STATE OF MARYLAND

MARYLAND BOARD OF PHYSICIANS

MBP

REQUEST FOR PROPOSALS (RFP)

MARYLAND BOARD OF PHYSICIANS REHABILITATION PROGRAM

RFP NUMBER 21-18481

ISSUE DATE: FEBRAURY 13, 2020

NOTICE TO OFFERORS

SMALL BUSINESS RESERVE PROCUREMENT

This is a Small Business Reserve Procurement for which award will be limited to certified small business vendors. Only businesses that meet the statutory requirements set forth in State Finance and Procurement Article, §§14-501 —14-505, Annotated Code of Maryland, and that are certified by the Governor's Office of Small, Minority & Women Business Affairs (GOSBA) Small Business Reserve Program are eligible for award of a contract.

NOTICE

A Prospective Offeror that has received this document from a source other than eMarylandMarketplace (eMMA) https://emma.maryland.gov/should register on eMMA. See **Section 4.2**.

MINORITY BUSINESS ENTERPRISES ARE ENCOURAGED TO RESPOND TO THIS SOLICITATION.

VENDOR FEEDBACK FORM

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

Title: Maryland Board of Physicians Rehabilitation Program
Solicitation No: 21-18481

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

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

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

REMARKS:

_____

_____

Vendor Name: _____ Date: _____

Contact Person: _____ Phone (____) _____ - _____

Address: _____

E-mail Address: _____

STATE OF MARYLAND
MARYLAND BOARD OF PHYSICIANS
KEY INFORMATION SUMMARY SHEET

Request for Proposals	Services - Maryland Board of Physicians Rehabilitation Program
Solicitation Number:	21-18481
RFP Issue Date:	February 13, 2020
RFP Issuing Office:	Maryland Board of Physicians (Board)
Procurement Officer: **e-mail:** **Office Phone:**	Dana Dembrow Office of Procurement and Support Services 201 W. Preston Street Baltimore, Md. 21201 mdh.solicitationquestins@maryland.gov 410-767-0974
Proposals are to be sent to:	Office of Procurement and Support Services, 201 West Preston Street, Baltimore, Maryland 21201 Attention: Afua Tisdale, Room # 416-D1
Pre-Proposal Conference:	March 12, 2020 at 10:00 AM Local Time 4201 Patterson Avenue, Room 100, Baltimore, MD 21215
Questions Due Date and Time	March 17, 2020 at 4:00 PM Local Time
Proposal Due (Closing) Date and Time:	March 26, 2020 T 2:00 pm Local Time Offerors are reminded that a completed Feedback Form is requested if a no-bid decision is made (see **page iv**).
MBE Subcontracting Goal:	0%
VSBE Subcontracting Goal:	0%
Contract Type:	Indefinite quantity with fixed unit prices.
Contract Duration:	Five (5) years base period
Primary Place of Performance:	as proposed by Offeror
SBR Designation:	Yes
Federal Funding:	No

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1 Minimum Qualifications

1.1 Offeror Minimum Qualifications

1.1.1 The Offeror must be a nonprofit entity. As proof of this meeting this minimum qualification, the Offeror must provide a copy of its Internal Revenue Code 501(c)(3) tax exemption status determination letter or documentation from the IRS Exempt Organization Select Check indicating its non-profit status.

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2 Contractor Requirements: Scope of Work

2.1 Summary Statement

2.1.1 Md. Code Ann., Health-Occupation Article, § 14-401.1(g) requires the Maryland Board of Physicians (Board) to issue a Request for Proposals (RFP) and enter into a written contract with a nonprofit entity to provide rehabilitation services for Physicians and other Allied Health Professions directed by the Board to receive rehabilitation services. The Board is seeking a Contractor who can successfully establish and maintain the required Rehabilitation Program. The Rehabilitation Program provides case management, monitoring and coordination of services for Participants to include at least one face-face meeting with each Participant on a monthly basis. The program also conducts evaluations for Applicants, Physicians, and Allied Health Professionals referred by the Board pursuant to Health Occ. Art. § 14-402. It is the State's intention to obtain goods and services, as specified in this RFP, from a Contract between the selected Offeror and the State.

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

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

2.2 Background and Purpose

2.2.1 The Board, a unit of the Maryland Department of Health (Department) is soliciting Proposals from qualified Offerors to provide Rehabilitation services to impaired Physicians and Allied Health Professionals regulated by the Board who are directed by the Board in writing to receive treatment and Rehabilitation for alcoholism, chemical dependency or other physical, emotional or mental conditions. These services are intended to provide Practitioners assistance in addressing alcohol or drug abuse problems, or other physical or mental conditions which may impair their ability to practice medicine or safely perform medical acts within their scope of practice. Rehabilitation services include evaluation, referral for treatment, and case management to monitor the adherence of Participants with a written Disposition Agreement and/or Order of the Board and the Rehabilitation Agreement and Rehabilitation Plan. Licensees who are compliant with their agreements and Board Orders can practice safely and continue to be able to provide medical care to the citizens of Maryland. The over-riding goal of the program is to enhance the health and safety of the citizens of Maryland.

2.2.2 The program will serve only Physicians and Allied Health Professionals who are directed by the Board and referred in writing to receive an evaluation or services.

2.2.3 Health Occ. Art. § 14-401.1(g) requires the Board to issue an RFP and enter into a written contract with a nonprofit entity to provide Rehabilitation services for Physicians or Allied Health Professionals directed by the Board and referred in writing to receive Rehabilitation services.

2.2.4 There are approximately 31,704 licensed Physicians and 14,012 Allied Health Professionals in the State of Maryland. There are approximately 50 Participants in the Board's current Rehabilitation Program. Those individuals who are required under a Board Order or Disposition Agreement to participate in the Rehabilitation Program are referred to in this document as Participants.

2.2.5 The Board usually requires Participants to be enrolled in and monitored by a program providing Rehabilitation services for a term to be determined by the clinical team at the Rehabilitation

Program. Each Participant's term of monitoring will be determined by the Board following the receipt of clinical recommendations by the Contractor.

2.2.6 The Board estimates that a maximum of 65 Participants will be served at any one time during the Contract period. At the beginning of the Contract period, the Board will provide the Contractor with copies of Disposition Agreements, Board Orders, and other necessary files relating to Participants. The Board estimates that there will be approximately 50 Participants who will be required to transfer to the Contractor as of the Go-Live-Date.

2.3 Responsibilities and Tasks

2.3.1 The Contractor shall provide services only to Physicians and Allied Health Professionals directed by the Board and referred in writing to receive Rehabilitation services. The Contractor shall have an office in Maryland and must have the capability to provide face-to-face services to Participants throughout Maryland. The Contractor must provide a Rehabilitation Program that includes, but is not limited to the following elements:

a) Evaluation and Rehabilitation planning;

b) Referral for evaluation, and treatment services, as needed, to providers licensed and/or certified in the jurisdiction in which the evaluations and treatment are provided;
c) Conducting intake interviews and determining appropriate evaluation type, scheduling of evaluation and reporting results to the Board for Health Occ. Art. § 14-402 evaluations;
d) Quarterly review of each Participant's Rehabilitation Plan;
e) Review of Participant's Rehabilitation Plan within five (5) Business Days of a change of circumstances;
f) Case management to include a monthly one-to-one in-person meeting between the Participant and the clinical case manager to monitor Participants; the Contractor may request that this meeting be conducted through telecommunications but prior authorization from the Contract Monitor is required;
g) Reporting Participants' non-compliance to the Board within 24 hours;
h) Consultation with Board staff and/or administrative prosecutors, on an as-needed basis, regarding individuals with impairments and/or mental health issues;
i) Reports and documents as requested by the Board and/or administrative prosecutor for other investigative and monitoring purposes; testimony at administrative hearings if subpoenaed.
j) Quarterly reports (See **Section 2.3.19**) to the Board on each Participant that must be submitted prior to the invoice for the quarter; each quarterly report must include a list of all Participants with date of enrollment and date of completion;
k) Maintain and submit to the Board, as requested, documentation supporting all components of quarterly reports;
l) Annual reports to the Board on each Participant and annual reports of aggregate data; each annual report must include a list of all Participants during that year with date of enrollment, date of completion date of Board Order and identification of issue being addressed;
m) Retention and maintenance of confidential Participant records for five (5) years;
n) Forms (See Attachment R, Sample Rehabilitation Program Plan and Attachment S, Sample Rehabilitation Program Report);
o) End of Contract transition;
p) Review, approve and sign the Rehabilitation Agreement and a Rehabilitation Plan for each program Participant;
q) Collection of blood and /or urine samples for the initial Chemical Screening; Participant bears the cost of this screening;

r) Direction to Participants in obtaining testing for chemical and alcohol screenings throughout the duration of the Treatment Plan; reporting determination of and changes in frequency of testing to the Board and
s) Schedule of quarterly meetings with the Board to discuss cases.

2.3.2 Intake

The Contractor shall establish an intake process including orientation, face-to-face contact, and initial assessment to determine the needs and services required for the Participant from the Rehabilitation Program to include the determination of any appropriate evaluations. Orientation should address the purpose of the program, requirements and benefits of participation, structure of the program, and an explanation of the Rehabilitation Agreement, the Rehabilitation Plan, and monitoring and reporting requirements to the Board. Intakes shall occur after referral by the Board.

2.3.3 Evaluation and Treatment)

The Contractor shall make recommendations to appropriate inpatient and outpatient treatment sources and appropriate evaluation(s). The Contractor will maintain a network of referral resources from which to make these treatment recommendations.

2.3.4 Access and criteria for treatment plan:

A. The Contractor shall provide the Participant with providers or facilities that offer the particular assessment, evaluation, inpatient or outpatient treatment, and/or Chemical Screens needed by the Participant. The Contractor determines the provider or facility that can provide the required service in the best interest of the Participant.

B. If the Participant has already entered into a treatment program that the Contractor considers appropriate in light of the assessment findings, the Contractor may incorporate this treatment into the Participant's Rehabilitation Plan. This inclusion is at the discretion of the Contractor and shall be approved by the Board.

C. All providers listed, both facilities and individuals, shall have licensure and/or certification to provide the proposed services in the jurisdiction where treatment is to be provided. The Contractor, or employees and agents of the Contractor shall not refer a Participant for any evaluation, inpatient or outpatient treatment, tests, monitoring, or any other services if the referral violates the prohibitions against self-referral in Annotated Code of Maryland, Health Occupations Article § 1-301 *et seq.*, COMAR 10.32.01.15, and if applicable, the federal anti-kickback statute at 42 U.S.C. §§ 1320a-7b(b), and the federal Stark law at 42 U.S.C. § 1395nn preventing self-referrals. The Contractor shall maintain a list of authorized treatment providers and a description of the qualifications of each. In addition, a list shall be maintained of all providers to whom referrals have been made. The Board can reject any provider.

2.3.5 Rehabilitation Agreement between each Participant and the Rehabilitation Program

As a condition of participation in the Rehabilitation Program, the Contractor shall require each Participant to sign the Maryland Rehabilitation Program Agreement (Attachment P) and an addendum regarding zero tolerance of alcohol and drug use This agreement and addendum commits the Participant to meet the requirements of the Rehabilitation Program and informs the Participant

about the requirements for the Rehabilitation Program to submit reports about Participants to the Board.

The sample found at Attachment P (Maryland Rehabilitation Program Agreement) contains the minimum number of items to be included in the Rehabilitation Agreement. The Contractor may propose the use of an alternate Rehabilitation Agreement if it contains all the provisions of Attachment P and is a single form which can be used with all Participants. The proposed alternate form shall be submitted with the Proposal and may be used in lieu of the Attachment P if approved by the Board. The Board may request that the Rehabilitation Agreement Form be modified during the course of the Contract and the Contractor shall make the requested modifications.

Procedure for new Applicants or Participants who pose a danger to self or others: If, at the time of the initial assessment or after the Practitioner has signed a Rehabilitation Agreement, the Contractor believes that the Practitioner is a danger to self or others, that information shall be reported to the Board, following the procedure outlined in **Section 2.3.15** below. If the Contractor determines the Participant is a danger to self or others, the Contractor may recommend to the Board that the Participant be removed from the Rehabilitation Program. The Board will make the determination on whether the Participant should remain or be removed and will notify the Contractor.

2.3.6 Consent Forms

A. When the Rehabilitation Agreement is signed, the Contractor shall also obtain the Participant's signature on consent forms. Attachment Q, Consent for the Rehab Program to Release Confidential Information To and Receive Confidential Information from the Maryland Board of Physicians is a consent form which allows the Contractor to release records to the Board. The Board may require the form to be signed prior to the referral. This form shall be signed by each Participant no later than the time that the Rehabilitation Agreement is signed. It complies with federal regulations at 42 C.F.R. §2.31 governing the form of written consent forms for release of alcohol and drug abuse records. The Contractor may propose the use of alternative consent forms that comply with 42 C.F.R. §2.31. Such alternative form shall be submitted with the Offeror's Proposal and may be used in lieu of the Attachment Q if approved by the Board. The Board may request the consent form be modified during the Contract and the Contractor shall make the requested modifications within ten (10) Business Days.

B. The Contractor shall exchange information with other individuals that include therapists, Worksite Monitors, and entities that include inpatient programs or medical institutions in order to monitor the Participant. Attachment Q is a sample consent form which complies with the federal regulations at 42 C.F.R. §2.31 governing the form of written consent forms for release of alcohol and drug abuse records. The Contractor may propose the use of alternative consent forms that comply with 42 C.F.R. §2.31. Such alternative form shall be submitted with the Contractor Proposal and may be used in lieu of the Attachment Q if approved by the Board.

C. The Contractor shall submit a list of information exchanged under **Section 2.3.6 B** (date, type of information shared and receiver of information) to the Board on a quarterly basis.

D. The Contractor shall not exchange under **Section 2.3.6. B** information regarding the Board processes, records, evaluations, investigation and/or disciplinary actions.

2.3.7 Rehabilitation Plan

The Contractor shall require each Participant to enter into a written Rehabilitation Plan which the Contractor shall update quarterly and at any change in circumstance. The updated plan must be submitted to the Board within five (5) Business Days of the change in circumstance or end of quarter. The plan shall set forth specific requirements that the Participant shall complete, including physical or mental evaluation, inpatient or outpatient treatment, attendance at Alcoholics Anonymous, Narcotics Anonymous, or similar group meetings, Chemical Screens, regular medication, and the schedule for meetings with the Participant's case manager. The Contractor shall provide a Clinical Manager that shall administer each Participant's Rehabilitation Plan. The Rehabilitation Plan shall be signed by the Participant and the Medical Director of the Rehabilitation Program within fifteen Business Days of the referral. A sample Rehabilitation Plan form may be found in Attachment R, Sample Rehabilitation Program Plan. The Contractor may offer with the Proposal alternative individualized Rehabilitation Plan forms specifically formatted for substance abuse issues only, or mental health issues only, or other behavioral, physical or emotional impairment issues. The forms shall be in compliance with 42 C.F.R. §2.31. The alternative forms are subject to approval by the Board. The Board may request the Rehabilitation Plan be modified during the course of the Contract and the Contractor shall make the requested modifications within ten Business Days.

2.3.8 Costs

All costs associated with treatment and Chemical Screens as described in the Rehabilitation Plan are the responsibility of the Participant.

2.3.9 Procedure for new Applicants or Participants who pose a danger to self or others

If, at the time of the initial assessment or after the Participant has signed a Rehabilitation Agreement, the Contractor believes that the Participant is a danger to self or others, it shall be reported immediately by the Contractor to the Board's Executive Director, Compliance Manager and Probation Analyst by telephone and by e-mail within 24 hours. Out of Office instructions will be sent via email reply or on telephone message. If the Contractor determines the Participant is a danger to self or others, the Contractor may recommend to the Board, the Participant be removed from the Rehabilitation Program. The Board will make the determination on whether the Participant should remain or be removed and will notify the Rehabilitation Program.

2.3.10 Procedure for persons with no impairment, persons who have been identified as having no continued clinical benefit, or persons who do not agree to enter the Rehabilitation Program.

If the initial assessment reveals no physical, emotional, or mental condition which could impair the Participant's practice of medicine, the Contract Monitor must be notified in writing on the next

Business Day. If the Contractor determines that there is no clinical benefit to continued participation, the Contractor shall notify the Contract Monitor in writing by the next Business Day. The Board will determine whether the Participant should remain in the program or be discharged and shall notify the Rehabilitation Program of its determination.

If the Contractor determines that the Participant requires services and the Participant refuses to sign the appropriate consent forms or the Rehabilitation Agreement or Plan, the Contractor shall notify the Board in writing on the next Business Day.

2.3.11 Procedure for persons who are terminated from the Rehabilitation Program for failure to comply with the Rehabilitation Agreement and Plan

Monitoring and other services may be terminated in event that a Participant does not comply with the Rehabilitation Agreement and Plan. If the Contractor makes the recommendation to terminate the Rehabilitation Agreement and Plan before the formal end date, the Contractor shall notify the Board in writing within 1 Business Day. The Board will determine whether the Participant should remain in the program or be discharged and shall notify the Contractor of its determination.

2.3.12 Periodic review of Rehabilitation Plan

The Contractor shall re-evaluate the Participant's progress in the Rehabilitation Plan through quarterly periodic reviews to determine the efficacy of the treatment plan and to make appropriate modifications. A Participant's Rehabilitation Plan must be re-evaluated upon any Change in Circumstances. For all Participants, a copy of the updated Rehabilitation Plan and consent forms shall be sent to the Board within five (5) Business Days after being executed by the Participant and the Contractor. The most recent Rehabilitation Plan and Agreement must be submitted with each Non-Compliance notification to the Board.

2.3.13 Recovery monitoring, including Chemical Screens, Worksite Monitoring and other means of monitoring a Participant's compliance with the Rehabilitation Plan:

A. Active monitoring of the Participant is critical to the recovery and Rehabilitation process. The case manager is responsible for monitoring the treatment, compliance with practice and/or employment restrictions (when applicable), and other terms of the Rehabilitation Agreement and Rehabilitation Plan

B. The case manager should have contact with each Participant in the caseload at a minimum of once per week and face-to-face contact no less than once every month (every 30 days). The case manager must document the contact and face-to-face meetings and provide such documentation if requested by the Board within five (5) Business Days. The case manager shall track compliance with requirements of the Rehabilitation, such as Chemical Screens, treatment by counselors or other health care professionals, attendance at self-help meetings, and other relevant information.

C. Chemical Screens: For Participants with substance abuse problems, monitoring shall include random unscheduled Chemical Screens, directed by an automated random call-in system. The Contractor shall have the capability to provide local testing seven days a week if required by the Rehabilitation Plan. The Contractor shall present a plan for accurate specimen collection, as well as testing using split-screens. The Contractor shall pre-approve Participant vacations and submit written notification of such pre-approval to the Board of the vacation within 1 Business Day. The Contractor is responsible for arranging testing while the Participant is on vacation. The Contractor shall test the Participant upon return from any vacation within 1 Business Day. The Participant is responsible for the cost of testing.

D. Medical Review Officer (MRO): The Contractor shall provide the Board with access to a Medical Review Officer to refer matters, issues and questions in regard to a positive drug or alcohol testing results. The MRO will provide an independent review of the testing results. The MRO is a consultant. The Contractor can determine the minimum qualifications for the MRO and will bear the cost of the services of the MRO. The Board may request a consultation and/or report from the MRO upon any positive Chemical Screen.

E. Worksite Monitoring: If the Contractor determines there would be a clinical benefit to Worksite Monitoring, the Contractor will specify this in an individual Rehabilitation Plan.

F. Vocational monitoring reports must be submitted to the Board within 7 days of receipt by the Rehabilitation Program.

2.3.14 Out-of-State Participants

The Board may require the Contractor to monitor a Practitioner who is not residing or practicing in Maryland. The out-of-state Participant shall have a written Rehabilitation Agreement with a Rehabilitation Program in another State, and the program shall be one which is recognized by the out-of-State licensing Board. The out-of-state program must directly monitor the Participant's recovery including relapse management and practice status. The Contractor shall obtain at least quarterly, written verification by the out-of-state professional monitoring program that the Participant is in compliance with his agreement. Any noncompliance shall be reported to the Board as directed in paragraph 2.3.15.

2.3.15 Procedure for Reporting Non-Compliance to the Board

The Contractor shall report all instances of Non-Compliance (see Appendix 1) to the Board within 24 hours.

Critical Non-Compliance Events:
In the event of any of the following, the Contractor shall submit a report to the Board's Contract Monitor by telephone within one Business Day. Written confirmation in the form of an e-mail or letter if requested, to the Contract Monitor shall be submitted within 1 Business Day and shall include any reason for the Non-Compliance provided by the Participant as follows:

A. Failure to report for a scheduled Chemical Screen or failure to provide an adequate quantity of urine for analysis, regardless of the reason or excuse.

B. A positive Chemical Screen and the lab report. The Contractor shall send the lab report to the Board within 1 Business Day of the Contractor's receipt of the positive report.

C. Assessment by the Contractor or a report from any hospital, facility, or employer indicating that the Participant is a danger to self or others.

D. Report from any hospital, facility, or employer that action has been taken against the Practitioner's privileges to practice medicine.

E. An arrest or conviction.

F. Actual Knowledge that the Participant is under the influence of substances prohibited by the Rehabilitation Agreement or Plan.

2.3.16 Non-Compliance with Board Referral

After an individual is referred by the Board, the Contractor shall have the individual evaluated, and in accordance with the evaluation and the assessment of the Rehabilitation Program, shall enter the individual into a Rehabilitation Agreement within 10 days and a Rehabilitation Plan within 15 days of the referral. The Contractor shall not meet with individuals prior to receiving the Board's referral.

2.3.17 Non-Completion of Rehabilitation Agreement, addendum and Plan

A. If the Contractor has not completed the evaluation and assessment and has not executed the Rehabilitation Agreement, addendum and Plan within 15 days of the referral, the Contractor shall give the Board a detailed written report about what parts of the process have been completed and any Non-Compliance or lack of cooperation by the individual referred.
B. If the individual referred by the Board does not contact and begin working with the Contractor within 15 days of the date of the referral, the Contractor shall report to the Board in writing the instances and details in regard to the lack of cooperation.

2.3.18 Non-Compliance with Rehabilitation Agreement and/or Rehabilitation Plan

Non-Compliance for any reason shall be documented on the Participant's quarterly report.

2.3.19 Quarterly Reports to the Board

The Contractor must submit quarterly reports which are due to the Contract Monitor no later than January 15th, April 15th, July 15th and October 15th of each Contract year prior to submission of the invoice for that quarter. The Contractor shall provide the following for each Participant (identified by full name) during the quarter:

A. Date of enrollment;
B. Date of completion/discharge;
C. Date of Board Order;
D. Scheduled and actual attendance at therapy, self-help meetings, etc;
E. Status of and any changes in employment;
F. Compliance with terms of Rehabilitation Plan;
G. Frequency and results of Chemical Screens on the Participant;
H. Proposed changes in Rehabilitation Plan;
I. Copies of all Chemical Screen reports (that is, complete laboratory reports) shall be included in the quarterly reports for each Participant;
J. If there is any Non-Compliance, the Contractor shall provide any documents when requested by the Board during each quarter;
K. Current status of the Rehabilitation Agreement and Rehabilitation Plan, to include when the plan is due to be reviewed and updated;
L. Date of monthly face-to-face meetings with Clinical Manager; and
M. Any expenditures for treatment or Chemical Screens.

2.3.20 Aggregate data (including aggregate data on all Participants), must be reported quarterly and on an annual basis on quarter and year-to-date, including, but limited to:

A. A list of the names of all Participants with dates of enrollment and completion identified with each participating quarter noted;
B. Total number of Participants for each quarter and year end;
C. Number of Participants under Final Board Orders, which are public sanctions imposed on the license and practice of health care Practitioners after a formal hearing;
D. Number of Participants under Consent Order with the Board, which are public sanctions imposed on the license and practice of a health care Practitioner which the Practitioner agrees to without a formal hearing;
E. Number of Participants under Disposition Agreements which are non-public orders.
F. Number of Participants who are Applicants for licensure or certification;
G. Number of Participants by specific impairment, for example, alcoholism, chemical dependence, psychiatric condition, or dual diagnosis of more than one kind of impairment;
H. Number of Participants by medical specialty;
I. Number of Participants who are noncompliant;
J. Number of new Rehabilitation Agreements signed;
K. Number of Rehabilitation Agreements extended;
L. Number of Rehabilitation Agreements terminated for successful completion;
M. Number of Rehabilitation Agreements terminated for cause;
N. Number of open Rehabilitation Agreements at end of quarter; and
O. Expenditures for treatment of Participants who have been determined to be unable to afford services.
P. **An annual report** shall be submitted to the Contract Monitor by July 31 of each year, beginning with July 31, 2021. The report shall include, at a minimum, the data categories listed under "Aggregate data" in **Section 2.3.20 A**. - O above.
Q. The Contractor must propose a format for the quarterly and annual report in its technical proposal.

2.3.21 The Contractor shall serve as a consultant to the Maryland Board of Physicians with regard to impairment issues and may be required to testify at administrative hearings and/or legal proceedings involving issues related to enrolled Participants. The Contractor shall meet with the Board or its representative at least quarterly, and/or whenever requested by the Board to report on the progress of monitoring and other aspects of the Rehabilitation Program at no additional cost to the Board.

2.3.22 Other required reports-The Board may request information and documents in the Contractor's files in regard to a Participant and the Contractor shall provide the information and documents on an as needed basis and in the time frame requested.

2.3.23 Retention and Maintenance of Confidential Participant Records

A. For purposes of this section, the term, "Contractor," means the Contractor, its employees, its subcontractors and agents. To the extent that this section places a restriction on an employee, agent or subcontractor of the Contractor, the Contractor is responsible to inform any such employee, agent or sub-Contractor of these requirements, to require compliance by contract or otherwise, and to be responsible to take reasonable measures to assure the enforcement of these Confidentiality requirements.

B. The Contractor shall maintain, in accordance to the Records Retention and Disposal Schedule, which will be provided to the Contractor by the Board, in strict Confidentiality all records, files, reports received from the Board, created by the Contractor, or received from any source in the fulfillment of this Contract. The Contractor and its staff and the Board and its staff shall comply with the federal Confidentiality provisions of 42 C.F.R. Pt. 2 and the State Confidentiality provisions of the Annotated Code of Maryland, Health-General Title 4, Subtitle 3 and § 8-601, and Health Occupations §§ 1-401, 14-410, 14-411, and 14-506. Neither the Contractor nor the Board shall make any disclosures except as permitted under those statutory provisions

2.3.24 Forms

The Contractor shall use the forms attached to this Solicitation Q, R, and S unless alternate forms are submitted as part of the technical Proposal and approved by the Board.

2.3.25 Audits

By law, the State's Legislative Auditors are required to perform an audit of the accounts and transactions of the Rehabilitation Program every two years. (Health Occ. §14-402(f)). The Contractor shall cooperate with the Legislative Auditors and provide all information necessary to assist them in completing the audit.

The Board of Physicians shall conduct random audits of the Contractor's Participant records at any time, but at a minimum, on a quarterly basis. During this audit, all Rehabilitation Program records shall be available for inspection by the Contract Monitor in accord with 42 CFR, Chapter I, Part 2, Subpart D, § 2.53. Failure by the Contractor to provide a file may result in termination

of the Contract.

2.3.26 Duties of the Board

A. The Board of Physicians will provide the Contractor with a signed consent form to release confidential documents to the Board of Physicians, Disposition Agreement, letter of referral or Board Order for any Practitioner referred by the Board to the Contractor for evaluation and/or monitoring.
B. In the event that the Contractor is selected under this procurement is not the incumbent for the same services, the Board will notify all Participants of the change. The Board will require all Participants to transfer to the new Contractor. If there is a change in contractor at the end of the Contract resulting from this procurement, the Board will undertake similar notification.

2.3.27 Contractor Staffing

The Contractor shall provide the staff listed in this section with the qualifications stated throughout the duration of the Contract. The Offeror's Proposal shall include resumes, job description and copies of professional licenses of proposed staff for the following staff positions.

A. Medical Director: The Contractor shall provide a Physician Medical Director. The Physician Medical Director must have a full, unrestricted Physician's license in Maryland, be American Board of Medical Specialties or American Osteopathic Association certified, and have five (5) years' experience in treating persons with alcohol or chemical addictions or other physical, mental, or emotional impairments. The Physician Medical Director must provide clinical oversight to the Rehabilitation Program and review, approve, and sign a Rehabilitation Agreement and a Rehabilitation Plan for each program Participant.

B. Clinical Managers: An individual(s) licensed as a Licensed Clinical Social Worker designated by the Rehabilitation Program to inform, evaluate, refer a Participant for appropriate treatment and meet with the Participant face to face on a monthly basis. The Contractor must provide enough Clinical Managers such that each Participant is assigned a Clinical Manager. Each Clinical Manager must be recognized as a 'LCSW-C" in the State of Maryland.

C. Medical Review Officer: An employee or subcontractor whose function is to review, interpret, and recommend action on the results of workplace drug testing. The MRO has a recognized medical degree, including M.D., D.O., or M.B. The MRO has a license to practice medicine which is current, unrestricted, and in good standing, certification in addiction medicine or occupational medicine by a member Board of the American Board of Medical Specialties or successful completion of an MRO certification examination given by a national medical specialty society recognized by the American Medical Association (AMA) or the American Osteopathic Association (AOA).

The Contractor must designate a staff person who will timely respond to inquiries, provide requested documents and reports and be available to take telephone calls during normal business hours.

The Contractor shall give priority to its responsibilities under the Contract as compared to other activities.

The Contractor must notify the Board within 1 Business Day of any changes in staff so that the Board's website can be updated.

2.4 Deliverables

A. An annual report **shall be submitted to the Contract Monitor by July 15th for the prior fiscal year (July 1 to June 30th) of each year.**

B. A quarterly report for each participant is due by the 15th day after the end of the quarter.

C. Quarterly audit materials
   a. All documentation surrounding the monitoring of a Participant must be readily available and provided to the Board with five days of a request.
   b. Each quarter, the Board will randomly select five Participants and the Contractor is responsible for producing documentation to support all activities noted on the Participant's quarterly report.

2.4.1 Deliverable Submission

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

2.4.2 Deliverable Acceptance

A. A final deliverable shall satisfy the scope and requirements of this RFP for that deliverable, including the quality and acceptance criteria for a final deliverable as defined in **Section 2.4.3 Minimum Deliverable Quality and 2.4.4 Deliverable Descriptions/Acceptance Criteria**.

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

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

2.4.3 Minimum Deliverable Quality

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

Each deliverable shall meet the following minimum acceptance criteria:

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

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

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

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

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

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

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

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

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

2.4.4 Deliverable Descriptions/Acceptance Criteria

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

Deliverables Summary Table*

ID #	Deliverable Description	Acceptance Criteria	Due Date / Frequency
2.3.19, 2.3.20, and 2.4B	Quarterly Report	Response to all questions as indicated in the Quarter Report	For each participant it is due by the 15th day after the end of the quarter.
2.3.20 P and 2.4A	Annual Report		Due by July 15th for the prior fiscal year (July 1st to June 30th)

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

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3 Contractor Requirements: General

3.1 Contract Initiation Requirements

3.1.1 Contractor Transition at Start of Contract

The Contractor shall serve Participants currently receiving Rehabilitation services beginning on the effective date of the Contract with minimal disruption to those Participants. Staff from the Board and the incumbent contractor will be available to assist in this process.

Participants who transfer will undergo an intake process and sign a new Rehabilitation Agreement and any necessary consent forms.

This will require, at a minimum, that the Contractor shall:

A. Request from the incumbent contractor a timely and orderly transfer of the records for current Participants;
B. Advise Worksite Monitors/health facilities of the transfer of monitoring services to the Contractor in advance of the effective date;
C. Personally contact each Participant to confirm that the Participant has notice of and understands any new or revised procedures and requirements implemented as a result of the transfer of monitoring services to the Contractor;
D. Personally meet with each transferring Participant and have the Participant sign the Rehabilitation Agreement, addendum and Plan and all relevant consent forms;
E. Obtain the Participant's signature on a consent form authorizing transfer of records and request transfer of any records not already released by the incumbent contractor; and
F. Review all existing Rehabilitation Agreements, Disposition Agreements, and Board Orders of Participants and work with the Board and each Participant in executing a new Rehabilitation Agreement and Plan.

3.2 End of Contract Transition

3.2.1 Contractor Transition at End of Contract

In the event that the Department notifies the Contractor that it intends to terminate this Contract, or upon expiration of the Contract, the Contractor shall assist in implementing an orderly transfer of records and transition of services. This will require that the Contractor shall:

A. Arrange for the timely and orderly transfer of all records for Participants as directed by the Board;
B. Advise all Participants of the transfer of monitoring services to the Board or a new contractor in advance of the effective date; and
C. Personally contact each Participant in advance of the termination date to confirm that the Participant has notice of and understands that monitoring services will be provided by the Board or a new contractor after the termination date.

3.2.2 Return and Maintenance of State Data

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

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

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

3.3 Invoicing

3.3.1 General

A. The Contractor shall send the original of each invoice and signed authorization to invoice to the Contract Monitor by e-mail and hardcopy to Zach Spivey, Compliance Analyst, at 4201 Patterson Avenue, 4th Floor, Baltimore, Maryland 21215 and Zachary.Spivey@maryland.gov.

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

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

1) Contractor name and address;
2) Remittance address;
3) Federal taxpayer identification (FEIN) number, social security number, as appropriate;
4) Invoice period (i.e. time period during which services covered by invoice were performed);
5) Invoice date;
6) Invoice number;
7) State assigned Contract number;
8) State assigned (Blanket) Purchase Order number(s);
9) Goods or services provided;
10) Amount due; and
11) Any additional documentation required by regulation or the Contract.

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

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

F. 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 COMAR 21.10.04.

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

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

3.3.2 Invoice Submission Schedule

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

A. For items of work for which there is one-time pricing (see **Attachment B** – Financial Proposal Form) those items shall be billed in the month following the acceptance of the work by the Department.

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

3.3.3 Deliverable Invoicing

Payment for deliverables will only be made upon completion and acceptance of the deliverables as defined in **Section 2.4**.

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

A. The amount invoiced is inconsistent with the Contract;

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

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

D. The item or services have not been accepted;

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

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

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

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

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

3.3.5 Travel Reimbursement

Travel will not be reimbursed under this RFP.

3.4 Liquidated Damages

3.4.1 MBE Liquidated Damages

Inapplicable because there is no MBE goal for this RFP.

3.4.2 Liquidated Damages other than MBE

THIS SECTION IS INAPPLICABLE TO THIS RFP.

3.5 Disaster Recovery and Data

The following requirements apply to the Contract:

3.5.1 Redundancy, Data Backup and Disaster Recovery

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

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

   1) The Contractor shall furnish a DR site.

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

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

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

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

3.5.2 Data Export/Import

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

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

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

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

3.5.3 Data Ownership and Access

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

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

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

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

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

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

3.6 Insurance Requirements

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

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

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

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

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

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

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

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

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

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

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

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

3.6.6 Subcontractor Insurance

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

3.7 Security Requirements

The following requirements are applicable to the Contract:

3.7.1 Employee Identification

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

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

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

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

3.7.2 Security Clearance / Criminal Background Check

A. A criminal background check for each for any Contractor Personnel providing list specific services/roles impacted shall be completed prior to each Contractor Personnel providing any services under the Contract.

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

C. The Contractor shall obtain criminal background checks on candidates it sends for employment at the Department. At a minimum, these checks must contain convictions and probation before judgment (PBJ) pleadings within the State of Maryland. This check may be performed by a public or private entity.

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

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

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

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

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

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

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

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

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

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

H. A particular on-site location covered by the Contract may require more restrictive conditions regarding the nature of prior criminal convictions that would result in Contractor Personnel not being permitted to work on those premises. Upon receipt of a location's more restrictive

conditions regarding criminal convictions, the Contractor shall provide an updated certification regarding the Contractor Personnel working at or assigned to those premises.

3.7.3 On-Site Security Requirement(s)

This section is inapplicable to this RFP

3.7.4 Information Technology

The Contractor shall:

1. Implement administrative, physical, and technical safeguards to protect State data that are no less rigorous than accepted industry best practices for information security such as those listed below (see **Section 3.7.5**);
2. Ensure that all such safeguards, including the manner in which State data is collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws as well as the terms and conditions of the Contract; and
3. The Contractor, and Contractor Personnel, shall (i) abide by all applicable federal, State and local laws, rules and regulations concerning security of Information Systems and Information Technology and (ii) comply with and adhere to the State IT Security Policy and Standards as each may be amended or revised from time to time. Updated and revised versions of the State IT Policy and Standards are available online at: www.doit.maryland.gov – keyword: Security Policy.

3.7.5 Data Protection and Controls

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

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

   1) Establish separate production, test, and training environments for systems supporting the services provided under the Contract and ensure that production data is not replicated in test or training environment(s) unless it has been previously anonymized or otherwise modified to protect the confidentiality of Sensitive Data elements. The Contractor shall ensure the appropriate separation of production and non-production environments by applying the data protection and control requirements listed in **Section 3.7.5**.

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

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

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

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

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

   http://csrc.nist.gov/publications/fips/fips140-2/fips1402.pdf
   http://csrc.nist.gov/groups/STM/cmvp/documents/140-1/1401vend.htm

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

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

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

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

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

12) Review, at least annually, the aforementioned network connections, documenting and confirming the business justification for the use of all service, protocols, and ports allowed, including the rationale or compensating controls implemented for those protocols considered insecure but necessary.

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

14) Enforce strong user authentication and password control measures to minimize the opportunity for unauthorized access through compromise of the user access controls. At a minimum, the implemented measures should be consistent with the most current Maryland Department of Information Technology's Information Security Policy

(http://doit.maryland.gov/support/Pages/SecurityPolicies.aspx), including specific requirements for password length, complexity, history, and account lockout.

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

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

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

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

3.7.6 Security Plan

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

3.7.7 Security Incident Response

A. The Contractor shall notify the Department in accordance with **Section 3.7.5A-D** when any Contractor system that may access, process, or store State data or State systems experiences a Security Incident or a Data Breach as follows:

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

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

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

B. Contractor's notice shall identify:

1) the nature of the unauthorized use or disclosure;

2) the State data used or disclosed,

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

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

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

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

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

D. The Contractor shall comply with all applicable laws that require the notification of individuals in the event of unauthorized release of State data or other event requiring notification, and, where notification is required, assume responsibility for informing all such individuals in accordance with applicable law and to indemnify and hold harmless the State (or Department) and its officials and employees from and against any claims, damages, and actions related to the event requiring notification.

3.7.8 Data Breach Responsibilities

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

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

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

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

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

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

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

3.7.10 Provisions in **Sections 3.7.1 – 3.7.9** shall survive expiration or termination of the Contract. Additionally, the Contractor shall flow down the provisions of **Sections 3.7.4-3.7.9** (or the substance thereof) in all subcontracts.

3.8 Problem Escalation Procedure

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

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

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

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

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

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

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

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

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

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

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

3.9 SOC 2 Type 2 Audit Report

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

3.10 Experience and Personnel

3.10.1 Preferred Offeror Experience

The Contractor shall have experience in providing Rehabilitation services to healthcare Practitioners. As proof of meeting this qualification, the Contractor must submit three references who can collectively attest to the Contractor's experience. References must be submitted per the requirements of Section three (3).

The following experience is expected and will be evaluated as part of the Technical Proposal (see the Offeror experience, capability, and references evaluation factor from S**ection 6.2**. The Offeror shall describe its experience in providing treatment and Rehabilitation services and monitoring. The Offeror shall list the organizations, requiring a similar scope of work that previously have used the services of the Offeror and indicate the organizations that have used the services within the last three years and include the name and title of the contact person for the organizations.

3.10.2 Personnel Experience

The following experience is expected and will be evaluated as part of the Technical Proposal (see the capability of proposed resources evaluation factor from **Section 6.2**):

A. Provide qualifications including professional license/certificate numbers for all proposed program staff members.

B. The Contractor must provide the staff person's experience and qualifications as described in 2.3.27 at all times during the Contract term. The Offeror's Proposal shall include the resume, job description and copies of professional licenses, for this position.

C. Medical Director: The Medical Director must have a full, unrestricted Physician's license in Maryland, be ABMS or AOA certified, and have substantial experience in treating persons with alcohol or chemical addictions or other physical, mental, or emotional impairments. The Medical Director provides clinical oversight to the Rehabilitation Program and reviews, approves, and signs a Rehabilitation Agreement and a Rehabilitation Plan for each program Participant.

D. Clinical Managers: An individual(s) licensed as a Licensed Clinical Social Worker designated by the Rehabilitation Program to inform, evaluate, refer a Participant for appropriate treatment and meet with the Participant face to face on a monthly basis. The Contractor must provide enough Clinical Managers such that each Participant is assigned a Clinical Manager. Each Clinical Manager must be recognized as a 'LCSW-C" in the State of Maryland.

E. Medical Review Officer (MRO): An employee or subcontractor whose function is to review, interpret, and recommend action on the results of workplace drug testing. The MRO has a recognized medical degree, including M.D., D.O., or M.B. The MRO has a license to practice medicine which is current, unrestricted, and in good standing, certification in addiction medicine or occupational medicine by a member Board of the American Board of Medical Specialties or successful completion of an MRO certification examination given by a national medical specialty society recognized by the American Medical Association (AMA) or the American Osteopathic Association (AOA).

3.10.3 Key Personnel Identified

For the contract, the following positions to be identified in the technical proposal will be considered Key Personnel, and shall be required to meet the qualifications stated in **Section 3.10.2**:

A. Medical Director

B. MRO

3.11 Substitution of Personnel

3.11.1 Continuous Performance of Key Personnel

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

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

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

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

3.11.2 Definitions

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

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

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

3.11.3 Contractor Personnel General Substitution Provisions

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

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

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

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

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

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

4) Evidence of any required credentials.

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

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

3.11.4 Replacement Circumstances

A. Directed Personnel Replacement

1) The Contract Monitor may direct the Contractor to replace any Contractor Personnel who, in the sole discretion of the Contract Monitor, are perceived as being unqualified, non-

productive, unable to fully perform the job duties, disruptive, or known, or reasonably believed, to have committed a major infraction(s) of law, Department policies, or Contract requirements. Normally, a directed personnel replacement will occur only after prior notification of problems with requested remediation, as described in paragraph **3.11.4.A.2**.

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

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

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

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

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

B. Key Personnel Replacement

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

2) Key Personnel Replacement Due to Sudden Vacancy

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

b) Under any of the circumstances set forth in this paragraph B, the Contractor shall identify a suitable replacement and provide the same information and items required under **Section 3.11.3** within fifteen (15) days of the actual vacancy occurrence or from

when the Contractor first knew or should have known that the vacancy would be occurring, whichever is earlier.

3) Key Personnel Replacement Due to an Indeterminate Absence

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

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

3.11.5 Substitution Prior to and Within 30 Days After Contract Execution

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

3.12 Minority Business Enterprise (MBE) Reports

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

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

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

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

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

C. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the Contract, type of work performed by each, and actual dollar value of work performed. Subcontract agreements documenting the work performed by all

MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.

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

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

3.13 Veteran Small Business Enterprise (VSBE) Reports

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

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

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

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

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

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

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

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

3.14 Work Orders

THIS SECTION IS INAPPLICABLE TO THIS RFP.

3.15 Additional Clauses

The Contractor shall be subject to the requirements in this section and shall flow down the provisions of **Section 3.15.1** (or the substance thereof) in all subcontracts.

3.15.1 No-Cost Extensions

In accordance with BPW Advisory 1995-1 item 7.b, in the event there are unspent funds remaining on the Contract, prior to the Contract's expiration date the Procurement Officer may modify the Contract to extend the Contract beyond its expiration date for a period up to, but not exceeding, one-third of the base term of the Contract (e.g., eight-month extension on a two-year contract) for the performance of work within the Contract's scope of work. Notwithstanding anything to the contrary, no funds may be added to the Contract in connection with any such extension.

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4 Procurement Instructions

4.1 Pre-Proposal Conference

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

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

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

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

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

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

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

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

4.2 eMaryland Marketplace (eMMA)

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

4.2.2 In order to receive a contract award, a vendor must be registered on eMMA. Registration is free. Go to https://emma.maryland.gov/, click on "Register" to begin the process, and then follow the prompts.

4.3 Questions

4.3.1 All questions, including concerns regarding any applicable MBE or VSBE participation goals, shall identify in the subject line the Solicitation Number and Title (21-18481 - Maryland Board of Physicians Rehabilitation Program), and shall be submitted in writing via e-mail to the Procurement Officer at least five (5) days prior to the Proposal due date. The Procurement Officer, based on the availability of time to research and communicate an answer, shall decide whether an answer can be given before the Proposal due date.

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

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

4.4 Procurement Method

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

4.5 Proposal Due (Closing) Date and Time

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

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

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

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

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

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

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

4.6 Multiple or Alternate Proposals

Multiple or alternate Proposals will not be accepted.

4.7 Economy of Preparation

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

4.8 Public Information Act Notice

4.8.1 The Offeror should give specific attention to the clear identification of those portions of its Proposal that it considers confidential and/or proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Md. Code Ann., General Provisions Article, Title 4 (See also RFP **Section 5.3.2.B** "Claim of Confidentiality"). This information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical Proposal and if applicable, separately in the Financial Proposal.

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

4.9 Award Basis

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

4.10 Oral Presentation

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

4.11 Duration of Proposal

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

4.12 Revisions to the RFP

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

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

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

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

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

4.13 Cancellations

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

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

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

4.14 Incurred Expenses

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

4.15 Protest/Disputes

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

4.16 Offeror Responsibilities

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

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

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

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

4.17 Acceptance of Terms and Conditions

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

4.18 Proposal Affidavit

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

4.19 Contract Affidavit

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

4.20 Compliance with Laws/Arrearages

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

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

4.21 Verification of Registration and Tax Payment

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

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

4.22 False Statements

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

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

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

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

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

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

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

4.23 Payments by Electronic Funds Transfer

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

4.23.1 Agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller's Office grants an exemption. Payment by EFT is mandatory for contracts exceeding $200,000. The

successful Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form.

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

4.24 Prompt Payment Policy

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

4.25 Electronic Procurements Authorized

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

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

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

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

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

1) The RFP;

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

3) Pre-Proposal conference documents;

4) Questions and responses;

5) Communications regarding the solicitation or Proposal to any Offeror or potential Offeror;
6) Notices of award selection or non-selection; and
7) The Procurement Officer's decision on any Proposal protest or Contract claim.

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

1) Ask questions regarding the solicitation;
2) Reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer's request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer and;
3) Submit a "No Proposal Response" to the RFP.

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

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

A. Submission of initial Proposals

B. Filing of protests;

C. Filing of Contract claims;

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

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

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

4.26 MBE Participation Goal

There is no MBE subcontractor participation goal for this procurement.

4.27 VSBE Goal

There is no VSBE participation goal for this procurement.

4.28 Living Wage Requirements

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

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

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

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

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

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

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

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

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

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

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

4.29 Federal Funding Acknowledgement

This Contract does not contain federal funds.

4.30 Conflict of Interest Affidavit and Disclosure

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

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

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

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

4.31 Non-Disclosure Agreement

4.31.1 Non-Disclosure Agreement (Offeror)

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

4.31.2 Non-Disclosure Agreement (Contractor)

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

4.32 HIPAA - Business Associate Agreement

Based on the determination by the Department that the functions to be performed in accordance with this solicitation constitute Business Associate functions as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the recommended awardee shall execute a Business Associate Agreement as required by HIPAA regulations at 45 C.F.R. §164.500 *et seq.* and set forth in **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 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 Offeror with the next highest overall-ranked Proposal.

4.33 Nonvisual Access

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

4.34 Mercury and Products That Contain Mercury

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

4.35 Location of the Performance of Services Disclosure

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

4.36 Department of Human Services (DHS) Hiring Agreement

This solicitation does not require a DHS Hiring Agreement.

4.37 Small Business Reserve (SBR) Procurement

4.37.1 This is a Small Business Reserve Procurement for which award will be limited to certified small business vendors. Only businesses that meet the statutory requirements set forth in State Finance and Procurement Article, §§14-501—14-505, Annotated Code of Maryland, and that are certified by GOSBA Small Business Reserve Program are eligible for award of a contract.

4.37.2 For the purposes of a Small Business Reserve Procurement, a small business is a for-profit business, other than a broker, that meets the following criteria:

A. It is independently owned and operated;

B. It is not a subsidiary of another business;

C. It is not dominant in its field of operation; and

1) With respect to employees, in its most recently completed three (3) fiscal years:

a) Its wholesale operations did not employ more than 50 persons;

b) Its retail operations did not employ more than 25 persons;

c) Its manufacturing operations did not employ more than 100 persons;

d) Its service operations did not employ more than 100 persons;

e) Its construction operations did not employ more than 50 persons; and

f) The architectural and engineering services of the business did not employ more than 100 persons; and

2) With respect to gross sales, in its most recently completed three (3) fiscal years:

a) The gross sales of its wholesale operations did not exceed an average of $4,000,000;

b) The gross sales of its retail operations did not exceed an average of $3,000,000;

c) The gross sales of its manufacturing operations did not exceed an average of $2,000,000;

d) The gross sales of its service operations did not exceed an average of $10,000,000;

e) The gross sales of its construction operations did not exceed an average of $7,000,000; and

f) The gross sales of its architectural and engineering operations did not exceed an average of $4,500,000.

D. Note: If a business has not existed for three (3) years, the employment and gross sales average or averages shall be the average for each year or part of a year during which the business has been in existence.

E. Further information on the certification process is available at eMaryland Marketplace Advantage

4.37.3 Ineligible Proposals

Under a small business reserve procurement, a business that is not a certified small business is ineligible for award of a contract.

4.37.4 Before awarding a contract under a procurement designated as a small business reserve procurement, the Procurement Officer shall verify that the apparent awardee is certified by the Governor's Office of Small, Minority & Women Business Affairs as a small business. A procurement contract award under a small business reserve may not be made to a business that has not been SBR certified.

4.38 Maryland Health Working Families Act

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

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5 Proposal Format

5.1 Two Part Submission

Offerors shall submit Proposals in separate volumes:

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

5.2 Proposal Delivery and Packaging

5.2.1 Proposals delivered by facsimile and e-mail shall not be considered.

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

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

A. Any Proposal received at the appropriate mailroom, or typical place of mail receipt, for the respective procuring unit by the time and date listed in the RFP will be deemed to be timely. The State recommends a delivery method for which both the date and time of receipt can be verified.

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

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

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

A. Volume I - Technical Proposal consisting of:

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

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

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

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

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

B. Volume II - Financial Proposal consisting of:

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

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

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

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

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

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

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

5.2.8 Two Part Submission:

A. Technical Proposal consisting of:

1) Technical Proposal and all supporting material in Microsoft Word format, version 2007 or greater,

2) Technical Proposal in searchable Adobe PDF format,

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

B. Financial Proposal consisting of:

1) Financial Proposal and all supporting material in Microsoft Word format,

2) Financial Proposal in searchable Adobe PDF format,

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

5.3 Volume I - Technical Proposal

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

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

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

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

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

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

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

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

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

D. Executive Summary (Submit under TAB C)

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

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

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

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

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

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

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

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

3) Provide an organizational plan that includes all staff positions that will service the Rehabilitation Program, job titles, current licensure and certifications of staff, and

percentage of time spent by the designated staff for the Rehabilitation Program Contracted services.

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

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

6) Non-Compete Clause Prohibition:

   The Department seeks to maximize the retention of personnel working under the Contract whenever there is a transition of the Contract from one contractor to another so as to minimize disruption due to a change in contractor and maximize the maintenance of institutional knowledge accumulated by such personnel. To help achieve this objective of staff retention, each Offeror shall agree that if awarded the Contract, the Offeror's employees and agents filling the positions set forth in the staffing requirements of **Section 3.10.2** working on the State contract shall be free to work for the contractor awarded the State contract notwithstanding any non-compete clauses to which the employee(s) may be subject. The Offeror agrees not to enforce any non-compete restrictions against the State with regard to these employees and agents if a different vendor succeeds it in the performance of the Contract. To evidence compliance with this non-compete clause prohibition, each Offeror must include an affirmative statement in its technical Proposal that the Offeror, if awarded a Contract, agrees that its employees and agents shall not be restricted from working with or for any successor contractor that is awarded the State business.

7) Describe how and by whom evaluations and preparation of Rehabilitation Plans will be performed. If Offeror plans to use forms other than those attached to this document, drafts of the Rehabilitation Agreement and the Rehabilitation Plan must be attached to the technical Proposal.

8) Rehabilitation Program Participants need access to providers or facilities where they reside or work. The Offeror shall describe how it proposes to provide access to assessment, treatment and monitoring, including what criteria it will use to meet the geographic access to Participants, and how it will conduct or have conducted full assessments on individuals who live more than 50 miles from a central office.

9) Discuss how the Offeror proposes to address the problem that a Participant cannot pay for necessary treatment. Participants in the Rehabilitation Program are generally responsible for paying for costs of required consultations, treatment, or laboratory tests associated with alcohol/drug testing. It is anticipated that the costs of the initial evaluation as well as continued monitoring will be Contract costs. If the Offeror wishes to use Contract funds to purchase treatment or laboratory tests for Participants who cannot pay for treatment, the Offeror must include a plan explaining how need will be assessed and requiring reevaluating a Participant's financial need at least annually. The Contractor will be required to report these expenditures for treatment or chemical screens in the quarterly and annual reports.

10) Include the proposed protocol for responding to calls to the 24-hour telephone answering system. Update the individual Rehabilitation Plan for each Participant. Explain when and how treatment reviews and updates to the Rehabilitation Plan will be accomplished. Recovery monitoring, including Chemical Screens, Worksite Monitoring and other means of monitoring a Participant's compliance with the individual Rehabilitation Plan description.

11) The Offeror shall discuss the plan for monitoring the Participant's compliance with the Rehabilitation Agreement and the Rehabilitation Plan including a method of identifying Worksite Monitors. Include examples of forms and protocols for Worksite monitors, obtaining reports from professionals treating Participants, etc.

12) The Offeror shall submit its protocol for observed specimen collection for Chemical Screens of Participants with substance abuse problems. This shall address frequency, how the Participant will be notified, how long the Participant has to report for specimen collection, chain of custody of samples and other items relevant to a system of random observed Chemical Screens.

13) The Offeror shall discuss the plan for monitoring Participants with only physical, emotional and mental conditions, including medication monitoring.

14) Procedures for reporting Non-Compliance, terminations of the Rehabilitation Agreements for cause, and for licensees in the Rehabilitation Program who pose a danger to self and others.

15) Explain who will be responsible for reporting Non-Compliance to the Board.

16) The Offeror must propose formats for the quarterly and annual reports

17) Include a list of referral resources which will be used for evaluation and or treatment, with annotations indicating programs or facilities where the Offeror has previously placed clients. Please include at least 3 inpatient treatment centers and 3 laboratories distributed around Maryland which can accommodate random observed specimen collections for Chemical Screens.

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

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

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

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

3) Include letters of intended commitment to work on the project, including letters from any proposed subcontractor(s). Offerors should be aware of restrictions on substitution of Key

Personnel prior to RFP award (see Substitution Prior to and Within 30 Days After Contract Execution in Section 3.11.5).

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

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

The Offeror shall include information on past experience with similar projects and services including information in support of the Offeror Experience criteria in **Section 3.9.1**. The Offeror shall describe how its organization can meet the requirements of this RFP and shall also include the following information:

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

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

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

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

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

I. References (Submit under TAB H)

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

1) Name of client organization

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

3) Value, type, duration and description of the goods and services that were provided

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

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

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

1) The State contracting entity;

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

3) The dollar value of the contract;

4) The term of the contract;

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

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

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

K. Financial Capability (Submit under TAB J)

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

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

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

L. Certificate of Insurance (Submit under TAB K)

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

M. Subcontractors (Submit under TAB L)

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

N. Legal Action Summary (Submit under TAB M)

This summary shall include:

1) A statement as to whether there are any outstanding legal actions or potential claims against the Offeror and a brief description of any action;
2) A brief description of any settled or closed legal actions or claims against the Offeror over the past five (5) years;
3) A description of any judgments against the Offeror within the past five (5) years, including the court, case name, complaint number, and a brief description of the final ruling or determination; and
4) In instances where litigation is ongoing and the Offeror has been directed not to disclose information by the court, provide the name of the judge and location of the court.

O. Economic Benefit Factors (Submit under TAB N)

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

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

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

4) As applicable, for the full duration of the Contract, including any renewal period, or until the commitment is satisfied, the Contractor shall provide to the Procurement Officer or other designated agency personnel reports of the actual attainment of each benefit listed in response to this section. These benefit attainment reports shall be provided quarterly, unless elsewhere in these specifications a different reporting frequency is stated.

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

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

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

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

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

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

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

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

   c) Tax revenues to be generated for Maryland and its political subdivisions as a result of the Contract. Indicate tax category (sales taxes, payroll taxes, inventory taxes and

estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from the Contract;

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

e) Other benefits to the Maryland economy which the Offeror promises will result from awarding the Contract to the Offeror, including contractual commitments. Describe the benefit, its value to the Maryland economy, and how it will result from, or because of the Contract award. Offerors may commit to benefits that are not directly attributable to the Contract, but for which the Contract award may serve as a catalyst or impetus.

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

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

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

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

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

i) Third-party POC name and alternate for verification

ii) Third-party POC mailing address

iii) Third-party POC telephone number

iv) Third-party POC email address

v) If available, a Re-Seller Identifier

5.4 Volume II – Financial Proposal

The Financial Proposal shall contain all price information in the format specified in **Attachment B**. The Offeror shall complete the Financial Proposal Form only as provided in the Financial Proposal Instructions and the Financial Proposal Form itself. Do not amend, alter, or leave blank any items on the Financial Proposal Form or include additional clarifying or contingent language on or attached to the Financial

Proposal Form. Failure to adhere to any of these instructions may result in the Proposal being determined to be not reasonably susceptible of being selected for award and rejected by the Department.

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6 Evaluation and Selection Process

6.1 Evaluation Committee

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

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

6.2 Technical Proposal Evaluation Criteria

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

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

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

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

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

6.3 Financial Proposal Evaluation Criteria

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

6.4 Reciprocal Preference

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

A. The Maryland resident business is a responsible Offeror;

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

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

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

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

6.5 Selection Procedures

6.5.1 General

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

B. With or without discussions, the State may determine the Offeror to be not responsible or the Offeror's Proposal to be not reasonably susceptible of being selected for award at any time after the initial closing date for receipt of Proposals and prior to Contract award.

6.5.2 Selection Process Sequence

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

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

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

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

E. When in the best interest of the State, the Procurement Officer may permit Qualified Offerors to revise their initial Proposals and submit, in writing, Best and Final Offers (BAFOs). The State may make an award without issuing a request for a BAFO. **Offerors may only perform limited substitutions of proposed personnel as allowed in Section 3.11 (Substitution of Personnel**).

6.5.3 Award Determination

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

6.6 Documents Required upon Notice of Recommendation for Contract Award

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

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7 RFP ATTACHMENTS AND APPENDICES

Instructions Page

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

For documents required as part of the Proposal:

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

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

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

Table 1: RFP ATTACHMENTS AND APPENDICES

Applies?	When to Submit	Label	Attachment Name
Y	Before Proposal	A	Pre-Proposal Conference Response Form
Y	With Proposal	B	Financial Proposal Instructions and Form
Y	With Proposal	C	Bid/Proposal Affidavit (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf)
Y	With Proposal	F	Maryland Living Wage Requirements for Service Contracts and Affidavit of Agreement (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf)
Y	With Proposal	H	Conflict of Interest Affidavit and Disclosure (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf)
Y	5 Business Days after recommended award – However, suggested with Proposal	I	Non-Disclosure Agreement (Contractor) (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-I-Non-DisclosureAgreementContractor.pdf)

Applies?	When to Submit	Label	Attachment Name
Y	5 Business Days after recommended award – However, suggested with Proposal	J	HIPAA Business Associate Agreement (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-J-HIPAABusinessAssociateAgreement.pdf)
Y	5 Business Days after recommended award	M	Sample Contract (included in this RFP)
Y	5 Business Days after recommended award	N	Contract Affidavit (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-N-ContractAffidavit.pdf)
Y	When service is rendered	P	Rehabilitation Agreement
Y	When service is rendered	Q	Release Form
Y	When service is rendered	R	Consent for the Rehabilitation Program to Release Confidential Information to and Receive Confidential Information from the Maryland Board of Physicians
Y	When service is rendered	S	Sample Rehabilitation Plan
Y	When service is rendered	T	Rehabilitation Program Report

Appendices			
Applies?	**When to Submit**	**Label**	**Attachment Name**
Y	n/a	1	Abbreviations and Definitions (included in this RFP)
Y	With Proposal	2	Offeror Information Sheet (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf)
Additional Submissions			
Applies?	**When to Submit**	**Label**	**Document Name**

Y	5 Business Days after recommended award		Evidence of meeting insurance requirements (see **Section 3.6**); 1 copy
Y	10 Business Days after recommended award		PEP; 1 copy

Attachment A. Pre-Proposal Conference Response Form

Solicitation Number 21-18481

Maryland Board of Physicians Rehabilitation Program

A Pre-Proposal conference will be held on March 12, 2020 at 10:00 AM at 4201 Patterson Avenue, Room 100, Baltimore, Maryland 21215.

Please return this form by March 11, 2020 @ 10:00 AM, advising whether or not your firm plans to attend. The completed form should be returned via e-mail or fax to the Procurement Officer at the contact information below:

Zach Spivey
Maryland Department of Health/MD Board of Physicians
E-mail: Zachary.spivey@maryland.gov
Fax: 410-358-2252

Please indicate:

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

_____ No, we will not be in attendance.

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

Offeror: _____
Offeror Name (please print or type)

By: _____
Signature/Seal

Printed Name: _____
Printed Name

Title: _____
Title

Date: _____
Date

Attachment B. Financial Proposal Instructions & Form

B-1 Financial Proposal Instructions

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

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

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

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

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

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

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

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

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

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

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

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

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

B-1 Financial Proposal Form

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

See separate Excel Financial Proposal Form labeled RehabContractFinancialProposalForm.xlsx

Attachment C. Proposal Affidavit

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

Attachment D. Minority Business Enterprise (MBE) Forms

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

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

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

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

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

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

B. The Living Wage Law does not apply to:

(1) A Contractor who:

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

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

(2) A subcontractor who:

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

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

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

(3) Service contracts for the following:

(a) Services with a Public Service Company;

(b) Services with a nonprofit organization;

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

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

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

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

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

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

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

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

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

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

Attachment G. Federal Funds Attachments

This solicitation does not include a Federal Funds Attachment

Attachment H. Conflict of Interest Affidavit and Disclosure

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

Attachment I. Non-Disclosure Agreement (Contractor)

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

Attachment J. HIPAA Business Associate Agreement

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

Attachment K. Mercury Affidavit

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

Attachment L. Location of the Performance of Services Disclosure

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

Attachment M. Contract

Maryland Board of Physicians

"Maryland Board of Physicians Rehabilitation"

21-18481

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

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

1. Definitions

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

1.1 "COMAR" means Code of Maryland Regulations.

1.2 "Contractor" means the entity first named above whose principal business address is (Contractor's primary address) and whose principal office in Maryland is (Contractor's local address), whose Federal Employer Identification Number or Social Security Number is (Contractor's FEIN), and whose eMaryland Marketplace Advantage vendor ID number is (eMMA Number).

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

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

1.5 "RFP" means the Request for Proposals for Maryland Board of Physicians Rehabilitation Program, Solicitation # 21-18481, and any amendments, addenda, and attachments thereto issued in writing by the State.

1.6 "State" means the State of Maryland.

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

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

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

2. Scope of Contract

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

Exhibit A – The RFP

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

Exhibit C – The Technical Proposal

Exhibit D – The Financial Proposal

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

2.3 Without limiting the rights of the Procurement Officer under Section 2.2 above, the Contract may be modified by mutual agreement of the parties, provided: (a) the modification is made in writing; (b) all parties sign the modification; and (c) all approvals by the required agencies as described in COMAR Title 21, are obtained.

3. Period of Performance

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

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

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

4. Consideration and Payment

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

The total payment under a fixed price Contract or the fixed price element of a combined fixed price – time and materials Contract shall be the firm fixed price submitted by the Contractor in its Financial Proposal.

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

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

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

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

The State is not liable for interest:

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

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

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

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

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

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

5. Rights to Records

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

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

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

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

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

6. Exclusive Use

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

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

7. Patents, Copyrights, and Intellectual Property

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

7.2 Except for (1) information created or otherwise owned by the Department or licensed by the Department from third parties, including all information provided by the Department to Contractor; (2) materials created by Contractor or its subcontractor(s) specifically for the State under the Contract ("Deliverables"), except for any Contractor Pre-Existing Intellectual Property included therein; and (3) the license rights granted to the State, all right, title, and interest in the intellectual property embodied in the solution, including the know-how and methods by which the solution is provided and the processes that make up the solution, will belong solely and exclusively to Contractor and its licensors, and the Department will have no rights to the same except as expressly granted in this Contract. Any SaaS Software developed by Contractor during the performance of the Contract will belong solely and exclusively to Contractor and its licensors. For all Software provided by the Contractor under the Contract, Contractor hereby grants to the State a nonexclusive, irrevocable, unlimited, perpetual, non-cancelable, and non-terminable right to use and make copies of the Software and any modifications to the Software. For all Contractor Pre-Existing Intellectual Property embedded in any Deliverables, Contractor grants to the State a license to use such Contractor Pre-Existing Intellectual Property in connection with its permitted use of such Deliverable. During the period between delivery of a Deliverable by Contractor and the date of payment therefor by the State in accordance with this Contract (including throughout the duration of any payment dispute discussions), subject to the terms and conditions contained herein, Contractor grants the State a royalty-free, non-exclusive, limited license to use such Deliverable and to use any Contractor Materials contained therein in accordance with this Contract.

7.3. Subject to the terms of **Section 10**, Contractor shall defend, indemnify and hold harmless the State and its agents and employees, from and against any and all claims, costs, losses, damages, liabilities,

judgments and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with any third party claim that the Contractor-provided products/services infringe, misappropriate or otherwise violate any third party intellectual property rights. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent.

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

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

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

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

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

8. Confidential or Proprietary Information and Documentation

8.1 Subject to the Maryland Public Information Act and any other applicable laws including, without limitation, HIPAA, the HI-TECH Act, and the Maryland Medical Records Act and regulations promulgated pursuant thereto, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems or cloud infrastructure, if applicable) shall be held in confidence by the other party. Each party shall, however, be permitted to disclose, as provided by and consistent with applicable law, relevant confidential information to its officers, agents, and Contractor

Personnel to the extent that such disclosure is necessary for the performance of their duties under this Contract. Each officer, agent, and Contractor Personnel to whom any of the State's confidential information is to be disclosed shall be advised by Contractor provided that each officer, agent, and Contractor Personnel to whom any of the State's confidential information is to be disclosed shall be advised by Contractor of the obligations hereunder, and bound by, confidentiality at least as restrictive as those of set forth in this Contract..

8.2 The provisions of this section shall not apply to information that: (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already rightfully in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

9. Loss of Data

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

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

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

10. Indemnification and Notification of Legal Requests

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

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

10.3. Notification of Legal Requests. In the event the Contractor receives a subpoena or other validly issued administrative or judicial process, or any discovery request in connection with any litigation, requesting State Pre-Existing Intellectual Property, of other information considered to be the property of the State, including but not limited to State data stored with or otherwise accessible by

the Contractor, the Contractor shall not respond to such subpoena, process or other legal request without first notifying the State, unless prohibited by law from providing such notice The Contractor shall promptly notify the State of such receipt providing the State with a reasonable opportunity to intervene in the proceeding before the time that Contractor is required to comply with such subpoena, other process or discovery request.

11. Non-Hiring of Employees

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

12. Disputes

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

13. Maryland Law Prevails

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

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

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

14. Nondiscrimination in Employment

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

15. Contingent Fee Prohibition

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial

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

16. Non-Availability of Funding

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

17. Termination for Default

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

18. Termination for Convenience

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

19. Delays and Extensions of Time

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

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

suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

20. Suspension of Work

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

21. Pre-Existing Regulations

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

22. Financial Disclosure

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

23. Political Contribution Disclosure

The Contractor shall comply with Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of $200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of $500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31. Additional information is available on the State Board of Elections website: http://www.elections.state.md.us/campaign_finance/index.html.

24. Retention of Records

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

25. Right to Audit

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

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

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

26. Compliance with Laws

The Contractor hereby represents and warrants that:

a. It is qualified to do business in the State and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;

b. It is not in arrears with respect to the payment of any monies due and owing the State, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the Term;

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

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

27. Cost and Price Certification

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

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

28. Subcontracting; Assignment

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

attachments. The Contract shall not be assigned until all approvals, documents, and affidavits are completed and properly registered. The State shall not be responsible for fulfillment of the Contractor's obligations to its subcontractors.

29. Limitations of Liability

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

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

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

(c) For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract and regardless of the basis on which the claim is made, Contractor's liability shall not exceed two (2) times the total value of the Contract or $1,000,000, whichever is greater. Section 6 ("Indemnification") of this The above limitation of liability is per incident. [[Include for IT contracts.]]

[[OR]]

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

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

29.2 Contractor's indemnification obligations for Third party claims arising under Section 6 ("Indemnification") of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor's indemnification liability for third party claims arising under Section 6 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 6.

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

30. Commercial Nondiscrimination

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

this Contract, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

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

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

31. Prompt Pay Requirements

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

(a) Not process further payments to the Contractor until payment to the subcontractor is verified;

(b) Suspend all or some of the Contract work without affecting the completion date(s) for the Contract work;

(c) Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due to the Contractor;

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

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

31.2 An "undisputed amount" means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute. Such "undisputed amounts" include, without limitation: (a) retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor; and (b) an amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.

31.3 An act, failure to act, or decision of a Procurement Officer or a representative of the Department concerning a withheld payment between the Contractor and a subcontractor under this **section 31**, may not:

(a) Affect the rights of the contracting parties under any other provision of law;

(b) Be used as evidence on the merits of a dispute between the Department and the Contractor in any other proceeding; or

(c) Result in liability against or prejudice the rights of the Department.

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

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

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

i. Inspecting any relevant records of the Contractor;

ii. Inspecting the jobsite; and

iii. Interviewing subcontractors and workers.

Verification shall include a review of:

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

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

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

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

i. Terminate the Contract;

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

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

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

32. Living Wage

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

33. Use of Estimated Quantities

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

34. Risk of Loss; Transfer of Title

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

35. Effect of Contractor Bankruptcy

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

36. Miscellaneous

36.1 Any provision of this Contract which contemplates performance or observance subsequent to any termination or expiration of this Contract shall survive termination or expiration of this Contract and continue in full force and effect.

36.2 If any term contained in this Contract is held or finally determined to be invalid, illegal, or unenforceable in any respect, in whole or in part, such term shall be severed from this Contract, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.

36.3 The headings of the sections contained in this Contract are for convenience only and shall not be deemed to control or affect the meaning or construction of any provision of this Contract.

36.4 This Contract may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Signatures provided by facsimile or other electronic means, e,g, and not by way of limitation, in Adobe .PDF sent by electronic mail, shall be deemed to be original signatures.

37. Contract Monitor and Procurement Officer

37.1 The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor's responsibilities. The Department may change the Contract Monitor at any time by written notice to the Contractor.

37.2 The Procurement Officer has responsibilities as detailed in the Contract, and is the only State representative who can authorize changes to the Contract. The Department may change the Procurement Officer at any time by written notice to the Contractor.

38. Notices

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

If to the State:

Zach Spivey, Compliance Analyst

4201 Patterson Avenue, 4th Floor

Baltimore, Maryland 21215

Phone Number: (410) 764-2491

E-Mail: zachary.spivey@maryland.gov

With a copy to:

Leslie J. Taylor, Fiscal Director

Maryland Board of Physicians

4201 Patterson Avenue, 4th Floor

Baltimore, Maryland 21215

Phone Number: (410) 764-4707

E-Mail: leslie.taylor@maryland.gov

If to the Contractor:

(Contractor's Name)

(Contractor's primary address)

Attn: _____

.

42. Compliance with federal Health Insurance Portability and Accountability Act (HIPAA) and State Confidentiality Law

42.1 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.

42.2 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 Offeror shall execute a business associate agreement as required by HIPAA regulations at 45 C.F.R. 164.504 and in the form as required by the Department.

42.3 "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.

43. Limited English Proficiency

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

SIGNATURES ON NEXT PAGE

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

Contractor

By:

Date

PARENT COMPANY (GUARANTOR) (if applicable)

_____

By:

_____

Date

Approved for form and legal sufficiency
this ____ day of _____, 20___.

_____

Assistant Attorney General

State of Maryland
Department of Health

By: Christine A. Farrelly
Executive Director

By:

_____

Date

APPROVED BY BPW: _____ _____
(Date) (BPW Item #)

Attachment N. Contract Affidavit

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

Attachment O. DHS Hiring Agreement

This solicitation does not require a DHS Hiring Agreement

ATTACHMENT P – REHABILITATION AGREEMENT

MARYLAND BOARD OF PHYSICIANS REHABILITATION PROGRAM AGREEMENT

NAME: _____

LICENSE NUMBER (if applicable): _____

BOARD CASE NUMBER (if applicable): _____

EFFECTIVE DATES: _____ to _____

PUBLIC BOARD ORDER or DISPOSITION AGREEMENT (if applicable):

_____

TITLE OF ORDER OR AGREEMENT AND DATE:

_____

****

I, _____, agree to enter into the Maryland Board of Rehabilitation Program ("Program") and to comply with the requirements of this Rehabilitation Agreement ("Agreement") and my personal Rehabilitation Plan. I am entering into the Program and this Agreement as a result of an investigation of me by the Maryland Board of Physicians ("Board") for a possible violation(s) of the Maryland Medical Practice Act, Md. Health Occ. Code Ann. §14-404(a).

I understand and agree that my compliance with this Agreement will be monitored by the Board and the Board will receive from the Program any verbal information and documents about me and that I shall sign any written release/consent forms, and update them as required, authorizing the Board to receive this information from the Program.

I understand and agree to comply with all of the following provisions:

1. I agree to obtain any medical, neurological, or psychological evaluations recommended by the Program, for the purposes of establishing diagnosis, tracking my condition, or establishing treatment recommendations.

2. I agree to follow the inpatient and/or outpatient treatment recommendations of the Program, as detailed in my Rehabilitation Plan ("Plan"), and I understand that all costs of

treatment (to include but no be limited to, hospitalization, Chemical Screens, doctor fees, meeting fees) are my responsibility.

3. I will obey all federal, State and local laws and rules governing the practice of medicine in the State of Maryland. I will immediately report by telephone to my case manager any arrest or conviction for any offense.

4. I agree to sign any release/consent forms required to allow the Program to obtain records of my prior, present, or future health-related evaluations or treatment that may be needed for assessing my condition or monitoring my progress and compliance with the Program.

5. I agree to attend meetings with my case manager, at the frequency and in the manner specified in my Plan, so that my case manager can monitor my compliance with the terms of this Agreement and my Plan.

6. I agree to provide to the Program a written list of all locations at which I practice medicine, or provide medical services, including but not limited to, all hospitals at which I have privileges, all health maintenance organizations (HMO's), ambulatory surgical facilities as defined in Md. Health Gen. Code Ann., § 19-114 (b), health care facilities as defined in Md. Health Gen. Code Ann., § 19-114 (e), inpatient and/or outpatient clinics, and offices at which I practice medicine, and to update this list in writing within 7 business days whenever there are changes. I will follow the direction of the Program regarding notification of my employers or supervisors at locations where I practice or provide services.

7. I will obtain a Worksite Monitor, if required by my Plan, at any or all locations where I practice medicine and I will provide the Worksite Monitor with a copy of this Agreement. I understand that such monitors will communicate directly with the Program about my behavior in the workplace.

8. I will notify my case manager within 7 business days of any change of address, telephone number(s), employment, legal status and marital or family condition(s) that may be relevant to my recovery. If leaving the area where I live and/or practice medicine (e.g., vacation) interferes with compliance with my treatment plan, I will request approval from my case manager within 5 business days prior to leaving the area.

9. I understand that I must obtain advance approval from my case manager for any legitimate absence from testing that is not due to emergency or extraordinary circumstances. In the event that I am prevented by emergency or extraordinary circumstances from complying with the testing requirements of this Agreement and my Plan, I will notify the Program within twenty-four (24) hours. I understand that I bear the responsibility of proving to the Program that a legitimate justification existed. Even if the Program accepts my non-compliance as justified, the Program may determine that I have violated the terms of this Agreement if it identifies a pattern of avoidance of compliance.

10. I will abstain completely from the ingestion of any alcohol, Controlled Dangerous

Substances (CDS), narcotics, cocaine, and any other mood-altering substance unless required or specifically permitted by my Plan, or prescribed, administered, or dispensed to me for legitimate medical reasons by another person authorized by law my case manager all personal use of any controlled dangerous substances and the name of the prescribing health care provider, and follow-up by submitting to my case manager written documentation from that provider.

11. I will not self-prescribe any CDS medications.

12. I understand that act(s) of non-compliance with this Rehabilitation Agreement and my personal Rehabilitation Plan, listed below, shall be reported to the Board by telephone within 24 hours, with written follow-up within 5 business days. This information will include but not be limited to my name, any supporting documents regarding my non-compliance, as well as any and all records relating to drug and alcohol treatment and any other related records, files, or information regard my participation in the Rehabilitation Program, and will be provided to the Board. The follow is evidence of non-compliance:

    a. Failure to report or submit to a scheduled Chemical Screen or to provide an adequate sample for screening,
    b. Positive Chemical Screen of substances,
    c. Report from any hospital, facility, or employer indicating that I am a danger to myself or others.
    d. Report from any hospital, facility, or employer that action has been taken against my privileges to practice medicine.
    e. Assessment by the Program or any health care provider that I am a danger to myself or others.
    f. An arrest or conviction that shows that that the Participant is non-compliant with the Agreement or Plan.
    g. Actual knowledge that the Participant is under the influence of substances prohibited by the Agreement or Plan.

    The Program may also terminate this Agreement if any of the above occurs.

13. I understand that all other acts of non-compliance with the requirements of this Agreement and my personal Plan shall be reported to the Board upon request and on a quarterly basis, including but not limited to:

    a. Failure or refusal to go for recommended/required treatment, attend a scheduled meeting with the case manager or other staff of the Program, or keep a scheduled appointment with a psychiatrist, psychotherapist, or other health care provider or employer.
    b. Failure or refusal to attend a required group therapy session or any other required meeting of outside organizations, such as Alcoholics Anonymous or Narcotics Anonymous, regardless of the reason or excuse.
    c. Failure or refusal to provide any information or sign the appropriate releases for the Program to receive records or information from third parties about my inpatient and/or outpatient treatment, attendance at any scheduled appointment or meeting a psychiatrist,

psychotherapist, or any other health care provider, and fellowship meetings such as Alcoholics Anonymous or Narcotics Anonymous.

14. I understand that the Program is funded by and operates under a Contract with the Board for the purpose of safeguarding the health, safety, and welfare of Maryland's citizens. Therefore, I understand that the Program is required to provide certain reports about me to the Maryland Board of Physicians. If at any time while this Rehabilitation Agreement is in effect, the Maryland Board of Physicians substitutes another Contractor to administer the Program, I agree that my obligation to comply with all terms and conditions contained in this Agreement and my Rehabilitation Plan survives and remains in full force and effect. In the event that the Board enters into a Contract with another entity, I further agree to cooperate fully with the successor Contractor during and after the transition period. I understand that all of my Program files and records will be provided to the successor Contractor.

15. I agree to remain in the Rehabilitation Program for the entire monitoring period of this Agreement. If my recovery program requires additional time as determined by the Board, I agree to extend my agreement for additional time and remain in the program.

16. I agree that if I violate any term or condition of this Agreement or my Plan the Board may, in its discretion, issue public charges against me for violation of this Agreement and, after notice and an opportunity for a hearing, may impose any disciplinary sanctions against my medical license authorized under the Medical Practice Act, including a reprimand, suspension, probation, revocation and/or a monetary fine.

17. I agree that the effective dates of this Rehabilitation Agreement shall be

_____ through _____ .

_____	_____
Signature of Participant	Date

_____
Printed Name of Participant

_____	_____
Signature of Case Manager	Date
_____	_____
Printed Name of Case Manager	Date

Signature of Medical Director	Date
Printed Name of Medical Director	Date

ATTACHMENT Q – RELEASE FORM

REHABILITATION PROGRAM

I, _____ (name of Participant) request and authorize:

_____

_____

_____

(name or title of the person, program, or organization and address)
to exchange the following information (specify kind and amount of information to be disclosed):

_____

_____

_____

with the Rehabilitation Program at the following address:

_____

_____

_____

for the purpose of demonstrating and assisting my progress in recovery and compliance with my Rehabilitation Agreement AND PLAN. Specify any other purpose:

_____

_____

_____

I understand that federal and State law protects the Confidentiality of my records and that my records cannot be disclosed without my written consent unless otherwise permitted by law. I also understand that I may revoke this consent at any time except to the extent that action has been taken in reliance on it. If not previously revoked, this consent expires one year or 365 days after the date of my termination from participation in the Rehabilitation Program.

I further acknowledge that the information to be exchanges was fully explained to me and that this consent was given of my own free will.

Executed this _____ day of _____ , 20 _____ .

_____	_____
Signature of Participant	Signature of Witness
_____	_____
Printed Participant Name	Printed Witness Name & Title

_____

ATTACHMENT R - CONSENT FOR THE REHABILITATION PROGRAM TO RELEASE CONFIDENTIAL INFORMATION TO AND RECEIVE CONFIDENTIAL INFORMATION FROM THE MARYLAND BOARD OF PHYSICIANS

I,_____(name of participant), authorize the Maryland Professional Rehabilitation Program ("Program") to disclose my entire case file, including any and all drug and alcohol and psychiatric/psychological/medical records, to the Maryland Board of Physicians ("Board") and I authorize the Program to receive information from the Board with regard to any investigations or other issues relating to my licensure in the State of Maryland for the purpose of communicating and reporting written and verbal information about my progress, recovery, and compliance with my Rehabilitation Agreement, Plan and Board Order.

I further understand that the Program will report to the Board any acts that meet the criteria of being a reportable event, as defined by my Agreement, Plan or Board Order, and will disclose to the Board any verbal information and documents regarding those acts. I also understand that the Board may, at its discretion, initiate disciplinary action against me as a result of my having committed these acts. I authorize the Board to access, use, and disclose information from my case file in any investigation and disciplinary action taken pursuant to Maryland Code Ann., Health Occupations Article § 14-401, et seq. and in the public order posted on the Board's website pursuant to Maryland Code Ann., Health Occupations Article § 1-607, to the extent necessary to determine my compliance and progress with my Rehabilitation Agreement, Plan and Board Order. I understand that if I do not consent for the Board of Physicians to access records of my progress and compliance with my Rehabilitation Agreement, Plan and Board Order, the Board may still proceed with its disciplinary action against me.

I understand that federal and state law protects the confidentiality of my records and that my records cannot be disclosed without my written consent unless otherwise permitted by law. I also understand that I may revoke this consent at any time except to the extent that action has been taken in reliance on it. If not previously revoked, this consent expires one year or 365 days after the date of my termination from participation in the Rehabilitation Program.

I further acknowledge that the information to be disclosed was fully explained to me and that this consent was given of my own free will.

Executed this ____ day of _____,20____.

_____	_____
Signature of Participant	Signature of Witness
_____	_____
Printed Participant Name	Printed Witness Name & Title

ATTACHMENT S - SAMPLE REHABILITATION PROGRAM PLAN

SAMPLE REHABILITATION PROGRAM
REHABILITATION PLAN

PRACTITIONER NAME: _____

EFFECTIVE DATE:
From: _____ To: _____

1. EVALUATION (PSYCHIATRIC/NEUROLOGIC, PHYSOLOGICAL—Specify, list, and provide information on each):

Clinician: _____

Phone: _____

Completion Date: _____

Comments: _____

2. PHYSICAL EXAM:

Physician: _____

Phone: _____

Completion Date: _____

Comments: _____

3. INPATIENT TREATMENT:

Facility: _____

Phone: _____

Adm. Date: _____ D/C Date: _____

Comments: _____

_____

_____

4. OUTPATIENT TREATMENT:

Therapist: _____

Phone: _____

Adm. Date: _____ D/C Date: _____

Comments: _____

_____

_____

_____

5. SELF – HELP FELLOWSHIPS:

Alcoholics Anonymous: _____

Narcotics Anonymous: _____

Other: _____

Meeting per Week: _____

Date Begin: _____

Documentation of Meetings: _____

_____

_____

Comments: _____

_____

_____

6. FAMILY INVOLVEMENT:

Members Present in Home: _____

Referred to Support Groups: _____

Comments: _____

_____

_____

7. WORKSITE MONITOR:

Name/s: _____

Telephone Number/s: _____

Worksite Address/es: _____

Comments: _____

_____

_____

8. CHEMICAL SCREENS:

☐ Urine ☐ Breath ☐ Hair ☐ Blood ☐ Saliva ☐ Other:

_____

9. LOCATION:

Phone: _____

Specimens per Month: _____

Date Begin: _____

Comments: _____

_____

_____

10. MEDICATION:

ANTABUSE TREXAN OTHER

1. _____ Frequency: _____
2. _____ Frequency: _____
3. _____ Frequency: _____
4. _____ Frequency: _____

Prescriber: _____

Phone: _____

Date Begin: _____

11. PRACTICE LIMITATION:

Limitations or modifications required by the Maryland Board of Physicians:

_____

_____

_____

12. CASE MANAGER:

Case Manager: _____

Phone: _____

Frequency of Contact: Phone _____ Face to Face _____

_____ _____

Practitioner Name **Date**

_____ _____

Care Manager Name **Date**

13. PROGRAM MONITORING/SCHEDULING:

FREQUENCY OF CONTACT: Phone/Email _____ Face to Face _____

Toxicology monitoring (check if applicable): _____

Frequency/ Type/ Location: _____

14. OTHER

_____
_____
_____
_____

Practitioner Name	**Date**
Care Manager Name	**Date**
Medical Director, Rehabilitation Program	**Date**

ATTACHMENT T – REHABILITATION PROGRAM REPORT

REHABILITATION PROGRAM

WORKSHEET MONITOR REPORT

Sample report form

DATE: _____

PARTICIPANT'S NAME: _____

WORKSITE LOCATION: _____

WORKSITE MONITOR: _____

PHONE NUMBER: _____

PERIOD COVERED: _____

CASE MANAGER: _____

I have observed the following changes in: (include both positive and negative comments/observations)

_____ Absenteeism

_____ Personal Habits

_____ Practice Performance

_____ Interpersonal Relationships

_____ Social Behavior

_____ Use of Prescriptions/Non-Prescription Drugs or Alcohol

Comments about Practitioner:

_____

Frequency of contact with Practitioner __ Daily Weekly Monthly

Worksite Monitor's Signature: _____

Please return this form to : _____, or fax to:

_____(secure fax)

Appendix 1 – Abbreviations and Definitions

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

A. **14-402 Evaluations -** a referral from the Board to the Rehabilitation Program to schedule and ensure the appropriate evaluation is conducted as required by Health Occupations Article, Section 14-402. An Applicant or licensee referred for a 14-402 evaluation is not a Participant of the Program; however, these referrals take priority due to the concerns regarding the individual's competence and ability to practice their profession safely. The evaluation reports must specifically State whether the individual is competent to safely practice. A 14-402 Evaluations is confidential and can only be shared with the Board.

B. **Acceptable Use Policy (AUP) -** A written policy documenting constraints and practices that a user must agree to in order to access a private network or the Internet.

C. **Access** – The ability or the means necessary to read, write, modify, or communicate data/information or otherwise use any information system resource.

D. **Active Investigation -** a Board investigation of a Participant who is alleged to have violated the terms of their Disposition Agreement, Board Consent or Final Order and/or the Rehabilitation Agreement and/or Rehabilitation Plan.

E. **Advocacy-** the Rehabilitation Program shall refrain from advocating for Participants on Board matters. The Rehabilitation Program is separate and distinct from any Board investigations or disciplinary matters.

F. **Allied Health Professional** – an individual who practices an allied health care profession and is certified or licensed by the Maryland Board of Physicians, or who is an Applicant for licensure or certification to practice an allied health profession in Maryland.

G. **Applicant** - An individual who has applied to the Board for initial licensure or reinstatement of a license.

H. **Application Program Interface (API)** – Code that allows two software programs to communicate with each other.

I. **Board** – The Maryland Board of Physicians and staff.

J. **Board Order** – a formal, public, written decision by the Board.

K. **Business Day(s)** – The official working days of the week to include Monday through Friday. Official working days excluding State Holidays (see definition of "Normal State Business Hours" below).

L. **Change in Circumstances -** notice and an updated Rehabilitation Plan are required for any Change in Circumstances as defined in the "Non-Compliance" definition.

M. **Chemical Screen** – A laboratory test to detect drugs including controlled drugs or alcohol in the blood, urine, saliva, semen, sweat, hair, skin or nails from a human body.

N. **Clinical Manager** – An individual(s) licensed as a Licensed Clinical Social Worker designated by the Rehabilitation Program to inform, evaluate, refer a Participant for appropriate treatment and meet with the Participant face to face on a monthly basis. The Clinical Manager may oversee more than one Participant.

O. **COMAR** – Code of Maryland Regulations available on-line at http://www.dsd.state.md.us/COMAR/ComarHome.html.

P. **Confidentiality -** all records of the Board are confidential under Health Occupations Section 14-411 and may only be disclosed pursuant to the statute. Board records are confidential and cannot be redisclosed. The Rehabilitation Program should not discuss Board processes, discipline or investigations with Participants. Any inquiries on these matters should be referred to the Board.

Q. **Contract** – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of **Attachment M**.

R. **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.

S. **Contract Monitor** – The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor's responsibilities. The Department may change the Contract Monitor at any time by written notice to the Contractor.

T. **Contractor** – The selected Offeror that is awarded a Contract by the State.

U. **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.

V. **Contractor Personnel** – Employees and agents and subcontractor employees and agents performing work at the direction of the Contractor under the terms of the Contract awarded from this RFP.

W. **Data Breach** – The unauthorized acquisition, use, modification or disclosure of State data, or other Sensitive Data.

X. **Department or MDH** – Maryland Department of Health.

Y. **Disposition Agreement -** A formal written nonpublic agreement entered into between the Board and a Physician, or allied health professional, by which the Physician, or allied health professional agrees to comply with certain conditions and the Board foregoes further investigation into a matter based on compliance with those conditions.

Z. Maryland Board of Physicians or (Board).

AA. **eMMA** – eMaryland Marketplace Advantage (see RFP **Section 4.2**).

BB. **Enterprise License Agreement (ELA)** – An agreement to license the entire population of an entity (employees, on-site contractors, off-site contractors) accessing a software or service for a specified period of time for a specified value.

CC. **Go-Live-Date** – The date when the Contractor must begin providing all services required by this solicitation.

DD. **Information System** – A discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

EE. **Information Technology (IT)** – All electronic information-processing hardware and software, including: (a) maintenance; (b) telecommunications; and (c) associated consulting services.

FF. **Key Personnel** – All Contractor Personnel identified in the solicitation as such that are essential to the work being performed under the Contract. See RFP **Sections 3.10**.

GG. **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.

HH. **Medical Director** – A Contractor-employed Physician Medical Director who has a full, unrestricted Physician's license in Maryland, be American Board of Medical Specialties (ABMS) or American Osteopathic Association (AOA) certified and have substantial experience in treating persons with alcohol or chemical addictions. This position provides oversight to the Rehabilitation Program. The Medical Director must be approved by the Board following a written request from the Rehabilitation Program.

II. **Medical Review Officer (MRO)** – An employee or subcontractor of The Contractor whose function is to review, interpret, and recommend action on the results of workplace drug testing is critical. The MRO is a licensed Medical Director or doctor of osteopathy. The MRO has a recognized medical degree, including M.D., D.O., or M.B. The MRO has a license to practice medicine which is current, unrestricted, and in good standing, certification in addiction medicine or occupational medicine by a member Board of the American Board of Medical Specialties or successful completion of an MRO certification examination given by a national medical specialty society recognized by the American Medical Association (AMA) or the American Osteopathic Association (AOA).

JJ. **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.

KK. **Non-compliance -** "Non-compliance" means any time an evaluee of a 14-402 referral or Participant fails to perform or satisfy in whole or part any rule or requirement established by the Rehabilitation Program or any term or condition set forth in the Rehabilitation Agreement with the Rehabilitation Program or Board Order or Disposition Agreement issued by the Board, including but not limited to:

(a) One missed appointment for a scheduled Chemical Screen, regardless of the reason or excuse given;
(b) One positive Chemical Screen ;
(c) One failure or refusal to go for recommended/required treatment, attend a scheduled meeting with the case manager or other staff of the Rehabilitation Program, keep a scheduled appointment with a psychiatrist, psychotherapist, or other health care provider or employer;
(d) One failure or refusal to attend a required group therapy session or any other required meeting of outside organizations, such as Alcoholics Anonymous, Narcotics Anonymous, regardless of the reason or excuse given by the Participant.
(e) Failure or refusal to provide any information or sign the appropriate releases for the Rehabilitation Program to receive records or information from third parties about the Participant's inpatient or outpatient treatment, or attendance at any scheduled appointment or meeting with a psychiatrist, psychotherapist, or any other health care provider, and fellowship meetings such as Alcoholics Anonymous or Narcotics

Anonymous.

(f) A report from any hospital, facility, or employer indicating that the Participant is a danger to self or others or that action has been taken against the Participant's privileges to practice medicine or practice an applied health profession.

(g) The Participant's being the subject of any disciplinary actions or investigations related to chemical dependence, quality of medical care rendered, or ability to practice medicine or an applied health profession competently by a hospital or health care facility where the Participant has privileges or provides medical care or practices an applied health profession ; or

(h) Quitting the Program before the Rehabilitation Agreement has been completed.

(i) Failure to cooperate with the Rehabilitation Program, to include, meeting with Program staff, undergo an evaluation as directed by the Rehabilitation Program, and entering into an Rehabilitation Agreement and Plan as recommended by the Rehabilitation Program after a referral by the Board.

(j) One dilute urine at a Chemical Screen;

(k) One failure to submit to a chemical when notified.

Non-compliance Report – The Rehabilitation Program is required to report Non-Compliance of any of the above to the Board within 24 hours of it's knowledge of the Non-Compliance.

LL. **Normal State Business Hours -** Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: www.dbm.maryland.gov – keyword: State Holidays.

MM. **Notice to Proceed (NTP)** – A written notice from the Procurement Officer that work under the Contract, project, Task Order or Work Order (as applicable) is to begin as of a specified date. The NTP Date is the start date of work under the Contract, project, Task Order or Work Order. Additional NTPs may be issued by either the Procurement Officer or the Contract Monitor regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date.

NN. **NTP Date** – The date specified in a NTP for work on Contract, project, Task Order or Work Order to begin.

OO. **Offeror** – An entity that submits a Proposal in response to this RFP.

PP. **Participant** – A Physician or allied health professional directed by the Board to receive Rehabilitation services in the Rehabilitation Program. This includes a Physician or allied health professional that is under a Board Order or Disposition Agreement.

QQ. **Personally Identifiable Information (PII)** – Any information about an individual maintained by the State, including (1) any information that can be used to distinguish or trace an individual identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.

RR. **Physician** – An individual who is licensed to practice in the State of Maryland.

SS. **Practitioner** – An individual who meets the definition of Physician or allied health professional.

TT. **Procurement Coordinator** – The State representative designated by the Procurement Officer to perform certain duties related to this solicitation which is expressly set forth herein.

UU. **Procurement Officer** – Prior to the award of any Contract, the sole point of contact in the State for purposes of this solicitation. After Contract award, the Procurement Officer has responsibilities as detailed in the Contract (**Attachment M**), and is the only State representative who can authorize changes to the Contract. The Department may change the Procurement Officer at any time by written notice to the Contractor.

VV. **Proposal** – As appropriate, either or both of the Offeror's Technical or Financial Proposal.

WW. **Protected Health Information (PHI)** – Information that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) that identifies the individual; or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

XX. **Rehabilitation** – the case management and coordination service, including a monthly face to-face meeting with each Participant, offered by the Rehabilitation Program to Physicians or Allied Health Professionals whose ability to practice with reasonable skill and safety is impaired by alcoholism, chemical dependency, or other behavioral, physical, emotional, or mental conditions

YY. **Rehabilitation Agreement** – A formal written agreement between the Contractor and a Participant which commits the Participant to comply with the requirements of the Rehabilitation Program. The Rehabilitation Agreement must include an Addendum regarding zero tolerance of alcohol and drug use. If the Rehabilitation Program proposes a revision of the Rehabilitation Agreement, prior approval by the Board is required.

ZZ. **Rehabilitation Plan** – A formal written plan for each Participant, updated by the Rehabilitation Program on a quarterly basis or at any Change in Circumstances, which sets forth specific requirements that the Participant must meet, including, behavioral, physical or mental evaluation, inpatient or outpatient treatment, attendance at Alcoholics Anonymous, Narcotics Anonymous, or similar group meetings, Chemical Screens, regular medication, and schedule for meetings with the Participant's case manager.

AAA. **Rehabilitation Program** – The totality of case management and coordination services which may include but is not limited to: (a) the receipt of referrals of Practitioners in need of Rehabilitation services (b) initial and continuous assessment, investigation, and evaluation (c) referral to appropriate inpatient and outpatient treatment sources (d) development of an individual Rehabilitation Plan (e) monitoring of treatment, including Chemical Screening of urine, breath, or blood; attendance at scheduled medical/therapy appointments, coordination with all other healthcare providers, Worksite Monitor reports, attendance at self-help programs, etc., (f) coordination and scheduling of 14-402 Evaluations, (g) referral for the appropriate evaluation for Participants and those referred through the 14-402 process, (h) timely providing documents such as the Rehabilitation Agreement and Plan and supporting documents to the Board on a quarterly basis and upon request.

BBB. **Request for Proposals (RFP)** – This Request for Proposals issued by the Maryland Board of Physicians (Department), with the Solicitation Number and date of issuance indicated in the Key Information Summary Sheet, including any amendments thereto.

CCC. **Security Incident** – A violation or imminent threat of violation of computer security policies, Security Measures, acceptable use policies, or standard security practices. "Imminent threat of violation" is a situation in which the organization has a factual basis for believing that a specific incident is about to occur.

DDD. **Security or Security Measures** – The technology, policy and procedures that a) protects and b) controls access to networks, systems, and data.

EEE. **Sensitive Data -** Means PII;PHI; other proprietary or confidential data as defined by the State, including but not limited to "personal information" under Md. Code Ann., Commercial Law § 14-3501(e) and Md. Code Ann., St. Govt. § 10-1301(c) and information not subject to disclosure under the Public Information Act, Title 4 of the General Provisions Article; and information about an individual that (1) can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; or (2) is linked or linkable to an individual, such as medical, educational, financial, and employment information.

FFF. **Service Level Agreement (SLA) -** Commitment by the Contractor to the Department that defines the performance standards the Contractor is obligated to meet.

GGG. **Software -** The object code version of computer programs licensed pursuant to this Contract. Embedded code, firmware, internal code, microcode, and any other term referring to software that is necessary for proper operation is included in this definition of Software. Software includes all prior, current, and future versions of the Software and all maintenance updates and error corrections. Software also includes any upgrades, updates, bug fixes or modified versions or backup copies of the Software licensed to the State by Contractor or an authorized distributor.

HHH. **Software as a Service (SaaS) -** A software licensing and delivery model in which software is licensed on a subscription basis and is centrally hosted. For the purposes of this RFP, the terms SaaS and PaaS are considered synonymous and the term SaaS will be used throughout this document.

III. **State** – The State of Maryland.

JJJ. **Source Code** – Executable instructions for Software in its high level, human readable form which are in turn interpreted, parsed and/or compiled to be executed as part of a computing system.

KKK. **System Availability** – The period of time the Solution works as required excluding non-operational periods associated with planned maintenance.

LLL. **System Documentation** – Those materials necessary to wholly reproduce and fully operate the most current deployed version of the Solution in a manner equivalent to the original Solution including, but not limited to:

1) Source Code: This includes source code created by the Contractor or subcontractor(s) and source code that is leveraged or extended by the Contractor for use in the Contract;

2) All associated rules, reports, forms, templates, scripts, data dictionaries and database functionality;

3) All associated configuration file details needed to duplicate the run time environment as deployed in the current deployed version of the system;

4) All associated design details, flow charts, algorithms, processes, formulas, pseudo-code, procedures, instructions, help files, programmer's notes and other documentation;

5) A complete list of Third Party, open source, or commercial software components and detailed configuration notes for each component necessary to reproduce the system (e.g., operating system, relational database, and rules engine software);

6) All associated user instructions and/or training materials for business users and technical staff, including maintenance manuals, administrative guides and user how-to guides; and

7) Operating procedures.

MMM. **Technical Safeguards** – The technology and the policy and procedures for its use that protect State Data and control access to it.

NNN. **Third Party Software** – Software and supporting documentation that:

1) are owned by a third party, not by the State, the Contractor, or a subcontractor;

2) are included in, or necessary or helpful to the operation, maintenance, support or modification of the Solution; and

3) are specifically identified and listed as Third Party Software in the Proposal.

OOO. **Total Proposal Price -** The Offeror's total price for goods and services in response to this solicitation, included in Financial Proposal **Attachment B** – Financial Proposal Form.

PPP. **Upgrade -** A new release of any component of the Solution containing major new features, functionality and/or performance improvements.

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

RRR. **Working Day(s)** – Same as "Business Day(s)."

SSS. **Worksite** – means any location where a Participant practices medicine or an allied health profession on a regular basis, or is otherwise employed, including but not limited to a private office, hospital, emergency room, nursing home, etc.

TTT. **Worksite Monitor** – An individual who interacts with a Participant in a specific Worksite and agrees to submit regular reports on the Participant to the case manager

Appendix 2 – Offeror Information Sheet

See link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf.