



**STATE OF MARYLAND  
DEPARTMENT OF HEALTH  
REQUEST FOR PROPOSALS (RFP)  
RFP NUMBER 24-00033  
ISSUE DATE: SEPTEMBER 26, 2022  
THE MARYLAND TOBACCO QUITLINE  
NOTICE TO OFFERORS**

**NOTICE**

A Prospective Offeror that has received this document from a source other than eMaryland Marketplace (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: The Maryland Tobacco Quitline**  
**Solicitation No: 24-00033**

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**  
**DEPARTMENT OF HEALTH**  
**KEY INFORMATION SUMMARY SHEET**

<b>Request for Proposals</b>	Services: The Maryland Tobacco Quitline
<b>Solicitation Number:</b>	24-00033
<b>RFP Issue Date:</b>	September 26, 2022
<b>RFP Issuing Office:</b>	Maryland Department of Health
<b>Procurement Officer:</b>  <b>e-mail:</b> <b>Office Phone:</b>	Jim Beauchamp 201 W. Preston Street, Room 416D Baltimore, MD 21201 <a href="mailto:MDH.solicitationquestions@maryland.gov">MDH.solicitationquestions@maryland.gov</a> (410)767-7553 Fax Number: (410)333-5958
<b>Proposals are to be sent to:</b>	Proposals will be submitted via EMMA only
<b>Pre-Proposal Conference:</b>	Proposal Date and Time: October 4, 2022, at 1:00 pm Local Time Google Meet joining info Video call link: <a href="https://meet.google.com/yck-hvyr-eos">https://meet.google.com/yck-hvyr-eos</a> Or dial: (US) +1 385-393-4095 PIN: 433 061 192# More phone numbers: <a href="https://tel.meet/yck-hvyr-eos?pin=9975490464407">https://tel.meet/yck-hvyr-eos?pin=9975490464407</a>
<b>Questions Due Date and Time</b>	Due Date and Time: November 1, 2022, at 10:00 am Local Time
<b>Proposal Due (Closing) Date and Time:</b>	Due Date and Time: November 14, 2022, at 3:00 pm Local Time
<b>MBE Subcontracting Goal:</b>	5 %
<b>VSBE Subcontracting Goal:</b>	1%
<b>Contract Type:</b>	Indefinite quantity with firm, fixed unit prices
<b>Contract Duration:</b>	(5) Year base period
<b>Primary Place of Performance:</b>	As proposed by Offeror
<b>SBR Designation:</b>	No
<b>Federal Funding:</b>	Yes

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## 1 Minimum Qualifications

### 1.1 Offeror Minimum Qualifications

- 1.1.1** The Offeror must not currently be providing services to an entity that is a part of the tobacco industry, as either a manufacturer of tobacco products or a distributor thereof and must not have provided such services to such an entity since November 1998. The Department has determined that a history of working for the tobacco industry shall present a conflict-of-interest with respect to the delivery of services. The successful Offeror is prohibited from performing services for the tobacco industry or related entity throughout the entire term of the Contract resulting from this RFP. Offerors must complete Attachment P: Conflict of Interest Affidavit of Services Performed for the Tobacco Industry Since November 1998 as part of its technical proposal to satisfy this agreement.

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## 2 Contractor Requirements: Scope of Work

### 2.1 Summary Statement

- 2.1.1** The Maryland Department of Health, (MDH), Prevention and Health Promotion Administration (PHPA), Center for Tobacco Prevention and Control (CTPC) is issuing this Request for Proposals (RFP) to qualified Offerors (See RFP Section) to provide evidence-based tobacco use treatment (hereinafter referred to as the “Quitline”), offering counseling services via telephone, internet, text, and other technology-based methods. The Quitline Contractor shall assist Maryland residents ages 13 and over in their efforts to stop using tobacco products through the provision of counseling, information, and self-help materials. The Contractor shall also provide medications, and support to Participants as further outlined within the scope of work. See full description in Section 2.3.
- 2.1.2** It is the State’s intention to obtain goods and services, as specified in this RFP, from a Contract between the selected Offeror and the State. The anticipated duration of services to be provided under this Contract is five (5) years (July 1, 2022 – June 30, 2027).
- 2.1.3** MDH intends to make a single award as a result of this RFP to the Offeror whose proposal is deemed to be the most advantageous to the State. See RFP **Section 4.9 Award Basis** for more Contract award information.
- 2.1.4** An Offeror, either directly or through its subcontractor(s), must be able to provide all goods and services and meet all of the requirements requested in this solicitation. The successful Offeror (the Contractor) shall remain responsible for Contract performance regardless of subcontractor participation in the work.
- 2.1.5** The Contractor shall offer the opportunity to purchase Nicotine Replacement Therapy (NRT) to State of Maryland agencies and not for profit organizations in Maryland, as designated by the Department. The Contractor must offer NRT products (e.g. patches, gum, and/or lozenges) covered by this Contract to these partners at the same prices contracted with the State. All such purchases:
- (1) shall constitute Contracts between the Contractor and that government, agency or organization;
  - (2) shall not constitute purchases by the State or State agencies under this Contract;
  - (3) shall not be binding or enforceable against the State; and
  - (4) shall be subject to other terms and conditions agreed to by the Contractor and the purchaser. The Contractor bears the risk of determining whether or not a government, agency, or organization with which the Contractor is dealing is a State of Maryland agency.

- 2.1.6** All Contract NRT prices, terms, and conditions must be provided to any Maryland local government or not for profit organization requesting services under this Contract.

## 2.2 Background, Purpose and Goals

The Maryland Department of Health (MDH), Prevention and Health Promotion Administration (PHPA), Center for Tobacco Prevention and Control (CTPC) is issuing this Request for Proposals (RFP) for qualified Offerors to provide evidence-based tobacco treatment, offering counseling via telephone, internet, text, and other technology-based methods to Maryland (MD) participants in Maryland Tobacco Quitline (QL) in line with the final, agreed-upon Proposal. The Contractor shall also provide quit materials, medications, and web-based support to participants.

CTPC oversees a comprehensive statewide tobacco control program based upon the five core components outlined in the Centers for Disease Control and Prevention (CDC) Best Practices for Comprehensive Tobacco Control Programs (2014) – (1) State and Community Interventions, (2) Mass-Reach Health Communication Interventions, (3) Cessation Interventions, (4) Surveillance and Evaluation, and (5) Infrastructure, Administration and Management. Overall CTPC goals are aligned with CDC Best Practices for Tobacco Control Programs and include 1) prevent initiation among youth and young adults, 2) promote quitting among adults and youth, 3) eliminate exposure to secondhand smoke and 4) identify and eliminate tobacco-related disparities among population groups.

CTPC has been at the forefront of implementing evidence-based strategies to prevent and reduce tobacco use in order to protect the health of Marylanders. CTPC has maintained the robust and evidence-based Maryland Tobacco QL, 1-800-QUIT-NOW, since 2006, increasing access to tobacco use and dependence treatment services. The QL provides proactive phone counseling for MD residents in English, Spanish and other languages, along with a free supply of Nicotine Replacement Therapy (NRT) (patch, gum and/or lozenge). Callers can also be referred to their Local Health Department (LHD) for in-person cessation counseling and free medications, if eligible. Residents have the option between brief single call interventions or multiple call counseling sessions, along with mailed support materials. Additional QL services include counselors available 24/7; specialized services provided to youth ages 13-17; an incentive-based pregnancy support program; enhanced behavioral health protocol; online Web support offering NRT; text to enroll option; and Text support. The QL transfers residents directly to their insurance plans for additional benefits, and, as appropriate, to the Asian Smokers' Quitline (ASQ), the Spanish language Quitline – 1-855-DEJELO-YA, and veteran's focused Quitline – Smokefree Vet.

In Maryland, approximately 7,500 adults die from tobacco related illnesses every year. In 2018, 19% of former MD adult tobacco users reported being diagnosed with cancer, about 51% higher than MD adults who never smoked. Lung cancer continues to be the leading cause of cancer death among both men and women in MD. Although smoking rates are declining, over 24% of all 10,911 cancer deaths reported in 2016 were caused by lung cancer. According to data from the Campaign for Tobacco-Free Kids, since 2009, \$2.71B has been spent annually on healthcare costs directly related to smoking, with over \$576M in Medicaid dollars spent annually due to smoking related (<https://www.tobaccofreekids.org/problem/toll-us/maryland>). There are over 865,000 MD adults and 65,000 MD youth who still use tobacco products, including ESDs. According to the Maryland Youth Risk Behavior Survey/Youth Tobacco Survey conducted in the 2018-19 school year, the prevalence of youth cigarette smoking hit an all-time low of five percent, down from nearly 24% in 2000; cigar and smokeless tobacco use decreased as well. Like national trends, however, youth use of ESDs skyrocketed from 13% in 2016-17 to 23% in 2018-19, a 73% increase, and over five times more than adult use of these products. Overall statewide youth tobacco rates in the 2018-2019 school year were 27%. White youth had a higher proportion of tobacco use (35%), mostly driven by rates of ESD use. Though some groups may be low in terms of overall population

numbers, prevalence rates are high, despite a much lower population size. Native Hawaiian /Pacific Islander youth also had high rates of tobacco use (42%). Young adults (18 to 24 years of age) have the highest proportion of ESD use compared to the other age groups, and a linear decrease by age is evident. Maryland adults without a high school diploma are more likely to currently use a tobacco product compared to adults who graduated from college (25% versus eight percent respectively). The same is true for adults making less than \$15,000 compared to adults making more than \$75,000 (27% versus 14% respectively).

Additionally, 26% of adults identifying as lesbian, gay, bisexual, or transgender (LGBT) currently use a tobacco product, 1.5 times the rate of those who do not identify as LGBT (17%). Lesbian or gay youth in MD are three times more likely to be cigarette, cigar or smokeless tobacco users than heterosexual youth. Transgender youth in MD are almost seven times more likely to be cigarette users or smokeless tobacco users, and five times more likely to be cigar users. Nearly 23% of adults who were ever told they had a depressive disorder were current smokers, compared to 11% of adults who did not report a depressive disorder. Also, adults who report a disability are almost twice as likely to report smoking cigarettes (20% versus 11%). Nearly 35% of adults receiving mental health services smoke cigarettes, almost 70% of adults receiving substance use disorder services smoke, and about 67% receiving both services smoke. This is dramatically higher than the 2018 Maryland adult smoking rate of 13%. For youth aged 14 to 17 who received substance use disorder services or both mental health and substance use disorder services, the prevalence of smoking was 25% and 22%, respectively, much higher than the overall youth smoking rate of five percent.

### **2.2.1 Project Goals**

Evidence-based tobacco cessation services are a fundamental component of a comprehensive tobacco control program. MDH is committed to offering a statewide Quitline with an array of accessible cessation service options to all tobacco users. MDH seeks to engage as many Maryland residents as possible, who are tobacco users throughout the quitting process with the ultimate goals of:

- A. Increasing QL engagement of Maryland adult commercial tobacco users.
- B. Increasing quit attempts population-wide, and most importantly within priority populations such as low income, Medicaid, LGBTQ, pregnant and post-partum women, culturally diverse populations as well as individuals with behavioral health disorders. Priority populations are based on background information in Section 2.2.
- C. Offering clinically appropriate services and support to youth and young adults addicted to nicotine.
- D. Minimizing barriers including, but not limited to: the amount of time and information required to register for services, and allowing participants to engage with desired services without additional required steps or services.
- E. Providing services to tobacco users who are not yet ready to make a quit attempt within the next 30 days; and re-engaging participants who have previously registered for any level of service throughout their quit journey.
- F. Continuously refining and improving program services to provide the highest quality services possible.
- G. Ensuring a seamless and efficient user experience for the participant.

### 2.2.2 Other State Responsibilities

- A. The State will provide normal office working facilities and equipment reasonably necessary for Contractor performance under the Contract. Any special requirements (e.g., reprographic services, computer time, key data entry) shall be identified.
- B. The State is responsible for providing required information, data, documentation, and test data to facilitate the Contractor's performance of the work and will provide such additional assistance and services as is specifically set forth.

## 2.3 Responsibilities and Tasks

### 2.3.1 Service Delivery

The Contractor shall implement, at no-charge to the participant, the toll-free telephone-based tobacco treatment Quitline (in addition to web, text, mobile app, and other technology-based cessation services as requested by the State) to assist participants, including youth (See definition in Appendix 1), with quitting smoking or using any product that contains tobacco.

- A. All aspects of the Contractor's Technical Proposal related to the delivery of services submitted in an abbreviated or draft format version shall be completed, detailed, finalized and submitted to the Contact Monitor within ten (10) days after Contract Commencement, unless a different submission timeframe and/or instruction is provided elsewhere in the RFP. The Contract Monitor shall have up to thirty (30) days to review the submissions and provide comments. Submission revisions incorporating the Contract Monitor's comments are due to the Contract Monitor within ten (10) days of receipt of the comments.

### 2.3.2 Protocols

All protocols require review and approval by the Contact Monitor. Protocols used by the Contractor for all counseling via phone, web, and text must be based on research showing effectiveness in inducing behavior change and in line with the Center for Disease Control and Prevention's *Telephone Quitlines: A Resource for Development, Implementation, and Evaluation*, the Community Prevention Services Task Force recommendations (<http://www.thecommunityguide.org/tobacco>), North American Quitline Consortium (NAQC), and the U.S. Public Health Service's Clinical Practice Guidelines on Treating Tobacco Use and Dependence (<https://www.ahrq.gov/prevention/guidelines/tobacco/index.html>).

- A. Develop protocol on e-cigarette/Electronic Nicotine Delivery Systems (ENDS) use, either alone or in conjunction with other forms of tobacco. These products are known as Electronic Smoking Devices (ESDs) in Maryland. Assist ESD users in quitting ESD use along with other forms of tobacco used, as well as emphasizing that ESDs are not an FDA-approved cessation aid. The Contractor shall remain current with updated research (via CDC and NAQC) and policy (via FDA) around ESD use. The work plan (See 2.3.1) shall include an updated position statement and/or policy protocol on ESDs.
- B. Provide screening and registration of all Participants to determine the services desired by the Participant and the services for which the Participant is eligible. Screening and registration of tobacco users must include, but not be limited to, obtaining the Minimum Data Set (MDS) questions as

recommended by the North American Quitline Consortium (NAQC) (<https://www.naquitline.org/>), and screening for data in Attachment Q. The Contactor shall also obtain permission of the Participant if they are willing to participate in follow up services and evaluation.

