



STATE OF MARYLAND

MARYLAND DEPARTMENT OF HEALTH (MDH)

REQUEST FOR PROPOSALS (RFP)

QUALITY IMPROVEMENT ORGANIZATION (QIO) SERVICES

RFP NUMBER MDH OPASS 21-19004

ISSUE DATE: MAY 24, 2021

NOTICE

A Prospective Offeror that has received this document from a source other than eMarylandMarketplaceAdvantage (eMMA) <https://procurement.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: QUALITY IMPROVEMENT ORGANIZATION (QIO) SERVICES
Solicitation No: MDH OPASS 21-19004

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 DEPARTMENT OF HEALTH (MDH)
KEY INFORMATION SUMMARY SHEET

Request for Proposals	Services - QUALITY IMPROVEMENT ORGANIZATION (QIO) SERVICES
Solicitation Number:	MDH OPASS 21-19004
RFP Issue Date:	MAY 24, 2021
RFP Issuing Office:	Maryland Department of Health (MDH)
Procurement Officer:	Queen Davis, Acting Director Office of Contract Management & Procurement 201 W. Preston Street, Room 416B Baltimore, MD 21201
e-mail:	mdh.solicitationquestions@maryland.gov
Office Phone:	410-767-5335
Contract Officer	Sherida Studwood Office of Contract Management & Procurement mdh.solicitationquestions@maryland.gov
Contract Monitor	Patricia Sastoque Development Disabilities Administration patricia.sastoque@maryland.gov
Procurement Coordinator	Monica Hariri Development Disabilities Administration monica.hariri@Maryland.gov
Proposals are to be sent to:	Proposals will be accepted through the State's eMaryland Marketplace Advantage (eMMA) e-Procurement system. Instructions on how to submit proposals electronically can be found at: https://procurement.maryland.gov/wp-content/uploads/sites/12/2019/08/5-eMMA-QRG-Responding-to-Solicitations-Double-Envelope-v2.pdf
Pre-Proposal Conference:	<u>Virtual Teleconference by Calendar Invitation from Procurement Coordinator Only</u> See Attachment A for instructions.
Questions Due Date and Time	July 7, 2021 2:00 pm EST Local Time MDH.solicitationquestions@maryland.gov
Proposal Due (Closing) Date and Time:	July 15, 2021 2:00 pm EST 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:	30% with no subgoals
VSBE Subcontracting Goal:	3%
Contract Type:	Firm fixed price
Contract Duration:	Three (3) year base period with Two (2) one-year option periods
Primary Place of Performance:	DDA Headquarters, 201 W. Preston Street, Baltimore, MD 21201
SBR Designation:	No
Federal Funding:	Yes

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1 Minimum Qualifications

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

1.1.1.1 The Offeror must be a Medicaid-eligible provider and not on the following exclusion lists. An Offeror must not be on the Health and Human Services (HHS) Office of the Inspector General's List of Excluded Individuals and Entities (LEIE), or the General Services Administration System for Award Management (SAM). Links to the LEIE and SAM lists are as follows:

a) LEIE: Go here: https://oig.hhs.gov/exclusions/exclusions_list.asp

b) SAM: Go here: <https://www.sam.gov/SAM/>

(If the SAM link creates problems, copy the link and manually insert into the address bar.)

1.1.1.2 An Offeror must provide a self-certification with its Proposal that it is not on the LEIE or EPLS lists.

1.1.1.3 Offeror must provide an attestation stating their organization is a Quality Improvement Organization (QIO) or QIO-like entity, under contract with the Centers for Medicare and Medicaid (CMS) or as designated by CMS. Specifically, the Offeror must meet the requirements of Section 1152 of the Social Security Act (i.e., "QIO-like entity").

<https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/QualityImprovementOrgs/HowtoBecomeaQIO.html>, thereby enabling the State to qualify for the 75% federal financial participation as established in Section 1903(a)(3)(C) of the Social Security Act.

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2 Contractor Requirements: Scope of Work

2.1 Summary Statement

- 2.1.1 The Maryland Department of Health (MDH), Department (DDA or the Department) is issuing this Request for Proposals (RFP) to request a Contractor certified by Centers for Medicare and Medicaid Services (CMS) as a Quality Improvement Organization (QIO) or QIO-like entity to: (1) provide strategies that enhance the quality of life and help to ensure the health and wellbeing for individuals with intellectual and developmental disabilities; (2) develop audit standards for the DDA's services including review cases and analyze patterns of services related to assessed need and quality review; (3) conduct ongoing utilization reviews to safeguard against unnecessary utilization of care and services and to assure efficiency, economy and quality of care; and (4) administer the DDA's National Core Indicators Surveys.
- 2.1.2 It is the State's intention to obtain services, as specified in this RFP, from a Contract between the selected Offeror and the State. The anticipated duration of services to be provided under this Contract is three (3) base years with two (2) option periods. Each option period is one (1) year.
- 2.1.3 The Department intends to make a single award as a result of this RFP. See RFP **Section 4.9 Award Basis** for more Contract award information.
- 2.1.4 An Offeror, either directly or through its subcontractor(s), must be able to provide all 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 DDA provides a coordinated service delivery system so that individuals with developmental disabilities receive appropriate services oriented toward the goal of integration into the community. DDA's mission is to partner with people with developmental disabilities to provide them leadership and resources to live fulfilling lives, (see information on DDA at <https://dda.health.maryland.gov/Pages/home.aspx>). Services are provided through a wide array of community-based services delivered primarily through a network of nonprofit Providers, as well as forensic residential centers and State residential centers. The services funded by DDA include:

- a) Assistive Technology and Services (previously referred to as Assistive Technology & Adaptive Equipment)
- b) Behavioral Support Services
- c) Career Exploration
- d) Community Development Learning Services (previous referred to as Community Learning Services)
- e) Community Living - Group Homes (previously referred to as Residential Habilitation)
- f) Community Living - Enhanced Supports
- g) Coordination of Community Services (CCS)
- h) Day Habilitation
- i) Employment Discovery and Customization
- j) Employment Services
- k) Supported Living
- l) Environmental Assessment
- m) Environment Modifications (previously referred to as Environmental Accessibility)

- Adaptations)
- n) Family and Peer Mentoring Supports
- o) Family Caregiver Training and Empowerment Services
- p) Fiscal Management Services
- q) Housing Support Services
- r) Individual and Family Directed Goods and Services
- s) Live In Caregiver Supports (previously referred to as Live-In Caregiver Rent)
- t) Nurse Consultation
- u) Nurse Health Case Management
- v) Nurse Case Management and Delegation Services
- w) Participant Education, Training, and Advocacy Supports
- x) Personal Supports (previously referred to as Community Supported Living Arrangement)
- y) Remote Support Services
- z) Shared Living (previously referred to as Individual Family Care (IFC))
- aa) Supported Employment
- bb) Respite Care Services
- cc) Transition Services (previously referred to as Transition Services-Community Acclimation and Transition Services-Residential Set Up)
- dd) Transportation
- ee) Vehicle Modifications

2.2.2 The DDA's community-based services and supports are provided through a combination of e 1915(c) of the Social Security Act, Home and Community Based Services Waivers (i.e. Community Pathways, Family Supports, and Community Supports Waivers), Targeted case management under the Medicaid State Plan, and DDA State funded services. Services are administered through four (4) regional offices in the State of Maryland that include each of the following counties:

- (a) Central Maryland Regional Office (CMRO) - Anne Arundel, Baltimore City, Baltimore County, Harford, and Howard Counties;
- (b) Eastern Shore Regional Office (ESRO) - Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester Counties;
- (c) Southern Maryland Regional Office (SMRO) - Calvert, Charles, Montgomery, Prince George's, and St. Mary's Counties; and
- (d) Western Maryland Regional Office (WMRO) - Allegany, Carroll, Frederick, Garrett, and Washington Counties.

2.2.3 As a key piece of the DDA's service delivery system, CCS assists applicants and participants in coordinating all services, whether Medicaid reimbursed services or services provided by other funding sources. These services include completing the Person Centered Plan (PCP) and any subsequent revisions, and monitoring the implementation of the PCP and the health and welfare of Persons/Individuals. The frequency of CCS activity is based on the individual needs of the Person/Individual and as required to address any identified health and safety risks or service Provider issues. CCS include the following:

- (a) Assessment and periodic reassessment
- (b) Development and annual and periodic revision of the PCP
- (c) Referral and related activities
- (d) Monitoring and follow-up activities

2.2.4 The DDA values Quality Enhancement (QE) as a critical aspect that must be incorporated into all facets of the State's service system that supports Maryland citizens with developmental disabilities. The

DDA's intent is to have structures and systems to measure and improve performance in the CMS Quality Framework for Home and Community Based Services which will focus on seven (7) desired outcomes:

- (1) Participant Access: access to community supports; information and referral; timely intake and eligibility determination; reasonable promptness
- (2) Person-Centered Service Planning and Delivery: individually-oriented needs assessment and service plans; implementation and monitoring and service as planned; responses to changing needs/choices and to participant direction
- (3) Provider Capacity: organizational licensure and certification; sufficient Providers (agencies and staff); sufficient staff training; Provider monitoring
- (4) Participant Safeguards: incident reporting/response; risk assessment/balance with choice; monitoring of behavioral/pharmacological interventions; medication administration; emergency/disaster preparation/response; health monitoring
- (5) Rights and Responsibilities: protection of rights and decision-making authority; due process and grievance procedures
- (6) Outcomes and Satisfaction: surveys show satisfaction with quality of services, and service outcomes; data used to find and respond to dissatisfaction and unmet goals
- (7) System Performance: systematic gathering and analysis of performance data; community participation in designing and appraising system performance and improvement activities; financial accountability; systematic striving to improve quality.

2.2.5 Under the umbrella of the QIO, the DDA expects the Contractor to provide the following key services to evaluate the provision of services, remediate problems with quality, design quality enhancement strategies, and deliver continuous QE for Statewide services extending internal capabilities:

2.2.5.1 Monitoring of Basic Waiver Assurances – The Contractor serves as an extension of the State's QE function to monitor and ensure Basic Waiver Assurances under the HCBS Waiver by supporting the following reviews of performance measures based on a statistically valid random sample pulled from the universe of participants, providers, service plans, incidents, and claims:

(a) Level of Care (LOC) Reviews – including (1) an evaluation for LOC is provided to all applicants; (2) levels of care of enrolled participants are reevaluated at least annually or as specified in the approved waiver; (3) the processes and instruments described in the approved waiver are applied appropriately and according to the approved description to monitor the Level of Care assurance.

(b) Service Plans – including (1) address all participants assessed needs (including health and safety risk factors) and personal goals, either by the provision of waiver services or through other means; (2) service plan development in accordance with its policies and procedures (3) updated/revised at least annually or when warranted by changes in the waiver participants needs; (4) services are delivered in accordance with the service plan, including the type, scope, amount, duration and frequency specified in the service plan (i.e. utilization reviews); (5) participants are afforded choice: Between/among waiver services and providers.

(c) Health and Welfare Reviews - including (1) the State demonstrates on an ongoing basis that it identifies, addresses and seeks to prevent instances of abuse, neglect, exploitation and unexplained death; (2) the State demonstrates that an incident management system is in place that effectively resolves those incidents and prevents further similar incidents to the extent possible; (3) the State policies and procedures for the use or prohibition of restrictive interventions (including restraints and seclusion) are

followed; and (4) the State establishes overall health care standards and monitors those standards based on the responsibility of the service provider as stated in the approved waiver.

(d) Qualified Provider Reviews – including (1) verify that licensed providers initially and continually meet required licensure and/or certification standards and adhere to other standards prior to their furnishing waiver services; (2) verify non-licensed providers to assure adherence to waiver requirements; and (3) verify that provider training is conducted in accordance with state requirements and the approved waiver;

(e) Financial Accountability Reviews - including (1) the State provides evidence that claims are coded and paid for in accordance with the reimbursement methodology specified in the approved waiver and only for services rendered; and (2) the State provides evidence that rates remain consistent with the approved rate methodology throughout the five year waiver cycle.

2.2.5.2 Utilization Reviews - DDA requires the Contractor to conduct utilization reviews for people who are receiving DDA funded services. The purpose of the utilization reviews is to verify that the authorized units of service and the actual service for which the DDA has contracted and/or paid for are being provided to the Person/Individual. Utilization reviews consist of reviewing Provider furnished documentation to justify that the service was rendered and that the Provider's support (e.g. overnight, day or drop-in) were provided as described in the PCP or Service Funding Plan (SFP)/Modified Service Funding Plan (MSFP). The reviews also consist of interviewing the Person/Individual and, as appropriate, the Person/Individual's family, coordinator of community service, Provider or others to determine whether services were rendered as required. All DDA funded services are included for the statewide utilization reviews and shall be conducted in a statistically valid manner to support the basic assurances and performance measures of service planning and financial accountability.

2.2.5.3 Execution of the National Core Indicators Surveys – The DDA requires the Contractor to support the completion of the Adult Consumer Face to Face Survey, the Adult Family Member Survey, and the Family Guardian Survey.

2.2.5.4 Council for Quality Leadership Accreditation of the State System – The DDA desires to create a service delivery system that is Council for Quality Leadership (CQL) accredited and is capable of passing that accreditation down to Providers who are providing services through the DDA system. To accomplish this goal, the DDA requires the Contractor's support for creating a service delivery system that is able to receive CQL Accreditation.

2.2.5.5 Enhanced Funding for QIO Services – The Contractor must achieve CMS approval of an enhanced match (75%) for QIO services.

2.2.5.6 Data System for Tracking of Reviews and Provider Performance – The Contractor must develop a data system to track and aggregate all reviews, track Provider performance, and support reporting for DDA's CMS approved performance measures.

2.3 Responsibilities and Tasks

The goal of the QIO is to improve the effectiveness, efficiency, economy, and quality of services delivered to Persons/Individuals. At its core, the QIO functions to:

- Improve quality of care for Persons/Individuals;
- Protect the integrity of the Medicaid funds by ensuring that Medicaid pays only for services and goods that are reasonable and necessary and that are provided in the most appropriate setting; and
- Increase the overall Person/Individual's satisfaction.

2.3.1 General Requirements

2.3.1.1 Project Plan

2.3.1.1.1 The Contractor shall develop a project plan that provides a comprehensive timeline for the implementation of the following tasks:

- (a) Monitoring of Basic Waiver Assurances
- (b) Utilization Reviews
- (c) Execution of the National Core Indicator Surveys
- (d) Council for Quality and Leadership Network Accreditation of the State System
- (e) Enhanced Funding for QIO Services
- (f) Data System for Tracking of Reviews and Provider Performance

2.3.1.1.2 The project plan shall include a detailed timeline with critical dates that list all major milestones and components of the project, as well as responsible staff persons. It will cover the work to be completed in all four (4) Regions.

2.3.1.1.3 A draft of the proposed project plan shall be included with the Offeror's Proposal.

2.3.1.1.4 The Contractor will finalize the project plan and timeline, subject to approval of the Contract Monitor, within twenty (20) Business Days of the effective date of the Contract..

2.3.1.2 Procedure Manual

2.3.1.2.1 The draft procedure of Basic Waiver Assurance and Utilization reviews shall be due to the Contract Monitor within sixty (60) Business Days following the effective date of the Contract. The Contract Monitor reserves the rights to require modifications in the procedures. Such modifications will be sent to the Contractor for inclusion in the procedure's manual.

2.3.1.2.2 The Contractor's Procedure Manual shall include the process to show (how/that) the inter-rater reliability requirement is met for both basic assurance and utilization reviews.

2.3.1.2.3 The Contractor shall finalize a Procedure Manual to cover scope items within 120 Business Days of the effective date of the Contract. The Procedural Manual will be subject to the written approval of the Contract Monitor. A rejected Procedural Manual shall be resubmitted for approval within twenty (20) Business Days of written notice by the Contract Monitor. The Contractor may not begin work tasks until the Manual is approved and written Notice to Proceed is provided by the Contract Monitor.

2.3.2 Support for the Monitoring of Basic Waiver Assurances

2.3.2.1 The Contractor shall serve as an extension of the State's Quality Enhancement function to monitor and ensure basic assurances under the HCBS Waiver programs. Specifically, the Contractor shall integrate the basic assurance and QE with continuous quality improvement activities to achieve the desired outcomes defined in the CMS Quality Framework for Home and Community Based Services and performance measures.

2.3.2.2 The Contractor shall satisfy the State's need for the development and implementation of a statewide system for selected functions within basic quality improvement. These functions include the following:

- (a) Level of Care Reviews;
- (b) Service Plan Reviews;
- (c) Health and Welfare Reviews;
- (d) Qualified Provider Reviews and
- (e) Financial Accountability

2.3.2.3 The reviews are each due on a quarterly basis and provided as scheduled in the timeframes based on criteria of the project plan to be pre-approved by the Contract Monitor after the effective date of the Contract. Sample size for these reviews is based on the approved performance measure sampling methodology and should be projected at the beginning of the State's fiscal year (July – June) based on the estimated population size, providers, incidents, and claims, in consideration of estimated increase/decrease in population that occurs annually. Oversampling is recommended to compensate for errors made in estimation to ensure adequate coverage with a 5% margin of error and a 95% confidence level. The utilization review population should then be divided into a monthly target ensuring that the monthly sample adheres to the rule that each person on the list has an "equal" opportunity of being selected.

2.3.2.4 Basic demographic information should be gathered for each review completed. Person/Individual name, DDA program, and unique identifier given by DDA's Contract Monitor should be included to enable contact with the person, should the review reveal individual remediation is necessary. Demographics should also include information on the agency and/or staff working with the individual, incident reporter/investigator, etc. to allow for further remediation and/or tracking of performance. The goals of these reviews are to support the reporting of CMS basic assurances performance measures and to inform the DDA on future planning, training and other corrective actions.

2.3.2.5 The Contractor shall work in collaboration with the Contract Monitor to establish DDA defined criteria for each of the processes and reviews to be discussed in the following sections which include Level of Care Reviews, Service Plan Reviews, Health and Welfare Reviews, Qualified Provider Reviews, and Financial Accountability Reviews.

2.3.2.5.1 Level of Care Reviews

Level of Care (LOC) Reviews shall be completed on a statistically valid random sample of initial LOC determinations and annual recertification as a discovery method for the LOC sub-assurance and performance measures. The LOC Review process begins with the Contractor selecting a statistically valid (95% confidence interval) sample of applicants for each DDA Waiver program and enrolled participants due to recertification for each DDA Waiver for the reporting quarter. During Fiscal Year 2020, approximately 650 individuals were enrolled in the Community Pathways Waiver, approximately 300 individuals were enrolled in the Community Supports Waiver, and approximately 260 individuals were enrolled in the Family Supports Waiver, and approximately 17,000 required annual recertifications. Based on this assumption, the DDA requires 95% samplings per quarter. The performance measures sub-assurances include:

- (a) PM1 - Number and percent of new enrollees who have an initial level of care determination prior to receipt of waiver services. Numerator = number of new enrollees

- who have a LOC completed prior to entry into the waiver. Denominator = number of new enrollees;
- (b) PM2 - Number and percent of LOC initial determinations completed according to State policies and procedures. Numerator = number of LOC initial determinations completed according to State policies and procedures. Denominator = number of initial determinations reviewed; and
 - (c) PM3 - Number and percent of participants' enrollees who have an annual level of care recertification. Numerator = number of enrolled participants who have a LOC recertification completed before the by the annual recertification date. Denominator = number of enrolled participants.

The QIO Contractor shall determine a process for DDA to define criteria for conducting the LOC Reviews in the approved waiver are applied appropriately and according to the approved description to determine participant level of care.

2.3.2.5.2 Service Plan Reviews

Service Plan Reviews shall be completed on a statistically valid random sample of participant PCP and participant records as a discovery method for the Service Plan assurance and performance measures. The Service Plan Review process begins with the Contractor selecting a statistically valid (95% confidence interval) sample of PCP and records from the universe of PCPs due during the quarterly review. The DDA supports approximately 17,000 participants with community based services. Based on this assumption, the DDA at a minimum requires 95% samplings per quarter. The performance measures include:

- (a) PM1- Number and percent of waiver participants who have their individually chosen assessed needs addressed in the service plan through waiver funded services or other funding sources or natural supports. Numerator = number of participants who have their individually chosen assessed needs addressed in the service plan through waiver funded services or other funding sources or natural supports. Denominator = number of participants reviewed;
- (b) PM2- Number and percent of waiver participants who have their personal goals addressed in the service plan through waiver funded services or other funding sources or natural supports. Numerator = number of waiver participants who have their personal goals addressed in the service plan through waiver funded services or other funding sources or natural supports. Denominator = number of participants reviewed;
- (c) PM3 - Number and percent of service plans reviewed and updated before the waiver participant's annual review date. Numerator = number of service plans reviewed and updated before the waiver participant's annual review date. Denominator = number of waiver participant reviewed;
- (d) PM4 - Number and percent of service plans in which services and supports were delivered in the type, scope, amount, duration and frequency specified in the Person Centered Plan (PCP). Numerator = number of service plans in which services and supports were delivered in the type, scope, amount, duration and frequency specified in the PCP. Denominator = number of participants reviewed; and
- (e) PM5 – Number and percent of waiver participants whose records documented an opportunity was provided for choice of waiver services and providers. Numerator = number waiver participants whose records documented an opportunity was provided for choice of waiver services and providers. Denominator = number of records reviewed.

2.3.2.5.3 Health and Welfare Reviews

Health and Welfare Reviews include the Basic Waiver Assurances Reviews, Medicaid Data Correlation Reviews, and Health Risk Screening Tool Reviews.

2.3.2.5.3.1 Health and Welfare Basic Waiver Assurance Reviews shall be completed on a statistically valid random sample of incident reports as a discovery method for the Health and Welfare sub-assurances performance measures. The process begins with the Contractor selecting a statistically valid (95% confidence interval) sample of service records from the universe of approximately (1) 5,428 Critical Incident Reports, participant records, and investigation during the quarter and (2) approximately 6,400 participants in Community Living - Group Home or Community Living - Enhanced Supports. Based on this assumption, the DDA at a minimum requires 95% samplings per quarter. The sub-assurances performance measures include:

- (a) PM1 - Number and percent of confirmed critical incidents of abuse, neglect, exploitation, and unexplained death for which corrective actions executed or planned by appropriate entity in the required time frame. Numerator= number of confirmed incidents of abuse, neglect, exploitation, and unexplained death for which corrective actions executed or planned by appropriate entity in the required time frame. Denominator = number of incidents reviewed;
- (b) PM2 - Number and percent of participants who received information about how to identify and report abuse, neglect, and exploitation. Numerator = number of participants who received information about reporting abuse, neglect, and exploitation. Denominator = number of participants reviewed;
- (c) PM3- Number and percent of incidents with investigation initiated within the required timeframe. Numerator = number of incidents with investigation initiated within the required timeframe. Denominator = number of records reviewed
- (d) PM 4 - Number and percent of incidents with investigation completed within the required timeframe. Numerator = number of incidents with investigation completed within the required timeframe. Denominator = number of records reviewed;
- (e) PM 5- Number and percent of critical incidents systemic interventions implemented. Numerator = number of critical incidents systemic interventions implemented. Denominator = number of critical incidents systemic interventions;
- (f) PM 6 - Number and percent of incidents of restraint where proper procedures were followed. Numerator = number of incidents of restraint where proper procedures were followed. Denominator = number of incidents of restraint reviewed; and
- (g)PM 7 - Number and percent of participants receiving Community Living – Group Home or Enhanced Supports whose identified health care needs are being addressed. Numerator = number of participants whose identified health care needs are being addressed. Denominator = number of participants reviewed.

2.3.2.5.3.2 Medicaid Data Correlation Reviews are quarterly audits of Medicaid service claim data to determine if (as appropriate) incident reports were filed in a timely manner in response to serious incidents requiring health care services at a hospital emergency room or in other areas of the hospital. This audit evaluates whether serious incidents associated with hospital emergency room visits and unplanned hospitalizations were reported.

2.3.2.5.3.3 [Health Risk Screen Tool](#) (HRST) Reviews include quarterly reviews of HRST Rater and HRST Reviewers completion of the HRST; HRST scores in comparison to incident reports; and HRST scores in comparison to mortality reports.

2.3.2.5.3.3.1 HRST Completion - HRSTs are completed by HRST Raters and HRST Reviewers, annually with the PCP and as needed when health circumstances change, based on the IntellectAbility formerly named Health Risk Screening ([HRS](#)) standards to input information into the HRST, conduct accurate screenings, and demonstrates best practices when using the HRST.

To promote optimum health, to mitigate or eliminate identified risks, and to avert unnecessary health complications or deaths, the CCS must complete the electronic HRST for all participants annually as part of the PCP planning process. The HRST is a web-based screening instrument designed to detect health destabilization early and prevent preventable deaths. It is a reliable, field-tested screening tool that consists of 22 rating items, divided into 5 health categories. The outcome of scoring all 22 rating items is an objective Health Care Level that represents the overall degree of health risk and destabilization of the participant. Since each of the 22 rating items receives its own score, the level of health risk can be determined on each of the items as well. Once a participant is fully screened, the HRST produces Service and Training Considerations that can be used by staff and families. Service and Training Considerations describe what further evaluations, specialists, assessments, or clinical interventions may be needed to support the participant based on the identified health risks which can be used in the person centered planning process.

Individuals with an HRST level score of 3 or higher are considered higher risk thus require increased monitoring and supervision. If an individual's HRST Health Care Level becomes a score of 3 or higher, a Registered Nurse must complete a Clinical Review of the HRST as per the standard process with this national tool. The HRST contains a comments section where the CCS (HRST Rater) can give reasons for why a score was selected. This will allow the certified Nurse "Reviewer", to evaluate the appropriateness of the score. The Nurse (HRST Reviewer) performs interviews and record reviews to validate each HRST rating and score computation. All clarifying information about a rating area entered by the Nurse (HRST Reviewer) is written in the "Comments" section for the appropriate item. The Nurse (HRST Reviewer) also reviews and revises as necessary, the Evaluation/Service and Training Recommendations.

(a) PM1 - Number and percent of HRSTs completed by HRST Rater based on IntellectAbility standards and within the required timeframe. Numerator = number of HRSTs completed based on IntellectAbility standards and within the required timeframe. Denominator = number of records reviewed; and

(b) PM2 - Number and percent of HRST with a level score of 3 or higher completed by the HRST Reviewer based on IntellectAbility standards and within the required timeframe. Numerator = number of HRSTs completed by the HRST Reviewer based on IntellectAbility standards and within the required timeframe. Denominator = number of records reviewed.

2.3.2.5.3.3.2 HRST Comparison to Incident Reports - Annual comparison of HRST scores with incident reporting including hospital emergency room visits and unplanned hospitalizations.

2.3.2.5.3.3.3 HRST Comparison to Mortality Reports - Annual comparison of HRST scores with mortality reports.

2.3.2.5.4 Qualified Provider Reviews

Qualified Provider Reviews shall be completed on a statistically valid random sample of DDA approved providers (i.e. licensed and certified) in addition to provider/staff qualification requirements under the self-directed service delivery model as a discovery method for the Qualified Provider Reviews sub-assurance performance measures. The Qualified Provider Reviews process begins with the Contractor selecting a statistically valid (95% confidence interval) sample of providers and records from the universe of new providers and approximately 215 licensed providers, 250 certified providers, and approximately 4300 providers/staff under the self-directed service delivery model during the quarterly review. The performance measures include:

- (a) PM1 - Number and percent of newly enrolled waiver providers who meet required licensure, regulatory and applicable waiver standards prior to service provision. Numerator = number of newly enrolled waiver providers who meet required licensure, regulatory and applicable waiver standards prior to service provision. Denominator = number of newly enrolled Community Pathways Waiver licensed provider reviewed;
- (b) PM2 - Number and percent of providers who continue to meet required licensure and initial Quality Performance (QP) standards. Numerator = number of providers who continue to meet required licensure and initial QP standards. Denominator = number of enrolled Community Pathways Waiver enrolled licensed providers reviewed;
- (c) PM3 - Number and percent of newly enrolled certified waiver providers who meet regulatory and applicable waiver standards prior to service provision. Numerator = number of newly enrolled certified waiver providers who meet regulatory and applicable waiver standards prior to service provision. Denominator = number of newly enrolled certified waiver providers reviewed;
- (d) PM4 - Number and percent of certified waiver providers that continue to meet regulatory and applicable waiver standards. Numerator = number of certified waiver providers that continue to meet regulatory and applicable waiver standards. Denominator = number of enrolled certified waiver providers reviewed;
- (e) PM5 - Number and percent of enrolled licensed providers who meet training requirements in accordance with the approved waiver. Numerator = number of enrolled licensed providers who meet training requirements in accordance with the approved waiver. Denominator = number of enrolled licensed providers reviewed; and
- (f) PM6 - Number and percent of certified waiver providers who meet training requirements in accordance with the approved waiver. Numerator = number of certified waiver providers who meet training requirements in accordance with the approved waiver. Denominator = number of enrolled certified waiver providers reviewed.
- (g) PM7 - Number and percent of self-directed staff who meet qualification and training requirements in accordance with the approved waiver. Numerator = number of self-directed staff who meet training requirements in accordance with the approved waiver. Denominator = number of self-directed staff reviewed.
- (h) PM8 - Number and percent of Organized Health Care Delivery Systems (OHCDS) who meet requirements as outlined in DDA regulations and policies. Numerator = number of OHCDS who meet requirements in accordance with the DDA regulations and policies. Denominator = number of OHCDS reviewed.

2.3.3 Additional Reviews of CCS

The QIO Contractor will assist DDA in defining the criteria for and conducting of CCS provider reviews to determine compliance with waiver requirements, standards, regulations, Provider Agreement, deliverables, and other relevant requirements. Depending on the service needs of an individual, this may include nursing reviews of health related services. Factors that will be reviewed include but are not limited to the following:

- (a) Annual assessment and individual service requirements;
- (b) Timeliness of PCP submissions based on DDA standards;
- (c) Timeliness of response to clarification request based on DDA standards;
- (d) Completion of PCPs based on Center for Medicare and Medicaid (CMS) and DDA requirements;
- (e) Completion of Health Risk Screening Tool based on IntellectAbility standards;
- (f) Frequency of Person/Individual contacts based on identified health and safety risks and/or identified issues with the service providers;
- (g) Monitoring requirements including completion of thorough monitoring and follow up actions including face-to-face and other contacts and provision of a summary rating;
- (h) Incident reporting and follow up requirements; and
- (i) Timeliness of Waiver Application Packets submissions;
- (j) Timeliness of responses to Waiver Application Packets clarification requests; and
- (k) Completion of Waiver Application Packets based on DDA requirements.

2.3.3.1 Financial Accountability Reviews

The Financial Accountability Reviews shall be completed on a statistically valid random sample of claims as a discovery method for the Financial Accountability sub-assurance performance measures. The process begins with the Contractor selecting a statistically valid (95% confidence interval) sample of service claims from the universe of claims submitted during the quarter. During Fiscal Year 2020, there were 5,800,000 claims submitted for the Community Pathways Waiver, 3,000 claims submitted for the Family Supports Waiver, and 300,000 claims submitted for the Community Supports Waiver. Therefore based on a minimum required 95 samplings per quarter.

2.3.3.1.1 Performance measures to be reviewed include:

- (a) PM1- Number and percent of claims that are supported by documentation that services were delivered. Numerator = number of claims reviewed that are supported by documentation. Denominator = number of claims reviewed;
- (b) PM2 - Number and percent of claims paid for participants who are eligible on the date the service was provided and where services were consistent with those in the service plans. Numerator = Number of claims paid for participants who were eligible on the date the service was provided and where services were consistent with those in service plans. Denominator = Number of claims paid reviewed; and
- (c) PM3 - Number and percent of claims coded and paid for in accordance with the reimbursement methodology specified in the approved waiver. Numerator = number of claims coded and paid for in accordance with the reimbursement methodology specified in the approved waiver. Denominator = number of claims paid reviewed.

2.3.3.2 At any time during reviews the QIO staff is concerned with medical or behavioral issues they shall contact the administrative head of the Provider and the Contract Monitor. If at any time the QIO

staff discover or have knowledge of potential abuse, neglect, misappropriation, and serious health and welfare concerns, the staff shall immediately report this to the administrative head of Provider, and to the Contract Monitor.

2.3.4 Utilization Reviews

2.3.4.1 Utilization Reviews (URs) verify the provision and quality of required DDA services for a Consumer within a statically valid sample of billed services. The UR process begins with the Contractor selecting a statistically valid (95% confidence interval) sample of claims and Consumer(s) from the universe of approximately 6,100,000 paid claims (Medicaid and State-Only activity) from the last complete fiscal year (1st year must cover two years of activity). Based on this assumption, the DDA at a minimum requires 95 samplings per quarter or 380 per year. See Table 1 for a listing of claim activity by the DDA’s existing services (which will change based on the waiver amendment). To form a foundation for the audit, the Contractor will pull the individual’s Person-Centered Plan (PCP) and any additional data from the State’s information technology system.

Table 1: Claim Activity

Row Labels	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	Grand Total
ASSISTIVE TECHNOLOGY AND SERVICES	5	12	4	18	6	19	11	12	12	12	12	26	148
BSS - BEHAVIORAL ASSESSMENT	22	43	5	32	37	44	41	41	41	41	41	11	399
BSS - BEHAVIORAL CONSULTATION	1,463	1,500	1,503	1,502	1,513	1,500	1,513	1,520	1,520	1,520	1,520	385	16,959
BSS - BEHAVIORAL PLAN	14	22	9	26	21	37	31	41	41	41	41	15	339
BSS - BRIEF SUPPORT IMPLEMENTATION	1,419	1,500	1,501	1,500	1,500	1,500	1,530	1,540	1,540	1,540	1,540	64	16,674
CAREER EXPLORATION	743	1,020	1,220	1,572	1,712	2,564	2,606	4,263	4,846	5,514	3,025	2,042	31,127
COMMUNITY COORDINATION	4,971	3,523	748	514	297	274	275	203	241	117	103		11,266
COMMUNITY LEARNING SERVICE	23,868	22,925	25,889	25,626	23,736	28,859	24,245	27,527	33,479	28,495	5,374	26,205	296,228
DAY HABITATION	147,378	151,040	164,311	157,227	153,384	176,406	147,255	175,743	203,875	171,283	50,237	133,527	1,831,667
EMPLOYMENT DISCOVERY AND CUSTOMIZATION	1,288	1,351	1,343	1,424	1,455	1,495	1,534	1,588	1,615	1,595	1,541	170	16,399
HOUSING SUPPORT SERVICES	0	0	0	0	0	0	0	0	0	0	0	43	43
NURSING - NURSE CASE MANAGEMENT AND DELEGATION	184	200	200	200	300	300	400	400	400	400	400	764	4,148
PERSONAL SUPPORT	98,596	51,805	56,658	56,279	55,525	60,573	53,657	76,162	63,886	70,294	12,899	46,512	700,846
RESIDENTIAL	182,167	191,773	204,714	198,495	192,838	202,441	192,821	209,039	247,144	215,526	48,870	234,273	2,341,101
RESPIRE CARE SERVICES - CAMP	1	33	3	17	18	19	15	16	16	16	16	11	181
RESPIRE CARE SERVICES - DAY	481	574	517	500	500	500	522	523	523	523	523	763	6,449
RESPIRE CARE SERVICE - HOUR	485	500	515	534	501	527	601	535	535	535	535	174	5,987
SHARED LIVING	265	267	27	7	56	744	228	228	228	228	228	228	2,734
SUPPORTED EMPLOYMENT	48,950	48,618	59,271	58,527	55,476	63,786	57,764	73,103	82,027	69,849	29,968	37,049	684,388
SUPPORTED LIVING	0	0	0	74	81	30	60	60	60	60	60	239	724
TRANSITION SERVICES	10	8	3	3	5	0	10	10	10	10	10	1	80
TRANSPORTATION	10,070	10,100	10,107	10,176	10,109	10,115	10,103	10,120	10,120	10,120	10,120	4,335	115,595
OTHERS	2	1	0	3	2	1	4	3	3	3	3		25
Grand Total	522,392	486,816	528,548	514,256	499,072	551,734	495,226	602,677	652,162	577,722	168,066	484,837	6,083,508

Table 2: Provider Counts by Region and Service

Region	County	BS	CS	CS	Day Hab	FSS	Family Supports	FMS	Housing Support	ISP	SS	Nursing	OHCD	PS	Remote Monitor	Respite	Shared Living	TCM	Vocational Services (CSR Complaint)	Grand Total
C	Anne Arundel	10	9	14	9	3		2			14	4	20	33		16	3	10	18	165
	Baltimore	40	45	66	34	5		2		1	10	13	55	67		45	9	13	48	471
	Baltimore City	11	6	24	12	3		2			14	7	29	48		23	7	5	23	234
	Harford	8	1	11	3	1		2			3	3	8	21		8		5	5	79
	Howard	12	7	22	9	4		2		1	10	5	31	46		21	2	6	15	193
Out of state c																			1	1
C Total		90	68	137	67	16	0	10	0	2	60	32	143	215	0	113	21	40	109	1,129
E	Gardine	2	2	4	3			2			1	3	8	9		5		8	2	49
	Gecil	3	2	2	2	1		2			1	3	3	6		4	1	5	4	39
	Dorchester	1	1	1	1			2			1	1	3	5		3		6	1	26
	Kent	2	1	1	1		1	2				1	3	3		2	1	7	2	27
	Out of state e	1																	6	7
	Queen Anne's	1		2	2			2			1	2	4	7		5	1	5	2	34
	Somerset	2	1	2	1			1				3	3	2		2	1	6	1	25
	Talbot	1		3	3			2			3	2	6	8		6		7	4	45
Wicomico	4	5	7	7	1		2			5	6	12	9		6	2	9	7	82	
Worcester	4	2	1	1			1			1	3	7	6		6	1	5	4	42	
E Total		21	14	23	21	2	1	16	0	0	13	24	49	55	0	39	7	64	27	376
S	Galvest	1	2	1	4			2			1	2	2	4		2	1	5	4	31
	Charles	1	5	7	4	2		2			8	1	6	12		5	1	8	9	71
	Montgomery	12	20	32	19	2		2	1		11	6	28	42		11	1	6	24	217
	Out of state s				1									1					4	6
	Prince George's	13	24	30	18	2	1	2			9	5	32	46		18	1	8	25	234
St. Mary	1	3	3	3			2			4	1	4	7		2		8	4	42	
S Total		28	54	73	49	6	1	10	1	0	33	15	72	112	0	38	4	39	66	601
W	Allegany	4	6	6	6	1	1	2	2		7	3	8	7		6	1	4	6	70
	Garrett	5	12	9	10			2			7	5	15	21	1	11	4	5	9	116
	Frederick	7	12	7	10	1		2	1	1	7	6	16	19		15	2	5	10	121
	Gaerret	1	2	2	1			2	1		3	1	5	5		3		3	2	31
	Out of state w	1						2		1	1		2	2		1		3		11
Washington	4	9	8	6	2		2			7	4	15	12		8	2	8	6	93	
W Total		22	41	32	33	4	1	12	4	2	32	19	61	64	1	44	9	28	33	442
Grand Total		161	177	265	170	28	3	48	5	4	138	90	325	446	1	234	41	171	235	2,542

2.3.4.2 Remote Audits

2.3.4.2.1 Based upon claims reviewed, the Contractor will conduct a Remote Audit of the Provider, requesting and reviewing additional information, including: staff notes and logs provided by the staff for the Consumer(s) identified in the Remote Audit; the Provider’s staffing plan, timesheets, payroll records and receipts; and any other documentation required by MDH. The Contractor will prepare a preliminary audit report for the Provider, verifying if less than 100% of billed services were provided, verifying staffing plans and qualifications of staff, and assessing the alignment of service provision with the PCP. Provider shall facilitate the gathering of the required information.

2.3.4.2.2 The Contractor will be obligated to report immediately via telephone (within 24 hours) to DDA and the appropriate regional QE Lead:

- (a) Any significant health and safety issues;
- (b) Actual or suspected abuse, mistreatment, or neglect to follow the Policy on Reporting Incidents and Investigations (PORII) policy go to <https://health.maryland.gov/ohcq/dd/docs/10.22.02.01%20FINAL%20PORII%20.pdf>; and
- (c) Evidence of fraud or other financial mis-dealings.

2.3.4.2.3 Regional QE Current Leads are: (the below names are subject to change)

- ESRO – Adedapo Laditan
- CMRO – Shireen Hodges Ryan
- WMRO – Dawn Orndoff
- SMRO - Mark Celeste

2.3.4.2.4 In year one (1) of the Contract, the Contractor will conduct a statistically valid sample of activity for all of the DDA’s existing services and will conduct Remote Audits on the selected individuals. The review period for IFC is one (1) fiscal year based on how these services are

authorized and billed. This is necessary to ensure that all required services are provided within that entire fiscal year. Year one (1) shall cover the last two (2) fiscal years. In year two (2) of the Contract, the Contractor shall conduct a statistically valid sample of all activity and conduct the utilization review based on this information for all consumers receiving any DDA services. Year two (2) and beyond will cover the previous fiscal year.

2.3.4.3 Targeted Audits

2.3.4.3.1 Based on the results of the Remote Audit, a Targeted Audit may be required to look for systemic claims issues for the Provider. The Contractor shall conduct the Targeted Audit based on the presence of the following criteria:

- (a) Less services provided than billed;
- (b) Less or more service provided than authorized in PCP (+/- >14%);
- (c) Services provided did not match the definition of services billed;
- (d) Staff qualifications could not be confirmed in the Remote Audit or the individual providing service was not appropriately qualified; and
- (e) Payments that cannot be substantiated by appropriate service record documentation.

2.3.4.3.2 During a Targeted Audit, the Contractor will be required to conduct an in-person review and interviews to determine if service hours and supports match the level and quality identified in the participant's PCP. The scope of the review should be expanded as necessary to determine if systemic issues are present. Interviews will be conducted for the participant receiving services, and/or the person's family or legal guardian and CCS, as appropriate. The Contractor will then update the preliminary audit report for the Provider.

2.3.4.3.3 The Contractor will be obligated to report immediately via telephone (within 24 hours) to the DDA and the appropriate Regional Office QE Lead:

- (a) Any significant health and safety issues;
- (b) Actual or suspected abuse, mistreatment, or neglect to follow the PORII policy; and
- (c) Evidence of fraud or other financial mis-dealings.

2.3.4.3.4 Regional QE Leads are:

- ESRO – Ade Laditan
- CMRO – Shireen Hodges Ryan
- WMRO – Dawn Orndoff
- SMRO - Mark Celeste

2.3.4.4 Special Audits

The DDA may request a special audit of a provider to be conducted based on situations external to the remote and targeted audit process. The audit would be conducted in the same manner as the remote and targeted audits and based on the audit standards established for DDA services. The DDA anticipates that no more than five of such audits would be requested in a year.

2.3.4.5 Audit Report

The Contractor shall prepare a summary of Utilization Review audit findings and will discuss these in an exit interview with Provider either after a Remote Audit not requiring the Targeted Audit or after the Targeted Audit. The Contractor will submit a report of the overall findings of the audit for each Provider

to the Contract Monitor no later than fifteen (15) Business Days from the date of the conclusion of the review (either Remote or onsite Targeted Audit if it was required). An Audit Report is considered “discrepant” if less than 100% of billed services have been provided. Audit Reports must include information regarding any fiscal deficiencies between the services awarded and billed to services provided to the person. If the Audit Report identifies that less than 86% of required services were provided, the Regional Office must also review the findings by QE. All reviewed documentation must be maintained and made available to the DDA. At a minimum, the Audit Report will identify:

- (a) Information obtained during the remote audit:
 - (i) Individual ID - either Provider Consumer Information System (PCIS2) or Long-Term Support Services (LTSS)
 - (ii) Medical Assistance Number (MA#)
 - (iii) Date of Service
 - (iv) Provider #
 - (v) Billed Activity
 - (1) Procedure Code
 - (2) Unit(s)
 - (3) Rate (\$)
 - (4) Total Cost (\$)
 - (vi) Provider Activity
 - (1) Procedure Code
 - (2) Unit(s)
 - (3) Rate (\$)
 - (4) Total Cost (\$)
 - (vii) Recovery Amount
 - (viii) Selected for Targeted Review (Yes or No)
- (b) Notes from the Remote Audit

While conducting the audits the Contractor shall:

- (a) Utilize DDA approved audit tools. Within fifteen (15) Business Days after the Notice to Proceed, the Contractor shall submit copies of the audit tools it intends to use in final form to the Contract Monitor for approval. The Contractor will make any changes required by the Contract Monitor.
- (b) The Contractor shall complete a minimum of 380 remote audits annually based on statistical sample

2.3.4.5.1 Targeted Audit (if determined necessary following the Remote Audit)

- (a) Results of administrative records review;
- (b) Observation of the physical environment and service delivery sites;
- (c) Results of interviews with staff and Person/Individuals; and
- (d) Findings:
 - 1) Findings for the specific individual being reviewed
 - 2) Systemic deficiencies and opportunities for QE for the Provider

All audit reports should be provided with relevant documentation to substantiate the findings.

2.3.4.6 Exit Conference

The Contractor will hold an exit interview in person or virtually with the Provider to verbally share a synopsis of their findings within 5 Business Days of the audit. This will be followed up by a formal letter of findings and allowing for the Provider to provide input within 10 Business Days of the exit conference.

2.3.5 Evaluation Reports

2.3.5.1 The Contractor shall provide a draft for the Remote and Target Audit report form for evaluation by the DDA. Upon review the DDA may request additional revisions for submission to the Contract Monitor for review and approval. The Contract Monitor must approve any revisions to the forms before use of the revised forms. An appropriate electronic records system should be used to maintain this information and access should be granted to the Contract Monitor and other DDA staff as designated by the Contract Monitor to review completed reviews and analyze data as needed.

2.3.6 National Core Indicators Survey Administration

The DDA utilizes The National Core Indicators (NCI), a joint venture between National Association of State Directors of Developmental Disabilities Services (NASDDDS) and the Human Services Research Institute (HSRI), to assess the outcomes of services provided to individuals and families. Indicators address key areas of concern including employment, rights, service planning, community inclusion, choice, and health and safety. As a participant of NCI the DDA is requiring the QIO Contractor to conduct three surveys: (1) a face-to-face and mail in survey with randomly selected individuals receiving services (Adult Consumer Face to Face Survey); (2) the adult family survey via mail sent to the family or guardian with whom the person in services lives (Adult Family Member Survey); and (3) the family/guardian survey via mail sent to the family or guardian of the person in services who does not live with the family or guardian (Family Guardian Survey). These surveys should be conducted using standard survey/interview instruments from the National Core Indicators (NCI), <http://www.nationalcoreindicators.org/>. Data from these interviews and surveys are used to create State reports about individual outcomes; health, welfare, and rights; staff stability and competency; and family outcomes and system performance. A national report is generated as well as a report on how Maryland is going in comparison with other states.

The Contractor shall obtain appropriate training from the HSRI Project Team, to properly conduct the NCI face to face surveys, interviews. Contractor's employees shall complete the training prior to conducting face-to-face surveys. Contractor shall complete orientation and training in consultation with the Contract Monitor and at times and locations as directed by the Contract Monitor. No compensation shall be paid to the Contractor for obtaining training.

2.3.6.1 The Contractor shall:

2.3.6.1.1 Conduct the NCI Adult Consumer Face to Face Survey

- (a) Use the standard Adult Consumer Face to Face Survey to obtain information directly from 1,600 adults with intellectual and developmental disabilities who are receiving services through the Maryland DDA during the Contract concerning the extent to which the services they receive result in outcomes that are valued by people receiving DDA-funded services.
- (b) In-person, face-to-face surveys remain the gold standard, however, survey contractors should prepare to build in capacity to support both in-person and remote surveying; or a hybrid of both depending on varying factors. This flexibility will support changing needs during the COVID-19 Public Health Crisis.

These flexibilities should be determined in partnership with the State and should be designed to meet the needs of participants.

Basic remote survey requirements (these are preliminary only and may change based on parameters provided by National Core Indicators (NCI)) Surveyors (at a minimum) should have access to:

1. High-speed internet.
2. HIPAA compliant real-time videoconferencing platform, must be used unless otherwise discussed with NCI Functioning webcams (by both parties).
3. Surveyors must use Computers or tablets (no smartphones).
4. People being surveyed may participate by smartphone, tablet or computer.
5. Full two-way audio support for communication, either through a functional computer microphone or and speakers, a functional headset or ability to connect via telephone for audio communications.

NOTE: National Care Indicators (NCI) is publishing guidelines related to surveying during the Public Health Emergency (PHE). It will give final conclusions and instruction related to alternatives to in-person surveying.

- (c) The content of the face-to-face survey instrument must be used as per NCI requirements. A minimum of 400 complete and accurate face to face surveys must be entered into the Online Data Entry Survey Application (ODESA) database.
- (d) Contractor shall schedule face-to-face interviews with adults with intellectual and developmental disabilities. The interviews shall be conducted at a time and location that is convenient to the interviewee. Each person must be their own respondent. Proxy interviews are not permitted in lieu of face-to-face interviews with individuals receiving DDA funded services.
- (d) Interviewers must collect that person's background information from records. Records include a person's identifying information, emergency contact person, and name of individual's next of kin, individual's physician, individual's current diagnosis, and Individual Plan for services inter-rate.
- (e) Contractor shall provide a random sampling of no less than one third (1/3) of the assessments administered to ensure inter-rater reliability. Contractor shall carry out monthly inter-rater reliability assessments to ensure consistency in data collection period.
- (f) The Contractor must develop procedures for conducting the Consumer interview, including but not limited to notification of interview schedules, protocols for interviews and gathering collateral information, and dissemination of findings. These procedures must include information to indicate that participation by Consumers/families is voluntary and a toll-free telephone number to assist consumers in contacting the Contractor to address concerns

- regarding their scheduled interview. The Contractor must distribute these procedures for consumer interviews to Consumers and relevant staff at least ten (10) Business Days prior to a scheduled interview.
- (g) Contractor shall provide the Contract Monitor with a weekly schedule of the upcoming week's scheduled surveys. This is due to the Contract Monitor by close of business on Thursday of the week preceding the scheduled interviews. Any changes in the scheduled interviews shall be reported to the Contract Monitor upon discovery of change. The schedule shall include the date, time, location of interview, name of Provider, name of interviewee, and name and phone number of Contractor staff administering the interview. The Contractor may submit this electronically to the Contract Monitor via email.
 - (h) If at any time during the personal interview or Provider survey the QIO staff is concerned with medical or behavioral issues they should contact the Contract Monitor. If at any time the QIO staff discovers or have knowledge of potential abuse, neglect, misappropriation, and serious health and welfare concerns, QIO staff should immediately report this to the Contract Monitor.
 - (i) Complete yearly face-to-face surveys and complete the data entry into the NCI database ODESA by June 30 of each year. (a) The Contractor shall conduct an annual mail survey using the NCI Adult Family Survey and the Family Guardian survey (for persons with Intellectual Disability (ID/DD), related disabilities and autism). The Contractor will send the appropriate survey to all families or guardians of persons receiving services through the Maryland DDA. Currently there are approximately 11,000 families or guardians.

2.3.6.1.2 The Adult NCI Family and Family/Guardian Mail Survey

- (a) The Contractor shall conduct an annual mail survey using the NCI Adult Family Survey and the Family Guardian survey (for persons with Intellectual Disability (ID/DD), related disabilities and autism). The Contractor will send the appropriate survey to all families or guardians of persons receiving services through the Maryland DDA. Currently there are approximately 11,000 families or guardians.
- (b) A minimum of 400 of each complete and accurate survey must be entered into the ODESA database survey.
- (c) The Contractor must develop procedures for conducting the mail surveys. These procedures must provide information that indicates that participation by Consumers/families is voluntary and a toll-free telephone number to assist Consumers in contacting the Contractor to address concerns regarding their survey. The Contractor must distribute these procedures for family surveys to the Contract Monitor at least ten (10) Business Days prior to mailing the survey.
- (d) Complete the mail in surveys by June 30th every year including the data entry into the NCI database ODESA.
- (e) Take the lead in coordinating all of the NCI data that the State collects, including the mailed surveys and use data to develop action plans to improve services across the State.

- (f) Compare data obtained from survey questions to historical data obtained through identical surveys administered during previous fiscal years. The data to be compared will be from both previous State reports, as well as the National reports.

2.3.7 CQL Network Accreditation of the State's System

The DDA's goal is to achieve Person-Centered Excellence Network Accreditation by the Council on Quality and Leadership (CQL) to support quality enhancement and improvement for network members, establish community partnerships, facilitate strategic planning, and best practice with the aim of ensuring sustainable quality services and supports resulting in improved quality of life for people receiving services and supports through the DDA.

2.3.7.1 The Contractor will sub-contract with CQL to provide training and certification to the Contractor and select DDA staff in the use of the CQL proprietary accreditation tools, specifically, the Basic Assurance® and Personal Outcome Measures® tools.

(a) Contractor will sub-contract with CQL for training and certification of Contractor and DDA staff in the use of the Basic Assurances® and the Personal Outcome Measures®.

(b) Contractor will maintain adequate staffing levels of CQL certified staff to conduct Basic Assurances® reviews in 25% of DDA providers and approximately 250 POM interviews annually.

2.3.7.2 The Contractor will conduct Basic Assurances® reviews in a 25% sample of DDA providers each year and approximately 250 POM interviews annually to include activities such as:

- (a) Pre-Accreditation Planning Meetings- Work with DDA providers to prepare for Basic Assurances Reviews®
- (b) Organizational Self-Assessment - Support DDA providers to complete the Basic Assurances® self-assessment prior to the Basic Assurances® Review.
- (c) On-site Visits- Perform site visits where services are provided as a component of the required number of Basic Assurances® reviews each year.
- (d) **Personal Outcome Measures® (POM)** - Identify people's quality of life outcomes, plan supports, and gather information and data about individual outcomes. As part of the Network Accreditation, conduct Personal Outcome Measures® interviews to demonstrate the linkage between personally defined quality of life and excellence in person-centered services.
 - (i) Contractor will conduct the prescribed number of POM interviews annually based on a sampling of the people served by DDA (approximately 250)
 - Utilizing the CQL PORTAL data system, provide annual reports regarding the findings from the POM interviews as relates to personal quality of life and quality of service accreditation.
- (e) **Basic Assurances®** - Conduct CQL's Basic Assurances® reviews to ensure accountability for Health, Safety and Human Security. Utilizing the CQL PORTAL data system, analyze the Basic Assurances® data to evaluate Maryland's systems and practices and effectiveness to determine if the services support the achievement of individuals' outcomes.
- (f) Focus Groups-Conduct focus groups of DDA staff, people receiving DDA funded services, and providers as a component of the Basic Assurances® Reviews.
- (g) Data Collection and Analysis- Collection and analysis of outcomes and support data
 - (i) Contractor will utilize CQL's PORTAL data system to collect and analyze data from Basic Assurances® Reviews and POM interviews.
- (h) Ongoing Supports- Coordinate ongoing collaboration between the QIO, CQL, DDA and stakeholders
- (i) QIO in coordination with the DDA and CQL, will develop guides, information, and resources to help educate human service providers, people supported, families, community members, and

others about Network Accreditation and the effects of that process; the purpose, process, progress and outcomes.

2.3.7.3 The Contractor shall facilitate the development of an infrastructure to enable the DDA to achieve a CQL Person-Centered Excellence “Network Accreditation”

(a) Develop a plan for bringing the DDA system into alignment with CQL best practices.

- Crosswalk DDA’s policies and procedures with CQL accreditation process.

(b) Utilizing the information and data collected during the Basic Assurances® reviews and POM interviews, assist the DDA to examine the system’s ability to discover, evaluate, remediate, and improve the quality of services across the network.

(c) Work with the DDA to complete a self-assessment of the DDA Network and submit to CQL prior to the onsite Network Accreditation visit based on:

- i. Factor: Network Management of Quality Systems
- ii. Indicator A – The network clearly identifies, communicates, and supports its expectations of member organizations for the implementation and integration of identified quality measures and systems.
- iii. Indicator B – The network assesses/evaluates the existence of, and status of, integrated quality management systems across all member organizations.
- iv. Indicator C - The network integrates results of its evaluation (from Indicator B) into the management and operation of the network quality management systems; this results in a system of continuous quality assessment and improvement.

(d) Participate with DDA and CQL in the onsite Network Accreditation visit (projected in Year 4) to include such activities as:

- i. Review of the statewide self-assessment completed by DDA
- ii. Analysis of the Personal Outcome Measures® interviews aggregate data by region and across the State
- iii. Analysis of trends from the Basic Assurances® reviews by region and across the State
- iv. Targeted interviews of stakeholders focused on statewide systems and other topics as identified by trends from Basic Assurances® reviews
- v. Focus groups with people receiving supports, direct support professionals, and leadership related to each Network Indicators (see above)
- vi. Review of policies and procedures and existing quality and strategic planning documents
- vii. Stakeholder Meeting

(e) Support the DDA to develop an action plan resulting from the findings of the Network Accreditation process.

(f) The Contractor will subcontract with CQL to accomplish the following activities vital to achieving CQL Network Accreditation:

- i. A second “Kick-off” to signal the start-up of Network Accreditation activities in concert with the QIO.

- ii. “Refresher” training for providers regarding the Basic Assurances®, targeted toward what providers will need to understand and implement to be prepared and participate fully with QIO activities.
- iii. Six (6) Customized Basic Assurances® Sessions with at least one (1) each in Western and Eastern Regions and two (2) each in Central and Southern regions.
- iv. Consultation/Technical Assistance as DDA updates the Maryland statutes and regulations.
- v. Review state statutes and regulations under revision by DDA for alignment with the Basic Assurances® and Personal Outcome Measures®.
- vi. Consultation/Support to include quarterly meetings with the CQL Vice President of Accreditation and other key stakeholders to be negotiated with DDA (e.g., some meetings may necessitate the involvement of the QIO or other DDA and CQL staff). Meetings will review progress and offer technical assistance. Ongoing consultation will offer support as needed.
- vii. Facilitation of Town Hall meetings and/or other desired trainings, which could include the selected QIO, DDA staff, providers, people receiving supports, families, and/or others depending on the status of the activities and the needs of DDA at the time.
- viii. Six (6) activities one (1) each in Western and Eastern Regions and two (2) each in Central and Southern Regions. Planning and preparation.
- ix. Access to CQL’s PORTAL Data System. Development of customized, Maryland-specific reports and technical assistance, as needed, regarding the CQL PORTAL Data System, sampling methodology, and data analysis, up to twenty (20) hours each year.
- x. Continued communication activities could include:
 - a) Website - maintenance and resource development
 - b) Blog
 - c) Webinars - as determined by DDA, QIO, and stakeholders
 - d) Development of visual materials to show the proposed activities of the upcoming activities (i.e., a step-by-step diagram of what providers and other stakeholders can expect from the CQL Network Accreditation preparation activities).
- xi. Facilitation of Self-Advocacy education/support activities including meetings with self-advocates, training, and development of supporting materials.
- xii. Two (2) meetings/year with a DDA-identified Self-Advocate group
- xiii. Two (2) Self-Advocate trainings per year to include specially designed Personal Outcome Measures® and Basic Assurances® Overviews, as well as other training identified by the self-advocate group
 - xiv. Onsite Network Accreditation Visit in Year Four
- xv. Review Network Self-assessment, analyze data, hold stakeholder meetings, develop action plan for moving forward.
- xvi. Project Management
- xvii. Coordination of project activities with DDA and contracted QIO
- xviii. Process Evaluation Activities
- xix. CQL to gather provider and DDA feedback after QIO certification activities
- xx. To determine successes and areas of opportunity for improvement in the QIO certification process.
- xxi. To identify how network accreditation activities might be influencing provider policies, procedures, and practices.

2.3.7.4 The Contractor shall assist DDA Providers in establishing policy, procedures and practices that promotes the Person-Centered Excellence Network Accreditation by providing training and technical assistance in all aspects of coming into alignment with CQL Network Accreditation values evidenced in the Basic Assurances[®] and Personal Outcome Measures[®].

2.3.8 Enhanced Funding for QIO Services

The Contractor shall maintain the designation of a QIO-like entity which qualifies them for an enhanced Federal Fund Participation match from the Centers for Medicare and Medicaid (CMS). The enhanced match is above the States F-map, or Federal Medicaid Assist Percentage. The Contractor will work with the DDA to develop the application to CMS for activities within the scope of work that is eligible for the enhanced match.

2.3.9 Data System for Tracking of Reviews and Provider Performance

The Contractor shall provide an electronic data system to aggregate data on reviews in order to track data trends over time which shall compare multiple service Providers and identify systemic problems and/or achievements. The data system must be functional within 120 days of the effective date of the Contract. of the Contract. This system is an important tool to guide decision making and provide valuable information about the work and direction of the DDA. The system must also support CMS performance reporting.

2.3.9.1 The Contractor must ensure the data collected in the data system is:

- (a) Person-specific
- (b) Organization-specific
- (c) Community specific
- (d) DDA Program Specific

2.3.9.2 The Contractor shall define the data system to:

- (a) Collect, cross-reference, aggregate, and trend reviews.
- (b) Link to other State owned and/or contracted information systems.
- (c) Track and trend quality enhancement findings by individual, by Provider, by the CCS agency, and Region.
- (d) Make data collection and analysis as easy and seamless as possible (on-line forms; the use of everyday language; automatic calculations; automatic distribution of information to more than one data file, etc.).
- (e) Be shared and accessible to DDA and reports must be generated on a monthly and quarterly basis as stated in the scope of work and deliverables.

2.3.9.3 Offer a public facing web page that includes but will not be limited to publicly accessible material such as copies of current review tools, training and education materials, and the Provider Quality reporting system.

2.3.9.4 Create provider and program specific report cards/dashboard based on findings.

2.3.10 Reports

The Contractor shall submit to the Contract Monitor via email the following reports no later than the 15th Business Day of the following month, for the previous month activities unless otherwise specified:

2.3.10.1 Monthly Reports

2.3.10.1.1 Monthly Implementation Reports on QIO activities: reports of progress across all of the task areas and identified deliverables are due to the Contract Monitor monthly until all requirements are met. The report shall include a status on the NCI deliverable and the enhanced funding for the QIO services. This report shall be submitted with the invoices.

2.3.10.1.2 Review and trend incident, critical incidents, and cross reference with monitoring reports. The Contractor shall develop an information system to review and trend incidents and critical incidents and cross reference with monitoring reports. The Contractor will track and trend incidents by person, by Provider, by Coordinator of Community Services, by DDA Program, and by Region.

2.3.10.1.3 The Contractor shall provide the Contract Monitor with a monthly Excel spreadsheet report, no later than the 15th Business Day of the following month, for the previous month activities, to include a summary of activities and resulting data. DDA's current system, PCIS2 and any future information technology system will provide a basic report of the audit results as entered into the system and other reporting is the responsibility of the Contractor and their internal systems. PCIS2 can export information to the Contractor in an Excel format. The required monthly report shall include at least the following information:

- (a) All of the following demographic information about each person whose services were audited: name, address, support program, date service began, revisions to services, audit date, region, county, Provider, dates of audit period, setting or living arrangement, auditor name.
- (b) Copies of all documents reviewed for each individual, for each audit for each billing period and sent to the Contract Monitor electronically.
- (c) Activities for the month (summarize volume of reviews & interviews).
- (d) Summary of audit results (finding % and financial discrepancies) and running total of audits for Contract year submitted to the Contract Monitor and the Regional Offices. The financial result should reflect the delta between services funded and services delivered based upon the rate paid for those services.
- (e) Results of quarterly (this element of the monthly report will only appear quarterly) on-the-job evaluations of staff performance, demonstrating completion of routine/quarterly audits within ninety (90) days of notification timeframe and on demand audits within thirty (30) days of notification timeframe as well as a qualitative measurement of performance. The Contractor shall develop a form for this report and submit the form to the Contract Monitor for review and approval within fifteen (15) Business Days after the NTP.
- (f) Issues and challenges experienced (briefly discuss these and their potential impact on review process and proposed solutions).

2.3.10.2 Ad Hoc Reports

Ad Hoc reports and data analysis shall be available on request of the Contract Monitor to assess the quality and appropriateness of services to Person/Individuals within 7 business days of the request.

2.3.10.3 Basic Waiver Assurance Quarterly and Annual Reports

2.3.10.3.1 Reports on Basic Waiver Assurances (as outlined in 2.3.2 *Support for the Monitoring of Basic Waiver Assurances*) for each Waiver is due quarterly by the fifteenth (15) Business Day after close of the quarter. (Q1=April 15, Q2=July 15, Q3=October 15 and Q4=January15).

2.3.10.3.2 The overall findings from the reviews must be noted for each DDA program and statewide findings merged into a single report. Reports shall include aggregate reporting data with detailed analysis. Reports should be reviewed with the DDA Leadership and Region's Director. A Statewide report will be reviewed by the State Quality Advisory Committee at its quarterly meetings.

2.3.10.3.3 Reports shall be approved by the DDA must include at a minimum:

- (a) Introduction and summary (e.g. assurances meeting federal standards, identification of patterns and trends, identification of potential problems);
- (b) Section for each Basic Waiver Assurance performance measures (i.e. Level of Care, Qualified Providers, Service Plans, Health and Welfare, and Financial Accountability) with the following components:
 - (i) Performance Measure
 - (ii) Data by quarter and annual total
 - (iii) Analysis of Review Findings including
 - (1) Identification of patterns and trends with reasoning for trends;
 - (2) Identification of issues with reasoning for issues;
 - (3) A conclusion of findings
 - (iv) Remediation
 - (1) Efforts and strategies;
 - (2) Support provided to individuals;
 - (v) Proposed Quality Improvement Strategies
 - (1) Possible policy and procedure changes;
 - (2) Best Practices;
 - (3) Training Needs;
 - (4) Educational Seminars
- (c) Data will be in various formats including graphically to allow for easy communication of results to partners.

2.3.10.4 Person-Centered Plan Review Reports

These are reports created from review of the participants PCP, services, and other documents related to risk and concerns associated with health and safety. The Contractor will submit a single report of the overall findings from person-centered reviews for each individual in the sample. The report shall be completed within fifteen (15) Business Days from the date of the review. The report shall be sent to the Contract Monitor and DDA Regional Director. The report will include at a minimum:

- (a) Complete demographic profile of the participant including living arrangements;
- (b) Participant's current health status;
- (c) Participant's behavioral challenges, status, including diagnoses (if applicable);
- (d) Medicaid services including waiver services received by the participant;
- (e) Results of record review (e.g. identified risk and health and safety concerns); and
- (f) A conclusion of findings addressing areas of deficiencies with PCP and opportunities for QE in services and support provided to the participant.

2.3.10.5 Annual Report

An aggregate report is completed on an annual basis and shall be delivered to the DDA within thirty (30) Business Days of the end of the Contract year. Each annual report must be accompanied by Person/Individual level data on a USB drive if the document is too large to email. The annual report must be graphically and visually appealing and must be approved by the Contract Monitor.

Report will include but not be limited to the following:

- (a) Executive summary;
- (b) Major accomplishments;
- (c) Significant organizational changes;
- (d) Provider training products, evaluation results, and attendance records;
- (e) Dates of site visits and record selection, special reviews;
- (f) Provider concerns;
- (g) Person/Individual concerns;
- (h) Recommendations to improve instruments and processes;
- (i) Progress in meeting performance measures and outcome measures;
- (j) Summary of patterns and trends, quarterly and cumulative, with reasoning behind them;
- (k) Analysis and description of the data;
- (l) Aggregate findings from site visits by program type, region and Statewide
- (m) State level aggregate findings of person centered reviews;
- (n) A conclusion of findings addressing areas of deficiencies and opportunities for QE in services and support provided to individuals;
- (o) Data arranged graphically to allow for easy communication of results to partners; identification of patterns and trends; and identification of potential problems;
- (p) Assessment of impact of Quality Management system;
- (q) Identification of best and promising practices which demonstrate improvement in quality of services or generate high satisfaction with Person/Individuals receiving those services;
- (r) Highlights of quality initiatives implemented by the State to improve quality of care for Person/Individuals receiving developmental disability services;
- (s) Recommendations for policy modifications and improvements to the quality management process;
- (t) Recommendations for possible QE studies;
- (u) Comparison of current year data with prior year data;
- (v) Detailed summary of all Utilization Review services provided during the year to include, but not be limited to:
 - 1) The number of reviews performed by service type and region, number and extent of findings associated with the reviews conducted in terms of services not provided to Consumers, financial impacts and Consumer satisfaction;
 - 2) An analysis of the results of the services;
 - 3) Recommendations the Contractor has for improving the efficiency and quality of services being delivered; and
 - 4) Opportunities and recommendations to improve Utilization Reviews.
 - 5) The Contractor shall maintain all records related to this Contract for a minimum of six (6) years after the conclusion of this Contract. At that time the Contractor will return those records to the Department or confidentially dispose of them at the direction of the Contract Monitor.

2.3.11 Contractor-Supplied Hardware, Software, and Materials

- A. By responding to this RFP and accepting a Contract award, the Offeror specifically agrees that for any software, hardware or hosting service that it proposes, the State will have the right to purchase such item(s) from another source, instead of from the selected Offeror.

- B. SaaS applications shall be accessible from various client devices through a thin client interface such as a Web browser (e.g., Web-based email) or a program interface.
- C. The State shall be permitted limited user-specific application configuration settings.
- D. The Contractor is responsible for the acquisition and operation of all hardware, software and network support related to the services being provided, and shall keep all software current.
- E. All Upgrades and regulatory updates shall be provided at no additional cost.
- F. The State requires that the Offeror price individual software modules separately.
- G. The State also requires that the Offeror provide fully functional, generally available software and multiple-user licenses for purchase as needed throughout the life of the Contract.
- H. The Offeror shall install and provide all documentation for the software furnished under the Contract.
- I. Hardware and software costs procured as part of the RFP cannot exceed 49 percent of the total Contract value.
- J. Material costs shall be passed through with no mark-up by the Contractor.
- K. The Contractor shall prepare software releases and stage at the Department for validation in the system test environment. The Department will provide authorization to proceed. The Department will have the ability to manage the distribution of these releases to the appropriate sites. To support this requirement, the Contractor shall propose, provide and fully describe their solution for updating all sites with any new software releases.

2.3.12 Required Project Policies, Guidelines and Methodologies

The Contractor shall be required to comply with all applicable laws, regulations, policies, standards and guidelines affecting Information Technology projects, which may be created or changed periodically. Offeror is required to review all applicable links provided below and state compliance in its response.

It is the responsibility of the Contractor to ensure adherence and to remain abreast of new or revised laws, regulations, policies, standards and guidelines affecting project execution. These include, but are not limited to:

- A. The State of Maryland System Development Life Cycle (SDLC) methodology at: <http://doit.maryland.gov/SDLC/Pages/agile-sdlc.aspx> ;
- B. The State of Maryland Information Technology Security Policy and Standards at: <http://www.DoIT.maryland.gov>- keyword: Security Policy;
- C. The State of Maryland Information Technology Non-Visual Standards at: <http://doit.maryland.gov/policies/Pages/ContractPolicies.aspx> ;

2.3.13 Product Requirements

- A. Offerors may propose open source software; however, the Offeror must provide operational support for the proposed software as part of its Proposal.
- B. Offeror shall be authorized to furnish the proposed goods and services. Offerors proposing to resell services of another entity must be authorized by such other entity, see RFP **Section 5.3.2**.
- C. No international processing for State Data: As described in **Section 3.7 Security Requirements**, Offerors are advised that any processing or storage of data outside of the continental U.S. is prohibited.

- D. Offeror consistent expiration dates: A PO for a service already being delivered to the Department under the Contract shall terminate on the same calendar day as the prior product/service. As appropriate, charges shall be pro-rated.
- E. Any Contract award is contingent on the State's agreement, during the Proposal evaluation process, to any applicable terms of use and any other agreement submitted under **Section 5.3.2**. Such agreed upon terms of use shall apply consistently across services ordered under the Contract.
- F. The Contractor shall not establish any auto-renewal of services beyond the period identified in Contract documents.
- G. In addition to any notices of renewal sent to the Department, Contractors shall email notices of renewal to the e-mail address designated by the Contract Monitor.

2.3.14 Maintenance and Support

Maintenance and support, and Contractor's ongoing maintenance and support obligations, are defined as follows:

- A. Maintenance commences at State acceptance of initial startup activities. Billing for such maintenance and support shall commence after at State acceptance of initial startup activities.
- B. Software maintenance includes all future software updates and system enhancements applicable to system modules licensed without further charge to all licensed users maintaining a renewable software support contract.
- C. Support shall be provided for superseded releases and back releases still in use by the State.
- D. For the first year and all subsequent Contract years, the following services shall be provided for the current version and one previous version of any Software provided with the Deliverables, commencing upon State acceptance of initial startup activities:
 - 1) Error Correction. Upon notice by the State of a problem with the Software (which problem can be verified), reasonable efforts to correct or provide a working solution for the problem.
 - 2) Material Defects. Contractor shall notify the State of any material errors or defects in the Deliverables known, or made known to Contractor from any source during the life of the Contract that could cause the production of inaccurate or otherwise materially incorrect results. The Contractor shall initiate actions as may be commercially necessary or proper to effect corrections of any such errors or defects.
 - 3) Updates. Contractor will provide to the State at no additional charge all new releases and bug fixes (collectively referred to as "Updates") for any software Deliverable developed or published by the Contractor and made available to its other customers.
- E. Operations tasks to include virus scans
- F. Activity reporting

2.3.14.1 Technical Support

- A. "Technical Support" means Contractor-provided assistance for the services or Solution furnished under the Contract, after initial end-user support confirms a technical issue that requires additional troubleshooting capabilities; sometimes referenced as Tier II – IV support.

- B. Technical Support shall be available during Normal State Business Hours.
- C. The State shall be able to contact a Technical Support team member 24 hours per day, 7 days per week, 365 days per year.
- D. Contractor Personnel providing technical support shall be familiar with the State's account (i.e., calls shall not be sent to a general queue). [[Adjust as appropriate. Support that isn't sent to a general queue may cost more.]]
- E. Contractor shall return calls for service of emergency system issues (see Section 2.5 Service Level Agreement) within one (1) hour.
- F. Calls for non-emergency IT service requests will be returned within three (3) hours or immediately the following day if after Normal State Business Hours. [[Adjust to match B.]]
- G. The State shall be provided with information on software problems encountered at other locations, along with the solution to those problems, when relevant to State software.

2.3.14.2 Backup

The Contractor shall:

- A. Perform backups of the web, application, and database servers on a regular basis. This shall include daily incremental backups and full weekly backups of all volumes of servers;
- B. Retain daily backups for one (1) month and weekly backups shall be retained for two (2) years;
- C. Store daily backups off-site.

2.4 Deliverable

2.4.1 Deliverable Submission

2.4.1.1 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.

2.4.1.2 For every deliverable, the Contractor shall submit to the Contract Monitor, by e-mail, an Agency Deliverable Product Acceptance Form (DPAF), an example of which is provided on the DoIT web page here:

http://doit.maryland.gov/contracts/Documents/_procurementForms/DeliverableProductAcceptanceForm-DPAFsample.pdf.

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

2.4.1.4 A standard deliverable review cycle will be elaborated and agreed-upon between the State and the Contractor. This review process is entered into when the Contractor completes a deliverable.

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

draft delivery date is explicitly specified). Draft versions of a deliverable shall comply with the minimum deliverable quality criteria listed in **Section 2.4.3 Minimum Deliverable Quality**.

2.4.2 Deliverable Acceptance

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

2.4.2.2 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.

2.4.2.3 The Contract Monitor will issue to the Contractor a notice of acceptance or rejection of the deliverable in the DPAF (see online sample). Following the return of the DPAF indicating “Accepted” and signed by the Contract Monitor, the Contractor shall submit a proper invoice in accordance with the procedures in **Section 3.3**. The invoice must be accompanied by a copy of the executed DPAF or payment may be withheld.

2.4.2.4 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:

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

2.4.3.2 Be organized in a manner that presents a logical flow of the deliverable’s content.

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

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

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

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

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

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

2.4.3.9 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
2.3.1.1 Project Plan	Draft Project Plan that provides a comprehensive timeline of each task	Microsoft Project schedule demonstrating tasks, task estimates, resource assignments, and dependencies for both Agency and Contractor Personnel, with tasks no less than 8 hours and no greater than 80 hours.	At Kick Off meeting/Once
2.3.1.1 Project Plan	Final Project Plan that provides a comprehensive timeline of each task, with weekly updates	Microsoft Project schedule demonstrating tasks, task estimates, resource assignments, and dependencies for both Agency and Contractor Personnel, with tasks no less than 8 hours and no greater than 80 hours.	Within 7 business days of Accepted Draft Project Plan/Weekly
2.3.1.2 Procedure Manual	Draft Procedure Manual	Microsoft word document that provides a detailed narrative of the process.	60 calendar days of Award/Once
2.3.1.2 Procedure Manual	Final Procedure Manual	Microsoft Word document that provides a detailed narrative of the process.	120 calendar days of Award/Once
Section 2.3.2 Support For Monitoring of Basic Waiver Assurances	Quarterly and Annual Reports	Microsoft Excel	On the 30th day of the end of the quarter and year/Quarterly and Annually
2.3.3 Additional Reviews of CCS	To determine compliance with waiver requirements, standards and regulations, Provider Agreement, deliverables and other relevant requirements	Report, Microsoft Word document that provides a detailed narrative	On-going/Frequently
2.3.4 Utilization Reviews	To verify the provisions and quality of required DDA services	Report, Microsoft Word document that provides a detailed narrative	On-going/Frequently

2.3.5 Evaluation Reports	To provide a draft evaluation form	Electronic records system	On-going/Frequently
2.3.6 National Core Indicators (NCI) Survey	NCI face-to-face Survey, Adult NCI Family and Family/Guardian Mail Survey	In-person/virtual/mail	On-going/Frequently
2.3.7 CQL Network Accreditation	Person-Centered Excellence Network Accreditation by the Council on Quality and Leadership	Varies based on the requirement	On-going/Frequently
2.3.8 Enhanced Federal Funds for QIO Services	Enhanced Federal Fund Participation	Develop the application	Collaboration with DDA to be determined after award
2.3.9 Data System	To provide a data system for tracking of reviews and provider performance	Electronic records system	120 days after award
2.3.10 Reports	The Contractor shall submit to the Contract Monitor via email as well as a mailed signed hardcopy the following reports no later than the 15th Business Day of the following month, for the previous month activities unless otherwise specified.	Varies based on requirements	No later than the 15th Business Day of the following month, for the previous month
2.3.11 Contractor-Supplied Hardware, Software, and Materials	To provide user rights and usage guidelines	N/A	Commencing upon State acceptance of initial startup activities
2.3.14 Maintenance and Support	Contractor’s on-going maintenance and support obligations	N/A	On-going/Frequently

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

2.5 Optional Features or Services, Future Work

THIS SECTION IS INAPPLICABLE TO THIS RFP.

2.6 Service Level Agreement (SLA)

THIS SECTION IS INAPPLICABLE TO THIS RFP.

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3 Contractor Requirements: General

3.1 Contract Initiation Requirements

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

3.2 End of Contract Transition

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

- A. Provide additional services and support as requested to successfully complete the transition;
- B. Maintain the services called for by the Contract at the required level of proficiency;
- C. Provide updated System Documentation (see Appendix 1), as appropriate; and
- D. Provide current operating procedures (as appropriate).

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

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

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

- A. The Contractor shall provide a draft Transition-Out Plan 120 Business Days in advance of Contract end date.
- B. The Transition-Out Plan shall address at a minimum the following areas:
 - 1) Any staffing concerns/issues related to the closeout of the Contract;
 - 2) Communications and reporting process between the Contractor, the Department and the Contract Monitor;
 - 3) Security and system access review and closeout;
 - 4) Any hardware/software inventory or licensing including transfer of any point of contact for required software licenses to the Department or a designee;
 - 5) Any final training/orientation of Department staff;
 - 6) Connectivity services provided, activities and approximate timelines required for Transition-Out;
 - 7) Knowledge transfer, to include:
 - a) A working knowledge of the current system environments as well as the general business practices of the Department;

- b) Review with the Department the procedures and practices that support the business process and current system environments;
 - c) Working knowledge of all technical and functional matters associated with the Solution, its architecture, data file structure, interfaces, any batch programs, and any hardware or software tools utilized in the performance of the Contract;
 - d) Documentation that lists and describes all hardware and software tools utilized in the performance of the Contract;
 - e) A working knowledge of various utilities and corollary software products used in support and operation of the Solution;
- 8) Plans to complete tasks and any unfinished work items (including open change requests, and known bug/issues); and
 - 9) Any risk factors with the timing and the Transition-Out schedule and transition process. The Contractor shall document any risk factors and suggested solutions.
- C. The Contractor shall ensure all documentation and data including, but not limited to, System Documentation and current operating procedures, is current and complete with a hard and soft copy in a format prescribed by the Contract Monitor.
 - D. The Contractor shall provide copies of any current daily and weekly back-ups to the Department or a third party as directed by the Contract Monitor as of the final date of transition, but no later than the final date of the Contract.
 - E. Access to any data or configurations of the furnished product and services shall be available after the expiration of the Contract as described in **Section 3.2.5**.

3.2.5 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 e-mail the original of each invoice and signed authorization to invoice to the Contract Monitor at e-mail address: patricia.sastoque@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 with 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 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.

3.4.4 Travel Reimbursement

Travel will not be reimbursed under this RFP.

3.4 Liquidated Damages

3.4.1 MBE Liquidated Damages

MBE liquidated damages are identified in Attachment M.

3.4.2 Liquidated Damages other than MBE

THIS SECTION IS INAPPLICABLE TO THIS RFP.

3.5 Disaster Recovery and Data

The following requirements apply to the Contract:

3.5.1 Redundancy, Data Backup and Disaster Recovery

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

- B. The Contractor shall have robust contingency and disaster recovery (DR) plans in place to ensure that the services provided under the Contract will be maintained in the event of disruption to the Contractor/subcontractor's operations (including, but not limited to, disruption to information technology systems), however caused.
 - 1) The Contractor shall furnish a DR site.
 - 2) The DR site shall be at least 100 miles from the primary operations site and have the capacity to take over complete production volume in case the primary site becomes unresponsive.
- C. The contingency and DR plans must be designed to ensure that services under the Contract are restored after a disruption within twenty-four (24) hours from notification and a recovery point objective of one (1) hour or less prior to the outage in order to avoid unacceptable consequences due to the unavailability of services.
- D. The Contractor shall test the contingency/DR plans at least twice annually to identify any changes that need to be made to the plan(s) to ensure a minimum interruption of service. Coordination shall be made with the State to ensure limited system downtime when testing is conducted. At least one (1) annual test shall include backup media restoration and failover/fallback operations at the DR location. The Contractor shall send the Contract Monitor a notice of completion following completion of DR testing.
- E. Such contingency and DR plans shall be available for the Department to inspect and practically test at any reasonable time, and subject to regular updating, revising, and testing throughout the term of the Contract.

3.5.2 Data Export/Import

- A. The Contractor shall, at no additional cost or charge to the State, in an industry standard/non-proprietary format:
 - 1) perform a full or partial import/export of State data within 24 hours of a request; or
 - 2) provide to the State the ability to import/export data at will and provide the State with any access and instructions which are needed for the State to import or export data.
- B. Any import or export shall be in a secure format per the Security Requirements.

3.5.3 Data Ownership and Access

- A. Data, databases and derived data products created, collected, manipulated, or directly purchased as part of 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.

3.5.3.1 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

3.7.2.1 The Contractor is responsible for Background Checks.

- A. A criminal background check for each Contractor Personnel providing on-site 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

- (a) Contractors shall comply with and adhere to the State IT Security Policy and Standards. These policies may be revised from time to time and the Contractor shall comply with all such revisions. Updated and revised versions of the State IT Policy and Standards are available online at: www.doit.maryland.gov – keyword: Security Policy.
- (b) The Contractor shall not connect any of its own equipment to a State LAN/WAN without prior written approval by the State. The Contractor shall complete any necessary paperwork as directed and coordinated with the Contract Monitor to obtain approval by the State to connect Contractor-owned equipment to a State LAN/WAN.

The Contractor shall:

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

3.7.5 Data Protection and Controls

- A. Contractor shall ensure a secure environment for all State data and any hardware and software (including but not limited to servers, network and data components) provided or used in connection with the performance of the Contract and shall apply or cause application of appropriate controls so as to maintain such a secure environment (“Security Best Practices”). Such Security Best Practices shall comply with an accepted industry standard, such as the NIST cybersecurity framework.
- B. To ensure appropriate data protection safeguards are in place, the Contractor shall implement and maintain the following controls at all times throughout the Term of the Contract (the Contractor may augment this list with additional controls):
 - 1) Establish separate production, test, and training environments for systems supporting the services provided under the Contract and ensure that production data is not replicated in test or training environment(s) unless it has been previously anonymized or otherwise modified to protect the confidentiality of Sensitive Data elements. The Contractor shall ensure the appropriate separation of production and non-production environments by applying the data protection and control requirements listed in **Section 3.8.5**.
 - 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 Logs and Reports Access

- A. For a SaaS or non-State hosted solution, the Contractor shall provide reports to the State in a mutually agreeable format.
- B. Reports shall include latency statistics, user access, user access IP address, user access history and security logs for all State files related to the Contract.

3.7.7 Security Plan

- A. The Contractor shall protect State data according to a written security policy ("Security Plan") no less rigorous than that of the State, and shall supply a copy of such policy to the State for validation, with any appropriate updates, on an annual basis.
- B. The Security Plan shall detail the steps and processes employed by the Contractor as well as the features and characteristics which will ensure compliance with the security requirements of the Contract.
- C. The Security Plan shall address compliance with the PCI DSS for payment card processing.

- D. If any Security Plan information, including procedures, are different based on a Task Order, Contractor shall furnish such differences to the respective TO Manager.

3.7.8 PCI Compliance

- A. Contractor shall at all times comply, and ensure compliance with, all applicable Payment Card Industry ("PCI") Data Security Standards ("DSS"), including any and all changes thereto. Contractor shall provide the Department with documented evidence of current compliance to PCI DSS within 30 days of a Department request.
- B. The Contractor shall annually furnish to the State evidence of the PCI Security Standards Council's (SSC) acceptance or attestation of the Contractor's conformance to the relevant PCI DSS requirements by a third party certified to perform compliance assessments.
- C. The Contractor shall ensure that the scope of the annual SOC 2 Type II Report specified under **Section 3.9** includes testing to confirm the PCI assessment results.

3.7.9 Security Incident Response

- A. The Contractor shall notify the Department in accordance with **Section 3.8.9A-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.

3.7.10 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.

3.7.11 Additional security requirements may be established in a Task Order and/or a Work Order.

3.7.12 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.

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

3.8 Problem Escalation Procedure

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

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

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

- A. The process for establishing the existence of a problem;
- B. Names, titles, and contact information for progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;
- C. For each individual listed in the Contractor's PEP, the maximum amount of time a problem will remain unresolved with that individual before the problem escalates to the next contact person listed in the Contractor's PEP;
- D. Expedited escalation procedures and any circumstances that would trigger expediting them;
- E. The method of providing feedback on resolution progress, including the frequency of feedback to be provided to the State;
- F. Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays) and on an emergency basis; and
- G. A process for updating and notifying the Contract Monitor of any changes to the PEP.

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

3.9 SOC 2 Type 2 Audit Report

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

3.10 Experience and Personnel

3.10.1 Personnel Experience/Staffing Requirements

The Contractor will propose staff to meet the qualifications as identified and must be pre-approved by the Contract Monitor prior to working on the Contract:

3.10.1.1 Program Manager

- (a) A full-time Key Personnel subject to all requirements identified in Section 3.10.
- (b) A minimum of a master's degree or ten (10) years' experience in the field of developmental disabilities; or a bachelor's degree with a minimum of fifteen (15) years' experience in the field of developmental disabilities.
- (c) At least ten (10) years must be in a supervisory or management position.
- (d) Experience in project management, and QE/ CQI development and implementation.
- (e) Experience in designing, implementing, and supervising the delivery of programs and services for persons with developmental disabilities in areas such as supported living, coordination of community services, Supported Employment, or residential services.
- (f) Must be available to Region and State staff during Normal State Business Hours.

3.10.1.2 Project Manager

A full time Key Personnel subject to all requirements identified in Section 3.10. The Project Manager shall have a minimum of a master's degree and seven (7) years of experience in public sector basic

quality assurance and quality satisfaction surveys for people with disabilities. The Project Manager will manage a staff of interviewers and be the contact person for the Department Contract Monitor.

3.10.1.3 Quality Management Manager

A Key Personnel subject to all requirements identified in Section 3.10. The Quality Management Manager shall:

- (a) Be a full-time employee, with a minimum of three (3) years of experience in quality management. The Quality Management Manager must be dedicated solely to this Contract with the authority to revise processes and assign additional resources if necessary to ensure the maximum efficiency and effectiveness of QE services. A bachelor or master's degree in social or health services.
- (b) Meet with the DDA QE leads from each Region and DDA headquarters at least once each quarter or more frequently as needed to discuss the status of the Contract, reports, planning, and to address any specific QE issues.
- (c) Ensure the development of a quarterly summary report and annual report and present quarterly to the State's Quality Advisory Committee outlining progress in meeting deliverables. The purpose is to review QE results, reports, planning, and recommended improvements in the system.
- (d) Be readily accessible and available to the QE staff. An email address, phone number, and fax number shall be provided to each Regions QE Lead to facilitate communication.
- (e) Schedule, plan, and facilitate quarterly State Interagency Quality Enhancement Committee Meetings and the annual Statewide Interagency Quality Enhancement Committee Meetings.

3.10.1.4 UR Audit Personnel

The Contractor shall provide key audit personnel with a bachelor or master's degree and a minimum of three (3) years of experience in public sector Utilization Review of Medicaid services. At least one (1) audit personnel must be proposed as Key Personnel and subject to RFP substitution requirements.

3.10.1.5 Clinical Personnel

One (1) proposed team member with a minimum of a bachelor's degree and ten (10) years of relevant clinical experience (i.e. behavioral support, nursing services or other clinical experience related to developmental disabilities) must be proposed. Clinical personnel shall review the appropriateness of service delivered from a quality perspective and will provide the appropriate oversight needed to assess the quality of service provision.

3.10.1.6 Regional Supervisors

The Contractor shall have Regional Supervisors that are assigned to coordinate on site reviews. There shall be one (1) Supervisor per region. An additional Regional Supervisor or an Assistant Regional Supervisor may be hired for the Central Region with approval from DDA due to high number of Persons/Individuals being served in that Region. The purpose of having Regional Supervisors is to facilitate regional involvement and communication with individuals with ID/DD, families, and Providers. Regional Supervisors shall work with the regional office staff in the implementation of regional QE activities and coordinate required training to assure reviewer competency.

3.10.1.6.1 Regional Supervisors will be responsible for:

- (a) Reviewing and addressing the results of the person centered and Provider interviews and the results of records reviews for individuals with ID/DD participating in the sample.
- (b) It will be required that all interviews will be reviewed by a Regional Supervisor during the first year to ensure integrity and consistency within the region. At the end of the first year a decision will be made as to the number that will be reviewed in the second year.

(c) Scheduling, planning, and facilitating quarterly Regional Interagency Quality Enhancement Committee Meetings.

3.10.1.6.2 The Regional Supervisors shall have the following qualifications:

- (a) A master's degree and four (4) years' experience in the field of developmental disabilities or a bachelor's degree with a minimum of seven (7) years' experience in the field of developmental disabilities.
- (b) At least one (1) year of experience must be in a supervisory or management position.
- (c) Supervisors must also have specific experience in designing, implementing, and supervising the delivery of programs and services for persons with developmental disabilities in areas such as supported living, coordination of community services, Supported Employment, or residential services.
- (d) Regional Supervisors must work in the appropriate Maryland regional office.
- (e) Regional Supervisors must be available to Regional and State staff during Normal State Business Hours.

3.10.1.7 On-Site Review Staff

The Contractor must have sufficient and qualified staff to conduct all on-site reviews. Staff performing reviews shall possess knowledge of best practices in the delivery of services to ID/DD Consumers. At minimum, a bachelor's degree, on-site review staff must have four (4) years' experience in the field of ID/DD. On-site review staff must be based in a Maryland office. On-site review staff must be available to Regional and State staff during Normal State Business Hours.

3.10.1.8 Management Information System Staff (MIS)

The Contractor must provide key MIS personnel with a bachelor or master's degree and a minimum of three (3) years of experience in public sector Utilization Review of Medicaid services to manage Contract requirements including data analysis and storage. MIS staff must be readily available to the Department staff via phone, email, and fax during Normal State Business Hours. MIS Staff will be responsible for maintaining and analyzing:

- (a) Information gathered during person centered review;
- (b) Provider reviews;
- (c) Review of Medicaid claims;
- (d) Record reviews;
- (e) Interviews with Support Coordinator;
- (f) Observation in various sites person receives services or supports;
- (g) Interviews with staff and other individuals who receive services;
- (h) Tracking and trending incident reports, monitoring reports, and critical incidents;
- (i) Development of Provider Quality Reporting System; and
- (j) Web based site with information on QE process, minutes of meetings, helpful information for:
 - 1. Providers;
 - 2. Person Centered Planning;
 - 3. Standards training;
 - 4. Critical Incident;
 - 5. New Provider Training;
 - 6. NCI Survey Training;
 - 7. DDA organization and billings, each DDA funded service (the link for approved waivers are as follows):
 - a. [Community Pathways Waiver](#)
 - b. [Community Supports Waiver](#)

- c. [Family Supports Waiver](#); and
8. DDA's Provider and Consumer Information System (PCIS2), and the DDA's future information technology system.

3.10.1.9 Interview Personnel

A minimum (50%) of the interviewers employed by Contractor for the NCI face-to-face interviews shall be people with ID/DD. All interviewers must be trained so that there is 85% inter-rater reliability. Interview Personnel shall possess a minimum of three (3) years of experience within the last five (5) years in public sector quality satisfaction surveys of people with ID/DD. Each survey interviewer's experience should include conducting quality satisfaction survey interviews with individuals with developmental disabilities. Contractor shall provide resumes to the Contract Monitor for any survey interviewers it proposes to work under the Contract whose resumes were not included with Contractor's Technical Proposal. The Contract Monitor must approve all staff two weeks in advance before beginning work. The Contractor must submit the resume for review 7 business days before the proposed survey date.

3.10.2 Training Requirements for QIO Staff

3.10.2.1 Contractor's staff who works in Maryland (State Manager, Regional Managers, and On-site Reviewers) must attend DDA sponsored training, specific details on trainings and locations will be coordinated with the Contractor after the kick-off meeting, that includes but is not limited to:

3.10.2.2 DDA trainings will be held via webinars across the State. Specific details on trainings and locations will be coordinated with the Contractor after the kick-off meeting and any other training recommended by the Contract Monitor.

3.10.2.3 The Contractor must provide for their staff travel, lodging, and food in order to attend trainings. The Contract Monitor will handle scheduling of training and any other logistical requirements. All training must be completed within one (1) year of Contract being awarded and as recommended by the Contract Monitor.

3.10.2.4 All training is subject to Contractor's expense and not billable to DDA.

3.10.3 Number of Personnel to Propose

As part of the Proposal evaluation, Offerors shall propose personnel (including dedication percentages) who are expected to be available as of the start date specified in the Notice to Proceed (NTP Date). Offerors shall describe in a Staffing Plan how additional resources shall be acquired to meet the needs of the Department. Offerors may generally describe planned positions in a Staffing Plan. Such planned positions may not be used as evidence of fulfilling personnel minimum qualifications.

3.10.4 Contractor Personnel Experience Equivalency (including Key Personnel submitted in response to this RFP)

- A. A Substitution of Education for Experience: Bachelor's Degree or higher may be substituted for the general and specialized experience for those labor categories requiring a High School Diploma. A Master's Degree may be substituted for two years of the general and specialized experience for those labor categories requiring a Bachelor's Degree. Substitution shall be reviewed and approved by the State at its discretion.
- B. Substitution of Experience for Education: Substitution of experience for education may be permitted at the discretion of the State.
- C. Substitution of Professional Certificates for Experience: Professional certification (e.g., Microsoft Certified Solutions Expert, SQL Certified Database Administrator) may be

substituted for up to two (2) years for general and specialized experience at the discretion of the State.

3.10.5 Contractor Personnel Maintain Certifications

Any Contractor Personnel provided under this RFP shall maintain in good standing any required professional certifications for the duration of the Contract.

3.10.6 Work Hours

Unless otherwise specified, the following work hours requirements are applicable:

- A. Business Hours Support: Contractor shall assign Contractor Personnel to support Normal State Business Hours (see definition in **Appendix 1**).
- B. Contractor Personnel may also be required to provide occasional support outside of normal State Business Hours, including evenings, overnight, and weekends, to support specific efforts and emergencies, such as to resolve system repair or restoration. Hours performing activities must be billed on an actual time worked basis at the rates proposed.
- C. Scheduled non-Business Hours Support: Once personnel have demonstrated an understanding of the Department infrastructure, they will also be required to participate in a rotating emergency on-call schedule, providing non-Business Hours support. Typically, personnel assigned to Department on-Business Hours support are required to be on-call 24 hours a day for a seven-day period, one week out of every four to five weeks.
- D. State-Mandated Closings: Contractor Personnel shall be required to participate in any State-mandated closings. In this event, the Contractor will be notified in writing by the Contract Monitor of these details.
- E. Minimum and Maximum Hours: Full-time Contractor Personnel shall work 40 hours per week with starting and ending times as approved by the Contract Monitor. A flexible work schedule may be used with Contract Monitor approval, including time to support any efforts outside core business hours. Contractor personnel may also be requested to restrict the number of hours Contractor personnel can work within a given period of time that may result in less than an eight-hour day or less than a 40-hour work week.
- F. Vacation Hours: Requests for leave shall be submitted to the Contract Monitor at least two weeks in advance. The Contract Monitor reserves the right to request a temporary replacement if leave extends longer than one consecutive week. In cases where there is insufficient coverage, a leave request may be denied.

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 at 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 3.12.3** 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 **Sections 3.15.1 – 3.15.5** (or the substance thereof) in all subcontracts.

3.15.1 Custom Software

- A. As described in the sample Contract (**Attachment M**), the State shall solely own any custom software, including, but not limited to application modules developed to integrate with a COTS, source-codes, maintenance updates, documentation, and configuration files, when developed under the Contract.
- B. Upon a Contractor's voluntary or involuntary filing of bankruptcy or any other insolvency proceeding, Contractor's dissolution, Contractor's discontinuance of support of any software or system, the Contractor shall convey to the State all rights, title, and interests in all custom software, licenses, software source codes, and all associated System Documentation that comprises any solutions proposed as a part of the Contract. These rights include, but are not limited to, the rights to use, and cause others to use on behalf of the State, said software, software documentation, licenses, software source codes, and System Documentation.

3.15.2 Custom Source Code

- A. For all custom software provided to the State pursuant to any Contract, the Contractor shall either provide the source code directly to the State in a form acceptable to the State, or deliver two copies of each software source code and software source code documentation to a State-approved escrow agent at no additional cost to the State following the terms set forth in the sample contract (**Attachment M**) and in **Section 3.15.3** below.
- B. The State shall have the right to audit custom software source code and corresponding software source code documentation for each software product that comprises the solution as represented by the Contractor. This audit shall be scheduled at any time that is convenient for the parties to be present. The State shall be provided with software or other tools required to view all software source code.
- C. The Contractor shall provide the current source code and documentation for all custom software to the State at the time of Contract termination.

3.15.3 Source Code Escrow

Source Code Escrow applies to the Contract. The Contractor shall perform source code escrow as described herein.

- A. The State will be named as a beneficiary under an escrow agreement ("Escrow Agreement") that shall be entered into between the Contractor and an escrow agent ("Escrow Agent") within <<xxx>> days of the date hereof pursuant to which Contractor shall deliver a Source Code Escrow Package to Escrow Agent. The term "Source Code Escrow Package" means: a) a complete copy in machine-readable form of the source code and executable code of the software licensed to the State under the Contract; b) a complete copy of any existing design documentation and user documentation; and/or c) complete instructions for compiling and linking every part of the source code into executable code for purposes of enabling verification of the completeness of the source code as provided below. The Escrow Agreement shall govern the maintenance and release of the Source Code Escrow Package,

- and Contractor agrees to update, enhance, or otherwise modify such Source Code Escrow Package promptly upon each release of a new version of any component thereof. Contractor shall pay all fees and expenses charged by Escrow Agent, including, but not limited to, fees and expenses related to the State being a named beneficiary under the Escrow Agreement. The State shall treat the Source Code Escrow Package as Contractor's confidential information. Under all circumstances, the Source Code Escrow Package shall remain the property of Contractor. The State shall only use the Source Code Escrow Package as contemplated in the Contract (including, but not limited to confidentiality provisions and usage restrictions). The Escrow Agent shall maintain the Source Code Escrow Package in a repository located in the United States.
- B. In the event that the Escrow Agent either ceases providing escrow services to Contractor or Contractor determines in its reasonable business judgment that the Escrow Agent is no longer providing acceptable services, Contractor shall replace the Escrow Agent with another escrow agent, using an agreement which provides the State with rights no less advantageous than those in the Escrow Agreement. In such case, the new escrow agent shall be substituted in all ways for the incumbent Escrow Agent with respect to **Section 3.15.3.A** above and all references herein to Escrow Agent shall be deemed to include such substitute escrow agent.
- C. Contractor shall inform the State of the availability of an escrow for any third-party software solutions it provides to the State.
- D. In addition to the rights and obligations contained in the Escrow Agreement referenced in **Section 3.15.3.A**, the State shall have the Software Escrow Package released by the Escrow Agent to the State's possession immediately upon any voluntary or involuntary filing of bankruptcy or any other insolvency proceeding, including but not limited to a general assignment for the benefit of including but not limited to a general assignment for the benefit of creditors, the appointment of a receiver for business or assets; creditors, the appointment of a receiver for business or assets; Contractor's dissolution or liquidation, voluntary or otherwise; the State has compelling reasons to believe that such events will cause Contractor to fail to meet its obligations in the foreseeable future; or Contractor's discontinuance of support or failure to support in accordance with the Contract any software system or if the Contractor is otherwise unable or unwilling to provide the Source Code Escrow Package. This condition will also be considered met if after repeated e-mail and phone requests by the State for service, the State makes a request for service in writing to the Contractor's last known address served by certified signed receipt required mail delivery by U.S. Post Office or by a nationally recognized (in the United States) overnight carrier, and the Contractor remains unresponsive, meaning that the Contractor is unable to acknowledge message receipt, unwilling or otherwise unable to satisfy the request for a period longer than 45 days from attempt to deliver the written request.

3.15.4 Purchasing and Recycling Electronic Products

This section does not apply to this solicitation.

3.15.5 Change Control and Advance Notice

- A. Unless otherwise specified in an applicable Service Level Agreement, the Contractor shall give seven (7) days advance notice to the State of any upgrades or modifications that may impact service availability and performance.
- B. Contractor may not modify the functionality or features of any SaaS provided hereunder if such modification materially degrades the functionality of the SaaS.

3.15.6 The State of Maryland's Commitment to Purchasing Environmentally Preferred Products and Services (EPPs)

[Maryland's State Finance & Procurement Article §14-410](#) defines environmentally preferable purchasing as “the procurement or acquisition of goods and services that have a lesser or reduced effect on human health and the environment when compared with competing goods or services that serve the same purpose.” Accordingly, Bidders are strongly encouraged to offer EPPs to fulfill this contract, to the greatest extent practicable.

3.15.7 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 virtual pre-Proposal conference (Conference) will be held at the date, time, and location indicated on the Key Information Summary Sheet.
- 4.1.2 Attendance in the virtual Conference is not mandatory, but all interested parties are encouraged to attend in order to facilitate better preparation of their Proposals.
- 4.1.3 MBE subcontractors are encouraged to attend the Conference to market their participation to potential prime contractors.
- 4.1.4 Following the virtual 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**).
- 4.1.5 Attendees should obtain a copy of the solicitation in order to adequately follow along during the conference.
- 4.1.6 In order to participate in the virtual Conference, all interested parties shall please e-mail the Pre-Proposal Conference Response Form (**Attachment A**) to the Procurement Coordinator no later than one (1) Business Day prior to 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 Coordinator at least five (5) Business Days prior to the Conference date. The Department will make a reasonable effort to provide such special accommodation.

4.2 eMaryland Marketplace Advantage (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, 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 (MDH OPASS 21-19004 - QUALITY IMPROVEMENT ORGANIZATION (QIO) SERVICES), and shall be submitted in writing via e-mail to the Procurement Officer at least five (5) days prior to the Proposal due date and time specified the Key Information Summary Sheet. 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 eMMA submission is determined by the date and time of arrival in the e-mail address indicated on the Key Information Summary Sheet.
- 4.5.5 Proposals may be modified or withdrawn by written notice received by the Procurement Officer before the time and date set forth in the Key Information Summary Sheet for receipt of Proposals.
- 4.5.6 Proposals may not be submitted by facsimile or hand delivery (hard copy paper). 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 virtual 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 date and time of oral presentations via email and calendar invitation. The Procurement Officer will also provide Offerors with an opportunity to “test” the Google Meet environment by sending a one (1) hour “practice” calendar invite within two (2) Business Days of the Offerors oral presentation date.

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

4.14 Incurred Expenses

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

4.15 Protest/Disputes

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

4.16 Offeror Responsibilities

- 4.16.1 Offerors must be able to provide all goods and services and meet all of the requirements requested in this solicitation and the successful Offeror shall be responsible for Contract performance including any subcontractor participation.
- 4.16.2 All subcontractors shall be identified and a complete description of their role relative to the Proposal shall be included in the Offeror's Proposal. If applicable, subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate Attachment(s) to this RFP (see **Section 4.26** "Minority Participation Goal" and **Section 4.27** "VSBE Goal").

- 4.16.3 If the Offeror is the subsidiary of another entity, all information submitted by the Offeror, including but not limited to references, financial reports, or experience and documentation (e.g. insurance policies, bonds, letters of credit) used to meet minimum qualifications, if any, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's Proposal shall contain an explicit statement, signed by an authorized representative of the parent organization, stating that the parent organization will guarantee the performance of the subsidiary.
- 4.16.4 A parental guarantee of the performance of the Offeror under this Section will not automatically result in crediting the Offeror with the experience or qualifications of the parent under any evaluation criteria pertaining to the actual Offeror's experience and qualifications. Instead, the Offeror will be evaluated on the extent to which the State determines that the experience and qualifications of the parent are applicable to and shared with the Offeror, any stated intent by the parent to be directly involved in the performance of the Contract, and the value of the parent's participation as determined by the State.

4.17 Acceptance of Terms and Conditions

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

4.18 Proposal Affidavit

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

4.19 Contract Affidavit

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

4.20 Compliance with Laws/Arrearages

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

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

4.21 Verification of Registration and Tax Payment

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

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

4.22 False Statements

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

- 4.22.1 In connection with a procurement contract a person may not willfully:
 - A. Falsify, conceal, or suppress a material fact by any scheme or device.
 - B. Make a false or fraudulent statement or representation of a material fact.
 - C. Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.
- 4.22.2 A person may not aid or conspire with another person to commit an act under **Section 4.22.1**.
- 4.22.3 A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding five (5) years or both.

4.23 Payments by Electronic Funds Transfer

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

- 4.23.1 Agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller's Office grants an exemption. Payment by EFT is mandatory for contracts exceeding \$200,000. The successful Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form.
- 4.23.2 Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form, must include the business identification information as stated on the form, and must include the reason for the exemption. The COT/GAD X-10 form may be downloaded from the Comptroller's website at: http://comptroller.marylandtaxes.com/Vendor_Services/Accounting_Information/Static_Files/GADX10Form20150615.pdf.

4.24 Prompt Payment Policy

This procurement and the Contract(s) to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Small, Minority & Women Business Affairs (GOSBA) and dated August 1, 2008. Promulgated pursuant to Md. Code Ann., State Finance and Procurement Article, §§ 11-201, 13-205(a), and Title 14, Subtitle 3, and COMAR 21.01.01.03 and 21.11.03.01, the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The Contractor shall comply with the prompt payment

requirements outlined in the Contract, Section 31 “Prompt Pay Requirements” (see **Attachment M**). Additional information is available on GOSBA’s website at:
<http://www.gomdsmallbiz.maryland.gov/documents/legislation/promptpaymentfaqs.pdf>.

4.25 Electronic Procurements Authorized

- 4.25.1 Under COMAR 21.03.05, unless otherwise prohibited by law, the Department may conduct procurement transactions by electronic means, including the solicitation, proposing, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.
- 4.25.2 Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or Contract. In the case of electronic transactions authorized by this RFP, electronic records and signatures by an authorized representative satisfy a requirement for written submission and signatures.
- 4.25.3 “Electronic means” refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://procurement.maryland.gov>), 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 or e-mail to issue:
 - 1) The RFP;
 - 2) Any amendments and requests for best and final offers;
 - 3) Pre-Proposal conference documents;
 - 4) Questions and responses;
 - 5) Communications regarding the solicitation or Proposal to any Offeror or potential Offeror;
 - 6) Notices of award selection or non-selection; and
 - 7) The Procurement Officer’s decision on any Proposal protest or Contract claim.
 - B. The Offeror or potential Offeror may use eMMA or e-mail to:
 - 1) Submit initial Proposals;
 - 2) Ask questions regarding the solicitation;
 - 3) 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;

4) 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. Filing of protests;
- B. Filing of Contract claims;
- C. Submission of documents determined by the Department to require original signatures (e.g., Contract execution, Contract modifications); or
- D. 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 facsimile numbers or e-mail addresses for the identified person as provided in the solicitation, the Contract, or in the direction from the Procurement Officer or Contract Monitor.

4.26 MBE Participation Goal

4.26.1 Establishment of Goal and Subgoals

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

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

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

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

4.26.2 Attachments.

- A. D-1 to D-5 – The following Minority Business Enterprise participation instructions, and forms are provided to assist Offerors:
1. Attachment D-1A MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (must be submitted with Proposal)
 2. Attachment D-1B Waiver Guidance
 3. Attachment D-1C Good Faith Efforts Documentation to Support Waiver Request
 4. Attachment D-2 Outreach Efforts Compliance Statement
 5. Attachment D-3A MBE Subcontractor Project Participation Certification
 6. Attachment D-3B MBE Prime Project Participation Certification
 7. Attachment D-4A Prime Contractor Paid/Unpaid MBE Invoice Report
 8. Attachment D-4B MBE Prime Contractor Report
 9. Attachment D-5 Subcontractor Paid/Unpaid MBE Invoice Report
- B. The Offeror shall include with its Proposal a completed MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) whereby:
1. The Offeror acknowledges the certified MBE participation goal and commits to make a good faith effort to achieve the goal and any applicable subgoals, or requests a waiver, and affirms that MBE subcontractors were treated fairly in the solicitation process; and
 2. The Offeror responds to the expected degree of MBE participation, as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of Proposal submission. The Offeror shall specify the percentage of total contract value associated with each MBE subcontractor identified on the MBE participation schedule, including any work performed by the MBE prime (including a prime participating as a joint venture) to be counted towards meeting the MBE participation goals.
 3. The Offeror requesting a waiver should review **Attachment D-1B** (Waiver Guidance) and **D-1C** (Good Faith Efforts Documentation to Support Waiver Request) prior to submitting its request.

An Offeror must properly complete and submit a separate Attachment D-1A, MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule, for EACH Service Category (I and II) for which it is submitting a proposal. If an Offeror is submitting a proposal for each of Service Categories I and II, the Offeror must submit two separate Attachment D-1As, one for each of the two Service Categories.

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

- 4.26.3 Offerors are responsible for verifying that each MBE (including any MBE prime and MBE prime participating in a joint venture) selected to meet the goal

and any subgoals and subsequently identified in **Attachment D-1A** is appropriately certified and has the correct NAICS codes allowing it to perform the committed work.

- 4.26.4 Within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, the Offeror must provide the following documentation to the Procurement Officer.
- A. Outreach Efforts Compliance Statement (**Attachment D-2**);
 - B. MBE Subcontractor/Prime Project Participation Certification (**Attachment D-3A/3B**); and
 - C. Any other documentation required by the Procurement Officer to ascertain Offeror responsibility in connection with the certified MBE subcontractor participation goal or any applicable subgoals.
 - D. Further, if the recommended awardee believes a waiver (in whole or in part) of the overall MBE goal or of any applicable subgoal is necessary, the recommended awardee must submit a fully-documented waiver request that complies with COMAR 21.11.03.11.

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

- 4.26.5 A current directory of certified MBEs is available through the Maryland State Department of Transportation (MDOT), Office of Minority Business Enterprise, 7201 Corporate Center Drive, Hanover, Maryland 21076. The phone numbers are (410) 865-1269, 1-800-544-6056, or TTY (410) 865-1342. The directory is also available on the MDOT website at <http://mbe.mdot.maryland.gov/directory/>. The most current and up-to-date information on MBEs is available via this website. **Only MDOT-certified MBEs may be used to meet the MBE subcontracting goals.**
- 4.26.6 The Offeror that requested a waiver of the goal or any of the applicable subgoals will be responsible for submitting the Good Faith Efforts Documentation to Support Waiver Request (**Attachment D-1C**) and all documentation within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, as required in COMAR 21.11.03.11.
- 4.26.7 All documents, including the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (**Attachment D-1A**), completed and submitted by the Offeror in connection with its certified MBE participation commitment shall be considered a part of the Contract and are hereby expressly incorporated into the Contract by reference thereto. All of the referenced documents will be considered a part of the Proposal for order of precedence purposes (see Contract – **Attachment M, Section 2.1**).
- 4.26.8 The Offeror is advised that liquidated damages will apply in the event the Contractor fails to comply in good faith with the requirements of the MBE program and pertinent Contract provisions. (See Contract – **Attachment M, Liquidated Damages for MBE, section 39**)
- 4.26.9 As set forth in COMAR 21.11.03.12-1(D), when a certified MBE firm participates on a contract as a prime contractor (including a joint-venture where

the MBE firm is a partner), a procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own work force towards fulfilling up to fifty-percent (50%) of the MBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the contract.

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

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

4.27 VSBE Goal

4.27.1 Purpose

- A. The Contractor shall structure its procedures for the performance of the work required in the Contract to attempt to achieve the VSBE participation goal stated in this solicitation. VSBE performance must be in accordance with this section and **Attachment E**, as authorized by COMAR 21.11.13. The Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this section and **Attachment E**.
- B. Veteran-Owned Small Business Enterprises must be verified by the Office of Small and Disadvantaged Business Utilization (OSDBU) of the United States Department of Veterans Affairs. The listing of verified VSBEs may be found at <http://www.va.gov/osdbu>.

4.27.2 VSBE Goal

- A. A VSBE participation goal of the total Contract dollar amount has been established for this procurement as identified in the Key Information Summary Sheet.
- B. By submitting a response to this solicitation, the Offeror agrees that this percentage of the total dollar amount of the Contract will be performed by verified veteran-owned small business enterprises.

4.27.3 Solicitation and Contract Formation

- A. In accordance with COMAR 21.11.13.05 C (1), this solicitation requires Offerors to:
 - 1) Identify specific work categories within the scope of the procurement appropriate for subcontracting;
 - 2) Solicit VSBEs before Proposals are due, describing the identified work categories and providing instructions on how to bid on the subcontracts;

- 3) Attempt to make personal contact with the VSBEs solicited and to document these attempts;
 - 4) Assist VSBEs to fulfill, or to seek waiver of, bonding requirements; and
 - 5) Attempt to attend preProposal or other meetings the procurement agency schedules to publicize contracting opportunities to VSBEs.
- B. The Offeror must include with its Proposal a completed VSBE Utilization Affidavit and Prime/Subcontractor Participation Schedule (**Attachment E-1**) whereby the Offeror:
- 1) Acknowledges it: a) intends to meet the VSBE participation goal; or b) requests a full or partial waiver of the VSBE participation goal. If the Offeror commits to the full VSBE goal or requests a partial waiver, it shall commit to making a good faith effort to achieve the stated goal; and
 - 2) Responds to the expected degree of VSBE participation as stated in the solicitation, by identifying the specific commitment of VSBEs at the time of Proposal submission. The Offeror shall specify the percentage of contract value associated with each VSBE prime/subcontractor identified on the VSBE Participation Schedule.

An Offeror must properly complete and submit a separate Attachment E-1, VSBE Utilization Affidavit and Prime/Subcontractor Participation Schedule, for EACH Service Category (I and II) for which it is submitting a proposal. If an Offeror is submitting a proposal for each of Service Categories I and II, the Offeror must submit two separate Attachment E-1s, one for each of the two Service Categories.

- C. As set forth in COMAR 21.11.13.05.B(2), when a verified VSBE firm participates on a Contract as a Prime Contractor, a procurement agency may count the distinct, clearly defined portion of the work of the contract that the VSBE Prime Contractor performs with its own work force towards meeting up to one hundred percent (100%) of the VSBE goal.
- D. In order to receive credit for self-performance, a VSBE Prime must list its firm in the VSBE Prime/Subcontractor Participation Schedule (**Attachment E-1**) and include information regarding the work it will self-perform. For any remaining portion of the VSBE goal that is not to be performed by the VSBE Prime, the VSBE Prime must also identify verified VSBE subcontractors used to meet the remainder of the goal.
- E. Within 10 Business Days from notification that it is the apparent awardee, the awardee must provide the following documentation to the Procurement Officer:
 - 1) VSBE Project Participation Statement (**Attachment E-2**);
 - 2) If the apparent awardee believes a full or partial waiver of the overall VSBE goal is necessary, it must submit a fully-documented waiver request that complies with COMAR 21.11.13.07; and
 - 3) Any other documentation required by the Procurement Officer to ascertain Offeror responsibility in connection with the VSBE participation goal.

If the apparent awardee fails to return each completed document within the required time, the Procurement Officer may determine that the apparent awardee is not reasonably susceptible of being selected for award.

4.28 Living Wage Requirements

- A. Maryland law requires that contractors meeting certain conditions pay a living wage to covered employees on State service contracts over \$100,000. Maryland Code Ann., State Finance and Procurement Article, § 18-101 et al. The Commissioner of Labor and Industry at the Department of Labor, Licensing and Regulation requires that a contractor subject to the Living Wage law submit payroll records for covered employees and a signed statement indicating that it paid a living wage to covered employees; or receive a waiver from Living Wage reporting requirements. See COMAR 21.11.10.05.
- B. If subject to the Living Wage law, Contractor agrees that it will abide by all Living Wage law requirements, including but not limited to reporting requirements in COMAR 21.11.10.05. Contractor understands that failure of Contractor to provide such documents is a material breach of the terms and conditions and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions. Information pertaining to reporting obligations may be found by going to the Maryland Department of Labor, Licensing and Regulation (DLLR) website <http://www.dllr.state.md.us/labor/prev/livingwage.shtml>.
- C. Additional information regarding the State's living wage requirement is contained in **Attachment F**. Offerors must complete and submit the Maryland Living Wage Requirements Affidavit of Agreement (**Attachment F-1**) with their Proposals. If the Offeror fails to complete and submit the required documentation, the State may determine the Offeror to not be responsible under State law.
- D. Contractors and subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier area. The specific living wage rate is determined by whether a majority of services take place in a Tier 1 Area or a Tier 2 Area of the State. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State.
 - 1) The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State Contract pursuant to §18-102(d) of the State Finance and Procurement Article shall assign the tier based upon where the recipients of the services are located. If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located. In this circumstance, the Contract will be determined to be a Tier (enter "1" or "2," depending on where the majority of the service recipients are located) Contract.
 - 2) The Contract will be determined to be a Tier 1 Contract or a Tier 2 Contract depending on the location(s) from which the Contractor provides 50% or more of the services. The Offeror must identify in its Proposal the location(s) from which services will be provided, including the location(s) from which 50% or more of the Contract services will be provided.

- 3) If the Contractor provides 50% or more of the services from a location(s) in a Tier 1 jurisdiction(s) the Contract will be a Tier 1 Contract.
- 4) If the Contractor provides 50% or more of the services from a location(s) in a Tier 2 jurisdiction(s), the Contract will be a Tier 2 Contract.
- E. If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located. See COMAR 21.11.10.07.
- F. The Offeror shall identify in the Proposal the location from which services will be provided.
- G. **NOTE:** Whereas the Living Wage may change annually, the Contract price will not change because of a Living Wage change.

4.29 Federal Funding Acknowledgement

- 4.29.1 The total amount of federal funds allocated for the Department is \$922,709 in Maryland State fiscal year 2021. This represents 50% of all funds budgeted for the unit in that fiscal year. This does not necessarily represent the amount of funding available for any particular grant, contract, or solicitation.
- 4.29.2 The Contract contains federal funds. The source of these federal funds is: Medical Assistance Program. The CFDA number is: 77.778. The conditions that apply to all federal funds awarded by the Department are contained in Federal Funds **Attachment G**. Any additional conditions that apply to this particular federally-funded contract are contained as supplements to Federal Funds **Attachment G** and Offerors are to complete and submit these Attachments with their Proposals as instructed in the Attachments. Acceptance of this agreement indicates the Offeror's intent to comply with all conditions, which are part of the Contract.

4.30 Conflict of Interest Affidavit and Disclosure

- 4.30.1 The Offeror shall complete and sign the Conflict of Interest Affidavit and Disclosure (**Attachment H**) and submit it with its Proposal.
- 4.30.2 By submitting a Conflict of Interest Affidavit and Disclosure, the Contractor shall be construed as certifying all Contractor Personnel and subcontractors are also without a conflict of interest as defined in COMAR 21.05.08.08A.
- 4.30.3 Additionally, a Contractor has an ongoing obligation to ensure that all Contractor Personnel are without conflicts of interest prior to providing services under the Contract. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08.
- 4.30.4 Participation in Drafting of Specifications: Disqualifying Event: Offerors are advised that Md. Code Ann. State Finance and Procurement Article §13-212.1(a) provides generally that "an individual who assists an executive unit in the drafting of specifications, an invitation for bids, a request for proposals for a procurement, or the selection or award made in response to an invitation for bids or a request for proposals, or a person that employs the individual, may not: (1) submit a bid or proposal for that procurement; or (2) assist or represent another person, directly or indirectly, who is submitting a bid or proposal for

that procurement.” Any Offeror submitting a Proposal in violation of this provision shall be classified as “not responsible.” See COMAR 21.05.03.03.

4.31 Non-Disclosure Agreement

4.31.1 Non-Disclosure Agreement (Offeror)

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

4.31.2 Non-Disclosure Agreement (Contractor)

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

4.32 HIPAA - Business Associate Agreement

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

- 4.33.1 By submitting a Proposal in response to this RFP, the Offeror, if selected for award warrants that any Information Technology offered under the Proposal will meet the Non-visual Access Clause noted in COMAR 21.05.08.05 and described in detail below. The Non-visual Access Clause referenced in this solicitation is the basis for the standards that have been incorporated into the Maryland regulations, which can be found at: www.doit.maryland.gov, keyword: NVA. Note that the State’s Non-visual Access Clause has distinct requirements not found in the federal Section 508 clauses.
- 4.33.2 The Offeror warrants that the Information Technology to be provided under the Contract:
 - A. Provides equivalent access for effective use by both visual and non-visual means;
 - B. Will present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use;
 - C. If intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and
 - D. Is available, whenever possible, without modification for compatibility with Software and hardware for non-visual access.

- 4.33.3 The Offeror further warrants that the cost, if any, of modifying the Information Technology for compatibility with Software and hardware used for non-visual access does not increase the cost of the information technology by more than five percent. For purposes of the Contract, the phrase “equivalent access” means the ability to receive, use and manipulate information and operate controls necessary to access and use information technology by non-visual means. Examples of equivalent access include keyboard controls used for input and synthesized speech, Braille, or other audible or tactile means used for output.

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

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 DHS Hiring Agreement. A copy of this Agreement is included as **Attachment O**. This Agreement must be provided within five (5) Business Days of notification of recommended award.

4.37 Small Business Reserve (SBR) Procurement

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

4.38 Maryland Healthy Working Families Act Requirements

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

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5 Proposal Format

5.1 Two Part Submission

Offerors shall submit Proposals in separate volumes:

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

5.2 Proposal Delivery and Packaging

5.2.1 Proposals delivered by facsimile or hand delivery (hard copy paper) 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 through the State’s internet based electronic procurement system, eMMA.

Instructions on how to submit proposals electronically can be found at:

<https://procurement.maryland.gov/wp-content/uploads/sites/12/2019/08/5-eMMA-QRGResponding-to-Solicitations-Double-Envelope-v2.pdf>

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 separate envelopes through eMMA following the [Quick Reference Guides](#) (QRG) labelled “**5 - eMMA QRG Responding to Solicitations (RFP)**” for double envelope submissions.

Offerors shall also label all required Proposal documents being uploaded in eMMA (as stated in RFP Section 7, Table 1: RFP Attachments and Appendices) as part of its Proposal submission.

5.2.6 Two Part (Double Envelope) 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 entered into the price form spreadsheet within eMMA and all supporting material in Excel 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**).

- 5.2.7 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.

5.3 Volume I - Technical Proposal

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

- 5.3.1 In addition to the instructions below, responses in the Offeror's Technical Proposal shall reference the organization and numbering of Sections in the RFP (e.g., "Section 2.2.1 Response . . ."; "Section 2.2.2 Response . . ."). All pages of both Proposal volumes shall be consecutively numbered from beginning (Page 1) to end (Page "x").
- 5.3.2 The Technical Proposal shall include the following documents and information in the order specified as follows. Each section of the Technical Proposal shall be separated by a TAB as detailed below:

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

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

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

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

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

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

D. Executive Summary (Submit under TAB C)

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

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

The Executive Summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (**Attachment M**), or any other exhibits or attachments.

Acceptance or rejection of exceptions is within the sole discretion of the State. **Exceptions to terms and conditions, including requirements, may result in having the Proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award.**

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

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

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

- 1) The Offeror shall address each RFP requirement (**RFP Section 2** and **Section 3**) in its Technical Proposal with a cross reference to the requirement and describe how its proposed goods and services, including the goods and services of any proposed subcontractor(s), will meet or exceed the requirement(s). If the State is seeking Offeror agreement to any requirement(s), the Offeror shall state its agreement or disagreement. Any paragraph in the Technical Proposal that responds to an RFP requirement shall include an explanation of how the work will be performed. The response shall address each requirement in **Section 2** and **Section 3** in order, and shall contain a cross reference to the requirement.
- 2) Any exception to a requirement, term, or condition may result in having the Proposal classified as not reasonably susceptible of being selected for award or the Offeror deemed not responsible.
- 3) The Offeror shall give a definitive section-by-section description of the proposed plan to meet the requirements of the RFP, i.e., a Work Plan. The Work Plan shall include the specific methodology, techniques, and number of staff, if applicable, to be used by the Offeror in providing the required goods and services as outlined in **RFP Section 2**, Contractor Requirements: Scope of Work. The description shall include an outline of the overall management concepts employed by the Offeror and a project management plan, including project control mechanisms and overall timelines. Project deadlines considered contract deliverables must be recognized in the Work Plan.
- 4) Implementation Schedule - Offeror shall provide the proposed implementation schedule with its Proposal.
- 5) The Offeror shall identify the location(s) from which it proposes to provide services, including, if applicable, any current facilities that it operates, and any required construction to satisfy the State's requirements as outlined in this RFP.
- 6) The Offeror shall provide a draft Problem Escalation Procedure (PEP) that includes, at a minimum, titles of individuals to be contacted by the Contract Monitor should problems arise under the Contract and explains how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. Final procedures shall be submitted as indicated in **Section 3.8**.
- 7) The Offeror shall provide a Backup solution/ strategy recommendation as part of its Proposal.
- 8) Disaster Recovery and Security Model description - For hosted services, the Offeror shall include its DR strategy, and for on premise, a description of a recommended DR strategy.

- 9) The Offeror shall include a deliverable description and schedule describing the proposed Deliverables as mapped to the State SDLC and the Deliverables table in **Section 2.4.4**. The schedule shall also detail proposed submission due date/frequency of each recommended Deliverable.
- 10) The Offeror shall include an SLA as identified in **Section 2.6**, including service level metrics offered and a description how the metrics are measured, any SLA credits should the service level metrics not be met, and how the State can verify the service level. The Offeror shall describe how service level performance is reported to the State.
- 11) Description of technical risk of migrating from the existing system.
- 12) 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** 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.
- 13) Product Requirements
 - a) Offerors may propose open source software; however, the Offeror must provide operational support for the proposed software.
 - b) Details for each offering: The Offeror shall provide the following information for each offering:
 - i) Offering Name;
 - ii) Offeror relationship with manufacturer (e.g., manufacturer, reseller, partner);
 - iii) Manufacturer;
 - iv) Short description of capability;
 - v) Version (and whether version updates are limited in any way);
 - vi) License type (e.g., user, CPU, node, transaction volume);
 - vii) Subscription term (e.g., annual);
 - viii) License restrictions, if any;
 - ix) Operational support offered (e.g., customer support, help desk, user manuals online or hardcopy), including description of multiple support levels (if offered), service level measures and reporting;

- x) Continuity of operations and disaster recovery plans for providing service at 24/7/365 level;
- xi) Ability of the offering to read and export data in existing State enterprise data stores. Offerors in their Proposals shall describe the interoperability of data that can be imported or exported from the Solution, including generating industry standard formats;
- xii) Any processing or storage of data outside of the continental U.S.;
- xiii) Any limitations or constraints in the offering, including any terms or conditions (e.g., terms of service, ELA, AUP, professional services agreement, master agreement) – see also **Section 5.3.2**.
- xiv) Compatibility with the State’s existing single sign-on system, SecureAuth or other single sign-on approaches;
- xv) APIs offered, and what type of content can be accessed and consumed;
- xvi) Update / upgrade roadmap and procedures, to include: planned changes in the next 12 months, frequency of system update (updates to software applied) and process for updates/upgrades;
- xvii) Frequency of updates to data services, including but not limited to, datasets provided as real-time feeds, and datasets updated on a regular basis (e.g., monthly, quarterly, annually, one-time);
- xviii) What type of third party assessment (such as a SOC 2 Type II audit) is performed, the nature of the assessment (e.g., the trust principles and scope of assessment), and whether the results of the assessment pertinent to the State will be shared with the State. See also **Section 3.9**;
- xix) Offeror shall describe its security model and procedures supporting handling of State data. If more than one level of service is offered, the Offeror shall describe such services. Include, at a minimum:
 - (1) procedures for and requirements for hiring staff (such as background checks),
 - (2) any non-disclosure agreement Contractor Personnel sign,
 - (3) whether the service is furnished out of the continental U.S. (see security requirements in **Section 3.7**),
 - (4) Certifications such as FedRAMP,
 - (5) Third party security auditing, including FISMA,
 - (6) Published Security Incident reporting policy, and
 - (7) Cybersecurity insurance, if any, maintained.

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

As part of the evaluation of the Proposal for this RFP, Offerors shall propose exactly three (3) key resources and shall describe in a Staffing Plan how additional resources shall be acquired to meet the needs of the Department. All other planned positions shall be described generally in the Staffing Plan and may not be used as evidence of fulfilling company or personnel minimum qualifications.

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 3.10.1**. Specifically, the Offeror shall:

- 1) Describe in detail how the proposed staff's experience and qualifications relate to their specific responsibilities, including any staff of proposed subcontractor(s), as detailed in the Work Plan.
- 2) Include individual resumes for Key Personnel, including Key Personnel for any proposed subcontractor(s), who are to be assigned to the project if the Offeror is awarded the Contract. Each resume should include the amount of experience the individual has had relative to the Scope of Work set forth in this solicitation.
- 3) Include letters of intended commitment to work on the project, including letters from any proposed subcontractor(s). Offerors should be aware of restrictions on substitution of Key Personnel prior to RFP award (see Substitution Prior to and Within 30 Days After Contract Execution in Section 3.11.5).
- 4) Provide an Organizational Chart outlining Personnel and their related duties. The Offeror shall include job titles and the percentage of time each individual will spend on his/her assigned tasks. Offerors using job titles other than those commonly used by industry standards must provide a crosswalk reference document.
- 5) If proposing differing personnel work hours than identified in the RFP, describe how and why it proposes differing personnel work hours.

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

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

- 1) The number of years the Offeror has provided the similar goods and services;
- 2) The number of clients/customers and geographic locations that the Offeror currently serves;
- 3) The names and titles of headquarters or regional management personnel who may be involved with supervising the services to be performed under the Contract;
- 4) The Offeror's process for resolving billing errors; and
- 5) An organizational chart that identifies the complete structure of the Offeror including any parent company, headquarters, regional offices, and subsidiaries of the Offeror.

I. References (Submit under TAB H)

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

- 1) Name of client organization;
- 2) Name, title, telephone number, and e-mail address, if available, of point of contact for client organization; and
- 3) Value, type, duration, and description of goods and services provided.

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

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

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

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

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

K. Financial Capability (Submit under TAB J)

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

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

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

L. Certificate of Insurance (Submit under TAB K)

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

M. Subcontractors (Submit under TAB L)

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

participation goal(s) for this solicitation shall be identified as provided in the appropriate attachment(s) of this RFP.

N. Legal Action Summary (Submit under TAB M)

This summary shall include:

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

O. Economic Benefit Factors (Submit under TAB N)

- 1) The Offeror shall submit with its Proposal a narrative describing benefits that will accrue to the Maryland economy as a direct or indirect result of its performance of the Contract. Proposals will be evaluated to assess the benefit to Maryland's economy specifically offered. The economic benefit offered should be consistent with the Offeror's Total Proposal Price from **Attachment B**, the Financial Proposal Form. See COMAR 21.05.03.03A (3).
- 2) Proposals that identify specific benefits as being contractually enforceable commitments will be rated more favorably than Proposals that do not identify specific benefits as contractual commitments, all other factors being equal.
- 3) Offerors shall identify any performance guarantees that will be enforceable by the State if the full level of promised benefit is not achieved during the Contract term.
- 4) As applicable, for the full duration of the Contract, including any renewal period, or until the commitment is satisfied, the Contractor shall provide to the Procurement Officer or other designated agency personnel reports of the actual attainment of each benefit listed in response to this section. These benefit attainment reports shall be provided quarterly, unless elsewhere in these specifications a different reporting frequency is stated.
- 5) In responding to this section, the following do not generally constitute economic benefits to be derived from the Contract:
 - a) generic statements that the State will benefit from the Offeror's superior performance under the Contract;
 - b) descriptions of the number of Offeror employees located in Maryland other than those that will be performing work under the Contract; or
 - c) tax revenues from Maryland-based employees or locations, other than those that will be performing, or used to perform, work under the Contract.
- 6) Discussion of Maryland-based employees or locations may be appropriate if the Offeror makes some projection or guarantee of increased or retained presence based upon being awarded the Contract.

- 7) Examples of economic benefits to be derived from a contract may include any of the following. For each factor identified below, identify the specific benefit and contractual commitments and provide a breakdown of expenditures in that category:
 - a) The Contract dollars to be recycled into Maryland's economy in support of the Contract, through the use of Maryland subcontractors, suppliers and joint venture partners. **Do not include actual fees or rates paid to subcontractors or information from your Financial Proposal;**
 - b) The number and types of jobs for Maryland residents resulting from the Contract. Indicate job classifications, number of employees in each classification and the aggregate payroll to which the Offeror has committed, including contractual commitments at both prime and, if applicable, subcontract levels; and whether Maryland employees working at least 30 hours per week and are employed at least 120 days during a 12-month period will receive paid leave. If no new positions or subcontracts are anticipated as a result of the Contract, so state explicitly;
 - c) Tax revenues to be generated for Maryland and its political subdivisions as a result of the Contract. Indicate tax category (sales taxes, payroll taxes, inventory taxes and estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from the Contract;
 - d) Subcontract dollars committed to Maryland small businesses and MBEs; and
 - e) Other benefits to the Maryland economy which the Offeror promises will result from awarding the Contract to the Offeror, including contractual commitments. Describe the benefit, its value to the Maryland economy, and how it will result from, or because of the Contract award. Offerors may commit to benefits that are not directly attributable to the Contract, but for which the Contract award may serve as a catalyst or impetus.
- P. Technical Proposal - Required Forms and Certifications (Submit under TAB O)
 - 1) All forms required for the Technical Proposal are identified in Table 1 of **Section 7** – RFP Attachments and Appendices. Unless directed otherwise by instructions within an individual form, complete, sign, and include all required forms in the Technical Proposal, under TAB O.
 - 2) Offerors shall furnish any and all agreements and terms and conditions the Offeror expects the State to sign or to be subject to in connection with or in order to use the Offeror's services under this Contract. This includes physical copies of all agreements referenced and incorporated in primary documents, including but not limited to any software licensing agreement for any software proposed to be licensed to the State under this Contract (e.g., EULA, Enterprise License Agreements, Professional Service agreement, Master Agreement) and any AUP. The State does not agree to terms and conditions not provided in an Offeror's Technical Proposal and no action of the State, including but not limited to the use of any such software, shall be deemed to constitute acceptance of any such terms and conditions. Failure to comply with this section renders any such agreement unenforceable against the State.
 - 3) For each service, hardware or software proposed as furnished by a third-party entity, Offeror must identify the third-party provider and provide a letter of authorization or such other documentation demonstrating the authorization for such services. In the case of an

open-source license, authorization for the open source shall demonstrate compliance with the open source license.

- 4) A Letter of Authorization shall be on letterhead or through the provider's e-mail. Further, each Letter of Authorization shall be less than twelve (12) months old and must provide the following information:
 - i) Third-party POC name and alternate for verification
 - ii) Third-party POC mailing address
 - iii) Third-party POC telephone number
 - iv) Third-party POC email address
 - v) If available, a Re-Seller Identifier

5.4 Volume II – Financial Proposal

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

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6 Evaluation and Selection Process

6.1 Evaluation Committee

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

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

6.2 Technical Proposal Evaluation Criteria

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

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

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

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

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

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

6.3 Financial Proposal Evaluation Criteria

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

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 with financial factors.

6.6 Documents Required upon Notice of Recommendation for Contract Award

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

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7 RFP ATTACHMENTS AND APPENDICES

Instructions Page

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

For documents required as part of the Proposal:

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

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

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

Table 1: RFP ATTACHMENTS AND APPENDICES

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

Applies?	When to Submit	Label	Attachment Name
			Important: Attachment D-1C, if a waiver has been requested, is also required within 10 days of recommended award.
Y	As directed in forms	D	MBE Forms D-4A, D-4B, D-5 (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf)
Y	With Proposal	E	Veteran-Owned Small Business Enterprise (VSBE) Form E-1A (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf) IMPORTANT: If this RFP contains different Functional Areas or Service Categories. A separate Attachment E-1A is to be submitted for each Functional Area or Service Category where there is a VSBE goal.
Y	5 Business Days after recommended award	E	VSBE Forms E-1B, E-2, E-3 (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf) Important: Attachment E-1B, if a waiver has been requested, is also required within 10 days of recommended award.
Y	With Proposal	F	Maryland Living Wage Requirements for Service Contracts and Affidavit of Agreement (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf)
Y	With Proposal	G	Federal Funds Attachments (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentG-FederalFundsAttachment.pdf)
Y	With Proposal	H	Conflict of Interest Affidavit and Disclosure (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf)

Y	5 Business Days after recommended award – However, suggested with Proposal	I	Non-Disclosure Agreement (Contractor) (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-I-Non-DisclosureAgreementContractor.pdf)
Y	5 Business Days after recommended award – 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)
N	N/A	K	Mercury Affidavit
Y	With Proposal	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)
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	5 Business Days after recommended award	O	DHS Hiring Agreement (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-O-DHSHiringAgreement.pdf)
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)
N	N/A	3	Non-Disclosure Agreement (Offeror)
Additional Submissions			
Applies?	When to Submit	Label	Document Name
Y	5 Business Days after recommended award	9	Evidence of meeting insurance requirements (see Section 3.6); 1 copy
Y	10 Business Days after recommended award	10	PEP; 1 copy

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Attachment A. Pre-Proposal Conference Response Form

Solicitation Number MDH OPASS 21-19004

QUALITY IMPROVEMENT ORGANIZATION (QIO) SERVICES

A Pre-Proposal conference will be held on June 10, 2021 10:00 am EST, via Virtual Teleconference by Calendar Invitation from Procurement Coordinator “Only”.

Please return this form by June 9, 2021 3:00 pm EST advising whether or not your firm plans to attend. The completed form should be returned via e-mail to the Procurement Coordinator at the contact information below:

Procurement Coordinator: Monica Hariri

Email: monica.hariri@Maryland.gov

Please indicate:

- _____ Yes, the following representatives will be in attendance.
Attendees (Check the RFP for limits to the number of attendees allowed):
1.
2.
3.
_____ No, we will not be in attendance.

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

Offeror: _____
Offeror Name (please print or type)

By: _____
Signature/Seal

Printed Name: _____
Printed Name

Title: _____
Title

Date: _____
Date

Attachment B. Financial Proposal Instructions & Form

Please see separate Excel Financial Proposal Instructions & Form (Attachment B-2).

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Attachment C. Proposal Affidavit

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

Attachment D. Minority Business Enterprise (MBE) Forms

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

This solicitation includes a Minority Business Enterprise (MBE) participation goal of 30% with no subgoals.

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

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

This solicitation includes a VSBE participation goal of 3%.

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.shtml> and clicking on Living Wage for State Service Contracts.

Attachment G. Federal Funds Attachments

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

Attachment H. Conflict of Interest Affidavit and Disclosure

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

Attachment I. Non-Disclosure Agreement (Contractor)

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

Attachment J. HIPAA Business Associate Agreement

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 DEPARTMENT OF HEALTH (MDH)
“QUALITY IMPROVEMENT ORGANIZATION (QIO) SERVICES”
MDH OPASS# 21-19004**

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

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).
- 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 QUALITY IMPROVEMENT ORGANIZATION (QIO) SERVICES, Solicitation # MDH OPASS 21-19004, and any amendments, addenda, and attachments thereto issued in writing by the State.
- 1.6 “State” means the State of Maryland.
- 1.7 “Technical Proposal” means the Contractor’s Technical Proposal dated. _____ (Technical Proposal date), as modified and supplemented by the Contractor’s responses to requests clarifications and requests for cure, and by any Best and Final Offer.
- 1.8 “Veteran-owned Small Business Enterprise” (VSBE) means A business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.
- 1.9 Capitalized terms not defined herein shall be ascribed the meaning given to them in the RFP.

2. Scope of Contract

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

Exhibit A – The RFP

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

Exhibit C – The Technical Proposal

Exhibit D – The Financial Proposal

- 2.2 The Procurement Officer may, at any time, by written order, make unilateral changes in the work within the general scope of the Contract. No other order, statement, or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.
- 2.3 Without limiting the rights of the Procurement Officer under Section 2.2 above, the Contract may be modified by mutual agreement of the parties, provided: (a) the modification is made in writing; (b) all parties sign the modification; and (c) all approvals by the required agencies as described in COMAR Title 21, are obtained.

3. Period of Performance

- 3.1 The term of this Contract begins on the date the Contract is signed by the Department following any required prior approvals, including approval by the Board of Public Works, if such approval is required (the "Effective Date") and shall continue until three (3) years ("End Date").
- 3.2 In its sole discretion, the Department shall have the unilateral right to extend the Contract for two (2) successive one (1) year renewal options (each a "Renewal Term") at the prices established in the Contract. "Term" means the Initial Term and any Renewal Term(s).
- 3.3. The Contractor's performance under the Contract shall commence as of the date provided in a written NTP.
- 3.4 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.

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

Amount”), which includes \$ _____ for the Initial Term and \$ _____ for the Renewal Term(s).

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

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

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

- (1) The Contractor submits an invoice for the late payment interest within thirty days after the date of the State’s payment of the amount on which the interest accrued; and
- (2) A contract claim has not been filed under State Finance and Procurement Article, Title 15, Subtitle 2, Annotated Code of Maryland.

The State is not liable for interest:

- (1) Accruing more than one year after the 31st day after the agency receives the proper invoice; or
- (2) On any amount representing unpaid interest. Charges for late payment of invoices are authorized only as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable.

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

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

- 4.3 In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer.
- 4.4 Payment of an invoice by the Department is not evidence that services were rendered as required under this Contract.

5. Rights to Records

- 5.1 The Contractor agrees that all documents and materials including, but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations, and data prepared by the Contractor for purposes of this Contract shall be the sole property of the State and shall be available to the State at any time. The State shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.
- 5.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a Deliverable under this Contract (as defined in **Section 7.2**), and services performed under this Contract shall be “works made for hire” as that term is interpreted under U.S. copyright law. To the extent that any products created as a Deliverable under this Contract are not works made for hire for the State, the Contractor hereby relinquishes, transfers, and assigns to the State all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.
- 5.3 The Contractor shall report to the Contract Monitor, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all data delivered under this Contract.
- 5.4 The Contractor shall not affix any restrictive markings upon any data, documentation, or other materials provided to the State hereunder and if such markings are affixed, the State shall have the right at any time to modify, remove, obliterate, or ignore such warnings.
- 5.5 Upon termination or expiration of the Contract, the Contractor, at its own expense, shall deliver any equipment, software or other property provided by the State to the place designated by the Procurement Officer.

6. Exclusive Use

- 6.1 The State shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable of being copyrighted, the State shall be the copyright owner and Contractor may copyright material connected with this project only with the express written approval of the State.
- 6.2 Except as may otherwise be set forth in this Contract, Contractor shall not use, sell, sub-lease, assign, give, or otherwise transfer to any third party any other information or material provided to Contractor by the Department or developed by Contractor relating to the Contract, except as provided for in **Section 8. Confidential or Proprietary Information and Documentation**.

7. Patents, Copyrights, and Intellectual Property

- 7.1. All copyrights, patents, trademarks, trade secrets, and any other intellectual property rights existing prior to the Effective Date of this Contract shall belong to the party that owned such rights immediately prior to the Effective Date (“Pre-Existing Intellectual Property”). If any design, device, material, process, or other item provided by Contractor is covered by a patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items pursuant to its rights granted under the Contract.
- 7.2 Except for (1) information created or otherwise owned by the Department or licensed by the Department from third parties, including all information provided by the Department to Contractor; (2) materials created by Contractor or its subcontractor(s) specifically for the State under the Contract (“Deliverables”), except for any Contractor Pre-Existing Intellectual Property included

- therein; and (3) the license rights granted to the State, all right, title, and interest in the intellectual property embodied in the solution, including the know-how and methods by which the solution is provided and the processes that make up the solution, will belong solely and exclusively to Contractor and its licensors, and the Department will have no rights to the same except as expressly granted in this Contract. Any SaaS Software developed by Contractor during the performance of the Contract will belong solely and exclusively to Contractor and its licensors. For all Software provided by the Contractor under the Contract, Contractor hereby grants to the State a nonexclusive, irrevocable, unlimited, perpetual, non-cancelable, and non-terminable right to use and make copies of the Software and any modifications to the Software. For all Contractor Pre-Existing Intellectual Property embedded in any Deliverables, Contractor grants to the State a license to use such Contractor Pre-Existing Intellectual Property in connection with its permitted use of such Deliverable. During the period between delivery of a Deliverable by Contractor and the date of payment therefor by the State in accordance with this Contract (including throughout the duration of any payment dispute discussions), subject to the terms and conditions contained herein, Contractor grants the State a royalty-free, non-exclusive, limited license to use such Deliverable and to use any Contractor Materials contained therein in accordance with this Contract.
- 7.3. Subject to the terms of **Section 10**, Contractor shall defend, indemnify and hold harmless the State and its agents and employees, from and against any and all claims, costs, losses, damages, liabilities, judgments and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with any third party claim that the Contractor-provided products/services infringe, misappropriate or otherwise violate any third party intellectual property rights. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent.
- 7.4 Without limiting Contractor's obligations under Section 5.3, if an infringement claim occurs, or if the State or the Contractor believes such a claim is likely to occur, Contractor (after consultation with the State and at no cost to the State): (a) shall procure for the State the right to continue using the allegedly infringing component or service in accordance with its rights under this Contract; or (b) replace or modify the allegedly infringing component or service so that it becomes non-infringing and remains compliant with all applicable specifications.
- 7.5 Except as otherwise provided herein, Contractor shall not acquire any right, title or interest (including any intellectual property rights subsisting therein) in or to any goods, Software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the State to the Contractor. Notwithstanding anything to the contrary herein, the State may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a separate writing executed by the Contractor and an authorized representative of the State as well as all required State approvals.
- 7.6 Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall use any Software or technology in a manner that will cause any patents, copyrights or other intellectual property which are owned or controlled by the State or any of its affiliates (or for which the State or any of its subcontractors has received license rights) to become subject to any encumbrance or terms and conditions of any third party or open source license (including, without limitation, any open source license listed on <http://www.opensource.org/licenses/alphabetical>) (each an "Open Source License"). These restrictions, limitations, exclusions and conditions shall apply even if the State or any of its subcontractors becomes aware of or fails to act in a manner to address any violation or failure to comply therewith. No act by the State or any of its subcontractors that is undertaken under this Contract as to any Software or technology shall be construed as intending to cause any patents, copyrights or other intellectual property that are owned or controlled

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

- 7.7 The Contractor shall report to the Department, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Deliverables delivered under this Contract.
- 7.8 The Contractor shall not affix (or permit any third party to affix), without the Department's consent, any restrictive markings upon any Deliverables that are owned by the State, and if such markings are affixed, the Department shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

8. Confidential or Proprietary Information and Documentation

- 8.1 Subject to the Maryland Public Information Act and any other applicable laws including, without limitation, HIPAA, the HI-TECH Act, and the Maryland Medical Records Act and regulations promulgated pursuant thereto, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems or cloud infrastructure, if applicable) shall be held in confidence by the other party. Each party shall, however, be permitted to disclose, as provided by and consistent with applicable law, relevant confidential information to its officers, agents, and Contractor Personnel to the extent that such disclosure is necessary for the performance of their duties under this Contract. Each officer, agent, and Contractor Personnel to whom any of the State's confidential information is to be disclosed shall be advised by Contractor provided that each officer, agent, and Contractor Personnel to whom any of the State's confidential information is to be disclosed shall be advised by Contractor of the obligations hereunder, and bound by, confidentiality at least as restrictive as those of set forth in this Contract..
- 8.2 The provisions of this section shall not apply to information that: (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already rightfully in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

9. Loss of Data

- 9.1 In the event of loss of any State data or records where such loss is due to the act or omission of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for restoring or recreating, as applicable, such lost data in the manner and on the schedule set by the Contract Monitor. The Contractor shall ensure that all data is backed up and recoverable by the Contractor. At no time shall any Contractor actions (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms, and applications with which the Contractor is working hereunder.
- 9.2 In accordance with prevailing federal or state law or regulations, the Contractor shall report the loss of non-public data as directed in **RFP Section 3.7**.
- 9.3 Protection of data and personal privacy (as further described and defined in RFP Section 3.8) shall be an integral part of the business activities of the Contractor to ensure there is no inappropriate or unauthorized use of State information at any time. To this end, the Contractor shall safeguard the confidentiality, integrity and availability of State information and comply with the conditions identified in **RFP Section 3.7**.

10. Indemnification and Notification of Legal Requests

- 10.1. At its sole cost and expense, Contractor shall (i) indemnify and hold the State, its employees and agents harmless from and against any and all claims, demands, actions, suits, damages, liabilities,

losses, settlements, judgments, costs and expenses (including but not limited to attorneys' fees and costs), whether or not involving a third party claim, which arise out of or relate to the Contractor's, or any of its subcontractors', performance of this Contract and (ii) cooperate, assist, and consult with the State in the defense or investigation of any such claim, demand, action or suit. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent.

- 10.2. The State has no obligation: (i) to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim or action of any character is brought against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations or performance under this Contract, or (ii) to pay any judgment or settlement of any such suit, claim or action. Notwithstanding the foregoing, the Contractor shall promptly notify the Procurement Officer of any such claims, demands, actions, or suits.
- 10.3. Notification of Legal Requests. In the event the Contractor receives a subpoena or other validly issued administrative or judicial process, or any discovery request in connection with any litigation, requesting State Pre-Existing Intellectual Property, of other information considered to be the property of the State, including but not limited to State data stored with or otherwise accessible by the Contractor, the Contractor shall not respond to such subpoena, process or other legal request without first notifying the State, unless prohibited by law from providing such notice. The Contractor shall promptly notify the State of such receipt providing the State with a reasonable opportunity to intervene in the proceeding before the time that Contractor is required to comply with such subpoena, other process or discovery request. .

11. Non-Hiring of Employees

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

12. Disputes

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

13. Maryland Law Prevails

- 13.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.
- 13.2 The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland) does not apply to this Contract or any purchase order, task order, or Notice to Proceed issued thereunder, or any software, or any software license acquired hereunder.

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

14. Nondiscrimination in Employment

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

15. Contingent Fee Prohibition

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent 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 or agent, 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 7 "Patents, Copyrights, Intellectual Property"** of this Contract;
 - (b) Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and
 - (c) For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract and regardless of the basis on which the claim is made, Contractor's liability shall be unlimited.
 - (d) In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that all subcontractors shall be held to be agents of Contractor.
- 29.2 Contractor's indemnification obligations for Third party claims arising under Section 6 ("Indemnification") of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor's indemnification liability for third party claims arising under Section 6 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 6.
- 29.3. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that it is responsible for performance of the services and compliance with the relevant obligations hereunder by its subcontractors.

30. Commercial Nondiscrimination

- 30.1 As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry, national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual's refusal

to submit to a genetic test or make available the results of a genetic test or on the basis of disability, or otherwise unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

- 30.2 As a condition of entering into this Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions.
- 30.3 The Contractor shall include the language from 30.1, or similar clause approved in writing by the Department, in all subcontracts.

31. Prompt Pay Requirements

- 31.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the Department, at its option and in its sole discretion, may take one or more of the following actions:
- (a) Not process further payments to the Contractor until payment to the subcontractor is verified;
 - (b) Suspend all or some of the Contract work without affecting the completion date(s) for the Contract work;
 - (c) Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due to the Contractor;
 - (d) Place a payment for an undisputed amount in an interest-bearing escrow account; or
 - (e) Take other or further actions as appropriate to resolve the withheld payment.
- 31.2 An “undisputed amount” means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute. Such “undisputed amounts” include, without limitation: (a) retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor; and (b) an amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
- 31.3 An act, failure to act, or decision of a Procurement Officer or a representative of the Department concerning a withheld payment between the Contractor and a subcontractor under this **section 31**, may not:

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

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

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

- (a) Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule. This verification may include, as appropriate:
 - i. Inspecting any relevant records of the Contractor;
 - ii. Inspecting the jobsite; and
 - iii. Interviewing subcontractors and workers.

Verification shall include a review of:

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

32. Living Wage

If a Contractor subject to the Living Wage law fails to submit all records required under COMAR 21.11.10.05 to the Commissioner of Labor and Industry at the Department of Labor, Licensing and Regulation, the Department may withhold payment of any invoice or retainage. The Department

may require certification from the Commissioner on a quarterly basis that such records were properly submitted.

33. Use of Estimated Quantities

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

34. Risk of Loss; Transfer of Title

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

35. Effect of Contractor Bankruptcy

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

36. Miscellaneous

- 36.1 Any provision of this Contract which contemplates performance or observance subsequent to any termination or expiration of this Contract shall survive termination or expiration of this Contract and continue in full force and effect.
- 36.2 If any term contained in this Contract is held or finally determined to be invalid, illegal, or unenforceable in any respect, in whole or in part, such term shall be severed from this Contract, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.
- 36.3 The headings of the sections contained in this Contract are for convenience only and shall not be deemed to control or affect the meaning or construction of any provision of this Contract.
- 36.4 This Contract may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Signatures provided by facsimile or other electronic means, e.g., and not by way of limitation, in Adobe .PDF sent by electronic mail, shall be deemed to be original signatures.

37. Contract Monitor and Procurement Officer

- 37.1 The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract

Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor's responsibilities. The Department may change the Contract Monitor at any time by written notice to the Contractor.

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

38. Notices

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

If to the State:

Patricia Sastoque
Director of Programs
Department
201 W. Preston St.
Baltimore, MD 21201
patricia.sastoque@maryland.gov

With a copy to:

Queen Davis, CPPB
Acting Director
Office of Contract Management & Procurement
201 W. Preston Street, Room 416B
Baltimore, MD 21201
queen.davis@maryland.gov

If to the Contractor:

(Contractor's Name)
(Contractor's primary address)
Attn: _____

Parent Company Guarantor

Contact: _____
Attn: _____

39. Liquidated Damages for MBE

- 39.1 The Contract requires the Contractor to comply in good faith with the MBE Program and Contract provisions. The State and the Contractor acknowledge and agree that the State will incur damages, including but not limited to loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources, if the Contractor does not comply in good faith with the requirements of the MBE Program and MBE Contract provisions. The parties further acknowledge

and agree that the damages the State might reasonably be anticipated to accrue as a result of such lack of compliance are difficult to ascertain with precision.

39.2 Therefore, upon issuance of a written determination by the State that the Contractor failed to comply in good faith with one or more of the specified MBE Program requirements or MBE Contract provisions, the Contractor shall pay liquidated damages to the State at the rates set forth below. The Contractor expressly agrees that the State may withhold payment on any invoices as a set-off against liquidated damages owed. The Contractor further agrees that for each specified violation, the agreed upon liquidated damages are reasonably proximate to the loss the State is anticipated to incur as a result of such violation.

- (a) Failure to submit each monthly payment report in full compliance with COMAR 21.11.03.13B (3): \$35.00 per day until the monthly report is submitted as required.
- (b) Failure to include in its agreements with MBE subcontractors a provision requiring submission of payment reports in full compliance with COMAR 21.11.03.13B (4): \$90.00 per MBE subcontractor.
- (c) Failure to comply with COMAR 21.11.03.12 in terminating, canceling, or changing the scope of work/value of a contract with an MBE subcontractor and amendment of the MBE participation schedule: the difference between the dollar value of the MBE participation commitment on the MBE participation schedule for that specific MBE firm and the dollar value of the work performed by that MBE firm for the Contract.
- (d) Failure to meet the Contractor's total MBE participation goal and sub goal commitments: the difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually achieved.
- (e) Failure to promptly pay all undisputed amounts to an MBE subcontractor in full compliance with the prompt payment provisions of the Contract: \$100.00 per day until the undisputed amount due to the MBE subcontractor is paid.

39.2 Notwithstanding the assessment or availability of liquidated damages, the State reserves the right to terminate the Contract and exercise any and all other rights or remedies which may be available under the Contract or Law.

40. Parent Company Guarantee (If applicable)

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

41. Federal Department of Health and Human Services (DHHS) Exclusion Requirements

The Contractor agrees that it will comply with federal provisions (pursuant to §§ 1128 and 1156 of the Social Security Act and 42 C.F.R. 1001) that prohibit payments under certain federal health care programs to any individual or entity that is on the List of Excluded Individuals/Entities maintained

by DHHS. By executing this Contract, the Contractor affirmatively declares that neither it nor any employee is, to the best of its knowledge, subject to exclusion. The Contractor agrees, further, during the term of this Contract, to check the List of Excluded Individuals/Entities prior to hiring or assigning individuals to work on this Contract, and to notify the Department immediately of any identification of the Contractor or an individual employee as excluded, and of any DHHS action or proposed action to exclude the Contractor or any Contractor employee.

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 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 If in connection with the procurement or at any time during the Term, the Department determines that functions to be performed in accordance with the scope of work set forth in the solicitation constitute business associate functions as defined in HIPAA, the Contractor acknowledges its obligation to execute a business associate agreement as required by HIPAA regulations at 45 C.F.R. 164.501 and in the form required by the Department.

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; created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and related to the past, present, or future physical or mental health or condition of an individual, the provision of healthcare to an individual, or 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. Hiring Agreement

43.1 The Contractor agrees to execute and comply with the enclosed Maryland Department of Human Services (DHS) Hiring Agreement (Attachment O). The Hiring Agreement is to be executed by the Offeror and delivered to the Procurement Officer within ten (10) Business Days following receipt of notice by the Offeror that it is being recommended for Contract award. The Hiring Agreement will become effective concurrently with the award of the Contract.

43.2 The Hiring Agreement provides that the Contractor and DHS will work cooperatively to promote hiring by the Contractor of qualified individuals for job openings resulting from this procurement, in accordance with Md. Code Ann., State Finance and Procurement Article §13-224.

44. Limited English Proficiency

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

SIGNATURES ON NEXT PAGE

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

Contractor

State of Maryland
Maryland Department of Health (MDH)

By:

By: <<agencyContractSigner>>,
<<agencyContractSignerTitle>>

Date

PARENT COMPANY (GUARANTOR) (if applicable)

By:

By:

Date

Date

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

Assistant Attorney General

MDH OPASS # 21-19004

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

See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-O-DHSHiringAgreement.pdf>.

Appendix 1. – Abbreviations and Definitions

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

- A. 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.
- B. Access – The ability or the means necessary to read, write, modify, or communicate data/information or otherwise use any information system resource.
- C. Application Program Interface (API) – Code that allows two software programs to communicate with each other.
- D. 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).
- E. COMAR – Code of Maryland Regulations available on-line at <http://www.dsd.state.md.us/COMAR/ComarHome.html>.
- F. Contract – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of **Attachment M**.
- G. Contract Monitor – The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor’s responsibilities. The Department may change the Contract Monitor at any time by written notice to the Contractor.
- H. Contract Officer (CO) – The Office of Contract Management & Procurement 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.
- I. Contractor – The selected Offeror that is awarded a Contract by the State.
- J. 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.
- K. DDA- Developmental Disabilities Administration
- L. Data Breach – The unauthorized acquisition, use, modification or disclosure of State data, or other Sensitive Data.
- M. Department or MDH- Maryland Department of Health
- N. eMMA – eMaryland Marketplace Advantage (see RFP **Section 4.2**).
- O. 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.
- P. Information System – A discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

- Q. Information Technology (IT) – All electronic information-processing hardware and software, including: (a) maintenance; (b) telecommunications; and (c) associated consulting services.
- R. 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**.
- S. 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.
- T. 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.
- U. 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.
- V. 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.
- W. NTP Date – The date specified in a NTP for work on Contract, project, Task Order or Work Order to begin.
- X. Offeror – An entity that submits a Proposal in response to this RFP.
- Y. 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.
- Z. Procurement Coordinator- – The State representative designated by the Procurement Officer to perform certain duties related to this solicitation which are expressly set forth herein.
- AA. 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.
- BB. Proposal – As appropriate, either or both of the Offeror’s Technical or Financial Proposal.
- CC. 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.
- DD. Request for Proposals (RFP) – This Request for Proposals issued by the Department, with the Solicitation Number and date of issuance indicated in the Key Information Summary Sheet, including any amendments thereto.

- EE. 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.
- FF. Security or Security Measures – The technology, policy and procedures that a) protects and b) controls access to networks, systems, and data.
- GG. 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.
- HH. Service Level Agreement (SLA) - Commitment by the Contractor to the Department that defines the performance standards the Contractor is obligated to meet.
- II. SLA Activation Date - The date on which SLA charges commence under this Contract, which may include, but to, the date of (a) completion of Transition in, (b) a delivery, or (c) releases of work.
- JJ. 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.
- KK. 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.
- LL. Solution - All Software, deliverables, services and activities necessary to fully provide and support the RFP scope of work. This definition of Solution includes all System Documentation developed as a result of this Contract. Also included are all Upgrades, patches, break/fix activities, enhancements and general maintenance and support of the Solution and its infrastructure.
- MM. State – The State of Maryland.
- NN. 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.
- OO. System Availability – The period of time the Solution works as required excluding non-operational periods associated with planned maintenance.
- PP. 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.

QQ. Task Order – A subset of work authorized by the Contract Monitor performed under the general scope of this RFP, which is defined in advance of Contractor fulfillment, and which may not require a Contract Modification. Except as otherwise provided, any reference to the Contract shall be deemed to include reference to a Task Order.

RR. Technical Safeguards – The technology and the policy and procedures for its use that protect State Data and control access to it.

SS. 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.

TT. 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.

UU. Upgrade - A new release of any component of the Solution containing major new features, functionality and/or performance improvements.

VV. 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.

WW. Work Order – A subset of work authorized by the Contract Monitor performed under the general scope of this RFP, which is defined in advance of Contractor fulfillment, and which may not require a Contract Modification. Except as otherwise provided, any reference to the Contract shall be deemed to include reference to a Work Order.

Appendix 2. – Offeror Information Sheet

See link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf.