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***Maryland’s Human Services Agency***

**Department of Human Resources**

**Allegany County Department of Social Services**

INVITATION FOR BIDS (IFB)

SOLICITATION NO. **ACDSS/IHAS/15-001-S**

**Issue Date: May 8, 2014**

IN HOME AIDE SERVICES (IHAS)

NOTICE

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

Minority Business Enterprises Are Encouraged to Respond to this Solicitation

STATE OF MARYLAND

**NOTICE TO VENDORS**

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

**Title: IN-HOME AIDE SERVICES (IHAS)**

**Solicitation No: ACDSS/IHAS/15-001-S**

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

 ( ) Other commitments preclude our participation at this time.

 ( ) The subject of the solicitation is not something we ordinarily provide.

 ( ) We are inexperienced in the work/commodities required.

 ( ) Specifications are unclear, too restrictive, etc. (Explain in REMARKS section.)

 ( ) The scope of work is beyond our present capacity.

( ) Doing business with the State of Maryland is simply too complicated. (Explain in REMARKS section.)

 ( ) We cannot be competitive. (Explain in REMARKS section.)

 ( ) Time allotted for completion of the Bid/Proposal is insufficient.

 ( ) Start-up time is insufficient.

( ) Bonding/Insurance requirements are restrictive. (Explain in REMARKS section.)

( ) Bid/Proposal requirements (other than specifications) are unreasonable or too risky.

 (Explain in REMARKS section.)

 ( ) MBE or VSBE requirements. (Explain in REMARKS section.)

( ) Prior State of Maryland contract experience was unprofitable or otherwise unsatisfactory. (Explain in REMARKS section.)

 ( ) Payment schedule too slow.

 ( ) Other:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

REMARKS: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

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

STATE OF MARYLAND

**Department of Human Resources**

**Allegany County Department of Social Services**

**IFB KEY INFORMATION SUMMARY SHEET**

##### Invitation for Bids: IN-HOME AIDE SERVICES (IHAS)

**Solicitation Number: ACDSS/IHAS/15-001-S**

###### IFB Issue Date: May 8, 2014

**IFB Issuing Office: Department of Human Resources**

 **Allegany County Department of Social Services**

**Procurement Officer: Pat Marsch, Procurement Officer**

**Allegany County Department of Social Services**

**One Frederick Street**

**Cumberland, MD 21502**

**Phone: 301-784-7170**

**Fax: 301-784-7243**

**Email: pat.marsch@maryland.gov**

**State Project Manager: John Sangiovanni, Assistant Director of Child Welfare and Adult Services**

**Allegany County Department of Social Services**

**One Frederick Street**

**Cumberland, Maryland 21502**

**Telephone 301-784-7102**

**Fax : 301-784-7243**

**E-mail: john.sangiovanni@maryland.gov**

**Bids are to be sent to: Allegany County Department of Social Services**

**One Frederick Street**

**Cumberland, Maryland 21502**

**Attention: Pat Marsch**

**Pre-Bid Conference:** **May 21, 2014 10:00 a.m. Local Time**

**One Frederick Street, Cumberland, MD 21502**

**Room 240A**

**Closing Date and Time: May 29, 2014 4:00 p.m. Local Time**

**Public Bid Opening:** **June 3, 2014 3:00 p.m. Local Time**

**One Frederick Street, Cumberland, MD 21502**

**Room 240C**

**MBE Subcontracting Goal: 0 %**

**VSBE Subcontracting Goal: 0 %**

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# SECTION 1 - GENERAL INFORMATION

## 1.1 Summary Statement

* + 1. The Allegany County Department of Social Services (ACDSS), a unit of the Maryland Department of Human Resources (DHR or the Department) is issuing this Invitation for Bids (IFB) to acquire In Home Aide Services, hereafter referred to as (IHAS), consisting of but not limited to chore, personal care, nursing evaluation and supervision, respite and transportation services provided by a licensed and/or certified staff for the purpose of promoting, maintaining or restoring health to the referred adult customers of ACDSS. These services will take place primarily in the residence of customers that are referred for services. The services may also involve accompanying the customer to appointments and/or if providing chore services, may involve trips to the grocery store, laundry facilities, etc. The required services will vary depending on the customer’s needs.
		2. It is the State’s intention to obtain services, as specified in this IFB, from a Contract between the selected Bidder and the State. The anticipated duration of services to be provided under this Contract is one (1) year. See IFB Section 1.4 for more information.
		3. The Department intends to make a single award as a result of this IFB.
		4. Bidders, either directly or through their subcontractor(s), shall be able to provide all services and meet all of the requirements requested in this solicitation and the successful Bidder (the Contractor) shall remain responsible for Contract performance regardless of subcontractor participation in the work.

## 1.2 Abbreviations and Definitions

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

1. **ACDSS** – Allegany County Department of Social Services, a unit of the Department established or designated by Allegany County government pursuant to Human Services, Title 8, Subtitle 3, to ensure the implementation of a local, interagency service delivery system for children, youth, and families.
2. **Aide** – One who assists in the home care of persons who have functional disabilities (unable to perform activities of daily living like dressing, bathing, eating, toileting) by providing personal care, chore services, transportation and escort services and respite care.
3. **Bid –** A statement of price offered by a Bidder in response to an IFB.
4. **Bidder** – An entity that submits a Bid in response to this IFB.
5. **Business Day(s)** – The official Working Days of the week to include Monday through Friday. Official Working Days exclude State Holidays (see definition of “Normal State Business Hours” below**)**.
6. **Care Plan** – An individualized plan to meet the specific needs of the customer and identify the Aide responsible for providing the services.
7. **Certified Nursing Assistant** (**CNA) -** an individual who is certified by the MarylandBoardof Nursing, who assists or performs personal care **(**dressing, bathing, eating toileting and any hands on activity).
8. **Chore Services** – Meal-planning and preparation, regular housekeeping tasks, shopping, laundry, and light cleaning.
9. **COMAR** – Code of Maryland Regulations available on-line at [www.dsd.state.md.us](http://www.dsd.state.md.us).
10. **Contract** – The Contract awarded to the successful Bidder pursuant to this IFB. The Contract will be in the form of **Attachment A**.
11. **Contract Commencement** - The date the Contract is signed by the Department following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required. See IFB Section 1.4.
12. **Contractor** – The selected Bidder that is awarded a Contract by the State.
13. **Department** **or DHR** – Department of Human Resources.
14. **eMM** – eMaryland Marketplace (see IFB Section 1.8).
15. **Functional Disability**- A severe, chronic disability which is attributable to a mental or physical impairment or combination of mental and physical impairments incurred at any age and which is likely to continue indefinitely.
16. **Go-Live Date** – The date when the Contractor shall begin providing all services required by this solicitation. See IFB Section 1.4.
17. **In-Home Aide Services (IHAS) –** Personal assistance services provided to adults with Functional Disabilities in their homes in order to safely maintain the adults in their home and community. For purposes of this RFP, IHAS may also refer to DHR’s IHAS Program, that is administered pursuant to the Annotated Code of Maryland, Human Services Article, §§ 6-501 through 6-505.
18. **Invitation for Bids (IFB)** – This Invitation for Bids solicitation issued by the Allegany County Department of Social Services Solicitation Number ACDSS/IHAS 15-001-S dated May 8, 2014, including any addenda.
19. **Key Personnel -** All staff proposed to be assigned to this contract (Contractor’s Project Manager, Emergency Contact, Schedulers, Administrators, Supervisors, Registered Nurses, CNAs/Aides).
20. **Legal Name –** Legal name registered with the Maryland Department of Assessments and Taxation.
21. **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.
22. **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.
23. **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.
24. **Notice to Proceed (NTP)** – A written notice from the Procurement Officer that, subject to the conditions of the Contract, work under the Contract is to begin as of a specified date.  The start date listed in the NTP is the Go Live Date, and is the official start date of the Contract for the actual delivery of services as described in this solicitation.  After Contract Commencement, additional NTPs may be issued by either the Procurement Officer or the Department Contract Manager regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date.
25. **Nursing Evaluation –** An assessment conducted by a Registered Nurse to determine the customer’s health care and current conditions and situation that makes him/her unable to perform activities of daily living when the applicant is in need of personal care.
26. **Nursing Supervisor –** A registered nurse who provides on-site instruction/demonstration of personal care tasks when necessary; re-evaluates the customer as needed every 60 days; and observes and evaluates the Aide’s performance.
27. **Office of Health Care Quality** (OHCQ) – An agency within the Department of Health and Mental Hygiene that is charged with licensing and regulating Maryland’s approximately 14,000 health care and community residential programs
28. **Personal Care Services** – Services provided by an Aide with a CNA certification includes, but is not limited to: assistance with bathing, feeding and dressing, grooming, medication reminders, mobility, oral hygiene, toileting and transportation/escort services.
29. **Purchase of Service (POS) Miles** - Miles from the Contractor’s office to the customer’s home and back to the office **or** miles from the Aide’s home to the customer’s and back.
30. **Procurement Officer** – The State representative for the resulting Contract. The Procurement Officer is responsible for the Contract and is the only State representative who can authorize changes to the Contract. The Department may change the Procurement Officer at any time by written notice to the Contractor.
31. **POS Order (POS 520)** – An order that identifies the type of service to be provided, begin and end dates, frequency and length of time of the services to be purchased and the total allowable bill.
32. **Registered Nurse (R.N.)**– An individual who has completed extensive training and has passed a specific state examination qualifying her/him to perform complete nursing services and is licensed by Maryland Board of Nursing.
33. **State** – The State of Maryland.
34. **State Project Manager** – 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.
35. **Total Bid Price** - The Bidder’s total price for services in response to this solicitation, included in the Bid in **Attachment F** – Bid Form, and used in determining the recommended awardee (see IFB Section 1.15).
36. **Veteran-owned Small Business Enterprise (VSBE) –** a business that is verified by the Center for Veterans Enterprise of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.
37. **Working Day(s)** – Same as “Business Day(s).”

## 1.3 Contract Type

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

## 1.4 Contract Duration

1.4.1 The Contract that results from this solicitation shall commence as of the date the Contract is signed by the Department following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required (“Contract Commencement”).

1.4.3 As of the Go-Live Date contained in a Notice to Proceed (see IFB Section 1.2 definition), the Contractor shall perform all activities required by the Contract, including the requirements of this solicitation, for the compensation described in its Bid.

1.4.4 The duration of the Contract will be for the period of time from Contract Commencement to the Go-Live Date plus one (1) year from the Go-Live Date for the provision of all services required by the Contract and the requirements of this solicitation.

1.4.5 The Contractor’s obligations to pay invoices to subcontractors that provided services during the Contract term, as well as the audit, confidentiality, document retention, and indemnification obligations of the Contract (see **Attachment A**) shall survive expiration or termination of the Contract and continue in effect until all such obligations are satisfied.

## 1.5 Procurement Officer

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

Pat Marsch, Procurement Officer

Allegany County Department of Social Services

One Frederick Street

Cumberland, MD 21502

Phone: 301-784-7170

Fax: 301-784-7243

 Email: pat.marsch@maryland.gov

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

## 1.6 State Project Manager

The State Project Manager is:

John Sangiovanni, Assistant Director of Child Welfare and Adult Services

Allegany County Department of Social Services

One Frederick Street

Cumberland, Maryland 21502

Telephone 301-784-7102

Fax: 301-784-7243

E-mail: john.sangiovanni@maryland.gov

The Department may change the State Project Manager at any time by written notice.

## 1.7 Pre-Bid Conference

A Pre-Bid Conference (the Conference) will be held on May 21, 2014, beginning at 10:00 a.m. Local Time, at Allegany County Department of Social Services, Room 240A, One Frederick Street, Cumberland, Maryland 21502. All prospective Bidders are encouraged to attend in order to facilitate better preparation of their Bids.

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

In order to assure adequate seating and other accommodations at the Conference, please e-mail, mail, or fax to (301) 784-7243 the Pre-Bid Conference Response Form to the attention of the Procurement Officer no later than 4:00 p.m. Local Time on May 14, 2014. The Pre-Bid Conference Response Form is included as **Attachment E** to this IFB. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please notify the Procurement Officer no later than May 14, 2014. The Department will make a reasonable effort to provide such special accommodation.

## 1.8 eMarylandMarketplace

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

eMM is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the DHR website (<http://www.dhr.maryland.gov>) and possibly other means for transmitting the IFB and associated materials, the solicitation and summary of the Pre-Bid Conference, Bidder questions and the Procurement Officer’s responses, addenda, and other solicitation-related information will be provided via eMM.

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

## 1.9 Questions

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

Questions will also be accepted subsequent to the Conference and should be submitted to the Procurement Officer (**see above email address**) in a timely manner prior to the Bid due date. Questions are requested to be submitted at least five (5) days prior to the Bid 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 Bid due date. Time permitting, answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be distributed to all vendors that are known to have received a copy of the IFB in sufficient time for the answer to be taken into consideration in the Bid.

## 1.10 Procurement Method

This Contract will be awarded in accordance with the Competitive Sealed Bidding method under COMAR 21.05.02.

## 1.11 Bids Due (Closing) Date and Time

Bids, in the number and form set forth in IFB Section 4.4 “Required Bid Submissions,” shall be received by the Procurement Officer at the address listed on the Key Information Summary Sheet, no later than 4:00 p.m. Local Time on May 29, 2014 in order to be considered.

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

Bids may be modified or withdrawn by written notice received by the Procurement Officer before the time and date set for the opening.

**Bids may not be submitted by e-mail or facsimile.**

Vendors not responding to this solicitation are requested to submit the “Notice to Vendors” form, which includes company information and the reason for not responding(e.g., too busy, cannot meet mandatory requirements, etc.). This form is located in the IFB immediately following the Title Page (page ii).

## 1.12 Multiple or Alternate Bids

Multiple and/or alternate Bids will not be accepted.

## Receipt, Opening and Recording of Bids

1.13.1 Receipt. Upon receipt, each Bid and any timely modification(s) to a Bid shall be stored in a secure place until the time and date set for bid opening. Before Bid opening, the State may not disclose the identity of any Bidder.

* + 1. Opening and Recording. Bids and timely modifications to Bids shall be opened publicly, at the time, date and place designated in the IFB. The name of each Bidder, the total Bid price, and such other information as is deemed appropriate shall be read aloud or otherwise made available.
		2. The Bid Opening shall be 3:00 p.m. on June 3, 2014 at Allegany County Department of Social Services, Room 240 C, One Frederick Street, Cumberland, Maryland 21502.

## 1.14 Confidentiality of Bids

The Bids shall be tabulated or a Bid abstract made. The opened Bids shall be available for public inspection at a reasonable time after Bid opening, but in any case before contract award, except to the extent the Bidder designates trade secrets or other proprietary data to be confidential as set forth in this solicitation. Material so designated as confidential shall accompany the Bid and shall be readily separable from the Bid in order to facilitate public inspection of the non-confidential portion of the Bid, including the Total Bid Price.

For requests for information made under the Public Information Act (PIA), the Procurement Officer shall examine the Bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. Nondisclosure is permissible only if approved by the Office of the Attorney General.

## 1.15 Award Basis

The Contract shall be awarded to the responsible Bidder submitting a responsive Bid with the most favorable Total Bid Price (as referenced in COMAR 21.05.02.13) for providing the goods and services as specified in this IFB. The most favorable Total Bid Price will be the lowest price total on **Attachment F** - Bid Form.

## 1.16 Tie Bids

Tie Bids will be decided pursuant to COMAR 21.05.02.14.

## 1.17 Duration of Bid

Bids submitted in response to this IFB are irrevocable for 120 days following the closing date of the Bids. This period may be extended at the Procurement Officer’s request only with the Bidder’s written agreement.

## 1.18 Revisions to the IFB

If it becomes necessary to revise this IFB before the due date for Bids, the Department shall endeavor to provide addenda to all prospective Bidders that were sent this IFB or which are otherwise known by the Procurement Officer to have obtained this IFB. In addition, addenda to the IFB will be posted on the Department’s procurement web page and through eMM. It remains the responsibility of all prospective Bidders to check all applicable websites for any addenda issued prior to the submission of Bids.

Acknowledgment of the receipt of all addenda to this IFB issued before the Bid due date shall be included in the Transmittal Letter accompanying the Bidder’s Bid. Failure to acknowledge receipt of an addendum does not relieve the Bidder from complying with the terms, additions, deletions, or corrections set forth in the addendum, and may cause the Bid to be rejected as being non-responsive to the requirements of the IFB.

## 1.19 Cancellations

The State reserves the right to cancel this IFB, or accept or reject any and all Bids, in whole or in part, received in response to this IFB.

## 1.20 Incurred Expenses

The State will not be responsible for any costs incurred by any Bidder in preparing and submitting a Bid or in performing any other activities related to submitting a Bid in response to this solicitation.

## 1.21 Protest/Disputes

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

## 1.22 Bidder Responsibilities

The selected Bidder shall be responsible for rendering services for which it has been selected as required by this IFB. All subcontractors shall be identified and a complete description of their role relative to the Bid shall be included in the Bidder’s Bid. 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 IFB (see IFB Section 1.33 “Minority Business Enterprise Goals” and IFB Section 1.41 “Veteran-Owned Small Business Enterprise Goals.”).

If a Bidder that seeks to perform or provide the services required by this IFB is the subsidiary of another entity, all information submitted by the Bidder, such as 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 Bidder, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Bidder’s Bid shall contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.

## 1.23 Substitution of Personnel

If the solicitation requires that a particular individual or personnel be designated by the Bidder to work on the Contract, any substitution of personnel after the Contract has commenced shall be approved in writing by the State Project Manager prior to the substitution. If the Contractor substitutes personnel without the prior written approval of the State Project Manager, the Contract may be terminated for default which shall be in addition to, and not in lieu of, the State’s remedies under the Contract or which otherwise may be available at law or in equity.

## 1.24 Mandatory Contractual Terms

By submitting a Bid in response to this IFB, a Bidder, if selected for award, shall be deemed to have accepted the terms and conditions of this IFB and the Contract, attached herein as **Attachment A**. Any exceptions to this IFB or the Contract shall be raised prior to Bid submission. **Changes to the solicitation, including the Bid Form or Contract, made by the Bidder may result in Bid rejection.**

## 1.25 Bid/Proposal Affidavit

A Bid submitted by a Bidder shall be accompanied by a completed Bid/Proposal Affidavit. A copy of this Affidavit is included as **Attachment B** of this IFB.

## 1.26 Contract Affidavit

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

## 1.27 Compliance with Laws/Arrearages

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

## 1.28 Verification of Registration and Tax Payment

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

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

## 1.29 False Statements

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

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

(a) Falsify, conceal, or suppress a material fact by any scheme or device;

(b) Make a false or fraudulent statement or representation of a material fact; or

(c) Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.

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

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

## 1.30 Payments by Electronic Funds Transfer

By submitting a response to this solicitation, the Bidder/Offeror agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller’s Office grants an exemption. Payment by EFT is mandatory for contracts exceeding $100,000. The selected Bidder/Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption shall be submitted to the State Comptroller’s Office for approval at the address specified on the COT/GAD X-10 form, shall include the business identification information as stated on the form, and shall include the reason for the exemption. The COT/GAD X-10 form may be downloaded from the Comptroller’s website at: <http://comptroller.marylandtaxes.com/Government_Services/State_Accounting_Information/Static_Files/APM/gadx-10.pdf>.

## 1.31 Prompt Payment Policy

This procurement and the Contract(s) to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor’s Office of Minority Affairs (GOMA) and dated August 1, 2008. Promulgated pursuant to Md. Code Ann., State Finance and Procurement Article, §§ 11-201, 13-205(a), and Title 14, Subtitle 3, and COMAR 21.01.01.03 and 21.11.03.01, the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The Contractor shall comply with the prompt payment requirements outlined in the Contract, Section 31 “Prompt Payment” (see **Attachment A**). Additional information is available on GOMA’s website at: <http://www.mdminoritybusiness.com/documents/PROMPTPAYMENTFAQs_000.pdf>.

## 1.32 Electronic Procurements Authorized

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

B. Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Bidder/Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or the Contract.

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

D. In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., § 1.30 “Payments by Electronic Funds Transfer”) and subject to the exclusions noted in section E of this subsection, the following transactions are authorized to be conducted by electronic means on the terms described:

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

(a) the solicitation (e.g., the IFB/RFP);

(b) any amendments;

(c) pre-Bid/Proposal conference documents;

(d) questions and responses;

(e) communications regarding the solicitation or Bid/Proposal to any Bidder/Offeror or potential Bidder/Offeror;

(f) notices of award selection or non-selection; and

(g) the Procurement Officer’s decision on any Bid protest or Contract claim.

1. A Bidder/Offeror or potential Bidder/Offeror may use e-mail or facsimile to:
2. ask questions regarding the solicitation;
3. reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer’s request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer; or
4. submit a "No Bid/Proposal Response" to the solicitation.
5. The Procurement Officer, the State Project Manager, and the Contractor may conduct day-to-day Contract administration, except as outlined in Section E of this subsection utilizing e-mail, facsimile, or other electronic means if authorized by the Procurement Officer or State Project Manager.

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

1. submission of initial Bids or Proposals;

2. filing of Bid Protests;

3. filing of Contract Claims;

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

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

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

## 1.33 Minority Business Enterprise Goal and Subgoals

There is no MBE subcontractor participation goal for this procurement.

## 1.34 Living Wage Requirements

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

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

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

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

Information pertaining to reporting obligations may be found by going to the Maryland Department of Labor, Licensing and Regulation (DLLR) website <http://www.dllr.state.md.us/labor/prev/livingwage.shtml>.

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

## 1.35 Federal Funding Acknowledgement

This Contract does not contain Federal funds.

## 1.36 Conflict of Interest Affidavit and Disclosure

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

## 1.37 Non-Disclosure Agreement

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

## 1.38 HIPAA - Business Associate Agreement

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

## 1.39 Nonvisual Access

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

## 1.40 Mercury and Products That Contain Mercury

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

## 1.41 Veteran-Owned Small Business Enterprise Goals

There is no Veteran-Owned Small Business Enterprise (VSBE) subcontractor participation goal for this procurement.

## 1.42 Location of the Performance of Services Disclosure

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

## 1.43 Department of Human Resources (DHR) Hiring Agreement

This solicitation does not require a DHR Hiring Agreement.

# SECTION 2 – MINIMUM QUALIFICATIONS

## 2.1 Bidder Minimum Qualifications

The Bidder shall provide proof with its Bid that the following Minimum Qualifications have been met:

2.1.1 The Bidder shall possess and provide copies of licenses for the past three years from OHCQ, showing that it is certified as one (1) or more of the following:

 a) A Home Health Agency (HHA);

 b) A Residential Service Agency (RSA); or

 c) A Nursing Referral Agency (NRA).

2.1.2 The Bidder shall possess and provide evidence of three (3) consecutive years of experience prior to the submission date, performing services as specified in IFB Section 3.2. Proof of three (3) years of experience shall be demonstrated by submitting with the Bid three (3) references for service provided during this time period as noted in IFB Section 4.4.5.

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# SECTION 3 – SCOPE OF WORK

## 3.1 Background and Purpose

IHAS is both a type of service and a program of the Office of Adult Services under DHR’s Social Services Administration, mandated by the Human Services Article, §§ 6-501 through 6-505.IHAS’s purpose is to assist customers with activities of daily living, training in self-care, as well as personal care services under nurse supervision. Help with activities such as meal preparation, light cleaning, laundry, shopping, grooming, and transportation to appointments assist the customer in remaining at home and out of institutional living arrangements.

In Allegany County, the above-mentioned services are currently provided by ACDSS’s IHAS CNA staff and individual contractual providers. However, the demand for these services has increased to the point where additional contractual services are needed in order to serve the residents of Allegany County. During 2013, an average of eighty six (86) ACDSS customers (a mix of both individuals and families) received IHAS on a monthly basis, which primarily consisted of personal care and chore services including transportation. Additionally, one hundred fifteen (115) individuals were placed on a waiting list for IHAS.

The Contract between the Contractor and ACDSS does not guarantee that any services will be purchased; it simply describes the possible services, establishes the rate for services, and recognizes that the Contractor is to be paid if ACDSS wishes to purchase the service(s). Please note that Bidders are prohibited from sub-contracting the direct IHAS provided to customers.

## 3.2 Scope of Work - Requirements

ACDSS will verbally request services from the Contractor (consisting of one or more of: Chore Services, Personal Care Services, Nursing Evaluation/Supervision, and transportation services) between the hours of 7:30 a.m. and 4:00 p.m., Monday through Friday. During this verbal request, the State Project Manager or designee will specify the numbers of hours and types of services to be provided. The Contractor shall have 24 hours to verbally accept or decline the request. If accepted, ACDSS will confirm the request by issuing a POS Order **(Attachment S)**.

After receiving the POS Order, the Contractor shall complete a Care Plan Agreement **(Attachment T)** for the customer, outlining the specific services the customer will receive and the specific duties Aides will perform. After completing the Care Plan Agreement and obtaining the customer’s signature, the Contractor shall return the Agreement to the State Project Manager or designee prior to submitting an invoice for payment. ACDSS will notify the Contractor in the event a change needs to be made to the services provided to a customer (and the Customer’s Care Plan agreement) by telephone. The Contractor shall then revise the Care Plan Agreement.

The Contractor shall:

1. **Staffing**
	1. Employ at least one (1) R.N. and a sufficient number of Aides throughout the term of the Contract.
	2. Ensure that all Aides providing services to ACDSS customers possess, at minimum, a high school diploma or high school equivalency certificate.
	3. Ensure that all Aides providing Personal Care services to ACDSS customers are:
		1. Certified as a CNA and possess at least one (1) year of experience providing Personal Care services as detailed in this IFB; and
		2. Supervised by an R.N.
	4. Ensure its Aides receive two (2) in-service training programs annually on topics related to safe and effective service provision to customers, which shall include CPR training. Training documentation shall be maintained in the Contractor’s personnel records.
	5. Provide copies of each CNA and R.N.’s license to the State Project Manager following Contract Award.
	6. Notify the State Project Manager, via email or fax, at least thirty (30) days in advance of new or additional staff beginning work under the Contract. The notification shall include justification, including proposed substitutions, in sufficient detail to permit evaluation of how the work performed under the Contract may be impacted.
	7. Not divert staff without the written consent of the State Project Manager. Replacement of any personnel, including personnel who leave the employment of the Contractor, shall be with personnel of equal ability, qualifications and experience. Any required licenses for new staff shall be submitted to the State Project Manager prior to the staff performing any Contract-related duties.
2. **Implementation of Service Delivery**

Designate one person to serve as the Contractor’s Project Manager. The Contractor’s Project Manager shall:

Coordinate services with the State Project Manager or designee;

Be available to accept referrals;

Monitor service delivery;

Coordinate scheduling between Aides and customers;

Insure deliverables are submitted on time;

Participate in meetings and case conferences to coordinate service delivery;

Conduct periodic site (home) visits, phone customers, and perform other monitoring activities deemed necessary to confirm that the Care Plan Agreement and, if necessary, the Personal Care Plan (See 3.2(D) and (E)) are being followed.

Communicate all instances of noncompliance with the Care Plan Agreement or Personal Care Plan to the State Project Manager via telephone, fax, or email, as indicated in Section 3.2(B)(5).

Ensure Aides notify the Contractor’s Project Manager of any incident involving customer injury, abuse, or neglect as soon as the incident is detected. If the incident is detected after Normal State Business Hours, Aides shall report the incident on the next Business Day, before providing services to customers. Immediately upon notification from an Aide, the Contractor’s Project Manager shall notify the State Project manager of the incident via telephone. The Contractor shall submit a written report via fax or email documenting the events that occurred and the actions taken by the Contractor to the State Project Manager within three (3) Working Days of the incident.

If requested, the Contractor shall submit a Corrective Action Plan (CAP) following an instance of customer injury, abuse, or neglect indicating measures it will take to ensure that future instances do not occur. The CAP shall be submitted via fax or email to the State Project Manager within five (5) Working Days of ACDSS’s request. Within ten (10) Working Days following receipt of the CAP, the State Project Manager will determine and notify the Contractor in writing whether the CAP is acceptable.

If the Contractor does not adhere to the CAP, the Procurement Officer may suspend referrals or terminate the Contract.

Provide substitute Aides, when necessary. The Contractor shall notify the State Project Manager via telephone within one (1) hour following knowledge of the Aide’s unavailability. The notification shall indicate the need for, and identity of, the substitute. If the substitute Aide needs to provide Personal Care Services, the substitute’s current CNA certification shall be provided via fax or email to the State Project Manager prior to any service being rendered. If a substitute is not available, the State Project Manager shall be notified within the hour via telephone with written follow-up provided via fax or email within three (3) Working Days. Failure to identify a substitute to the State Project Manager withinone(1) hour shall give the State Project Manager the right to utilize ACDSS staff to provide the service and the Contractor shall not receive payment for the services provided by ACDSS staff.

Inform the State Project Manager via telephone within twenty-four (24) hours after any long-term interruption of service to a customer for whom the Contractor is providing services, e.g. hospitalization of the customer. Written follow-up shall be provided via fax or email within seven (7) Working Days. The Contractor shall not suspend, close, increase, or reduce the hours or days of service without receiving a new POS Order **(Attachment S)** from the State Project Manager. The Contractor is eligible to receive payment for up to one (1) hour of any attempted service.

Notify the State Project Manager via telephone of instances of an Aide’s noncompliance with the Care Plan Agreement or Personal Care Plan within one (1) Working Day. A written report documenting the events that occurred and the actions taken by the Contractor shall be submitted to the State Project Manager via fax or email within five (5) Working Days of the incident.

If requested, the Contractor shall submit a CAP, following an instance of noncompliance indicating measures it will take to ensure the noncompliance does not recur. The plan shall be submitted via fax or email to the State Project Manager within five (5) Working Days of ACDSS’s request. Within ten (10) Working Days following receipt of the CAP, the State Project Manager will determine and notify the Contractor in writing whether the CAP is acceptable.

If the Contractor does not adhere to the CAP, the Procurement Officer may suspend referrals or terminate the Contract.

Notify the State Project Manager in the event services are not provided as scheduled, via telephone within thirty (30) minutes if:

The start date for services cannot be met because the Aide is unavailable due to unforeseen circumstances. A written report to the State Project Manager or designee shall follow via fax or email within five (5) Working Days.

The Contractor attempts to render service, but the customer is not available for service to begin. The Contractor shall document the incident on the DHR SSA 503 Form **(Attachment Q)** and is eligible to receive payment for up to one (1) hour of the attempted service.

Provide written documentation via fax or email to the State Project Manager or designee when a request for services is declined by the Contractor, outlining the reason for the declination. This documentation is due within five (5) Working Days after declining a request to provide service.

After five (5) consecutive declinations or five (5) declinations within a period of three (3) months, the State Project Manager may suspend new referrals to the Contractor and require the Contractor to submit to the State Project Manager or designee a CAP indicating how future requests for service will be honored. The Contractor shall have ten (10) Working Days in which to respond. Within ten (10) Working Days following receipt of the CAP, the State Project Manager will determine and notify the Contractor in writing whether the CAP is acceptable.

If the Contractor does not adhere to the CAP, the Procurement Officer may suspend referrals or terminate the Contract.

Ensure that IHAS ends on theending date of service noted on the POS Order **(Attachment S).**

 **Note:**

1. **Contractors should be aware that some customers referred for service may have communicable diseases. DHR is therefore alerting all Contractors to follow the recommendations of the Centers for Disease Control (**[**www.cdc.gov/niosh/topics/bbp/**](http://www.cdc.gov)**) and the use of universal precautions. Universal precautions shall be used with all customers. All protective clothing and/or supplies (i.e. gloves) shall be supplied by the Contractor.**
2. **ACDSS will also conduct site visits and other monitoring activities as deemed necessary by the State Project Manager to ensure compliance with the Care Plan Agreement and Personal Care Plan.**
3. **Chore Services**

 Provide Aides capable of performing Chore Services that include, but are not limited to:

Planning regular and special diets, shopping for necessary food supplies, storing food, preparing and serving regular and special meals;

Shopping for clothing or medicine;

Laundering clothes (at a Laundromat, a machine in the resident’s building, or by hand if there are only a few items);

Washing dishes;

Making the bed and/or changing the bed linens;

Emptying trash;

Vacuuming rugs and bare floors;

Cleaning bathroom fixtures (including cleaning the basin, bathtub, mirror, and the inside and outside of toilet);

Cleaning and defrosting refrigerator and freezer;

Cleaning the stovetop and oven;

Cleaning appliances and countertops in the kitchen (e.g. – sink, table);

Cleaning tile in kitchen and/or bathroom or removing spots from the wall if this is necessary to prevent the customer’s eviction or to maintain health; and

Mending and light ironing of clothing.

1. **Personal Care Services**

Provide staff capable of providing Personal Care Services. Prior to the start of Personal Care Services, the Contractor’s R.N. shall evaluate the IHAS customer and provide, via fax or email, a Personal Care Plan **(Attachment U)** and evaluation notes to the State Project Manager (see 3.2 (E)(2)).

Personal Care Services includes, but is not limited to:

1. Assisting customers with bathing activities including partial or complete sponge baths, tub baths and showers;
2. Grooming activities such as shampooing hair, shaving, filing and cleaning fingernails and toenails;
3. Oral hygiene activities or performing oral hygiene procedures, e.g. - brushing teeth, cleaning dentures, caring for gums;
4. Eating and dressing;
5. Toileting, including assisting the customer to:
	1. Use bed pan and/or commode;
	2. Empty colostomy/ileostomy bag; and
	3. Provide incontinence care.

f. Walking, transferring the customer from a bed to a wheelchair or chair, and carrying out prescribed exercise routines;

g. Giving backrubs to customers confined to bed, changing the bed with the customer in it, and documenting customer’s progress; and

h. Reminding the customer to take his/her own prescribed medication.

* + 1. Personal Care Services **DOES NOT INCLUDE**:
	1. Giving enemas or douches;
	2. Wound care;
	3. Determining the quantity of medication the customer shall take or giving the dosage to the customer;
	4. Administering eye, ear and nose drops;
	5. Giving injections;
	6. Cutting toe nails, finger nails or shaving a diabetic or hemophiliac;
	7. Changing sterile dressings;
	8. Colostomy irrigation;
	9. Care of tracheotomy tube and suctioning;
	10. Applying heat devices;
	11. Applying un-prescribed medication to skin;
	12. Gastrostomy and nasogastric tube feedings;
	13. Irrigating or changing catheters;
	14. Making judgments or giving advice on medical or nursing problems;
	15. Transferring large children or adults who are unable to assist with lifting; and
	16. Taking blood pressure (unless this duty has been delegated by an R.N. and the Care Plan provides specific reporting parameters).
1. **Nursing Evaluation/Supervision**

Provide an R.N. to perform Nursing Evaluation and Supervision services. Nursing Evaluation/Supervision is required for Personal Care Services, but can also be purchased by the State Project Manager or designee as a separate service (at a separate hourly rate agreed to as a result of this IFB). Separate purchase of Nursing Evaluation/Supervision is only allowed when the Nursing Evaluation/Supervision service is needed for ACDSS’s own Aide employees or for State Project Manager or designee approved “individual providers,” **not** for Aide services provided by the Contractor. An R.N. performing services under this Contract shall:

1. Perform home visits at least every 60 days, or as determined by the State Project Manager or designee, to assess the customer’s condition and quality of Personal Care Services by reviewing:

The Care Plan Agreement,

The interactions and relationship between the customer and Aide,

The Aide’s performance and ability to deliver the required service, and

The continued need for Personal Care Services and the need for other IHAS.

1. If Nursing Evaluation is purchased as either an included (with Personal Care Services) or separate service:
	1. Evaluate the customer on the basis of an initial home or office visit and complete a Personal Care Plan **(Attachment** **U)**.
	2. Provide a hard copy of all evaluations/the Personal Care Plan, with original signatures, to the State Project Manager within five (5) Working Days of the evaluation.
2. If Nursing Supervision is purchased as either an included (with Personal Care Services) or separate Service:
	1. Instruct the Aide in the appropriate Personal Care Services procedure or technique for the customer (including proper use of protective equipment and supplies), demonstrate the procedures and receive a correct return demonstration of the procedures by the Aide. This shall be done: before the Aide begins to give Personal Care Services to the customer; after the initiation of care, whenever the R.N. determines it is necessary based on changes in the customer’s condition or needs; or after observing the Aide incorrectly performing a Personal Care Services procedure.
		1. Whenever the RN. observes a discrepancy between the procedures used by the Aide to perform Personal Care and the procedures taught in the Maryland Board of Nursing-approved CNA classes, and any procedures or techniques taught by the R.N., the R.N. shall instruct the Aide on proper procedures and techniques during this observation and monitor the Aide every 60 days thereafter.
		2. **Transportation Services**

Provide transportation services. This typically involves providing transportation for Chore Services and customer appointments as necessary. Types of insurance and minimum coverage are discussed in IFB Section 3.4. Certificates evidencing this coverage shall be provided within 10 Business Days of recommendation for Contract award (see Section 3.4 for additional details).

* + 1. **Reporting**

The Contractor shall submit to the State Project Manager or designee no later than the 15th Working Day of each month for the previous month’s activities the following program reports:

1. DHR/SSA 502 – IHAS Report (**Attachment P)** for each customer. This report monitors the progress and/or needs of the customer.

**This report is also submitted whenever there is a change in the case situation within 5 Business Days after the change occurs.**

1. DHR/SSA 503 - Monthly Services Report **(Attachment Q)** for each customer. This report insures that the services assigned to the Aide are being provided on the days and for the number of hours assigned.
2. DHR/SSA 516 – Summary Monthly IHAS Service Report (**Attachment R).** This form, in conjunction with form DHR/SSA 503 (Monthly Services Report), summarizes the services delivered by the Contractor.
3. DHR/SSA 520 – POS Order **(Attachment S)** for each customer. The Contractor shall return the POS Order received from ACDSS to initiate services.

## 3.3 Security Requirements

3.3.1 **Employee Identification**

(a) Each person who is an employee or agent of the Contractor or subcontractor shall display his or her company ID badge at all times while on State premises. Upon request of authorized State personnel, each such employee or agent shall provide additional photo identification.

(b) At all times at any facility, the Contractor’s personnel shall cooperate with State site requirements that include but are not limited to being prepared to be escorted at all times, providing information for badge issuance, and wearing the badge in a visual location at all times.

3.3.2 **Criminal Background Check**

All Aides providing service to ACDSS customers shall have undergone a criminal background check within six (6) months prior to the start of the Contract and annually thereafter. Contractors are responsible for obtaining and paying for criminal background checks. The Contractor shall obtain from each prospective employee a signed statement permitting a criminal background check. The Contractor shall secure at its own expense a Maryland State Police and/or FBI background check and shall provide the State Project Manager with completed checks on all new employees prior to assignment. The Contractor may not assign an employee with a criminal record unless prior written approval is obtained from the State Project Manager.

## 3.4 Insurance Requirements

3.4.1 The Contractor shall maintain Commercial General Liability Insurance with limits sufficient to cover losses resulting from, or arising out of, Contractor action or inaction in the performance of the Contract by the Contractor, its agents, servants, employees, or subcontractors, but no less than a Combined Single Limit for Bodily Injury, Property Damage, and Personal and Advertising Injury Liability of $1,000,000 per occurrence and $3,000,000 aggregate.

3.4.2 The Contractor shall maintain Errors and Omissions/Professional Liability insurance with minimum limits of $1,000,000 per occurrence.

3.4.3 The Contractor shall maintain Automobile and/or Commercial Truck Insurance as appropriate with Liability, Collision, and Personal Injury Protection 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.

3.4.4 The Contractor shall maintain Employee Theft Insurance with minimum limits of $1,000,000 per occurrence.

3.4.5 Within ten (10) Business Days of recommendation for Contract award, the Contractor shall provide the State Project Manager with current certificates of insurance, and shall update such certificates from time to time but no less than annually in multi-year contracts, as directed by the State Project Manager. Such copy of the Contractor’s current certificate of insurance shall contain at minimum the following:

a. Workers’ Compensation – The Contractor shall maintain such insurance as necessary and/or as required under Workers’ Compensation Acts, the Longshore and Harbor Workers’ Compensation Act, and the Federal Employers’ Liability Act.

b. Commercial General Liability as required in IFB Section 3.4.1.

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

d. Automobile and/or Commercial Truck Insurance as required in IFB Section 3.4.3.

e. Employee Theft Insurance as required in IFB Section 3.4.4.

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

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

## 3.5 Problem Escalation Procedure

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

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

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

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

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

## 3.6 Invoicing

3.6.1 **General**

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

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

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

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

3.6.2 **Invoice Submission Schedule**

The Contractor shall invoice the Department monthly on the 15th of the month after the month of service. The Contractor shall complete and submit all required Reports and forms (see Section 3.2(G)) with the Invoice of IHAS provided for each customer served during the month.

Invoices shall be addressed to:

Lisa Myers

Allegany County Department of Social Services

One Frederick Street

Cumberland, Maryland 21502

## 3.7 MBE Reports

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

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

(b) **Attachment D-5**, the MBE Participation Subcontractor Paid/Unpaid MBE Invoice Report by the 10th of the month following the reporting period to the State Project Manager and the MBE Liaison Officer.

## 3.9 VSBE Reports

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

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

(b) **Attachment M-4**, the VSBE Participation Subcontractor Paid/Unpaid VSBE Invoice Report by the 10th of the month following the reporting period to the State Project Manager and the VSBE Liaison Officer.

## 3.9 SOC 2 Type II Audit Report

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

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# SECTION 4 – BID FORMAT

## 4.1 One Part Submission

Bidders shall submit with their Bid all Minimum Qualification documentation required (see IFB Section 2), and all Required Bid Submissions (see IFB Section 4.4) in a single sealed package/envelope.

## 4.2 Labeling

Each Bidder is required to label the sealed Bid. The Bid shall bear the IFB title and number, name and address of the Bidder, and closing date and time for receipt of the Bids.

## 4.3 Bid Price Form

The Bid shall contain all price information in the format specified on the Bid Form (**Attachment F**). Complete the Bid Form only as provided in the Bid Pricing Instructions. Do not amend, alter, or leave blank any items on the Bid Form or include additional clarifying or contingent language on or attached to the Bid Form. If option years are included, Bidders shall submit Bids for each option year. Failure to adhere to any of these instructions may result in the Bid being determined to be non-responsive and rejected by the Department.

## 4.4 Required Bid Submissions

Bidders shall include the following with their Bid:

4.4.1 **Transmittal Letter:**

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

1. Name and address of the Bidder;
2. Name, title, e-mail address, and telephone number of primary contact for the Bidder;
3. Solicitation Title and Solicitation Number that the Bid is in response to;
4. Signature, typed name, and title of an individual authorized to commit the Bidder to its Bid;
5. Federal Employer Identification Number (FEIN) of the Bidder, or if a single individual, that individual’s Social Security Number (SSN);
6. Bidder’s eMM number;
7. Bidder’s MBE certification number (if applicable);
8. Acceptance of all State IFB and Contract terms and conditions (see IFB Section 1.24); and
9. Acknowledgement of all addenda to this IFB.

Any information which is claimed to be confidential is to be noted by reference and included after the Transmittal Letter. An explanation for each claim of confidentiality shall be included (see IFB Section 1.14 “Confidentiality of Bids”).

4.4.2 **Minimum Qualifications Documentation:**

The Bidder shall submit any Minimum Qualifications documentation that may be required, as set forth in IFB Section 2 “Bidder Minimum Qualifications.”

4.4.3 **Completed Required Attachments:** Submit three (3) copies of each with original signatures:

1. Completed Bid Form (**Attachment F**).
2. Completed Bid/Proposal Affidavit (**Attachment B**).
3. Completed Maryland Living Wage Requirements Affidavit of Agreement (**Attachment G-1**).

4.4.4 **Additional Attachments \*If Required**: Submit three (3) copies of each with original signatures, if required.

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

1. Completed MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1**) **\*see Section 1.33**.
2. Completed Federal Funds Attachment (**Attachment H**) **\*see Section 1.35.**
3. Completed Conflict of Interest Affidavit and Disclosure (**Attachment I**) **\*see Section 1.36.**
4. Completed Mercury Affidavit (**Attachment L**) **\*see Section 1.40**.
5. Completed Veteran-Owned Small Business Enterprise (VSBE) Utilization Affidavit and Subcontractor Participation Schedule. (**Attachment M-1**) **\*see Section 1.41**.
6. Completed Location of the Performance of Services Disclosure (**Attachment N**) **\*see Section 1.44**.

4.4.5 **References:**

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

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

The Department reserves the right to request additional references or utilize references not provided by a Bidder.

* + 1. **List of Current or Prior State Contracts:**

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

1. The State contracting entity;
2. A brief description of the services/goods 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 Bidder’s level of performance on State contracts will be considered as part of the responsibility determination by the Procurement Officer.

* + 1. **Financial Capabilities:**

The Bidder 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).

* + 1. **Certificate of Insurance:**

The Bidder shall provide a copy of the Bidder’s current certificate of insurance. The recommended awardee shall provide a certificate of insurance with the prescribed limits set forth in IFB Section 3.4 “Insurance Requirements,” naming the State as an additional insured if required, within five (5) Business Days from notification by the Procurement Officer that the Bidder has been determined to be the apparent awardee.

* + 1. **Subcontractors:**

The Bidder shall provide a complete list of all subcontractors that will work on the Contract if the Bidder receives an award, including those utilized in meeting the MBE and/or VSBE subcontracting goal, if applicable. This list shall include a full description of the duties each subcontractor will perform.

* + 1. **Legal Action Summary:**

This summary shall include:

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

## 4.5 Reciprocal Preference

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

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

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

## 4.6 Delivery

Bidders may either mail or hand-deliver Bids.

* + 1. For U.S. Postal Service deliveries, any bid that has been received at the appropriate mail room, or typical place of mail receipt for the respective procuring unit by the time and date listed in the IFB will be deemed to be timely. If a Bidder chooses to use the U.S. Postal Service for delivery, the Department recommends that it use Express Mail, Priority Mail, or Certified Mail only as these are the only forms for which both the date and time of receipt can be verified by the Department. A Bidder using first class mail will not be able to prove a timely delivery at the mailroom and it could take several days for an item sent by first class mail to make its way by normal internal mail to the procuring unit.
		2. Hand-delivery includes delivery by commercial carrier acting as agent for the Bidder. For any type of direct (non-mail) delivery, Bidders are advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery.

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

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

1. signed Contract (**Attachment A**),
2. completed Contract Affidavit (**Attachment C**),
3. completed MBE **Attachments D-2 and D-3**, within ten (10) Working Days, if applicable; **\*see Section 1.33**,
4. MBE Waiver Justification within ten (10) Working Days, usually including **Attachment D-6**, if a waiver has been requested (if applicable; **\*see Section 1.33)**,
5. signed Non-Disclosure Agreement (**Attachment J**), if applicable; **\*see Section 1.37**,
6. signed HIPAA Business Associate Agreement (**Attachment K**), if applicable; **\*see Section 1.38**,
7. completed VSBE **Attachments M-2 and M-3**, if applicable **\*see Section 1.41**,
8. completed DHR Hiring Agreement, **Attachment O**, if applicable \***see Section 1.43**, and
9. copy of a current Certificate of Insurance with the prescribed limits set forth in Section 3.4 “Insurance Requirements,” listing the State as an additional insured, if applicable; **\*see Section 3.4.**

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# IFB ATTACHMENTS

**ATTACHMENT A – Contract**

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

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

This Attachment shall be completed and submitted with the Bid.

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

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

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

If required (see IFB Section 1.33), these Attachments include the MBE subcontracting goal statement, instructions, and MBE Attachments D-1 through D-6. Attachment D-1 shall be properly completed and submitted with the Bidder’s Bid or the Bid will be deemed non-responsive and rejected. Within 10 Working Days of receiving notification of recommendation for Contract award, the Bidder shall submit Attachments D-2 and D-3 and, if the Bidder has requested a waiver of the MBE goal, usually Attachment D-6.

**ATTACHMENT E** **– Pre-Bid Conference Response Form**

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

**ATTACHMENT F** **– Bid Pricing Instructions and Bid Form**

The Bid Form shall be completed and submitted with the Bid.

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

Attachment G-1 Living Wage Affidavit of Agreement shall be completed and submitted with the Bid.

**ATTACHMENT H – Federal Funds Attachment**

If required (see IFB Section 1.35), these Attachments shall be completed and submitted with the Bid as instructed in the Attachments.

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

If required (see IFB Section 1.36), this Attachment shall be completed and submitted with the Bid.

**ATTACHMENT J – Non-Disclosure Agreement**

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

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

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

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

If required (see IFB Section 1.40), this Attachment shall be completed and submitted with the Bid.

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

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

###### ATTACHMENT N – Location of the Performance of Services Disclosure

If required (see IFB Section 1.42), this Attachment shall be completed and submitted with the Bid.

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

If required (see IFB Section 1.43), this Attachment is to be completed and submitted within five (5) Business Days of receiving notification of recommendation for award.

**ATTACHMENT P – 502 Form IHAS Services Report (SAMPLE)\***

This Attachment shall be completed and submitted with the invoice.

**ATTACHMENT Q – 503 Form Monthly Report of IHAS Services Provided (SAMPLE)\***

This Attachment shall be completed and submitted with the invoice.

**ATTACHMENT R – 516 Monthly In-Home Aide Direct Services Report (SAMPLE)\***

This Attachment shall be completed and submitted with the invoice.

**ATTACHMENT S – 520 Form Purchase of Services (POS) Order Form (SAMPLE)\***

This Attachment shall be completed for each customer before IHAS services begin.

**ATTACHMENT T – 525A IHAS Care Plan Agreement (SAMPLE)\***

This Attachment shall be completed for each customer and submitted before IHAS services begin.

**ATTACHMENT U – 525B Form IHAS Care Plan/ Personal Care Plan (SAMPLE)\***

If required (see IFB Section 3.2(E)(2)), this Attachment completed during the required evaluation for each customer receiving Personal Care services and submitted within five (5) Working Days of the customer’s evaluation.

\* ACDSS will provide Actual copies of Attachments P-U following Contract award.

## ATTACHMENT A – CONTRACT

(Do not change any of the standard contract terms.)

**(CONTRACT TITLE)**

THIS CONTRACT (the “Contract”) is made this (“Xth” ) day of (month), (year) by and between (Contractor’s name) and the STATE OF MARYLAND, acting through the (DEPARTMENT).

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

**1. Definitions**

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

* 1. “Bid” means the Contractor’s Bid dated (Bid date).
	2. “COMAR” means Code of Maryland Regulations.

1.3 “State Project Manager” means the Department employee identified in Section 1.6 of the IFB as the State Project Manager.

1.4 “Contractor” means (Contractor’s name) whose principal business address is (Contractor’s primary address) and whose principal office in Maryland is (Contractor’s local address).

1.5 “Department” means the (Department).

1.6 “IFB” means the Invitation for Bids for (solicitation title) Solicitation # (solicitation number), and any addenda thereto issued in writing by the State.

1.7 “Procurement Officer” means the Department employee identified in Section 1.5 of the IFB as the Procurement Officer.

1.8 “State” means the State of Maryland.

**2. Scope of Contract**

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

Exhibit A – The IFB

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

Exhibit C – The Bid

2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract or the IFB. 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 shall assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

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

**3. Period of Performance.**

3.1 The term of this Contract begins on the date the Contract is signed by the Department following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required. The Contractor shall provide services under this Contract as of the Go-Live date contained in the written Notice to Proceed. From this Go-Live date, the Contract shall be for a period of approximately (number of years of base term of Contract) years (change to months if necessary) beginning (anticipated Contract start date) and ending on (anticipated end date of base term of Contract).

3.2 Further, this Contract may be extended for (number of Option Years) periods of one year each at the sole discretion of the Department and at the prices quoted in the Bid for Option Years. (Delete this section if there are no Option Years, and change the numbering of the next section to 3.2).

3.3 Audit, confidentiality, document retention, and indemnification obligations under this Contract shall survive expiration or termination of the Contract.

**4. Consideration and Payment**

4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the Department shall pay the Contractor in accordance with the terms of this Contract and at the prices quoted on the Bid Form (Attachment F). Unless properly modified (see above Section 2.3), payment to the Contractor pursuant to this Contract shall not exceed $ (Not-to-Exceed amount). (The following paragraph may be added to indefinite quantity, labor hour and time and materials contracts at the discretion of the State Project Manager; otherwise delete it.):

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

4.2 Payments to the Contractor shall be made no later than thirty (30) days after the Department’s receipt of a proper invoice for services provided by the Contractor, acceptance by the Department of services provided by the Contractor, and pursuant to the conditions outlined in Section 4 of this Contract. Each invoice for services rendered shall include the Contractor’s Federal Tax Identification or Social Security Number for a Contractor who is an individual which is (Contractor’s FEIN or SSN). Charges for late payment of invoices other than as prescribed at Md. Code Ann., State Finance and Procurement Article, §15-104 as from time-to-time amended, are prohibited. Invoices shall be submitted to the State Project Manager. Electronic funds transfer shall be used by the State to pay Contractor pursuant to this Contract and any other State payments due Contractor unless the State Comptroller’s Office grants Contractor an exemption.

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

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

* 1. Contractor’s eMarylandMarketplace vendor ID number is (Contractor’s eMM number).

**5. Rights to Records**

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

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

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

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

**6. Exclusive Use**

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

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

7.1 If the Contractor furnishes any design, device, material, process, or other item, which is covered by a patent, trademark or service mark, or copyright or which is proprietary to, or a trade secret of, another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items.

7.2 The Contractor will defend or settle, at its own expense, any claim or suit against the State alleging that any such item furnished by the Contractor infringes any patent, trademark, service mark, copyright, or trade secret. If a third party claims that a product infringes that party’s patent, trademark, service mark, trade secret, or copyright, the Contractor will defend the State against that claim at Contractor’s expense and will pay all damages, costs, and attorneys’ fees that a court finally awards, provided the State: (a) promptly notifies the Contractor in writing of the claim; and (b) allows Contractor to control and cooperates with Contractor in, the defense and any related settlement negotiations. The obligations of this paragraph are in addition to those stated in Section 7.3 below.

7.3 If any products furnished by the Contractor become, or in the Contractor’s opinion are likely to become, the subject of a claim of infringement, the Contractor will, at its option and expense: (a) procure for the State the right to continue using the applicable item; (b) replace the product with a non-infringing product substantially complying with the item’s specifications; or (c) modify the item so that it becomes non-infringing and performs in a substantially similar manner to the original item.

**8. Confidentiality**

8.1 Subject to the Maryland Public Information Act and any other applicable laws, including without limitation, HIPAA, the HI-TECH ACT, and the Maryland Medical Records Act, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor’s computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents, and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided that the data may be collected, used, disclosed, stored, and disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that: (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

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

**9. Loss of Data**

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

**10. Indemnification**

10.1 The Contractor shall hold harmless and indemnify the State from and against any and all losses, damages, claims, suits, actions, liabilities, and/or expenses, including, without limitation, attorneys’ fees and disbursements of any character that arise from, are in connection with or are attributable to the performance or nonperformance of the Contractor or its subcontractors under this Contract.

10.2 This indemnification clause shall not be construed to mean that the Contractor shall indemnify the State against liability for any losses, damages, claims, suits, actions, liabilities, and/or expenses that are attributable to the sole negligence of the State or the State’s employees.

10.3 The State has no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim, or action of any character is brought by any person not party to this Contract against the Contractor or its subcontractors as a result of or relating to the Contractor’s performance under this Contract.

10.4 The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor’s performance under this Contract.

10.5 The Contractor shall immediately notify the Procurement Officer of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from, or relating to, the Contractor’s obligations under the Contract, and will cooperate, assist, and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of, or relating to, the Contractor’s performance under this Contract.

10.6 This Section 10 shall survive termination of this Contract.

**11. Non-Hiring of Employees**

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

**12. Disputes**

This Contract shall be subject to the provisions of Md. Code Ann., State Finance and Procurement Article, Title 15, Subtitle 2, and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer’s decision. Unless a lesser period is provided by applicable statute, regulation, or the Contract, the Contractor shall 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 shall submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

**13. Maryland Law**

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

13.2 The Md. Code Ann., Commercial Law Article, Title 22, Maryland Uniform Computer Information Transactions Act, does not apply to this Contract or to any purchase order or Notice to Proceed issued under this Contract.

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

**14. Nondiscrimination in Employment**

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

**15. Contingent Fee Prohibition**

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

**16. Non-availability of Funding**

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

**17. Termination for Cause**

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

**18. Termination for Convenience**

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

**19. Delays and Extensions of Time**

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

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

**20. Suspension of Work**

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

**21. Pre-Existing Regulations**

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

**22. Financial Disclosure**

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

**23. Political Contribution Disclosure**

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

**24. Documents Retention and Inspection Clause**

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

**25. Compliance with Laws**

The Contractor hereby represents and warrants that:

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

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

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

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

**26. Cost and Price Certification**

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

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

**27. Subcontracting; Assignment**

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

**28. Liability**

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

a. For infringement of patents, copyrights, trademarks, service marks, and/or trade secrets, as provided in Section 7 of this Contract;

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

c. For all other claims, damages, losses, costs, expenses, suits, or actions in any way related to this Contract, regardless of the form. Contractor’s liability for third party claims arising under Section 10 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 10.

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

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

**30. Commercial Nondiscrimination**

30.1 As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State’s Commercial Nondiscrimination Policy, as described at Md. Code Ann., State Finance and Procurement Article, Title 19.  As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination.  Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace.  Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of Contractor from participating in State contracts, or other sanctions.  This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

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

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

**31. Prompt Pay Requirements**

31.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the

Department, at its option and in its sole discretion, may take one or more of the following actions:

a. Not process further payments to the contractor until payment to the subcontractor is verified;

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

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

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

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

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

a. Retainage which had been withheld and is, by the terms of the agreement between the

Contractor and subcontractor, due to be distributed to the subcontractor; and

b. An amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.

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

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

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

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

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

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

a. Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule.

b. This verification may include, as appropriate:

i. Inspecting any relevant records of the Contractor;

ii. Inspecting the jobsite; and

iii. Interviewing subcontractors and workers.

iv. Verification shall include a review of:

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

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

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

d. If the Department determines that the Contractor is in material noncompliance with

MBE contract provisions and refuses or fails to take the corrective action that the Department requires, then the Department may:

i. Terminate the contract;

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

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

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

**32. State Project Manager and Procurement Officer**

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

**33. Notices**

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

If to the State: (name of Procurement Officer)

 Procurement Officer

(address and contact information for Procurement Officer)

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

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**(The following clauses may be required under certain funding or other conditions. Use these clauses only when appropriate. Delete any clauses not used and renumber as needed.)**

(**Mandatory clause for Federally funded contracts** involving healthcare entities or individuals, the employment of healthcare entities or individuals, or subcontracting with healthcare entities or individuals that may be named on the DHHS List of Excluded Individuals/Entities.):

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

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

(**HIPAA Clauses.** One of the following three clauses should be used whenever the contract deals with medical information/records, third party customers or medical billing/payments. Delete any/all clauses if not applicable.)

(Option 1 of 3 – Use this clause when the Department unit is not a covered entity. The blank at the beginning would reference any statutory requirement unique to the Department unit/program, or, if there is none, the first two sentences are combined to reference “any applicable law or regulation …”) :

**35. Confidentiality**

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 confidentially requirements regarding collection, maintenance, and use of health 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 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 Department 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 and financial information.

(**OR – Option 2 of 3** – Use this confidentiality clause when the Department unit **is** a covered entity and the vendor **is not** a business associate.):

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

35.1 The Contractor acknowledges its duty to become familiar with and comply, to the extent applicable, with all requirements of the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. §§ 1320d et seq., and implementing regulations including 45 C.F.R. Parts 160 and 164. The Contractor also agrees to comply with the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§ 4-301 et seq. This obligation includes:

(a) As necessary, adhering to the privacy and security requirements for protected health information and medical records under HIPAA and MCMRA and making the transmission of all electronic information compatible with the HIPAA requirements;

(b) Providing training and information to employees regarding confidentiality obligations as to health and financial information and securing acknowledgement of these obligations from employees to be involved in the contract; and

(c) Otherwise providing good information management practices regarding all health information and medical records.

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

35.3 Protected Health Information as defined in the HIPAA regulations at 45 C.F.R. 160.103 and 164.501, means information transmitted as defined in the regulations, that is: individually identifiable; 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, 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.

(**OR – Option 3 of** 3 – Use this confidentiality clause when the Department unit **is** a covered entity and the vendor **is** a business associate.):

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

* 1. The Contractor acknowledges its duty to become familiar with and comply, to the extent applicable, with all requirements of the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. § 1320d et seq., and implementing regulations including 45 C.F.R. Parts 160 and 164. The Contractor also agrees to comply with the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§ 4-301 et seq. This obligation includes:

(a) As necessary, adhering to the privacy and security requirements for protected health information and medical records under HIPAA and MCMRA and making the transmission of all electronic information compatible with the HIPAA requirements;

(b) Providing training and information to employees regarding confidentiality obligations as to health and financial information and securing acknowledgement of these obligations from employees to be involved in the contract; and

(c) Otherwise providing good information management practices regarding all health information and medical records.

35.2 Based on the determination by the Department that the functions to be performed in accordance with the scope of work set forth in the solicitation constitute business associate functions as defined in HIPAA, the selected Bidder/Offeror shall execute a business associate agreement as required by HIPAA regulations at 45 C.F.R. 164.501 and in the form as required by the Department.

35.3 Protected Health Information as defined in the HIPAA regulations at 45 C.F.R. 160.103 and 164.501, means information transmitted as defined in the regulations, that is individually identifiable; that is created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and that is related to the past, present, or future physical or mental health or condition of an individual, to the provision of healthcare to an individual, or to the past, present, or future payment for the provision of healthcare to an individual. The definition excludes certain education records as well as employment records held by a covered entity in its role as employer.

(The following clause should be added to contracts when there is the probability of customers with limited ability in speaking English. Delete this clause if not applicable, and revise the numbering of the clauses in this Contract accordingly.):

**36. Limited English Proficiency**

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

**37. Miscellaneous**

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

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

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

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| --- | --- |
| Contractor | State of Maryland(Department) |
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| By: | By: (name and title of Department Head) |
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| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Or designee: |
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| Approved for form and legal sufficiencythis \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Assistant Attorney General |  |
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| APPROVED BY BPW: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_(Date) (BPW Item #) |
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|  |

**ATTACHMENT B – BID/PROPOSAL AFFIDAVIT**

A. AUTHORITY

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

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

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

B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.

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

(1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority proposal;

(2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the Bid/Proposal;

(3) Fail to use the certified minority business enterprise in the performance of the contract; or

(4) Pay the certified minority business enterprise solely for the use of its name in the Bid/Proposal.

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

B-2. Certification Regarding Veteran-Owned Small Business Enterprises.

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

(1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;

(2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran–owned small business enterprise in order to obtain or retain a Bid/Proposal preference or a procurement contract;

(3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;

(4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;

(5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.12; or

(6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of § B-2(1)-(5) of this regulation.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

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

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D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

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

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

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

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

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

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

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

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

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

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

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

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

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E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

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F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

(1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and

(2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you shall indicate the reasons why the affirmations cannot be given without qualification):

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G. SUBCONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

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

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

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

(1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying Bid/Proposal that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the Bid/Proposal price of the Bidder/Offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying Bid/Proposal is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

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

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

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

K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

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

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

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

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

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

I FURTHER AFFIRM THAT:

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

M. ACKNOWLEDGEMENT

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

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

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

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

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

**ATTACHMENT C – CONTRACT AFFIDAVIT**

A. AUTHORITY

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

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

I FURTHER AFFIRM THAT:

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

(1) Corporation — 🞏 domestic or 🞏 foreign;

(2) Limited Liability Company — 🞏 domestic or 🞏 foreign;

(3) Partnership — 🞏 domestic or 🞏 foreign;

(4) Statutory Trust — 🞏 domestic or 🞏 foreign;

(5) 🞏 Sole Proprietorship.

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

Name and Department ID Number:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Address:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Name and Department ID Number:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Address:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

E. DRUG AND ALCOHOL FREE WORKPLACE

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

I CERTIFY THAT:

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

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

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

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

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

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

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

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

1. The dangers of drug and alcohol abuse in the workplace;
2. The business's policy of maintaining a drug and alcohol free workplace;
3. Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
4. The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

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

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

1. Abide by the terms of the statement; and
2. Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

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

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

1. Take appropriate personnel action against an employee, up to and including termination; or
2. Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

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

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

(4) I acknowledge and agree that:

1. The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;

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

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

F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

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

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

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

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

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

## ATTACHMENT D – MINORITY BUSINESS ENTERPRISE FORMS

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

## ATTACHMENT E – PRE-BID CONFERENCE RESPONSE FORM

Solicitation Number (solicitation number)

**(SOLICITATION TITLE)**

 A Pre-Bid Conference will be held at (time of Conference), on (date of Conference), at (full address of Conference). Please return this form by (final date for submission of Attachment E), advising whether or not you plan to attend.

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

 (name of Procurement Officer)

 (Department)

 (address of Procurement Officer)

Email: (email address of Procurement Officer)

 Fax #: (fax number of Procurement Officer)

 Please indicate:

 Yes, the following representatives will be in attendance:

 1.

 2.

 3.

 No, we will not be in attendance.

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

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Signature Title

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 Name of Firm (please print)

## ATTACHMENT F – BID PRICING INSTRUCTIONS

In order to assist Bidders in the preparation of their Bid and to comply with the requirements of this solicitation, Bid Pricing Instructions and a Bid Form have been prepared. Bidders shall submit their Bid on the Bid Form in accordance with the instructions on the Bid Form and as specified herein. Do not alter the Bid Form or the Bid Form may be rejected. The Bid Form is to be signed and dated, where requested, by an individual who is authorized to bind the Bidder to the prices entered on the Bid Form.

The Bid Form is used to calculate the Bidder’s TOTAL BID PRICE. Follow these instructions carefully when completing your Bid Form:

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

1. All Unit Prices shall be the actual price per unit the State will pay for the specific item or service identified in this IFB and may not be contingent on any other factor or condition in any manner.
2. All calculations shall be rounded to the nearest cent, i.e., .344 shall be .34 and .345 shall be .35.

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

E) Every blank in every Bid Form shall be filled in. Any blanks may result in the Bid being regarded as non-responsive and thus rejected. Any changes or corrections made to the Bid Form by the Bidder prior to submission shall be initialed and dated.

1. Except as instructed on the Bid Form, nothing shall be entered on or attached to the Bid Form that alters or proposes conditions or contingencies on the prices. Alterations and/or conditions usually render the Bid non-responsive, which means it will be rejected.

G) It is imperative that the prices included on the Bid Form have been entered correctly and calculated accurately by the Bidder and that the respective total prices agree with the entries on the Bid Form. Any incorrect entries or inaccurate calculations by the Bidder will be treated as provided in COMAR 21.05.03.03E and 21.05.02.12, and may cause the Bid to be rejected.

1. All Bid prices entered below are to be fully loaded prices that include all costs/expenses associated with the provision of services as required by the IFB. The Bid 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.

I) Unless indicated elsewhere in the IFB, sample amounts used for calculations on the Bid Form are typically estimates for bidding purposes only. The Department does not guarantee a minimum or maximum number of units or usage in the performance of this Contract.

J) Failure to adhere to any of these instructions may result in the Bid being determined non-responsive and rejected by the Department.

## ATTACHMENT F – BID FORM

##### BID FORM

The Bid shall contain all price information in the format specified on these pages. Complete the Bid Form only as provided in the Bid Pricing Instructions. Do not amend, alter or leave blank any items on the Bid Form. Failure to adhere to any of these instructions may result in the bid being determined non-responsive and rejected by the Department.

Bidders shall complete this price sheet to be included with the bid. For each service, compute a weighted average hourly rate as indicated below: (each hourly rate should reflect all fixed and variable costs associated with providing the service)

**I. SERVICE II. HOURLY III. WEIGHT\* IV. WEIGHTED**

 **RATE HOURLY RATE**

A. Chore $\_\_\_\_\_\_\_ X .65 = $\_\_\_\_\_\_\_\_\_\_\_\_\_\_

B. Personal $\_\_\_\_\_\_\_ X .05 = $\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Care

C. Nursing Eval./ $\_\_\_\_\_\_\_ X .15 = $\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Supervision

D. Transportation $\_\_\_\_\_\_\_ X .15 = $\_\_\_\_\_\_\_\_\_\_\_\_\_\_

E. Composite Rate (total of rows A + B + C + D+ E) = $\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Used as Basis for Award)

**\***These weights are based on estimates of how total service hours delivered annually under the IHAS Agreement are often distributed among the four types of services specified in the IFB. **There is no guarantee that any quantity of services will be purchased**.

Submitted By:

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

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

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

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

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

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

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

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

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

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

## ATTACHMENT G – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS

Living Wage Requirements for Service Contracts

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

B. The Living Wage Law does not apply to:

(1) A Contractor who:

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

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

(2) A Subcontractor who:

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

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

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

(3) Service contracts for the following:

(a) Services with a Public Service Company;

(b) Services with a nonprofit organization;

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

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

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

D. A Contractor shall 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 shall comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.

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

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

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

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

**ATTACHMENT G-1**

**Maryland Living Wage Requirements Affidavit of Agreement**

**(submit with Bid/Proposal)**

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

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

Address\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

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

[ ]  Bidder/Offeror is a nonprofit organization

[ ]  Bidder/Offeror is a public service company

[ ]  Bidder/Offeror employs 10 or fewer employees and the proposed contract value is less than $500,000

[ ]  Bidder/Offeror employs more than 10 employees and the proposed contract value is less than $100,000

**If the Contract Is a Living Wage Contract**

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

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

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

[ ]  The employee(s) proposed to work on the contract is 17 years of age or younger during the duration of the contract; or

[ ]  The employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

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

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Authorized Representative Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness Name (Typed or Printed)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Witness Signature Date

**(submit with Bid/Proposal)**

## ATTACHMENT H - FEDERAL FUNDS ATTACHMENT

This solicitation does not include a Federal Funds Attachment.

## ATTACHMENT I – CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

**Reference COMAR 21.05.08.08**

**(submit with Bid/Proposal)**

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

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

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

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

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

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

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

(Authorized Representative and Affiant)

## ATTACHMENT J – NON-DISCLOSURE AGREEMENT

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

**RECITALS**

**WHEREAS**, the Contractor has been awarded a contract (the “Contract”) following the solicitation for (solicitation title) Solicitation # (solicitation number); and

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

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

1. Confidential Information means any and all information provided by or made available by the State to the Contractor in connection with the Contract, regardless of the form, format, or media on or in which the Confidential Information is provided and regardless of whether any such Confidential Information is marked as such. Confidential Information includes, by way of example only, information that the Contractor views, takes notes from, copies (if the State agrees in writing to permit copying), possesses or is otherwise provided access to and use of by the State in relation to the Contract.

2. Contractor shall not, without the State’s prior written consent, copy, disclose, publish, release, transfer, disseminate, use, or allow access for any purpose or in any form, any Confidential Information provided by the State except for the sole and exclusive purpose of performing under the Contract. Contractor shall limit access to the Confidential Information to the Contractor’s Personnel who have a demonstrable need to know such Confidential Information in order to perform under the Contract and who have agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information. The names of the Contractor’s Personnel are attached hereto and made a part hereof as ATTACHMENT J-1. Contractor shall update ATTACHMENT J-1 by adding additional names (whether Contractor’s personnel or a subcontractor’s personnel) as needed, from time to time.

3. If the Contractor intends to disseminate any portion of the Confidential Information to non-employee agents who are assisting in the Contractor’s performance of the Contract or who will otherwise have a role in performing any aspect of the Contract, the Contractor shall first obtain the written consent of the State to any such dissemination. The State may grant, deny, or condition any such consent, as it may deem appropriate in its sole and absolute subjective discretion.

4. Contractor hereby agrees to hold the Confidential Information in trust and in strictest confidence, to adopt or establish operating procedures and physical security measures, and to take all other measures necessary to protect the Confidential Information from inadvertent release or disclosure to unauthorized third parties and to prevent all or any portion of the Confidential Information from falling into the public domain or into the possession of persons not bound to maintain the confidentiality of the Confidential Information.

5. Contractor shall promptly advise the State in writing if it learns of any unauthorized use, misappropriation, or disclosure of the Confidential Information by any of the Contractor’s Personnel or the Contractor’s former Personnel. Contractor shall, at its own expense, cooperate with the State in seeking injunctive or other equitable relief against any such person(s).

6. Contractor shall, at its own expense, return to the Department all copies of the Confidential Information in its care, custody, control or possession upon request of the Department or on termination of the Contract.

7. A breach of this Agreement by the Contractor or by the Contractor’s Personnel shall constitute a breach of the Contract between the Contractor and the State.

8. Contractor acknowledges that any failure by the Contractor or the Contractor’s Personnel to abide by the terms and conditions of use of the Confidential Information may cause irreparable harm to the State and that monetary damages may be inadequate to compensate the State for such breach. Accordingly, the Contractor agrees that the State may obtain an injunction to prevent the disclosure, copying or improper use of the Confidential Information. The Contractor consents to personal jurisdiction in the Maryland State Courts. The State’s rights and remedies hereunder are cumulative and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and to seek damages from the Contractor and the Contractor’s Personnel for a failure to comply with the requirements of this Agreement. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys’ fees and disbursements) that are attributable, in whole or in part to any failure by the Contractor or any of the Contractor’s Personnel to comply with the requirements of this Agreement, the Contractor shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and costs.

9. Contractor and each of the Contractor’s Personnel who receive or have access to any Confidential Information shall execute a copy of an agreement substantially similar to this Agreement, in no event less restrictive than as set forth in this Agreement, and the Contractor shall provide originals of such executed Agreements to the State.

10. The parties further agree that:

a. This Agreement shall be governed by the laws of the State of Maryland;

b. The rights and obligations of the Contractor under this Agreement may not be assigned or delegated, by operation of law or otherwise, without the prior written consent of the State;

c. The State makes no representations or warranties as to the accuracy or completeness of any Confidential Information;

d. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement;

e. Signatures exchanged by facsimile are effective for all purposes hereunder to the same extent as original signatures;

f. The Recitals are not merely prefatory but are an integral part hereof; and

g. The effective date of this Agreement shall be the same as the effective date of the Contract entered into by the parties.

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

|  |  |
| --- | --- |
| Contractor:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | (Department) |
| By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(SEAL) | By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**NON-DISCLOSURE AGREEMENT - ATTACHMENT J-1**

**LIST OF CONTRACTOR’S EMPLOYEES AND AGENTS WHO WILL BE GIVEN ACCESS TO THE CONFIDENTIAL INFORMATION**

**Printed Name and Employee (E)**

**Address of Individual/Agent or Agent (A) Signature Date**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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**NON-DISCLOSURE AGREEMENT – ATTACHMENT J-2**

**CERTIFICATION TO ACCOMPANY RETURN OF CONFIDENTIAL INFORMATION**

I AFFIRM THAT:

To the best of my knowledge, information, and belief, and upon due inquiry, I hereby certify that: (i) all Confidential Information which is the subject matter of that certain Non-Disclosure Agreement by and between the State of Maryland and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Contractor”) dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_ (“Agreement”) is attached hereto and is hereby returned to the State in accordance with the terms and conditions of the Agreement; and (ii) I am legally authorized to bind the Contractor to this affirmation.

**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, HAVING MADE DUE INQUIRY.**

DATE:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NAME OF CONTRACTOR: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

BY:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Signature)

TITLE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Authorized Representative and Affiant)

## ATTACHMENT K – HIPAA BUSINESS ASSOCIATE AGREEMENT

This solicitation does not require a HIPAA Business Associate Agreement.

## ATTACHMENT L – MERCURY AFFIDAVIT

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

## ATTACHMENT M – VETERAN-OWNED SMALL BUSINESS ENTERPRISE

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

## ATTACHMENT N – LOCATION OF THE PERFORMANCE OF SERVICES DISCLOSURE

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

## ATTACHMENT O – DHR HIRING AGREEMENT

This solicitation does not require a DHR Hiring Agreement.

## ATTACHMENT P – IHAS REPORT

Please refer to the attached Word document.

## ATTACHMENT Q – MONTHLY IHAS REPORT

Please refer to the attached Excel spreadsheet.

## ATTACHMENT R – MONTHLY IHAS SUMMARY REPORT

Please refer to the attached Excel spreadsheet.

## ATTACHMENT S – POS ORDER

Please refer to the attached PDF document.

## ATTACHMENT T – CARE PLAN AGREEMENT

Please refer to the attached Word document.

## ATTACHMENT U – PERSONAL CARE PLAN

Please refer to the attached Word document.

## ATTACHMENT Q – DHR HIRING AGREEMENT

This solicitation does not require a DHR Hiring Agreement.