- C. Provide comprehensive, reactive, and proactive, evidence-based telephone cessation counseling to interested Participants and assist the Participants to develop a personalized quit plan during phone counseling sessions. Phone counseling sessions shall include:
1. Reactive or Single-Contact Counseling Services: One session between a Participant and a Cessation Counselor that includes cognitive-behavioral counseling interventions.
  2. Proactive or Multiple-Contact Counseling Services: One or more sessions between a Participant and a Cessation Counselor that include(s) cognitive-behavioral counseling interventions, and a minimum of three (3) further Counselor-initiated follow-up contacts with the Participant at relapse-sensitive times to assess the Participant's quit status and to support the continued quit attempt. The design of these multiple-contact counseling services shall be based on research showing effectiveness in inducing behavior change and in line with the Community Prevention Services Task Force recommendations (<https://www.thecommunityguide.org/tobacco>), North American Quitline Consortium (NAQC), and the U.S. Public Health Service's Clinical Practice Guidelines on Treating Tobacco Use and Dependence: 2008 Update.
  3. Outbound Services for those who are in the Pre-contemplation or Contemplation stages of change in the Transtheoretical Model (TTM) (See: <https://www.ncbi.nlm.nih.gov/pubmed/10170434>). The Contractor shall, at no additional cost, reach, or document up to three (3) attempts to reach callers thirty (30) days after initial call, to re-assess Participant's readiness to quit and enroll the Participant for sessions with a Cessation Counselor that includes cognitive-behavioral counseling interventions.
  4. Provide web-based and text support cessation services. Services shall be provided as stand-alone, as well as in support of phone counseling services. The Contractor shall provide interactive text messages, web-based, and app-based support that is personalized to each Participant's quit plan prior to and after the designated quit date. The Contractor shall utilize protocols based on research showing effectiveness in inducing behavior change and in line with the Community Prevention Services Task Force recommendations (<http://www.thecommunityguide.org/tobacco>), North American Quitline Consortium (NAQC), and the U.S. Public Health's Service's Clinical Practice Guidelines on Treating Tobacco Use and Dependence: 2008 Update.
  5. Dedicated priority population Counselors (same Counselor, every call) to ensure continuity of care for groups such as pregnant and

post-partum women and those reporting behavioral and mental health conditions (including substance use disorder), low income, Medicaid eligible, LGBTQ and culturally diverse populations.

6. Experienced counselors based on research principles of motivational interviewing for inducing behavioral change and a cognitive-behavioral approach to treating individuals with behavioral health disorders. The Contractor shall initiate counseling call protocol and post-treatment follow-up calls for Priority Population persons identifying as having behavioral health and substance abuse disorders.
7. Collection of additional veteran/insurance status information from Participants and a direct transfer of eligible Participants To 1-855-QUIT VET and TRICARE cessation program benefits at 1-888-713-4597.
8. Provision of a direct transfer to Asian Smokers Quitline (ASQ) for Participants who have Limited English Proficiency (LEP) and whose primary language is Chinese (Cantonese and Mandarin): 1-800-838-8917; Korean: 1-800-556-5564; or Vietnamese: 1-800-778-8440.
9. Advise all Participants covered by a health plan to call or visit their insurance plan website or human resources office for health plan or employer-based cessation services.
10. Crises intervention services and/or capability to triage/refer to appropriate services for callers who voluntarily exhibit signs of psychiatric or substance abuse crises, including suicide ideation, self-harm or harm to others, sexual assault and overdose.

D. Text-Based Services – Technical Requirements:

1. The Contractor shall implement text-based services to Participants within five (5) Business Days of Participant's enrollment date.
2. These services shall include up to 300 stock text messages tailored to a Participant's quitting plan, counseling call reminders and prompts to connect with a Cessation Counselor, daily tips, and games to help manage urges, and mobile tracking of tobacco usage, cost savings and other measures, fully integrated with the web program.
3. The Contractor shall develop text-based services based upon the needs of the Participants, demands and data patterns and trends based upon reporting.
4. The Contractor shall provide Participants evidence-based text message utilization (e.g. messages received, replies, etc.) information in a standard suite of reports referenced in Attachment Q.

5. The Contractor shall develop a highly accessible tobacco cessation smartphone application as a platform to deliver tobacco cessation intervention and updates providing innovative individualized ideas to cease tobacco use.
  6. The Contractor shall provide a text enrollment service to enroll participants to services to the Quitline.
- E. The Contractor shall provide and send information and materials on tobacco dependence and its treatment, the dangers of secondhand smoke, Quitline services and effectiveness, referral services (if applicable), and other tobacco-related information as requested by the Participant. Information shall include advice for family and friends on helping a tobacco user quit and providing appropriate support through a quit attempt. The Contractor shall develop, provide, and mail materials. Evidence-based cessation support materials that address self-help cessation techniques for tobacco users when requested by the Participant within five (5) Business days of the request. At a minimum, the Contractor shall make available tailored materials for smokers, smokeless tobacco users, pregnant women, youth, and ENDS users. Materials shall meet low literacy level needs and readability at a fifth-grade level, utilize pictures and graphics extensively, be available in English and Spanish, and be up to date. Materials shall be required in additional languages, at no additional charge to the State, if call volume or other analysis by either the Contractor or the Contract Monitor indicates the need. The Contractor shall use existing materials as approved by Contractor Monitor, and all materials shall be identified as being provided by the Maryland Tobacco Quitline with appropriate logos as provided by CTPC (See Attachment Q).
- F. The Contractor shall offer and send FDA-approved pharmacotherapy to Participants, according to Clinical Practice Guidelines.
- G. The Contractor shall provide at least the following minimal NRT and related services to Participants:
1. Provide personalized information about NRT products and prescription cessation medications (from a reference list approved by the Contract Monitor) including recommended dosage, common side effects, and contraindications to tobacco users willing to quit within thirty (30) days.
  2. Purchase NRT products for distribution.
  3. Distribute NRT products to Participants in accordance with the approved service and counseling protocols.
  4. Offer combined NRT products to Participants who have registered for Quitline services.
  5. Program and maintain the online application system for NRT distribution.
  6. Track all NRT sent to tobacco users, linking records for multiple NRT requests for the same individual, and enforcing eligibility criteria and yearly limits on the amount of NRT provided according to the approved work plan.
  7. Process all eligible NRT requests within five (5) business days.
  8. Provide all follow-up calls to tobacco users requesting NRT according

to approved work plan. Follow-up calls will cover any questions or problems users are having with NRT and will provide a brief introduction to the other Quitline service offerings.

9. Identify and prevent fraud with regard to NRT requests and resale.

H. Referral Systems, Technical Assistance/Training, etc.

1. The Contractor shall serve as a Maryland Medicaid Pharmacy Provider (including maintenance of a Maryland-licensed pharmacist) and submit claims through the State's Pharmacy electronic claims processing system for eligible Quitline Medicaid participants to improve population health and provide assistance with additional cessation services. More information and the applications can be found at: <https://mmcp.health.maryland.gov/Pages/home.aspx> and <https://mmcp.health.maryland.gov/pap/Pages/paphome.aspx>
2. The Contractor shall administer a clinic-based patient fax referral System, Fax to Assist, used by CTPC selected and trained providers to refer Participants to Quitline services. The Contractor shall be able to receive referrals and provide feedback electrically as well as through faxes and secure e-mail. The Contractor shall provide a report reflecting the level of service provided for the referred Participant to the referring providers or manager as approved by the Contract Monitor. This outcome report shall be received by the referring provider within two (2) weeks of referral.
3. Provide administration of CTPC's electronic referrals from providers to the Quitline. At a minimum, the Contractor shall follow and implement NAQC's Guide for Implementing e-referrals using Certified EHRs. The Contractor shall be able to receive electronic referrals through all Electronic Health Records/Electronic Medical Records (EHR/EMR) systems with multiple health systems and provide feedback electronically through EHR/EMR systems as well as through secure e-mail. The Contractor is responsible for transitioning the hospital systems EHR/EMR referral systems to receive referrals and provide feedback. The Contractor shall provide utilization of the online portal "Refer A Patient" to receive referrals from Maryland Residents. The Contractor shall provide a report reflecting the level of service provided for the referred Participant to the referring provider or manager as approved by the Contract Monitor. This outcome report shall be received by the referring provider within two (2) weeks of referral. The Contractor is responsible for implementation of e-referral process at each site designated by the Contract Monitor.
4. Provide technical assistance and consultation for healthcare professionals on effective tobacco dependence treatment issues. Topics will include up-to-date information about Nicotine Replacement Therapy (NRT) or other pharmacotherapy, referrals to the Quitline, implementation of in-office procedures following



the U.S. Public Health Service's (PHS's) Clinical Practice Guidelines on Treating Tobacco Use and Dependence, complicated patient case management issues, and community-based tobacco cessation programs.

5. Based on Participant location, provide referrals to local community resources as identified by the Contract Monitor, including all Local Health Departments of Maryland's 24 jurisdictions.
6. If referred resident is reached, the Contractor shall also be responsible for providing for all cessation services to the Participant, at no-charge to them, based on individual eligibility.
  - I. The Contractor shall be responsible for the transfer of the toll-free number and participant data information from the current Contractor by 12:00 am of the contract Go-Live date. All data transfer must comply with HIPAA. The current contract is held with Optum, Inc.
  - J. The Contractor shall develop promotional materials for the utilization of the Medicaid benefit through the Quitline.
  - K. The Contractor shall hold an organizational membership in the North American Quitline Consortium (NAQC) for the duration of the Contract to inform and promote evidence-based Quitline services.
  - L. The Contractor shall participate on monthly or semi-monthly (twice per month) conference calls on the progress of Quitline services with the Contract Monitor and other relevant personnel from MDH.

### **2.3.3 Protocol Updates**

All protocols require prior review and approval by the Contact Monitor. The Contract Monitor may request service changes. The Contractor may recommend to the Contract Monitor revisions to protocols to keep pace with research on effective telephone-based tobacco dependence treatment interventions. The Contractor shall provide cessation services via telephone, internet, and other technology/media, such a text-based services and mobile applications. All services provided by the Contractor shall be culturally appropriate and tailored to specific target populations.

In order to keep Contract costs within the limits of available funding or because of the evolving thoughts on best ways to achieve tobacco-use cessation, the Contract Monitor may direct the Contractor to change certain aspect(s) of its current cessation protocols or services at any time during the Contract term and as frequently that the Contract Monitor deems appropriate to maintain evidenced-based and cost-effective service offerings.

- A. Provide an updated work plan for Contract Monitor approval upon requested change of services by the Contract Monitor. The work plan shall include the Scope of Work presented in this Section, 2.3, along with any updates based on Best Practices and service enhancements as discussed with the Contract Monitor. Any changes requested by the Contract Monitor shall be implemented no later than fourteen (14) days after the request, including corresponding update(s) to the work plan.

### **2.3.4 Business and System**

The Contractor shall:

- A. Provide qualified personnel, facilities, and equipment necessary to provide toll-free telephone, fax, electronic referral, and other support services as required in this RFP.
- B. Utilize a TTY line and standard Video Relay Service to provide services to the Deaf and Hard of Hearing.
- C. Maintain a system with ability to handle simultaneous incoming and outgoing calls with multi-lingual capability (at a minimum, English and Spanish shall be offered to callers). The system shall have at least 300 lines and offer a communications server, automatic call distribution functionality, real-time monitoring of overall phone activity as well as individual calls, collection, analysis and reporting of data, and telephone integration allowing information exchange between voice and data systems. At a minimum, the system must be able to track, during and outside of hours of operation, “hits to the line,” abandonment rates, wait times, and length of call. The system must be able to record calls for quality assurance purposes for five (5) years after the call.
- D. Participants shall receive a “live” (human) answer rather than navigating an automated answering system as frequently as possible 24 hours a day, seven days a week. If the Contractor uses an automated answering system, the Participant must not be required to select more than two (2) options prior to speaking with a live person.
- E. Maintain the toll-free telephone numbers for the Maryland Tobacco Quitline, the National Cancer Institute’s 1-800-QUIT NOW (1-800-784-8669) and the Spanish Quitline, 1-855-DEJELO-YA (1-855-335-3569), which are already in use. CTPC will provide permission to the National Cancer Institute in order for the Contractor to transfer the phone numbers. The Contractor shall work with the Contract Monitor to assure transfer of the above Quitline telephone numbers and must transfer all CTPC-owned telephone numbers back to CTPC in the event that a different contractor is utilized in the future.
- F. Maintain and update a database of community-based tobacco cessation services to which Participants may be referred. CTPC will provide a database and updates to the Contractor of appropriate community-based services. The Contractor shall report to the Contract Monitor on referrals made to community-based tobacco cessation services.

### **2.3.5 Hours of Operation**

- A. The Contractor shall provide live answering of calls and counseling 24 hours a day staffed seven days per week (exclusion apply - See 2.3.4-C). The Contractor shall record information and provide voicemail for any period outside the Quitline’s hours of operation.
- B. The Contractor shall continuously monitor call volume to determine peak times for calls. Hours of staffing shall be modified to meet observed high-volume times. The Contractor shall assess call volume during hours of coverage and as needed in collaboration with media events. (See RFP Section 2.3.6)

- C. The Contractor shall conduct all operations related to the performance of this Contract in the United States. The Contractor is not required to operate Independence Day, Thanksgiving Day, and Christmas Day. However, coverage is expected for other holidays, especially New Year's Day. Early closure on Christmas Eve and New Year's Eve may be acceptable; however, the time of early closure must be approved in advance by the Contract Monitor.
- D. The Contractor shall ensure that Participants are contacted within their expressed time, with the exception of weekends where operation hours are utilized to increase contact with Participants.

### 2.3.6 Call Volumes and Performance Measures

- A. The Contactor shall anticipate providing services to a minimum of 14,000 Participants per year. There are local health department community-based cessation resources throughout Maryland, but the Quitline is the primary tobacco dependence treatment service covering the entire State.
- B. Based on current Quitline services provided from July 1, 2019 through June 30, 2020 (State Fiscal Year 2020), a total of 27,900 calls were received, 6,287 Marylanders registered for services, 6,771 quit material were sent, 1,590 shipments of nicotine patches, 527 shipments of lozenges and 488 shipments of nicotine gum were sent to tobacco users enrolled in the multiple call program. As a combination therapy, 2,089 shipments of patch and gum and 2,574 shipments of patch and lozenges were sent to tobacco users enrolled in the multiple call program. Additionally, 396 residents entered the program via E-Referral, 1,087 residents enter the program via the web component 182 participants were fax referred. Text to enroll to the Quitline was launched in January 2020. As of November 2020, 139 referrals have been sent via the Text to Enroll program, which provides a self-referral and interactive text-to-enroll, allowing tobacco users to QL services via their mobile phones an easier enrollment process. In FY 20, there were 76 incentives earned by residents enrolled in the pregnancy incentive program by which pregnant and postpartum residents can earn up to \$100 in gift cards to participating retailers for completing counseling calls with the Quitline. These figures are provided for informational purposes only. There is no guaranteed maximum or minimum for any number of calls or services to be provided by the Contractor. Actual volumes are subject to change.
- C. The Contactor shall strive to meet all performance measures below and as outlined in the work plan and provide reports to the Contactor Monitor quarterly (See Attachment Q) to document achievements or remedial plans for deficiencies of the following:
  - 1. Calls received during operating hours to the Maryland Tobacco Quitline shall be connected to a registration staff member or Quitline specialist at the time of the initial call.
  - 2. Self-help materials shall be sent within five (5) business days after the Participant registers for services.
  - 3. Voicemail messages shall be returned within one (1) calendar day of receipt.

4. The Contactor shall reach, or document an attempt to reach, all multiple call Participants during their established appointment time for all intervention calls.
  5. All multiple call Participants shall receive a time-sensitive quit date call within 48 hours of their quit date. The quit date is the date that the Participant chooses to quit using nicotine.
  6. Call Participants shall be sent their selected NRT product(s) within five (5) Business Days of their call.
  7. The average initial answer speed shall be within 30 seconds with a 0% abandonment rate for calls waiting greater than 30 seconds following an initial client queue message (if a “live” response is not provided).
- D. The Contractor shall employ staff at levels needed to achieve the following telephone standard monthly. Service level standards apply during months when the call volume does not exceed the projected call volume. The Department will measure standards utilizing the following metrics:
1. 95% of calls received during operating hours to the Maryland Tobacco Quitline shall be connected to the Contractor at the time of the initial call.
  2. The Contactor shall reach, or document an attempt to reach, 95% of all multi-call Participants during their established appointment time for all intervention calls.
  3. 95% of multi-call Participants shall receive a time sensitive quit date call within five (5) days of their quit date. The quit date is the date that the Participant chooses to quit using nicotine.
  4. 95% of NRT shall be sent within five (5) business days of eligibility confirmation and address verification.
  5. Average answer speed shall be 35 seconds, with a less than 5% abandonment rate for calls waiting longer than 3 seconds.
  6. Web services shall remain online and available to participants 99% of the time.
  7. 95% of Participant emails shall be delivered as scheduled.
  8. 95% of text messages shall be delivered as scheduled.

### **2.3.7 Management and Staffing**

- A. The Contractor shall designate a Program Manager as Key Personnel (See 1.2 definition), for communications between the Contractor and Contract Monitor. The Program Manager shall coordinate with relevant Contractor personnel, including Cessation Counselors, evaluators, and others, to communicate with the Contract Monitor, as necessary.
- B. Upon award, the Contractor shall provide a staffing plan that details live call response and counseling 24 hours a day, seven days a week.

- C. Cessation Counseling staff shall hold a Bachelor's or Master's degree in social work, psychology, or other behavioral health fields with a minimum of two (2) years' of counseling experience, preferably in tobacco cessation. The Contractor shall provide evidence that coaches/behavioral health specialists have completed training that covers the core competencies skills in the principles of motivational interviewing for inducing behavioral change and a cognitive-behavioral approach to treating tobacco use and dependence. They must also be knowledgeable about specific issues related to tobacco dependence, including use of effective medications such as NRT. The Contractor shall provide educational training protocols to ensure relevancy and competency throughout the contract period are required. The Contractor shall provide, or have access to, clinical supervision of phone counselors. The Contractor shall provide ongoing training to ensure Best Practices and quality delivery of services.
- D. The Contractor shall employ a full-time Cessation Counseling Supervisor and a full-time Medical Director available to provide technical assistance and oversight of Quitline services. Both must be licensed for the state(s) in which they serve.
- E. The Contractor shall provide quarterly updates to the Contract Monitor by the 15<sup>th</sup> of the following month on Contract billing and payments, including call volume trending and projected billing.

### **2.3.8 Data Collection and Reporting**

- A. The Contractor shall provide all reports as required in Attachment Q. The Contractor shall submit weekly, monthly, quarterly, and annual reports to the Contractor Monitor to track use of the Quitline and other services provided, as well as Participant participation levels and progress. The Contractor's computerized tracking system to document Quitline activity must be able to accurately tabulate discrete individuals, services provided, Participant demographics, and other characteristics, including referrals into and out of the system. The system must be able to produce reports on the types and amounts of services provided per Participant, call patterns by time of day, day of week and month consistent and compliant with the reporting requirements in Attachment Q. The Contractor shall also provide data as requested by the Contract Monitor for CDC grant reporting, including the CDC data warehouse and NAQC reporting requirements. When any Quitline promotions (e.g. television, social media, events, outreach and/or other activities) are expected to generate high call volumes, the Contractor shall provide the Contract Monitor daily call volume reports.
- B. The Contractor shall also collect data that measures the performance of the Contractor in terms of waiting time for Participants, volume of calls received during times when a live answer is not available, abandonment rates, percent of Participants who complete each intervention, and accuracy of counseling information given by the staff. In addition, the Contractor shall track and report on the performance measures as described in Section 2.3.6.
- C. CTPC is the sole owner of the Participant information database. Participant data from the Maryland Tobacco Quitline may not be used by the Contractor for any purpose other than the services performed under this Contract without prior written approval of the Contract Monitor.

- D. CTPC is the sole owner of all calls between the Quitline and Maryland Participants. Recordings and/or transcripts of calls shall be appropriately maintained and furnished to the Contract Monitor within 48 hours of request.

### **2.3.9 Quality Performance Plan**

- A. The Contractor shall follow and provide to the Contact Monitor a quarterly, comprehensive quality performance plan. The quality performance plan shall describe the procedures, standards, and measures to be used to ensure quality and timeliness of Counseling calls and Quitline services. It shall also discuss how the Contractor's performance in the various areas of quality assurance is to be reported, how the reported data shall be interpreted, and how that information will be used not only to maintain the quality of services, but to improve them as well.
- B. The Contractor shall have a written protocol by Contract Commencement and follow this protocol for addressing complaints and compliments of Participants that use the service. A copy of this protocol shall be submitted to the Contract Monitor yearly by June 1<sup>st</sup>.
- C. CTPC may routinely conduct "secret shopper" calls to certify service quality and will provide feedback to the Contractor on the results of those calls to facilitate quality improvement if necessary.

### **2.3.10 Quitline Promotions**

- A. CTPC will coordinate the development and implementation of media within Maryland to promote the Quitline to the general public. The Contract Monitor will provide as much advance notice as possible to the Contractor regarding upcoming media placement and media events. The Contact Monitor will provide the Contractor with a media schedule to anticipate call volumes. The Contract Monitor will strive to provide two to four weeks' notice on all CTPC paid media campaign activities. Efforts will also be made to provide notice on media activities within Maryland sponsored by entities other than CTPC, however, it may not be possible to provide advance notice on all such media activities (particularly those conducted at the community level). The Contractor shall provide reports on call volume activities to the Contract Monitor and during the timeframe as noted in Attachment Q, as well as track volume for particular known promotions and reported answers for "How did you hear about us?" in order to determine touchpoints and Return on Investment of promotional efforts.
- B. The Contractor shall provide additional staffing as needed to assure effective coordination of known media promotions and Quitline services.
- C. The Contractor shall collaborate with CTPC and its partners in promoting the Quitline, as approved by the Contract Monitor and included in the work plan. Such collaboration may include assisting in updating and disseminating promotional materials for health care professionals and systems and making presentations at State conferences.
- D. The Contractor shall collaborate with CTPC in developing promotional materials for Medicaid utilization approved by the Contract Monitor and include information regarding coverage of the Medicaid benefit and the services provided. Promotional materials shall be aimed towards both Participants and healthcare providers.

### **2.3.11 Evaluation and Research:**

- A. The Contractor shall conduct an annual evaluation of the Quitline services using NAQC-approved MDS follow-up survey evaluation, with Contract Monitor approval, to determine Participant satisfaction, calculated seven-month quit rates of Participants, and perform bivariate analysis to determine correlations between Participant characteristics, satisfaction and quit rates. The seven-month quit rates shall be calculated using both intent-to-treat and respondent methodologies. See Attachment Q for reporting requirements.
- B. The Participant database shall be provided to the Contract Monitor at least monthly in the form determined by the Contract Monitor. The Contractor and Contract Monitor will work together to develop a secure, confidential, and efficient means of transferring the database as needed in order to conduct evaluations or as requested for funding by the CDC or NAQC.
- C. The Contractor shall implement a qualitative evaluation plan to gather in-depth information from the MD QL Participants and smokers in the general Maryland population, including focus groups and in-depth phone or online interviews.

#### **2.3.12 Site Visit and Meeting:**

- A. The Contractor shall make provisions for the Contract Monitor and an additional one (1) to two (2) CTPC representatives to conduct at least one (1) two-day (2-day) site visit during the Contract term. The site visit shall include meetings with relevant personnel, reviewing Contract progress and a guided tour of call center facilities. The Contractor shall make arrangements for travel and lodging at the Contractor's expense.
- B. The Contractor shall attend at least one (1) one-day (1-day) on-site meeting at MDH in Baltimore, Maryland during the Contract terms in order to meet relevant personnel and review Contract progress at the Contractor's expense.

## **2.4 Deliverables**

### **2.4.1 Deliverable Submission**

- A. For every deliverable, the Contractor shall request the Contract Monitor confirm receipt of that deliverable by sending an e-mail identifying the deliverable name and date of receipt.
- B. For every deliverable, the Contractor shall submit to the Contract Monitor, by e-mail, an Agency Deliverable Product Acceptance Form (DPAF), as approved by the Contract Monitor.
- C. 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 also request one hard copy of a written deliverable.
- D. 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.
- E. 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, with the exception of status reports, are required at

least two weeks in advance of when the final deliverables are due. Deliverables due at the beginning of the Contract where this lead time is not possible, or where the draft delivery date is explicitly specified by the Contract Monitor are not included under this requirement. Draft versions of a deliverable shall comply with the minimum deliverable quality criteria listed in **Section 2.4.3 Minimum Deliverable Quality**.

#### **2.4.2 Deliverable Acceptance**

- A. A final deliverable shall satisfy the scope and requirements of this RFP for that deliverable, including the quality and acceptance criteria for a final deliverable as defined for deliverables.
- B. The Contract Monitor shall review a final deliverable to determine compliance with the acceptance criteria as defined for that deliverable. The Contract Monitor is responsible for coordinating comments and input from various team members and stakeholders. The Contract Monitor is responsible for providing clear guidance and direction to the Contractor in the event of divergent feedback from various team members.
- C. The Contract Monitor will issue 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. In the event of rejection, the Contract Monitor will formally communicate in writing any deliverable deficiencies or non-conformities to the Contractor, describing in those deficiencies what shall be corrected prior to acceptance of the deliverable in sufficient detail for the Contractor to address the deficiencies. The Contractor shall correct deficiencies and resubmit the corrected deliverable for acceptance within the agreed-upon time period for correction.

#### **2.4.3 Minimum Deliverable Quality**

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

Each deliverable shall meet the following minimum acceptance criteria:

- A. Be presented in a format appropriate for the subject matter and depth of discussion.
- B. Be organized in a manner that presents a logical flow of the deliverable’s content.
- C. Represent factual information reasonably expected to have been known at the time of submittal.
- D. Include only information relevant to each specific section of the deliverable.
- E. Contain content and presentation consistent with industry best practices in terms of deliverable completeness, clarity, and quality.



- F. Meet the acceptance criteria applicable to that deliverable, including any State policies, functional or non-functional requirements, or industry standards.
- G. Contain no structural errors such as poor grammar, misspellings or incorrect punctuation.
- H. Include the date, author, and page numbers. When applicable for a deliverable, a revision table must be included.
- I. A draft written deliverable may contain limited structural errors such as incorrect punctuation and shall represent a significant level of completeness toward the associated final written deliverable. The draft written deliverable shall otherwise comply with minimum deliverable quality criteria above.

**2.4.4 Deliverable Descriptions/Acceptance Criteria**

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

**Deliverables Summary Table\***

ID #	Deliverable Name	Acceptance Criteria	Due Date / Frequency
2.3.1	Contractor’s Technical Proposal	All aspects of Contractor’s technical proposal regarding delivery of services (in abbreviated or draft format) submitted to Contract Monitor.	To be submitted 10 days after contract commencement
2.3.2	Protocols	<p>Protocols for all counseling via phone, web, and text to be based on research showing effectiveness in inducing behavioral change in accordance with organizations referenced in 2.3.2.</p> <p>All protocols require prior review/approval of Contact Monitor, must be in keeping with current research on effective telephone-based tobacco dependence treatment interventions.</p>	Ongoing

2.3.2-A	Electronic Nicotine Delivery Systems (ENDS) Protocol	In coordination with Contract Monitor, develop protocol on ENDS use, keep abreast of research and policy on issue.	Ongoing

2.3.2- B	Screening/Registration of Participants	Provide screening and registration of all Participants to determine desirability/ eligibility of counseling services.	Ongoing
2.3.2 – C	Evidenced-based Telephone Cessation Counseling	<p>Provide comprehensive, reactive, and proactive evidence-based telephone counseling services to assist Participant to develop a personalized quit plan.</p> <p>See 2.3.2-C for services, including web-based, text-based services, telephone follow-up to Participants 30 days after initial call, reach protocol, e-referrals, services to individuals with behavioral health disorders, pregnant women, collection of veteran/insurance status information, mailing of informational materials within 5 days, etc.</p>	Ongoing

2.3.2 – D	Text-Based Services	Implement text-based services for Participants within 5 Business Days of Participant’s enrollment date; Review 2.3.2 – D for details.	Ongoing
2.3.2 – E	Send Information and Materials	Provide and send information and materials on tobacco dependence and its treatment, the dangers of secondhand smoke, Quitline services and effectiveness, referral systems (if applicable), and other tobacco-related information as requested by the Participant.	Within five (5) Business Days of the request

<p>2.3.2 – F, G</p>	<p>FDA approved Pharmacotherapy to Participants</p>	<p>In accordance with Clinical Practices Guidelines, Contractor will purchase and provide NRT products and prescription medications, in accordance to recommended dosage within 5 days to registered Quitline Participants, provide follow-up calls.</p>	<p>Processing of all eligible NRT requests to occur within 5 business days</p>
<p>2.3.2 – H</p>	<p>Referral Systems, Technical Assistance, Training</p>	<p>Contractor shall serve as a Maryland Medicaid Pharmacy Provider including maintenance of a Maryland-licensed pharmacist and submit claims through the State’s Pharmacy electronic claims processing system for eligible Quitline Medicaid participants.</p>	<p>Ongoing</p>

<p>2.3.2 – H</p>	<p>CTPC Clinical-based patient fax referral system, Fax to Assist</p>	<p>Provide administration of CTPC’s clinic-based patient fax referral system, Fax to Assist, used by CTPC selected and trained providers to refer Participants to Quitline services.</p> <p>Contractor shall maintain capacity to receive referrals and provide feedback electronically as well as through faxes and secure e-mail. Contractor shall provide a report reflecting the level of service provided for the referred Participant to the referring provider or manager as approved by Contract Monitor. Outcome report to be received by the referring provider within two (2) weeks of referral.</p>	<p>Ongoing</p> <p>Outcome report to be received by referring providers or manager within 2 weeks of referral</p>
<p>2.3.2 – H</p>	<p>Administration of CTPC’s Electronic Referrals from Providers</p>	<p>At minimum, Contractor shall follow and implement NAQC’s Guide for Implementing eReferrals Using Certified EHRs; receive electronic referrals through all Electronic Health Records/Electronic Medical Records (HER/EMR) systems with multiple health systems and provide feedback electronically through secure email.</p> <p>Contractor shall transition hospital EHR/EMR referral systems to receive</p>	<p>Ongoing</p>

		<p>referrals, provide feedback, and provide utilization of the online portal to receive referrals; provide report reflecting services provided to Participant to provider/manager approved by Contract Monitor.</p>	
<p>2.3.2 H</p>		<p>Outcome report to be received by provider within 2 weeks of referral.</p>	<p>2 Weeks</p>

2.3.2 - H	Technical Assistance/Consultation for Healthcare Professionals	Contractor shall provide technical assistance and consultation for healthcare professionals on effective tobacco dependence treatment issues.	Ongoing
2.3.2 – I	Transfer of Toll Free Number and Participant Data Information	Contractor shall transfer toll free number and participant data information from the current Contractor by 12:00 AM of the contract Go-Live date. All data transfer shall comply with HIPAA.	Ongoing



2.3.2 – J	Promotional Materials	The Contractor shall develop promotional materials for the utilization of the Medicaid benefit and services provided.	As requested
2.3.2 – K	North American Quitline Consortium Membership	The Contractor shall maintain an organizational membership in the North American Quitline Consortium (NAQC).	Duration of Contract

<p>2.3.2 – L</p>	<p>Quitline Services Conference Calls</p>	<p>Contactors shall participate on monthly or semi-monthly conference calls regarding progress of Quitline services with Contractor Monitor and other MDH staff.</p>	<p>Monthly, semi-monthly</p>
<p>2.3.3</p>	<p>Protocol Updates</p>	<p>All Contractor Quitline protocols shall be in keeping with current research on effective telephone-based tobacco dependence treatment interventions and shall require prior review/approval of Contract Monitor.</p>	<p>Any changes requested by Contract Monitor to be implemented no later than 14 days after request, including corresponding update to the work plan, if applicable.</p>

2.3.4	Business and System	Provide qualified personnel, facilities, and equipment necessary to provide toll-free telephone, fax, electronic referral, and other support services as required in this RFP. Required: TTY line and standard Video Relay Service, multi-lingual capability, minimum of 300 lines, a system that will be track “hits to the line”, abandonment rates, wait times, length of calls, recoding of calls for quality assurance, live answered calls, maintaining of toll-free telephone numbers for the Maryland Tobacco Quitline, National Cancer Institute 1-800-QUIT-NOW, and Spanish Quitline, maintain data base of community-based tobacco cessation services to which Participants can be referred.	Ongoing
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2.3.5	Hours of Operation	<p>The Contractor shall provide live answering of calls and counseling 24 hours a day, staffed seven days per week (exclusions apply – see 2.3.5). The Contractor shall record information and provide voicemail for any period outside the Quitline’s hours of operation.</p> <p>(See 2.3.5 for more details regarding peak times, ensuring that Participant’s expressed time for follow up is honored, etc.)</p>	Ongoing
2.3.6	Call Volumes and Performance Measures	<p>The Contractor shall anticipate providing services to a minimum of 14,000 Participants per year.</p> <p>Service period begins July 1, 2022 through June 30, 2027.</p> <p>Services shall include calls with Participants, providing quit materials, shipment of NRT, e-referrals, web component, text messages, pregnancy and postpartum incentive program.</p>	Ongoing

		<p>The Contractor shall strive to meet all performance measures below and as outline in work plan and provide reports to the Contract Monitor quarterly (See Attachment Q) to document achievement or remedial plans for deficiencies list in 2.3.6.</p> <p>Employ qualified staff to provide telephone service level standards to be measured in accordance with metrics outlined in 2.3.6.</p>	<p>Ongoing</p>
<p>2.3.7</p>	<p>Management and Staffing</p>	<p>Contractor shall provide a Program Manager to serve as key personnel for communication with Contract Monitor; provide a staffing plan detailing live call response and counseling 24 hours a day, 7 days a week; employ Cessation Counseling staff with Bachelors of Master’s degrees in social work, psychology, or behavioral health field with minimum of 2 years of counseling experience preferred; employ a full-time licensed cessation counseling supervisor and medical director to provide technical assistance and oversight of services; provide quarterly</p>	<p>Ongoing</p>

		updates to Contract Monitor; quarterly updates on by the 15 <sup>th</sup> of following month of Contract billing and payments	
2.3.8	Data Collection and Reporting	<p>Contactor shall provide weekly, monthly, quarterly and annual reports to Contact Monitor regarding Quitline activities, participant participation levels, progress, demographics, call patterns; provide requested data for CDC, data warehouse and NAQC data reporting to Contract Monitor; report on call volumes based on media promotions, as needed.</p> <p>Report waiting time for Participants, volume of calls, abandonment rates, number and percent of Participants that complete intervention, accuracy of counseling information provided by staff; track/report on performance measures.</p> <p>Contractor shall not use Participant information data with the prior written consent and approval of the Contract Monitor and Maryland Department of Health.</p> <p>Contractor shall maintain all recordings and transcripts of calls</p>	<p>Ongoing</p> <p>48 hours</p>

		and provide same to Contract Monitor within 48 hours of request.	
2.3.9	Quality Performance Plan	<p>Contractor shall provide Contract Monitor with quarterly, comprehensive performance plan.</p> <p>Contractor shall provide a written protocol to Contract Monitor annually by June 1st.</p> <p>Upon receipt of “secret shopper” call feedback from CTPC, the Contractor will facilitate quality improvement plan.</p>	<p>Quarterly</p> <p>Annually</p> <p>Ongoing</p>
2.3.10	Quitline Promotions	<p>Contractor shall provide all information and reports requested by CTPC for media activities/campaigns.</p> <p>Contractor shall provide sufficient staff to meet increased demand resulting from such promotions.</p> <p>Contractor shall collaborate with CTPC in the updating, dissemination, and promotion of materials for healthcare professionals and systems, as well as during statewide meetings and conferences.</p> <p>Contractor shall</p>	<p>As needed</p> <p>As needed</p> <p>As needed</p> <p>As needed</p>

		<p>collaborate with CTPC in developing promotional materials for Medicaid utilization approved by Contract Monitor and shall include information regarding coverage of the Medicaid benefit and the services provided.</p>	
<p>2.3.11</p>	<p>Evaluation and Research</p>	<p>The Contractor shall conduct an annual evaluation of the Quitline services using NAQC approved MDS follow-up survey evaluation, with Contract Monitor approval, to determine Participant satisfaction, calculated seven-month quit rates of Participants, perform bivariate analysis to determine correlations between Participant characteristics, satisfaction and quit rates.</p> <p>Contractor shall provide the Participant database to the Contract Monitor at least monthly.</p> <p>The Contractor and Contract Monitor will develop a secure, confidential, and efficient means of transferring the database as needed in order to conduct evaluations or as requested for funding by CDC or NAQC.</p>	<p>Annually</p> <p>Monthly minimally, as needed</p> <p>Ongoing</p>



2.3.12	Site Visit and Meeting	<p>Contractor shall implement a qualitative evaluation plan to gather in-depth information from Maryland Quitline participants and smokers – i.e., focus groups and in-depth phone or online interviews.</p> <p>The Contractor shall make provisions for the Contract Monitor and an additional one (1) to two (2) CTPC representatives to conduct at least one (1) two-day (2-day) site visit during the Contract term.</p> <p>Contractor shall attend at least 1 one-day on-site meeting at MDH in Baltimore, Maryland during the contract period.</p>	<p>Ongoing</p> <p>As needed, - at least 1 two-day site visit per contract term.</p> <p>As needed – at least 1 one-day on site meeting in Baltimore, Maryland.</p>

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

## 3 Contractor Requirements: General

### 3.1 Contract Initiation Requirements

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

THIS SECTION IS INAPPLICABLE TO THIS RFP.

### 3.2 End of Contract Transition

The Contractor shall cooperate in the orderly transition of services from the Contract awarded under this solicitation to any subsequent contract for similar services. The transition period shall begin ninety (90) days before the Contract end date, or the end date of any final exercised option or contract extension. 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.

- 3.2.1** 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 **90** 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 90 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 MDH 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 MDH or a designee;
  - 5) Any final training/orientation of MDH 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 MDH
    - b) Review with the MDH 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 MDH 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 and MDH Quitline Manager at e-mail address: [shakila.johnson@maryland.gov](mailto:shakila.johnson@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 MDH reserves the right to reduce or withhold Contract payment in the event the Contractor does not provide the MDH 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 MDH, 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 MDH.
- B. For items of work for which there is annual pricing, see **Attachment B**– Financial Proposal Form, those items shall be billed in equal monthly installments for the applicable Contract year in the month following the performance of the services.

### 3.3.3 Deliverable Invoicing

- A. Deliverable invoices shall be accompanied by notice(s) of acceptance issued by the State for all invoices submitted for payment. Payment of invoices will be withheld if a signed DPAF is not submitted (see online example at [http://doit.maryland.gov/contracts/Documents/\\_procurementForms/DeliverableProductAcceptanceForm-DPAFsample.pdf](http://doit.maryland.gov/contracts/Documents/_procurementForms/DeliverableProductAcceptanceForm-DPAFsample.pdf)).
- B. Payment for deliverables will only be made upon completion and acceptance of the deliverables as defined in **Section 2.4**.

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

- A. The amount invoiced is inconsistent with the Contract;
- B. The proper invoice has not been received by the party or office specified in the Contract;
- C. The invoice or performance is in dispute or the Contractor has failed to otherwise comply with the provisions of the Contract;

- D. The item or services have not been accepted;
- E. The quantity of items delivered is less than the quantity ordered;
- F. The items or services do not meet the quality requirements of the Contract;
- G. If the Contract provides for progress payments, the proper invoice for the progress payment has not been submitted pursuant to the schedule;
- H. If the Contract provides for withholding a retainage and the invoice is for the retainage, all stipulated conditions for release of the retainage have not been met; or
- I. The Contractor has not submitted satisfactory documentation or other evidence reasonably required by the Procurement Officer or by the Contract concerning performance under the Contract and compliance with its provisions.

### 3.3.5 Travel Reimbursement

Travel will not be reimbursed under this RFP.

## 3.4 Liquidated Damages

### 3.4.1 MBE Liquidated Damages

MBE liquidated damages are identified in Attachment M.

### 3.4.2 Liquidated Damages other than MBE

- Disaster Recovery(1) The Contractor and any relevant subcontractor(s) shall have robust contingency and disaster recovery plans in place to ensure that the services provided under this 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. (2) The contingency and disaster recovery plans must be designed to ensure that services under this Contract are restored after a disruption within twenty-four (24) hours in order to avoid unacceptable consequences due to the unavailability of services.
- (3) The Contractor and any relevant subcontractor(s) shall test the contingency/disaster recovery 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 annual test shall include backup media restoration and failover / fallback operations.
  - (4) Such contingency and disaster recovery 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 Disaster Recovery

- (1) The Contractor and any relevant subcontractor(s) shall have robust contingency and disaster recovery plans in place to ensure that the services provided under this 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.
- (2) The contingency and disaster recovery plans must be designed to ensure that services under this Contract are restored after a disruption within twenty-four (24) hours in order to avoid unacceptable consequences due to the unavailability of services.

- (3) The Contractor and any relevant subcontractor(s) shall test the contingency/disaster recovery 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 annual test shall include backup media restoration and failover / fallback operations.
- (4) Such contingency and disaster recovery 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.

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 MDH 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 Keep as is**

- A. Data, databases and derived data products created, collected, manipulated, or directly purchased as part of an RFP are the property of the State. The purchasing State agency is considered the custodian of the data and shall determine the use, access, distribution and other conditions based on appropriate State statutes and regulations.
- B. Public jurisdiction user accounts and public jurisdiction data shall not be accessed, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of the Contract, including as necessary to perform the services hereunder or (4) at the State's written request.
- C. The Contractor shall limit access to and possession of State data to only Contractor Personnel whose responsibilities reasonably require such access or possession and shall train such Contractor Personnel on the confidentiality obligations set forth herein.
- D. At no time shall any data or processes – that either belong to or are intended for the use of the State or its officers, agents or employees – be copied, disclosed or retained by the Contractor or any party related to the Contractor for subsequent use in any transaction that does not include the State.
- E. The Contractor shall not use any information collected in connection with the services furnished under the Contract for any purpose other than fulfilling such services.

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

## **3.6 Insurance Requirements**

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

- 3.6.1** The following type(s) of insurance and minimum amount(s) of coverage are required:
- A. Commercial General Liability - of \$1,000,000 combined single limit per occurrence for bodily injury, property damage, and personal and advertising injury and \$3,000,000 annual aggregate. The minimum limits required herein may be satisfied through any combination of primary and umbrella/excess liability policies.
  - B. Errors and Omissions/Professional Liability - \$1,000,000 per combined single limit per claim and \$3,000,000 annual aggregate.



- C. Crime Insurance/Employee Theft Insurance - to cover employee theft with a minimum single loss limit of \$1,000,000 per loss, and a minimum single loss retention not to exceed \$10,000. The State of Maryland and the MDH 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

Contractor Is Responsible for Background Checks. Note: If only certain functions to be performed under the Contract necessitate a background check, the following background check requirement may be changed to designate those functions and limit background checks to Contractor and subcontractor personnel performing those designated functions, e.g., personnel in contact with vulnerable populations, personnel handling State funds, personnel conducting bookkeeping functions, personnel with access to Sensitive Data

The Contractor shall obtain from all Contractor and subcontractor personnel assigned to work on the Contract a signed statement permitting a criminal background check. The Contractor shall secure at its own expense a Maryland State Police and/or FBI background check and provide the Contract Monitor with completed checks on the above-listed personnel assigned to work under the Contract prior to assignment. At a minimum, these background checks must include all convictions and probation before judgment (PBJ) dispositions. The Contractor may not assign an individual whose background check reflects any criminal activity to work under this Contract unless prior written approval is obtained from the Contract Monitor. 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.

The Contractor shall obtain from each individual assigned to work on the Contract a statement permitting a criminal background check. The MDH will obtain a criminal background check for each individual using a source of its choosing. The Contract Monitor reserves the right to reject any individual based upon the results of the background check.

- A. The Contractor shall obtain criminal background checks on candidates it sends for employment at the Maryland Department of Health. 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.
- B. The Contractor shall provide certification to the Maryland Department of Health that the Contractor has completed the required criminal background check described in this RFP for each required Contractor Personnel prior to assignment, and that the Contractor Personnel have successfully passed this check.

- C. Persons with a criminal record may not perform services under the Contract unless prior written approval is obtained from the Contract Monitor. The Contract Monitor reserves the right to reject any individual based upon the results of the background check. Decisions of the Contract Monitor as to acceptability of a candidate are final. The State reserves the right to refuse any individual Contractor Personnel to work on State premises, based upon certain specified criminal convictions, as specified by the State.
- D. The CJIS criminal record check of each Contractor Personnel who will work on State premises shall be reviewed by the Contractor for convictions of any of the following crimes described in the Annotated Code of Maryland, Criminal Law Article:
  - 1) §§ 6-101 through 6-104, 6-201 through 6-205, 6-409 (various crimes against property);
  - 2) any crime within Title 7, Subtitle 1 (various crimes involving theft);
  - 3) §§ 7-301 through 7-303, 7-313 through 7-317 (various crimes involving telecommunications and electronics);
  - 4) §§ 8-201 through 8-302, 8-501 through 8-523 (various crimes involving fraud);
  - 5) §§9-101 through 9-417, 9-601 through 9-604, 9-701 through 9-706.1 (various crimes against public administration); or
  - 6) a crime of violence as defined in CL § 14-101(a).

### 3.7.3 On-Site Security Requirement(s)

THIS SECTION IS INAPPLICABLE TO THIS RFP.

### 3.7.4 Information Technology

For purposes of this solicitation and the resulting Contract:

- A. “Sensitive Data” means information that is protected against unwarranted disclosure, to include Personally Identifiable Information (PII), Protected Health Information (PHI) or other private/confidential data, as specifically determined by the State. Sensitive Data includes 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; (2) is linked or linkable to an individual, such as medical, educational, financial, and employment information; (3) falls within the definition of “personal information” under Md. Code Ann., General Provisions § 14-3501(d); or (4) falls within the definition of “personal information” under Md. Code Ann., St. Govt. § 10-1301(c).
- B. “Relevant subcontractor” includes any subcontractor that assists the Contractor in the critical functions of the Contract, handles Sensitive Data, and/or assists with any related implemented system, excluding subcontractors that provide secondary services that are not pertinent to assisting the Contractor in the critical functions of the Contract, handling Sensitive Data, and/or assisting with any related implemented system.
- C. The Contractor, including any relevant subcontractor(s), shall implement administrative, physical, and technical safeguards to protect State data that are no less rigorous than accepted industry standards for information security such as those listed below, and 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 this solicitation and resulting Contract.

- D. The Contractor, including any and all subcontractor(s), agrees to abide by all applicable federal, State and local laws concerning information security and comply with current State of Maryland Department of Information Technology Security Policy:  
<http://doit.maryland.gov/support/Pages/SecurityPolicies.aspx>. The State IT Security Policy may be revised from time to time. The Contractor and all subcontractors shall comply with all such revisions. Updated and revised versions of the State IT Policy and Standards are available online on this website.
- (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](http://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](http://www.doit.maryland.gov) – keyword: Security Policy.

### **3.75 Data Protection and Controls**

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

- B. To ensure appropriate data protection safeguards are in place, the Contractor shall implement and maintain the following controls at all times throughout the Term of the Contract (the Contractor may augment this list with additional controls):
- 1) Establish separate production, test, and training environments for systems supporting the services provided under the Contract and ensure that production data is not replicated in test or training environment(s) unless it has been previously anonymized or otherwise modified to protect the confidentiality of Sensitive Data elements. The Contractor shall ensure the appropriate separation of production and non-production environments by applying the data protection and control requirements listed in **Section 3.7.5**.
  - 2) Apply hardware and software hardening procedures as recommended by Center for Internet Security (CIS) guides <https://www.cisecurity.org/>, Security Technical Implementation Guides (STIG) <https://public.cyber.mil/stigs/>, 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 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 MDH 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 MDH 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 (<https://doit.maryland.gov/policies/Pages/default.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 MDH 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.

### **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 MDH with documented evidence of current compliance to PCI DSS within 30 days of an MDH 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 MDH or Contract Monitor in accordance with **Section 3.7.9A-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 MDH or Contract Monitor within twenty-four (24) hours of the discovery of a Security Incident by providing notice via written or electronic correspondence to the Contract Monitor, MDH chief information officer and MDH chief information security officer;
  - 2) notify the MDH or Contact Monitor 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 MDH or Contract Monitor within one (1) Business Day after Contractor's discovery of unauthorized use or disclosure of State data and thereafter all information the State Contract Monitor 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 MDH 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 Preferred Offeror Experience

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

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

- A. Describe demonstrated successful experience in managing a telephone-based tobacco cessation Quitline, including the provision of screening, assessment, counseling, support materials (including provision of sample materials as part of Offeror's response to proposal), text and web support, electronic and fax support systems, referrals to community-based cessation services, FDA approved pharmacotherapy management, priority population support, and other support services that shall be offered.
- B. Describe quit rates and satisfaction rates achieved for one or more state Quitlines, as similar in size and scope to the Maryland Tobacco Quitline as possible.
- C. Describe specific experience in providing linkage of Quitline participants to available health plan or employer coverage of Quitline services and/or other tobacco dependence treatment services.
- D. Describe experience in working with state clients to collaborate on reporting to the NAQC, CDC, and/or other national organizations seeking information about Quitline, including:
- E. The number of years the Offeror has provided the similar services.
- F. The number of clients/customers and geographic locations that the Offeror currently serves.
- G. The names and titles of headquarters or regional management personnel who may be involved with supervising the services to be performed under this Contract.
- H. The Offeror's process for resolving billing errors.
- I. An organizational chart that identifies the complete structure of the Offeror, including any parent company, headquarters, regional offices, and subsidiaries of the Offeror.
- J. Describe specific experience in providing linkage of Quitline participants to available health plan or employer coverage of Quitline services and/or other tobacco dependence treatment services.
- K. Describe experience in working with state clients to collaborate on reporting to the NAQC, CDC, and/or other national organizations seeking information about Quitline services.
- L. Provide a list of the organization's state Quitline clients, including the date the contractual relationship began, and a contact person and email. CTPC may contact any of these current clients for reference information.

#### 3.10.2 Personnel Experience

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

The Offeror shall include the following information:

- A. Identify the number and types of staff proposed to be utilized under the Contract.
- B. 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
- C. Include individual resumes for all Key Personnel, including Program Manager (sec 3.2.6.1), Medical Director, Pharmacist, management and supervisory staff, and Key Personnel for any proposed subcontractor(s) who are to be assigned to the project if the Offeror is awarded the Contract. Each resume shall include the amount of experience the individual has had relative to the Scope of Work set forth in this solicitation. Letters of intended commitment to work on the project, including letters from any proposed subcontractor(s), shall be included in this section.
- D. Describe the management and organizational structure of the Offeror and include 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.
- E. Describe the qualifications of registration staff, Cessation Counselors, and supervisory staff, and the ratio of supervisors to registration staff and Cessation Counselors.
- F. Describe how all staff responding to Quitline calls will be qualified and trained to address issues related to tobacco dependence, including the use of motivational interviewing, proactive tobacco cessation counseling, and pharmacological cessation therapies as those are listed in Section 3 of this document. Describe how staff will be trained when new techniques or methods are identified or protocols evolve.

### **3.10.3 Number of Personnel to Propose**

As part of the Proposal evaluation, Offerors shall propose exactly the number of personnel 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 Key Personnel Identified**

For the Contract, the following positions to be identified in the Technical Proposal will be considered Key Personnel and shall be required to meet the qualifications stated in **Section 3.10**.

- A. Program Manager
- B. Medical Director
- C. Pharmacist

- D. Management and Supervisory staff
- E. Key Personnel for any proposed subcontractor(s), who are to be assigned to the project if the Offeror is awarded the Contract.

### 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 of Contractor Personnel

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

- A. The Contractor shall provide live answering of calls and counseling 24 hours a day staffed seven days per week (exclusion apply - See 2.3.4-C). The Contractor shall record information and provide voicemail for any period outside the Quitline's hours of operation (See 2.3.5).

## 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.

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.
- A. 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.
- B. 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, MDH policies, or Contract requirements. Normally, a directed personnel replacement will occur only after prior notification of problems with requested remediation, as described in paragraph **3.11.4.A.2**.
  - 2) If deemed appropriate in the discretion of the Contract Monitor, the Contract Monitor may give written notice of any Contractor Personnel performance issues to the Contractor, describing the problem and delineating the remediation requirement(s). The Contractor shall provide a written response to the remediation requirements in a Remediation Plan within ten (10) days of the date of the notice and shall immediately implement the Remediation Plan upon written acceptance by the Contract Monitor. If the Contract Monitor rejects the Remediation Plan, the Contractor shall revise and resubmit the plan to the Contract Monitor within five (5) days, or in the timeframe set forth by the Contract Monitor in writing.
  - 3) Should performance issues persist despite an approved Remediation Plan, the Contract Monitor may give written notice of the continuing performance issues and either request a new Remediation Plan within a specified time limit or direct the substitution of Contractor Personnel whose performance is at issue with a qualified substitute, including

- requiring the immediate removal of the Contractor Personnel at issue.
- 4) Replacement or substitution of Contractor Personnel under this section shall be in addition to, and not in lieu of, the State's remedies under the Contract or which otherwise may be available at law or in equity.
  - 5) If the Contract Monitor determines to direct substitution under **3.11.4.A.1**, if at all possible, at least fifteen (15) days advance notice shall be given to the Contractor. However, if the Contract Monitor deems it necessary and in the State's best interests to remove the Contractor Personnel with less than fifteen (15) days' notice, the Contract Monitor may direct the removal in a timeframe of less than fifteen (15) days, including immediate removal.
  - 6) In circumstances of directed removal, the Contractor shall, in accordance with paragraph **3.11.4.A.1** of this section, provide a suitable replacement for approval within fifteen (15) days of the notification of the need for removal, or the actual removal, whichever occurs first.

**B. Key Personnel Replacement**

- 1) To replace any Key Personnel in a circumstance other than as described in **3.11.4.B**, including transfers and promotions, the Contractor shall submit a substitution request as described in **Section 3.11.3** to the Contract Monitor at least fifteen (15) days prior to the intended date of change. A substitution may not occur unless and until the Contract Monitor approves the substitution in writing.
- 2) Key Personnel Replacement Due to Sudden Vacancy
  - a) The Contractor shall replace Key Personnel whenever a sudden vacancy occurs (e.g., Extraordinary Personal Event, death, resignation, termination). A termination or resignation with thirty (30) days or more advance notice shall be treated as a replacement under **Section 3.11.4.B.1**.
  - b) Under any of the circumstances set forth in this paragraph **B**, the Contractor shall identify a suitable replacement and provide the same information and items required under **Section 3.11.3** within fifteen (15) days of the actual vacancy occurrence or from when the Contractor first knew or should have known that the vacancy would be occurring, whichever is earlier.
- 3) Key Personnel Replacement Due to an Indeterminate Absence
  - a) If any Key Personnel has been absent from his/her job for a period of ten (10) days and it is not known or reasonably anticipated that the individual will be returning to work within the next twenty (20) days to fully resume all job duties, before the 25th day of continuous absence, the Contractor shall identify a

suitable replacement and provide the same information and items to the Contract Monitor as required under **Section 3.11.3.**

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

### **3.11.5 Substitution Prior to and Within 30 Days After Contract Execution**

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

### **3.11.6 Replacement Circumstances**

**3.11.6.1 Voluntary Key Personnel Replacement.** To voluntarily replace any Key Personnel, the Contractor shall submit substitution request as described in paragraph 3.10.3 of this section to the Contract Monitor at least fifteen (15) days prior to the intended date of change. Except in a circumstance described in paragraph 3.10.4 (2) of this clause, a substitution may not occur unless and until the Contract Monitor approves the substitution in writing.

**3.11.6.2 Key Personnel Replacement Due to Vacancy.** The Contractor shall replace Key Personnel whenever a vacancy occurs due to the sudden termination, resignation, leave of absence due to an Extraordinary Personal Circumstance, Incapacitating injury, illness or physical condition, or death of such personnel. (A termination or resignation with thirty (30) days or more advance notice shall be treated as a Voluntary Key Personnel Replacement as per Section 3.11.6.1 of this section.)

Under any of the circumstances set forth in this paragraph 3.10.4.2, the Contractor shall identify a suitable replacement and provide the same information or items required under paragraph 3.10.3 of this section within fifteen (15) days of the actual vacancy occurrence or from when the Contractor first knew or should have known that the vacancy would be occurring, whichever is earlier.

### 3.12 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 MDH'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 MDH'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 10<sup>th</sup> of the month following the reporting period to the Contract Monitor and the MDH 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 MDH 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 MDH, 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 120 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.

- A. State Finance and Procurement Article, Md. Code Ann. § 14-414, requires State agencies purchasing computers and other electronic products in categories covered by EPEAT to purchase models rated EPEAT Silver or Gold unless the requirement is waived by the DoIT. This information is located on the DGS web site:  
<http://www.dgs.maryland.gov/Pages/GreenOperations/GreenPurchasing/Guidelines/electronics.aspx>
- B. Guidelines provided by DGS require planning and coordination of the proper disposition of Information Technology equipment. State Finance and Procurement Article, Md. Code Ann. § 14-415, requires State agencies awarding contracts for services to recycle electronic products to award the contract to a recycler that is R2 or e-Stewards certified. This information is located on the DGS web site:  
<http://www.dgs.maryland.gov/Pages/GreenOperations/GreenPurchasing/Guidelines/electronics.aspx>
- C. Guidelines provided by DoIT discuss information and guidance on the proper disposition of IT equipment, media sanitization, and protecting confidential information stored on media. This information is located in the State's Information Technology (IT) Security Policy  
<http://doit.maryland.gov/support/pages/securitypolicies.aspx>. Section 6.5 Media Protection provides guidance on proper precautions to protect confidential information stored on media.

#### **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.

## 4 Procurement Instructions

### 4.1 Pre-Proposal Conference

- 4.1.1 A pre-Proposal conference (Conference) will be held at the date, time, and location indicated on the Key Information Summary Sheet.
- 4.1.2 Attendance at the Conference is not mandatory, but all interested parties are encouraged to attend in order to facilitate better preparation of their Proposals. If the solicitation includes an MBE goal, failure to attend the Conference will be taken into consideration as part of the evaluation of an offeror's good faith efforts if there is a waiver request.
- 4.1.3 It is highly recommended that ALL Prime Contractors bring their intended subcontractors to the Conference/Site Visit to ensure that all parties understand the requirements of the contract and the MBE Goal.
- 4.1.4 MBE subcontractors are encouraged to attend the Conference to market their participation to potential prime contractors.
- 4.1.5 Following the Conference, the attendance record and summary of the Conference will be distributed via the same mechanism described for amendments and questions (see **Section 4.2.1 eMMA**).

### 4.2 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 [emma.maryland.gov](http://emma.maryland.gov), click on "New Vendor? Register Now" 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 a 24-00033- Maryland Tobacco Quitline, and shall be submitted in writing via e-mail to the Procurement Officer select the appropriate phrase: at least five (5) days prior to the Proposal due date. The Procurement Officer, based on the availability of time to research and communicate an answer, shall decide whether an answer can be given before the Proposal due date.
- 4.3.2 Answers to all questions that are not clearly specific only to the requestor will be distributed via the same mechanism as for RFP amendments and posted on eMMA.
- 4.3.3 The statements and interpretations contained in responses to any questions, whether responded to verbally or in writing, are not binding on the MDH unless it issues an amendment in writing.

#### 4.4 Procurement Method

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

#### 4.5 Proposal Due (Closing) Date and Time

- 4.5.1 Proposals, in the number and form set forth in **Section 5 Proposal Format**, must be received by the Procurement Officer no later than the Proposal due date and time indicated on the Key Information Summary Sheet in order to be considered.
- 4.5.2 Requests for extension of this date or time shall not be granted.
- 4.5.3 Offerors submitting Proposals should allow sufficient delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02.F and 21.05.02.10, Proposals received after the due date and time listed in the Key Information Summary Sheet will not be considered.
- 4.5.4 The date and time of an e-mail submission is determined by the date and time of arrival in the e-mail address indicated on the Key Information Summary Sheet.
- 4.5.5 Proposals may be modified or withdrawn by written notice received by the Procurement Officer before the time and date set forth in the Key Information Summary Sheet for receipt of Proposals.
- 4.5.6 Proposals may not be submitted by e-mail Proposals will not be opened publicly.
- 4.5.7 Potential Offerors not responding to this solicitation are requested to submit the “Notice to Vendors” form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements).

#### 4.6 Multiple or Alternate Proposals

Multiple or alternate Proposals will not be accepted.

#### 4.7 Economy of Preparation

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

#### 4.8 Public Information Act Notice

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

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

## 4.9 Award Basis

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

## 4.10 Oral Presentation

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

## 4.11 Duration of Proposal

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

## 4.12 Revisions to the RFP

- 4.12.1** If the RFP is revised before the due date for Proposals, the **MDH** 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 identified and resolved before the submission of a Proposal. Any Proposals containing exceptions shall be deemed nonresponsive.

#### **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](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 MDH 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 to:
    - 1) Submit 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 through eMMA, 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 or other electronic means if authorized by the Procurement Officer or Contract Monitor.

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

- A. Submission of initial Proposals, except through eMMA
- B. Submission of documents determined by the MDH to require original signatures (e.g., Contract execution, Contract modifications); or
- C. Any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Offeror be provided in writing or hard copy.

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

## 4.26 MBE Participation Goal

### 4.26.1 Establishment of Goal and Subgoals

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

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

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

**An Offeror that does not commit to meeting the entire MBE participation goal outlined in this Section 4.26 implies that it is requesting a full or partial waiver for the remainder of the MBE goal or subgoals as applicable and, if recommended for award, shall submit documentation supporting its good faith efforts 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 may result in the State's rejection of the Offeror's Proposal.**

### 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 Functional Area for which it is submitting a proposal.**

***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, unless the inaccuracy is determined to be the result of a minor irregularity that is waived or cured in accordance with COMAR 21.06.02.04.***

- 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 or implied to request 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. A certified Veteran-Owned Small Business Enterprises (VSBE) must be verified by the State Department of Veterans Affairs or US Department of Veteran's Affairs [Vets First Verification Program](#) (VetBiz) and registered as a VSBE on the State's eProcurement platform, eMaryland Marketplace Advantage (eMMA). The listing of VSBEs is available through the "Vendor Search" on [eMMA](#).

### 4.27.2 VSBE Goal

- A. A VSBE participation goal of **1%** 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 for which it is submitting a proposal.**

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.

- C. 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.
- D. 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 Maryland Department of Labor 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 website <http://www.dlir.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 or a change in the State minimum wage.

#### 4.29 Federal Funding Acknowledgement

- 4.29.1** There are programmatic conditions that apply to the Contract due to federal funding (see **Attachment G**).
- 4.29.2** The total amount of federal funds allocated for MDH is federal funds amount \$1,592,540) of the \$10,696,120 total in Maryland State fiscal year FY23-FY 27 This represents by the total of the unit's budget 14.88% of all funds budgeted for the unit in that fiscal year. This does not necessarily represent the amount of funding available for any particular grant, contract, or solicitation.
- 4.29.3** The Contract contains federal funds. The source of these federal funds is: CDC. The CFDA number is: 93.387. The conditions that apply to all federal funds awarded by the Department of Health 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 OR individual Task Orders issued under the Contract. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08.
- 4.30.4** Participation in Drafting of Specifications: Disqualifying Event: Offerors are advised that Md. Code Ann. State Finance and Procurement Article §13-212.1(a) provides generally that “an individual who assists an executive unit in the drafting of specifications, an invitation for bids, a request for proposals for a procurement, or the selection or award made in response to an invitation for bids or a request for proposals, or a person that employs the individual, may not: (1) submit a bid or proposal for that procurement; or (2) assist or represent another person, directly or indirectly, who is submitting a bid or proposal for that procurement.” Any Offeror submitting a Proposal in violation of this provision shall be classified as “not responsible.” See COMAR 21.05.03.03.

### **4.31 Non-Disclosure Agreement**

#### **4.31.1 Non-Disclosure Agreement (Offeror)**

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

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 MDH that the functions to be performed in accordance with this solicitation constitute Business Associate functions as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the recommended awardee shall execute a Business Associate Agreement as required by HIPAA regulations at 45 C.F.R. §164.500 *et seq.* and set forth in **Attachment J**. This Agreement must be provided within five (5) Business Days of notification of proposed Contract award. However, to expedite processing, it is suggested that this document be completed and submitted with the Proposal. Should the Business Associate Agreement not be submitted upon expiration of the five (5) Business Day period as required by this solicitation, the Procurement Officer, upon review of the Office of the Attorney General and approval of the Secretary, may withdraw the recommendation for award and make the award to the responsible Offeror with the next highest overall-ranked Proposal.

### **4.33 Nonvisual Access**

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

The bidder or offeror warrants that the information technology offered under this bid or proposal (1) provides equivalent access for effective use by both visual and nonvisual means consistent with the standards of § 508 of the federal Rehabilitation Act of 1973 and Code of Maryland Regulations 14.33.02; (2) provides an individual with disabilities with nonvisual access in a way that is fully and equally accessible to and independently usable by the

individual with disabilities so that the individual is able to acquire the same information, engage in the same interactions, and enjoy the same services as users without disabilities, with substantially equivalent ease of use; (3) will present information, including prompts used for interactive communications, in formats intended for both visual and nonvisual use; (4) 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 (5) is available, whenever possible, without modification for compatibility with software and hardware for nonvisual access. The bidder or offeror further warrants that the cost, if any, of modifying the information technology for compatibility with software and hardware used for nonvisual access will not increase the cost of the information technology by more than 15 percent.

If the information technology procured under this solicitation does not meet the nonvisual access standards set forth in the Code of Maryland Regulations 14.33.02, the State will notify the bidder or offeror in writing that the bidder or offeror, at its own expense, has 12 months after the date of the notification to modify the information technology in order to meet the nonvisual access standards. If the bidder or offeror fails to modify the information technology to meet the nonvisual access standards within 12 months after the date of the notification, the bidder or offeror may be subject to a civil penalty of a fine not exceeding \$5,000 for a first offense, and a fine not exceeding \$10,000 for a subsequent offense.

The bidder or offeror shall indemnify the State for liability resulting from the use of information technology that does not meet the applicable nonvisual access standards.

For purposes of this regulation, the phrase 'equivalent access' means the ability to receive, use, and manipulate information and operate controls necessary to access and use information technology by nonvisual 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.

Services under this Contract must be performed in the United States.

#### **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 Bonds**

This solicitation does not require any type of surety bond.

#### **4.39 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 (or envelopes):

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

### 5.2 Proposal Delivery and Packaging

- 5.2.1** Proposals delivered by **facsimile** and e-mail shall not be considered. All proposals must be submitted to EMMA. Any questions may be referred to [MDH.solicitationquestions@maryland.gov](mailto:MDH.solicitationquestions@maryland.gov).
- 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.
- 5.2.4** The Procurement Officer must receive all electronic Proposal material by the RPF 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.
- 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**).

### 5.3 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) Description of technical risk of migrating from the existing system.
- 11) Non-Compete Clause Prohibition:

The MDH 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 3.10.4 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.

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 MDH. 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 3.10.2**. Specifically, the Offeror shall:

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

**G. 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.

H. 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.

MDH 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.

I. 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.

J. 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.

**K. 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.

**L. 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.

**M. 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.

**N. 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.
  - O. 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 MDH.

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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 MDH 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.

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 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 TAB E) RFP § 5.3.2.F)

- a. To what extent does the proposed work plan succeed in meeting CTPC's goals of reducing tobacco prevalence, providing tobacco treatment, and meeting the requirements and time frames of the RFP?
- b. To what extent does the process of monitoring Contract deliverables meet the expectations of CTPC?
- c. To what extent does the samples of materials, phone, text, web based and counseling services provided meet the requirements of the RFP?
- d. To what extent does the Performance Measure Guarantee meet the requirements of the RFP?

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

- a. To what extent does the Offeror provide in terms of proof of experience and longevity with the organization and Quitline operations,
- b. To what extent does the Offeror provide resumes of all Key Personnel and to what extent are their qualifications?
- c. To what extent does the Offeror provide history of outstanding customer service?
- d. What is the level of documentation is provided on organizational structure?

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

- a. What is the depth of experience with multiple states, commercial clients, specific populations, Quitline infrastructure, research and evaluation?
- b. What is the level of information provided on the data on tobacco quit rates, as defined by NAQC, based on a similar state Quitline?
- c. What is the depth of the evidence that supports all of the protocols for specific populations?
- d. To what extent are the systems provided to assure that calls, text and web-based interventions are initiated and completed according to Offeror's protocols?
- e. To what extent is the system for pharmacotherapy management including mail order, provision of pharmacotherapy and is the time of delivery adequate?
- f. What documents are provided tobacco industry conflict of interest and for fiscal and legal integrity?

#### **6.2.4 Offeror Corporate Qualifications and Capabilities: Business and System**

- a. What is the depth of the Offeror's technology handling multiple, simultaneous incoming and outgoing calls with multi-lingual capabilities and with a fax line?
- b. What is the level of technology proposed to meet the robust and effective text and web-based interventions needed?
- c. What is the level of precautions provided to ensure program files and programs can be re-created and if the Offeror guarantees the services provided?
- d. To what extent are systems in place that ensure confidentiality and other specific measures for other protected health information under PIPAA, MCMRA, and other applicable by-laws or regulations?
- e. What is the level of the Offeror's description of its ability to provide full services for 24 hours per day, 7 days a week?
- f. To what extent does the Offeror describe its ability provide all of the data elements as required?
- g. What is the ability of the Offeror to provide all of the reports required in Attachment Q?

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

- a. How many Contact dollars are to be recycled into Maryland's economy?
- b. How many and what types of jobs for Maryland residents will result?
- c. How much tax revenue, etc.?

**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:

The Maryland resident business is a responsible Offeror;

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

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

R. 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 **greater** weight with than 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 eMMA submissions, submit one (1) copy of each with signatures.

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 <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf</a> )
Y	With Proposal	D	MBE Forms D-1A (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf</a> ) <b>IMPORTANT:</b> 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 <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf</a> ) <b>Important:</b> Attachment D-1C, if a waiver has been requested, is also required within 10 days of recommended award.

Applies?	When to Submit	Label	Attachment Name
N	As directed in forms	D	MBE Forms D-4A, D-4B, D-5 (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf</a> )
Y	With Proposal	E	Veteran-Owned Small Business Enterprise (VSBE) Form E-1A (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf</a> )  <b>IMPORTANT:</b> 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.
N	5 Business Days after recommended award	E	VSBE Forms E-1B, E-2, E-3 (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf</a> )  <b>Important:</b> 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 <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf</a> )
N	With Proposal	G	Federal Funds Attachments (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentG-FederalFundsAttachment.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentG-FederalFundsAttachment.pdf</a> )
Y	With Proposal	H	Conflict of Interest Affidavit and Disclosure (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf</a> )

Y	5 Business Days after recommended award – However, suggested with Proposal	I	Non-Disclosure Agreement (Contractor) (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-I-Non-DisclosureAgreementContractor.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-I-Non-DisclosureAgreementContractor.pdf</a> )
N	5 Business Days after recommended award – However, suggested with Proposal	J	HIPAA Business Associate Agreement (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-J-HIPAABusinessAssociateAgreement.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-J-HIPAABusinessAssociateAgreement.pdf</a> )
N	With Proposal	K	Mercury Affidavit (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-K-MercuryAffidavit.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-K-MercuryAffidavit.pdf</a> )
N	With Proposal	L	Location of the Performance of Services Disclosure (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-L-PerformanceofServicesDisclosure.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-L-PerformanceofServicesDisclosure.pdf</a> )
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 <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-N-ContractAffidavit.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-N-ContractAffidavit.pdf</a> )
Y	5 Business Days after recommended award	O	DHS Hiring Agreement (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-O-DHSHiringAgreement.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-O-DHSHiringAgreement.pdf</a> )
Y	With Technical Proposal	P	Conflict of Interest Affidavit: Services Performed for Tobacco Industry since November 1998
Y	With Technical Proposal	Q	Maryland Tobacco Quitline Reporting Requirements
Y	With Proposal	R	Maryland Tobacco Quitline Logo
Y	To be reviewed and used by applicant to draft proposal	S	Transition Plan
Y	To be reviewed and response provided in line with evaluation criteria	T	Corporate Diversity Addendum

**Appendices**

Applies?	When to Submit	Label	Attachment Name
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Y	n/a	1	Abbreviations and Definitions (included in this RFP)
Y	With Proposal	2	Offeror Information Sheet (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf</a> )
Y	Before Proposal, as directed in the RFP.	3	Non-Disclosure Agreement (Offeror) (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-3-Non-Disclosure-Agreement-Offeror-1.dotx">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-3-Non-Disclosure-Agreement-Offeror-1.dotx</a> )
N	n/a		Labor Categories (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-x-Labor-Categories.dotx">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-x-Labor-Categories.dotx</a> )
Y	With Proposal		Labor Resume Form (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-xx-Labor-Resume-Form.dotx">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-xx-Labor-Resume-Form.dotx</a> )
Y	5 Business Days after recommended award		Performance Bond (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-z-Performance-Bond.dotx">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-z-Performance-Bond.dotx</a> )
Y	5 Business Days after recommended award		Payment Bond (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-yy-Payment-Bond.dotx">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-yy-Payment-Bond.dotx</a> )
Y	With Proposal		Proposal Bond (see link at <a href="http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-y-Bid_Proposal-Bond.dotx">http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/Appendix-y-Bid_Proposal-Bond.dotx</a> )
Additional Submissions			
Applies?	When to Submit	Label	Document Name
Y	5 Business Days after recommended award		Evidence of meeting insurance requirements (see <b>Section 3.6</b> ); 1 copy
Y	10 Business Days after recommended award		PEP; 1 copy
Y	10 Business Days after recommended award		Fully executed Escrow Agreement; 1 copy

Y	With deliverables	--	Deliverable Product Acceptance Form (DPAF) (see online at <a href="http://doit.maryland.gov/contracts/Documents/_procurementForms/DeliverableProductAcceptanceForm-DPAFsample.pdf">http://doit.maryland.gov/contracts/Documents/_procurementForms/DeliverableProductAcceptanceForm-DPAFsample.pdf</a> )
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**Attachment A. Pre-Proposal Conference Response Form**

**Solicitation Number 24-00033**

The Maryland Tobacco Quitline

A Pre-Proposal conference will be held on October 4, 2022 at 1:00 PM, via google meets.

Please return this form by September 30, 2022, advising whether or not your firm plans to attend. The completed form should be returned via e-mail or fax to the Procurement Officer at the contact information below:

Afua Tisdale  
Maryland Department of Health  
E-mail: [MDH.solicitationquestions@maryland.gov](mailto:MDH.solicitationquestions@maryland.gov)

Please indicate:

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

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

Offeror: \_\_\_\_\_  
*Offeror Name (please print or type)*

By: \_\_\_\_\_  
*Signature/Seal*

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

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

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

## Attachment B. Financial Proposal Instructions & Form

### B-1 Financial Proposal Instructions

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

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

- A) All Unit and Extended Prices must be clearly entered in dollars and cents, e.g., \$24.15. Make your decimal points clear and distinct.
- B) All Unit Prices must be the actual price per unit the State will pay for the specific item or service identified in this RFP and may not be contingent on any other factor or condition in any manner.
- C) All calculations shall be rounded to the nearest cent, e.g., .344 shall be .34 and .345 shall be .35.
- D) Any goods or services required through this RFP and proposed by the vendor at **No Cost to the State** must be clearly entered in the Unit Price, if appropriate, and Extended Price with **\$0.00**.
- E) Every blank in every Financial Proposal Form shall be filled in. Any changes or corrections made to the Financial Proposal Form by the Offeror prior to submission shall be initialed and dated.
- F) Except as instructed on the Financial Proposal Form, nothing shall be entered on or attached to the Financial Proposal Form that alters or proposes conditions or contingencies on the prices. Alterations and/or conditions may render the Proposal not reasonably susceptible of being selected for award.
- G) It is imperative that the prices included on the Financial Proposal Form have been entered correctly and calculated accurately by the Offeror and that the respective total prices agree with the entries on the Financial Proposal Form. Any incorrect entries or inaccurate calculations by the Offeror. Could not will be treated as provided in COMAR 21.05.03.03.F, and may cause the Proposal to be rejected.
- H) If option years are included, Offerors must submit pricing for each option year. Any option to renew will be exercised at the sole discretion of the State and comply with all terms and conditions in force at the time the option is exercised. If exercised, the option period shall be for a period identified in the RFP at the prices entered in the Financial Proposal Form.
- I) All Financial Proposal prices entered below are to be fully loaded prices that include all costs/expenses associated with the provision of services as required by the RFP. The Financial Proposal price shall include, but is not limited to, all: labor, profit/overhead, general operating, administrative, and all other expenses and costs necessary to perform the work set forth in the solicitation. No other amounts will be paid to the Contractor. If labor rates are requested, those amounts shall be fully-loaded rates; no overtime amounts will be paid.
- J) Unless indicated elsewhere in the RFP, sample amounts used for calculations on the Financial Proposal Form are typically estimates for evaluation purposes only. Unless stated otherwise in the RFP, the MDH does not guarantee a minimum or maximum number of units or usage in the performance of the Contract.



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

### **B-1 Financial Proposal Form**

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

**Attachment C. Proposal Affidavit**

See link at [http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid\\_Proposal-Affidavit.pdf](http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf).

**Attachment D. Minority Business Enterprise (MBE) Forms**

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

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 5% percent and all of the following subgoals:

- \_\_\_\_\_ percent for African American-owned MBE firms;
- \_\_\_\_\_ percent for Hispanic American-owned MBE firms;
- \_\_\_\_\_ percent for Asian American-owned MBE firms;
- \_\_\_\_\_ percent for Women-owned MBE firms.

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

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

This solicitation includes a VSBE participation goal of \_\_1\_\_%

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

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

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

- F. The Commissioner shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.
- G. A Contractor/subcontractor who reduces the wages paid to an employee based on the employer's share of the health insurance premium, as provided in Md. Code Ann., State Finance and Procurement Article, §18-103(c), shall not lower an employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413. A Contractor/subcontractor who reduces the wages paid to an employee based on the employer's share of health insurance premium shall comply with any record reporting requirements established by the Commissioner.
- H. A Contractor/subcontractor may reduce the wage rates paid under Md. Code Ann., State Finance and Procurement Article, §18-103(a), by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Contractor/subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413.
- I. Under Md. Code Ann., State Finance and Procurement Article, Title 18, if the Commissioner determines that the Contractor/subcontractor violated a provision of this title or regulations of the Commissioner, the Contractor/subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of \$20 per day for each employee paid less than the Living Wage.
- J. Information pertaining to reporting obligations may be found by going to the Division of Labor and Industry website <http://www.dllr.state.md.us/labor/prev/livingwage.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 <https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.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**

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

**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)

“The Maryland Tobacco Quitline”

24-00033

THIS CONTRACT (the “Contract”) is made this \_\_\_ day of \_\_\_\_\_, 20\_\_\_ by and between \_\_\_\_\_ (the “Contractor”) and the STATE OF MARYLAND, acting through the MARYLAND (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 [pick one: Financial Proposal or Best and Final Offer (BAFO)] dated \_\_\_\_\_ (Financial Proposal date or BAFO 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 The Maryland Tobacco Quitline, solicitation Title, Solicitation # 24-00033, 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 MDH following any required prior approvals, including approval by the Board of Public Works, if such approval is required (the "Effective Date") and shall continue until \_\_\_\_\_ ("Initial Term").
- 3.2 In its sole discretion, the MDH shall have the unilateral right to extend the Contract for <<enter the number of periods , successive <<enter the length of the period>> - <<select either year(s), month(s), or day(s)>> 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 MDH shall pay the Contractor in accordance with the terms of this Contract and at the prices quoted in the Financial Proposal. Unless properly modified (see above Section 2), payment to the Contractor pursuant to this Contract, including the Initial Term and any Renewal Term, shall not exceed the Contracted amount.

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

- 4.2 Unless a payment is unauthorized, deferred, delayed, or set-off under COMAR 21.02.07, payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the MDH'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 MDH 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 MDH 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 MDH or licensed by the MDH from third parties, including all information provided by the MDH 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 MDH 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 MDH 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 MDH's consent, any restrictive markings upon any Deliverables that are owned by the State, and if such markings are affixed, the MDH 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, fails to provide any required annual and renewable bond 30 days prior to expiration of the current bond then in effect, 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, \$200,000 or more, shall within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$200,000, 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](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 MDH 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 MDH's election. The MDH 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 MDH 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 not exceed two (2) times the total value of the Contract or \$1,000,000, whichever is greater. The above limitation of liability is per incident.

[[OR]]

- (c) For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract and regardless of the basis on which the claim is made, Contractor's liability shall be unlimited.
- (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 10 ("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 10 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 10.

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

## 30. Commercial Nondiscrimination

30.1 As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry, national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual's refusal to submit to a genetic test or make available the results of a genetic test or on the basis of disability, or otherwise unlawful forms of discrimination in the solicitation, selection, hiring, or commercial

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

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

### 31. Prompt Pay Requirements

- 31.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the **MDH**, 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 **MDH** 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 MDH and the Contractor in any other proceeding; or
  - (c) Result in liability against or prejudice the rights of the MDH
- 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 MDH 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 MDH determines that the Contractor is not in compliance with certified MBE participation goals, then the MDH 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 MDH determines that the Contractor is in material noncompliance with MBE Contract provisions and refuses or fails to take the corrective action that the MDH requires, then the MDH 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 MDH may withhold payment of any invoice or retainage. The MDH 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 MDH 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 MDH 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 MDH 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:

**Contract Monitor**

**Sara Wolfe**

**201 West Preston Street, Baltimore, MD 21201**

**E-Mail: sara.wolfe@maryland.gov**

With a copy to:

**Jim Beauchamp**

**Office of Contract Management and Procurement**

**201 West Preston Street, Baltimore, Maryland 21201**

**E-Mail: mdh.solicitationquestions@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 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 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: \$<<insert appropriate rate following calculation instructions from GOSBA>> per day until the undisputed amount due to the MBE subcontractor is paid.

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

#### 40. Parent Company Guarantee (If applicable)

(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 MDH 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**

The Contractor agrees to keep information obtained in the course of this Contract confidential in compliance with \_\_\_\_\_. The Contractor agrees further to comply with any applicable State and federal confidentiality requirements regarding collection, maintenance, and use of health, personally identifiable, and financial information. This includes, where appropriate, the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. §§ 1320d et seq., and implementing regulations at 45 C.F.R. Parts 160 and 164, and the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§ 4-301 et seq. This obligation includes providing training and information to employees regarding confidentiality obligations as to health, personally identifiable, and financial information and securing acknowledgement of these obligations from employees to be involved in the Contract. This obligation further includes restricting use and disclosure of the records, generally providing safeguards against misuse of information, keeping a record of any disclosures of information, providing all necessary procedural and legal protection for any disclosures of information, promptly responding to any requests by the MDH for information about its privacy practices in general or with respect to a particular individual, modifying information as may be required by good professional practice as authorized by law, and otherwise providing good information management practices regarding all health, personally identifiable, and financial information.

- 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 MDH 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 MDH.
- 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.

- 42.1 The Contractor acknowledges its duty to become familiar with and comply, to the extent applicable, with all requirements of the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. § 1320d et seq., and implementing regulations including 45 C.F.R. Parts 160 and 164. The Contractor also agrees to comply with the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§ 4-301 et seq. This obligation includes:
- (a) As necessary, adhering to the privacy and security requirements for protected health information and medical records under HIPAA and MCMRA and making the transmission of all electronic information compatible with the HIPAA requirements;
  - (b) Providing training and information to employees regarding confidentiality obligations as to health and financial information and securing acknowledgement of these obligations from employees to be involved in the Contract; and
  - (c) Otherwise providing good information management practices regarding all health information and medical records.
- 42.2 Based on the determination by the MDH that the functions to be performed in accordance with the scope of work set forth in the solicitation constitute business associate functions as defined in HIPAA, the selected Offeror shall execute a business associate agreement as required by HIPAA regulations at 45 C.F.R. 164.504 and in the form as required by the MDH.
- 42.3 “Protected Health Information” as defined in the HIPAA regulations at 45 C.F.R. 160.103 and 164.501, means information transmitted as defined in the regulations, that is individually identifiable; that is created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and that is related to the past, present, or future physical or mental health or condition of an individual, to the provision of healthcare to an individual, or to the past, present, or future payment for the provision of healthcare to an individual. The definition excludes certain education records as well as employment records held by a covered entity in its role as employer.

### **43. 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.

### **45. Maryland’s Green Purchasing Reporting Requirements**

The State of Maryland reserves the right to request from the Contractor quarterly sales data over the life of this contract. This information must include details about the recycled content, third-party sustainability certifications, and other environmental attributes of products and services sold on this price agreement per the contract specifications.

This information will enable Maryland State agencies to comply with Article §14–405 of the Annotated Code of Maryland and COMAR 21.13.01.14, effective October 1, 2014, which requires Maryland state agencies to report to the Department of General Services on their procurement of environmentally preferable products and services.

To facilitate consistent reporting on targeted contracts, the Contractor will be provided with a VENDOR GREEN SALES REPORT template by the Maryland Department of General Services.

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  
ISSUINGAGENCYNAME MDH-Office of  
Contract Management and Procurement

By:

By: Name and title of department head,

Date

PARENT COMPANY (GUARANTOR) (if  
applicable)

By:

\_\_\_\_\_

\_\_\_\_\_

By:

Date

\_\_\_\_\_

Date

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

\_\_\_\_\_

Assistant Attorney General

APPROVED BY BPW: \_\_\_\_\_

(Date)

(BPW Item #)



**Attachment N. Contract Affidavit**

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

**Attachment O. DHS Hiring Agreement**

See link at [Attachment O – DHS Hiring Agreement \(maryland.gov\)](#)

**ATTACHMENT P – CONFLICT OF INTEREST AFFIDAVIT: SERVICES  
PERFORMED FOR TOBACCO INDUSTRY SINCE NOVEMBER 1998**

**A. AUTHORIZED REPRESENTATIVE**

I HEREBY AFFIRM THAT:

I am the [title]\_\_\_\_\_ and the duly authorized representative of [name of business]

\_\_\_\_\_ and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

**B. AFFIRMATION THAT NO PRIOR SERVICES HAVE BEEN PERFORMED FOR OR ON BEHALF OF THE TOBACCO INDUSTRY OR RELATED ENTITIES SINCE NOVEMBER 1998**

BY CHECKING THIS BOX  I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101 (b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, or any of its employees has performed services directly or indirectly, for or on behalf of a tobacco product manufacturer, distributor, wholesaler, marketer, or any other entity which is part of the tobacco industry or related thereto since November 1998

**C. AFFIRMATION THAT SOME PRIOR SERVICES MAY HAVE BEEN PERFORMED FOR OR ON BEHALF OF THE TOBACCO INDUSTRY OR RELATED ENTITIES SINCE NOVEMBER 1998**

BY CHECKING THIS BOX  I ACKNOWLEDGE THAT I AM UNABLE TO MAKE THE AFFIRMATION SET FORTH IN "B" ABOVE, AND IN ITS' PLACE, I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101 (b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, or any of its employees may have performed services in the past, either directly or indirectly, for or on behalf of a tobacco product manufacturer, distributor, wholesaler, marketer, or any other entity which is part of the tobacco industry or related thereto since November 1998

To the best of my knowledge, information, and belief, and after due diligence in attempting to ascertain such knowledge and information, the listing of services performed for past and current tobacco industry or related entities which I have attached to this affidavit and make a part hereof by reference, constitutes the complete record of such services. I understand that this listing shall include for each instance of service, the following information: (1) dates services performed; (2) name of entity or person for which services were performed; (3) descriptive name of project or service provided; (4) brief description of services provided; (5) names of key personnel involved

in delivering services; and (6) total remuneration received for providing such services. If ongoing services were provided as opposed to discrete projects, each calendar year during which such services were provided shall be treated as distinct projects. When any item of information is lacking, I understand that I shall so state in the listing and describe what attempts were made to find the missing information.

**D. AFFIRMATION THAT NO SERVICES WILL BE PERFORMED FOR THE TOBACCO INDUSTRY OR RELATED ENTITIES DURING THE TERM OF CONTRACT AWARD**

I FURTHER AFFIRM THAT:

Absent the express written consent of the Maryland Department of Health and Mental Hygiene, neither I, the above business (as is defined in Section 16-101 (b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, or any of its employees will perform services either directly or indirectly for or on behalf of the tobacco industry or related entities during the term of any contract awarded as a result of this RFP or any extensions or renewals thereof.

**E. ACKNOWLEDGMENT**

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

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

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

**ATTACHMENT Q – MARYLAND TOBACCO QUITLINE REPORTING REQUIREMENTS**

All reports shall be submitted electronically in PDF version and shall include participants who engage via phone, web, and text. Reporting is subject to approval of the Contract Monitor, with a focus on sufficiency and succinctness.

**A. WEEKLY REPORTS:** Provide a weekly report that captures these elements due to Contract Monitor by the Wednesday following the current week.

1. Participant by type (tobacco user, proxy and provider) by Day of week
2. “How heard about” responses with customization based upon particular state promotional efforts
3. Services offered

**B. MONTHLY REPORTS:** Provide a monthly report that captures, at a minimum, these elements for current month and contract year-to-date due to Contract Monitor by the 15<sup>th</sup> of the following month.

1. Total incoming calls
2. Live response rate
3. Average speed of answer
4. Messages left
5. Number of participants registered for services by type of participant (tobacco user, proxy and provider)
6. First time participants vs. Repeat participants
7. Other calls (calls not resulting in registered client): general public/info, prank, wrong number, etc.
8. Tobacco users by stage of readiness to quit
9. Tobacco users by type of tobacco
10. Pregnancy status (pregnant, post-partum, breastfeeding, planning pregnancy)
11. Tobacco users by race
12. Tobacco users by ethnicity
13. Tobacco users by gender
14. Tobacco users by age
15. Tobacco users by education
16. Tobacco users by language
17. “How heard about” responses with customization based upon particular state promotional efforts
18. Registrations by county
19. Participant type by county
20. How heard about by county
21. Participants by health plan
22. Participants by mental and or behavioral health conditions
23. Participants by chronic diseases
24. Participants by ENDS (Electronic Nicotine Delivery System) use (including reasons for use and desire to quit)
25. Participants by pregnancy status, pregnancy program enrollment, and pregnancy incentives
26. Fax Referrals and services provided
27. Electronic Referrals and services provided
28. Text messaging utilization (number of participants, number of texts sent and received, assessment of engagement)
29. Referrals to community resources
30. Up to 3 custom questions per year as requested by Contract Monitor
31. Provider advice to quit (may be collected periodically)

32. Smoking policy in home (may be collected periodically)
33. Total services provided in current month (current month's enrollments)
34. Services provided to providers in current month
35. Services provided to proxy participants in current month
36. Services provided to clients during month, regardless of registration date
  - a. Single call intervention: registered, completed, attempt letter, materials only
  - b. Multiple call intervention: registered, completed 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> calls, etc. attempt letter, ad-hoc calls)
  - c. Web-based interventions
  - d. Text-based interventions
  - e. Pharmacology sent out
  - f. Materials (aka "quit kits") sent to Participants (number by type)

**C. QUARTERLY REPORTS:** Provide a report that captures these elements for current quarter and contract year-to-date due to Contract Monitor by the 15<sup>th</sup> of the following month after the end of the quarter.

1. Performance measures as described in Section 3.2.5.2
2. Race by county
3. Gender by county
4. Ethnicity by county
5. Participant type by county
6. Income [utilizing BRFSS (Behavioral Risk Factor Surveillance System) income ranges]
7. Insurance status
8. Health Plan
9. Employment status -Note: employer name must be included in client database, but not reported in monthly or quarterly reports

**D. ANNUAL REPORTS AND QUIT AND SATISFACTION EVALUATION:**

1. Provide an annual report that provides highlights for the state fiscal year due to Contract Monitor by the 15<sup>th</sup> of the following month after the end of the fiscal year. The final contract report shall be provided 15 days before contract ends. The report shall be delivered in a pdf version as well as a power point presentation highlighting key achievements for performance as well as key demographics served, utilization of services, and trends in call volume throughout the fiscal year. This report shall also include any recommendations for increase services and/or additional utilization recommendations.

2. Provide an annual evaluation due to Contract Monitor by the 15<sup>th</sup> of the following month after the end of the fiscal year. The final contract report shall be provided 15 days before contract ends. The evaluation shall be completed using NAQC approved MDS follow-up survey, and Contract Monitor approved evaluation plan to determine participant satisfaction, calculated seven-month quit rates, and bivariate analysis to determine correlations between participant characteristics, satisfaction and quit rates. The seven-month quit rates shall be calculated using both intent-to-treat and respondent methodologies.

ATTACHMENT R – MARYLAND TOBACCO QUITLINE LOGO



**ATTACHMENT S – TRANSITION PLAN**

This transition plan shall be enacted upon Contract Commencement and fully implemented within 30 days of Contract Commencement. The Offeror shall provide a detailed description and timeline as part of the proposal of how and when the transition plan will be implemented in order to avoid interruption or delay to service provision. This should include specific descriptions of each component of Quitline services to be transferred. The Contractor shall ensure smooth, seamless, and timely transition of all Participant data, Quitline utilization data, online trainings, pregnancy incentive program, and all other current components of Quitline Services listed in attachment S.

Contract Deliverables:

1. Provide written protocols for managing the needs of each caller in an expeditious and cost-efficient manner, including prompt enrollment in services for tobacco users ready to quit in the next 30 days.
2. Establish a systematic, evidence-based and research-based protocol for delivering Quitline services that offer coaching, support, problem solving, quit plan development, information and interventions to tobacco users reporting readiness to develop a quit plan and abstain from tobacco use within the next 30 days, that will be implemented by Quitline staff.
3. Develop and implement a systematic, evidence-based, and research-based protocol for delivering tobacco use relapse prevention service that will be implemented by Quitline staff.
4. Develop voicemail, recorded messages and tips, and messages for managing, triaging, and servicing calls during hours when the Quitline is experiencing high call volume that will be implemented and managed.
5. Develop a screening system to assess eligibility to receive Nicotine Replacement Therapy (NRT) that will be implemented and managed.
6. Transition current components and develop a system for providing technical assistance to medical professionals, employers, and health plans on how to promote and use Quitline services including electronic referrals, telephonic services, and on-line resources that will be maintained.
7. Develop and implement a Quitline referral system (both fax and electronic), including a protocol to make contact with at least 80% of all referred individuals who provide valid working telephone numbers.
8. The Contractor will be prepared to receive and store cessation medication in a secure/locked facility that maintains all manufacturer requirements, including for temperature and humidity.
9. Establish a protocol for projecting cessation medication needs ordering product, and maintaining sufficient supply based on anticipated Participant needs.
10. Transfer domains for all existing provider trainings and webinars.
11. Transfer all Participant data, including demographic data, service utilization, NRT provision, and pregnancy incentive program.



12. Identify and hire staff with the appropriate competencies to implement the full range of services for which they are applying.
13. Establish dues paying membership in the North American Quitline Consortium, which will be maintained over the life of the Contract.
14. Establish and then maintain the toll-free 1-800-QUIT NOW (1-800-784-8669) phone number, offer telephonic services in English and Spanish with other language translation services available.
15. Establish and then maintain the following call center hours of operation: 24 hours a day, 7 days a week (See section 3.2.4.1). The Department reserves the right to change the Quitline hours based upon demand for services due to the media campaign. The Contractor will provide the modified Quitline hours as requested by Contract Monitor. There is no additional reimbursement in addition to the price paid for per call for the changes.
16. Establish a data management system (s) to assure compilation of collected information, as outlined above for Quitline services.

**ATTACHMENT T – CORPORATE DIVERSITY ADDENDUM**

Effective August 18, 2022

**Instructions:** Pursuant to § 11-101 of the Tax-Property Article, certain entities must provide a Corporate Diversity Addendum, which contains certain diversity data specified by Code of Maryland Regulation (“COMAR”) 24.01.07. To determine whether you must provide the Corporate Diversity Addendum, please complete Worksheet A.

Failure to complete the Addendum or failure to meet the criteria therein, may prohibit you from receiving certain State benefits. For more information, refer to COMAR 24.01.07.

Please be aware, the information you include in the Corporate Diversity Addendum may be shared with other Maryland State agencies.

**Worksheet A**

1. Are you an entity that is required to be in good standing with the State Department of Assessments and Taxation (“SDAT”), and meets the following definition:

(1) A commercial enterprise or business that is formed in the State or registered with SDAT to do business in the State; or (2) a corporation, foundation, school, hospital, or other legal entity for which none of the net earnings inure to the benefit of any private shareholder or individual holding an interest in the entity?

- Yes – Proceed to Question 2
- No – STOP. You are not required to complete the Corporate Diversity Addendum. Complete Affidavit (I) on Page 2 and submit with the application for a State benefit.

2. Check the appropriate box if you are any of the following types of entities:

- Sole Proprietor
- Limited liability company (LLC) owned by a single member
- Privately held company if at least 75% of the company’s shareholders are family members
- Entity that (1) has an annual operating budget or annual sales less than \$5,000,000; and (2) has not qualified for or applied for, and does not intend to apply for, a State benefit, as defined below

Did you check at least one box?

- Yes – STOP. You are not required to complete the Corporate Diversity Addendum. Complete Affidavit (I) on Page 2 and submit with the application for a State benefit.
- No – Proceed to the Corporate Diversity Addendum on Page 3.

“State benefit” means (1) a State capital grant funding totaling \$1.0 million or more in a single fiscal year (July 1 – June 30); (2) State tax credits totaling \$1.0 million or more in a single fiscal year (July 1 – June 30); or (3) the receipt of a State contract with a total value of \$1.0 million or more. “State contract” means a contract that (a) resulted from a competitive procurement process and (b) is not federally funded in any way.

**AFFIDAVIT (I)**

**UNDER PENALTIES OF PERJURY**, I hereby swear that the entity submitting this report is not required to submit the Corporate Diversity Addendum.

Entity/Business Name:

\_\_\_\_\_

Federal Employer Identification Number (FEIN):

\_\_\_\_\_

SDAT Identification Number:

\_\_\_\_\_

Name of Entity’s representative completing this Affidavit (print clearly):

\_\_\_\_\_

Title:

\_\_\_\_\_

Signature: \_\_\_\_\_

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

## 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. Best Practices – Practices that have been proven most efficient and effective at delivering a desired outcome. Best practices guiding state tobacco programs are set forth in the US Centers for Disease Control and Prevention’s 2014 Best Practices for Comprehensive Tobacco Control Programs. Best practices for quitlines are compiled by the US Centers for Disease Control Prevention’s Telephone Quitlines: A Resource for Development, Implementation and Evaluation. Other quitline best practices are Measuring Quit Rates and Measuring Reach of Quitline Programs, published by the North American Quitline Consortium (NAQC).
- E. 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).
- F. Center for Tobacco Prevention and Control (CTPC) – CTPC is housed in the Maryland Department of Health, Prevention and Health Promotion Administration. CTPC provides direction and administration of the Maryland Comprehensive Tobacco Control Program based on the CDC’s (Centers for Disease Control and Prevention) Best Practices for Comprehensive Tobacco Control Programs.
- G. Cessation Counselor - A professional or paraprofessional with expertise (derived from graduate training and/or sufficient experience) in evaluating and treating individuals with tobacco dependence using behavior change strategies. A Cessation Counselor may also have broader experience treating mental, behavioral, and emotional problems and disorders.
- H. COMAR – Code of Maryland Regulations available on-line at <http://www.dsd.state.md.us/COMAR/ComarHome.html>.
- I. Contract – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of **Attachment M**.
- J. Contract Commencement - The date the Contract is signed by the Department following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required.
- K. Contract Monitor (CM) – The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. 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 MDH may change the Contract Monitor at any time by written notice to the Contractor.
- L. Contract Officer (CO) –The Office of Procurement and Support Services (OPASS) designated individual assigned to facilitate the procurement process. The Procurement Officer may

designate the Contract Officer to conduct components of the procurement on behalf of the Procurement Officer.

- M. Contractor – The selected Offeror that is awarded a Contract by the State.
- N. 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.
- O. Data Breach – The unauthorized acquisition, use, modification or disclosure of State data, or other Sensitive Data.
- P. Maryland Department of Health -issuing agency
- Q. eMMA – eMaryland Marketplace Advantage (see RFP **Section 4.2**).
- R. 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.
- S. Evidence-Based – In accordance with ethnical, up-to-date, peer reviewed, systematically derived, research-based evidence about the most effective methods of providing cessation services. In the context of quitlines, this is practice based on the most recent US Public Health Service Clinical Practice Guidelines – Treating Tobacco Use and Dependence: The Community Guide; and subsequently publicized randomized controlled trials; meta-analyses of such trials; and fact sheets, reports and white papers produced by NAQC (See 1.2.20 for definition).
- T. Go-Live Date – The date, as specified in the Notice to Proceed, when the Contractor must begin providing all services required by this solicitation. See Section 1.4.
- U. Information System – A discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.
- V. Information Technology (IT) – All electronic information-processing hardware and software, including: (a) maintenance; (b) telecommunications; and (c) associated consulting services.
- W. 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**.
- X. 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.
- Y. Minimal Data Set (MDS) – The MDS is a set of questions recommended and produced by the North American Quitline Consortium (NAQC). The MDS shall be asked of all registered tobacco users. See 1.2.27. Note: these questions may change over time and the Contractor is required to use the most current MDS available.  
(<http://www.naquitline.org/default.asp?page=mds>)
- Z. 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.
- AA. Normal State Business Hours - Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: [www.dbm.maryland.gov](http://www.dbm.maryland.gov) – keyword: State Holidays.

- BB. 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.
- CC. North American Quitline Consortium (NAQC) – Refers to the North American Quitline Consortium. See [www.naquitline.org](http://www.naquitline.org)
- DD. Notice to Proceed NTP Date – The date specified in a NTP for work on Contract, project, Task Order or Work Order to begin.
- EE. Offeror – An entity that submits a Proposal in response to this RFP.
- FF. Participant(s) – An individual(s) residing in Maryland, 13 years of age and older who registers (see 1.2.27) and accesses Quitline services via phone, web, or text seeking tobacco cessation resources or services for him/herself, a friend/family member, or a patient/client.
- GG. 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.
- HH. Procurement Coordinator – The State representative designated by the Procurement Officer to perform certain duties related to this solicitation which are expressly set forth herein.
- II. 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 MDH may change the Procurement Officer at any time by written notice to the Contractor.
- JJ. Proposal – As appropriate, either or both of the Offeror’s Technical or Financial Proposal.
- KK. Quitline – Telephone-based tobacco cessation services that help tobacco users quit.
- LL. 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.
- MM. Registration: Completed enrollment of tobacco users, family or friends, and providers who request information only, materials only, or counseling. Registration may take place via telephone, text, web, electronic, fax, mobile app, or other services as proposed and must include the NAQC MDS questions.
- NN. Request for Proposals (RFP) – This Request for Proposals issued by the Maryland Department of Health (MDH) with the Solicitation Number and date of issuance indicated in the Key Information Summary Sheet, including any amendments thereto.
- OO. 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.

- PP. Security or Security Measures – The technology, policy and procedures that a) protects and b) controls access to networks, systems, and data.
- QQ. 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.
- RR. Service Level Agreement (SLA) - Commitment by the Contractor to the MDH that defines the performance standards the Contractor is obligated to meet.
- SS. SLA Activation - 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.
- TT. 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.
- UU. 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.
- VV. 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.
- WW. State – The State of Maryland.
- XX. 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.
- YY. System Availability – The period of time the Solution works as required excluding non-operational periods associated with planned maintenance.
- ZZ. 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:
- AAA. 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;
- BBB. All associated rules, reports, forms, templates, scripts, data dictionaries and database functionality;

- CCC. All associated configuration file details needed to duplicate the run time environment as deployed in the current deployed version of the system;
- DDD. All associated design details, flow charts, algorithms, processes, formulas, pseudo-code, procedures, instructions, help files, programmer's notes and other documentation;
- EEE. 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);
- FFF. 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
- GGG. Operating procedures.
- HHH. 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.
- III. Technical Safeguards – The technology and the policy and procedures for its use that protect State Data and control access to it.
- JJJ. Third Party Software – Software and supporting documentation that:
  - are owned by a third party, not by the State, the Contractor, or a subcontractor;
  - are included in, or necessary or helpful to the operation, maintenance, support or modification of the Solution; and are specifically identified and listed as Third-Party Software in the Proposal.
- KKK. 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.
- LLL. Upgrade - A new release of any component of the Solution containing major new features, functionality and/or performance improvements.
- MMM. 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.
- NNN. 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.
- OOO. Youth – An individual(s) between the ages of 13 and 17 years of age who accesses Quitline services via phone, web, or text seeking tobacco cessation resources or services for him/herself or a friend/family member.



## Appendix 2 –Offeror Information Sheet

### Appendix 2. Offeror Information Sheet

See link at [http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder\\_OfferorInformationSheet.pdf](http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf).