



# REQUEST FOR PROPOSALS (RFP)

SOLICITATION NO. DHMH OPASS – 14-13780

**Issue Date: October 24, 2013**

**Maryland Medicaid Dental Benefits Administrator**

## NOTICE

A Prospective Offeror that has received this document from the Department of Health and Mental Hygiene's website or <https://emaryland.buyspeed.com/bso/>, or that has received this document from a source other than the Procurement Officer, and that wishes to assure receipt of any changes or additional materials related to this RFP, should immediately contact the Procurement Officer and provide the Prospective Offeror's name and mailing address so that addenda to the RFP or other communications can be sent to the Prospective Offeror.

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

**STATE OF MARYLAND  
NOTICE TO VENDORS**

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

**Title: Maryland Medicaid Dental Benefits Administrator**  
**Solicitation No: DHMH OPASS – 14-13780**

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

- ☐ Other commitments preclude our participation at this time.
- ☐ The subject of the solicitation is not something we ordinarily provide.
- ☐ We are inexperienced in the work/commodities required.
- ☐ Specifications are unclear, too restrictive, etc. (Explain in REMARKS section.)
- ☐ The scope of work is beyond our present capacity.
- ☐ Doing business with the State of Maryland is simply too complicated. (Explain in REMARKS section.)
- ☐ We cannot be competitive. (Explain in REMARKS section.)
- ☐ Time allotted for completion of the Bid/Proposal is insufficient.
- ☐ Start-up time is insufficient.
- ☐ Bonding/Insurance requirements are restrictive. (Explain in REMARKS section.)
- ☐ Bid/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:

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

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

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

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

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

<b>Request for Proposals:</b>	<b>Maryland Medicaid Dental Benefits Administrator</b>
<b>Solicitation Number:</b>	<b>DHMH OPASS – 14-13780</b>
<b>RFP Issue Date:</b>	<b>October 24, 2014</b>
<b>RFP Issuing Office:</b>	<b>Maryland Department of Health and Mental Hygiene Office of Health Services</b>
<b>Procurement Officer:</b>	<b>Michael Howard, CPPB Office of Procurement and Support Services 201 W. Preston Street, Room 416B Baltimore, Maryland 21201 Phone: (410) 767-5816      Fax: (410) 333-5958 E-mail: <a href="mailto:Michael.howard@maryland.gov">Michael.howard@maryland.gov</a></b>
<b>Contract Officer:</b>	<b>Catherine Carter Office of Procurement and Support Services 201 W. Preston Street, Room 416 Baltimore, Maryland 21201 Phone: (410) 767-5892      Fax: (410) 333-5958 E-mail: <a href="mailto:cathy.carter@maryland.gov">cathy.carter@maryland.gov</a></b>
<b>Contract Monitor:</b>	<b>Claire Serio Office of Health Services 201 West Preston Street, Room 209 Baltimore, MD 21201 Phone: (410)-767-1489      Fax: (410) 333-5425 E-mail: <a href="mailto:claire.roberts@maryland.gov">claire.roberts@maryland.gov</a></b>
<b>Proposals are to be sent to:</b>	<b>Maryland Department of Health and Mental Hygiene Office of Procurement and Support Services 201 W. Preston Street, Room 416B Baltimore, Maryland 21201  Attention: Michael Howard</b>
<b>Pre-Proposal Conference:</b>	<b>November 1, 2013 – 1:00 p.m., Local Time 201 W. Preston Street, Conference Room L1, Baltimore, Maryland 21201</b>
<b>Closing Date and Time:</b>	<b>November 15, 2013 – 2:00 p.m. Local Time</b>
<b>MBE Subcontracting Goal:</b>	<b>20%</b>
<b>VSBE Subcontracting Goal:</b>	<b>.5%</b>

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## **SECTION 1 - GENERAL INFORMATION**

### **1.1 Summary Statement**

- 1.1.1 The Maryland Department of Health and Mental Hygiene (DHMH or the Department), Office of Health Services, is issuing this Request for Proposals (RFP) to obtain a Dental Benefits Administrator (DBA) to administer a comprehensive, fee-for-service dental program for eligible Medicaid participants. Eligible participants include children under 21 years of age, pregnant women, and adults in the Rare and Expensive Case Management program. The contract resulting from this solicitation will require a full complement of functions in network management; education and outreach; authorization and utilization management; customer service; quality assurance and improvement; claims processing; and information systems.
- 1.1.2 It is the State's intention to obtain services, as specified in this RFP, from a Contract between the successful Offeror and the State.
- 1.1.3 The Department intends to make a single award as a result of this RFP.
- 1.1.4 Offerors, either directly or through their subcontractor(s), must be able to provide all services and meet all of the requirements requested in this solicitation and the successful Offeror (the Contractor) shall remain responsible for Contract performance regardless of subcontractor participation in the work.

### **1.2 Abbreviations and Definitions**

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

- a. **AAPD** – American Academy of Pediatric Dentistry.
- b. **Action** – The denial or limited authorization of a requested service.
- c. **ADA** – American Dental Association.
- d. **Administrative Services Organization (ASO)** – A non-risk managed care administrative entity which typically performs some or all of the following functions: general administration; regulatory compliance; network administration; member services; claims administration; data reporting and analysis; medical management; quality monitoring.
- e. **Aftercare** – The period of follow-up care after initial services are rendered, during which any additional related services performed by the same provider are included in the payment for the original services.
- f. **Adverse Action** – Any action taken by the DBA to deny, reduce, terminate, delay, or suspend a covered service.
- g. **Appeal** – The process to resolve a recipient's dispute with any adverse action taken by the DBA to deny, reduce, terminate, delay, or suspend a covered service. The appeal procedure shall be governed by the Department's regulations and any and all applicable court orders.
- h. **Benefits** – A schedule of dental services to be administered by the DBA to participants pursuant to this RFP.
- i. **Business Day(s)** – The official Working Days of the week to include Monday through Friday. Official Working Days exclude State Holidays (see definition of "Normal State Business Hours" below).

- j. **Claim** – An itemized statement requesting payment for services rendered by health care providers such as, dentists, billed electronically, billed through a web-based portal or on the ADA Dental claim form.
- k. **CMS** – Centers for Medicare and Medicaid Services.
- l. **COMAR** – Code of Maryland Regulations available on-line at [www.dsd.state.md.us](http://www.dsd.state.md.us).
- m. **Consultation** – Written opinion or advice rendered by a dentist or dental hygienist, upon request by the patient's attending physician or dentist, for the further evaluation or management of the patient by the attending physician or dentist. If the consultant dentist assumes responsibility for the continuing care of the patient, a subsequent service rendered by him is not a consultation.
- n. **Contract** – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of **Attachment A**.
- o. **Contract Commencement** - The date the Contract is signed by the Department following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required. See Section 1.4.
- p. **Contract Monitor (CM)** – The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope.
- q. **Contract Officer (CO)** – The Office of Procurement and Support Services (OPASS) designated individual assigned to facilitate the procurement process. The Procurement Officer may designate the Contract Officer to conduct components of the procurement on behalf of the Procurement Officer.
- r. **Contractor** – The selected Offeror that is awarded a Contract by the State.
- s. **Covered Services** – All medically necessary dental services for Medicaid or MCHP eligible children under 21 years of age and certain medically necessary dental services for pregnant women 21 years of age and over.
- t. **DAC or MDAC** – Maryland Dental Action Committee (formerly known as Dental Action Committee).
- u. **DBA** – Dental Benefits Administrator (see also "Contractor").
- v. **Dental Home** – The provision of comprehensive oral health care including acute care and preventive services; comprehensive assessment for oral diseases and conditions; individualized preventive dental health program; anticipatory guidance about growth and development issues (i.e., teething, digit, or pacifier habits); plan for acute dental trauma; information about proper care of the child's teeth and gingivae; dietary counseling; referrals to dental specialists when care cannot directly be provided within the dental home; education regarding future referral to a dentists knowledgeable and comfortable with adult oral health issues for continuing oral health care; referral at an age determined by patient, parent, and pediatric dentist. Definition provided by the AAPD.
- w. **Dental Services** – Emergency, diagnostic, preventive, restorative, or therapeutic services for oral diseases which are administered by or under the direct supervision of a dentist in the practice of his profession.
- x. **Department or DHMH** – Maryland Department of Health and Mental Hygiene.
- y. **Direct Supervision** – A licensed dentist is physically present in the same area of a facility as a dental hygienist or dental assistant who provides the same service or services.

- z. **Disenrollment** – The discontinuance of a recipient’s eligibility to receive covered services under the terms of this RFP, and deletion from the approved list of participants furnished by the Department to the DBA.
- aa. **Eligible Person** – Any person certified by the Department as eligible to receive services and benefits under the Department’s Program.
- bb. **eMM** – eMaryland Marketplace (see RFP Section 1.8).
- cc. **Emergency Services** – Services necessary for the treatment of any condition requiring immediate attention for the relief of pain, hemorrhage, acute infection, or traumatic injury to the teeth, supporting structures (that is, periodontal membranes, gums, and alveolar bone), the jaws, and tissues of the oral cavity; or prophylactic surgical procedures before radiation therapy or chemotherapy for neoplasms.
- dd. **EPSDT** – Early and Periodic Screening, Diagnosis, and Treatment program mandated by 42 U.S.C. § 1396d(e) and amended by OBRA 1989.
- ee. **FQHC** – Federally Qualified Health Center, as defined in 42 § CFR 405.2401(b), as amended.
- ff. **Full replacement file** – A full replacement file contains demographic information for all recipients that have had Medicaid eligibility during the 3 year extract period.
- gg. **Go-Live Date** – The date when the Contractor must begin providing all services required by this solicitation. See Section 1.4.
- hh. **Grievance** – An expression of dissatisfaction by the recipient about any action taken by the DBA or service provider other than an adverse action, as adverse action is defined in this RFP. The DBA shall not treat anything as a grievance that falls within the definition of an adverse action.
- ii. **HEDIS** – Healthcare Effectiveness Data and Information Set.
- jj. **Health Insurance Portability and Accountability Act (HIPAA)** – A federal Act passed in 1996 requiring standardization of electronic patient health, administrative, and financial data; unique health identifiers for individuals, employers, health plans, and health care providers; and security standards to protect the confidentiality and integrity of individually identifiable health information past, present, or future.
- kk. **HPSA** – Health Professional Shortage Area.
- ll. **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.
- mm. **MCHP** – Maryland Children’s Health Program.
- nn. **Managed Care Organization (MCO)** – An entity that provides comprehensive somatic care services through the HealthChoice Program for most children and pregnant women enrolled in the Maryland Medical Assistance Program.
- oo. **Medicaid Management Information System (MMIS)** – The medical assistance eligibility, enrollment, and payment information system of the Maryland Medical Assistance Program.
- pp. **Medical Assistance Program** – The program of comprehensive medical and other health-related care for indigent and medically indigent persons.

- qq. **Medical Record** – In this context, a single complete record kept at the site of the recipient’s dental treatment(s) which documents all of the dental treatment plans developed, dental services ordered for the recipient, and dental services received by the recipient.
- rr. **Medically Necessary** – The service or benefit is: 1) directly related to diagnostic, preventive, curative, palliative, rehabilitative, or ameliorative treatment of an illness, injury, disability, or health condition; 2) consistent with currently accepted standards of good medical practice; 3) the most cost efficient service that can be provided without sacrificing effectiveness or access to care; and 4) not primarily for the convenience of the consumer, family, or provider.
- ss. **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.
- tt. **Network Provider** – The health care entity or professional who is either employed by or has executed a provider agreement with the DBA, or its subcontractor, to render covered services, as defined in the RFP, to recipient.
- uu. **Non-Contract Provider** – any person, organization, agency, or entity that is not directly or indirectly employed by or through the DBA or any of its subcontractors pursuant to the RFP between the DBA and the Department.
- vv. **Normal State Business Hours** - Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: [www.dbm.maryland.gov](http://www.dbm.maryland.gov) – keyword: State Holidays.
- ww. **Notice to Proceed (NTP)** – A written notice from the Procurement Officer that, subject to the conditions of the Contract, work under the Contract is to begin as of a specified date. The start date listed in the NTP is the Go Live Date, and is the official start date of the Contract for the actual delivery of services as described in this solicitation. After Contract Commencement, additional NTPs may be issued by either the Procurement Officer or the Department Contract Manager regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date.
- xx. **Offeror** – An entity that submits a Proposal in response to this RFP.
- yy. **Out-of-Plan Services** – Services provided by a non-contract provider.
- zz. **PCD** – Primary Care Dentist.
- aaa. **Preauthorization** – An approval required from the Department or its designee before the provision of dental services.
- bbb. **Procurement Coordinator** – The State representative designated by the Procurement Officer to perform certain duties related to this solicitation which are expressly set forth herein.
- ccc. **Procurement Officer** – The State representative for the resulting Contract. The Procurement Officer is responsible for the Contract and is the only State representative who can authorize changes to the Contract. DHMH may change the Procurement Officer at any time by written notice to the Contractor.
- ddd. **Proposal** – As appropriate, either or both of an Offeror’s Technical or Financial Proposal.
- eee. **Protected Health Information (PHI)** – Individually identifiable information, including demographics, which relates to a person’s health, health care, or payment for health care. HIPAA protects individually identifiable health information transmitted or maintained in any form or medium.
- fff. **Provider** – 1) An individual, association, partnership, or an incorporated or unincorporated group of dentists, duly licensed to provide services for participants, and who, through appropriate agreement with the

Department, has been identified as a Program provider by the issuance of an individual account number; or 2) an approved dental school whose students are permitted under Health Occupations Article, 4-301(b)(1), Annotated Code of Maryland, to treat dental patients and which, through appropriate agreement with the Department, has been identified as a Program provider by issuance of an individual account number.

- ggg. **Provider Agreement** – An agreement between the DBA and a provider or the DBA’ subcontractor and a provider of oral health care services, which describes the conditions under which the provider agrees to furnish covered services to participants.
- hhh. **Quality Monitoring** – The ongoing process of assuring that the delivery of health care is appropriate, timely, accessible, available, medically necessary, and in keeping with established guidelines and standards and reflective of the current state of medical/dental knowledge.
- iii. **Recipient** – A person who is certified as eligible for, and is receiving, Medical Assistance benefits.
- jjj. **REM** – Rare and Expensive Case Management Program.
- kkk. **Request for Proposals (RFP)** – This Request for Proposals issued by the Maryland Department of Health and Mental Hygiene, Office of Health Services, Solicitation Number OPASS-14-13780 dated October 24, 2013, including any addenda.
- lll. **Service Location** - Any location at which a recipient obtains any oral health care service covered by the Contractor pursuant to the terms of this RFP.
- mmm. **Specialty Services** – Pediatric dentistry, oral surgery, endodontics, periodontics, and orthodontics.
- nnn. **State** – The State of Maryland.
- ooo. **State Plan** – The comprehensive written statement submitted by the Department to CMS for approval, describing the nature and scope of the Maryland Medicaid program and giving assurance that it will be administered in conformity with the requirements, standards, procedures, and conditions for obtaining Federal financial participation.
- ppp. **Subcontract** – An agreement entered into by the DBA with any other organization or person who agrees to perform any administrative function or service for the DBA specifically related to securing or fulfilling the DBA’s obligations to the Department under the terms of this RFP (e.g., claims processing, outreach and education, provider relations) when the intent of such an agreement is to delegate the responsibility for any major service or group of services required by this RFP. Agreements to provide covered services shall be considered Provider Agreements and not subcontracts.
- qqq. **Subcontractor** – Any State approved organization or person who provides any function or service for the DBA specifically related to securing or fulfilling the DBA’s obligations to the Department under the terms of this RFP. For the purposes of this Contract, the subcontractor’s providers shall also be considered providers of the Contractor.
- rrr. **Third Party Liability (TPL)** – Any amount due for all or part of the cost of medical care from a third party.
- sss. **Total Proposal Price** - The Offeror’s total proposed price for services in response to this solicitation, included in the Financial Proposal with Attachment F – Price Form, and used in the financial evaluation of Proposals (see RFP Section 5.3).
- ttt. **Veteran-owned Small Business Enterprise (VSBE)** – a business that is verified by the Center for Veterans Enterprise of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.

uuu. **Working Day(s)** – Same as “Business Day(s).”

### **1.3 Contract Type**

The Contract resulting from this solicitation shall be a firm fixed price contract as defined in COMAR 21.06.03.02(A)(1).

### **1.4 Contract Duration**

- 1.4.1 The Contract that results from this solicitation shall commence as of the date the Contract is signed by the Department following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required (“Contract Commencement”).
- 1.4.2 The period of time from the date of Contract Commencement through the Go-Live Date (anticipated to be July 1, 2014 - see Section 1.2 definition and Section 1.4.3) will be the Contract “Start-up Period.” During the Start-up Period the Contractor shall perform start-up activities such as are necessary to enable the Contractor to begin the successful performance of Contract activities as of the Go Live Date. No compensation will be paid to the Contractor for any activities it performs during the Start-up Period.
- 1.4.3 As of the anticipated Go-Live Date of July 1, 2014, or a later date as contained in a Notice to Proceed (see Section 1.2 definition), the Contractor shall perform all activities required by the Contract, including the requirements of this solicitation, and the offerings in its Technical Proposal, for the compensation described in its Financial Proposal.
- 1.4.4 The duration of the Contract will be for the period of time from Contract Commencement to the Go-Live Date (the Start-Up Period as described in Section 1.4.2) plus three (3) years from the Go-Live Date for the provision of all services required by the Contract and the requirements of this solicitation. This contract may be extended for 2 periods of one year each at the sole discretion of the Department and at the prices quoted in the Financial Proposal Form for Option Years.
- 1.4.5 The Contractor’s obligations to pay invoices to subcontractors that provided services during the Contract term, as well as the audit, confidentiality, document retention, and indemnification obligations of the Contract (see Attachment A) shall survive expiration or termination of the Contract and continue in effect until all such obligations are satisfied.

### **1.5 Procurement Officer**

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

Michael Howard  
Procurement Officer  
Maryland Department of Health and Mental Hygiene  
Office of Procurement and Support Services  
201 W. Preston Street  
Baltimore, Maryland 21201  
Phone Number: (410) 767-0974  
Fax Number: (410) 333-5958  
E-mail: [michael.howard@maryland.gov](mailto:michael.howard@maryland.gov)

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

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

Sabrina Lewis  
Procurement Coordinator  
Maryland Department of Health and Mental Hygiene  
Office of Health Services  
201 W. Preston Street  
Baltimore, MD 21201  
Phone Number: (410) 767-1695  
Fax Number: (410) 333-7897  
E-mail: [sabrina.lewis@maryland.gov](mailto:sabrina.lewis@maryland.gov)

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

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

Catherine Carter  
Contract Officer  
Maryland Department of Health and Mental Hygiene  
Office of Procurement and Support Services  
201 West Preston Street  
Baltimore, MD 21201  
Phone Number: (410) 767-5892  
Fax Number: (410) 333-5958  
E-mail: [cathy.carter@maryland.gov](mailto:cathy.carter@maryland.gov)

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

## **1.6 Contract Monitor**

The Contract Monitor is:

Claire Serio  
Maryland Department of Health and Mental Hygiene  
Office of Health Services  
201 West Preston Street, Room 209  
Baltimore, MD 21201  
Phone Number: 410-767-1489  
Fax: (410) 333-5425  
Email: [claire.roberts@maryland.gov](mailto:claire.roberts@maryland.gov)

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

## **1.7 Pre-Proposal Conference**

A Pre-Proposal Conference (the Conference) will be held on November 1, 2013, beginning at 1:00 p.m., Local Time, at 201 W. Preston Street, Conference Room L1, 201 W. Preston Street, Baltimore, MD 21201. All prospective Offerors are encouraged to attend in order to facilitate better preparation of their Proposals.

The Conference will be summarized. As promptly as is feasible subsequent to the Conference, a summary of the Conference and all questions and answers known at that time will be distributed to all prospective Offerors known to have received a copy of this RFP. This summary, as well as the questions and answers, will also be posted on eMaryland Marketplace. See RFP Section 1.8.

In order to assure adequate seating and other accommodations at the Conference, please e-mail, mail, or fax to (410) 333-7897 the Pre-Proposal Conference Response Form to the attention of the Procurement Coordinator no later than 2:00 p.m. Local Time on October 31, 2013. The Pre-Proposal Conference Response Form is included as **Attachment E** to this RFP. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please notify the Procurement Coordinator, no later than October 30, 2013. The Department will make a reasonable effort to provide such special accommodation.

## **1.8 eMarylandMarketplace**

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

eMM is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the DHMH website (<http://www.dhmf.maryland.gov/procumnt/SitePages/procopps.aspx>) and possibly other means for transmitting the RFP and associated materials, the solicitation and summary of the Pre-Proposal Conference, Offeror questions and the Procurement Officer's responses, addenda, and other solicitation-related information will be provided via eMM.

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

## **1.9 Questions**

Written questions from prospective Offerors will be accepted by the Procurement Officer prior to the Conference. If possible and appropriate, such questions will be answered at the Conference. (No substantive question will be answered prior to the Conference.) Questions to the Procurement Officer shall be submitted via e-mail to the following e-mail address: [dhmf.solicitationquestions@maryland.gov](mailto:dhmf.solicitationquestions@maryland.gov). Please identify in the subject line the Solicitation Number and Title. Questions, both oral and written, will also be accepted from prospective Offerors attending the Conference. If possible and appropriate, these questions will be answered at the Conference.

Questions will also be accepted subsequent to the Conference and should be submitted to the Procurement Officer (**see above email address**) in a timely manner prior to the Proposal due date. Questions are requested to be submitted 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. Time permitting, answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be distributed to all vendors that are known to have received a copy of the RFP in sufficient time for the answer to be taken into consideration in the Proposal.

## **1.10 Procurement Method**

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

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

Proposals, in the number and form set forth in Section 4.2 “Proposals” must be received by the Procurement Officer, at the address listed on the Key Information Summary Sheet, no later than 2:00 p.m., Local Time on November 15, 2013 in order to be considered.

Requests for extension of this time or date will not be granted. Offerors mailing Proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.02.10, Proposals received after the due date and time listed in this section will not be considered.

Proposals may be modified or withdrawn by written notice received by the Procurement Officer before the time and date set forth in this section for receipt of Proposals.

**Proposals may not be submitted by e-mail or facsimile. Proposals will not be opened publicly.**

Vendors 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, etc.). This form is located in the RFP immediately following the Title Page (page ii).

### **1.12 Multiple or Alternate Proposals**

Multiple and/or alternate Proposals will not be accepted.

### **1.13 Economy of Preparation**

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

### **1.14 Public Information Act Notice**

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

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

### **1.15 Award Basis**

The Contract shall be awarded to the responsible Offeror submitting the Proposal that has been determined to be the most advantageous to the State, considering price and evaluation factors set forth in this RFP (see COMAR 21.05.03.03F), for providing the goods and services as specified in this RFP. See RFP Section 5 for further award information.

### **1.16 Oral Presentation**

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

### **1.17 Duration of Proposal**

Proposals submitted in response to this RFP are irrevocable for 120 days following the closing date for submission of Proposals or best and final offers if requested. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

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

If it becomes necessary to revise this RFP before the due date for Proposals, the Department shall endeavor to provide addenda to all prospective Offerors that were sent this RFP or which are otherwise known by the Procurement Officer to have obtained this RFP. In addition, addenda to the RFP will be posted on the DHMH Current Procurements web page and through eMM. It remains the responsibility of all prospective Offerors to check all applicable websites for any addenda issued prior to the submission of Proposals. Addenda made after the due date for Proposals will be sent only to those Offerors that submitted a timely Proposal and that remain under award consideration as of the issuance date of the addenda.

Acknowledgment of the receipt of all addenda to this RFP issued before the Proposal due date shall be included in the Transmittal Letter accompanying the Offeror's Technical Proposal. Acknowledgement of the receipt of addenda to the RFP issued after the Proposal due date shall be in the manner specified in the addendum notice. Failure to acknowledge receipt of an addendum does not relieve the Offeror from complying with the terms, additions, deletions, or corrections set forth in the addendum.

### **1.19 Cancellations**

The State reserves the right to cancel this RFP, accept or reject any and all Proposals, in whole or in part, received in response to this RFP, to waive or permit the cure of minor irregularities, and to conduct discussions with all qualified or potentially qualified Offerors in any manner necessary to serve the best interests of the State. The State also reserves the right, in its sole discretion, to award a Contract based upon the written Proposals received without discussions or negotiations.

### **1.20 Incurred Expenses**

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

### **1.21 Protest/Disputes**

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

### **1.22 Offeror Responsibilities**

The selected Offeror shall be responsible for all products and services required by this RFP. All subcontractors must be identified and a complete description of their role relative to the Proposal must 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) of this RFP (see Section 1.33 “Minority Business Enterprise Goals” and Section 1.41 “Veteran-Owned Small Business Enterprise Goals.”).

If an Offeror that seeks to perform or provide the services required by this RFP 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 that the parent organization will guarantee the performance of the subsidiary.

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

### **1.23 Substitution of Personnel**

#### **A. Continuous Performance of Key Personnel**

Unless substitution is approved per paragraphs B-D of this section, key personnel shall be the same personnel proposed in the Contractor’s Technical Proposal, which will be incorporated into the Contract by reference. Such identified key personnel shall perform continuously for the duration of the Contract, or such lesser duration as specified in the Technical Proposal. Key personnel may not be removed by the Contractor from working under this Contract, as described in the RFP or the Contractor’s Technical Proposal, without the prior written approval of the Contract Monitor.

If the Contract is task order based, the provisions of this section apply to key personnel identified in each task order proposal and agreement.

#### **B. Definitions**

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

**Extraordinary Personal Circumstance** – means any circumstance in an individual’s personal life that reasonably requires immediate and continuous attention for more than fifteen (15) days and that precludes the individual from performing his/her job duties under this Contract. Examples of such circumstances may include, but are not limited to: a sudden leave of absence to care for a family member who is injured, sick, or incapacitated; the death of a family member, including the need to attend to the estate or other affairs of the deceased or his/her dependents; substantial damage to, or destruction of, the individual’s home that causes a major disruption in the individual’s normal living circumstances; criminal or civil proceedings against the individual or a family member; jury duty; and military service call-up.

**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.

**Sudden** – means when the Contractor has less than thirty (30) days’ prior notice of a circumstance beyond its control that will require the replacement of any key personnel working under the Contract.

#### **C. Key Personnel General Substitution Provisions**

The following provisions apply to all of the circumstances of staff substitution described in paragraph D of this section.

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

#### D. Replacement Circumstances

##### 1. Voluntary Key Personnel Replacement

To voluntarily replace any key personnel, the Contractor shall submit a substitution request as described in paragraph C of this section to the Contract Monitor at least fifteen (15) days prior to the intended date of change. Except in a circumstance described in paragraph D.2 of this clause, a substitution may not occur unless and until the Contract Monitor approves the substitution in writing.

##### 2. Key Personnel Replacement Due to Vacancy

The Contractor shall replace key personnel whenever a vacancy occurs due to the sudden termination, resignation, leave of absence due to an Extraordinary Personal Circumstance, Incapacitating injury, illness or physical condition, or death of such personnel. (A termination or resignation with thirty (30) days or more advance notice shall be treated as a Voluntary Key Personnel Replacement as per Section D.1 of this section.).

Under any of the circumstances set forth in this paragraph D.2, the Contractor shall identify a suitable replacement and provide the same information or items required under paragraph C of this section 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

If any key personnel has been absent from his/her job for a period of ten (10) days due to injury, illness, or other physical condition, leave of absence under a family medical leave, or an Extraordinary Personal Circumstance 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 or items to the Contract Monitor as required under paragraph C of this section.

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

#### 4. Directed Personnel Replacement

- a. The Contract Monitor may direct the Contractor to replace any personnel who are perceived as being unqualified, non-productive, unable to fully perform the job duties due to full or partial Incapacity or Extraordinary Personal Circumstance, disruptive, or known, or reasonably believed, to have committed a major infraction(s) of law, agency, or Contract requirements. Normally, a directed personnel replacement will occur only after prior notification of problems with requested remediation, as described in paragraph 4.b. If after such remediation the Contract Monitor determines that the personnel performance has not improved to the level necessary to continue under the Contract, if at all possible at least fifteen (15) days notification of a directed replacement will be provided. However, if the Contract Monitor deems it necessary and in the State's best interests to remove the personnel with less than fifteen (15) days' notice, the Contract Monitor can direct the removal in a timeframe of less than fifteen (15) days, including immediate removal.

In circumstances of directed removal, the Contractor shall, in accordance with paragraph C 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. If deemed appropriate in the discretion of the Contract Monitor, the Contract Monitor shall give written notice of any personnel performance issues to the Contractor, describing the problem and delineating the remediation requirement(s). The Contractor shall provide a written Remediation Plan within ten (10) days of the date of the notice and shall implement the Remediation Plan immediately 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.

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

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

### 1.24 Mandatory Contractual Terms

By submitting a Proposal in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached herein as **Attachment A**. Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary of the Technical Proposal. **A Proposal that takes exception to these terms may be rejected (see RFP Section 4.4.3.4).**

### 1.25 Bid/Proposal Affidavit

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

## **1.26 Contract Affidavit**

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete a Contract Affidavit. A copy of this Affidavit is included as **Attachment C** of this RFP. This Affidavit must be provided within five (5) Business Days of notification of proposed Contract award. This Contract Affidavit will also be required to be completed by the Contractor prior to any Contract renewals, including the exercise of any options or modifications that may extend the Contract term.

## **1.27 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 that it shall not become so in arrears during the term of the Contract if selected for Contract award.

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

Before a business entity can do business in the State it must be registered with the State Department of Assessments and Taxation (SDAT). SDAT is located at State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. The SDAT website is <http://www.dat.state.md.us/sdatweb/services.html>.

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

## **1.29 False Statements**

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

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

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

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

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

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

By submitting a response to this solicitation, the Bidder/Offeror agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller's Office grants an exemption. Payment by EFT is mandatory for contracts exceeding \$100,000. The selected Bidder/Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form, 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/Government\\_Services/State\\_Accounting\\_Information/Static\\_Files/APM/gadx-10.pdf](http://comptroller.marylandtaxes.com/Government_Services/State_Accounting_Information/Static_Files/APM/gadx-10.pdf)

### **1.31 Prompt Payment Policy**

This procurement and the Contract(s) to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs (GOMA) and dated August 1, 2008. Promulgated pursuant to Md. Code Ann., State Finance and Procurement Article, §§ 11-201, 13-205(a), and Title 14, Subtitle 3, and COMAR 21.01.01.03 and 21.11.03.01, the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The Contractor must comply with the prompt payment requirements outlined in the Contract, Section 31 "Prompt Payment" (see **Attachment A**).

Additional information is available on GOMA's website at:

[http://www.mdminoritybusiness.com/documents/PROMPTPAYMENTFAQs\\_000.pdf](http://www.mdminoritybusiness.com/documents/PROMPTPAYMENTFAQs_000.pdf).

### **1.32 Electronic Procurements Authorized**

- A. Under COMAR 21.03.05, unless otherwise prohibited by law, DHMH may conduct procurement transactions by electronic means, including the solicitation, bidding, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.
- B. Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Bidder/Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or the Contract.
- C. "Electronic means" refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes facsimile, e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://emaryland.buyspeed.com/bso/>), and electronic data interchange.
- D. In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., § 1.30 "Payments by Electronic Funds Transfer") and subject to the exclusions noted in section E of this subsection, the following transactions are authorized to be conducted by electronic means on the terms described:
  - 1. The Procurement Officer may conduct the procurement using eMM, e-mail, or facsimile to issue:
    - (a) the solicitation (e.g., the IFB/RFP);
    - (b) any amendments;
    - (c) pre-Bid/Proposal conference documents;
    - (d) questions and responses;
    - (e) communications regarding the solicitation or Bid/Proposal to any Bidder/Offeror or potential Bidder/Offeror;
    - (f) notices of award selection or non-selection; and
    - (g) the Procurement Officer's decision on any Bid protest or Contract claim.
  - 2. A Bidder/Offeror or potential Bidder/Offeror may use e-mail or facsimile to:
    - (a) ask questions regarding the solicitation;

- (b) reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer's request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer;
- (c) submit a "No Bid/Proposal Response" to the solicitation.

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

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

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

F. Any facsimile or e-mail transmission is only authorized to the facsimile numbers or e-mail addresses for the identified person as provided in the solicitation, the Contract, or in the direction from the Procurement Officer or Contract Monitor.

### **1.33 Minority Business Enterprise Goals**

#### **1.33.1 Establishment of Goal and Subgoals.**

An overall MBE subcontractor participation goal of **20%** of the total contract dollar amount has been established for this procurement.

There are no MBE subcontractor participation subgoals for this procurement.

1.33.2 **Attachment D** – Minority Business Enterprise participation, instructions, and forms are provided to assist Bidders/Offerors. A Bidder/Offeror must include with its Bid/Proposal a completed MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1**) whereby:

- (a) The Bidder/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
- (b) The Bidder/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 Bid/Proposal submission. The Bidder/Offeror shall specify the percentage of contract value associated with each MBE subcontractor identified on the MBE participation schedule.

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

1.33.3 Bidders/Offerors are responsible for verifying that each of the MBE(s) selected to meet the goal and any subgoals and subsequently identified in **Attachment D-1** is appropriately certified and has the correct NAICS codes allowing it to perform the intended work.

- 1.33.4 Within ten (10) Working Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, the Bidder/Offeror must provide the following documentation to the Procurement Officer.
- (a) Outreach Efforts Compliance Statement (**Attachment D-2**).
  - (b) Subcontractor Project Participation Certification (**Attachment D-3**).
  - (c) 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.
  - (d) Any other documentation required by the Procurement Officer to ascertain Bidder/Offeror responsibility in connection with the certified MBE subcontractor participation goal or any applicable subgoals.

*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.*

- 1.33.5 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://www.mdot.state.md.us>. The most current and up-to-date information on MBEs is available via this website. **Only MDOT-certified MBEs may be used to meet the MBE subcontracting goals.**
- 1.33.6 The Contractor, once awarded a Contract, will be responsible for submitting or requiring its subcontractor(s) to submit the following forms to provide the State with ongoing monitoring of MBE Participation:
- (a) **Attachment D-4** (MBE Participation Prime Contract Paid/Unpaid MBE Invoice Report).
  - (b) **Attachment D-5** (MBE Participation Subcontractor/Contractor Unpaid MBE Invoice Report).
- 1.33.7 A Bidder/Offeror requesting a waiver of the goal or any of the applicable subgoals will be responsible for submitting the following form if applicable within ten (10) Working Days of recommendation for award and all documentation as required in **COMAR 21.11.03.11 - Waiver**:
- (a) **Attachment D-6** (MBE Minority Contractor Unavailability Certificate).
- 1.33.8 All documents, including **Attachment D**, completed and submitted by the Bidder/Offeror in connection with its certified MBE participation commitment shall be considered to be a part of the resulting Contract and are hereby expressly incorporated into reference thereto. All of the referenced documents will be considered a part of the Bid/Proposal for order of precedence purposes (see **Attachment A**, § 2.1).
- 1.33.9 The Bidder/Offeror is advised that liquidated damages will apply in the event the Contractor fails to comply in good faith with the provisions of the MBE program and pertinent Contract provisions. (See **Attachment A**, §38).

## **1.34 Living Wage Requirements**

A solicitation for services under a State contract valued at \$100,000 or more may be subject to Md. Code Ann., State Finance and Procurement Article, Title18. Additional information regarding the State's living wage requirement is contained in **Attachment G**. Bidders/Offerors must complete and submit the Maryland Living Wage Requirements Affidavit of Agreement (**Attachment G-1**) with their Bid/Proposal. If a Bidder/Offeror fails to complete and submit the required documentation, the State may determine a Bidder/Offeror to be not responsible under State law.

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

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

- If the Contractor provides 50% or more of the services from a location(s) in a Tier 1 jurisdiction(s) the Contract will be a Tier 1 Contract.
- If the Contractor provides 50% or more of the services from a location(s) in a Tier 2 jurisdiction(s), the Contract will be a Tier 2 Contract.
- If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located.

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>.

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

### **1.35 Federal Funding Acknowledgement**

- 1.35.1 There are programmatic conditions that apply to this Contract due to Federal funding. (see **Attachment H**).
- 1.35.2 The total amount of Federal funds allocated for the Medical Care Programs Administration is \$4 billion in Maryland State fiscal year 2014. 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.
- 1.35.3 This Contract contains federal funds. The source of these federal funds is: Medicaid Title XIX. The CFDA number is: 93.778. The conditions that apply to all federal funds awarded by the Department are contained in Federal Funds **Attachment H**. Any additional conditions that apply to this particular federally-funded contract are contained as supplements to Federal Funds **Attachment H** and Bidders/Offerors are to complete and submit these Attachments with their Bid/Proposal as instructed in the Attachments. Acceptance of this agreement indicates the Bidder/Offeror's intent to comply with all conditions, which are part of this Contract.

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

Bidders/Offerors shall complete and sign the Conflict of Interest Affidavit and Disclosure (**Attachment I**) and submit it with their Bid/Proposal. All Bidders/Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Contractor's personnel who perform or control work under this Contract and each of the participating subcontractor personnel who perform or control work under this Contract shall be required to complete agreements substantially similar to **Attachment I** Conflict of Interest Affidavit and Disclosure. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08.

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

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

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

Based on the determination by DHMH that the functions to be performed in accordance with this solicitation constitute Business Associate functions as defined in HIPAA, the recommended awardee shall execute a Business Associate Agreement as required by HIPAA regulations at 45 C.F.R. §164.501 and set forth in **Attachment K**. This Agreement must be provided within five (5) Business Days of notification of proposed Contract award; however, to expedite processing, it is suggested that this document be completed and submitted with the Bid/Proposal. Should the Business Associate Agreement not be submitted upon expiration of the five (5) Business Day period as required by this solicitation, the Procurement Officer, upon review of the Office of the Attorney General and approval of the Secretary, may withdraw the recommendation for award and make the award to the responsible Bidder/Offeror with the next lowest Bid or next highest overall-ranked Proposal.

### **1.39 Nonvisual Access**

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

### **1.40 Mercury and Products That Contain Mercury**

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

### **1.41 Veteran-Owned Small Business Enterprise Goals**

#### **1.41.1 NOTICE TO BIDDERS/OFFERORS**

Questions or concerns regarding the Veteran-Owned Small Business Enterprise (VSBE) subcontractor participation goal of this solicitation must be raised before the due date for submission of Bids/Proposals.

#### **1.41.2 PURPOSE**

The Contractor shall structure its procedures for the performance of the work required in this Contract to attempt to achieve the VSBE subcontractor participation goal stated in this solicitation. VSBE performance must be in accordance with this section and **Attachment M**, 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 M**.

#### **1.41.3 VSBE GOALS**

A VSBE subcontract participation goal of **.5%** of the total Contract dollar amount has been established for this procurement. By submitting a response to this solicitation, the Bidder or Offeror agrees that this percentage of the total dollar amount of the Contract will be performed by verified veteran-owned small business enterprises.

#### **1.41.4 SOLICITATION AND CONTRACT FORMATION**

A Bidder/Offeror must include with its Bid/Proposal a completed Veteran-Owned Small Business Enterprise Utilization Affidavit and Subcontractor Participation Schedule (**Attachment M-1**) whereby:

- (1) the Bidder/Offeror 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 Bidder/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.
- (2) the Bidder/Offeror responds to the expected degree of VSBE participation as stated in the solicitation, by identifying the specific commitment of VSBEs at the time of Bid/Proposal submission. The Bidder/Offeror shall specify the percentage of contract value associated with each VSBE subcontractor identified on the VSBE Participation Schedule.

***If a Bidder/Offeror fails to submit Attachment M-1 with the Bid/Proposal as required, the Procurement Officer may determine that the Bid is non-responsive or that the Proposal is not reasonably susceptible of being selected for award.***

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

- (1) VSBE Project Participation Statement (**Attachment M-2**);
- (2) 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
- (3) Any other documentation required by the Procurement Officer to ascertain Bidder/Offeror responsibility in connection with the VSBE subcontractor participation goal.

***If the apparent awardee fails to return each completed document within the required time, the Procurement Officer may determine that the apparent awardee is not responsible and therefore not eligible for contract award.***

#### 1.41.5 CONTRACT ADMINISTRATION REQUIREMENTS

The Contractor, once awarded the Contract shall:

1. Submit monthly to the Department a report 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. (**Attachment M-3**)
2. Include in its agreements with its VSBE subcontractors a requirement that those subcontractors submit monthly to the Department a report that identifies the prime contract and lists all payments received from Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices. (**Attachment M-4**)
3. 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.
4. Consent to provide such documentation as reasonably requested and to provide right-of entry at reasonable times for purposes of the State's representatives verifying compliance with the 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.
5. At the option of the procurement agency, upon completion of the Contract and before final payment and/or 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.

#### **1.42 Conflict Minerals Notice**

Offerors are advised that Md. Ann. Code, State Finance and Procurement Article, § 14-413 provides as follows:

- (a) (1) In this section the following words have the meanings indicated.
- (2) (i) “Conflict mineral” means a mineral or mineral derivative determined under federal law to be financing human conflict.
- (ii) “Conflict mineral” includes columbite-tantalite (coltan), cassiterite, gold, wolframite, or derivatives of these minerals.
- (3) “Noncompliant person” means a person:
  - (i) that is required to disclose under federal law information relating to conflict minerals that originated in the Democratic Republic of the Congo or its neighboring countries; and
  - (ii) for which the disclosure is not filed, is considered under federal law to be an unreliable determination, or contains false information.
- (b) A unit may not knowingly procure supplies or services from a noncompliant person.

By submitting a response to this solicitation, the Bidder/Offeror represents that it is in compliance with the disclosure requirements related to conflict minerals, as set forth in § 14-413 of the State Finance and Procurement Article.

#### **1.43 Investment Activities in Iran**

The Bidder/Offeror is required to complete the Investment Activities in Iran Certification. A copy of this Certification is included as **Attachment N**. The Certification must be provided with the Bid/Proposal.

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

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

#### **1.45 Department of Human Resources (DHR) Hiring Agreement**

This solicitation does not require a DHR Hiring Agreement.

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## **SECTION 2 – MINIMUM QUALIFICATIONS**

### **2.1 Offeror Minimum Qualifications**

The Offeror must provide proof with its Proposal that the following Minimum Qualifications have been met:

- 2.1.1 The Offeror shall have a minimum of five (5) years of experience administering a comprehensive dental program for Medicaid participants. As proof of meeting this requirement, the Offeror shall provide with its Proposal three (3) references able to attest to the Offeror's experience in administering Medicaid dental programs.
- 2.1.2 The Offeror shall have a provider network in Maryland that can accommodate a minimum of 650,000 participants. As proof of meeting this requirement, the Offeror shall provide a numerical breakdown of individual dentists participating with the Offeror by each of the Maryland counties.
- 2.1.3 The Offeror shall open and maintain a physical office in the state of Maryland by the Go-Live date of this Contract and for its duration. As proof of meeting this requirement, the Offeror shall provide in the Transmittal Letter an attestation committing the Offeror to opening an office in Maryland by the Go-Live date and maintaining such an office for the duration of the Contract if the Offeror is awarded the Contract.
- 2.1.4 The Offeror shall have a system capable of accepting and processing eligibility, claims, and provider data. As proof of meeting this requirement, the Offeror shall provide a live demonstration of its system capabilities at a time determined by the Department.
- 2.1.5 The Offeror shall attest that neither it nor the parents, affiliates, subsidiaries of the Offeror provide any other direct health care services under the Maryland Medical Assistance program.
- 2.1.6 The Offeror shall commit in writing to being available beyond the termination of this Contract for the accountability of any services performed as part of the Contract including, but not limited to, appearing in court proceedings, providing documents, and furnishing witnesses.

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## **SECTION 3 – SCOPE OF WORK**

### **3.1 Background and Purpose**

The State is issuing this solicitation for the purposes of obtaining a DBA who has the technical, professional, and managerial capabilities to administer the dental benefits for Medicaid and SCHIP participants who are under 21 years, adult pregnant women, or adults enrolled in the REM Program.

Initially, the most significant responsibility of the DBA will be the implementation of a statewide dental home initiative. The dental home initiative is the provision of comprehensive oral health care provided by one PCD (Primary Care Dentist) including acute care and preventive services; comprehensive assessment for oral diseases and conditions; individualized preventive dental health program; anticipatory guidance about growth and development issues (i.e., teething, digit, or pacifier habits); plan for acute dental trauma; information about proper care of the child's teeth and gingivae; dietary counseling; referrals to dental specialists when care cannot directly be provided within the dental home; education regarding future referral to a dentist knowledgeable and comfortable with adult oral health issues for continuing oral health care; referral at an age determined by patient, parent, and pediatric dentist. Currently, four of Maryland's 23 counties have dental home structures.

The second major responsibility will be to establish administrative procedures and systems to ensure that participants seeking and providers rendering dental services do not face undue barriers or burdens.

The DBA will be responsible for increasing the number of children, adult pregnant women and adult REM participants who receive high quality, appropriate, and cost-effective dental services by:

1. Increasing the number of participating Maryland Medical Assistance dental providers, ensuring provider network adequacy in all areas of the State, and moving towards a goal of a dental home for children enrolled in Maryland Medical Assistance or SCHIP;
2. Providing high quality provider relations services, including assigning a provider relations staff member to each network provider and staffing and maintaining a highly responsive Call Center for assisting providers with timely claims adjudication (including developing a web-based system for accepting claims directly from providers), preauthorization requests, and other concerns;
3. Developing and implementing a plan to inform dental care providers on techniques and dental protocols to manage oral health conditions typically seen during childhood and pregnancy. Also, providing dental providers with methods to educate children, their parents, and pregnant participants on the importance of nutrition, good oral health, and regular dental care during childhood and pregnancy;
4. Developing high quality recipient outreach and education materials and conducting regularly scheduled outreach activities designed to educate enrolled children and their parents about: good oral hygiene; the availability and importance of receiving dental services and keeping dental appointments; and how to access dental care services;
5. Developing a pediatric dental care tracking system to monitor a child's level of compliance with recommended dental care in accordance with the AAPD recommendations.
6. Understanding and being responsive to the special needs of a culturally diverse group of pregnant women and children and their parents;
7. Staffing and maintaining a highly responsive Call Center for assisting participants with coverage questions, finding dental providers, and making appointments;
8. Ensuring that the development, implementation and administration of the dental benefits program is done in a manner that includes input by participants, providers and other interested parties;
9. Providing an effective and highly efficient operation that takes advantage of technology; reduces the administrative burden on dental providers and clients; provides for utilization control, efficient preauthorization procedures, and coordination of complex dental care; and provides flexible operations that allow the State to react to program changes in a timely manner;

10. Maintaining a quality assurance and improvement program that routinely and systematically monitors utilization, evaluates the quality of care and services received by participants, and pursues opportunities for improvement; and
11. Providing regular reports to the State to document contract performance.

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

The Contractor shall perform all services described in this RFP and shall comply with all applicable state and federal statutes, state and federal regulations, and state and federal policies transmitted through published notices, letters, manual provisions or transmittals.

The Contractor shall notify the Department immediately of any liabilities that threaten its financial ability to perform the duties of the Contract and of any discussions of filing for bankruptcy by it or by any entity that has a financial interest in the Contractor.

The Contractor/DBA shall perform the following services.

### **3.2.1 Provider Network Development and Maintenance**

*Standard: The DBA shall develop, educate, and maintain a provider network sufficient to fulfill all requirements of the Contract.*

#### **Services:**

Although the DBA shall provide eligible participants with access to primary and specialty dental services from the beginning of the Contract, by the third year of the Contract, the DBA shall have a sufficient network at the start of the second phase to be able to provide a dental home for each covered child and REM adult.

The following provider network development and maintenance services must be provided throughout the ongoing administrative phase of the Contract:

- A. **Provider Relations and Education**—The DBA shall have a specific provider relations representative assigned to each dentist within the network. These staff should be easy to contact and should be able to visit provider offices when necessary, but no less than once a year for all general dentists. Provider relations staff shall respond to provider inquiries within one business day. These staff must have the ability to provide individual training and education as needed and as requested by providers. For example, these staff should inform providers of the DBA's availability to assist with:
  1. Helping participants or their primary care dentist (PCD) find dental specialists;
  2. Helping dentists navigate the pre-authorization process;
  3. Explaining the role and responsibilities of the PCD;
  4. Claims problems and questions;
  5. Explaining the grievance and appeals processes for providers; and
  6. Any other relevant information needed or requested by a provider.

The DBA shall educate providers to follow practice guidelines for preventive oral health services identified by the Department consistent with AAPD recommendations regarding the periodicity of professional dental services for children, and with EPSDT program requirements. (See <http://www.aapd.org/> and **Attachment AA** of this RFP.) Practice guidelines for pediatric dental utilization include timely provision of exams, cleaning, fluoride treatment, sealants and any medically necessary referral for treatment of children of all ages. The DBA shall provide training and education to providers on dental practice guidelines for young children, pregnant women and special needs populations.

The DBA shall also be responsible for educating providers on its utilization management system and the program requirements of Medicaid. The DBA shall encourage providers to call the provider Call Center if they need immediate assistance and are unable to reach their provider relations representative.

The DBA shall develop, produce and distribute a provider manual. The DBA shall update the manual as frequently as needed, but no less than annually. The manual and any revisions must be submitted to the Department for approval at least 30 days prior to distribution. The DBA shall distribute procedural or policy revisions to providers at least 15 days prior to the effective date of the revision. At a minimum, the manual shall include:

1. A clear definition of the populations to be covered and the service package, including limitations and exclusions, for each population (children, adult pregnant women, adults in REM);
2. Utilization management and preauthorization procedures and requirements;
3. Documentation requirements for treatment of participants;
4. Detailed description of the grievance and appeal processes available to providers;
5. A detailed description of billing requirements and a copy of the DBA's HIPAA compliant paper billing forms and electronic billing format; and
6. Instructions for all electronic claim submissions and information on its no-cost direct data entry method for entering claims through a web portal.

**B. Network Specifications**—The DBA shall provide a dental network that is sufficient in number and scope of providers to deliver comprehensive dental services that are available and accessible for eligible participants. As part of network management, the DBA shall track and analyze all network changes and provide information to the Department as required.

The DBA shall include in their network the following classes of providers in numbers that are sufficient to furnish services described in this RFP in accordance with the time, geographic and other standards described in Section 4.1 D, below:

1. Dentists and dental hygienists, pediatric dentists, orthodontists, periodontists, and endodontists;
2. Dentists and other dental professionals described above with demonstrated experience in the provision of services to children with acute and chronic medical conditions or special circumstances, including but not limited to cardiovascular conditions, HIV infection, cancer, developmental disability, behavioral disorder, or children in State supervised care; and
3. Other recognized dental professionals who are trained in dental care and oral health and experienced in performing triage for such care.

**C. Participant Access to Services**—Before the implementation of the dental home program, each recipient shall be permitted to obtain covered services from any general dentist, pediatric dentist, or other dental specialist participating in the DBA's network accepting new patients. Where there is not a participating provider within Contract access standards, the DBA must make necessary arrangements with non-participating providers to provide the needed services. Such out-of-network arrangements shall be executed by the DBA in a manner that is invisible to the recipient.

For the duration of the Contract, Contractor shall continue to improve, but must at least maintain, a 1:500 ratio. The current network ratio is 1:521.

The DBA shall maintain under Contract a network of dental providers to provide all covered services statewide. The DBA shall make services and service locations available and accessible so that patients may obtain services in:

1. Urban areas, within 10-mile radius of each recipient's residence.
2. Suburban areas, within 20-mile radius of each recipient's residence.
3. Rural areas, within a 30-mile radius of each recipient's residence.

Appointments must be scheduled within the following time frames:

1. 48 hours for urgent care;
2. 90 days of enrollment for an initial comprehensive assessment;
3. 60 days for follow-up routine and preventive care; and
4. 60 days of initial authorization from recipient's general dentist/PCD or more expeditiously as deemed necessary by the general dentist/PCD for specialty care.

- D. **Dental Home** – The DBA shall implement the dental home program in each of the Maryland counties which are not currently under the dental home structure. The Department will work with the DBA to ensure the implementation of the dental home in the remaining counties. Once this is accomplished, the function of the PCD will be to assess a recipient's dental needs and to provide services to meet these needs either directly or through the DBA's specialty dental network. The DBA shall have a sufficient network to be able to have a PCD for each child and REM adult. The DBA shall issue a durable plastic card to each eligible recipient, which will include their PCD's name and telephone number, the DBA's Call Center 800 number, the DBA's website address, and the State's Enrollee Action Line 800 number.

When there are sufficient providers in the network, DBA shall offer participants a choice of PCDs in their geographic area. If the recipient does not choose one of the providers, the DBA shall assign each recipient to a PCD within 30 days after enrollment in Medical Assistance based on the geographic area in which the recipient resides. In addition, whenever there is a claims history for the recipient, the DBA shall link autoassigned recipients to their historic dental provider. Participants shall be given the opportunity to change their PCD at anytime by calling the DBA.

The DBA shall be required to continue the dental home program in all jurisdictions that participate in the program at the Go-Live date of this Contract. In addition, the DBA shall implement dental homes in each of the Maryland counties that has not implemented the program.

- E. **Credentialing**—The DBA shall ensure that all network providers are licensed and credentialed to render services under applicable state law and/or regulations. The DBA shall implement this requirement with an efficient and streamlined credentialing process including developing special procedures to facilitate enrollment for dentists who are providing services to Medical Assistance participants prior to the implementation of the contract.

The DBA's credentialing process shall include, at a minimum, review of:

1. Licensure;
2. Professional liability insurance; and
3. Sanction history verified through the National Practitioner Data Bank or other appropriate entity.

During the pre-transition phase, the Department shall submit a provider network file to the DBA that contains all dental providers enrolled with the Department. Format for this file will be determined by the Department and the DBA. During the ongoing administration phase of contract, the DBA will use eMedicaid (see **Attachment X**) to maintain provider network data in MMIS.

- F. **Somatic Care Providers**—The DBA shall work with the Department and the HealthChoice MCOs to develop dental education materials to be sent to EPSDT somatic care providers. Additionally, the DBA shall accept primary care provider data, in a format to be determined by the Department and the vendor, in order to pay claims from primary care providers that apply fluoride varnish for children.

- G. **Policy of Nondiscrimination**—The DBA shall ensure that its providers provide dental service to participants under this Contract at the same quality level and practice standards and with the same level of dignity and respect as provided to non-Medicaid patients.

### 3.2.2 Recipient Education and Outreach

*Standard: The DBA shall design, produce, and distribute age-, language-, and culturally-appropriate outreach and education materials to participants. The DBA shall conduct regularly scheduled and targeted outreach and education activities for all covered populations.*

**Services:**

The DBA shall design, produce and distribute (including all distribution costs such as postage) various types of recipient materials to educate participants about the dental benefits available and how to access them. The DBA shall work with providers and others to develop materials and processes to educate all covered populations. Educational materials to be produced include, but are not limited to: educational brochures, posters, advertisements, fact sheets, videos, story boards for the production of videos, audio tapes, letters, and other materials necessary to provide information to participants as required by this RFP. The DBA may develop additional materials and information, other than those required by this Section, to promote and educate participants about oral health.

The DBA shall take a proactive role in reaching out to participants to ensure that each recipient has the information necessary to receive medically necessary dental care. The DBA shall develop creative means to achieve effective outreach and communications including collaborating with groups in the community who interact with participants, such as local health department eligibility staff, local departments of social services case workers, and other interested community workers.

The DBA shall submit all materials to the Department for approval at least 10 calendar days prior to use, including those developed by entities outside of the DBA. All materials shall be submitted by the DBA in an electronic format whenever possible, including final copies of approved materials. The Department reserves the right to withdraw or modify its approval at any time.

The following education and outreach services must be provided throughout the ongoing administrative phase of the Contract:

- A. **Orientation Materials and Recipient Handbook** – The DBA shall produce and mail recipient orientation materials including a recipient Handbook and plastic identification card to all new participants within 10 days of enrollment. The identification card must contain the DBA’s name, 800 telephone number, website address, and the State Enrollee Action Line’s 800 number. The Handbook and other orientation materials must:
1. Explain the nature of the DBA and recipient’s relationship with the DBA;
  2. List the toll-free telephone number for the DBA’s Call Center with a statement that the recipient may contact the DBA for any questions, to locate a dentist, or to obtain appointment assistance;
  3. Explain the importance of regular dental care and good oral hygiene, emphasizing preventive care such as visiting the dentist regularly and proper oral hygiene instructions including brushing and flossing;
  4. Explain the appropriate Schedule for Dental Care;
  5. Describe covered dental services, including how to obtain emergency and urgent dental care services;
  6. Explain how to access transportation services;
  7. Explain that dental services are available at no cost and without cost sharing responsibilities for populations and services described in this RFP;
  8. Explain participants’ Rights and Responsibilities;
  9. Explain the appeal and grievance processes;
  10. Inform participants of the availability of the State’s Enrollee Action Line; and
  11. Encourage participants to maintain PCD relationships and the importance of a dental home for children.

The Recipient Handbook and Identification card template must be pre-approved by the Department and must be submitted for re-review and approval whenever revisions are made.

- B. **Provider Directory** – As part of the recipient orientation materials, the DBA shall provide all participants

with a provider listing, sorted by region and specialty, and listing all office locations. The provider listing shall include:

1. Provider name;
2. Address;
3. Telephone numbers;
4. Office hours;
5. Foreign languages spoken;
6. Specialty;
7. Whether the provider is accepting new patients; and
8. Practice limitations including whether the provider is willing to serve children and adults with special health care needs and whether the provider's practice has age restrictions.

The Department must approve the Provider Directory. The DBA shall update this Directory on a web site maintained by the DBA as provider information changes and made available to participants and stakeholders (e.g. advocate and community organizations and local health departments) at all times electronically and in written format. The written copy must be updated at least quarterly. The on-line version must be updated whenever there is a change in the network (including additions and deletions of providers and changes to the provider listing as described above. In addition, the DBA shall submit provider directory information quarterly to the Health Resources and Services Administration (HRSA) on the Insure Kids Now web portal.

**C. Content of Education Materials** – The DBA must, at a minimum, educate participants, parents, and caregivers on the following:

1. Importance of good oral health during childhood and pregnancy;
2. Need for a dental visit and/or risk assessment on or before age one;
3. Prevention of oral disease;
4. Safety of dental care during pregnancy;
5. Anticipatory guidance for prevention of Early Childhood Caries;
6. Importance of diet in preventing oral health problems that includes a discussion of the impact of bottles and sippy cups on oral disease;
7. Counseling for oral habits such as pacifiers;
8. Importance of water fluoridation and fluoride in toothpaste, varnish, mouth rinse, and gels;
9. Appropriate use of fluoride supplements (e.g., tablets, drops, lozenges);
10. Prevention of oral facial trauma, including listing of resources to assist in detecting child abuse and/or neglect;
11. Need for dental sealants in preventing oral disease;
12. Impact of substance abuse (i.e., alcohol and tobacco) on oral health, including listing of resources for prevention and cessation.

All educational materials must adhere to standards described in Section 3.2.2.D below and be pre-approved by the Department prior to use.

**D. Standards for Development of Written Outreach and Education Materials** – All materials shall meet the following standards:

1. Be worded in plain language in accordance with the Federal Plain Language Guidelines, unless otherwise approved by the Department;
2. Be clearly legible with a minimum font size of 12 pt., unless otherwise approved by the Department;
3. Be translated and available in Spanish. Additionally, all vital documents must be translated and available to any group identified by the Department with limited English proficiency;
4. Be made available in alternative formats upon request for persons with special needs or appropriate interpretation services shall be provided by the DBA at no charge to the recipient.

The Seal of Maryland or any Department logo, trademark or copyrighted material shall not be used on communication material without the written approval of the Department.

The DBA shall provide written notice to participants of any changes in policies or procedures described in written materials previously sent to participants at least thirty (30) days before the effective date of the change.

The cost of design, printing, and distribution (including postage) of all recipient materials shall be borne by the DBA. The DBA shall comply with all Federal postal regulations and requirements for mailing of all materials. Any postal fees assessed on mailings sent by the DBA in relation to activities required by this RFP due to failure by the DBA to comply with Federal postal regulations shall be borne by the DBA and at no expense to the Department.

- E. **Outreach to Target Groups** – The DBA shall submit an outreach plan to the Department which outlines objectives and strategies that will increase awareness of the importance of dental care, the availability of dental benefits, and increase utilization to meet Department goals for all covered populations. The DBA shall target specific efforts to children with special health care needs, REM adults, pregnant women, and non-compliant participants. The Department may require the DBA to coordinate its efforts with outreach projects being conducted by the Department, the MCOs or other state agencies. The cost of design, printing, and distribution (including any postage) of any outreach materials shall be borne by the DBA.

The DBA shall conduct regionally located and regularly scheduled outreach activities designed to inform participants about the availability of dental services and to meet or exceed Department established utilization goals.

For pregnant women, the DBA shall make at least three attempts to provide outreach and education services to each recipient identified on the eligibility file or otherwise known to be pregnant. The first two attempted contacts with each recipient should be telephone calls, at least one day apart, within ten days of enrollment with the DBA. If this contact is unsuccessful, a written notice should be sent within ten days of the second phone attempt. The DBA shall document all outreach and education attempts.

For non-compliant participants or those that have missed scheduled appointments, the DBA shall make at least three attempts to provide outreach to these participants. The first two attempted contacts with each recipient should be telephone calls, at least one day apart, within ten days of enrollment with the DBA. If this contact is unsuccessful, a written notice should be sent within ten days of the second phone attempt. The DBA shall document attempts to schedule follow-up appointments or bring the recipient into care. The DBA shall demonstrate its process for providers to report patients who are non-compliant with scheduled appointments, along with its procedure to address outreach to those patients.

- F. **Coordination with Public Health and Other Entities** – The DBA will work closely and cooperatively with the State, Local Health Departments, and FQHCs. In addition to a highly functional office-based delivery component, the DBA must promote early effective prevention in conjunction with community-linked EPSDT programs and services, such as school based health centers and Head Start. The DBA shall coordinate with the Local Health Departments when a recipient requires transportation services. The DBA will work closely and cooperatively with entities, including but not limited to case management providers in local communities, community services organizations, dental provider associations, advocacy groups, dental providers, schools, Local Health Departments, local Departments of Social Services, family members, and other interested parties, when such parties are working on behalf of the recipient to secure needed dental care for the recipient. The DBA's coordination with other entities shall comply with all applicable federal and state confidentiality requirements, and, at minimum, shall include following up with the recipient or the recipient's responsible party in regard to the issue/need communicated by the interested party.

### 3.2.3 Authorization and Utilization Management

*Standard: The DBA shall be responsible for the provision of all dental services to children, pregnant women and adult REM participants. These services are to be medically necessary, meet quality standards, and be provided in a cost effective manner. The DBA shall develop all necessary processes and policies for authorization of services, and monitoring, assessing, and improving utilization.*

**Services:**

- A. **Dental Benefits** - The DBA shall be responsible for administering the Maryland Medical Assistance Program dental benefit package to participants in accordance with the regulations governing the dental program (COMAR 10.09.05) and the terms of this RFP. The Department uses the standards of the AAPD for the periodicity of examination and preventive dental services for children under 21 years. **Attachment S** to this RFP is the Dental Program's fee schedule by ADA procedure code and the rate of reimbursement associated with the procedure codes. The fee schedule is an all-inclusive list of the services covered by Maryland Medicaid.

The DBA shall:

1. Ensure that all medically necessary diagnostic, preventive, restorative, surgical, endodontic, periodontic, emergency, and adjunctive dental services that are administered by or under the direct supervision of a licensed dentist are provided to children in accordance with the EPSDT federal regulations as described in 42 CFR Part 441, Subpart B and the Omnibus Budget Reconciliation Act of 1989, whether or not such services are covered under the Maryland Medicaid Program's State Plan. Services for children should be approved in accordance with the periodicity standards of the AAPD in order to meet the EPSDT standard. See **Attachment AA** for AAPD's Periodicity of Examination, Preventive Dental Services and Oral Treatment for Children;
  2. Authorize the provision of medically necessary and appropriate dental services to pregnant participants over the age of 21 which consist of diagnostic, emergency, preventive and therapeutic dental services to treat oral diseases. See **Attachment R** for a full list of these services;
  3. Authorize the provision of medically necessary and appropriate dental services for adults in the REM program. See **Attachment R** for a full list of these services;
  4. Authorize the provision of orthodontics to individuals under the age of 21 when the orthodontic treatment plan meets all of the criteria set by the Maryland Medical Assistance Program.
- B. **Preauthorization** – The DBA shall make a determination of medical necessity on a case-by-case basis for services requiring preauthorization. The DBA shall:
1. Submit all policies and procedures to the Department for approval at least 10 days prior to implementation or the effective date of the policy or any revision thereto;
  2. Have the ability to place tentative limits on a service; however, such limits shall be exceeded for children when determined to be medically necessary based on a recipient's individual needs;
  3. Cover orthodontic care cases for children that cause dysfunction and scores at least 15 points on the Handicapping Labio-Lingual Deviations Index No. 4. The DBA shall:
    - i. Follow the Program's criteria and preauthorization process for orthodontic procedures;
    - ii. Follow the Program's established rate of reimbursement for the approved orthodontic services and remit the total reimbursement for comprehensive orthodontia, after the corrective appliances are installed in the recipient's mouth; and
    - iii. Ensure that treatment is completed, despite the loss of eligibility, provided the recipient was eligible on the date the banding occurred.
  4. Not require prior authorization for any pediatric preventive services, diagnostic dental services, patients who present a specific symptomatic problem such as dental pain, or dental emergencies such as trauma or acute infection. Under this contract, dental services required to identify or treat a recipient's illness, disease or injury must be:
    - i. Consistent with the symptoms or diagnosis and treatment of the participants illness, disease or injury;
    - ii. Appropriate with regard to standards of good dental practice;

- iii. Not solely for the convenience of the recipient or provider;
  - iv. The most appropriate, in terms of cost and effectiveness, level of service that can be safely provided to the recipient and is sufficient in amount, duration and scope to achieve their purpose; and
  - v. When applied to non-pregnant participants under the age of twenty-one, services shall be provided in accordance with EPSDT requirements;
- 5. Be responsible for determining medical necessity for dental services rendered in a non-dental office setting;
- 6. Serve as the point of contact for the dental provider, medical facility, the Maryland Medical Assistance Program and any other required medical provider;
- 7. Provide multiple, easy to use, no-cost methods for providers to submit pre-authorization requests. Such methods can include, but are not limited to, a toll free phone number, toll free fax machine, web portal, and email. All methods must be directly into the unit performing the pre-authorizations, with the exception of the toll free number, which can direct the call to the appropriate unit using simple prompts;
- 8. Render a decision (approve or deny) in a timely manner so as not to adversely affect the recipient's health and within 2 business days of receiving the required documentation, but not longer than 7 calendar days from the date of request. All of the following requirements must be included in the DBA's preauthorization process:
  - i. The dental provider must submit the request for authorization for dental services directly to the DBA;
  - ii. The DBA must consult with the treating provider to obtain all necessary information;
  - iii. All denials of service (see "Action" in Section 1.2) must be approved by the DBA Dental Director;
  - iv. The DBA must ensure that the facility and anesthesia providers for dental services rendered in a non-dental setting are enrolled to participate in the Maryland Medical Assistance Program;
  - v. All documentation submitted as part of the preauthorization process must be maintained in such a way that it can be retrieved and provided to the Department upon request.

**C. Utilization Management** – The DBA shall establish a system to monitor access to care to ensure that utilization goals established by the Department are met. The DBA shall:

- 1. Develop and implement tools to enable it to routinely assess its progress toward achieving the Department's goal of improving annual utilization of preventative and restorative services by at least 10 percentage points over a 5-year period.
- 2. Maintain a tracking system with the capability to identify and report the recipient's dental utilization; preventative treatment due dates; referrals for corrective treatment; whether treatment was received; and, if so, the date of service.
- 3. Be able to produce utilization reports within 10 business days of requests and at any time to fulfill ad hoc requests from the Department.
- 4. Submit data in a specified format to the Department twice a year in response to sections 12a-g of the CMS 416 report. The data shall be submitted 10 business days after March 31<sup>st</sup> and again on the last business day of May. The data specifications for this submission are in **Attachment Q1**. A copy of the CMS 416 EPSDT form is included as **Attachment Q**.

**D. Auditing.** The DBA shall establish an audit plan, to be approved by the Department, to monitor quality and prevent fraud and abuse for all network providers. In the plan, the DBA shall describe its interface with the DHMH Office of Inspector General and the Office of the Attorney General – Medicaid Fraud Unit, as appropriate. The DBA shall describe its plans to perform audits and other reviews of dental and billing records to ensure that only medically necessary services are reimbursed, and shall develop and implement approved audit tools and protocols which at a minimum:

1. Evaluates the quality of the care provided by dental providers.
2. Identifies and monitor providers who have filed claims with insufficient supporting documentation, upcoding, or claims unsupported by dental records.
3. Identifies false claims, fraud or abuse by providers, including but not limited to abuses of referrals, overutilization, and overpayments.
4. In consultation with the Office of Health Services, conducts audits of programs, which shall include, but not be limited to, high volume providers, providers whose service profile is significantly different from other similar providers, and providers identified as problems through federal and other audits.
5. At the instruction of OHS, retracts payments from the providers when there is no documentation to substantiate claims payment; further, collaboratively develops and implements procedures to retract payments to correct FFP from MMIS; and
6. Maintains documentation of all audits.

### **3.2.4 Recipient and Provider Assistance**

*Standard: The DBA shall operate a toll-free recipient and provider Call Center to provide accurate and timely assistance, including appointment setting and grievance and appeal handling, for participants and providers. The DBA shall also create and maintain an easily accessible website of information for participants and providers.*

#### **Services:**

- A. **Call Center** – The DBA Contactor shall install, operate, monitor and support an automated call distribution system. The Call Center shall be equipped for the following general functions:
  1. Responding to questions regarding dental benefits in an accurate and timely manner.
  2. Providing appointment assistance to participants by:
    - i. Locating a participating dental provider and contacting the office for an appointment while the recipient is on the line or via call back.
    - ii. Locating a provider to treat the recipient when no participating provider is available within contract access standards. Call Center staff must ensure all necessary arrangements have been made, including transportation through the local health department, when necessary;
    - iii. Handling recipient and provider grievances and appeals.

Specific service requirements for the Call Center include:

1. Operating a toll-free, HIPAA compliant, automated call distribution call center for participants and providers, either separately or combined. The Call Center must be able to accommodate all calls including those requiring the use of interpreter services for the hearing impaired or for callers that have limited English proficiency. The recipient may not be charged a fee for translator or interpreter services.
2. Ensuring a sufficient number of adequately trained staff to operate the Call Center from 7:30 am to 6:00 pm Eastern Standard Time, at a minimum. All staff is expected to be responsive, courteous, and accurate when responding to calls.
3. Meeting performance standards including:
  - i. 95% of all calls must be answered within 3 rings or 15 seconds;
  - ii. Number of busy signals or abandoned calls cannot exceed 5% of the total incoming calls;
  - iii. The wait time in queue should not be longer than 2 minutes for 95% of the incoming calls;
  - iv. All calls requiring a call back to the recipient or provider should be returned within 1 business day of receipt;
  - v. The abandoned call rate should not exceed 3% for any month;
  - vi. For calls received during non-business hours, return calls to participants and providers must be made on the next business day.
4. Having a Department-approved method for handling calls received after normal business hours

- during state-approved holidays;
- 5. Having a list of referral sources, which includes “safety net” providers, teaching institutions and facilities necessary to ensure that adult participants are able to access services that are not covered by the program;
- 6. Having the technological capability to allow for monitoring and auditing of calls, both by the DBA and the Department, for quality, accuracy, and professionalism;
- 7. Having an electronic system that allows Call center staff to document calls in sufficient detail for reference, tracking, and analysis. The documentation system must contain sufficient flexibility and reportable data fields to accommodate production and ad-hoc reports. The system must also have reportable fields to accurately capture the type (inquiry or grievance), date, and subject of each call;
- 8. Having a plan approved by the Department for providing Call Center services in the event the primary Call Center facilities are unable to function in their normal capacity;
- 9. Relinquishing ownership of the toll-free numbers upon contract termination, at which time the Department shall take title to these telephone numbers.

**B. Grievance and Appeal Handling-** The DBA will utilize Department-approved policies and procedures for recording, investigating, resolving, and analyzing all grievances and appeals, received telephonically or written, within State established time frames. The DBA shall:

- 1. Maintain sufficient staff trained to investigate and resolve all grievances within the following time frames:
  - i. Urgent, clinical issues: within 24 hours of receipt or by the close of the next business day;
  - ii. Non-urgent clinical issues: within 5 days of receipt;
  - iii. Non-clinical issues: within 30 days of receipt;
- 2. Handle all grievances and appeals in compliance with 42 CFR 438.400-410, except as indicated in item B.1 or otherwise by the Department;
- 3. Have an electronic documentation system that includes, at a minimum, a complete description of the issue, investigation, resolution, and recipient notification. All written recipient notifications shall utilize a Department approved template;
- 4. Have the ability to aggregate and analyze grievance and appeal data as described in Section 3.2.11.4(B) and as requested by the Department on an ad-hoc basis;
- 5. Provide expert witnesses for State Fair Hearings.

**C. Website** –The DBA shall create and maintain a website containing separate pages of information for participants and providers. The site shall be easy to access and user-friendly for its audience. The pages shall be maintained with accurate and timely information, including a provider directory. At a minimum, the site shall contain the following:

- 1. A link to the DBA’s current provider directory (see Section 3.2.11.2(B)), and with the capability to search for providers by geographic locations, type of practice, and panel restrictions (i.e., accepting or not accepting new patients);
- 2. An outline of covered services;
- 3. The recipient manual (as described in Section 3.2.11.1(B));
- 4. DBA contact names, telephone numbers, and addresses for individuals to contact with respect to services covered in this RFP;
- 5. How to obtain program information in non-English languages;
- 6. Information regarding how to submit grievances and appeals to the DBA;
- 7. A link to the DBA’s secure electronic claims submission portal; and
- 8. Information to assist providers in relation to billing and/or prior authorization issues, access to the provider manual, frequently asked questions, etc.

### **3.2.5 Office and Staffing Requirements**

*Standard: The DBA will maintain an office with appropriately qualified staff in numbers sufficient to comply with all of the requirements in this RFP.*

- A. **Office Location** – The DBA must maintain a physical office in Maryland. At minimum, the following staff shall be located in the Maryland office: Project Director, Dental Director, provider relations staff, and outreach staff.
- B. **Staffing Plan** – The DBA is responsible for assuring that all persons, whether they are employees, agents, subcontractors, providers or anyone acting for or on behalf of the DBA, are legally authorized to render service under applicable state law and/or regulations. The DBA shall not have an employment, consulting or any other agreement with a person that has been debarred or suspended by any federal or State agency for the provision of items or services related to the entity's contractual obligation with the State.

The staffing for the plan covered by this RFP must be capable of fulfilling the requirements of this RFP. A single individual may not hold more than one position unless otherwise specified. The DBA shall seek approval from the Department at least 10 business days in advance or as soon as the DBA is aware, of any changes to personnel in key positions. The minimum staff requirements are as follows:

1. A full-time administrator (Project Director), dedicated 100% to this Contract, specifically responsible for the coordination and operation of all aspects of the Contract. This person shall be at the DBA's officer level and must be approved by the Department, including upon replacement;
2. Sufficient numbers of trained and experienced staff to conduct daily business in an orderly manner, including such functions as administration, accounting and finance, prior authorizations, appeal resolution system, and claims adjudication and reporting;
3. Provider Relations Director, and regionally located provider relations staff, whose primary duties include development and implementation of the DBA's on-going strategies to increase provider participation and to perform other necessary provider relation activities;
4. A full-time Outreach and Education Coordinator dedicated 100% to this contract and regionally located outreach staff, whose primary duties include development and implementation of the DBA's ongoing strategies to increase utilization of dental services, lead the DBA's program for dealing with non-compliant individuals as described in Section 4.2, and perform all other necessary outreach and education activities;
5. Dental Director, a dentist who is licensed by and physically located in the State of Maryland to serve as Dental Director responsible for ensuring the proper provision of covered services to participants, and is responsible for representing the Department at all dental Administrative Hearings;
6. A staff of qualified clinically trained personnel whose primary duties are to assist in evaluating medical necessity for dental specialty services;
7. A Quality Assurance coordinator to coordinate requirements and monitor quality of care, as described in Section 3.2.6 of this RFP;
8. An appropriately experienced Information Technology Director to manage all necessary data functions including eligibility, claims, and reporting;
9. Sufficiently trained and experienced full-time staff to maintain recipient and provider Call Center functions to be responsible for explaining the program, assisting participants in the selection of dental providers, assisting participants to make appointments and obtain services, and handling recipient and provider grievances and appeals;
10. A Chief Financial Officer that has direct supervisory responsibility for all personnel performing financial functions required for the fulfillment of the contract.

### **3.2.6 Quality Assurance and Improvement**

*Standard: The DBA shall be required to monitor, evaluate, and implement necessary corrective action and report on the quality of dental care that it is being provided to all eligible participants.*

#### **Services:**

- A. The DBA shall develop and maintain an internal quality assurance and improvement program that is comprehensive and routinely and systematically monitors access, availability and utilization of services,

customer satisfaction, provider network adequacy, and any other aspects of the DBA's operation that affects recipient care.

- B. The DBA shall have a written plan that describes all aspects of its quality assurance and improvement program which should, at a minimum, include measurable goals and objectives, address both clinical and non clinical aspects of care, and include all demographic and special needs groups, care settings, and types of services.
- C. The DBA shall implement and maintain all necessary processes and procedures, including timelines, to support its quality assurance and improvement plan.
- D. On an ongoing basis, the DBA shall look for opportunities for quality improvement and implement timely corrective action.
- E. The DBA will be required to meet a set of performance measures as determined by the Department that will be based on any of the requirements in this RFP or any other requirements that the Department would impose during the period of this Contract. Examples of the types of measures that shall be required are the ratio of PCDs to participants, timeliness of pre-authorizations, timeliness of complaint resolution, timeliness and accuracy of claims payments, and percentage of customer service calls that are abandoned.
- F. The DBA will be required to report periodically to the Department on the status of the quality of the dental program. These reports, as specified in the deliverables section below, will be monthly for the first year of the contract but may move to quarterly submissions at the discretion of the Department.
- G. The DBA may be required to submit to and cooperate with any audit of the dental program as determined necessary by the Department. This annual audit will encompass all major aspects of the administration of the dental program to determine if the DBA is meeting its contractual responsibilities.

### **3.2.7 Eligibility**

*Standard: The DBA shall maintain and utilize an enrollment system with the ability to accept and process daily eligibility files and full replacement data files provided by the Department in order to verify active Program enrollment prior to authorizing or paying for any dental services. The full replacement file occurs at the discretion of the Department. It is the expectation of the Department that the DBA will use the data contained in these files to replace the DBA's existing eligibility files.*

The Department is responsible for giving daily enrollment information to the DBA for eligible Medicaid participants. In turn, the DBA shall:

- A. Operate a system that electronically accepts Maryland Medical Assistance eligibility files from the Maryland MMIS on a daily basis, as well as a full replacement file when deemed necessary by the Department;
- B. Determine whether a person requesting assistance or for whom preauthorization is requested is eligible for a specific service, pursuant to Maryland Medical Assistance policy;
- C. Refer individuals that have lost eligibility to their local department of social services or local health department eligibility worker for assistance;
- D. Verify during claims adjudication that the recipient was eligible for dental services on the date of service;
- E. The ASO must have the ability to add additional providers at the request of the Department.

### **3.2.8 Claims Processing**

*Standard: The DBA shall develop and maintain an accurate and efficient system to receive and adjudicate claims for medically necessary dental services. The DBA shall have a system to submit claims accurately to the Department for purposes of drawing down federal funds. The DBA shall operate their claims processing system in accordance with all applicable State and Federal requirements.*

In order to meet the standard in this section, the DBA must be knowledgeable about:

1. The current Medical Assistance program's MMIS;
2. Program regulations;
3. Special processing procedures;
4. HIPAA requirements for compliant billing systems and operations;
5. Electronic billing claims processing systems;
6. Latest version of ADA Dental Claim Forms;
7. 837 Health Care Dental Claim ANSI X12N 5010A1;
8. 835 Health Care Payment Advice ANSI X12N 5010A1;
9. Technical data exchange capabilities to include Connect:Direct, Maryland Medicaid Electronic Exchange (MMEE) web portal, and eMedicaid. See **Attachment X**.

The DBA shall provide a system which will freely allow the State implementation of existing policies and changes to existing policies, and thereby allow the State to regulate the manner in which the State's current legally mandated mission is served by the DBA in full cooperation with the State at no additional cost.

In addition to any other damages available or arising under this Contract, the Contractor shall be liable for all provider claims that it pays incorrectly. Contractor liability for provider claims shall be imposed in all instances in which the Contractor makes an incorrect payment as a result of failing to adhere to the requirements of the Contract, including:

- (a) When the Contractor pays a claim for a provider who is a nonparticipating provider or who does not have an active provider number in the Medicaid Management Information System (MMIS);
- (b) When the Contractor makes an erroneous recipient eligibility determination and pays a claim for which the recipient is not eligible;
- (c) When the Contractor denies disputed claims that it has not resolved, which results in a failure to enter them into the MMIS in time for processing within federal timely filing limits; and
- (d) When the Contractor pays an incorrect amount for a claim.

During the life of this Contract:

- A. The Department reserves the right to change its claims processing policies, which may affect the DBA's procedures, and operation.
- B. With the exception of proprietary software developed by the DBA prior to and independent of its work on this Contract, the State will own all other material produced by the DBA pursuant to this Contract.
- C. The DBA shall pay providers directly from a State bank account, and then submit an automated file of these payments (weekly) to MMIS. MMIS will process these expenditures, and the resultant weekly payment tape to the Comptroller/Annapolis shall include these transactions. Since the DBA will have already paid the providers directly, the "pay to provider" on the payment tape will be the State bank account. The weekly Comptroller reimbursement will replenish the claims payment account by an amount equal to the most recent payment file processed through MMIS.
- D. The DBA shall:
  1. Ensure that the funds for the claims payments remain separate from funds it receives for administrative compensation;
  2. Submit monthly bank statements for the claim payment account to the Department; and
  3. Submit monthly reports of interest generated on monies in the claim payment account to the Department.
- E. Funds in the claims payment account can only be used for paying claims under this contract and cannot be used by the DBA to secure a loan, guaranty, debt or other obligation of the DBA.

- F. The DBA must reconcile the net totals on the claims reports to the check register and electronic fund transfer register for each weekly claim submission. This reconciliation documentation shall be provided to the State monthly. Additionally, the DBA must provide the State with a monthly, end of month reconciliation of the checking account including a list of outstanding checks.
- G. The DBA shall provide to the State a weekly request for reimbursement with the detailed claim processing report in the agreed upon format. The DBA will ensure that its requests for reimbursement made to the State will be made timely, such that claims are paid within prompt-pay requirements. Additionally, any monetary charges for claims not paid by the DBA within prompt-pay claims processing requirements shall be borne by the DBA and at no expense to the State.
- H. The DBA shall be responsible for issuing IRS 1099 Forms to the providers.
- I. DBA will have in place an automated claims processing system capable of accepting and processing paper and electronic claims, and capable of generating 837D formatted paid claims for submission to the Department for Federal Financial Participation (FFP) processing. DBA shall immediately notify the Department of any connectivity problems that cause interference with normal business practice.
- J. The DBA's system shall have the capability to perform individual claims adjustments and corrections, which includes:
1. Payment data necessary to delete or correct errors in billing or payment; and
  2. Allowance for 'online' corrections or deletions whereby the provider can "void" a claim prior to the close of a payment period and the provider and the DBA can "reverse" a claim after the payment period.
- K. The DBA shall allow for implementation of a system to cost avoid and prevent payment of dental services when the Program provides information on third party insurance dental program coverage.
- L. The DBA shall perform automated electronic mass adjustments processed in a batch format whereby a retroactive rate change or other change can be reprocessed ensuring correct provider payment or other adjustments in the designated claims payment format.
- M. To accomplish the processing and adjudication of dental claims, the DBA shall (by way of a secure environment):
1. Verify recipient eligibility on all claim transactions submitted;
  2. Verify provider eligibility on all claim transactions submitted;
  3. Maintain clear billing instructions for providers;
  4. Verify third party insurance billing information;
  5. Verify Prior Authorization of claims as required by the Department;
  6. Accept and process claims submitted on HIPAA compliant ADA paper billing forms or on HIPAA compliant 837D electronic format;
  7. Develop a web portal to accept direct data entry of claims from dental providers;
  8. Retain claims payment history for the duration of contract;
  9. Accept and load two years claims/encounter history from the Department, during pre-transition, using claims file format and encounter file format that is to be defined by the Department;
  10. Provide all safeguards to prohibit unnecessary and inappropriate submission of duplicate claims, e.g., each submission instantaneously becomes part of a recipient's payment history;
  11. In collaboration with the Department, determine a reasonable maximum quantity allowed for certain dental services and use this information in determining over-utilization and be able to reject claims based on the "plan limitations exceeded" edit. For children, the DBA shall be able to override these limits based on case-by-case medical necessity determinations;

12. Within five working days of receipt of a paper claim lacking sufficient information to process, return the claim to the provider that submitted it with an explanation of the reason that the claim was returned;
13. Within two working days of receipt of an electronic claim lacking sufficient information to process, return the claim to the provider that submitted it with an explanation of the reason that the claim was returned;
14. Receive and utilize the eligibility decision date in the adjudication of claims for retroactively- eligible participants so that a claim meets the timely filing limits if the claim is submitted within 12 months of the decision date or notice of eligibility;
15. Deny or Approve and submit for payment, 100% of paper claims within 30 calendar days of receipt and 100% of electronic claims within 14 calendar days of receipt;
16. Explain to providers the process for appealing the decision of the DBA for any claim which is denied in whole or in part;
17. Assign to each claim a unique transaction identifier that indicates the date the claim was received by the DBA and the input source (paper, electronic media, web portal);
18. Generate an explanation of payments (remittance) as appropriate for each provider in paper format (mailed if provider requests, and downloadable from web) or 835 ANSI X12N 5010A1 format (electronically if provider requests);
19. Make payments to providers consistent with requirements of the Department, including the option for providers to elect to receive EFT payments;
20. Electronically submit paid claims to MMIS within 7 working days of the date the claim was paid by the DBA. The DBA shall submit paid dental claims weekly to Department using the 837 Health Care Dental Claim ANSI X12N 5010A1 format. Claims will be submitted using Departments Maryland Medicaid Electronic Exchange web portal. See **Attachment X**. In order for claims to process successfully and for the Department to draw down federal funds (FFP), the DBA must submit data which corresponds to recipient eligibility and provider eligibility data in MMIS. The DBA should provide safeguards to prohibit unnecessary and inappropriate submission of duplicate claims in order to cut down on unnecessary claims processing by the State;
21. Electronically retrieve and process weekly 835 ANSI X12N 5010A1 payment advice file from Department and report any differences within 5 business days from the time the 835 file is made available. This file will be accessible via Maryland Medicaid Electronic Exchange (MMEE) web portal, and will be used to reconcile 837 claims sent to Department for FFP;
22. Provide the ability to retract payments from providers when it is subsequently found that there is no documentation to substantiate the claim. (This includes the ability to void and resubmit claims to MMIS.);
23. Accept primary care provider data, in a format to be determined by the Department and the vendor, in order to pay claims from primary care providers that apply fluoride varnish for children;
24. Have a program to detect and promptly report suspected fraud and abuse to the Department and to cooperate in any prosecution; and
25. Provide the Department with remote access to DBA systems for up to 10 Department staff for ad-hoc reporting and claims and prior authorization inquiry review of 5 years' history.

### 3.2.9 Systems

*Standard: The DBA shall maintain compatibility with the Department's MMIS throughout the duration of the contract in order to perform fully the obligations under this RFP.*

- A. The DBA shall not connect any of its own equipment to the Department's LAN/WAN without prior written approval by the Department. The State will provide equipment as necessary for support that entails connection to the State LAN/WAN, or give prior written approval as necessary for connection.
- B. The DBA shall assure compliance with the State of Maryland "Information Technology Security Policy and Standards" (**Attachment T**). This will ensure the system is protected by firewalls, antivirus protection, secure ID authentication and access logging. The DBA is responsible for maintaining the systems and applying all patches and updates to keep the system up-to-date.

- C. DBA shall provide a Disaster Recovery Plan for the claim processing system, which shall include backup, and recovery procedures, which will allow recovery of the system and all adjudicated claims data up to the moment of the disaster and successfully resume data collection within 24 hours of any disaster.
- D. The Disaster Recovery Plan shall include:
1. Objectives of the Plan;
  2. What situations and conditions are covered by the Plan;
  3. Technical considerations;
  4. Roles and responsibilities of DBA staff;
  5. How and when to notify the Department's Contract Monitor;
  6. Recovery procedures; and
  7. Procedures for deactivating the Plan.
- E. The DBA shall ensure the secure protection, backup and disaster recovery measures are in place and operational within 15 days prior to the claim processing system start-up date and for the duration of the Contract, and shall ensure the integrity of the data and availability to the Department.
- F. The DBA shall follow Maryland State procedures for the disposal of confidential data, including the shredding of paper records and the destruction of magnetic or other storage media. Refer to Section "8.2 Storage Media Disposal" in the State of Maryland "Information Technology Security Policy and Standards" (**Attachment T**).
- G. The DBA shall provide for physical and electronic security of all protected health information generated or acquired by the DBA in implementation of the contract, in compliance with HIPAA, as set forth in Part IV, paragraph 44, and consistent with the business associate agreement executed between the parties (see **Attachment K**). The DBA shall provide within 30 days of contract award and maintain for the entire contract term, an information security plan for review and approval by the Department.
- H. On-site Security requirement(s): Any person who is an employee or agent of the DBA or any Subcontractor and who enters the premises of a facility under the jurisdiction of the Department may be searched, fingerprinted (for the purpose of a criminal history background check), photographed and required to wear an identification card issued by the Department. Further, the DBA, its employees and agents and Subcontractor employees and agents shall not violate Md. Code Ann., Criminal Law Art. Section 9-410 through 9-417 and such other security regulations of the Department about which they may be informed from time to time. The failure of any of the DBA's or Subcontractor's employees or agents to comply with any security provision of the contract that results from award of this solicitation is sufficient grounds for the Department to immediately terminate for default in accordance with Part IV, 2.14, paragraph 13.
- I. Security Access Requirement(s): To the extent any DBA or Subcontractor employees are required to provide services on site at any State facility, the DBA may be required to provide and complete all necessary paperwork for security access to sign on at the State's site. This may include conduct and provision to the State of State and Federal criminal background checks, including fingerprinting, for each individual performing services on site at a State facility. These checks may be performed by a public or private entity, and, if required, shall be provided prior to the employee's providing on-site services. The Department reserves the right to refuse to allow any individual employee to work on State premises, based upon information provided in a background check. At all times, at any facility, the DBA's personnel shall ensure cooperation with State site requirements.
- J. The DBA shall perform system updates as requested by the Department. Changes, corrections or enhancements to the system shall be characterized as a system improvement. These changes may result from a determination by the DBA or the Department that a deficiency exists within the DBA's system.
- K. The DBA shall adapt to any and all changes to MMIS throughout the contract period.

### **3.2.10 End of Contract Transition**

*Standard: The Contractor shall work cooperatively with the Department and a new contractor at the end of this Contract to ensure an efficient and timely transition of Contract responsibilities with minimal disruption of service to participants and providers.*

- A. At least 6 months prior to the scheduled expiration of the Contract, the Contractor shall develop and provide to the Department a detailed Full Operations Resources report describing which resource (i.e., systems, software, equipment, materials, staffing, etc.) would be required by the Department and/or another contractor to take over the requirements specified in the RFP/Contract.
- B. An exit transition period shall begin at least 60 days prior to the last day the Contractor is responsible for the requirements of the Contract resulting from this RFP. During the exit transition period, the Contractor shall work cooperatively with the Department and the new contractor and provide program information and details specified by the Department. Both the program information and the working relationship between the Contractor and the new contractor will be defined by the Department.
- C. The Contractor shall prepare and submit an Exit Transition Plan and Schedule of Activities to facilitate the transfer of responsibilities, information, computer systems, software and documentation, materials, etc., to a new contractor and/or the Department. The Exit Transition Plan shall be submitted by the Contractor within 10 days of the date of notification by the Department. The Exit Transition Plan shall include, at a minimum:
  - 1. The Contractor's proposed approach to the transition;
  - 2. The Contractor's tasks, subtasks, and schedule for all transition activities;
  - 3. An organizational chart and staffing matrix of the Contractors staff (titles, phone, fax) responsible for transition activities;
  - 4. A detailed explanation of how the Contractor will begin work with a new vendor and/or the Department within 10 days of receipt of notice from the Department that another contractor has been selected to provide DBA services;

The Department must approve the Exit Transition Plan before it can be implemented.

- D. The Department and the new contractor will define the information required during this transition period and time frames for submission. The Department will have the final authority for determining the information required.
- E. The Contractor shall work closely and cooperatively with the Department and the new contractor to transfer appropriate software, hardware, records, telephone numbers and lines, equipment, Post Office Box, and other requirements deemed necessary by the Department.
- F. The Contractor shall work closely and cooperatively with the Department and the new contractor to ensure uninterrupted and efficient services to participants, providers, and the Department during the transition period.

### **3.2.11 Key Performance Indicators and Deliverables**

*Note: All required reports and data files must be in a format provided or approved by the Department.*

The DBA shall conduct a Kick-Off meeting with the Department within 15 days of contract award. The DBA shall provide at this Kick-Off meeting:

- 1. Final work plan to fulfill the requirements of the contract;
- 2. Draft Startup and Transition plan. See Section 3.2.9.

#### **3.2.11.1 Provider Network**

##### **A. Network adequacy goals**

During the pre-transition phase- The DBA shall:

- 1. Develop a process to accept an initial file load of provider network data from the Department. File format to be determined. This process will also be used to reconcile the DBA's dental

- provider network with Department's dental provider network prior to going live;
2. Enroll in eMedicaid (**Attachment X**) to maintain provider network data in Department's MMIS after the initial file load;
3. Using eMedicaid, submit updates of provider network information beginning 30 days after contract is awarded;
4. Submit corrective action plans for local access areas with insufficient general dentist ratios or regional areas with insufficient dental specialists to meet anticipated needs.
5. Submit proof of network adequacy (to be defined as a ratio of one PCD for every 1,000 eligible children (under age 21 years) two months prior to the ongoing administrative phase.

During ongoing administrative phase- The DBA shall:

1. Submit a monthly report on provider recruitment activities including the type of provider, location, date and type of recruitment activity;
2. Submit a quarterly report of all providers whose participation status was terminated during the preceding quarter, including the provider's name, address, specialty, and reason for termination;
3. Use eMedicaid (**Attachment X**) to maintain provider network data in the Department's MMIS;
4. Develop and submit corrective action plans to address network adequacy issues, whether geographic or specialty driven;
5. Submit written procedures for assigning the participants to a PCD for the Department's approval at least 30 days prior to the beginning of the recipient assignment process;
6. When recipient PCD assignments begin, issue plastic dental identification cards to participants within Department established time frames. The card must include the PCD's name and phone number, the DBA's Call Center 800 number, the DBA's website address, and the State's Recipient Action Line 800 number;
7. Submit report of PCD capacity at the end of the 2<sup>nd</sup> and 4<sup>th</sup> quarter of each calendar year.

**B. Dental provider manual**

During pre-transition phase- The DBA shall:

1. Submit a draft provider manual (as described in 4.1 B) for Department approval ten weeks prior to the ongoing administrative phase of the project and a final draft within two weeks of receiving the Department's comments. The DBA shall mail the approved manual to all network providers one month prior to the ongoing administrative phase;
2. Add the provider manual to their website and submit the manual in PDF format to the Department for inclusion on the DHMH website;
3. Offer regional provider trainings to orient providers and their staff to the information contained in the provider manual. DBA shall provide documentation of all formal training activities to the Department at least 15 days prior to the ongoing administrative phase.

During ongoing administrative phase – The DBA shall:

1. Mail the provider manual to all new providers in the DBA's network within one week of the provider's enrollment;
2. Maintain an accurate provider manual on its website;
3. Send provider directory information to HRSA on a quarterly basis via the Insure Kids Now web portal;
4. Offer annual regional provider trainings to update providers and their staff on the information contained in the provider manual. The DBA must provide documentation of all formal training activities and individualized corrective action assistance to the Department on a quarterly basis.

**C. Provider trainings on best practice guidelines**

During the pre-transition and ongoing administrative phase – the DBA shall collaborate with the University of Maryland Dental School and the Department's Office of Oral Health to encourage network providers to attend trainings on practice guidelines for covered populations.

**3.2.11.2 Education and Outreach**

**A. Orientation Materials**

During pre-transition phase- The DBA shall produce and send a DHMH approved orientation packet to all covered participants at least 15 days prior to the on-going administrative phase. This packet shall include at a minimum:

1. Letter introducing the DBA;
2. Recipient handbook;
3. Provider directory; and
4. Identification card.

During ongoing administrative phase – The DBA shall submit a monthly report showing the date each new enrollment record was received and the date that the orientation packet, including the recipient handbook, identification card, and provider directory, was mailed.

**B. Provider Directory**

During the pre-transition and on-going administrative phases, the DBA shall submit a PDF file of the provider directory to the Department anytime changes are made.

**C. Outreach and Education**

During the pre-transition and on-going administrative phases, the DBA shall produce oral health outreach and educational materials including, but not limited to:

1. Recipient handbook that meets the requirements listed in 4.2 A and D.
2. Educational brochures, posters, advertisements, fact sheets, videos, story boards for the production of videos, audio tapes, letters, and other materials necessary to provide information to participants as required by this RFP.
3. Materials needed for other forms of public contact, such as health fairs and telemarketing scripts.

**D. Outreach to Target Groups –** The DBA shall submit a quarterly report 15 days after the close of the quarter detailing outreach activities completed during the preceding quarter as well as activities planned for the current quarter. This report should describe activities conducted, measure of activity effectiveness, and other entities involved in the activity.

### **3.2.11.3 Preauthorization and Utilization Management**

**A. Benefits**

During the pre-transition phase – The DBA shall submit policies and procedures that will describe how the DBA will meet the requirements set forth in this RFP. These policies and procedures will include all covered services, EPSDT and AAPD standards, covered services for each eligibility group (REM adults, pregnant women, children), pre-authorization and appeals and grievances.

During the ongoing administrative phase – The DBA shall:

1. Submit data twice annually to complete the CMS 416 EPSDT report for dental services received by participants under 21 (**Attachments Q and Q1**).
2. Maintain an electronic log of all actions including date of request, name of recipient, Medicaid identification number, name of provider making the request, date of action, reason for the action, name of DBA employee who made the authorization decision, and date of notification of action to provider and recipient.
3. Submit a quarterly report of services that were preauthorized but not received as determined through claims data for dates of service up to six months after the issuance of the authorization.
4. Submit a monthly report of all actions including at least:
  - i. Recipient name;
  - ii. Medicaid ID number;
  - iii. Date of request;
  - iv. Date of action;
  - v. Reviewer's name;
  - vi. Service denied.

**B. Pre-Authorization**

During the pre-transition phase-- the DBA shall provide its list of services requiring preauthorization at least 45 days prior the ongoing administrative phase for Department review and approval.

During the ongoing administrative phase-- the DBA shall submit a quarterly report 15 days after the end of the calendar quarter showing all preauthorization requests received during the previous quarter. The report must include the name of the requested procedure and the number of denials for the procedure by reason within age ranges.

### **C. Utilization Management**

During the ongoing administrative phase-- the DBA shall produce quarterly reports showing utilization rates for children, pregnant women, and REM adults. Utilization reports should include a six month claim run out period. For pregnant women, utilization reports should include women with at least 90 days of continuous enrollment or pregnant women that had less than 90 days enrollment but received a service.

### **D. Audits**

The DBA shall produce and submit to the Department quarterly reports on audits performed. The DBA shall also prepare and submit a summary of audits performed on a quarterly basis. The format of the submissions shall be subject to Department approval.

## **3.2.11.4 Recipient and Provider Service**

### **A. Call Center –**

During the pre-transition phase – The DBA shall demonstrate to the Department that all necessary hardware, software, and staff necessary to administer the Call Center is available and operational. The Department will approve or require corrective action as necessary.

During the ongoing administrative phase – The DBA shall:

1. Track and report to the Department monthly the number of requests for assistance to obtain an appointment, including the service area in which the recipient required assistance.
2. Report the following information weekly for months 1-3 of the contract; monthly for months 4-12; and quarterly for the duration of the contract:
  - i. Total call volume;
  - ii. Percent of calls answered;
  - iii. Percent of calls answered that were on hold in 30 second increments;
  - iv. Percent of calls abandoned;
  - v. Average speed of answer;
  - vi. Average hold time before answer;
  - vii. Average time before abandonment;
  - viii. Average length of call;
  - ix. Type and subject of call by volume;
  - x. Average number of business days to return calls from calls received during non-business hours.
3. Keep an electronic log of all complaints whether complaints are received by the Call Center or in writing. This log must include at a minimum:
  - i. Name of customer service representative;
  - ii. Date of complaint;
  - iii. Name of complainant;
  - iv. Name of recipient (if different from complainant)
  - v. Medicaid identification number
  - vi. Nature of the complaint;
  - vii. Provider name (if applicable);
  - viii. Explanation of how complaint was resolved;
  - ix. Date of resolution; and
  - x. Name of person resolving complaint (if different from customer representative who took the initial complaint).

Note: The Department reserves the right to amend the above list and schedule at any time during the contract term. Additionally, the Department reserves the right to request ad-hoc reports as needed.

## **B. Grievance and Appeal Handling**

During the ongoing administrative phase--The DBA shall:

1. Submit a monthly report of all grievances and appeals received from participants and providers. The report must contain at least the following information:
  - i. Recipient name;
  - ii. Medicaid ID number;
  - iii. Subject of complaint;
  - iv. Provider name;
  - v. Date received;
  - vi. Date resolved;
2. Separate reports of grievance and appeal data aggregated for the month by complaint type.

## **C. Website**

During the pre-transition phase – The DBA shall obtain Department approval of the DBA’s website at least 15 days before the start of the ongoing administrative phase.

During the ongoing administrative phase – The DBA shall:

1. Update the website at least monthly or more frequently as needed, to ensure that all provider directory information is current.
2. Keep the website functioning at least 95% of the time with accurate and timely information. The provider directory on the website must be also be maintained at 95% accuracy.

### **3.2.11.5 Staffing**

During the pre-transition phase-- The DBA shall:

1. Provide an organizational chart/staffing plan and staff training materials to the Department for approval at least 30 days prior to the ongoing administrative phase.
2. Obtain Department approval of the office facility and functioning of all systems at least 30 days prior to the ongoing administrative phase.
3. Provide personnel specific contact information for the following positions and departments at least 30 days prior to the ongoing administrative phase:
  - i. Project Director, Dental Director, Provider Relations Director, Quality Assurance Director, and Outreach Coordinator;
  - ii. Accounting and Finance, Prior Authorizations, Claims Processing, Information Systems, the Call Center, Provider Relations.

### **3.2.11.6 Quality Assurance**

During the pre-transition phase-- The DBA shall submit a draft plan for its quality assurance and improvement program to the Department for review at least 60 days before the ongoing administrative phase. Within 10 days of receiving the Department’s comments on the draft, the DBA shall make the required changes and submit the final plan for the Department’s approval.

During the ongoing administrative phase--The DBA shall submit monthly reports on the status of the quality of the dental program by the 10<sup>th</sup> of the following month. The DBA shall submit for the Department’s approval a reporting template at least 30 days before the ongoing administrative phase.

These reports shall include, at a minimum, the following information:

1. All QAI activities that took place during the month including the recipient and provider advisory board meetings;
2. The status of the DBA’s goals and objectives;
3. All quality improvements that were implemented during the month;
4. All corrective actions that were implemented during the month.

### **3.2.11.7 Eligibility**

During pre-transition phase--The DBA shall:

1. Develop a system to accept and load an initial full file of recipient eligibility data from the Department. See eligibility file format (**Attachment V**);
2. Develop a system to accept and update daily recipient eligibility data from Department. See eligibility file format (**Attachment V**).

During ongoing administrative phase--The DBA shall:

1. Process daily recipient eligibility file updates submitted by Department to DBA. See eligibility file format (**Attachment V**)
2. Submit a daily report of recipient eligibility daily update statistics to Department.

### **3.2.11.8 Claims**

During pre-transition phase--The DBA shall:

1. Develop and full cycle test a claims system to receive, adjudicate, and pay claims to dental providers;
2. Develop and full cycle test a system to submit 873D claim transactions to the Department (for FFP) and receive 835 payment advice transactions.
3. Obtain approval from Department for claims system to pay dental claims. Due within 15 days of claim processing system start-up date;
4. Obtain approval from Department for system to submit 837D claims and receive 835 payment advice. Due within 15 days of claim processing system start-up date.

During the on-going administrative phase-- The DBA shall:

1. Utilize approved claims system to receive, adjudicate, and pay claims to dental providers;
2. Utilize approved system to submit 873D claim transactions to the Department (for FFP) and receive 835 payment advice transactions;
3. Submit a monthly reconciliation report of the net totals on the claims reports to the check register and electronic fund transfer register for each weekly claim submission;
4. Submit a monthly, end of month reconciliation of the checking account including a list of outstanding checks;
5. Submit an automated file of the payments to providers from the State bank account (weekly) to MMIS;
6. Submit a quarterly report, by month and paper vs. electronic, showing average adjudication time and disposition;
7. Submit a monthly file, in a format to be determined, of all denied claims;

### **3.2.11.9 Systems**

During pre-transition phase - The DBA shall:

1. Conduct a Kick-off meeting within 15 days of contract award to present a draft Startup and Transition Plan that addresses:
  - i. Communication Plan for normal and contingency communication between the Contractor and Department;
  - ii. Any hardware/software and Connectivity requirements and setup of other general office information;
  - iii. Training/Orientation of Contractor's staff on State applications;
  - iv. Knowledge transfer for current environments and platforms, including a working knowledge of the Program's general business practices, all matters concerning Department functions in support of the System, processes and procedures for program migrations;
  - v. Status reporting and meetings;
  - vi. A detailed implementation schedule that allows for Department approval of full cycle and performance testing with a "go live" date no later than 15 days prior to claim processing system start-up date;
  - vii. Consideration of the Department's business rules for the program as the basis for implementation of the claim processing system;

- viii. Other matters deemed important for the transition phase by either the Department or the Contractor; and
  - ix. Training/Orientation Plan for the Contractor and known Department staff;
- 2. Submit a final Startup and Transition Plan due within 10 business days of the Kick-off meeting;
  - 3. Submit, within 15 days of the claim processing system start-up date, Security and Disaster Recovery documentation to include system and processing security, and physical security in accordance with Section 3.2.9

### **3.3 Security Requirements**

#### **3.3.1 Employee Identification**

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

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

The Contractor shall obtain from each prospective employee a signed statement permitting a criminal background check. The Contractor shall secure at its own expense a Maryland State Police and/or FBI background check and shall provide the Contract Monitor with completed checks on all new employees prior to assignment. The Contractor may not assign an employee with a criminal record unless prior written approval is obtained from the Contract Monitor.

### **3.4 Insurance Requirements**

- 3.4.1 The Contractor shall maintain Commercial General Liability Insurance with limits sufficient to cover losses resulting from, or arising out of, Contractor action or inaction in the performance of the Contract by the Contractor, its agents, servants, employees, or subcontractors, but no less than a Combined Single Limit for Bodily Injury, Property Damage, and Personal and Advertising Injury Liability of \$1,000,000 per occurrence and \$3,000,000 aggregate.
- 3.4.2 The Contractor shall maintain Errors and Omissions/Professional Liability insurance with minimum limits of \$1,000,000 per occurrence.
- 3.4.3 The Contractor shall maintain Employee Theft Insurance with minimum limits of \$1,000,000 per occurrence.
- 3.4.4 Within five (5) Business Days of recommendation for Contract award, the Contractor shall provide the Contract Monitor with current certificates of insurance, and shall update such certificates from time to time but no less than annually in multi-year contracts, as directed by the Contract Monitor. Such copy of the Contractor's current certificate of insurance shall contain at minimum the following:
  - a. Workers' Compensation – The Contractor shall maintain such insurance as necessary and/or as required under Workers' Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act.
  - b. Commercial General Liability as required in Section 3.4.1.

c. Errors and Omissions/Professional Liability as required in Section 3.4.2.

d. Employee Theft Insurance as required in Section 3.4.3.

3.4.5 The State shall be listed as an additional insured on the policies with the exception of Worker's Compensation Insurance and Professional Liability Insurance. All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Contract Monitor, by certified mail, not less than 45 days' advance notice of any non-renewal, cancellation, or expiration. In the event the Contract Monitor receives a notice of non-renewal, the Contractor shall provide the Contract Monitor with an insurance policy from another carrier at least 30 days prior to the expiration of the insurance policy then in effect. All insurance policies shall be with a company licensed by the State to do business and to provide such policies.

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

### **3.5 Problem Escalation Procedure**

3.5.1 The Contractor shall provide and maintain a Problem Escalation Procedure (PEP) for both routine and emergency situations. The PEP shall 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.

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

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

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

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

### **3.6 Invoicing**

#### **3.6.1 General**

(a) All invoices for services shall be signed by the Contractor and submitted to the Contract Monitor. All invoices shall include the following information:

- Contractor name;
- Remittance address;
- Federal taxpayer identification number (or if sole proprietorship, the individual's social security number);
- Invoice period;
- Invoice date;
- Invoice number
- State assigned Contract number;
- State assigned (Blanket) Purchase Order number(s);
- Goods or services provided; and
- Amount due.

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

(b) The Department reserves the right to reduce or withhold Contract payment in the event the Contractor does not provide the Department with all required deliverables within the time frame specified in the Contract or in the event that the Contractor otherwise materially breaches the terms and conditions of the Contract until such time as the Contractor brings itself into full compliance with the Contract. Any action on the part of the Department, or dispute of action by the Contractor, shall be in accordance with the provisions of Md. Code Ann., State Finance and Procurement Article §§ 15-215 through 15-223 and with COMAR 21.10.02.

(c) DBA shall be compensated for contractual responsibilities based on a fixed rate as determined by the RFP award and subsequent negotiations. Each monthly payment to the DBA shall be equal to the number of participants in the following categories certified by the State as enrolled on the last day of each calendar month multiplied by the administrative fee:

- i. Children under 21 years of age;
- ii. Pregnant women; and
- iii. Adults 21 years and older enrolled in REM.

(d) The DBA shall be subject to reduction for payments included in any invoice or payment theretofore made which is determined by the State, on the basis of audits conducted in accordance with the terms of this contract, not to constitute proper remuneration for compensable services.

### 3.6.2 Invoice Submission Schedule

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

Invoices must be submitted by the 10<sup>th</sup> business day of each month (for the previous month's enrollment) to:

Claire Serio, Division Chief for Dental, Clinics and Laboratory Services  
201 West Preston St., Room 209  
Baltimore, MD 21201

## 3.7 MBE Reports

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

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

**3.8 VSBE Reports**

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

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

**3.9 SOC 2 Type II Audit Report**

The Contractor shall have an annual audit performed by an independent audit firm of its handling of the Department’s critical functions and/or sensitive information, which is identified as claims processing (collectively referred to as the “Information Functions and/or Processes”). Such audits shall be performed in accordance with audit guidance: *Reporting on Controls at a Service Organization Relevant to Security, Availability, Processing Integrity, Confidentiality, or Privacy (SOC 2)* as published by the American Institute of Certified Public Accountants (AICPA) and as updated from time to time, or according to the most current audit guidance promulgated by the AICPA or similarly-recognized professional organization, as agreed to by the Department, to assess the security of outsourced client functions or data (collectively, the “Guidance”) as follows:

- i. The type of audit to be performed in accordance with the Guidance is a SOC 2 Type II Report. The SOC 2 Report shall be completed annually at the following intervals: Report to be submitted by July 31 for the previous state fiscal year.
- ii. The SOC 2 Report shall report on a description of the Contractor’s system and the suitability of the design and operating effectiveness of controls of the Information Functions and/or Processes relevant to the following trust principles: Processing Integrity, as defined in the Guidance.
- iii. The SOC 2 Report shall include work performed by subcontractors that provide essential support to the Contractor for the Information Functions and/or Processes for the services provided to the Department under the Contract. The Contractor shall ensure the performance of the SOC 2 Audits includes its subcontractor(s).
- iv. All SOC 2 Audits, including the SOC 2 Audits of Contractor’s subcontractors, shall be performed at the Contractor’s expense.
- v. The Contractor shall promptly provide a complete copy of the final SOC 2 Report to the Department’s Contract Manager upon completion of each SOC 2 Audit engagement.
- vi. The Contractor shall provide to the Department’s Contract Manager, within 30 calendar days of the issuance of the final SOC 2 Report, a documented corrective action plan which addresses each audit finding or exception contained in the SOC 2 Report. The corrective action plan shall identify in detail the remedial action to be taken by the Contractor along with the date(s) when each remedial action is to be implemented.
- vii. If the Contractor currently has an annual information security assessment performed that includes the operations, systems, and repositories of the Information Functions and/or Processes services being provided by the Contractor to the Department under the Contract, and if that assessment generally conforms to the content and objective of the Guidance, the Department will determine in consultation with appropriate State government technology and audit authorities whether the Contractor’s current audits are acceptable in lieu of the SOC 2 Report(s).

viii. If the Contractor fails during the Contract term to obtain an annual SOC 2 Report by July 31 for the preceding fiscal year, the Department shall have the right to retain an independent audit firm to perform an audit engagement to issue a SOC 2 Report of the Information Functions and/or Processes being hosted by the Contractor. The Contractor agrees to allow the independent audit firm to access its facility/ies for purposes of conducting this audit engagement(s), and provide reasonable support to the independent audit firm in the performance of the engagement. The Department will invoice the Contractor for the expense of the SOC 2 Audit(s), or deduct the cost from future payments to the Contractor.

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## **SECTION 4 – PROPOSAL FORMAT**

### **4.1 Two Part Submission**

Offerors shall submit Proposals in separate volumes:

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

### **4.2 Proposals**

4.2.1 Volume I – Technical Proposal, and Volume II – Financial Proposal shall be sealed separately from one another. It is preferred, but not required, that the name, email address, and telephone number of the Offeror be included on the outside of the packaging for each volume. Each Volume shall contain an unbound original, so identified, and four (4) copies. Unless the resulting package will be too unwieldy, the State’s preference is for the two (2) sealed Volumes to be submitted together in a single package including a label bearing:

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

To the Procurement Officer (see Section 1.5) prior to the date and time for receipt of Proposals (see Section 1.11 “Proposals Due (Closing) Date and Time”).

4.2.2 An electronic version (CD or DVD) of the Technical Proposal in Microsoft Word format shall be enclosed with the original Technical Proposal. An electronic version (CD or DVD) of the Financial Proposal in Microsoft Word or Microsoft Excel format shall be enclosed with the original Financial Proposal. CD/DVDs shall be labeled on the outside with the RFP title and number, name of the Offeror, and volume number. CD/DVDs shall be packaged with the original copy of the appropriate Proposal (Technical or Financial).

4.2.3 A second electronic version of Volume I and Volume II in searchable Adobe .pdf format shall be submitted on CD for Public Information Act (PIA) requests. This copy shall be redacted so that confidential and/or proprietary information has been removed (see Section 1.14 “Public Information Act Notice”).

4.2.4 All pages of both proposal volumes shall be consecutively numbered from beginning (Page 1) to end (Page “x”).

4.2.5 Proposals and any modifications to Proposals will be shown only to State employees, members of the Evaluation Committee, or other persons deemed by the Department to have a legitimate interest in them.

### **4.3 Delivery**

Offerors may either mail or hand-deliver Proposals.

4.3.1 For U.S. Postal Service deliveries, any Proposal that has been received at the appropriate mailroom, or typical place of mail receipt, for the respective procuring unit by the time and date listed in the RFP will be deemed to be timely. If an Offeror chooses to use the U.S. Postal Service for delivery, the Department recommends that it use Express Mail, Priority Mail, or Certified Mail only as these are the only forms for which both the date and time of receipt can be verified by the Department. An Offeror using first class mail will not be able to prove a timely delivery at the mailroom and it could take several days for an item sent by first class mail to make its way by normal internal mail to the procuring unit.

- 4.3.2 Hand-delivery includes delivery by commercial carrier acting as agent for the Offeror. For any type of direct (non-mail) delivery, Offerors are advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery.
- 4.3.3 After receipt, a Register of Proposals will be prepared that identifies each Offeror. The Register of Proposals will be open to inspection only after the Procurement Officer makes a determination recommending the award of the Contract.

## **4.4 Volume I – Technical Proposal**

**Note: No pricing information is to be included in the Technical Proposal (Volume I). Pricing information is to be included only in the Financial Proposal (Volume II).**

### **4.4.1 Format of Technical Proposal**

Inside a sealed package described in Section 4.2 “Proposals,” the unbound original, four (4) copies, and the electronic version shall be provided. The RFP sections are numbered for ease of reference. Section 4.4.3 sets forth the order of information to be provided in the Technical Proposal, e.g., Section 4.4.3.1 “Title and Table of Contents,” Section 4.4.3.2 “Claim of Confidentiality,” Section 4.4.3.3 “Transmittal Letter,” Section 4.4.3.4 “Executive Summary,” etc. In addition to the instructions below, responses in the Offeror’s Technical Proposal should reference the organization and numbering of Sections in the RFP (ex. “Section 3.2.1 Response . . . ; “Section 3.2.2 Response . . . ,” etc.). This Proposal organization will allow State officials and the Evaluation Committee (see RFP Section 5.1) to “map” Offeror responses directly to RFP requirements by Section number and will aid in the evaluation process.

### **4.4.2 Additional Required Technical Submissions**

**4.4.2.1** The following documents shall be completed, signed, and included in the Technical Proposal, each in its own section that follows the material submitted in response to Section 4.4.3.

- a. Completed Bid/Proposal Affidavit (**Attachment B**).
- c. Completed Maryland Living Wage Requirements Affidavit of Agreement (**Attachment G-1**).
- d. Completed Certification of Investment Activities in Iran (**Attachment N**).

**4.4.2.2** **\*If Required**, the following documents shall be completed, signed, and included in the Technical Proposal, each in its own section that follows the material submitted in response to Section 4.4.3.

**\*See appropriate RFP Section to determine whether the Attachment is required for this procurement:**

- a. Completed MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D1**) **\*see Section 1.33**. This attachment must be provided in a separately sealed envelope within the main Technical Proposal package/envelope.
- b. Completed Federal Funds Attachment (**Attachment H**) **\*see Section 1.35**.
- c. Completed Conflict of Interest Affidavit and Disclosure (**Attachment I**) **\*see Section 1.36**.
- d. Completed Mercury Affidavit (**Attachment L**) **\*see Section 1.40**.
- e. Completed Veteran-Owned Small Business Enterprise (VSBE) Utilization Affidavit and Subcontractor Participation Schedule. (**Attachment M-1**) **\*see Section 1.41**. This attachment must be provided in a separately sealed envelope within the main Technical Proposal package/envelope.
- f. Completed Location of the Performance of Services Disclosure (**Attachment O**) **\*see Section 1.44**.

**4.4.3** **The Technical Proposal** shall include the following documents and information in the order specified as follows:

#### **4.4.3.1 Title Page and Table of Contents**

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

#### **4.4.3.2 Claim of Confidentiality**

Any information which is claimed to be confidential is to be noted by reference and included after the Title Page and before the Table of Contents, and if applicable, also in the Offeror's Financial Proposal. An explanation for each claim of confidentiality shall be included (see Section 1.14 "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.

#### **4.4.3.3 Transmittal Letter**

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

- Name and address of the Offeror;
- Name, title, e-mail address, and telephone number of primary contact for the Offeror;
- Solicitation Title and Solicitation Number that the Proposal is in response to;
- Signature, typed name, and title of an individual authorized to commit the Offeror to its Proposal;
- Federal Employer Identification Number (FEIN) of the Offeror, or if a single individual, that individual's Social Security Number (SSN);
- Offeror's eMM number;
- Offeror's MBE certification number (if applicable);
- Acceptance of all State RFP and Contract terms and conditions (see Section 1.24); if any exceptions are taken, they are to be noted in the Executive Summary (see Section 4.4.3.4); and
- Acknowledgement of all addenda to this RFP.

#### **4.4.3.4 Executive Summary**

The Offeror shall condense and highlight the contents of the Technical Proposal in a separate section titled "Executive Summary." The Summary should identify the Service Category(ies) and Region(s) for which the Offeror is proposing to provide services (if applicable). The Summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (Attachment A), or any other attachments. Exceptions to terms and conditions may result in having the Proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award.

If the Offeror has taken no exceptions to the requirements of this RFP, the Executive Summary shall so state.

#### **4.4.3.5 Minimum Qualifications Documentation:**

The Offeror shall submit any Minimum Qualifications documentation that may be required, as set forth in Section 2 "Offeror Minimum Qualifications."

#### **4.4.3.6 Offeror Technical Response to RFP Requirements and Proposed Work Plan**

- a. The Offeror shall address each Scope of Work requirement (Section 3.2) in its Technical Proposal and describe how its proposed services, including the services of any proposed subcontractor(s), will meet or exceed the requirement(s). 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 a Scope of Work (Section 3.2) requirement shall include an explanation of how the work will be done. 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.
- b. The Offeror shall give a definitive 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 and techniques to be used by the Offeror in providing the required services as outlined in RFP Section 3, 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.
- c. The Offeror shall identify the location(s) from which it proposes to provide the 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.
- d. The Offeror must provide a draft Problem Escalation Procedure (PEP) that includes, at a minimum, titles of individuals to be contacted by the Department's Contract Monitor should problems arise under the Contract and explain how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. Final procedures must be submitted as indicated in RFP Section 3.5.
- e. The Offeror shall provide a demonstration of its provider portal, during oral discussions with the Department.

#### **4.4.3.7 Experience and Qualifications of Proposed Staff**

The Offeror shall identify the number and types of staff proposed to be utilized under the Contract.

The Offeror shall 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. The Offeror shall include individual resumes for the 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. Letters of intended commitment to work on the project, including letters from any proposed subcontractor(s), shall be included in this section.

The Offeror shall 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.

#### **4.4.3.8 Offeror Qualifications and Capabilities**

The Offeror shall include information on past experience with similar projects and/or services. The Offeror shall describe how its organization can meet the requirements of this RFP and shall also include the following information:

- a. The number of years the Offeror has provided the similar services;
- b. The number of clients/customers and geographic locations that the Offeror currently serves;
- c. The names and titles of headquarters or regional management personnel who may be involved with supervising the services to be performed under this Contract;
- d. The Offeror's process for resolving billing errors; and
- e. An organizational chart that identifies the complete structure of the Offeror including any parent company, headquarters, regional offices, and subsidiaries of the Offeror. The organizational chart shall also identify the number and type of staff dedicated to the administration of this Contract (e.g., claims processors, credentialing staff, etc.).

#### **4.4.3.9 References**

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

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

The Department reserves the right to request additional references or utilize references not provided by an Offeror.

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

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

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

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

#### **4.4.3.11 Financial Capability**

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

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

- a. Dunn and Bradstreet Rating;
- b. Standard and Poor's Rating;
- c. Lines of credit;
- d. Evidence of a successful financial track record; and
- e. Evidence of adequate working capital.

#### **4.4.3.12 Certificate of Insurance:**

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 3.4. See Section 5.6i for the required insurance certificate submission for the recommended Offeror.

#### **4.4.3.13 Subcontractors:**

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/or VSBE subcontracting goal, if applicable. This list shall include a full description of the duties each subcontractor will perform and why/how each subcontractor was deemed the most qualified for this project. See Section 4.4.3.6 and 4.4.3.7 for additional Offeror requirements related to Subcontractors.

#### **4.4.3.14 Legal Action Summary:**

This summary shall include:

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

#### **4.4.3.15 Economic Benefit Factors**

The Offeror shall submit with its Proposal narrative describing benefits that will accrue to the Maryland economy as a direct or indirect result of its performance of this contract. Proposals will be evaluated to assess the benefit to Maryland's economy specifically offered. See COMAR 21.05.03.03A(3).

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

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

As applicable, for the full duration of the Contract, including any renewal period, or until the commitment is satisfied, the Contractor shall provide to the Procurement Officer or other designated

agency personnel reports of the actual attainment of each benefit listed in response to this section. These benefit attainment reports shall be provided quarterly, unless elsewhere in these specifications a different reporting frequency is stated.

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

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

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

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

- The Contract dollars to be recycled into Maryland's economy in support of the Contract, through the use of Maryland subcontractors, suppliers and joint venture partners. Do not include actual fees or rates paid to subcontractors or information from your Financial Proposal;
- 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. If no new positions or subcontracts are anticipated as a result of this Contract, so state explicitly;
- Tax revenues to be generated for Maryland and its political subdivisions as a result of the Contract. Indicate tax category (sales taxes, payroll taxes, inventory taxes and estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from the Contract;
- Subcontract dollars committed to Maryland small businesses and MBEs; and
- Other benefits to the Maryland economy which the Offeror promises will result from awarding the Contract to the Offeror, including contractual commitments. Describe the benefit, its value to the Maryland economy, and how it will result from, or because of the Contract award. Offerors may commit to benefits that are not directly attributable to the Contract, but for which the Contract award may serve as a catalyst or impetus.

## **4.5 Volume II – Financial Proposal**

Under separate sealed cover from the Technical Proposal and clearly identified in the format identified in Section 4.2 "Proposals," the Offeror shall submit an original unbound copy, four (4) copies, and an electronic version in Microsoft Word or Microsoft Excel of the Financial Proposal. The Financial Proposal shall contain all price information in the format specified in **Attachment F**. The Offeror shall complete the Financial Proposal Form only as provided in the Financial Proposal Instructions and the Financial Proposal Form itself.

## **SECTION 5 – EVALUATION COMMITTEE, EVALUATION CRITERIA, AND SELECTION PROCEDURE**

### **5.1 Evaluation Committee**

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

### **5.2 Technical Proposal Evaluation Criteria**

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

#### **5.2.1 Offeror's Technical Response to RFP Requirements and Proposed Work Plan (See RFP § 4.4.3.6)**

The State prefers an Offeror's response to work requirements in the RFP that illustrates a comprehensive understanding of work requirements and mastery of the subject matter, including an explanation of how the work will be done. 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.

1. To what extent has the Offeror documented and demonstrated successful performance of the following activities in the last five years:
  - i. Increasing utilization of dental services for the Medicaid population?
  - ii. Developing and maintaining a comprehensive dental provider network?
  - iii. Developing and implementing outreach and education programs?
  - iv. Operating accurate and efficient customer service centers for providers and participants?
  - v. Utilizing prior authorization and utilization management procedures?
  - vi. Claims
    - a. Paying claims accurately and timely, including pre-authorization verification.
    - b. The ability to accept and process electronic billing files.
2. To what extent does the work plan demonstrate the understanding and ability of the Offeror to successfully meet the requirements, deliverables and the time frames of the RFP, including a timeline showing all critical steps and responsible staff for each component?
3. To what extent does the work plan demonstrate the Offeror understands the technical and logistical challenges of the Medicaid program as they relate to the requirements of the RFP?
4. Is the work plan reasonable to achieve the Department's goals, objectives and requirements?
5. To what extent does the Offeror demonstrate that its provider portal has the functionality to meet the requirements of the contract, including the ability to allow providers to apply, receive pre-authorizations, and file claims online?

#### **5.2.2 Offeror Qualifications and Capabilities, including proposed Subcontractors (See RFP 4.4.3.8 – 4.4.3.14)**

1. To what extent has the Offeror documented and demonstrated sufficient physical, technological, personnel, and financial resources to fulfill the requirements of the RFP.
2. Is the organizational structure of the Offeror well-suited to the provision of services under the RFP?

3. Does the Offeror have a demonstrated history of fiscal and legal integrity?
4. To what extent do the Offeror's references support the information provided in their proposal?

#### 5.2.3 Experience and Qualifications of Proposed Staff (See RFP § 4.4.3.7)

1. To what extent has the Offeror documented that key staff assigned to the project has experience with the various components of the RFP?
2. Does the Offeror adequately describe the appropriate personnel with their qualifications and their respective areas of responsibility?

#### 5.2.4 Economic Benefit to State of Maryland (See RFP § 4.4.3.15)

To what extent does the proposal demonstrate an economic benefit to the State of Maryland?

### 5.3 Financial Proposal Evaluation Criteria

All Qualified Offerors (see Section 5.5.2.4) will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on the Total Proposal Price within the stated guidelines set forth in this RFP and as submitted on **Attachment F** - Financial Proposal Form.

### 5.4 Reciprocal Preference

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

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

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

### 5.5 Selection Procedures

#### 5.5.1 General

The Contract will be awarded in accordance with the Competitive Sealed Proposals (CSP) method found at COMAR 21.05.03. The Competitive Sealed Proposals 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.

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

## 5.5.2 Selection Process Sequence

- 5.5.2.1 A determination is made that the MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1**) is included and is properly completed, if there is a MBE goal. In addition, a determination is made that the Veteran-Owned Small Business Enterprise (VSBE) Utilization Affidavit and Subcontractor Participation Schedule (**Attachment M-1**) is included and is properly completed, if there is a VSBE goal.
- 5.5.2.2 Technical Proposals are evaluated for technical merit and ranked. During this review, oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the State's requirements and the Offeror's ability to perform the services, as well as to facilitate arrival at a Contract that is most advantageous to the State. Offerors will be contacted by the State as soon as any discussions are scheduled.
- 5.5.2.3 Offerors must confirm in writing any substantive oral clarifications of, or changes in, their Technical Proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror's Technical Proposal. Technical Proposals are given a final review and ranked.
- 5.5.2.4 The Financial Proposal of each Qualified Offeror (a responsible Offeror determined to have submitted an acceptable Proposal) will be evaluated and ranked separately from the Technical evaluation. After a review of the Financial Proposals of Qualified Offerors, the Evaluation Committee or Procurement Officer may again conduct discussions to further evaluate the Offeror's entire Proposal.
- 5.5.2.5 When in the best interest of the State, the Procurement Officer may permit Qualified Offerors to revise their initial Proposals and submit, in writing, Best and Final Offers (BAFOs). The State may make an award without issuing a request for a BAFO.

## 5.5.3 Award Determination

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

## 5.6 Documents Required upon Notice of Recommendation for Contract Award

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

- a. Contract (**Attachment A**),
- b. Contract Affidavit (**Attachment C**),
- c. MBE **Attachments D-2 and D-3**, within ten (10) Working Days, if applicable; \*see **Section 1.33**,
- d. MBE Waiver Justification within ten (10) Working Days, usually including **Attachment D-6**, if a waiver has been requested (if applicable; \*see **Section 1.33**),
- e. Non-Disclosure Agreement (**Attachment J**), if applicable; \*see **Section 1.37**,
- f. HIPAA Business Associate Agreement (**Attachment K**), if applicable; \*see **Section 1.38**,
- g. VSBE **Attachments M-2 and M-3**, if applicable \*see **Section 1.41**,
- h. DHR Hiring Agreement, **Attachment P**, if applicable \*see **Section 1.45**, and
- i. copy of a current Certificate of Insurance with the prescribed limits set forth in Section 3.4 "Insurance Requirements," naming the State as an additional insured, if applicable; \*see **Section 3.4**.

## **RFP ATTACHMENTS**

### **ATTACHMENT A – Contract**

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

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

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

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

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

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

If required (see Section 1.33), these Attachments include the MBE subcontracting goal statement, instructions, and MBE Attachments D-1 through D-6. Attachment D-1 must be properly completed and submitted with the Offeror's Technical Proposal or the Proposal will be deemed not reasonably susceptible of being selected for award and rejected. Within 10 Working Days of receiving notification of recommendation for Contract award, the Offeror must submit Attachments D-2 and D-3 and, if the Offeror has requested a waiver of the MBE goal, usually Attachment D-6.

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

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

### **ATTACHMENT F – Financial Proposal Instructions and Form**

The Financial Proposal Form must be completed and submitted in the Financial Proposal package.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**ATTACHMENT N – Certification of Investment Activities in Iran**

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

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

If required (see Section 1.44), this Attachment must be completed and submitted with the Technical Proposal.

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

If required (see Section 1.45), this Attachment is to be completed and submitted within five (5) Business Days of receiving notification of recommendation for award.

**ATTACHMENT Q – CMS-416 Reporting Form**

**ATTACHMENT Q1 – CMS-416 Dental Data Specifications**

**ATTACHMENT R – HealthChoice Dental Benefits for Pregnant Participants and REM Participants Over 21 Years**

**ATTACHMENT S – Maryland Medicaid Dental Fee Schedule and Procedure Codes**

**ATTACHMENT T – State of Maryland Information Technology Security Policy and Standards**

**ATTACHMENT U – EPSDT Dental Periodicity Schedule**

**ATTACHMENT V – Eligibility File Layout**

**ATTACHMENT W – Maryland’s 2012 Annual Oral Health Legislative Report**

**ATTACHMENT X – Connectivity to DHMH File Exchange Systems**

**ATTACHMENT Y – Serving Capacity of Community Dental Clinics in Maryland**

**ATTACHMENT Z – Dental Health Professional Shortage Areas (HPSA) in Maryland**

**ATTACHMENT AA – AAPD Recommendations for Pediatric Oral Health Assessment, Preventive Services, and Anticipatory Guidance/Counseling**

**ATTACHMENT BB – Local Health Departments Dental Capacity**

## ATTACHMENT A – CONTRACT

### Maryland Dental Benefits Administrator

THIS CONTRACT (the “Contract”) is made this (“X<sup>th</sup>”) day of (month), (year) by and between (Contractor’s name) and the STATE OF MARYLAND, acting through the DEPARTMENT OF HEALTH AND MENTAL HYGIENE, OFFICE OF PROCUREMENT AND SUPPORT SERVICES.

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

#### 1. Definitions

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

- 1.1 “COMAR” means Code of Maryland Regulations.
- 1.2 “Contract Monitor” means the Department employee identified in Section 1.6 of the RFP as the Contract Monitor.
- 1.3 “Contractor” means (Contractor’s name) whose principal business address is (Contractor’s primary address) and whose principal office in Maryland is (Contractor’s local address).
- 1.4 “Department” means the Maryland Department of Health and Mental Hygiene and any of its Agencies, Offices, Administrations, Facilities, or Commissions.
- 1.5 “Financial Proposal” means the Contractor’s Financial Proposal dated (Financial Proposal date).
- 1.6 “Procurement Officer” means the Department employee identified in Section 1.5 of the RFP as the Procurement Officer.
- 1.7 “RFP” means the Request for Proposals for **Maryland Dental Benefits Administrator** Solicitation # DHMH OPASS 14-13780, and any addenda thereto issued in writing by the State.
- 1.8 “State” means the State of Maryland.
- 1.9 “Technical Proposal” means the Contractor’s Technical Proposal dated (Technical Proposal date).

#### 2. Scope of Contract

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

Exhibit A – The RFP

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

Exhibit C – The Proposal (Technical and Financial)

- 2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract or the RFP. No other order, statement, or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor’s cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this

section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

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

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

- 3.1 The term of this Contract begins on the date the Contract is signed by the Department following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required. The Contractor shall provide services under this Contract as of the Go-Live date contained in the written Notice to Proceed. From this Go-Live date, the Contract shall be for a period of approximately three (3) years beginning July 1, 2014 and ending on June 30, 2017.
- 3.2 Further, this Contract may be extended for two (2) periods of one year each at the sole discretion of the Department and at the prices quoted in the Financial Proposal for Option Years.
- 3.3 Audit, confidentiality, document retention, and indemnification obligations under this Contract shall survive expiration or termination of the Contract.

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

- 4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the Department shall pay the Contractor in accordance with the terms of this Contract and at the prices quoted on the Financial Proposal Form (Attachment F). Unless properly modified (see above Section 2.3), payment to the Contractor pursuant to this Contract shall not exceed \$ (Not-to-Exceed amount).
- 4.2 Payments to the Contractor shall be made no later than thirty (30) days after the Department's receipt of a proper invoice for services provided by the Contractor, acceptance by the Department of services provided by the Contractor, and pursuant to the conditions outlined in Section 4 of this Contract. Each invoice for services rendered must include the Contractor's Federal Tax Identification or Social Security Number for a Contractor who is an individual which is (Contractor's FEIN or SSN). Charges for late payment of invoices other than as prescribed at Md. Code Ann., State Finance and Procurement Article, §15-104 as from time-to-time amended, are prohibited. Invoices shall be submitted to the Contract Monitor. Electronic funds transfer shall be used by the State to pay Contractor pursuant to this Contract and any other State payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.
- 4.3 In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer.
- 4.4 Payment of an invoice by the Department is not evidence that services were rendered as required under this Contract.
- 4.5 Contractor's eMarylandMarketplace vendor ID number is (Contractor's eMM number).

### **5. Rights to Records**

- 5.1 The Contractor agrees that all documents and materials including, but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations, and data prepared by the Contractor for purposes of this Contract shall be the sole property of the State and shall be available to the State at any time. The State shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.
- 5.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a deliverable under this Contract, and services performed under this Contract shall be “works made for hire” as that term is interpreted under U.S. copyright law. To the extent that any products created as a deliverable under this Contract are not works made for hire for the State, the Contractor hereby relinquishes, transfers, and assigns to the State all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.
- 5.3 The Contractor shall report to the Contract Monitor, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all data delivered under this Contract.
- 5.4 The Contractor shall not affix any restrictive markings upon any data, documentation, or other materials provided to the State hereunder and if such markings are affixed, the State shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

## **6. Exclusive Use**

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

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

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

## **8. Confidentiality**

- 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, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data

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

8.2 This Section 8 shall survive expiration or termination of this Contract.

## **9. Loss of Data**

In the event of loss of any State data or records where such loss is due to the intentional act or omission or negligence of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for recreating such lost data in the manner and on the schedule set by the Contract Monitor. The Contractor shall ensure that all data is backed up and recoverable by the Contractor. Contractor shall use its best efforts to assure that at no time shall any actions undertaken by the Contractor under this Contract (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms, and/or applications with which the Contractor is working hereunder.

## **10. Indemnification**

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

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

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

## **12. Disputes**

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

## **13. Maryland Law**

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

## **14. Nondiscrimination in Employment**

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

## **15. Contingent Fee Prohibition**

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

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

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

## **17. Termination for Cause**

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

#### **18. Termination for Convenience**

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

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

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

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

#### **20. Suspension of Work**

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

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

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

#### **22. Financial Disclosure**

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

#### **23. Political Contribution Disclosure**

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

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

The Contractor and subcontractors shall retain and maintain all records and documents relating to this contract for a period of five (5) years after final payment by the State hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section. This Section 24 shall survive expiration or termination of the Contract.

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

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

#### **25. Compliance with Laws**

The Contractor hereby represents and warrants that:

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

#### **26. Cost and Price Certification**

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

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

## **27. Subcontracting; Assignment**

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

## **28. Liability**

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

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

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

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

## **30. Commercial Nondiscrimination**

30.1 As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described at Md. Code Ann., State Finance and Procurement Article, Title 19. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity

for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

30.2 The Contractor shall include the above Commercial Nondiscrimination clause, or similar clause approved by the Department, in all subcontracts.

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

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

31.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the Department, at its option and in its sole discretion, may take one or more of the following actions:

- a. Not process further payments to the contractor until payment to the subcontractor is verified;
- b. Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
- c. Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;
- d. Place a payment for an undisputed amount in an interest-bearing escrow account; or
- e. Take other or further actions as appropriate to resolve the withheld payment.

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

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

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

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

31.4 The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise (MBE) program.

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

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

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

## **33. Notices**

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

If to the State: Michael Howard  
Procurement Officer  
Maryland Department of Health and Mental Hygiene  
Office of Procurement and Support Services  
201 West Preston Street, Room 416  
Baltimore, Maryland 21201

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

## **34. Federal Department of Health and Human Services (DHHS) Exclusion Requirements**

The Contractor agrees that it will comply with federal provisions (pursuant to §§ 1128 and 1156 of the Social Security Act and 42 C.F.R. 1001) that prohibit payments under certain federal health care programs to any individual or entity that is on the List of Excluded Individuals/Entities maintained by DHHS. By executing this contract, the Contractor affirmatively declares that neither it nor any employee is, to the best of its knowledge, subject to exclusion. The Contractor agrees, further, during the term of this contract, to check the List of Excluded Individuals/Entities prior to hiring or assigning individuals to work on this contract, and to notify the DHMH Office of Systems, Operations and Pharmacy immediately of any identification of the contractor or an individual employee as excluded, and of any DHHS action or proposed action to exclude the contractor or any contractor employee.

### **35. Compliance with Federal HIPAA and State Confidentiality Law**

- 35.1 The Contractor acknowledges its duty to become familiar with and comply, to the extent applicable, with all requirements of the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. § 1320d et seq., and implementing regulations including 45 C.F.R. Parts 160 and 164. The contractor also agrees to comply with the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§ 4-301 et seq. This obligation includes:
- (a) As necessary, adhering to the privacy and security requirements for protected health information and medical records under HIPAA and MCMRA and making the transmission of all electronic information compatible with the HIPAA requirements;
  - (b) Providing training and information to employees regarding confidentiality obligations as to health and financial information and securing acknowledgement of these obligations from employees to be involved in the contract; and
  - (c) Otherwise providing good information management practices regarding all health information and medical records.
- 35.2 Based on the determination by the Department that the functions to be performed in accordance with the scope of work set forth in the solicitation constitute business associate functions as defined in HIPAA, the selected Bidder/Offeror shall execute a business associate agreement as required by HIPAA regulations at 45 C.F.R. 164.501 and in the form as required by the Department.
- 35.3 Protected Health Information as defined in the HIPAA regulations at 45 C.F.R. 160.103 and 164.501, means information transmitted as defined in the regulations, that is individually identifiable; that is created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and that is related to the past, present, or future physical or mental health or condition of an individual, to the provision of healthcare to an individual, or to the past, present, or future payment for the provision of healthcare to an individual. The definition excludes certain education records as well as employment records held by a covered entity in its role as employer.

### **36. 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 DHMH Policy 02.06.07.

### **37. Miscellaneous**

- 37.1 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.

- 37.2 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.

### **38. Liquidated Damages**

- 38.1 The Contract requires the Contractor to make good faith efforts to comply with the Minority Business Enterprise (“MBE”) Program and Contract provisions. The State and the Contractor acknowledge and agree that the State will incur economic damages and losses, including, but not limited to, loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources, if the Contractor does not make good faith efforts to comply with the requirements of the MBE Program and pertinent 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 or impossible to ascertain with precision and that liquidated damages represent a fair, reasonable, and appropriate estimation of damages.

Upon a determination by the State that the Contractor failed to make good faith efforts to comply with one or more of the specified MBE Program requirements or pertinent MBE Contract provisions and without the State being required to present any evidence of the amount or character of actual damages sustained, the Contractor agrees to pay liquidated damages to the State at the rates set forth below. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty. The Contractor expressly agrees that the State may withhold payment on any invoices as an offset 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 each violation.

- 38.1.1 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.
- 38.1.2 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.
- 38.1.3 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/or 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.
- 38.1.4 Failure to meet the Contractor’s total MBE participation goal and subgoal commitments: the difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually achieved.
- 38.1.5 Failure to promptly pay all undisputed amounts to a subcontractor in full compliance with the prompt payment provisions of the Contract: \$100.00 per day until the undisputed amount due to the MBE subcontractor is paid.
- 38.2 Notwithstanding the assessment or availability of liquidated damages, the State reserves the right to terminate the Contract and to exercise any and all other rights or remedies which may be available under the Contract or which otherwise may be available at law or in equity.

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

CONTRACTOR

STATE OF MARYLAND  
DEPARTMENT OF HEALTH AND  
MENTAL HYGIENE

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

\_\_\_\_\_  
By: Joshua M. Sharfstein, M.D., Secretary

\_\_\_\_\_  
Date

Or designee:  
  
\_\_\_\_\_

\_\_\_\_\_  
Date

Approved for form and legal sufficiency  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Assistant Attorney General

APPROVED BY BPW: \_\_\_\_\_  
(Date) (BPW Item #)

## ATTACHMENT B – BID/PROPOSAL AFFIDAVIT

### A. AUTHORITY

I hereby affirm that I, \_\_\_\_\_ (name of affiant) am the \_\_\_\_\_ (title) and duly authorized representative of \_\_\_\_\_ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

### B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

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

#### B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.

The undersigned Bidder/Offeror hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, § 14-308(a)(2), Annotated Code of Maryland, which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a Bid/Proposal and:

- (1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority Proposal;
- (2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the Bid/Proposal;
- (3) Fail to use the certified minority business enterprise in the performance of the contract; or
- (4) Pay the certified minority business enterprise solely for the use of its name in the Bid/Proposal.

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

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

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

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

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

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

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D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

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

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

(a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or

(b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;

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

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

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

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

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

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

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

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

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#### E. AFFIRMATION REGARDING DEBARMENT

##### I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment

or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

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F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

- (1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and
- (2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

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G. SUBCONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

- (1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying Bid/Proposal that is being submitted;
- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the Bid/Proposal price of the Bidder/Offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying Bid/Proposal is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

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

#### J. CONTINGENT FEES

##### I FURTHER AFFIRM THAT:

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

#### K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

(1) The undersigned certifies that, in accordance with State Finance and Procurement Article, §17-705, Annotated Code of Maryland:

(a) It is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland; and

(b) It is not engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland.

2. The undersigned is unable to make the above certification regarding its investment activities in Iran due to the following activities: \_\_\_\_\_

#### L. CONFLICT MINERALS ORIGINATED IN THE DEMOCRATIC REPUBLIC OF CONGO (FOR SUPPLIES AND SERVICES CONTRACTS)

##### I FURTHER AFFIRM THAT:

The business has complied with the provisions of State Finance and Procurement Article, §14-413, Annotated Code of Maryland governing proper disclosure of certain information regarding conflict minerals originating in the Democratic Republic of Congo or its neighboring countries as required by federal law.

#### M. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this Bid/Proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

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

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

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

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

## ATTACHMENT C – CONTRACT AFFIDAVIT

### A. AUTHORITY

I hereby affirm that I, \_\_\_\_\_ (name of affiant) am the \_\_\_\_\_ (title) and duly authorized representative of \_\_\_\_\_ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

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

#### I FURTHER AFFIRM THAT:

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

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

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

Name and Department ID

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

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

Name and Department ID

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

### C. FINANCIAL DISCLOSURE AFFIRMATION

#### I FURTHER AFFIRM THAT:

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

### D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

#### I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, §§14-101 — 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

#### E. DRUG AND ALCOHOL FREE WORKPLACE

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

#### I CERTIFY THAT:

(1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.

(2) By submission of its Bid/Proposal, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:

(a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;

(b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

(c) Prohibit its employees from working under the influence of drugs or alcohol;

(d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

(e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

(f) Establish drug and alcohol abuse awareness programs to inform its employees about:

- (i) The dangers of drug and alcohol abuse in the workplace;
- (ii) The business's policy of maintaining a drug and alcohol free workplace;
- (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
- (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

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

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

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

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

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

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

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

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

(4) I acknowledge and agree that:

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

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

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

#### F. CERTAIN AFFIRMATIONS VALID

##### I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Bid/Proposal Affidavit dated \_\_\_\_\_, 201\_\_\_\_, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

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

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

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

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

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

### **PURPOSE**

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

In order to attempt to meet the MBE subcontractor participation goal using MBE subcontractors, all Bidders/Offerors shall comply with the requirements of COMAR 21.11.03.09 and shall:

- ❑ Identify specific work categories within the scope of the solicitation appropriate for subcontracting;
- ❑ Solicit certified MBEs in writing at least 10 days before Bids or Proposals are due, describing the identified work categories and providing instructions on how to provide a quote on the subcontracts;
- ❑ Attempt to make personal contact with the certified MBEs solicited and to document those attempts;
- ❑ Assist certified MBEs in fulfilling, or seeking a waiver of any bonding requirements; and
- ❑ Attend Pre-Bid/Proposal Conferences or other meetings that the Department schedules to publicize contracting opportunities for certified MBEs.

### **MBE GOAL AND SUB GOALS**

An MBE subcontract participation goal of **20%** of the total contract dollar amount has been established for this procurement, as set forth in RFP Section 1.33. The Contractor, including an MBE prime contractor, shall attempt to achieve the MBE subcontracting goal and any subgoals established for this Contract by subcontracting to one or more MDOT-certified MBEs a sufficient portion of the Bidder/Offeror's scope of work that results in total MBE payments that meet or exceed the MBE subcontractor participation goals and, if applicable, subgoals.

### **SOLICITATION AND CONTRACT FORMATION**

- ◆ A Bidder/Offeror must include with its Bid/Proposal a completed MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1**) whereby:

- (1) the Bidder/Offeror acknowledges the certified MBE subcontractor participation goal and any subgoals, and commits to make a good faith effort to achieve the goal and any subgoals or requests a full or partial waiver, and affirms that MBE subcontractors were treated fairly in the solicitation process; and
- (2) the Bidder/Offeror responds to the expected degree of MBE subcontractor participation as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of Bid/Proposal submission. The Bidder/Offeror shall specify the percentage of contract value associated with each MBE subcontractor identified on the MBE Participation Schedule (**Attachment D-1**).

If the Bidder/Offeror specifies a range for a proposed MBE subcontractor, only the lowest amount in the range can be considered for MBE commitment purposes. Ex: If a range of "5-15%" is proposed for a MBE subcontractor, only "5%" can be considered for purposes of totaling the actual MBE commitment for that particular MBE subcontractor. It is suggested that the Bidder/Offeror provide a specific percentage, and not a percentage range, for each MBE subcontractor proposed.

- ◆ *If a Bidder/Offeror fails to submit a completed **Attachment D-1** with the Bid/Proposal, the Procurement Officer shall deem the Bid non-responsive or shall determine that the Proposal is not reasonably susceptible of being selected for award.*
- ◆ Within 10 Working Days from notification that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee shall provide the following documentation to the Procurement Officer:
  - a) Outreach Efforts Compliance Statement (**Attachment D-2**)
  - b) Subcontractor Project Participation Certification (**Attachment D-3**)
  - c) If the recommended awardee has requested a waiver (in whole or in part) of the overall MBE goal, it shall submit a fully documented waiver request that complies with COMAR 21.11.03.11, and usually the Minority Contractor Unavailability Certificate (**Attachment D-6**).
  - d) Any other documentation required by the Procurement Officer to ascertain Bidder/Offeror responsibility in connection with the certified MBE participation goal.

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

## **MBE REPORTING INSTRUCTIONS**

### **The Contractor shall:**

1. Submit by the 10<sup>th</sup> of each month to the Department's Contract Monitor or designee a Prime Contractor Paid/Unpaid MBE Invoice Report (**Attachment D-4**) listing any unpaid invoices, over 30 days old, received from any certified MBE subcontractor, the amount of each invoice, and the reason payment has not been made.
2. Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors shall submit by the 10<sup>th</sup> of each month to the Department's Contract Monitor or a designee a Subcontractor Paid/Unpaid MBE Invoice Report (**Attachment D-5**) that identifies the Contract and lists all payments received from the Contractor under this Contract in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices.
3. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the Contract, the type of work performed by each subcontractor, and the actual dollar value of work performed. Subcontract agreements must be retained by the Contractor and furnished to the Procurement Officer upon request.
4. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. The Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the Contract.
5. At the sole option of the Department, upon completion of the Contract and before final payment and/or release of any retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

### **ATTACHMENTS**

- A. MDOT Certified MBE Utilization and Fair Solicitation Affidavit – **Attachment D-1** (must be submitted with the Bid/Proposal)
- B. Outreach Efforts Compliance Statement – **Attachment D-2** (must be submitted within 10 Working Days of notification of apparent award or actual award, whichever is earlier)
- C. Subcontractor Project Participation Certification – **Attachment D-3** (must be submitted within 10 Working Days of notification of apparent award or actual award, whichever is earlier)
- D. Prime Contractor Paid/Unpaid MBE Invoice Report – **Attachment D-4** (must be submitted by the 10<sup>th</sup> of each month by the Prime Contractor)
- E. Subcontractor Paid/Unpaid MBE Invoice Report – **Attachment D-5** (must be submitted by the 10<sup>th</sup> of each month by the Subcontractor)
- F. Minority Contractor Unavailability Certificate – **Attachment D-6** (if a waiver has been requested, Attachment D-6 usually must be submitted within 10 Working Days of notification of apparent award or actual award whichever is earlier)

## MDOT Certified MBE Utilization and Fair Solicitation Affidavit

(submit with Bid/Proposal)

This document **MUST BE** included with the Bid/Proposal. If the Bidder/Offeror fails to complete and submit this form with the Bid/Proposal, the Procurement Officer shall deem the Bid non-responsive or shall determine that the Proposal is not reasonably susceptible of being selected for award.

In conjunction with the Bid/Proposal submitted in response to Solicitation No. **OPASS #14-13780** I affirm the following:

1. ☐ I acknowledge and intend to meet the overall certified Minority Business Enterprise (MBE) participation goal of 20 percent and, if specified in the solicitation, the following subgoals (complete for only those subgoals that apply):

\_\_\_\_\_ percent African-American  
\_\_\_\_\_ percent Hispanic-American

\_\_\_\_\_ percent Asian-American  
\_\_\_\_\_ percent Woman-Owned

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

### OR

- ☐ I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver in whole or in part of the overall goal and/or subgoals. Within 10 Working Days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.03.11. If this request is for a partial waiver, I have identified the portion of the MBE goal that I intend to meet in this Attachment D-1.
2. I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 Working Days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier.
- (a) Outreach Efforts Compliance Statement (Attachment D2);
  - (b) Subcontractor Project Participation Certification (Attachment D3); and
  - (c) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain Bidder/Offeror responsibility in connection with the certified MBE participation goal.

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

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

### MBE Subcontractor Participation Schedule

Prime Contractor: (Firm Name, Address, Phone)	Project Description:
Solicitation Number: OPASS #14-13780	

#### List Information For Each Certified MBE Subcontractor On This Project

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

Continue on a separate page, if needed.

## ***SUMMARY***

Total <i>African-American</i> MBE Participation:	_____ % of total Contract value
Total <i>Asian American</i> MBE Participation:	_____ % of total Contract value
Total <i>Hispanic American</i> MBE Participation:	_____ % of total Contract value
Total <i>Woman-Owned</i> MBE Participation:	_____ % of total Contract value
Total <i>Other</i> Participation:	_____ % of total Contract value

**Total *All MBE* Participation:** \_\_\_\_\_ % of total Contract value

**Note:** The percentages entered above must reflect the actual percentage of total Contract value committed to be paid to MBE subcontractor(s). (i.e., if the total MBE commitment is 25% of the total Contract value, the subgroup percentages listed above should total 25%).

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

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

(PLEASE PRINT OR TYPE)

\_\_\_\_\_  
Signature of Affiant

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

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

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

**SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL**

Rev. 08/01/2013

## Outreach Efforts Compliance Statement

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

In conjunction with the Bid/Proposal submitted in response to Solicitation No. 14-13780, the Bidder/Offeror states the following:

1. Bidder/Offeror identified opportunities to subcontract in these specific work categories.
2. Attached to this form are copies of written solicitations (with instructions) used to solicit MDOT certified MBEs for these subcontract opportunities.
3. Bidder/Offeror made the following attempts to contact personally the solicited MDOT certified MBEs.
4. Select ONE of the following:
  - a. ☐ This project does not involve bonding requirements.
  - OR**
  - b. ☐ Bidder/Offeror assisted MDOT certified MBEs to fulfill or seek waiver of bonding requirements (*describe efforts*).
5. Select ONE of the following:
  - a. ☐ Bidder/Offeror did/did not attend the Pre-Bid/Proposal Conference.
  - OR**
  - b. ☐ No Pre-Bid/Proposal Conference was held.

	By:	
Bidder/Offeror Printed Name	Signature	

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

## Subcontractor Project Participation Certification

*Please complete and submit one form for each MDOT certified MBE listed on Attachment D-1 within 10 Working Days of notification of apparent award.*

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

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

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

- (1) fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified Minority Business Enterprise in its Bid/Proposal;
- (2) fail to notify the certified Minority Business Enterprise before execution of the Contract of its inclusion of the Bid/Proposal;
- (3) fail to use the certified Minority Business Enterprise in the performance of the Contract; or
- (4) pay the certified Minority Business Enterprise solely for the use of its name in the Bid/Proposal.

### PRIME CONTRACTOR SIGNATURE

By: \_\_\_\_\_  
 Name, Title  
 Date

### SUBCONTRACTOR SIGNATURE

By: \_\_\_\_\_  
 Name, Title  
 Date

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

## Attachment D-4

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

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

Prime Contractor:		Contact Person:																																					
Address:																																							
City:		State:	ZIP:																																				
Phone:	Fax:	E-mail:																																					
Subcontractor Name:		Contact Person:																																					
Phone:	Fax:																																						
Subcontractor Services Provided:																																							
<b>List all payments made to MBE subcontractor named above during this reporting period:</b> <table border="1"> <thead> <tr> <th></th> <th><u>Invoice#</u></th> <th><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> <tr> <td colspan="2"><b>Total Dollars Paid: \$</b></td> <td>_____</td> </tr> </tbody> </table>			<u>Invoice#</u>	<u>Amount</u>	1.			2.			3.			4.			<b>Total Dollars Paid: \$</b>		_____	<b>List dates and amounts of any outstanding invoices:</b> <table border="1"> <thead> <tr> <th></th> <th><u>Invoice #</u></th> <th><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> <tr> <td colspan="2"><b>Total Dollars Unpaid: \$</b></td> <td>_____</td> </tr> </tbody> </table>			<u>Invoice #</u>	<u>Amount</u>	1.			2.			3.			4.			<b>Total Dollars Unpaid: \$</b>		_____
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	<u>Invoice #</u>	<u>Amount</u>																																					
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3.																																							
4.																																							
<b>Total Dollars Unpaid: \$</b>		_____																																					

\*\*If more than one MBE subcontractor is used for this contract, you must use separate D-4 forms for each subcontractor.

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

_____ Contract Monitor
_____ Contracting Unit
Department of Health and Mental Hygiene
_____
_____
_____

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
(Required)

This form must be completed  
monthly by all MBE subcontractors.

## ATTACHMENT D-5

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

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

MBE Subcontractor Name:																						
MDOT Certification #:																						
Contact Person:	E-mail:																					
Address:																						
City:	State:	ZIP:																				
Phone:	Fax:																					
<b>Subcontractor Services Provided:</b>																						
<b>List all payments received from Prime Contractor during reporting period indicated above.</b> <table border="1"> <thead> <tr> <th><u>Invoice Amt</u></th> <th><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td></tr> <tr><td>2.</td><td></td></tr> <tr><td>3.</td><td></td></tr> <tr> <td colspan="2"><b>Total Dollars Paid: \$ _____</b></td> </tr> </tbody> </table>		<u>Invoice Amt</u>	<u>Date</u>	1.		2.		3.		<b>Total Dollars Paid: \$ _____</b>		<b>List dates and amounts of any unpaid invoices over 30 days old.</b> <table border="1"> <thead> <tr> <th><u>Invoice Amt</u></th> <th><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td></tr> <tr><td>2.</td><td></td></tr> <tr><td>3.</td><td></td></tr> <tr> <td colspan="2"><b>Total Dollars Unpaid: \$ _____</b></td> </tr> </tbody> </table>	<u>Invoice Amt</u>	<u>Date</u>	1.		2.		3.		<b>Total Dollars Unpaid: \$ _____</b>	
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<u>Invoice Amt</u>	<u>Date</u>																					
1.																						
2.																						
3.																						
<b>Total Dollars Unpaid: \$ _____</b>																						
Prime Contractor:	Contact Person:																					

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

_____ Contract Monitor
_____ Contracting Unit
Department of Health and Mental Hygiene
_____
_____
_____

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
(Required)

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

**NOTE: Below is an excerpt only. Full text of COMAR Title 21 may be found at the website of the Secretary of State, Division of State Documents, at: <http://www.dsd.state.md.us/comar/>.**

**COMAR 21.11.03.11 - Waiver.**

A. If, for any reason, the apparent successful Bidder/Offeror is unable to achieve the contract goal for each certified MBE classification specified as having a subcontract goal or the overall MBE contract goal, the Bidder/Offeror may request, in writing, a waiver to include the following:

- (1) A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBEs, including the work to be performed by each MBE classification if an MBE subgoal has been specified, in order to increase the likelihood of achieving the stated goal;
- (2) A detailed statement of the efforts made to contact and negotiate with certified MBEs, and if appropriate, by certified MBE classification, including:
  - (a) The names, addresses, dates, telephone numbers, and classification of certified MBEs contacted, and
  - (b) A description of the information provided to certified MBEs regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed;
- (3) As to each certified MBE that placed a subcontract quotation or offer that the apparent successful Bidder/Offeror considers not to be acceptable, a detailed statement of the reasons for this conclusion;
- (4) A list of certified MBEs including, if applicable, certified MBEs in each MBE classification, found to be unavailable, which shall be accompanied by the Minority Contractor Unavailability Certificate (Attachment D-6) signed by the certified MBE, or a statement from the apparent successful Bidder/Offeror that the certified MBE refused to give the written verification;
- (5) The record of the apparent successful Bidder/Offeror's compliance with the outreach efforts required under Regulation .09C(2)(a)—(e) of this chapter; and
- (6) If the request for a waiver is for a certain MBE classification within an overall MBE goal, the Bidder/Offeror shall demonstrate reasonable efforts to meet the overall MBE goal with other MBE classification or classifications.

B. A waiver of a certified MBE contract goal may be granted only upon a reasonable demonstration by the Bidder/Offeror that certified MBE subcontract participation was unable to be obtained, or was unable to be obtained at a reasonable price or in the appropriate MBE classifications, and if the agency head or designee determines that the public interest is served by a waiver. In making a determination under this section, the agency head or designee may consider engineering estimates, catalogue prices, general market availability, and availability of certified MBEs in the area in which the work is to be performed, other Bids/Proposals and subcontract Bids/Proposal substantiating significant variances between certified MBE and non-MBE cost of participation, and their impact on the overall cost of the contract to the State and any other relevant factor.

C. An agency head may waive any of the provisions of Regulations .09—.10 of this chapter for a sole source, expedited, or emergency procurement in which the public interest cannot reasonably accommodate use of those procedures.

D. When a waiver is granted, except waivers under §C of this regulation, one copy of the waiver determination and the reasons for the determination shall be kept by the MBE liaison officer with another copy forwarded to the Office of Minority Affairs.



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

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

located at \_\_\_\_\_  
(Number) (Street) (City) (State) (Zip)

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

by \_\_\_\_\_  
(Prime Contractor's Name) (Prime Contractor Official's Name) (Title)

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

\_\_\_\_\_  
(Name) (Title) (Phone)

\_\_\_\_\_  
(Signature) (Fax Number)

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

**Solicitation Number OPASS 14-13780  
Maryland Dental Benefits Administrator**

A Pre-Proposal Conference will be held at 1:00 p.m., on November 1, 2013, at 201 W. Preston Street, Conference Room L1. Please return this form by 2:00 p.m., October 31, 2014, advising whether or not you plan to attend.

Return via e-mail or fax this form to the Procurement Coordinator:

Sabrina Lewis  
Office of Health Services  
Department of Health and Mental Hygiene  
201 W. Preston Street, 2<sup>nd</sup> Floor  
Baltimore, MD 21201  
Email: [Sabrina.lewis@maryland.gov](mailto:Sabrina.lewis@maryland.gov)  
Fax #: (410) 333-7897

Please indicate:

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

- 1.
- 2.
- 3.

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

Please specify whether any reasonable accommodations are requested (see RFP § 1.7 “Pre-Proposal Conference”):

---

Signature

---

Title

---

Name of Firm (please print)

## ATTACHMENT F – 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, i.e., .344 shall be .34 and .345 shall be .35.
- D) Any goods or services required through this RFP and proposed by the vendor at **No Cost to the State** must be clearly entered in the Unit Price, if appropriate, and Extended Price with **\$0.00**.
- 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 21.05.03.03E and 21.05.02.12, 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 will comply with all terms and conditions in force at the time the option is exercised. If exercised, the option period shall be for a period identified in the RFP at the prices entered in the Financial Proposal 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 this 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.

## ATTACHMENT F – FINANCIAL PROPOSAL FORM

### 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.

**The Offeror shall submit a Per Recipient Per Month administrative fee for each year, including Option years, for the fulfillment of all services as detailed in Section 3 “Scope of Work – Requirements.”**

**Offerors shall calculate the “Total Annual Cost” for each year, including Option years, by using the following formula:  $A \times B \times C = D$ . Offerors shall then total the amounts in the column titled “Total Annual Cost” to calculate the Total Proposal Price.**

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
	<b><u>Per Recipient Per Month Administrative Fee</u></b>	<b><u>Enrollment<sup>1</sup></u></b>	<b><u>Months in CY</u></b>	<b><u>Total Annual Cost</u></b>
<u>Contract Year 1</u>	\$	620,000	<u>12</u>	\$
<u>Contract Year 2</u>	\$	640,000	<u>12</u>	\$
<u>Contract Year 3</u>	\$	660,000	<u>12</u>	\$
<u>Option Year 1</u>	\$	680,000	<u>12</u>	\$
<u>Option Year 2</u>	\$	700,000	<u>12</u>	\$
<b><u>TOTAL PROPOSAL PRICE</u></b>				\$

There is no guarantee of any minimum or maximum number of participants under this Contract. The actual number of participants may change at any time during the term of the Contract or option years. The Contractor shall be paid based on the actual number of children, pregnant women, and adult REM participants included on the eligibility file as of the last day of each calendar month multiplied by the Per Recipient Per Month administrative fee specified in Column A of this Financial Proposal Sheet.

Submitted By:

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

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

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

Location(s) from which services will be performed (City/State): \_\_\_\_\_

FEIN: \_\_\_\_\_

eMM #: \_\_\_\_\_

Telephone: (\_\_\_\_\_) \_\_\_\_\_-- \_\_\_\_\_

Fax: (\_\_\_\_\_) \_\_\_\_\_-- \_\_\_\_\_

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

<sup>1</sup> For illustrative purposes only; actual enrollment will vary during contract period.

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

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

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

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

## Maryland Living Wage Requirements Affidavit of Agreement

(submit with Bid/Proposal)

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

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

Address \_\_\_\_\_

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

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

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

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

### If the Contract Is a Living Wage Contract

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

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

- ☐ The employee(s) proposed to work on the contract will spend less than one-half of the employee's time during any work week on the contract

- ☐ The employee(s) proposed to work on the contract is 17 years of age or younger during the duration of the contract; or
- ☐ The employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

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

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

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

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

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

\_\_\_\_\_  
Date

**(submit with Bid/Proposal)**

## ATTACHMENT H - FEDERAL FUNDS ATTACHMENT

### A Summary of Certain Federal Fund Requirements and Restrictions

[Details of particular laws, which may levy a penalty for noncompliance, are available from the Department of Health and Mental Hygiene.]

1. Form and rule enclosed: 18 U.S.C. 1913 and Section 1352 of P.L. 101-121 require that all *prospective* and present sub-grantees (this includes all levels of funding) who receive more than \$100,000 in federal funds must submit the form "Certification Against Lobbying." It assures, generally, that recipients will not lobby federal entities with federal funds, and that, as is required, they will disclose other lobbying on form SF- LLL.
2. Form and instructions enclosed: "Form LLL, Disclosure of Lobbying Activities" must be submitted by those receiving more than \$100,000 in federal funds, to disclose any lobbying of federal entities (a) with profits from federal contracts or (b) funded with nonfederal funds.
3. Form and summary of Act enclosed: Sub-recipients of federal funds on any level must complete a "Certification Regarding Environmental Tobacco Smoke," required by Public Law 103-227, the Pro-Children Act of 1994. Such law prohibits smoking in any portion of any indoor facility owned or leased or contracted for regular provision of health, day care, early childhood development, education, or library services for children under the age of 18. Such language must be included in the conditions of award (they are included in the certification, which may be part of such conditions.) This does not apply to those solely receiving Medicaid or Medicare, or facilities where WIC coupons are redeemed.
4. In addition, federal law requires that:
  - A) OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations requires that grantees (both recipients and sub-recipients) which expend a total of \$300,000 or more (*\$500,000 for fiscal years ending after December 31, 2003*) in federal assistance shall have a single or program-specific audit conducted for that year in accordance with the provisions of the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156 and the Office of Management and Budget (OBM) Circular A-133. All sub-grantee audit reports, performed in compliance with the aforementioned Circular shall be forwarded within 30 days of report issuance to the DHMH, External Audit Division, Spring Grove Hospital-Tuerk Bldg., 55 Wade Avenue, Baltimore, MD 21228.
  - B) All sub-recipients of federal funds comply with Sections 503 and 504 of the Rehabilitation Act of 1973, the conditions of which are summarized in item (C).
  - C) Recipients of \$10,000 or more (on any level) must include in their contract language the requirements of Sections 503 (language specified) and 504 referenced in item (B).

Section 503 of the Rehabilitation Act of 1973, as amended, requires recipients to take affirmative action to employ and advance in employment qualified disabled people. An affirmative action program must be prepared and maintained by all contractors with 50 or more employees and one or more federal contracts of \$50,000 or more.

This clause must appear in subcontracts of \$10,000 or more:

- a) The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b) The contractor agrees to comply with the rules, regulations, and relevant orders of the secretary of labor issued pursuant to the act.
- c) In the event of the contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the secretary of labor issued pursuant to the act.
- d) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the director, provided by or through the contracting office. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- e) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- f) The contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the [federal] secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 791 et seq.) prohibits discrimination on the basis of handicap in all federally assisted programs and activities. It requires the analysis and making of any changes needed in three general areas of operation-programs, activities, and facilities and employment. It states, among other things, that:

*Grantees that provide health ... services should undertake tasks such as ensuring emergency treatment for the hearing impaired and making certain that persons with impaired sensory or speaking skills are not denied effective notice with regard to benefits, services, and waivers of rights or consents to treatments.*

- D) All sub-recipients comply with Title VI of the Civil Rights Act of 1964 that they must not discriminate in participation by race, color, or national origin.
- E) All sub-recipients of federal funds from SAMHSA (Substance Abuse and Mental Health Services Administration) or NIH (National Institute of Health) are prohibited from paying any direct salary at a rate more than Executive Level 1 per year. (This includes, but is not limited to, sub-recipients of the Substance Abuse Prevention and Treatment and the Community Mental Health Block Grants and NIH research grants.)

- F) There may be no discrimination on the basis of age, according to the requirements of the Age Discrimination Act of 1975.
- G) For any education program, as required by Title IX of the Education Amendments of 1972, there may be no discrimination on the basis of sex.
- H) For research projects, a form for Protection of Human Subjects (Assurance/ Certification/ Declaration) should be completed by each level funded, assuring that either: (1) there are no human subjects involved, or that (2) an Institutional Review Board (IRB) has given its formal approval before human subjects are involved in research. [This is normally done during the application process rather than after the award is made, as with other assurances and certifications.]
- I) In addition, there are conditions, requirements, and restrictions which apply only to specific sources of federal funding. These should be included in your grant/contract documents when applicable.

## U.S. Department of Health and Human Services

**CERTIFICATION REGARDING LOBBYING****Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Award No.	Organizational Entry
Name and Title of Official Signing for Organizational Entry	Telephone No. Of Signing Official
Signature of Above Official	Date Signed



## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether sub-awardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or sub-award recipient. Identify the tier of the sub-awardee, e.g., the first sub-awardee of the prime is the 1st tier. Sub-awards include but are not limited to subcontracts, sub-grants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Sub-awardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
10. (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form and print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

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Public Health Service  
Health Resources and  
Service Administration  
Rockville, MD 20857

**CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE**

Public Law 103-227, also known as the Pro Children Act of 1994, Part C Environmental Tobacco Smoke, requires that smoking not be permitted in any portion of any indoor facility owned, or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated or maintained with such Federal funds. The law does not apply to children's services provided in private residences, portions of facilities used for inpatient drug or alcohol treatment, service providers whose sole sources of applicable Federal funds is Medicare or Medicaid, or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing this certification, the offeror/contractor (for acquisitions) or applicant/grantee (for grants) certifies that the submitting organization will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

The submitting organization further agrees that it will require the language of this certification be included in any sub-awards which contain provisions for children's services and that all sub-recipients shall certify accordingly.

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Signature of Authorized Certifying Individual

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

**Reference COMAR 21.05.08.08**

**(submit with Bid/Proposal)**

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

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

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

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

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

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

Date:\_\_\_\_\_ By:\_\_\_\_\_  
(Authorized Representative and Affiant)

## ATTACHMENT J – NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT (“Agreement”) is made by and between the State of Maryland (the “State”), acting by and through its Department of Health and Mental Hygiene (the “Department”), and \_\_\_\_\_ ( the “Contractor”).

### RECITALS

**WHEREAS**, the Contractor has been awarded a contract (the “Contract”) following the solicitation for Dental Benefits Administrator, Solicitation # **DHMH OPASS 14-13780**; and

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

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

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

Personnel. Contractor shall, at its own expense, cooperate with the State in seeking injunctive or other equitable relief against any such person(s).

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

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

Contractor: \_\_\_\_\_

Maryland Department of Health and Mental Hygiene

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

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

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

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

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

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

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

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

## ATTACHMENT K – HIPAA BUSINESS ASSOCIATE AGREEMENT

### BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the “Agreement”) is made by and between the Office of Health Services, a unit of the Maryland Department of Health and Mental Hygiene (herein referred to as “Covered Entity”) and \_\_\_\_\_ (Insert Name of Contractor) (hereinafter known as “Business Associate”). Covered Entity and Business Associate shall collectively be known herein as the “Parties.”

WHEREAS, Covered Entity has a business relationship with Business Associate that is memorialized in a separate agreement (the “Underlying Agreement”) pursuant to which Business Associate may be considered a “business associate” of Covered Entity as defined in the Health Insurance Portability and Accountability Act of 1996 including all pertinent privacy regulations (45 C.F.R. Parts 160 and 164) and security regulations (45 C.F.R. Parts 160, 162, and 164), as amended from time to time, issued by the U.S. Department of Health and Human Services as either have been amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), as Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (collectively, “HIPAA”); and

WHEREAS, the nature of the contractual relationship between Covered Entity and Business Associate may involve the exchange of Protected Health Information (“PHI”) as that term is defined under HIPAA; and

WHEREAS, for good and lawful consideration as set forth in the Underlying Agreement, Covered Entity and Business Associate enter into this Agreement for the purpose of ensuring compliance with the requirements of HIPAA and the Maryland Confidentiality of Medical Records Act (Md. Ann. Code, Health-General §§ 4-301 *et seq.*) (“MCMRA”); and

WHEREAS, this Agreement supersedes and replaces any and all Business Associate Agreements the Covered Entity and Business Associate may have entered into prior to the date hereof;

NOW THEREFORE, the premises having been considered and with acknowledgment of the mutual promises and of other good and valuable consideration herein contained, the Parties, intending to be legally bound, hereby agree as follows:

#### DEFINITIONS.

- A. Catch-all definition. The following terms used in this Agreement, whether capitalized or not, shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.
- B. Specific definitions:

1. Business Associate. “Business Associate” shall generally have the same meaning as the term “business associate” at 45 C.F.R. 160.103, and in reference to the party to this agreement, shall mean (Insert Name of Contractor).
2. Covered Entity. “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 C.F.R. § 160.103, and in reference to the party to this agreement, shall mean (Office of Health Services).
3. HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Parts 160 and Part 164.
4. Protected Health Information (“PHI”). Protected Health Information or “PHI” shall generally have the same meaning as the term “protected health information” at 45 C.F.R. § 160.103.

#### **PERMITTED USES AND DISCLOSURES OF PHI BY BUSINESS ASSOCIATE.**

- A. Business Associate may only use or disclose PHI as necessary to perform the services set forth in the Underlying Agreement or as required by law.
- B. Business Associate agrees to make uses and disclosures and requests for PHI consistent with Covered Entity’s policies and procedures regarding minimum necessary use of PHI.
- C. Business Associate may not use or disclose PHI in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered Entity.
- D. Business Associate may, if directed to do so in writing by Covered Entity, create a limited data set, as defined at 45 CFR 164.514(e)(2) , for use in public health, research, or health care operations. Any such limited data sets shall omit any of the identifying information listed in 45 CFR § 164.514(e)(2). Business Associate will enter into a valid, HIPAA-compliant Data Use Agreement, as described in 45 CFR § 164.514(e)(4), with the limited data set recipient. Business Associate will report any material breach or violation of the data use agreement to Covered Entity immediately after it becomes aware of any such material breach or violation.
- E. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration, or legal responsibilities of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- F. The Business Associate shall not directly or indirectly receive remuneration in exchange for any PHI of an Individual pursuant to §§13405(d)(1) and (2) of the HITECH Act. This prohibition does not apply to the State’s payment of Business Associate for its performance pursuant to the Underlying Agreement.

- G. The Business Associate shall comply with the limitations on marketing and fundraising communications provided in §13406 of the HITECH Act in connection with any PHI of Individuals.

**DUTIES OF BUSINESS ASSOCIATE RELATIVE TO PHI.**

- A. Business Associate agrees that it will not use or disclose PHI other than as permitted or required by the Agreement or as Required by Law;
- B. Business Associate agrees to use appropriate administrative, technical and physical safeguards to protect the privacy of PHI.
- C. Business Associate agrees to use appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI, to prevent use or disclosure of PHI other than as provided for by the Agreement;
- D. 1. Business Associate agrees to Report to Covered Entity any use or disclosure of PHI not provided for by the Agreement of which it becomes aware, including breaches of unsecured PHI as required by 45 C.F.R. § 164.410, and any Security Incident of which it becomes aware without reasonable delay, and in no case later than fifteen calendar days after the use or disclosure;
2. If the use or disclosure amounts to a breach of unsecured PHI, the Business Associate shall ensure its report:
- A. Is made to Covered Entity without unreasonable delay and in no case later than fifteen (15) calendar days after the incident constituting the Breach is first known, except where a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security. For purposes of clarity for this Section III.D.1, Business Associate must notify Covered Entity of an incident involving the acquisition, access, use or disclosure of PHI in a manner not permitted under 45 C.F.R. Part E within fifteen (15) calendar days after an incident even if Business Associate has not conclusively determined within that time that the incident constitutes a Breach as defined by HIPAA;
- B. Includes the names of the Individuals whose Unsecured PHI has been, or is reasonably believed to have been, the subject of a Breach;
- C. Is in substantially the same form as **ATTACHMENT K-1** attached hereto; and
- D. Includes a draft letter for the Covered Entity to utilize to notify the affected Individuals that their Unsecured PHI has been, or is reasonably believed to have been, the subject of a Breach that includes, to the extent possible:
- i) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;

- ii) A description of the types of Unsecured PHI that were involved in the Breach (such as full name, Social Security number, date of birth, home address, account number, disability code, or other types of information that were involved);
  - iii) Any steps the affected Individuals should take to protect themselves from potential harm resulting from the Breach;
  - iv) A brief description of what the Covered Entity and the Business Associate are doing to investigate the Breach, to mitigate losses, and to protect against any further Breaches; and
  - v) Contact procedures for the affected Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, website, or postal address.
- E. To the extent permitted by the Underlying Agreement, Business Associate may use agents and subcontractors. In accordance with 45 C.F.R. §§ 164.502(e)(1)(ii) and 164.308(b)(2) shall ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information, Business Associate must enter into Business Associate Agreements with subcontractors as required by HIPAA;
- F. Business Associate agrees it will make available PHI in a designated record set to the Covered Entity, or, as directed by the Covered Entity, to an individual, as necessary to satisfy Covered Entity's obligations under 45 C.F.R. § 164.524, including, if requested, a copy in electronic format;
- G. Business Associate agrees it will make any amendment(s) to PHI in a designated record set as directed or agreed to by the Covered Entity pursuant to 45 C.F.R. § 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 C.F.R. § 164.526;
- H. Business Associate agrees to maintain and make available the information required to provide an accounting of disclosures to the Covered Entity or, as directed by the Covered Entity, to an individual, as necessary to satisfy Covered Entity's obligations under 45 C.F.R. § 164.528;
- I. To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s);
- J. Business Associate agrees to make its internal practices, books, and records, including PHI, available to the Covered Entity and/or the Secretary for purposes of determining compliance with the HIPAA Rules.
- K. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

#### IV. TERM AND TERMINATION

- A. Term. The Term of this Agreement shall be effective as of the effective date of the Contract entered into following the solicitation for Maryland Dental Benefits Administrator, Solicitation # **DHMH OPASS 14-13780** and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or the PHI created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, in accordance with the termination provisions in this Section IV, or on the date the Covered Entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner. If it is impossible to return or destroy all of the PHI provided by Covered Entity to Business Associate, or the PHI created or received by Business Associate on behalf of Covered Entity, Business Associate's obligations under this contract shall be ongoing with respect to that information, unless and until a separate written agreement regarding that information is entered into with Covered Entity.
- B. Termination for Cause. Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall:
1. Provide an opportunity for Business Associate to cure the breach or end the violation and, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, terminate this Agreement; or
  2. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and Covered entity determines or reasonably believes that cure is not possible.
- C. Effect of Termination.
1. Upon termination of this Agreement, for any reason, Business Associate shall return or, if agreed to by Covered Entity, destroy all PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that the Business Associate still maintains in any form. Business Associate shall retain no copies of the PHI. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.
  2. Should Business Associate make an intentional or grossly negligent Breach of PHI in violation of this Agreement or HIPAA or an intentional or grossly negligent disclosure of information protected by the MCMRA, Covered Entity shall have the right to immediately terminate any contract, other than this Agreement, then in force between the Parties, including the Underlying Agreement.
- D. Survival. The obligations of Business Associate under this Section shall survive the termination of this agreement.

#### V. CONSIDERATION

Business Associate recognizes that the promises it has made in this Agreement shall, henceforth, be detrimentally relied upon by Covered Entity in choosing to continue or commence a business relationship with Business Associate.

## **VI. REMEDIES IN EVENT OF BREACH**

Business Associate hereby recognizes that irreparable harm will result to Covered Entity, and to the business of Covered Entity, in the event of breach by Business Associate of any of the covenants and assurances contained in this Agreement. As such, in the event of breach of any of the covenants and assurances contained in Sections II or III above, Covered Entity shall be entitled to enjoin and restrain Business Associate from any continued violation of Sections II or III. Furthermore, in the event of breach of Sections II or III by Business Associate, Covered Entity is entitled to reimbursement and indemnification from Business Associate for Covered Entity's reasonable attorneys' fees and expenses and costs that were reasonably incurred as a proximate result of Business Associate's breach. The remedies contained in this Section VI shall be in addition to, not in lieu of, any action for damages and/or any other remedy Covered Entity may have for breach of any part of this Agreement or the Underlying Agreement or which may be available to Covered Entity at law or in equity.

## **VII. MODIFICATION; AMENDMENT**

This Agreement may only be modified or amended through a writing signed by the Parties and, thus, no oral modification or amendment hereof shall be permitted. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the HIPAA rules and any other applicable law.

## **VIII. INTERPRETATION OF THIS AGREEMENT IN RELATION TO OTHER AGREEMENTS BETWEEN THE PARTIES**

Should there be any conflict between the language of this Agreement and any other contract entered into between the Parties (either previous or subsequent to the date of this Agreement), the language and provisions of this Agreement shall control and prevail unless the parties specifically refer in a subsequent written agreement to this Agreement by its title and date and specifically state that the provisions of the later written agreement shall control over this Agreement.

## **IX. COMPLIANCE WITH STATE LAW**

The Business Associate acknowledges that by accepting the PHI from Covered Entity, it becomes a holder of medical information under the MCMRA and is subject to the provisions of that law. If the HIPAA Privacy or Security Rules and the MCMRA conflict regarding the degree of protection provided for PHI, Business Associate shall comply with the more restrictive protection requirement.

## **X. MISCELLANEOUS**

- A. Ambiguity. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy and Security Rules.
- B. Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

- C. Notice to Covered Entity. Any notice required under this Agreement to be given Covered Entity shall be made in writing to:

Ramiek James, Esq.  
Privacy Officer and Compliance Analyst  
Department of Health & Mental Hygiene  
Office of the Inspector General  
201 W. Preston Street, Floor 5  
Baltimore, MD 21201-2301  
Phone: (410) 767-5411

- D. Notice to Business Associate. Any notice required under this Agreement to be given Business Associate shall be made in writing to:

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

\_\_\_\_\_

Attention: \_\_\_\_\_

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

- E. Survival. Any provision of this Agreement which contemplates performance or observance subsequent to any termination or expiration of this contract shall survive termination or expiration of this Agreement and continue in full force and effect.
- F. Severability. If any term contained in this Agreement is held or finally determined to be invalid, illegal, or unenforceable in any respect, in whole or in part, such term shall be severed from this Agreement, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.
- G. Terms. All of the terms of this Agreement are contractual and not merely recitals and none may be amended or modified except by a writing executed by all parties hereto.
- H. Priority. This Agreement supersedes and renders null and void any and all prior written or oral undertakings or agreements between the parties regarding the subject matter hereof.

IN WITNESS WHEREOF and acknowledging acceptance and agreement of the foregoing, the Parties affix their signatures hereto.

**COVERED ENTITY:**

**BUSINESS ASSOCIATE:**

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

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

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

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

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

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

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

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

**FORM OF NOTIFICATION TO COVERED ENTITY OF  
BREACH OF UNSECURED PHI**

This notification is made pursuant to Section III.2.D(3) of the Business Associate Agreement between (Office of Health Services), a unit of the Maryland Department of Health and Mental Hygiene (DHMH), and \_\_\_\_\_ (Business Associate).

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

Description of the breach: \_\_\_\_\_  
\_\_\_\_\_

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

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

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

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

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

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

Contact information to ask questions or learn additional information:

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

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

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

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

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

## **ATTACHMENT L – MERCURY AFFIDAVIT**

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

**ATTACHMENT M-1**

## **VSBE Utilization Affidavit and Subcontractor Participation Schedule**

**(submit with Bid/Proposal)**

This document **MUST BE** included with the Bid/Proposal. If the Bidder/Offeror fails to complete and submit this form with the Bid/Proposal, the procurement officer may determine that the Bid is non-responsive or that the Proposal is not reasonably susceptible of being selected for award.

In conjunction with the Bid/Proposal submitted in response to Solicitation No. **14-13780**, I affirm the following:

1. ☐ I acknowledge and intend to meet the overall verified VSBE participation goal of **.5 %**. Therefore, I will not be seeking a waiver.

**OR**

- ☐ I conclude that I am unable to achieve the VSBE participation goal. I hereby request a waiver, in whole or in part, of the overall goal. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.13.07. If this request is for a partial waiver, I have identified the portion of the VSBE goal that I intend to meet.
2. I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 days of receiving notice of the apparent award or from the date of conditional award (per COMAR 21.11.13.06), whichever is earlier.
  - (a) Subcontractor Project Participation Statement (**Attachment M-2**); and
  - (b) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain Bidder/Offeror responsibility in connection with the VSBE participation goal.

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

3. In the solicitation of subcontract quotations or offers, VSBE subcontractors were provided not less than the same information and amount of time to respond as were non-VSBE subcontractors.
4. Set forth below are the (i) verified VSBEs I intend to use and (ii) the percentage of the total contract amount allocated to each VSBE for this project. I hereby affirm that the VSBE firms are only providing those products and services for which they are verified.

**VSBE Subcontractor Participation Schedule**

Prime Contractor (Firm Name, Address, Phone):	Project Description:
Project Number: DHMH OPASS ____ - _____	

## List Information For Each Verified VSBE Subcontractor On This Project

Name of Veteran-Owned Firm:	DUNS Number:
Percentage of Total Contract:	Description of work to be performed:
Name of Veteran-Owned Firm:	DUNS Number:
Percentage of Total Contract:	Description of work to be performed:
Name of Veteran-Owned Firm:	DUNS Number:
Percentage of Total Contract:	Description of work to be performed:
Name of Veteran-Owned Firm:	DUNS Number:
Percentage of Total Contract:	Description of work to be performed:

Continue on a separate page, if needed.

**SUMMARY****TOTAL VSBE Participation:** \_\_\_\_\_%

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

\_\_\_\_\_  
 Bidder/Offeror Name  
 (PLEASE PRINT OR TYPE)

\_\_\_\_\_  
 Signature of Affiant

Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

## VSBE Subcontractor Participation Statement

*Please complete and submit one form for each verified VSBE listed on Attachment M-1  
within 10 working days of notification of apparent award*

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

Prime Contractor (Firm Name, Address, Phone):	Project Description:
Project Number: DHMH OPASS ____ - _____	Total Contract Amount: \$
Name of Veteran-Owned Firm:	DUNS Number:
Work to Be Performed:	Total Subcontract Amount: \$
Percentage of Total Contract:	Total Subcontract Amount: \$

The undersigned Prime Contractor and Subcontractor hereby certify and agree that they have fully complied with the State Veteran-Owned Small Business Enterprise law, State Finance and Procurement Article, Title 14, Subtitle 6, Annotated Code of Maryland.

### PRIME CONTRACTOR SIGNATURE

### SUBCONTRACTOR SIGNATURE

By: \_\_\_\_\_  
Name, Title  
Date

By: \_\_\_\_\_  
Name, Title  
Date

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

## Attachment M-3

### Maryland Department of Health and Mental Hygiene Veterans Small Business Enterprise (VSBE) Participation Prime Contractor Paid/Unpaid VSBE Invoice Report

Report #: _____	Contract #: _____
Reporting Period (Month/Year): _____	Contracting Unit: _____
<b>Report is due to the Contract Monitor by the 10<sup>th</sup> of the month following the month the services were provided.</b>	Contract Amount: _____
	VSBE Subcontract Amt: _____
	Project Begin Date: _____
	Project End Date: _____
<b>Note: Please number reports in sequence</b>	Services Provided: _____

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

**\*\*If more than one VSBE subcontractor is used for this contract, you must use separate M-3 forms for each subcontractor.**

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

_____ Contract Monitor
_____ Contracting Unit
Department of Health and Mental Hygiene
_____
_____
_____

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

This form must be completed monthly  
by all VSBE subcontractors.

## ATTACHMENT M-4

### Veterans Small Business Enterprise Participation Subcontractor Paid/Unpaid VSBE Invoice Report

Report#: _____	Contract #
Reporting Period (Month/Year): _____	Contracting Unit:
<b>Report is due by the 10<sup>th</sup> of the month following the month the services were performed.</b>	VSBE Subcontract Amount:
	Project Begin Date:
	Project End Date:
	Services Provided:

VSBE Subcontractor Name:																						
Department of Veterans Affairs Certification #:																						
Contact Person:	E-mail:																					
Address:																						
City:	State:	ZIP:																				
Phone:	Fax:																					
<b>Subcontractor Services Provided:</b>																						
<b>List all payments received from Prime Contractor during reporting period indicated above.</b> <table border="1"> <thead> <tr> <th><u>Invoice Amt</u></th> <th><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td></tr> <tr><td>2.</td><td></td></tr> <tr><td>3.</td><td></td></tr> <tr> <td><b>Total Dollars Paid: \$</b> _____</td> <td></td> </tr> </tbody> </table>		<u>Invoice Amt</u>	<u>Date</u>	1.		2.		3.		<b>Total Dollars Paid: \$</b> _____		<b>List dates and amounts of any unpaid invoices over 30 days old.</b> <table border="1"> <thead> <tr> <th><u>Invoice Amt</u></th> <th><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td></tr> <tr><td>2.</td><td></td></tr> <tr><td>3.</td><td></td></tr> <tr> <td><b>Total Dollars Unpaid: \$</b> _____</td> <td></td> </tr> </tbody> </table>	<u>Invoice Amt</u>	<u>Date</u>	1.		2.		3.		<b>Total Dollars Unpaid: \$</b> _____	
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<b>Total Dollars Paid: \$</b> _____																						
<u>Invoice Amt</u>	<u>Date</u>																					
1.																						
2.																						
3.																						
<b>Total Dollars Unpaid: \$</b> _____																						
Prime Contractor:		Contact Person:																				

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

_____ Contract Monitor
_____ Contracting Unit
Department of Health and Mental Hygiene
_____
_____
_____
_____

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
(Required)

**ATTACHMENT N – CERTIFICATION REGARDING INVESTMENTS IN IRAN**

**CERTIFICATION REGARDING INVESTMENTS IN IRAN**

**(submit with Bid/Proposal)**

I, \_\_\_\_\_ (print name), possess the legal authority to make this Certification.

Pursuant to Md. Ann. Code, State Finance and Procurement Article, §§ 17-701 through 17-707, and in conjunction with the Bid or Proposal submitted in response to Solicitation No. **DHMH OPASS 14-13780**, the following certifications are hereby made:

1. The Bidder/Offeror is **not** identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in Md. Ann. Code, State Finance and Procurement Article § 17-702; and

2. The Bidder/Offeror is **not** engaging in investment activities in Iran as described in Md. Ann. Code, State Finance and Procurement Article § 17-702.

3. If the Bidder/Offeror is unable to make the certifications listed in paragraphs 1 and 2 above, the Bidder/Offeror shall provide a detailed description of the Bidder/Offeror's investment activities in Iran (attach additional pages if necessary):

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

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

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

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

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

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

**ATTACHMENT O – LOCATION OF THE PERFORMANCE OF SERVICES DISCLOSURE**

**(submit with Bid/Proposal)**

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

1. At the time of Bid/Proposal submission, the Bidder/Offeror and/or its proposed subcontractors:  
\_\_\_\_ have plans  
\_\_\_\_ have **no** plans

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

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

- a. Location(s) services will be performed:

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

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

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

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

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

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

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

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

**ATTACHMENT P – DHR HIRING AGREEMENT**

This solicitation does not require a DHR Hiring Agreement.

**ATTACHMENT Q – CMS-416 REPORTING FORM**

<b>State Code</b>	<b>Fiscal Year</b>								
		Totals	Age Group <1	Age Group 1-2	Age Group 3-5	Age Group 6-9	Age Group 10-14	Age Group 15-18	Age Group 19-20
1a. Total individuals eligible for EPSDT	CN:	0							
	MN:	0							
	Total:	0	0	0	0	0	0	0	0
1b. Total Individuals eligible for EPSDT for 90 Continuous Days	CN:	0							
	MN:	0							
	Total:	0	0	0	0	0	0	0	0
1c. Total Individuals Eligible under a CHIP Medicaid Expansion	CN:	0							
	MN:	0							
	Total:	0	0	0	0	0	0	0	0
2a. State Periodicity Schedule									
2b. Number of Years in Age Group			1	2	3	4	5	4	2
2c. Annualized State Periodicity Schedule			0.00	0.00	0.00	0.00	0.00	0.00	0.00
3a. Total Months of Eligibility	CN:	0							
	MN:	0							
	Total:	0	0	0	0	0	0	0	0
3b. Average Period of Eligibility	CN:	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	MN:	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Total:	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
4. Expected Number of Screenings per Eligible	CN:		0.00	0.00	0.00	0.00	0.00	0.00	0.00
	MN:		0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Total:		0.00	0.00	0.00	0.00	0.00	0.00	0.00
5. Expected Number	CN:	0	0	0	0	0	0	0	0

of Screenings	MN:	0	0	0	0	0	0	0	0
	Total:	0	0	0	0	0	0	0	0
6. Total Screens Received	CN:	0							
	MN:	0							
	Total:	0	0	0	0	0	0	0	0
7. SCREENING RATIO	CN:	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	MN:	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Total:	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
8. Total Eligibles Who Should Receive at Least One Initial or Periodic Screen	CN:	0	0	0	0	0	0	0	0
	MN:	0	0	0	0	0	0	0	0
	Total:	0	0	0	0	0	0	0	0
9. Total Eligibles Receiving at least One Initial or Periodic Screen	CN:	0							
	MN:	0							
	Total:	0	0	0	0	0	0	0	0
10. PARTICIPANT RATIO	CN:	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	MN:	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Total:	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
11. Total Eligibles Referred for Corrective Treatment	CN:	0							
	MN:	0							
	Total:	0	0	0	0	0	0	0	0
12a. Total Eligibles Receiving Any Dental Services	CN:	0							
	MN:	0							
	Total:	0	0	0	0	0	0	0	0
12b. Total Eligibles Receiving Preventive Dental Services	CN:	0							
	MN:	0							
	Total:	0	0	0	0	0	0	0	0
12c. Total Eligibles Receiving Dental Treatment Services	CN:	0							
	MN:	0							
	Total:	0	0	0	0	0	0	0	0
12d. Total Eligibles	CN:	0							

Receiving a Sealant on a Permanent Molar Tooth	MN:	0							
	Total:	0				0	0		
12e. Total Eligibles Receiving Dental Diagnostic Services	CN:	0							
	MN:	0							
	Total:	0	0	0	0	0	0	0	0
12f. Total Eligibles Receiving Oral Health Services provided by a Non-Dentist Provider	CN:	0							
	MN:	0							
	Total:	0	0	0	0	0	0	0	0
12g. Total Eligibles Receiving Any Dental Or Oral Health Service	CN:	0							
	MN:	0							
	Total:	0	0	0	0	0	0	0	0
13. Total Eligibles Enrolled in Managed Care	CN:	0							
	MN:	0							
	Total:	0	0	0	0	0	0	0	0
14. Total Number of Screening Blood Lead Tests	CN:	0							
	MN:	0							
	Total:	0	0	0	0				
* Includes 12-month visit									
Note: "CN"=Categorically Needy, "MN"= Medically Needy									
<p>Disclosure Statement - According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-0354. The time required to complete this information collection is estimated to average 28 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop: C7-26-05, Baltimore, Maryland 21244-1850.</p>									

## ATTACHMENT Q1 – CMS-416 DENTAL DATA SPECIFICATIONS

Include Medical Claim only (record code = 60) and

Recipient age < 21 and

Use First Date of Service for encounter claims (Claim Input Medium = 8).

Use Date Paid for all other claim input medium (claim Input Medium not equal 8).

Exclude coverage groups X02, L01, L99, P10, S09, S12, T01, T02, T03, T04 and T05.

**Medically Needy (MN)** groups must include only G98, E02, E03, S 98, S99, F99, H98, H99 and P09.

**Categorically Needy (CN)** must include all other groups except G98, E02, E03, S 98, S99, F99, H98, H99 and P09.

### Sub-Selection Criteria

#### **12a Total Eligibles Receiving Any Dental Services**

Procedure codes are D0100 to D9999.

#### **12b Total Eligibles Receiving Preventive Dental Services**

Procedure codes are D1000 to D1999.

#### **12c Total Eligibles Receiving Dental Treatment Services**

Procedure codes are D2000 to D9999.

#### **12d Total Eligibles Receiving a Sealant on a Permanent Molar Tooth**

Procedure code is D1351.

#### **12e Total Eligibles Receiving Diagnostic Dental Services**

Procedure codes are D0120 to D0180.

#### **12f Total Eligibles Receiving Oral Health Services Provided by a Non-Dentist**

Enter the unduplicated number of children receiving at least one oral health service as defined as HCPCS or CDT code furnished by a licensed practitioner that is not a dentist. For example, a pediatrician that applies a fluoride varnish or an independently practicing dental hygienist not under the supervision of a dentist furnishing a prophylaxis. Examples only; reporting is not limited to these instances.

#### **12g Total Eligibles Receiving Any Dental or Oral Health Service**

Enter the unduplicated number of children who received a dental service by or under the supervision of a dentist or an oral health service by a non-dentist. A child should only be counted once on this line even if the child received a dental service and an oral health service.

**ATTACHMENT R – HEALTHCHOICE DENTAL BENEFITS FOR PREGNANT PARTICIPANTS AND REM PARTICIPANTS OVER 21 YEARS**

**D0100-D0999**

**DIAGNOSTIC**

**Clinical Oral Examination**

D0120	Periodic oral examination
D0140	Limited oral examination-problem focused
D0150	Comprehensive oral examination

**Radiographs/Diagnostic Imaging (X-rays)**

D0220	X-ray intraoral periapical, single first film
D0230	X-ray intraoral periapical, each additional film
D0270	X-ray bitewing single film
D0272	X-ray bitewings two films
D0330	Panoramic film

**D1000-D1999**

**PREVENTIVE CARE**

**Dental Prophylaxis**

*\*\* Limited to 2 per patient per year*

D1110	Prophylaxis - Adult
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**Topical Fluoride Treatment (Office Procedure)**

*\*\* Limited to 2 per patient per year*

D1208	Topical application of fluoride
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**D2000-D2999**

**RESTORATIVE**

**Amalgam Restorations (including Polishing)**

*\*\* Amalgam restorations are limited to 1 identical restoration per tooth per year*

D2140	Amalgam 1 surface, permanent
D2150	Amalgam 2 surface, permanent
D2160	Amalgam 3 surfaces, permanent
D2161	Amalgam 4 or more surfaces, permanent

**Resin Restorations**

*\*\* Resin restorations are limited to 1 identical restoration per tooth per year*

D2330	Resin 1 surface, anterior
D2331	Resin 2 surfaces, anterior
D2332	Resin 3 surfaces, anterior
D2335	Resin 4 or more surfaces or involving incisal angle, anterior

**Other Restorative Services**

D2391	Resin based composite - 1 surface, posterior
D2392	Resin based composite - 2 surfaces, posterior
D2393	Resin based composite - 3 surfaces, posterior
D2394	Resin based composite - 4 surfaces, posterior
D2740	Crown-porcelain/ceramic substrate
D2750	Crown-porcelain fused to high noble
D2751	Crown-porcelain fused to metal
D2752	Crown-porcelain fused to noble metal
D2780	Crown-3/4 cast high noble metal
D2781	Crown-3/4 cast predominantly base metal
D2782	Crown-3/4 cast noble metal
D2783	Crown-3/4 porcelain/ceramic
D2790	Crown-full cast high noble
D2792	Crown-full cast high noble metal
D2794	Crown-titanium
D2920	Recement Crowns <i>(not permitted more than twice for same crown)</i>
D2931	Prefab Stainless Steel Crown - Permanent Tooth
D2940	Fillings - Sedative (Interim or temporary filling)
D2951	Pin retention-per tooth, in addition to restoration
<b>D3000-D3999</b>	
<b>ENDODONTICS</b>	
<b>Pulp Capping</b>	
D3110	Pulp Cap - direct (Excluding final restoration)
D3120	Pulp Cap - indirect (Excluding final restoration)
D3310	Endodontic therapy, anterior (exc final restore)
D3320	Endodontic therapy, bicuspid (exc final restore)
D3330	Endodontic therapy, molar (exc final restore)
<b>D4000-D4999</b>	
<b>PERIODONTICS</b>	
<b>Surgical Services</b>	
D4210	Gingivectomy or gingivoplasty - per quadrant <i>(Limit 2 quadrants per year per patient)</i>
<b>Adjunctive Periodontal Service</b>	
D4341	Periodontal scaling & root planing per quadrant
D4355	Full mouth debridement <i>(Limited to 1 per patient per 2 years, prophylaxis cannot be completed on the same day as full mouth debridement)</i>
D4910	Periodontal Maintenance - following active periodontal therapy <i>(limited to 2 per patient per year)</i>

<b>D5000-D5899</b>		<b>PROSTHODONTICS (REMOVABLE)</b>
<b>Adjustment</b>		
D5410	Adjust complete denture - maxillary	
D5411	Adjust complete denture - mandibular	
D5421	Adjust partial denture - maxillary	
D5422	Adjust partial denture - mandibular	
<b>D6200-D6999</b>		<b>PROSTHODONTICS (FIXED)</b>
<b>Fixed Prosthodontics Services</b>		
D6930	Recement Bridge <i>(not permitted more than twice for same bridge)</i>	
<b>D7000-D7999</b>		<b>ORAL SURGERY</b>
<b>extractions</b>		
D7111	Extraction, coronal remnants, deciduous teeth	
D7140	Extraction, erupted tooth or exposed root	
<b>Other Surgical Procedures</b>		
<del>D7210</del>	<del>Surgical removal of erupted tooth requiring removal of bone</del>	
<del>D7220</del>	<del>Removal of impacted tooth soft tissue</del>	
<del>D7230</del>	<del>Removal of impacted tooth partially bony</del>	
<del>D7240</del>	<del>Removal of impacted tooth completely bony</del>	
<del>D7250</del>	<del>Surgical removal of residual tooth roots</del>	
D7285	Biopsy oral tissue - hard	
D7286	Biopsy oral tissue - soft	
<b>Alveoplasty - Surgical Preparation of Ridge for Dentures</b>		
D7310	Alveoloplasty in conjunction with extractions - per quadrant	
D7320	Alveoloplasty not in conjunction with extractions - per quadrant	
<b>Surgical Incision</b>		
D7510	Incision and drainage of abscess intraoral	
<b>D9000-D9999</b>		<b>ADJUNCTIVE GENERAL SERVICES</b>
<b>Unclassified Treatment</b>		
D9110	Palliative (emergency) treatment of dental pain <i>(not in association with a recently rendered service)</i>	
D9220	General anesthesia – first 30 minutes	
D9221	General anesthesia – each additional 15 minutes	
D9230	Inhalation of nitrous oxide	
D9241	Intravenous sedation – first 30 minutes	
D9242	Intravenous sedation – each additional 15 minutes	
D9248	Non-intravenous conscious sedation	

<b>ATTACHMENT S – MARYLAND MEDICAID DENTAL FEE SCHEDULE AND PROCEDURE CODES</b>
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To find the current Maryland Medicaid dental fee schedule, please visit the following link:  
<https://mmcp.dhmf.maryland.gov/docs/CDT-2011-2012.pdf>.

**ATTACHMENT T – STATE OF MARYLAND INFORMATION TECHNOLOGY SECURITY  
POLICY AND STANDARDS**

Link to State of Maryland Information Technology Security Policy and Standards:

[http://www.dbm.maryland.gov/dbm\\_publishing/public\\_content/dbm\\_taxonomy/security/prevention/itsecuritypolicies.pdf](http://www.dbm.maryland.gov/dbm_publishing/public_content/dbm_taxonomy/security/prevention/itsecuritypolicies.pdf)

## ATTACHMENT U – EPSDT DENTAL PERIODICITY SCHEDULE

The EPSDT program is a federally mandated program for children from birth through 20 years that emphasizes the importance of prevention, early detection, risk assessment and timely treatment of conditions identified as a result of dental screening. Children enrolled in Medicaid or SCHIP are eligible for full EPSDT benefits in Maryland. Participants attaining the age of 21 are treated as adults beginning with the first month following their birthday. All dental services provided by the DBA to children are EPSDT services. These are described as follows:

1. **Early** - A child's dental health is assessed as early as possible in the child's life by the Primary Care Dentist (PCD) in order to prevent or find potential diseases and/or disabilities in their early stages, when they are most effectively treated.
2. **Periodic** - The PCD will assess a child's dental health at regularly scheduled intervals to assure that a condition, illness, or injury is not incipient or present.
3. **Screening** - A dental health assessment to determine if a child is at risk and/or has a condition, illness, or injury that requires more definitive evaluation and/or treatment.
4. **Diagnosis** - The definitive evaluation by appropriate dental practitioners to determine the nature, extent or cause of a condition, illness, or injury.
5. **Treatment** - The dental services determined to be medically necessary for problems identified during screening or diagnostic evaluations.

Dental services should be provided at intervals that meet reasonable standards of dental practice. The State accepts the periodicity schedule developed by the American Academy of Pediatric Dentistry (AAPD) as the dental periodicity schedule for the Maryland Medicaid Program. The vendor will educate providers and parents concerning this schedule and will monitor and send post cards to educate parents on the services needed to bring their child up-to-date on dental treatment. The schedule can be found on the next page of this attachment. The page following that page includes the list of procedure codes covered for children under the Maryland Medicaid Program.

(12) At first, discuss the need for additional sucking: digits vs. pacifiers; then the need to wean from the habit before malocclusion of skeletal dysplasia occurs. For school age children and adolescent patients, counsel regarding any existing habits such as fingernail biting, clenching or bruxism.

(13) For caries susceptible molars, permanent molars, premolars and anterior teeth with deep pots and fissures; placed on as soon as possible after eruption.

Service	6-12 months	12-24 months	2-6 years	6-12 years	12 years and older
Clinical oral examination (1, 2)	•	•	•	•	•
Assess oral growth (3)	•	•	•	•	•
Caries risk assessment (4)	•	•	•	•	•
Radiographic assessment (5)	•	•	•	•	•
Prophylaxis and topical fluoride (4, 5)	•	•	•	•	•
Fluoride supplementation (6, 7)	•	•	•	•	•
Anticipatory counseling (8)	•	•	•	•	•
Oral Hygiene counseling (9)	Parent	Parent	Patient/parent	Patient/parent	Patient
Dietary counseling (10)	•	•	•	•	•
Injury prevention counseling (11)	•	•	•	•	•
Counseling for nonnutritive habits (12)	•	•	•	•	•
Counseling for speech/language development	•	•	•		
Substance abuse counseling				•	•
Counseling for oral piercing				•	•
Assessment and treatment of developing malocclusion			•	•	•
Assessment for pit and fissure sealants (13)			•	•	•
Assessment and/or removal of third molars				•	•
Transition to adult dental care				•	•

(1) First examination should occur at the eruption of the first tooth and no later than 12 months. Repeat every 6 months.

(2) Includes assessment of pathology and injuries.

(3) By clinical examination.

(4) Must be repeated regularly and frequently to maximize effectiveness.

(5) Timing selection and frequency determined by child's history, clinical findings and susceptibility to oral diseases.

(6) Consider when systemic fluoride exposure is suboptimal.

(7) Up to at least 16 years of age.

(8) Appropriate discussion and counseling should be an integral part of each visit for care.

(9) Initially, responsibility of parent; as child develops, jointly with parent; then, when indicated, only child.

(10) At every appointment; initially discuss appropriate feeding practices, then the role of refined carbohydrates and frequency of snacking in caries development.

(11) Initially play objects, pacifiers, car seats; then when learning to walk, sports and routine playing, including the importance of the mouth guard.

## ATTACHMENT V – ELIGIBILITY FILE LAYOUT

### **6 Recipient File Layouts:**

DEMOGRAPHIC

ID-LINK

ELIGIBILITY

TPL-CARRIER

TPL-RECIPIENT

BUYIN

### **DEMOGRAPHIC**

FIELD LEVEL/NAME	PICTURE	FIELD	START	END	LENGTH
:N:2700100-DEMOGRAPHIC-REC			1	300	300
5 :N:2700100-DEMO-UPDT-CD	X	1	1	1	1
5 :N:2700100-RECIP-ORIG-ID	9(11)	2	2	12	11
5 :N:2700100-RECIP-SS-NUMBER	9(9)	3	13	21	9
5 :N:2700100-RECIP-NAME	GROUP	4	22	61	40
10 :N:2700100-LAST-NAME	X(20)	5	22	41	20
10 :N:2700100-FIRST-NAME	X(15)	6	42	56	15
10 :N:2700100-MIDDLE-INIT	X	7	57	57	1
10 :N:2700100-SUFFIX	X(4)	8	58	61	4
5 :N:2700100-PHONE-NUM	9(10)	9	62	71	10
5 :N:2700100-BIRTH-DATE	X(10)	10	72	81	10
5 :N:2700100-DEATH-DATE	X(10)	11	82	91	10
5 :N:2700100-ADDRESS-1	X(22)	12	92	113	22

5 :N:2700100-ADDRESS-2	X(22)	13	114	135	22
5 :N:2700100-COUNTY	99	14	136	137	2
5 :N:2700100-STATE	XX	15	138	139	2
5 :N:2700100-ZIP-CODE	9(9)	16	140	148	9
5 :N:2700100-RACE-CODE	X	17	149	149	1
5 :N:2700100-MEDICARE-ID-NUM	X(12)	18	150	161	12
5 :N:2700100-ESPDT-IND	X	19	162	162	1
5 :N:2700100-SEX-CD	X	20	163	163	1
5 :N:2700100-TPL-IND	XX	21	164	165	2
5 :N:2700100-INSURANCE-CD	XX	22	166	167	2
5 :N:2700100-DATE-OF-ENTRY	X(10)	23	168	177	10
5 :N:2700100-RECIP-ID-NUM	X(11)	24	178	188	11
5 :N:2700100-BUY-IN-IND	X	25	189	189	1
5 :N:2700100-DUP-CARD-CODE	9	26	190	190	1
5 :N:2700100-CITIZEN-VERIFY	X	27	191	191	1
5 :N:2700100-IDENTITY-VERIFY	X	28	192	192	1
5 :N:2700100-REDET-DTE	X(10)	29	193	202	10
5 :N:2700100-CITY	X(18)	30	203	220	18
5 :N:2700100-HOH-NAME	X(25)	31	221	245	25
5 :N:2700100-HOH-CASE	9(9)	32	246	254	9
5 :N:2700100-BASE-FILLER	X(46)	33	255	300	46

**ID-LINK**

FIELD LEVEL/NAME	PICTURE	FIELD	START	END	LENGTH
:N:2700200-ID-LINK-RECORD			1	68	68
5 :N:2700200-IDLK-UPDT-CD	X	1	1	1	1
5 :N:2700200-RECIP-ORIG-ID	9(11)	2	2	12	11
5 :N:2700200-MAID	9(11)	3	13	23	11
5 :N:2700200-DATE-OF-ID-CHANGE	X(10)	4	24	33	10
5 :N:2700200-RECIP-ID-END-DATE	X(10)	5	34	43	10
5 :N:2700200-ALIAS-FILLER	X(25)	6	44	68	25

**ELIGIBILITY**

FIELD LEVEL/NAME	PICTURE	FIELD	START	END	LENGTH
:N:2700300-ELIGIBILITY-RECORD			1	81	81
5 :N:2700300-ELIG-UPDT-CD	X	1	1	1	1
5 :N:2700300-RECIP-ORIG-ID	9(11)	2	2	12	11
5 :N:2700300-COVERAGE-GRP	XXX	3	13	15	3
5 :N:2700300-ELIG-BEG-DT	X(10)	4	16	25	10
5 :N:2700300-ELIG-END-DT	X(10)	5	26	35	10
5 :N:2700300-SPLIT-BILL-AMT	9(7)V99	6	36	44	9
5 :N:2700300-PROG-PART-IND	XXX	7	45	47	3
5 :N:2700300-PROG-PROV-NUM	9(9)	8	48	56	9
5 :N:2700300-PROG-PROV-NUM2	9(9)	9	57	65	9
5 :N:2700300-COVERAGE-TYPE	X	10	66	66	1
5 :N:2700300-ELIG-FILLER	X(15)	11	67	81	15

**TPL-CARRIER**

FIELD LEVEL/NAME	PICTURE	FIELD	START	END	LENGTH
:N:2700400-TPL-CARRIER-RECORD			1	145	145
5 :N:2700400-TPL-CARRIER-CD	X(6)	1	1	6	6
5 :N:2700400-TPL-INS-CO-NAME	X(25)	2	7	31	25
5 :N:2700400-TPL-ADDR-LINE-1	X(25)	3	32	56	25
5 :N:2700400-TPL-ADDR-LINE-2	X(25)	4	57	81	25
5 :N:2700400-TPL-CITY	X(18)	5	82	99	18
5 :N:2700400-TPL-STATE	XX	6	100	101	2
5 :N:2700400-TPL-ZIP-PLUS-4	9(9)	7	102	110	9
5 :N:2700400-TPL-PHONE-NUM	9(10)	8	111	120	10
5 :N:2700400-TPL-CARRIER-FILLER	X(25)	9	121	145	25

**TPL-RECIPIENT**

FIELD LEVEL/NAME	PICTURE	FIELD	START	END	LENGTH
:N:2700500-TPL-RECIPIENT-RECORD			1	93	93
5 :N:2700500-TPL-UPDT-CD	X	1	1	1	1
5 :N:2700500-RECIP-ORIG-ID	9(11)	2	2	12	11
5 :N:2700500-TPL-CARRIER	X(6)	3	13	18	6
5 :N:2700500-TPL-POLICY	X(15)	4	19	33	15
5 :N:2700500-TPL-GROUP-NM	X(15)	5	34	48	15
5 :N:2700500-TPL-BEG-DT	X(10)	6	49	58	10
5 :N:2700500-TPL-END-DT	X(10)	7	59	68	10

5 :N:2700500-TPL-TYPE-COV	X	8	69	69	1
5 :N:2700500-TPL-FILLER	X(24)	9	70	93	24

# **BUYIN**

FIELD LEVEL/NAME	PICTURE	FIELD	START	END	LENGTH
:N:2700600-RECIP-BUYIN-RECORD			1	58	58
5 :N:2700600-BUYIN-UPDT-CD	X	1	1	1	1
5 :N:2700600-RECIP-ORIG-ID	9(11)	2	2	12	11
5 :N:2700600-BUYIN-IND	X	3	13	13	1
5 :N:2700600-BUYIN-BEG-DT	X(10)	4	14	23	10
5 :N:2700600-BUYIN-END-DT	X(10)	5	24	33	10
5 :N:2700600-BUYIN-FILLER	X(25)	6	34	58	25

<b>ATTACHMENT W – MARYLAND’S 2012 ANNUAL ORAL HEALTH LEGISLATIVE REPORT</b>
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A link to review and download Maryland’s 2012 Annual Oral Health Legislative Report in its entirety is below:

<http://phpa.dhmdh.maryland.gov/oralhealth/Documents/Maryland%27s%202012%20Annual%20Oral%20Health%20Legislative%20Report.pdf>

The 2013 Annual Oral Health Legislative Report will be available in September 2013. All interested parties and bidders will receive the report upon its availability.

## ATTACHMENT X – CONNECTIVITY TO DHMH FILE EXCHANGE SYSTEMS

### Connectivity to DHMH File Exchange Systems

- 1) CONNECT:DIRECT,
- 2) MMEE
- 3) sFTP (Secure FTP)
- 4) eMedicaid
- 5) Email

#### 1) **CONNECT:DIRECT**

Interface files between Department and DBA Contractor:

- Recipient Eligibility file
- Provider file
- Claims History (pre-transition)
- Encounter History (pre-transition)

**CONNECT:DIRECT** by IBM (formerly Sterling Commerce) is the supported connectivity standards for file exchange between Annapolis Data Center (ADC) and vendors of the State of Maryland.

Vendors will establish connectivity via Connect Direct through ADC. ADC uses an I/P solution for their Connect Direct customers. The IP connection using Connect:Direct will be over the internet, not a private connection to ADC. With the connection via the internet, vendors must encrypt all files using the Secure+ feature which is an additional add-on to the Connect:Direct software.

For more information go to:

<http://www.adc.state.md.us/filetransfer/connectdirect.asp>

#### 2) **MMEE: MARYLAND MEDICAID ELECTRONIC EXCHANGE WEB PORTAL**

Exchange 837D claims and 835 Remittance Advice transactions:

- 837 Health Care Dental Claim ANSI X12N 005010X224A2
- 835 Health Care Claim Payment/Advice ANSI X12N 005010X221A1
- 997 Acknowledgement 005010X230 or 999 Acknowledgment 005010X231A1

## **MMEE Web Portal:**

By using <https://editps.dhmh.state.md.us>, you are using a secure web site/FTP server. Your file is encrypted through a secure server using SSL 128 bit encryption.

DBA Contractor must complete trading partner agreement and enrollment forms to enroll as EDI submitter with the State of Maryland's Department Health and Mental Hygiene. To enroll, follow the instructions at: <http://dhmh.maryland.gov/hipaa/SitePages/testinstruct.aspx>

### **3) sFTP (Secure FTP)**

DHMH and the DBA Contractor will utilize DHMH's secure FTP server to exchange various reports as defined with the RFP. The DBA Contractor will enroll for FTP access when requesting access to the MMEE Web Portal. The DBA Contractor will provide their PGP (or GPG) public key.

### **4) EMEDICAID**

DBA Contractor will access eMedicaid to maintain their provider network in MMIS.

To enroll for a Provider ID or request access to eMedicaid go to: [www.emdhealthchoice.org](http://www.emdhealthchoice.org), click on 'Services for Medical Care Providers' and then click on 'Web Service's User Guide.

### **5) EMAIL**

DHMH and the DBA Contractor will utilize email to exchange various reports that do not contain PHI information along with general communications.

# ATTACHMENT Y – SERVING CAPACITY OF COMMUNITY DENTAL CLINICS IN MARYLAND

This table provides an overview of the serving capacity of community dental public health clinics. Throughout, it excludes local health departments, and the University of Maryland Dental School (unless otherwise noted). The table provides a detailed summary of the serving capacity of those localities that provide community health clinics.

	No. Chairs	Dentists	Dental Hygienist	Dental Assistant	Capacity	Waiting Period	No. Waiting
<b>Baltimore City</b>							
Chase Brexton Health Services	6 (8 in 45 days)	2	1	4	40	24-48 hrs	0
Park West Medical Center	5	3	0	2	unknown	3 weeks	unknown
People's Community Health Center	No response						
Family Health Centers of Baltimore	4	1 once wkly child m-f Adult	0	2	15/day	18 weeks	30
Health Care for the Homeless	3	1	1	1	18	0	0
Total Health Care	15	5	1	7	No response	No response	No response

## Anne Arundel County

People's Community Health Center	No response						
<b>Baltimore County</b>							
Chase Brexton Health Services	2	1	0	1	14	24-48 hrs	0
<b>Caroline County</b>							
Choptank Community Health System	12	3	3	5	65	4 weeks	0
<b>Charles County</b>							
Greater Baden ( No longer provide dental services in Charles Co)							
<b>Dorchester County</b>							
Choptank Community Health System	7	3	2	4	40	4 weeks	0
<b>Howard County</b>							
Chase Brexton Health Services	3	1	1	1	26	24-48 hrs	0
<b>Montgomery County</b>							
Community Clinic	3	1	1	2	28/day	none	none
<b>Prince Georges</b>							
Community Clinic (New Site - Opened 8/7/13)	3	1	1	2	28/day	none	none
		1 and 1 part-time dentist					
Greater Baden	3		0	2	20	2 weeks	0

**Somerset County**

						adults-3 mos, child-2 wks	23-30
Three Lower Counties Community Services	27	18	3	12	90-100		

**Washington County**

Walnut Street	4	3 /PT	1	3	50/day	5 weeks	none
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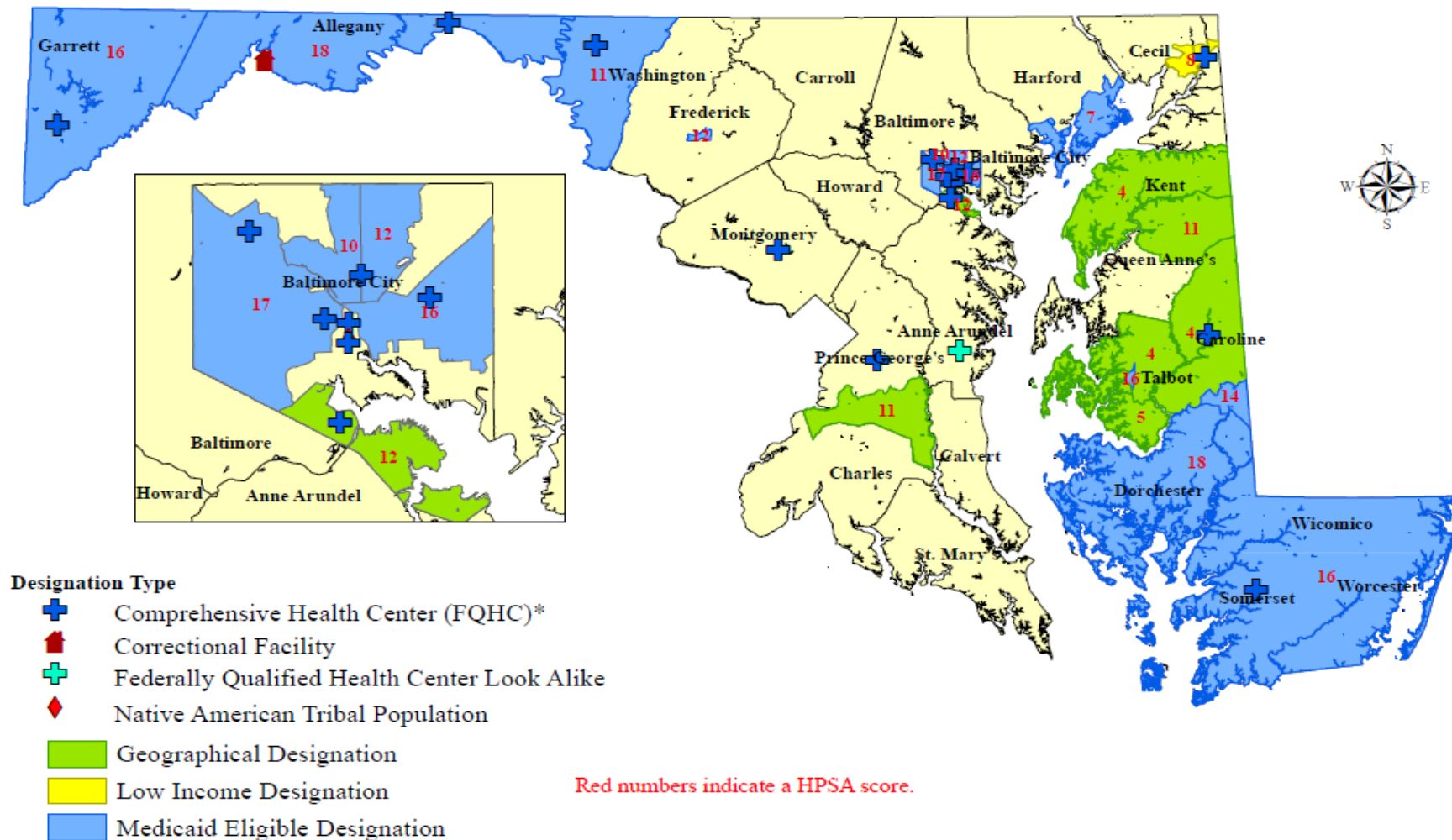
**Wicomico County**

None ( Note: No Additional TLC Sites)

**Washington, DC**

								1
Mary's Center	5	4	4	5	70-90	none	60-100	month

## Maryland Health Professional Shortage Area (HPSA) Designations for Dental Care as of 08/13/2013




\*Only the headquarter sites are displayed.

Created by Office of Primary Care Access, HSIA, Maryland DHMH. Last reviewed 08/13/2013  
Source: HRSA Data Warehouse and 2010 Census. For more information on federal shortage designations, visit <http://hpsafind.hrsa.gov>

# ATTACHMENT AA – AAPD RECOMMENDATIONS FOR PEDIATRIC ORAL HEALTH ASSESSMENT, PREVENTIVE SERVICES, AND ANTICIPATORY GUIDANCE/COUNSELING

## Recommendations for Pediatric Oral Health Assessment, Preventive Services, and Anticipatory Guidance/Counseling

Since each child is unique, these recommendations are designed for the care of children who have no contributing medical conditions and are developing normally. These recommendations will need to be modified for children with special health care needs or if disease or trauma manifests variations from normal. The American Academy of Pediatric Dentistry (AAPD) emphasizes the importance of very early professional intervention and the continuity of care based on the individualized needs of the child. Refer to the text of this guideline for supporting information and references.

 <b>AMERICAN ACADEMY OF PEDIATRIC DENTISTRY</b>	<b>AGE</b>				
	<b>6 TO 12 MONTHS</b>	<b>12 TO 24 MONTHS</b>	<b>2 TO 6 YEARS</b>	<b>6 TO 12 YEARS</b>	<b>12 YEARS AND OLDER</b>
Clinical oral examination <sup>1</sup>	•	•	•	•	•
Assess oral growth and development <sup>2</sup>	•	•	•	•	•
Caries-risk assessment <sup>3</sup>	•	•	•	•	•
Radiographic assessment <sup>4</sup>	•	•	•	•	•
Prophylaxis and topical fluoride <sup>3,4</sup>	•	•	•	•	•
Fluoride supplementation <sup>5</sup>	•	•	•	•	•
Anticipatory guidance/counseling <sup>6</sup>	•	•	•	•	•
Oral hygiene counseling <sup>7</sup>	Parent	Parent	Patient/parent	Patient/parent	Patient
Dietary counseling <sup>8</sup>	•	•	•	•	•
Injury prevention counseling <sup>9</sup>	•	•	•	•	•
Counseling for nonnutritive habits <sup>10</sup>	•	•	•	•	•
Counseling for speech/language development	•	•	•		
Substance abuse counseling				•	•
Counseling for intraoral/perioral piercing				•	•
Assessment and treatment of developing malocclusion			•	•	•
Assessment for pit and fissure sealants <sup>11</sup>			•	•	•
Assessment and/or removal of third molars					•
Transition to adult dental care					•

1 First examination at the eruption of the first tooth and no later than 12 months. Repeat every 6 months or as indicated by child's risk status/susceptibility to disease. Includes assessment of pathology and injuries.

2 By clinical examination.

3 Must be repeated regularly and frequently to maximize effectiveness.

4 Timing, selection, and frequency determined by child's history, clinical findings, and susceptibility to oral disease.

5 Consider when systemic fluoride exposure is suboptimal. Up to at least 16 years.

6 Appropriate discussion and counseling should be an integral part of each visit for care.

7 Initially, responsibility of parent; as child matures, jointly with parent; then, when indicated, only child.

8 At every appointment; initially discuss appropriate feeding practices, then the role of refined carbohydrates and frequency of snacking in caries development and childhood obesity.

9 Initially play objects, pacifiers, car seats; when learning to walk; then with sports and routine playing, including the importance of mouthguards.

10 At first, discuss the need for additional sucking: digits vs pacifiers; then the need to wean from the habit before malocclusion or skeletal dysplasia occurs. For school-aged children and adolescent patients, counsel regarding any existing habits such as fingernail biting, clenching, or bruxism.

11 For caries-susceptible primary molars, permanent molars, premolars, and anterior teeth with deep pits and fissures; placed as soon as possible after eruption.

**ATTACHMENT BB – LOCAL HEALTH DEPARTMENTS DENTAL CAPACITY**

COUNTY	ON SITE CLINICS	NO. CHAIRS	DENTISTS	DENTAL HYG.	DENTAL ASST.	NOTES
ALLEGHANY	Y	4	6 total (2-8hrs wk, 1- 16hrs mos, 2- 12hrs wk, 1-28hrs wk	4 total (4-40hrs, 1-32hrs wk, 1- 16hrs wk)	5 total (2-24hrs wk, 1-40hrs wk, 216hrs per mos)	
Anne Arundel	Y	5	7 (see notes)	5 (40hrs ea. Per wk)	3 (40hrs ea. Per wk)	1- on call 24hrs mos, 1- 24 hrs wk, 1- 32hrs wk,2- 8hrs per wk, 2- 40hrs per wk
Balto. County	Y	6	3- 35hrs ea. Per wk	2- 35 hrs ea.	3- 35 hrs ea.	
Carroll	Y	3	2-(1-24hrs , 1-8hrs)	2- (1-16hrs pr wk, 1-16hrs per mos)	2 (32hrs ea per wk)	
Frederick	Y	4	4(see notes)	1 (35hrs)	3 (35hrs ea. Per wk)	1-14hrs wk, 1-21hrs wk, 1-20hrs wk, 1- 10hrs wk
Garrett	Y	3	1 (40hrs)	1 (40hrs)	2 (30hrs ea.)	
Harford						
Howard						
Montgomery						
Pr. Georges	Y	5	2 (see notes)	1 (8hrs mos)	2 (40hrs ea.)	1-8hrs wk sch yr & 36hrs wk summer mos, 1- 24hrs wk
Washington						
Wicomico	Y	6	3 total (1-24hrs wk, 2- 16hrs wk)	3 total (1-40hrs, 2- 24hrs)	2 total (40hrs ea )	
Calvert						
Caroline						
Cecil						

Charles	Y	3	3 & 2 PRN	1PRN (8hrs wk)	4 total 3- 40hrs wk, 1-32hrs wk	
Dorchester						
Kent	Y	4	0	1 (40hrs)	1 (36hrs sch yr)	
Queen Anne's						
St. Mary's						
Somerset						
Talbot						
Worcester	Y	7	1 (40hrs)	1 (40hrs)	1 (40hrs)	