Offeror in connection with its certified MBE participation commitment shall be considered a part of the Contract and are hereby expressly incorporated into the Contract by reference thereto. All of the referenced documents will be considered a part of the Proposal for order of precedence purposes (see Contract – **Attachment M**, **Section 2.1**).

4.26.8 The Offeror is advised that liquidated damages will apply in the event the Contractor fails to comply in good faith with the requirements of the MBE program and pertinent Contract provisions. (See Contract – **Attachment M**, **Liquidated Damages for MBE, section 39**.

4.26.9 As set forth in COMAR 21.11.03.12-1(D), when a certified MBE firm participates on a contract as a prime contractor (including a joint-venture where the MBE firm is a partner), a procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own work force towards fulfilling up to fifty-percent (50%) of the MBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the contract.

In order to receive credit for self-performance, an MBE prime must list its firm in Section 4A of the MBE Participation Schedule (**Attachment D-1A**) and include information regarding the work it will self-perform. For the remaining portion of the overall goal and the subgoals, the MBE prime must also identify other certified MBE subcontractors [see Section 4B of the MBE Participation Schedule (**Attachment D-1A**)] used to meet those goals. If dually-certified, the MBE prime can be designated as only one of the MBE subgoal classifications but can self-perform up to 100% of the stated subgoal.

As set forth in COMAR 21.11.03.12-1, once the Contract work begins, the work performed by a certified MBE firm, including an MBE prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract. Refer to MBE forms (**Attachment D**) for additional information.

4.27 VSBE Goal

4.27.1 Purpose

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

Veteran-Owned Small Business Enterprises must be verified by the Office of Small and Disadvantaged Business Utilization (OSDBU) of the United States Department of Veterans Affairs. The listing of verified VSBEs may be found at http://www.va.gov/osdbu.

4.27.2 VSBE Goal

F. A VSBE participation goal of the total Contract dollar amount has been established for this procurement as identified in the Key Information Summary Sheet.

By submitting a response to this solicitation, the Offeror agrees that this percentage of the total dollar amount of the Contract will be performed by verified veteran-owned small business enterprises.

4.27.3 Solicitation and Contract Formation

G. In accordance with COMAR 21.11.13.05 C (1), this solicitation requires Offerors to:

1) Identify specific work categories within the scope of the procurement appropriate for subcontracting;

2) Solicit VSBEs before Proposals are due, describing the identified work categories and providing instructions on how to bid on the subcontracts;

3) Attempt to make personal contact with the VSBEs solicited and to document these attempts;

4) Assist VSBEs to fulfill, or to seek waiver of, bonding requirements; and

5) Attempt to attend preProposal or other meetings the procurement agency schedules to publicize contracting opportunities to VSBEs.

The Offeror must include with its Proposal a completed VSBE Utilization Affidavit and Prime/Subcontractor Participation Schedule (**Attachment E-1**) whereby the Offeror:

6) Acknowledges it: a) intends to meet the VSBE participation goal; or b) requests a full or partial waiver of the VSBE participation goal. If the Offeror commits to the full VSBE goal or requests a partial waiver, it shall commit to making a good faith effort to achieve the stated goal; and

7) Responds to the expected degree of VSBE participation as stated in the solicitation, by identifying the specific commitment of VSBEs at the time of Proposal submission. The Offeror shall specify the percentage of contract value associated with each VSBE prime/subcontractor identified on the VSBE Participation Schedule.

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

8) VSBE Project Participation Statement (**Attachment E-2**);

9) If the apparent awardee believes a full or partial waiver of the overall VSBE goal is necessary, it must submit a fully-documented waiver request that complies with COMAR 21.11.13.07; and

10) Any other documentation required by the Procurement Officer to ascertain Offeror responsibility in connection with the VSBE 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 reasonably susceptible of being selected for award.

4.28 Living Wage Requirements

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

B. If subject to the Living Wage law, Contractor agrees that it will abide by all Living Wage law requirements, including but not limited to reporting requirements in COMAR 21.11.10.05. Contractor understands that failure of Contractor to provide such documents is a material breach of the terms and conditions and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions. Information pertaining to reporting obligations may be found by going to the Maryland Department of Labor, Licensing and Regulation (DLLR) website http://www.dllr.state.md.us/labor/prev/livingwage.shtml.

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

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

1) The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State Contract pursuant to §18-102(d) of the State Finance and Procurement Article shall assign the tier based upon where the recipients of the services are located. If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located. In this circumstance, the Contract will be determined to be a Tier (enter "1" or "2," depending on where the majority of the service recipients are located) Contract.

2) The Contract 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 Proposal the location(s) from which services will be provided, including the location(s) from which 50% or more of the Contract services will be provided.

3) 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.

4) 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.

E. If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located. See COMAR 21.11.10.07.

F. The Offeror shall identify in the Proposal the location from which services will be provided.

G. **NOTE:** Whereas the Living Wage may change annually, the Contract price will not change because of a Living Wage change.

4.29 Federal Funding Acknowledgement

4.29.1 There are programmatic conditions that apply to the Contract due to federal funding (see **Attachment G**).

4.29.2 The total amount of federal funds allocated for the Prevention and Health Promotion Department is $215,226,339 in Maryland State fiscal year 2018. This represents 55% of all funds budgeted for the unit in that fiscal year. This does not necessarily represent the amount of funding available for any particular grant, contract, or solicitation.

4.29.3 The Contract contains federal funds. The source of these federal funds is: Behavioral Risk Factor Surveillance System. The CFDA number is: 93.336. The conditions that apply to all federal funds awarded by the Department are contained in Federal Funds **Attachment G**. Any additional conditions that apply to this particular federally-funded contract are contained as supplements to Federal Funds **Attachment G** and Offerors are to complete and submit these Attachments with their Proposals as instructed in the Attachments. Acceptance of this agreement indicates the Offeror's intent to comply with all conditions, which are part of the Contract.

4.30 Conflict of Interest Affidavit and Disclosure

4.30.1 The Offeror shall complete and sign the Conflict of Interest Affidavit and Disclosure (**Attachment H**) and submit it with its Proposal.

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

4.30.3 Additionally, a Contractor has an ongoing obligation to ensure that all Contractor Personnel are without conflicts of interest prior to providing services under the Contract. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08.

4.30.4 Participation in Drafting of Specifications: Disqualifying Event: Offerors are advised that Md. Code Ann. State Finance and Procurement Article §13-212.1(a) provides generally that "an individual who assists an executive unit in the drafting of specifications, an invitation for bids, a request for proposals for a procurement, or the selection or award made in response to an invitation for bids or a request for proposals, or a person that employs the individual, may not: (1) submit a bid or proposal for that procurement; or (2) assist or represent another person, directly or indirectly, who is submitting a bid or proposal for that procurement." Any Offeror submitting a Proposal in violation of this provision shall be classified as "not responsible." See COMAR 21.05.03.03.

4.31 Non-Disclosure Agreement

4.31.1 Non-Disclosure Agreement (Offeror)

A Non-Disclosure Agreement (Offeror) is not required for this procurement.

4.31.2 Non-Disclosure Agreement (Contractor)

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

4.32 HIPAA - Business Associate Agreement

A HIPAA Business Associate Agreement is not required for this procurement.

4.33 Nonvisual Access

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

4.34 Mercury and Products That Contain Mercury

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

4.35 Location of the Performance of Services Disclosure

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

4.36 Department of Human Services (DHS) Hiring Agreement

This solicitation does not require a DHS Hiring Agreement.

4.37 Small Business Reserve (SBR) Procurement

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

4.38 Maryland Healthy Working Families Act Requirements

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

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5 Proposal Format

5.1 Two Part Submission

Offerors shall submit Proposals in separate volumes:

- Volume I –Technical Proposal
- Volume II – Financial Proposal

5.2 Proposal Delivery and Packaging

5.2.1 Proposals delivered by facsimile and email shall not be considered.

5.2.2 Provide no pricing information in the Technical Proposal. Provide no pricing information on the media submitted in the Technical Proposal.

5.2.3 Offerors may submit Proposals by hand or by mail as described below to the address provided in the Key Information Summary Sheet.

A. Any Proposal 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. The State recommends a delivery method for which both the date and time of receipt can be verified.

B. For hand-delivery, Offerors are advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery. Hand-delivery includes delivery by commercial carrier acting as agent for the Offeror.

5.2.4 The Procurement Officer must receive all Proposal material by the RFP due date and time specified in the Key Information Summary Sheet. Requests for extension of this date or time will not be granted. Except as provided in COMAR 21.05.03.02F, Proposals received by the Procurement Officer after the due date will not be considered.

5.2.5 Offerors shall provide their Proposals in two separately sealed and labeled packages as follows:

A. Volume I - Technical Proposal consisting of:

1) One (1) original executed Technical Proposal and all supporting material marked and sealed,

2) Four (4) duplicate copies of the above separately marked and sealed,

3) an electronic version of the Technical Proposal in Microsoft Word format, version 2007 or greater,

4) the Technical Proposal in searchable Adobe PDF format, and

5) a second searchable Adobe PDF copy of the Technical Proposal with confidential and proprietary information redacted (see **Section 4.8**).

B. Volume II - Financial Proposal consisting of:

1) One (1) original executed Financial Proposal and all supporting material marked and sealed,

2) four (4) duplicate copies of the above separately marked and sealed,

3) an electronic version of the Financial Proposal in searchable Adobe PDF format, and

4) a second searchable Adobe pdf copy of the Financial Proposal, with confidential and proprietary information redacted(see **Section 4.8**).

5.2.6 Affix the following to the outside of each sealed Proposal. Include the name, email address, and telephone number of a contact person for the Offeror be included on the outside of the packaging for each volume. Unless the resulting package will be too unwieldy, the State's preference is for the separately sealed Technical and Financial Proposals to be submitted together in a single package to the Procurement Officer and including a label bearing:

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

5.2.7 Label each electronic media (CD, DVD, or flash drive) on the outside with the RFP title and number, name of the Offeror, and volume number. Electronic media must be packaged with the original copy of the appropriate Proposal (Technical or Financial).

5.3 Volume I - Technical Proposal

NOTE: Omit all **pricing information** from the Technical Proposal (Volume I). Include pricing information only in the Financial Proposal (Volume II).

5.3.1 In addition to the instructions below, responses in the Offeror's Technical Proposal shall reference the organization and numbering of Sections in the RFP (e.g., "Section 2.2.1 Response . . .; "Section 2.2.2 Response . . .,"). All pages of both Proposal volumes shall be consecutively numbered from beginning (Page 1) to end (Page "x").

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

A. Title Page and Table of Contents (Submit under TAB A)

The Technical Proposal should begin with a Title Page bearing the name and address of the Offeror and the name and number of this RFP. A Table of Contents shall follow the Title Page for the Technical Proposal, organized by section, subsection, and page number.

B. Claim of Confidentiality (If applicable, submit under TAB A-1)

Any information which is claimed to be confidential and/or proprietary information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical Proposal, and if applicable, separately in the Financial Proposal. An explanation for each claim of confidentiality shall be included (see **Section 4.8 "Public Information Act Notice"**). The entire Proposal cannot be given a blanket confidentiality designation - any confidentiality designation must apply to specific sections, pages, or portions of pages of the Proposal and an explanation for each claim shall be included.

C. Offeror Information Sheet and Transmittal Letter (Submit under TAB B)

The Offeror Information Sheet (see **Appendix 2**) and a Transmittal Letter shall accompany the Technical Proposal. The purpose of the Transmittal Letter is to transmit the Proposal and acknowledge the receipt of any addenda to this RFP issued before the Proposal due date and time. Transmittal Letter should be brief, be signed by an individual who is authorized to commit the Offeror to its Proposal and the requirements as stated in this RFP.

D. Executive Summary (Submit under TAB C)

The Offeror shall condense and highlight the contents of the Technical Proposal in a separate section titled "Executive Summary."

In addition, the Summary shall indicate whether the Offeror is the subsidiary of another entity, and if so, whether all information submitted by the Offeror pertains exclusively to the Offeror. If not, the subsidiary Offeror shall include a guarantee of performance from its parent organization as part of its Executive Summary (see **Section 4.16 "Offeror Responsibilities"**).

The Executive Summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (**Attachment M**), or any other exhibits or attachments. Acceptance or rejection of exceptions is within the sole discretion of the State. **Exceptions to terms and conditions, including requirements, may result in having the Proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award.**

E. Minimum Qualifications Documentation (If applicable, Submit under TAB D)

The Offeror shall submit any Minimum Qualifications documentation that may be required, as set forth in RFP **Section 1**. If references are required in **RFP Section 1**, those references shall be submitted in this section and shall contain the information described in both **Section 1** and **Section 5.3.2.I**.

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

1) The Offeror shall address each RFP requirement (RFP **Section 2** and **Section 3**) in its Technical Proposal with a cross reference to the requirement and describe how its proposed goods and services, including the goods and services of any proposed subcontractor(s), will meet or exceed the requirement(s). If the State is seeking Offeror agreement to any requirement(s), the Offeror shall state its agreement or disagreement. Any paragraph in the Technical Proposal that responds to an RFP requirement shall include an explanation of how the work will be performed. The response shall address each requirement in **Section 2** and **Section 3** in order, and shall contain a cross reference to the requirement.

2) Any exception to a requirement, term, or condition may result in having the Proposal classified as not reasonably susceptible of being selected for award or the Offeror deemed not responsible.

3) The Offeror shall give a definitive section-by-section description of the proposed plan to meet the requirements of the RFP, i.e., a Work Plan. The Work Plan shall include the specific methodology, techniques, and number of staff, if applicable, to be used by the Offeror in providing the required goods and services as outlined in RFP **Section 2**, Contractor Requirements: Scope of Work. The description shall include an outline of the overall management concepts employed by the Offeror and a project management plan, including project control mechanisms and overall timelines. Project deadlines considered contract deliverables must be recognized in the Work Plan

4) Implementation Schedule - Offeror shall provide the proposed implementation schedule with its Proposal.

5) The Offeror shall identify the location(s) from which it proposes to provide services, including, if applicable, any current facilities that it operates, and any required construction to satisfy the State's requirements as outlined in this RFP.

6) The Offeror shall provide a draft Problem Escalation Procedure (PEP) that includes, at a minimum, titles of individuals to be contacted by the Contract Monitor should problems arise under the Contract and explains how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. Final procedures shall be submitted as indicated in **Section 3.8**.

7) The Offeror shall provide a Backup solution/strategy recommendation as part of its Proposal.

8) The Offeror shall include a deliverable description and schedule describing the proposed Deliverables as mapped to the State SDLC and the Deliverables table in **Section 2.4.4**. The schedule shall also detail proposed submission due date/frequency of each recommended Deliverable.

Non-Compete Clause Prohibition:

The Department seeks to maximize the retention of personnel working under the Contract whenever there is a transition of the Contract from one contractor to another so as to minimize disruption due to a change in contractor and maximize the maintenance of institutional knowledge accumulated by such personnel. To help achieve this objective of staff retention, each Offeror shall agree that if awarded the Contract, the Offeror's employees and agents filling the positions set forth in the staffing requirements of Section 5.3.2.G Experience and Qualifications of Proposed Staff working on the State contract shall be free to work for the contractor awarded the State contract notwithstanding any non-compete clauses to which the employee(s) may be subject. The Offeror agrees not to enforce any non-compete restrictions against the State with regard to these employees and agents if a different vendor succeeds it in the performance of the Contract. To evidence compliance with this non-compete clause prohibition, each Offeror must include an affirmative statement in its technical Proposal that the Offeror, if awarded a Contract, agrees that its employees and agents shall not be restricted from working with or for any successor contractor that is awarded the State business.

G. Experience and Qualifications of Proposed Staff (Submit under TAB F)

The Offeror shall identify the qualifications and types of staff proposed to be utilized under the Contract including information in support of the Personnel Experience criteria in **Section 3.10.2**. Specifically, the Offeror shall:

1) Describe in detail how the proposed staff's experience and qualifications relate to their specific responsibilities, including any staff of proposed subcontractor(s), as detailed in the Work Plan.

2) Include individual resumes for Key Personnel, including Key Personnel for any proposed subcontractor(s), who are to be assigned to the project if the Offeror is awarded the Contract. Each resume should include the amount of experience the individual has had relative to the Scope of Work set forth in this solicitation.

3) Include letters of intended commitment to work on the project, including letters from any proposed subcontractor(s). Offerors should be aware of restrictions on substitution of Key Personnel prior to RFP award (see Substitution Prior to and Within 30 Days After Contract Execution in Section 3.11.5).

4) Provide an Organizational Chart outlining Personnel and their related duties. The Offeror shall include job titles and the percentage of time each individual will spend on his/her assigned tasks. Offerors using job titles other than those commonly used by industry standards must provide a crosswalk reference document.

5) If proposing differing personnel work hours than identified in the RFP, describe how and why it proposes differing personnel work hours.

H. Offeror Qualifications and Capabilities (Submit under TAB G)

The Offeror shall include information on past experience with similar projects and services including information in support of the Offeror Experience criteria in **Section 3.10.1**. The Offeror shall describe how its organization can meet the requirements of this RFP and shall also include the following information:

1) The number of years the Offeror has provided the similar goods and services;

2) The number of clients/customers and geographic locations that the Offeror currently serves;

3) The names and titles of headquarters or regional management personnel who may be involved with supervising the services to be performed under the Contract;

4) The Offeror's process for resolving billing errors; and

5) An organizational chart that identifies the complete structure of the Offeror including any parent company, headquarters, regional offices, and subsidiaries of the Offeror.

I. References (Submit under TAB H)

At least three (3) references are requested from customers who are capable of documenting the Offeror's ability to provide the goods and services specified in this RFP. References used to meet any Minimum Qualifications (see RFP **Section 1**) may be used to meet this request. Each reference shall be from a client for whom the Offeror has provided goods and services within the past five (5) years and shall include the following information:

1) Name of client organization;

2) Name, title, telephone number, and e-mail address, if available, of point of contact for client organization; and

3) Value, type, duration, and description of goods and services provided.

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

J. List of Current or Prior State Contracts (Submit under TAB I)

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

1) The State contracting entity;

2) A brief description of the goods and services provided;

3) The dollar value of the contract;

4) The term of the contract;

5) The State employee contact person (name, title, telephone number, and, if possible, e-mail address); and

6) Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised.

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

K. Financial Capability (Submit under TAB J)

The Offeror must include in its Proposal a commonly-accepted method to prove its fiscal integrity. If available, the Offeror shall include Financial Statements, preferably a Profit and Loss (P&L) statement and a Balance Sheet, for the last two (2) years (independently audited preferred).

In addition, the Offeror may supplement its response to this Section by including one or more of the following with its response:

1) Dun & Bradstreet Rating;

2) Standard and Poor's Rating;

3) Lines of credit;

4) Evidence of a successful financial track record; and

5) Evidence of adequate working capital.

L. Certificate of Insurance (Submit under TAB K)

The Offeror shall provide a copy of its current certificate of insurance showing the types and limits of insurance in effect as of the Proposal submission date. The current insurance types and limits do not have to be the same as described in **Section 3.6**. See **Section 3.6** for the required insurance certificate submission for the apparent awardee.

M. Subcontractors (Submit under TAB L)

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

N. Legal Action Summary (Submit under TAB M)

This summary shall include:

1) A statement as to whether there are any outstanding legal actions or potential claims against the Offeror and a brief description of any action;

2) A brief description of any settled or closed legal actions or claims against the Offeror over the past five (5) years;

3) A description of any judgments against the Offeror within the past five (5) years, including the court, case name, complaint number, and a brief description of the final ruling or determination; and

4) In instances where litigation is ongoing and the Offeror has been directed not to disclose information by the court, provide the name of the judge and location of the court.

O. Economic Benefit Factors (Submit under TAB N)

1) The Offeror shall submit with its Proposal a narrative describing benefits that will accrue to the Maryland economy as a direct or indirect result of its performance of the Contract. Proposals will be evaluated to assess the benefit to Maryland's economy specifically offered. The economic benefit offered should be consistent with the Offeror's Total Proposal Price from **Attachment B**, the Financial Proposal Form. See COMAR 21.05.03.03A (3).

2) 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.

3) 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.

4) 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.

5) In responding to this section, the following do not generally constitute economic benefits to be derived from the Contract:

   a) generic statements that the State will benefit from the Offeror's superior performance under the Contract;

   b) descriptions of the number of Offeror employees located in Maryland other than those that will be performing work under the Contract; or

   c) tax revenues from Maryland-based employees or locations, other than those that will be performing, or used to perform, work under the Contract.

6) 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 the Contract.

7) 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:

   a) The Contract dollars to be recycled into Maryland's economy in support of the Contract, through the use of Maryland subcontractors, suppliers and joint venture partners. **Do not include actual fees or rates paid to subcontractors or information from your Financial Proposal;**

b) The number and types of jobs for Maryland residents resulting from the Contract. Indicate job classifications, number of employees in each classification and the aggregate payroll to which the Offeror has committed, including contractual commitments at both prime and, if applicable, subcontract levels; and whether Maryland employees working at least 30 hours per week and are employed at least 120 days during a 12-month period will receive paid leave. If no new positions or subcontracts are anticipated as a result of the Contract, so state explicitly;

c) 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;

d) Subcontract dollars committed to Maryland small businesses and MBEs; and

e) 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.

P. Technical Proposal - Required Forms and Certifications (Submit under TAB O)

1) All forms required for the Technical Proposal are identified in Table 1 of **Section 7** – RFP Attachments and Appendices. Unless directed otherwise by instructions within an individual form, complete, sign, and include all required forms in the Technical Proposal, under TAB O.

2) Offerors shall furnish any and all agreements and terms and conditions the Offeror expects the State to sign or to be subject to in connection with or in order to use the Offeror's services under this Contract. This includes physical copies of all agreements referenced and incorporated in primary documents, including but not limited to any software licensing agreement for any software proposed to be licensed to the State under this Contract (e.g., EULA, Enterprise License Agreements, Professional Service agreement, Master Agreement) and any AUP. The State does not agree to terms and conditions not provided in an Offeror's Technical Proposal and no action of the State, including but not limited to the use of any such software, shall be deemed to constitute acceptance of any such terms and conditions. Failure to comply with this section renders any such agreement unenforceable against the State.

3) For each service, hardware or software proposed as furnished by a third-party entity, Offeror must identify the third-party provider and provide a letter of authorization or such other documentation demonstrating the authorization for such services. In the case of an open source license, authorization for the open source shall demonstrate compliance with the open source license.

4) A Letter of Authorization shall be on letterhead or through the provider's e-mail. Further, each Letter of Authorization shall be less than twelve (12) months old and must provide the following information:

i) Third-party POC name and alternate for verification

ii) Third-party POC mailing address

iii) Third-party POC telephone number

iv) Third-party POC email address

v) If available, a Re-Seller Identifier

5.4 Volume II – Financial Proposal

The Financial Proposal shall contain all price information in the format specified in **Attachment B**. The Offeror shall complete the Financial Proposal Form only as provided in the Financial Proposal Instructions and the Financial Proposal Form itself. Do not amend, alter, or leave blank any items on the Financial Proposal Form or include additional clarifying or contingent language on or attached to the Financial Proposal Form. Failure to adhere to any of these instructions may result in the Proposal being determined to be not reasonably susceptible of being selected for award and rejected by the Department.

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6 Evaluation and Selection Process

6.1 Evaluation Committee

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

During the evaluation process, the Procurement Officer may determine at any time that a particular Offeror is not susceptible for award.

6.2 Technical Proposal Evaluation Criteria

The criteria to be used to evaluate each Technical Proposal are listed below in descending order of importance. Unless stated otherwise, any sub-criteria within each criterion have equal weight.

6.2.1 Offeror's Technical Response to Requirements and Work Plan (See RFP **§ 5.3.2.F**)

The State prefers the Offeror's Technical Proposal to illustrate a comprehensive understanding of work requirements and mastery of the subject matter, including an explanation of how the work will be performed. Proposals which include limited responses to work requirements such as "concur" or "will comply" will receive a lower ranking than those Proposals that demonstrate an understanding of the work requirements and include plans to meet or exceed them.

6.2.2 Experience and Qualifications of Proposed Staff (See RFP **§ 5.3.2.G**)

6.2.3 Offeror Qualifications and Capabilities, including proposed subcontractors (See RFP **§ 5.3.2.H**)

6.2.4 Economic Benefit to State of Maryland (See RFP **§ 5.3.2.O**)

6.3 Financial Proposal Evaluation Criteria

All Qualified Offerors (see **Section 6.5.2.D**) will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on the Total Proposal Price within the stated guidelines set forth in this RFP and as submitted on **Attachment B -** Financial Proposal Form.

6.4 Reciprocal Preference

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

A. The Maryland resident business is a responsible Offeror;

B. The most advantageous Proposal is from a responsible Offeror whose principal office, or principal base of operations is in another state;

C. The other state gives a preference to its resident businesses through law, policy, or practice; and

D. The preference does not conflict with a federal law or grant affecting the procurement Contract.

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

6.5 Selection Procedures

6.5.1 General

A. The Contract will be awarded in accordance with the Competitive Sealed Proposals (CSP) method found at COMAR 21.05.03. The CSP method allows for the conducting of discussions and the revision of Proposals during these discussions. Therefore, the State may conduct discussions with all Offerors that have submitted Proposals that are determined to be reasonably susceptible of being selected for contract award or potentially so. However, the State reserves the right to make an award without holding discussions.

B. With or without discussions, the State may determine the Offeror to be not responsible or the 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.

6.5.2 Selection Process Sequence

A. A determination is made that the MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) is included and is properly completed, if there is an MBE goal. In addition, a determination is made that the VSBE Utilization Affidavit and subcontractor Participation Schedule (**Attachment E-1**) is included and is properly completed, if there is a VSBE goal.

B. Technical Proposals are evaluated for technical merit and ranked. During this review, oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the State's requirements and the Offeror's ability to perform the services, as well as to facilitate arrival at a Contract that is most advantageous to the State. Offerors will be contacted by the State as soon as any discussions are scheduled.

C. Offerors must confirm in writing any substantive oral clarifications of, or changes in, their Technical Proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror's Technical Proposal. Technical Proposals are given a final review and ranked.

D. The Financial Proposal of each Qualified Offeror (a responsible Offeror determined to have submitted an acceptable Proposal) will be evaluated and ranked separately from the Technical evaluation. After a review of the Financial Proposals of Qualified Offerors, the Evaluation Committee or Procurement Officer may again conduct discussions to further evaluate the Offeror's entire Proposal.

E. When in the best interest of the State, the Procurement Officer may permit Qualified Offerors to revise their initial Proposals and submit, in writing, Best and Final Offers (BAFOs). The State may make an award without issuing a request for a BAFO.

6.5.3 Award Determination

Upon completion of the Technical Proposal and Financial Proposal evaluations and rankings, each Offeror will receive an overall ranking. The Procurement Officer will recommend award of the Contract to the responsible Offeror that submitted the Proposal determined to be the most advantageous to the State. In making this most advantageous Proposal determination, technical factors will receive equal weight with financial factors.

6.6 Documents Required upon Notice of Recommendation for Contract Award

Upon receipt of a Notification of Recommendation for Contract award, the apparent awardee shall complete and furnish the documents and attestations as directed in Table 1 of **Section 7** – **RFP Attachments and Appendices**.

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7 RFP ATTACHMENTS AND APPENDICES

Instructions Page

A Proposal submitted by the Offeror must be accompanied by the completed forms and/or affidavits identified as "with Proposal" in the "When to Submit" column in Table 1 below. All forms and affidavits applicable to this RFP, including any applicable instructions and/or terms, are identified in the "Applies" and "Label" columns in Table 1.

For documents required as part of the Proposal:

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

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete certain forms and affidavits after notification of recommended award. The list of forms and affidavits that must be provided is described in Table 1 below in the "When to Submit" column.

For documents required after award, submit three (3) copies of each document within the appropriate number of days after notification of recommended award, as listed in Table 1 below in the "When to Submit" column.

Table 1: RFP ATTACHMENTS AND APPENDICES

Applies?	When to Submit	Label	Attachment Name
Y	Before Proposal	A	Pre-Proposal Conference Response Form
Y	With Proposal	B	Financial Proposal Instructions and Form
Y	With Proposal	C	Bid/Proposal Affidavit (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf)
Y	With Proposal	D	MBE Forms D-1A (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf) **IMPORTANT:** If this RFP contains different Functional Areas or Service Categories. A separate Attachment D-1A is to be submitted for each Functional Area or Service Category where there is an MBE goal.
Y	10 Business Days after recommended award	D	MBE Forms D-1B, D-1C,D-2, D-3A, D-3B (see link at http://procurement.maryland.gov/wp-

Applies?	When to Submit	Label	Attachment Name
			content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf) **Important:** Attachment D-1C, if a waiver has been requested, is also required within 10 days of recommended award.
Y	As directed in forms	D	MBE Forms D-4A, D-4B, D-5 (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf)
Y	With Proposal	F	Maryland Living Wage Requirements for Service Contracts and Affidavit of Agreement (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf)
Y	With Proposal	G	Federal Funds Attachments (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentG-FederalFundsAttachment.pdf)
Y	With Proposal	H	Conflict of Interest Affidavit and Disclosure (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf)
Y	5 Business Days after recommended award – However, suggested with Proposal	I	Non-Disclosure Agreement (Contractor) (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-I-Non-DisclosureAgreementContractor.pdf)
Y	5 Business Days after recommended award	M	Sample Contract (included in this RFP)
Y	5 Business Days after recommended award	N	Contract Affidavit (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-N-ContractAffidavit.pdf)
Appendices			
Y	n/a	1	Abbreviations and Definitions (included in this RFP)
Y	With Proposal	2	Offeror Information Sheet (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf)

Applies?	When to Submit	Label	Attachment Name
Additional Submissions			
Applies?	**When to Submit**	**Label**	**Document Name**
Y	5 Business Days after recommended award		Evidence of meeting insurance requirements (see **Section 3.6**); 1 copy
Y	10 Business Days after recommended award		PEP; 1 copy

Attachment A. Pre-Proposal Conference Response Form

Solicitation Number 20-18349

Computer-Assisted Telephone Interviewing Data Collection for the Maryland Behavioral Risk Factor Surveillance System

A Pre-Proposal conference was previously held on **Tuesday May 21, 2019** at **300 W.Preston Street Room 409, Baltimore Maryland 21201.**

Please return this form by Friday May 17, 2019 advising whether or not your firm plans to attend. The completed form should be returned via e-mail to the Procurement Officer at the contact information below:

Dana Dembrow
MDH
E-mail: mdh.solicitationquestions@maryland.gov

Please indicate:

_____ Yes, the following representatives will be in attendance.
Attendees (Check the RFP for limits to the number of attendees allowed):
1.
2.
3.

_____ No, we will not be in attendance.

Please specify whether any reasonable accommodations are requested (see RFP § 4.1"Pre-Proposal conference"):

Offeror: _____
Offeror Name (please print or type)

By: _____
Signature/Seal

Printed Name: _____
Printed Name

Title: _____
Title

Date: _____
Date

Attachment B. Financial Proposal Instructions & Form

B-1 Financial Proposal Instructions

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

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

A) All Unit and Extended Prices must be clearly entered in dollars and cents, e.g., $24.15. Make your decimal points clear and distinct.

B) All Unit Prices must be the actual price per unit the State will pay for the specific item or service identified in this RFP and may not be contingent on any other factor or condition in any manner.

C) All calculations shall be rounded to the nearest cent, e.g., .344 shall be .34 and .345 shall be .35.

D) Any goods or services required through this RFP and proposed by the vendor at **No Cost to the State** must be clearly entered in the Unit Price, if appropriate, and Extended Price with **$0.00**.

E) Every blank in every Financial Proposal Form shall be filled in. Any changes or corrections made to the Financial Proposal Form by the Offeror prior to submission shall be initialed and dated.

F) Except as instructed on the Financial Proposal Form, nothing shall be entered on or attached to the Financial Proposal Form that alters or proposes conditions or contingencies on the prices. Alterations and/or conditions may render the Proposal not reasonably susceptible of being selected for award.

G) It is imperative that the prices included on the Financial Proposal Form have been entered correctly and calculated accurately by the Offeror and that the respective total prices agree with the entries on the Financial Proposal Form. Any incorrect entries or inaccurate calculations by the Offeror will be treated as provided in COMAR 21.05.03.03.F, and may cause the Proposal to be rejected.

H) If option years are included, Offerors must submit pricing for each option year. Any option to renew will be exercised at the sole discretion of the State and comply with all terms and conditions in force at the time the option is exercised. If exercised, the option period shall be for a period identified in the RFP at the prices entered in the Financial Proposal Form.

I) All Financial Proposal prices entered below are to be fully loaded prices that include all costs/expenses associated with the provision of services as required by the RFP. The Financial Proposal price shall include, but is not limited to, all: labor, profit/overhead, general operating, administrative, and all other expenses and costs necessary to perform the work set forth in the solicitation. No other amounts will be paid to the Contractor. If labor rates are requested, those amounts shall be fully-loaded rates; no overtime amounts will be paid.

J) Unless indicated elsewhere in the RFP, sample amounts used for calculations on the Financial Proposal Form are typically estimates for evaluation purposes only. Unless stated otherwise in the RFP, the Department does not guarantee a minimum or maximum number of units or usage in the performance of the Contract.

K) Failure to adhere to any of these instructions may result in the Proposal being determined not reasonably susceptible of being selected for award.

B-1 Financial Proposal Form

The Financial Proposal Form shall contain all price information in the format specified on these pages. Complete the Financial Proposal Form only as provided in the Financial Proposal Instructions. Do not amend, alter or leave blank any items on the Financial Proposal Form. If option years are included, Offerors must submit pricing for each option year. Failure to adhere to any of these instructions may result in the Proposal being determined not reasonably susceptible of being selected for award.

See separate Excel Financial Proposal Form labeled OPASS 20-18349 BRFSS Financial Proposal Form

Attachment C. Proposal Affidavit

See link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf

Attachment D. Minority Business Enterprise (MBE) Forms

See link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf

This solicitation includes a Minority Business Enterprise (MBE) participation goal of 20% and no subgoals.

Attachment E. Veteran-Owned Small Business Enterprise (VSBE) Forms

See link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf.

This solicitation includes a VSBE participation goal of 1%.

Attachment F. Maryland Living Wage Affidavit of Agreement for Service Contracts

See link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf to complete the Affidavit.

A. This contract is subject to the Living Wage requirements under Md. Code Ann., State Finance and Procurement Article, Title 18, and the regulations proposed by the Commissioner of Labor and Industry (Commissioner). The Living Wage generally applies to a Contractor or subcontractor who performs work on a State contract for services that is valued at $100,000 or more. An employee is subject to the Living Wage if he/she is at least 18 years old or will turn 18 during the duration of the contract; works at least 13 consecutive weeks on the State Contract and spends at least one-half of the employee's time during any work week on the State Contract.

B. The Living Wage Law does not apply to:

(1) A Contractor who:

(a) Has a State contract for services valued at less than $100,000, or

(b) Employs 10 or fewer employees and has a State contract for services valued at less than $500,000.

(2) A subcontractor who:

(a) Performs work on a State contract for services valued at less than $100,000,

(b) Employs 10 or fewer employees and performs work on a State contract for services valued at less than $500,000, or

(c) Performs work for a Contractor not covered by the Living Wage Law as defined in B(1)(b) above, or B (3) or C below.

(3) Service contracts for the following:

(a) Services with a Public Service Company;

(b) Services with a nonprofit organization;

(c) Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement ("Unit"); or

(d) Services between a Unit and a County or Baltimore City.

C. If the Unit responsible for the State contract for services determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.

D. A Contractor must not split or subdivide a State contract for services, pay an employee through a third party, or treat an employee as an independent Contractor or assign work to employees to avoid the imposition of any of the requirements of Md. Code Ann., State Finance and Procurement Article, Title 18.

E. Each Contractor/subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.

F. The Commissioner shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.

G. A Contractor/subcontractor who reduces the wages paid to an employee based on the employer's share of the health insurance premium, as provided in Md. Code Ann., State Finance and Procurement Article, §18-103(c), shall not lower an employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413. A Contractor/subcontractor who reduces the wages paid to an employee based on the employer's share of health insurance premium shall comply with any record reporting requirements established by the Commissioner.

H. A Contractor/subcontractor may reduce the wage rates paid under Md. Code Ann., State Finance and Procurement Article, §18-103(a), by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Contractor/subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413.

I. Under Md. Code Ann., State Finance and Procurement Article, Title 18, if the Commissioner determines that the Contractor/subcontractor violated a provision of this title or regulations of the Commissioner, the Contractor/subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of $20 per day for each employee paid less than the Living Wage.

J. Information pertaining to reporting obligations may be found by going to the Division of Labor and Industry website http://www.dllr.state.md.us/labor/prev/livingwage.shmtl and clicking on Living Wage for State Service Contracts.

Attachment G. Federal Funds Attachments

See link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentG-FederalFundsAttachment.pdf

Attachment H. Conflict of Interest Affidavit and Disclosure

See link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentH-ConflictofInterestAffidavit.pdf

Attachment I. Non-Disclosure Agreement (Contractor)

See link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-I-Non-DisclosureAgreementContractor.pdf

Attachment J. HIPAA Business Associate Agreement

This solicitation does not require a HIPAA Business Associate Agreement.

Attachment K. Mercury Affidavit

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

Attachment L. Location of the Performance of Services Disclosure

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

Attachment M. Contract

MARYLAND DEPARTMENT OF HEALTH (MDH)

Computer-Assisted Telephone Interviewing Data Collection for the Maryland Behavioral Risk Factor Surveillance System

20-18349

THIS CONTRACT (the "Contract") is made this ____ day of _____, 20___ by and between _____ (the "Contractor") and the STATE OF MARYLAND, acting through the MARYLAND DEPARTMENT OF HEALTH (DEPARTMENT)

In consideration of the promises and the covenants herein contained, the adequacy and sufficiency of which are hereby acknowledged by the parties, 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 "Contractor" means the entity first named above whose principal business address is (Contractor's primary address) and whose principal office in Maryland is (Contractor's local address), whose Federal Employer Identification Number or Social Security Number is (Contractor's FEIN), and whose eMaryland Marketplace vendor ID number is (eMM Number).

1.3 "Financial Proposal" means the Contractor's Financial Proposal dated _____(Financial Proposal date), as modified by any Best and Final Offer thereto.

1.4 Minority Business Enterprise (MBE) means any legal entity certified as defined at COMAR 21.01.02.01B (54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.

1.5 "RFP" means the Request for Proposals for Computer-Assisted Telephone Interviewing Data Collection for the Maryland Behavioral Risk Factor Surveillance System, Solicitation #20-18349, and any amendments, addenda, and attachments thereto issued in writing by the State.

1.6 "State" means the State of Maryland.

1.7 "Technical Proposal" means the Contractor's Technical Proposal dated. _____ (Technical Proposal date), as modified and supplemented by the Contractor's responses to requests clarifications and requests for cure, and by any Best and Final Offer.

1.8 "Veteran-owned Small Business Enterprise" (VSBE) means a business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.

1.9 Capitalized terms not defined herein shall be ascribed the meaning given to them in the RFP.

2. Scope of Contract

2.1 The Contractor shall perform in accordance with this Contract and Exhibits A-D, which are listed below and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall control. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A – The RFP

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

Exhibit C – The Technical Proposal

Exhibit D – The Financial Proposal

2.2 The Procurement Officer may, at any time, by written order, make unilateral changes in the work within the general scope of the Contract. No other order, statement, or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, 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 Without limiting the rights of the Procurement Officer under Section 2.2 above, the Contract may be modified by mutual agreement of the parties, provided: (a) the modification is made in writing; (b) all parties sign the modification; and (c) all approvals by the required agencies as described in COMAR Title 21, are obtained.

3. Period of Performance

3.1 The term of this Contract begins on the date the Contract is signed by the Department following any required prior approvals, including approval by the Board of Public Works, if such approval is required (the "Effective Date") and shall continue until _____ ("Initial Term").

3.2 The Contractor's performance under the Contract shall commence as of the date provided in a written NTP.

3.3 The Contractor's obligation to pay invoices to subcontractors providing products/services in connection with this Contract, as well as the audit; confidentiality; document retention; patents, copyrights & intellectual property; warranty; indemnification obligations; and limitations of liability under this Contract; and any other obligations specifically identified, shall survive expiration or termination of the Contract.

4. Consideration and Payment

4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the Department shall pay the Contractor in accordance with the terms of this Contract and at the prices quoted in the Financial Proposal. Unless properly modified (see above Section 2), payment to the Contractor pursuant to this Contract, including the Initial Term and any Renewal Term, shall not exceed the Contracted amount.

For time and materials Contracts, IDIQ Contracts, or Contracts which include either or both a time and materials or IDIQ element(s), total payments to the Contractor pursuant to this Contract for the time and materials and IDIQ portion(s) may not exceed $_____ (the "NTE Amount"), which includes $_____ for the Initial Term.

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

4.2 Unless a payment is unauthorized, deferred, delayed, or set-off under COMAR 21.02.07, payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the Department's receipt of a proper invoice from the Contractor as required by RFP section 3.3.

The Contractor may be eligible to receive late payment interest at the rate of 9% per annum if:

(1) The Contractor submits an invoice for the late payment interest within thirty days after the date of the State's payment of the amount on which the interest accrued; and

(2) A contract claim has not been filed under State Finance and Procurement Article, Title 15, Subtitle 2, Annotated Code of Maryland.

The State is not liable for interest:

(1) Accruing more than one year after the 31st day after the agency receives the proper invoice; or

(2) On any amount representing unpaid interest. Charges for late payment of invoices are authorized only as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable.

Final payment under this Contract will not be made until after certification is received from the Comptroller of the State that all taxes have been paid.

Electronic funds transfer shall be used by the State to pay Contractor pursuant to this Contract and any other State payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.

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

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

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 (as defined in **Section 7.2**), and services performed under this Contract shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created as a Deliverable under this Contract are not works made for hire for the State, the Contractor hereby relinquishes, transfers, and assigns to the State all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.

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

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

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

6. Exclusive Use

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

6.2 Except as may otherwise be set forth in this Contract, Contractor shall not use, sell, sub-lease, assign, give, or otherwise transfer to any third party any other information or material provided to Contractor by the Department or developed by Contractor relating to the Contract, except as provided for in **Section 8**. **Confidential or Proprietary Information and Documentation**.

7. Patents, Copyrights, and Intellectual Property

7.1 All copyrights, patents, trademarks, trade secrets, and any other intellectual property rights existing prior to the Effective Date of this Contract shall belong to the party that owned such rights immediately prior to the Effective Date ("Pre-Existing Intellectual Property"). If any design, device, material, process, or other item provided by Contractor is covered by a patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items pursuant to its rights granted under the Contract.

7.2 Except for (1) information created or otherwise owned by the Department or licensed by the Department from third parties, including all information provided by the Department to Contractor; (2) materials created by Contractor or its subcontractor(s) specifically for the State under the Contract ("Deliverables"), except for any Contractor Pre-Existing Intellectual Property included therein; and (3) the license rights granted to the State, all right, title, and interest in the intellectual property embodied in the solution, including the know-how and methods by which the solution is

provided and the processes that make up the solution, will belong solely and exclusively to Contractor and its licensors, and the Department will have no rights to the same except as expressly granted in this Contract. Any SaaS Software developed by Contractor during the performance of the Contract will belong solely and exclusively to Contractor and its licensors. For all Software provided by the Contractor under the Contract, Contractor hereby grants to the State a nonexclusive, irrevocable, unlimited, perpetual, non-cancelable, and non-terminable right to use and make copies of the Software and any modifications to the Software. For all Contractor Pre-Existing Intellectual Property embedded in any Deliverables, Contractor grants to the State a license to use such Contractor Pre-Existing Intellectual Property in connection with its permitted use of such Deliverable. During the period between delivery of a Deliverable by Contractor and the date of payment therefor by the State in accordance with this Contract (including throughout the duration of any payment dispute discussions), subject to the terms and conditions contained herein, Contractor grants the State a royalty-free, non-exclusive, limited license to use such Deliverable and to use any Contractor Materials contained therein in accordance with this Contract.

7.3 Subject to the terms of **Section 10**, Contractor shall defend, indemnify and hold harmless the State and its agents and employees, from and against any and all claims, costs, losses, damages, liabilities, judgments and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with any third party claim that the Contractor-provided products/services infringe, misappropriate or otherwise violate any third-party intellectual property rights. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent.

7.4 Without limiting Contractor's obligations under Section 5.3, if an infringement claim occurs, or if the State or the Contractor believes such a claim is likely to occur, Contractor (after consultation with the State and at no cost to the State): (a) shall procure for the State the right to continue using the allegedly infringing component or service in accordance with its rights under this Contract; or (b) replace or modify the allegedly infringing component or service so that it becomes non-infringing and remains compliant with all applicable specifications.

7.5 Except as otherwise provided herein, Contractor shall not acquire any right, title or interest (including any intellectual property rights subsisting therein) in or to any goods, Software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the State to the Contractor. Notwithstanding anything to the contrary herein, the State may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a separate writing executed by the Contractor and an authorized representative of the State as well as all required State approvals.

7.6 Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall use any Software or technology in a manner that will cause any patents, copyrights or other intellectual property which are owned or controlled by the State or any of its affiliates (or for which the State or any of its subcontractors has received license rights) to become subject to any encumbrance or terms and conditions of any third party or open source license (including, without limitation, any open source license listed on http://www.opensource.org/licenses/alphabetical) (each an "Open Source License"). These restrictions, limitations, exclusions and conditions shall apply even if the State or any of its subcontractors becomes aware of or fails to act in a manner to address any violation or failure to comply therewith. No act by the State or any of its subcontractors that is undertaken under this Contract as to any Software or technology shall be construed as intending to cause any patents, copyrights or other intellectual property that are owned or controlled

by the State (or for which the State has received license rights) to become subject to any encumbrance or terms and conditions of any open source license.

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

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

8. Confidential or Proprietary Information and Documentation

8.1 Subject to the Maryland Public Information Act and any other applicable laws including, without limitation, HIPAA, the HI-TECH Act, and the Maryland Medical Records Act and regulations promulgated pursuant thereto, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems or cloud infrastructure, if applicable) shall be held in confidence by the other party. Each party shall, however, be permitted to disclose, as provided by and consistent with applicable law, relevant confidential information to its officers, agents, and Contractor Personnel to the extent that such disclosure is necessary for the performance of their duties under this Contract. Each officer, agent, and Contractor Personnel to whom any of the State's confidential information is to be disclosed shall be advised by Contractor provided that each officer, agent, and Contractor Personnel to whom any of the State's confidential information is to be disclosed shall be advised by Contractor of the obligations hereunder, and bound by, confidentiality at least as restrictive as those of set forth in this Contract..

8.2 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 rightfully 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.

9. Loss of Data

9.1 In the event of loss of any State data or records where such loss is due to the act or omission of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for restoring or recreating, as applicable, 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. At no time shall any Contractor actions (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms, and applications with which the Contractor is working hereunder.

9.2 In accordance with prevailing federal or state law or regulations, the Contractor shall report the loss of non-public data as directed in **RFP Section 3.7**.

9.3 Protection of data and personal privacy (as further described and defined in RFP Section 3.8) shall be an integral part of the business activities of the Contractor to ensure there is no inappropriate or unauthorized use of State information at any time. To this end, the Contractor shall safeguard the confidentiality, integrity and availability of State information and comply with the conditions identified in **RFP Section 3.7**.

10. Indemnification and Notification of Legal Requests

10.1 At its sole cost and expense, Contractor shall (i) indemnify and hold the State, its employees and agents harmless from and against any and all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs and expenses (including but not limited to attorneys' fees and costs), whether or not involving a third party claim, which arise out of or relate to the Contractor's, or any of its subcontractors', performance of this Contract and (ii) cooperate, assist, and consult with the State in the defense or investigation of any such claim, demand, action or suit. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent.

10.2 The State has no obligation: (i) 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 against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations or performance under this Contract, or (ii) to pay any judgment or settlement of any such suit, claim or action. Notwithstanding the foregoing, the Contractor shall promptly notify the Procurement Officer of any such claims, demands, actions, or suits.

10.3 Notification of Legal Requests. In the event the Contractor receives a subpoena or other validly issued administrative or judicial process, or any discovery request in connection with any litigation, requesting State Pre-Existing Intellectual Property, of other information considered to be the property of the State, including but not limited to State data stored with or otherwise accessible by the Contractor, the Contractor shall not respond to such subpoena, process or other legal request without first notifying the State, unless prohibited by law from providing such notice The Contractor shall promptly notify the State of such receipt providing the State with a reasonable opportunity to intervene in the proceeding before the time that Contractor is required to comply with such subpoena, other process or discovery request. .

11. Non-Hiring of Employees

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

12. Disputes

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

13. Maryland Law Prevails

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

13.2 The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland) does not apply to this Contract or any purchase order, task order, or Notice to Proceed issued thereunder, or any software, or any software license acquired hereunder.

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

14. Nondiscrimination in Employment

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry, genetic information, or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

15. Contingent Fee Prohibition

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the Contractor to solicit or secure the Contract, and that the Contractor 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 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 Default

If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State 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. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A (2).

19. Delays and Extensions of Time

19.1 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.

19.2 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 Section 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR 21) in effect on the date of execution of this Contract are applicable to this Contract.

22. Financial Disclosure

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

23. Political Contribution Disclosure

The Contractor shall comply with Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of $200,000 or more, shall file

with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of $500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31. Additional information is available on the State Board of Elections website: http://www.elections.state.md.us/campaign_finance/index.html

24. Retention of Records

The Contractor and subcontractors shall retain and maintain all records and documents in any way relating to this Contract for (i) three (3) years after final payment by the State hereunder, or (ii) any applicable federal or State retention requirements (such as HIPAA) or condition of award, , whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, as designated by the Procurement Officer, at all reasonable times. The Contractor shall provide copies of all documents requested by the State, including, but not limited to itemized billing documentation containing the dates, hours spent and work performed by the Contractor and its subcontractors under the Contract. All records related in any way to the Contract are to be retained for the entire time provided under this section.

25. Right to Audit

25.1 The State reserves the right, at its sole discretion and at any time, to perform an audit of the Contractor's performance under this Contract. An audit is defined as a planned and documented independent activity performed by qualified personnel, including but not limited to State and federal auditors, to determine by investigation, examination, or evaluation of objective evidence from data, statements, records, operations and performance practices (financial or otherwise) the Contractor's compliance with the Contract, including but not limited to adequacy and compliance with established procedures and internal controls over the services performed pursuant to the Contract.

25.2 Upon three (3) Business Days' notice, the State shall be provided reasonable access to Contractor's records to perform any such audits. The Department may conduct these audits with any or all of its own internal resources or by securing the services of a third-party accounting or audit firm, solely at the Department's election. The Department may copy any record related to the services performed pursuant to the Contract. The Contractor agrees to fully cooperate and assist in any audit conducted by or on behalf of the State, including, by way of example only, making records and employees available as, where, and to the extent requested by the State and by assisting the auditors in reconciling any audit variances. Contractor shall not be compensated for providing any such cooperation and assistance.

25.3 The right to audit shall include any of the Contractor's subcontractors including but not limited to any lower tier subcontractor(s). The Contractor shall ensure the Department has the right to audit such subcontractor(s).

26. Compliance with Laws

The Contractor hereby represents and warrants that:

a. 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;

b. 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;

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

d. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

27. Cost and Price Certification

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

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

28. Subcontracting; Assignment

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

29. Limitations of Liability

29.1 Contractor shall be liable for any loss or damage to the State occasioned by the acts or omissions of Contractor, its subcontractors, agents or employees as follows:

(a) For infringement of patents, trademarks, trade secrets and copyrights as provided in **Section 5 "Patents, Copyrights, Intellectual Property"** of this Contract;

(b) Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and

(c) For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract and regardless of the basis on which the claim is made, Contractor's liability shall be unlimited.

(d) In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that all subcontractors shall be held to be agents of Contractor.

29.2 Contractor's indemnification obligations for Third party claims arising under Section 6 ("Indemnification") of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor's indemnification liability for third party claims arising under

Section 6 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 6.

29.3 In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that it is responsible for performance of the services and compliance with the relevant obligations hereunder by its subcontractors.

30. Commercial Nondiscrimination

30.1 As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry, national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual's refusal to submit to a genetic test or make available the results of a genetic test or on the basis of disability, or otherwise 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 As a condition of entering into this Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions.

30.3 The Contractor shall include the language from 30.1, or similar clause approved in writing by the Department, in all subcontracts.

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 to the Contractor;

(d) Place a payment for an undisputed amount in an interest-bearing escrow account; or

(e) Take other or further actions as appropriate to resolve the withheld payment.

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 **section 31**, 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 MBE program.

31.5 To ensure compliance with certified MBE subcontract participation goals, the Department may, consistent with COMAR 21.11.03.13, take the following measures:

(a) Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule. This verification may include, as appropriate:

i. Inspecting any relevant records of the Contractor;

ii. Inspecting the jobsite; and

iii. Interviewing subcontractors and workers.

Verification shall include a review of:

i. The Contractor's monthly report listing unpaid invoices over thirty (30) days old from certified MBE subcontractors and the reason for nonpayment; and

ii. The monthly report of each certified MBE subcontractor, which lists payments received from the Contractor in the preceding thirty (30) days and invoices for which the subcontractor has not been paid.

(b) If the Department determines that the Contractor is not in compliance with certified MBE participation goals, then the Department will notify the Contractor in writing of its findings, and will require the Contractor to take appropriate corrective action. Corrective action may include, but is not limited to, requiring the Contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.

(c) If the Department determines that the Contractor is in material noncompliance with MBE Contract provisions and refuses or fails to take the corrective action that the Department requires, then the Department may:

i. Terminate the Contract;

ii. Refer the matter to the Office of the Attorney General for appropriate action; or

iii. Initiate any other specific remedy identified by the Contract, including the contractual remedies required by any applicable laws, regulations, and directives regarding the payment of undisputed amounts.

(d) Upon completion of the Contract, but before final payment or release of retainage or both, the Contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from, MBE subcontractors.

32. Living Wage

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

33. Use of Estimated Quantities

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

34. Risk of Loss; Transfer of Title

Risk of loss for conforming supplies, equipment, materials and Deliverables furnished to the State hereunder shall remain with the Contractor until such supplies, equipment, materials and Deliverables are received and accepted by the State, following which, title shall pass to the State.

35. Effect of Contractor Bankruptcy

All rights and licenses granted by the Contractor under this Contract are and shall be deemed to be rights and licenses to "intellectual property," and the subject matter of this Contract, including services, is and shall be deemed to be "embodiments of intellectual property" for purposes of and as such terms are used and interpreted under § 365(n) of the United States Bankruptcy Code ("Code") (11 U.S.C. § 365(n) (2010)). The State has the right to exercise all rights and elections under the Code and all other applicable bankruptcy, insolvency and similar laws with respect to this Contract (including all executory statement of works). Without limiting the generality of the foregoing, if the Contractor or its estate becomes subject to any bankruptcy or similar proceeding: (a) subject to the State's rights of election, all rights and licenses granted to the State under this Contract shall continue subject to the respective terms and conditions of this Contract; and (b) the State shall be entitled to a complete duplicate of (or complete access to, as appropriate) all such intellectual property and embodiments of intellectual property, and the same, if not already in the State's possession, shall be promptly delivered to the State, unless the Contractor elects to and does in fact continue to perform all of its obligations under this Contract.

36. Miscellaneous

36.1 Any provision of this Contract which contemplates performance or observance subsequent to any termination or expiration of this Contract shall survive termination or expiration of this Contract and continue in full force and effect.

36.2 If any term contained in this Contract is held or finally determined to be invalid, illegal, or unenforceable in any respect, in whole or in part, such term shall be severed from this Contract, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.

36.3 The headings of the sections contained in this Contract are for convenience only and shall not be deemed to control or affect the meaning or construction of any provision of this Contract.

36.4 This Contract may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Signatures provided by facsimile or other electronic means, e.g., and not by way of limitation, in Adobe .PDF sent by electronic mail, shall be deemed to be original signatures.

37. Contract Monitor and Procurement Officer

37.1 The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor's responsibilities. The Department may change the Contract Monitor at any time by written notice to the Contractor.

37.2 The Procurement Officer has responsibilities as detailed in the Contract, and is the only State representative who can authorize changes to the Contract. The Department may change the Procurement Officer at any time by written notice to the Contractor.

38. 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:

<<contractMonitorName>>

<<contractManagerAddress>>

Phone Number: <<contractManagerPhoneNumber>>

E-Mail: <<contractManagere-mail>>

With a copy to:

<<procurementOfficerName>>

<<issuingAgencyName>> (<<ISSUINGAGENCYACRONYM>>)

<<procurementOfficerAddress>>

Phone Number: <<procurementOfficerPhoneNumber>>

E-Mail: <<procurementOfficerE-mail>>

If to the Contractor:

(Contractor's Name)

(Contractor's primary address)

Attn: _____

[[Delete the following if a parent company guarantee is inapplicable:]]

Parent Company Guarantor

Contact: _____

Attn: _____

39. Liquidated Damages for MBE

39.1 The Contract requires the Contractor to comply in good faith with the MBE Program and Contract provisions. The State and the Contractor acknowledge and agree that the State will incur damages, including but not limited to loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources, if the Contractor does not comply in good faith with the requirements of the MBE Program and MBE Contract provisions. The parties further acknowledge and agree that the damages the State might reasonably be anticipated to accrue as a result of such lack of compliance are difficult to ascertain with precision.

39.2 Therefore, upon issuance of a written determination by the State that the Contractor failed to comply in good faith with one or more of the specified MBE Program requirements or MBE Contract provisions, the Contractor shall pay liquidated damages to the State at the rates set forth below. The Contractor expressly agrees that the State may withhold payment on any invoices as a set-off against liquidated damages owed. The Contractor further agrees that for each specified violation, the agreed upon liquidated damages are reasonably proximate to the loss the State is anticipated to incur as a result of such violation.

(a) Failure to submit each monthly payment report in full compliance with COMAR 21.11.03.13B (3): $35.00 per day until the monthly report is submitted as required.

(b) Failure to include in its agreements with MBE subcontractors a provision requiring submission of payment reports in full compliance with COMAR 21.11.03.13B (4): $85.00 per MBE subcontractor.

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

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

(e) Failure to promptly pay all undisputed amounts to an MBE subcontractor in full compliance with the prompt payment provisions of the Contract: $100.00 appropriate

rate following calculation instructions from GOSBA>> per day until the undisputed amount due to the MBE subcontractor is paid

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

40. Parent Company Guarantee (If applicable)

If a Contractor intends to rely on its Parent Company in some manner while performing on the State Contract, the following clause should be included and completed for the Contractor's Parent Company to guarantee performance of the Contractor. The guarantor/Contractor's Parent Company should be named as a party and signatory to the Contract and should be in good standing with SDAT.

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

41. Limited English Proficiency

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

SIGNATURES ON NEXT PAGE

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

Contractor	State of Maryland <<ISSUINGAGENCYNAME>> (<<ISSUINGAGENCYACRONYM>>)
By:	By: <<agencyContractSigner>>, <<agencyContractSignerTitle>>
Date	
PARENT COMPANY (GUARANTOR) (if applicable) _____	By: _____
By: _____	Date
Date	

Approved for form and legal sufficiency
this ____ day of _____, 20___.

_____
Assistant Attorney General

APPROVED BY BPW: _____ _____
(Date) (BPW Item #)

Attachment N. Contract Affidavit

See link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-N-ContractAffidavit.pdf

Attachment O. DHS Hiring Agreement

This solicitation does not require a DHS Hiring Agreement.

Appendix 1. – Abbreviations and Definitions

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

A. Behavioral Risk Factor Surveillance System or (BRFSS) – BRFSS is an ongoing telephone-based chronic disease surveillance program designed to collect data on the behaviors and conditions that place Maryland adults at risk for chronic diseases, injuries, and preventable infectious diseases.

B. Business Day(s) – The official working days of the week to include Monday through Friday. Official working days excluding State Holidays (see definition of "Normal State Business Hours" below).

C. Centers for Disease Control and Prevention or (CDC)

D. Computer-Assisted Telephone Interviewing or (CATI) – CATI is a telephone surveying technique in which the interviewer follows a script provided by a software application.

E. COMAR – Code of Maryland Regulations available on-line at http://www.dsd.state.md.us/COMAR/ComarHome.html.

F. Contract – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of **Attachment M**.

G. Contract Monitor – The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor's responsibilities. The Department may change the Contract Monitor at any time by written notice to the Contractor.

H. Contractor – The selected Offeror that is awarded a Contract by the State.

I. Contractor Personnel – Employees and agents and subcontractor employees and agents performing work at the direction of the Contractor under the terms of the Contract awarded from this RFP.

J. Data Breach – The unauthorized acquisition, use, modification or disclosure of State data, or other Sensitive Data.

K. eMM – eMaryland Marketplace (see RFP **Section 4.2**) – State of Maryland online procurement system.

L. Information System – A discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

M. Information Technology (IT) – All electronic information-processing hardware and software, including: (a) maintenance; (b) telecommunications; and (c) associated consulting services.

N. Institutional Review Board or (IRB) - The unit within the Maryland Department of Health that is responsible for reviewing research to ensure that the rights, safety, and dignity of human subjects are protected.

O. Key Personnel – All Contractor Personnel identified in the solicitation as such that are essential to the work being performed under the Contract. See RFP **Sections 3.10**.

P. Local Time – Time in the Eastern Time Zone as observed by the State of Maryland. Unless otherwise specified, all stated times shall be Local Time, even if not expressly designated as such.

Q. Maryland Department of Health (MDH or Department) – State of Maryland department responsible for promoting and improving the health and safety of all Marylanders through disease prevention, access to care, quality management, and community engagement

R. Minority Business Enterprise (MBE) – Any legal entity certified as defined at COMAR 21.01.02.01B (54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.

S. 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.

T. Notice to Proceed (NTP) – A written notice from the Procurement Officer that work under the Contract, project, Task Order or Work Order (as applicable) is to begin as of a specified date. The NTP Date is the start date of work under the Contract, project, Task Order or Work Order. Additional NTPs may be issued by either the Procurement Officer or the Contract Monitor regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date.

U. NTP Date – The date specified in an NTP for work on Contract, project, Task Order or Work Order to begin.

V. Offeror – An entity that submits a Proposal in response to this RFP.

W. Personally Identifiable Information (PII) – Any information about an individual maintained by the State, including (1) any information that can be used to distinguish or trace an individual identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.

X. Prevention Health Promotion Administration or (PHPA) – An administration within the Maryland Department of Health, consisting of four bureaus: Infectious Diseases, Maternal and Child Health, Cancer and Chronic Diseases, and Environmental Health.

Y. Procurement Officer – Prior to the award of any Contract, the sole point of contact in the State for purposes of this solicitation. After Contract award, the Procurement Officer has responsibilities as detailed in the Contract (**Attachment M**), and is the only State representative who can authorize changes to the Contract. The Department may change the Procurement Officer at any time by written notice to the Contractor.

Z. Proposal – As appropriate, either or both of the Offeror's Technical or Financial Proposal.

AA. Protected Health Information (PHI) – Information that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) that identifies the individual; or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

BB. Request for Proposals (RFP) – This Request for Proposals issued by the Maryland Department of Health with the Solicitation Number and date of issuance indicated in the Key Information Summary Sheet, including any amendments thereto.

CC. Security Incident – A violation or imminent threat of violation of computer security policies, Security Measures, acceptable use policies, or standard security practices. "Imminent threat of violation" is a situation in which the organization has a factual basis for believing that a specific incident is about to occur.

DD. Security or Security Measures – The technology, policy and procedures that a) protects and b) controls access to networks, systems, and data.

EE. Sensitive Data - Means PII, PH, or other proprietary or confidential data as defined by the State, including but not limited to "personal information" under Md. Code Ann., Commercial Law § 14-3501(e) and Md. Code Ann., St. Govt. § 10-1301(c) and information not subject to disclosure under the Public Information Act, Title 4 of the General Provisions Article; and information about an individual that (1) can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; or (2) is linked or linkable to an individual, such as medical, educational, financial, and employment information.

FF. Service Level Agreement (SLA) - Commitment by the Contractor to the Department that defines the performance standards the Contractor is obligated to meet.

GG. Software - The object code version of computer programs licensed pursuant to this Contract. Embedded code, firmware, internal code, microcode, and any other term referring to software that is necessary for proper operation is included in this definition of Software. Software includes all prior, current, and future versions of the Software and all maintenance updates and error corrections. Software also includes any upgrades, updates, bug fixes or modified versions or backup copies of the Software licensed to the State by Contractor or an authorized distributor.

HH. Software as a Service (SaaS) - A software licensing and delivery model in which software is licensed on a subscription basis and is centrally hosted. For the purposes of this RFP, the terms SaaS and PaaS are considered synonymous and the term SaaS will be used throughout this document.

II. Solution - All Software, deliverables, services and activities necessary to fully provide and support the RFP scope of work. This definition of Solution includes all System Documentation developed as a result of this Contract. Also included are all Upgrades, patches, break/fix activities, enhancements and general maintenance and support of the Solution and its infrastructure.

JJ. State – The State of Maryland.

KK. Technical Safeguards – The technology and the policy and procedures for its use that protect State Data and control access to it.

LL. Telephone Consumer Protection ACT or (TCPA) – Federal law enacted in 1991 which restricts the making of telemarketing calls and the use of automatic telephone dialing systems and artificial or prerecorded voice messages.

MM. Third Party Software – Software and supporting documentation that:

1) are owned by a third party, not by the State, the Contractor, or a subcontractor;

2) are included in, or necessary or helpful to the operation, maintenance, support or modification of the Solution; and

3) are specifically identified and listed as Third-Party Software in the Proposal.

NN. Total Proposal Price - The Offeror's total price for goods and services in response to this solicitation, included in Financial Proposal **Attachment B** – Financial Proposal Form.

OO. Veteran-owned Small Business Enterprise (VSBE) – A business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.

Appendix 2. – Offeror Information Sheet

See link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf.