



**Maryland Health Care Commission**  
**REQUEST FOR PROPOSALS (RFP)**

**SOLICITATION NO. MHCC 17-001**

**Issue Date: July 29, 2016**

**MINIMUM DATA SET (MDS) AND LONG TERM CARE  
PLANNING CONSULTANT**

**NOTICE**

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

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

**STATE OF MARYLAND  
NOTICE TO VENDORS**

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

**Title: Minimum Data Set (MDS) and Long Term Care Planning Consultant  
Solicitation No: MHCC 17-001**

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

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

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

REMARKS:

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

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

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

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

**STATE OF MARYLAND  
MARYLAND HEALTH CARE COMMISSION  
RFP KEY INFORMATION SUMMARY SHEET**

**Request for Proposals:** Minimum Data (MDS) and Long Term Care Planning Consultant

**Solicitation Number:** MHCC 17-001

**RFP Issue Date:** July 29, 2016

**RFP Issuing Office:** Maryland Health Care Commission

**Procurement Officer:** Andrea Allen  
Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, MD 21215  
Phone: 410-764-8791 Fax: 410-358-8811  
e-mail: [andrea.allen@maryland.gov](mailto:andrea.allen@maryland.gov)

**Contract Monitor:** Linda Cole, Chief, Long Term Care Policy and Planning  
Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, MD 21215  
Phone: 410-764-3337 Fax: 410-358-1311  
e-mail: [linda.cole@maryland.gov](mailto:linda.cole@maryland.gov)

**Proposals are to be sent to:** Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, MD 21215  
Attention: Andrea Allen

**Pre-Proposal Conference:** Wednesday, August 17, 2016, 11:00 am Local Time  
4160 Patterson Avenue, Baltimore, MD 21215

**Proposal Due (Closing) Date and Time:** Tuesday, September 6, 2016, no later than 4:00 pm  
Local Time

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## SECTION 1 - GENERAL INFORMATION

### **1.1 Summary Statement**

- 1.1.1 The Maryland Health Care Commission (MHCC) is issuing this Request for Proposals (RFP) for a Consultant to advise MHCC on updating, expanding, and maintaining the customized MHCC Minimum Data Set (MDS) Manager (as defined in Section 1.2 of this RFP) using the Centers for Medicare and Medicaid Services (CMS) Minimum Data Set (MDS) data for Maryland, as well as other MHCC data sources. The MDS Manager Program will be used to support planning and policy development for long term care services, as required by Health General Article §19-118. It is required that the Offeror have demonstrated recent knowledge, experience, and expertise in (1) interpretation and analysis of data from MDS and other long term care data sources using SQL and SAS statistical software; (2) long term care payment policy and analysis; and (3) provision of technical assistance, subject matter expertise, and policy guidance in long term care.
- 1.1.2 It is the State's intention to obtain services, as specified in this RFP, from a Contract between the selected Offeror and the State. The anticipated duration of services to be provided under this Contract is four years. See Section 1.4 of this RFP for more information.
- 1.1.3 The Department intends to make a single award as a result of this RFP. See RFP Section 1.15 for more information.
- 1.1.4 An Offeror, either directly or through its subcontractor(s), must be able to provide all services and meet all of the requirements requested in this solicitation and the successful Offeror (the Contractor) shall remain responsible for Contract performance regardless of subcontractor participation in the work.

### **1.2 Abbreviations and Definitions**

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

1. **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).
2. **COMAR** – Code of Maryland Regulations available on-line at [www.dsd.state.md.us](http://www.dsd.state.md.us).
3. **Contract** – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of **Attachment A**.
4. **Contract Commencement** - The date the Contract is signed by the Department following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required. See Section 1.4.
5. **Contract Monitor (CM)** – The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor's responsibilities.

6. **Contractor** – The selected Offeror that is awarded a Contract by the State.
7. **Department or (MHCC)** – Maryland Health Care Commission.
8. **eMM** – eMaryland Marketplace (see RFP Section 1.8).
9. **Go-Live Date** – The date, as specified in the Notice to Proceed, when the Contractor must begin providing all services required by this solicitation. See Section 1.4.
10. **Key Personnel** – All personnel identified in the solicitation as such, or personnel identified by the Offeror in its Proposal that are essential to the work being performed under the Contract. See RFP Sections 1.23 and 4.4.2.7.
11. **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.
12. **MDS**- The Long-Term Care Minimum Data Set (MDS) is a standardized, primary screening and assessment tool of health status that forms the foundation of the comprehensive assessment for all residents in a Medicare and/or Medicaid-certified long-term care facility. The MDS contains items that measure physical, psychological and psychosocial functioning. The items in the MDS give a multidimensional view of the patient's functional capacities and helps staff to identify health problems.
13. **MDS Manager Program**- MDS Manager is a program developed for the MHCC to extract and utilize selected variables from the federal MDS data base. This is a data application that imports various data files and uses the data to calculate various variables concerning residents in Maryland nursing homes to address the MHCC's policy and planning needs. Use the following link to review: [MDS Manager SAS End User Manual](#)
14. **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.
15. **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.
16. **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 Monitor regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date.
17. **Offeror** – An entity that submits a Proposal in response to this RFP.
18. **Procurement Officer** – Prior to the award of any Contract, the sole point of contact in the State for purposes of this solicitation. After Contract award, the Procurement Officer has responsibilities as detailed in the Contract (Attachment A), 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.
19. **Proposal** – As appropriate, either or both of an Offeror's Technical or Financial Proposal.



20. **Request for Proposals (RFP)** – This Request for Proposals issued by the Maryland Health Care Commission, with the Solicitation Number and date of issuance indicated in the RFP Key Information Summary Sheet (near the beginning of the solicitation, after the Title Page and Notice to Vendors), including any addenda.
21. **State** – The State of Maryland.
22. **Total Proposal Price** - The Offeror’s total proposed price for services in response to this solicitation, included in the Financial Proposal with Attachment F – Price Form, and used in the financial evaluation of Proposals (see RFP Section 5.3).
23. **Veteran-owned Small Business Enterprise (VSBE)** – A business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.

**1.3 Contract Type**

The contract that results from this RFP shall be a combination of firm, fixed price contract pursuant to COMAR 21.06.03.02A(1) and B(2) and fixed unit prices (i.e. labor hour), indefinite quantity for consulting services per Task Order (TO) pursuant to COMAR 21.06.03.05A(1).

**1.4 Contract Duration**

- 1.4.1 The Contract that results from this solicitation shall commence as of the date the Contract is signed by the Department following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required (“Contract Commencement”).
- 1.4.2 The period of time from the date of Contract Commencement through the Go-Live Date (see Section 1.2 definition and Section 1.4.3) will be the Contract “Start-up Period.” During the Start-up Period the Contractor shall perform start-up activities such as are necessary to enable the Contractor to begin the successful performance of Contract activities as of the Go-Live Date. No compensation will be paid to the Contractor for any activities it performs during the Start-up Period.
- 1.4.3 As of the Go-Live Date contained in a Notice to Proceed (see Section 1.2 definition), anticipated to be on or about **November 1, 2016**, the Contractor shall perform all activities required by the Contract, including the requirements of this solicitation, and the offerings in its Technical Proposal, for the compensation described in its Financial Proposal.
- 1.4.4 The duration of the Contract will be for the period of time from Contract Commencement to the Go-Live Date (the Start-Up Period as described in Section 1.4.2) plus four (4) years 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 Procurement Officer is the sole point of contact in the State for purposes of this solicitation prior to the award of any Contract (see definition of “Procurement Officer” in Section 1.2).

The name and contact information of the Procurement Officer are indicated in the RFP Key Information Summary Sheet (near the beginning of the solicitation, after the Title Page and Notice to Vendors).

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

## **1.6 Contract Monitor**

The Contract Monitor is the State representative for this Contract who is primarily responsible for Contract administration functions after Contract award (see definition of “Contract Monitor” in Section 1.2).

The name and contact information of the Contract Monitor are indicated in the RFP Key Information Summary Sheet (near the beginning of the solicitation, after the Title Page and Notice to Vendors).

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

## **1.7 Pre-Proposal Conference**

A Pre-Proposal Conference (the Conference) will be held at the date, time, and location indicated in the RFP Key Information Summary Sheet (near the beginning of the solicitation, after the Title Page and Notice to Vendors). All prospective Offerors are encouraged to attend in order to facilitate better preparation of their Proposals.

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

In order to assure adequate seating and other accommodations at the Conference, please e-mail or fax the Pre-Proposal Conference Response Form (**Attachment E**) to the attention of the Procurement Officer at least five (5) Business Days prior to the Pre-Proposal Conference date. 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 at least five (5) Business Days prior to the Pre-Proposal Conference date. The Department will make a reasonable effort to provide such special accommodation.

## **1.8 eMarylandMarketplace**

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

eMM is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the (MHCC) website [mhcc.maryland.gov](http://mhcc.maryland.gov) and possibly other means for transmitting the RFP and associated materials, the solicitation and summary of the Pre-Proposal Conference, Offeror questions and the Procurement Officer’s responses, addenda, and other solicitation-related information will be provided via eMM.

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

## 1.9 Questions

Written questions from prospective Offerors will be accepted by the Procurement Officer prior to the Conference. If possible and appropriate, such questions will be answered at the Conference. (No substantive question will be answered prior to the Conference.) Questions to the Procurement Officer shall be submitted via e-mail to the Procurement Officer's e-mail address indicated in the RFP Key Information Summary Sheet (near the beginning of the solicitation, after the Title Page and Notice to Vendors). Please identify in the subject line the Solicitation Number and Title. Questions, both oral and written, will also be accepted from prospective Offerors attending the Conference. If possible and appropriate, these questions will be answered at the Conference.

Questions will also be accepted subsequent to the Conference and should be submitted to the Procurement Officer via email in a timely manner prior to the Proposal due date. Questions are requested to be submitted at least five (5) days prior to the Proposal due date. The Procurement Officer, based on the availability of time to research and communicate an answer, shall decide whether an answer can be given before the Proposal due date. Time permitting, answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be distributed to all vendors that are known to have received a copy of the RFP in sufficient time for the answer to be taken into consideration in the Proposal.

## 1.10 Procurement Method

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

## 1.11 Proposals Due (Closing) Date and Time

Proposals, in the number and form set forth in Section 4.2 "Proposals" must be received by the Procurement Officer at the Procurement Officer's address and no later than the Proposal Due date and time indicated in the RFP Key Information Summary Sheet (near the beginning of the solicitation, after the Title Page and Notice to Vendors) in order to be considered.

Requests for extension of this time or date will not be granted. Offerors mailing Proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02.F and 21.05.02.10, Proposals received after the due date and time listed in this section will not be considered.

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

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

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

## 1.12 Multiple or Alternate Proposals

Multiple and/or alternate Proposals will not be accepted.

### **1.13 Economy of Preparation**

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

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

An Offeror should give specific attention to the clear identification of those portions of its Proposal that it considers confidential and/or proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Md. Code Ann., General Provisions Article, Title 4. (Also, see RFP Section 4.4.3.2 "Claim of Confidentiality"). This confidential and/or proprietary information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical Proposal and if applicable, separately in the Financial Proposal.

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

### **1.15 Award Basis**

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

### **1.16 Oral Presentation**

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

### **1.17 Duration of Proposal**

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

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

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

Acknowledgment of the receipt of all addenda to this RFP issued before the Proposal due date shall be included in the Transmittal Letter accompanying the Offeror's Technical Proposal (see RFP Section 4.4.2.3). Acknowledgement of the receipt of addenda to the RFP issued after the Proposal due date shall be in the manner specified in the addendum notice. Failure to acknowledge receipt of an addendum does not relieve the Offeror from complying with the terms, additions, deletions, or corrections set forth in the addendum.

### **1.19 Cancellations**

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

### **1.20 Incurred Expenses**

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

The selected Offeror shall be responsible for all products and services required by this RFP. All subcontractors must be identified and a complete description of their role relative to the Proposal must be included in the Offeror's Proposal. If applicable, subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate Attachment(s) of this RFP (see Section 1.33 "Minority Business Enterprise Goals" and Section 1.41 "Veteran-Owned Small Business Enterprise Goals").

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

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

### **1.23 Substitution of Personnel**

A. Continuous Performance of Key Personnel

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

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

B. Definitions

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

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

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

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

C. Key Personnel General Substitution Provisions

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

1. The Contractor shall demonstrate to the Contract Monitor's satisfaction that the proposed substitute Key Personnel have qualifications at least equal to those of the Key Personnel for whom the replacement is requested.
2. The Contractor shall provide the Contract Monitor with a substitution request that shall include:
  - A detailed explanation of the reason(s) for the substitution request;
  - The resume of the proposed substitute personnel, signed by the substituting individual and his/her formal supervisor;
  - The official resume of the current personnel for comparison purposes; and
  - Any evidence of any required credentials.
3. The Contract Monitor may request additional information concerning the proposed substitution. In addition, the Contract Monitor and/or other appropriate State personnel involved with the Contract may interview the proposed substitute personnel prior to deciding whether to approve the substitution request.

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

#### D. Replacement Circumstances

##### 1. Voluntary Key Personnel Replacement

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

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

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

Under any of the circumstances set forth in this paragraph D.2, the Contractor shall identify a suitable replacement and provide the same information or items required under paragraph C of this section within fifteen (15) days of the actual vacancy occurrence or from when the Contractor first knew or should have known that the vacancy would be occurring, whichever is earlier.

##### 3. Key Personnel Replacement Due to an Indeterminate Absence

If any Key Personnel has been absent from his/her job for a period of ten (10) days due to injury, illness, or other physical condition, leave of absence under a family medical leave, or an Extraordinary Personal Circumstance and it is not known or reasonably anticipated that the individual will be returning to work within the next twenty (20) days to fully resume all job duties, before the 25th day of continuous absence, the Contractor shall identify a suitable replacement and provide the same information or items to the Contract Monitor as required under paragraph C of this section.

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

##### 4. Directed Personnel Replacement

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

will be provided. However, if the Contract Monitor deems it necessary and in the State's best interests to remove the personnel with less than fifteen (15) days' notice, the Contract Monitor can direct the removal in a timeframe of less than fifteen (15) days, including immediate removal.

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

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

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

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

#### **1.24 Mandatory Contractual Terms**

By submitting a Proposal in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached herein as **Attachment A**. Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary of the Technical Proposal. **A Proposal that takes exception to these terms may be rejected (see RFP Section 4.4.2.4).**

#### **1.25 Bid/Proposal Affidavit**

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

#### **1.26 Contract Affidavit**

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete a Contract Affidavit. A copy of this Affidavit is included as **Attachment C** of this RFP. This Affidavit must be provided within five (5) Business Days of notification of proposed Contract award. This Contract Affidavit is also required to be submitted by the Contractor with any Contract renewal, including the exercise of any options or modifications that may extend the Contract term. For purposes of completing Section "B" of this Affidavit (Certification of Registration or Qualification with the State Department of Assessments and Taxation), note that a business entity that is organized outside of the State of Maryland is considered to be a "foreign" business.



### **1.27 Compliance with Laws/Arrearages**

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

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

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

Before a business entity can do business in the State it must be registered with the State Department of Assessments and Taxation (SDAT). SDAT is located at State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. The SDAT website is <http://sdat.dat.maryland.gov/ucc-charter/> .

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

### **1.29 False Statements**

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

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

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

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

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

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

By submitting a response to this solicitation, the Bidder/Offeror agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller's Office grants an exemption. Payment by EFT is mandatory for contracts exceeding \$200,000. The selected Bidder/Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form, must include the business identification information as stated on the form, and must include the reason for the exemption. The COT/GAD X-10 form may be downloaded from the Comptroller's website at:

[http://comptroller.marylandtaxes.com/Vendor\\_Services/Accounting\\_Information/Static\\_Files/GADX10Form20150615.pdf](http://comptroller.marylandtaxes.com/Vendor_Services/Accounting_Information/Static_Files/GADX10Form20150615.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 "Prompt Payment" clause (see **Attachment A**).

Additional information is available on GOMA's website at:

<http://goma.maryland.gov/Documents/Legislation/PromptPaymentFAQs.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/bsol/>), and electronic data interchange.
- D. In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., § 1.30 "Payments by Electronic Funds Transfer") and subject to the exclusions noted in section E of this subsection, the following transactions are authorized to be conducted by electronic means on the terms described:
1. The Procurement Officer may conduct the procurement using eMM, e-mail, or facsimile to issue:
    - (a) the solicitation (e.g., the IFB/RFP);
    - (b) any amendments;
    - (c) pre-Bid/Proposal conference documents;
    - (d) questions and responses;
    - (e) communications regarding the solicitation or Bid/Proposal to any Bidder/Offeror or potential Bidder/Offeror;
    - (f) notices of award selection or non-selection; and
    - (g) the Procurement Officer's decision on any Bid protest or Contract claim.
  2. A Bidder/Offeror or potential Bidder/Offeror may use e-mail or facsimile to:
    - (a) ask questions regarding the solicitation;
    - (b) reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer's request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer;
    - (c) submit a "No Bid/Proposal Response" to the solicitation.

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

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

1. submission of initial Bids or Proposals;
2. filing of Bid Protests;
3. filing of Contract Claims;
4. submission of documents determined by 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 Contract Monitor.

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

There is no MBE subcontractor participation goal for this procurement.

### **1.34 Living Wage Requirements**

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

If subject to the Living Wage law, Contractor agrees that it will abide by all Living Wage law requirements, including but not limited to reporting requirements in COMAR 21.11.10.05. Contractor understands that failure of Contractor to provide such documents is a material breach of the terms and conditions and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions. See the “Living Wage” clause in the Contract (**Attachment A**).

Additional information regarding the State’s living wage requirement is contained in **Attachment G**. Bidders/Offerors must complete and submit the Maryland Living Wage Requirements Affidavit of Agreement (**Attachment G-1**) with their Bid/Proposal. If a Bidder/Offeror fails to complete and submit the required documentation, the State may determine a Bidder/Offeror to be not responsible under State law.

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

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

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

A Conflict of Interest Affidavit is not required pursuant to COMAR 21.05.08.08(F) for this procurement. An Offeror is required to disclose to the Procurement Officer any actual or potential conflict of interest as it arises, before or after award, in accordance with COMAR 21.05.08.08.

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

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

### **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 Goal**

There is no Veteran-Owned Small Business Enterprise (VSBE) 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.

**1.44 Small Business Reserve (SBR) Procurement**

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

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## **SECTION 2 – MINIMUM QUALIFICATIONS**

### **2.1 Offeror Minimum Qualifications**

There are no Offeror minimum qualifications for this solicitation.

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## **SECTION 3 – SCOPE OF WORK**

### **3.1 Background and Purpose**

The State is issuing this solicitation for the purposes outlined in Section 1.1 of this RFP.

The Maryland Health Care Commission is an independent regulatory agency whose mission is to plan for health system needs, promote informed decision-making, increase accountability, and improve access in a rapidly changing health care environment by providing timely and accurate information on availability, cost, and quality of services to policy makers, purchasers, providers and the public. The Commission's vision for Maryland is to ensure that informed consumers hold the health care system accountable and have access to affordable and appropriate health care services through programs that serve as models for the nation.

In terms of long term care data, initially, the MHCC conducted an annual Maryland Long Term Care Survey that collected both facility-specific and resident-specific data from all nursing homes. In 1999, the MHCC began using the national minimum data set (MDS) to substitute for the resident-specific component of the survey.

The MHCC utilizes MDS data for various planning and regulatory activities. The data is used for various planning purposes, including: development of the [State Health Plan](#); production of reports on utilization of nursing homes and other long term care settings; diversion of nursing home residents to community-based settings; and the development of a methodology to project the need for nursing home beds. Data is also used for Certificate of Need (CON) regulatory activities including: review of applications; determination of service areas of facilities; analysis of occupancy, retention rates, and other nursing home utilization; and determination of unmet population needs.

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

The Contractor shall:

#### **3.2.1 General Requirements**

The [MDS Manager Program](#) is an application, written in SAS, importing MDS data to create data sets on long-term care facilities, resident admissions and discharges, and episodes of care. This MDS Manager Program must be maintained and kept consistent with CMS's current MDS 3.0 data. If CMS does a major redesign of MDS 3.0, or creates a new version, the Contractor shall be responsible for updating the MDS Manager Program. All data sets are maintained in SAS, and will be used for planning and policy development for long term care services, data analysis, preparation of tables, and development of statistical methodologies to forecast future need for long term care services in Maryland. The Contractor will be given access to MHCC's SAS environment through remote log-in (see Section [3.3.3.2 of this RFP](#)). The Contractor shall utilize Maryland specific Minimum Data Set (MDS) data, obtained from CMS via a Data Use Agreement (DUA) between MHCC and CMS, and the data sources specified in Section 3.2.1.6 of this RFP in addition to the MHCC MDS Manager Program in order to prepare summary tabulations, reports on issues pertaining to the utilization of long term care services, provide continuous maintenance of and ongoing assistance with the database, and assist with data analysis. Deadlines for completion of the Contractor tasks detailed in Sections 3.2.1.1 through 3.2.1.5 can be found in Section 3.2.1.8 of this RFP.

##### **3.2.1.1 Work Plan/ Project Management.**

The Contractor shall:

3.2.1.1.1 Within 30 days following Contract Commencement and annually thereafter, the Contractor shall submit to the Contract Monitor for feedback and subsequent approval, a draft of the detailed Work Plan as proposed in its Technical Proposal for the respective Contract Year. The Contractor

shall incorporate any feedback and submit its final draft with all comments incorporated by no later than 15 days after receiving comments from the Contract Monitor. The Work Plan shall include the following:

- A. Each major step of the project with specific tasks and dates for completion;
- B. Name and position title of each staff member responsible for each specific task, and the number of hours assigned to each staff member to complete each task;
- C. Recommendations on inputs and resources needed for the project; and
- D. Quality review process, including checking for errors, outlier variables and comparison to previous output.

3.2.1.1.2 Meet with Contract Monitor at the commission at a Kick-Off Meeting within 15 days of Contract Commencement to review the MDS Manager and its component programs.

3.2.1.1.3 Within 15 days of the Kickoff Meeting, submit a draft work plan to MHCC for review. MHCC will review and respond within 15 days of receipt.

3.2.1.1.4 Contractor shall respond to MHCC comments within 30 days of receipt and submit a final work plan within 45 days of receipt of MHCC comments.

3.2.1.1.5. Unless deemed unnecessary for a particular meeting by the Contract Monitor, the Contractor shall meet every other week via telephone or teleconference with the Contract Monitor and Commission staff to discuss progress on assigned tasks. This includes review of any testing, data processing issues, planned resolutions, and next steps.

More details on the timeline and deliverables may be found in Section 3.2.1.8 of this RFP.

**3.2.1.2. Staying Current with Policy Changes:** The Contractor shall stay abreast of policy changes within CMS, Medicaid, and other national developments impacting the application of MDS to policy and planning activities and report consistent with timelines specified in Section 3.2.1.8 of this RFP. The Contractor shall:

3.2.1.2.1 Communicate regularly with CMS to keep abreast of all impending updates to MDS coding and data collection and the potential impact on the MDS Manager Program and resulting data analysis. Report these updates to the Contract Monitor in a written report.

3.2.1.2.2 Communicate regularly with the Maryland Medicaid Program to keep abreast of changes in the Medicaid reimbursement system in order to ensure that Medicaid Cost Reports are fully incorporated into the Long Term Care Survey Component of the MDS Manager Program. Report these updates to the Contract Monitor in a written report.

3.2.1.2.3. Provide recommendations to the Contract Monitor on the impact of changes in CMS, Medicare, and Medicaid on data processing and analyses in a Word document. These reports shall be delivered two weeks prior to the due date to the Contract Monitor for review. Draft recommendations shall also be discussed in biweekly meetings.

3.2.1.2.4 Recommend changes regarding variables that need to be replaced, updated, or eliminated as a result of changes to MDS 3.0. Submit recommendations to the Contract Monitor in a Word



document that also includes an Excel table with a crosswalk of new and old MDS variables. This report shall be delivered two weeks prior to the due date to the Contract Monitor for review. Draft recommendations shall also be discussed in biweekly meetings. Obtain approval of the Contract Monitor to execute recommended changes and then execute recommended changes as approved. These shall be written recommendations and discussed in biweekly meetings.

3.2.1.2.5. Develop a crosswalk, upon the written request of the Contract Monitor, detailing changes in MDS 3.0 variables over time as they compare to previous MDS 3.0 variables. The crosswalk will be developed in Excel and sent via email to the Contract Monitor.

More details on the timeline and deliverables may be found in Section 3.2.1.8 of this RFP.

**3.2.1.3 Maintain and Update MDS Manager Programs and Data:** The Contractor shall follow and complete the steps of the MDS Manager Program as described below and outlined in Table 1.

The MDS Manager Program is an application, written in SAS, importing MDS data to create data sets on long-term care facilities, resident admissions and discharges, and episodes of care. It requires the Contractor to perform ongoing maintenance and periodic updates based on data received from CMS. Table 1 explains how the MDS Manager Program functions, including the Consumer Guide component. New quarterly MDS 3.0 data, obtained by MHCC, is inputted into the MDS Manager Program. The impact of the new data is monitored, and updated quarterly. MDS data is obtained from the Office of Health Care Quality, which is the state repository for the MDS data. The Contractor shall seek the approval of the Contract Monitor prior to executing any updates or proposed changes to the MDS Manager Program. The schedule for such updates is provided in Section 3.2.1.8 of this RFP.

3.2.1.3.1 Perform data intake and processing, episode construction including the following:

- Run MDS Manager Programs;
- Update programs to accommodate changes to MDS, address data processing and quality issues, and improve efficiency of processing;
- Refine definitions of episodes/stays ;
- Propose changes to episode definitions;
- Check completeness of Section S (state-specific section of MDS) data and make recommendations for improvement; and
- Develop and implement, as approved by MHCC.

3.2.1.3.2 Develop a Design Plan no later than 60 days after Contract Commencement and annually in subsequent Contract years. This plan will address how the Contractor will perform the necessary steps outlined in Table 1, in accordance with the delivery schedule outlined in Section 3.2.1.8 of this RFP. Drafts of the Design Plan will be submitted to the Contract Monitor for review; no more than two drafts will be permitted. Final design plan shall be approved by Contract Monitor prior to initiation of work.

3.2.1.3.3 Develop, update, and maintain an ongoing quality review process and update programs and data to ensure that data quality standards (see Table 1) are met. At a minimum, Quality Control will: assure that the file formats are consistent with previous years; produce field level frequencies and variances; perform cross-year trend analyses; perform automated checks supplemented by manual spot checks. Testing results should be submitted in Word and Excel, including proposed solutions to identified quality issues.

3.2.1.3.4 Perform all data quality and processing review steps including, data review and checks, program review and checks, and resolve all data and programming issues in consultation with the Contract Monitor in developing a written report. This shall be performed annually unless updates from CMS require more frequent updates.

3.2.1.3.5 Provide a report to the Contract Monitor demonstrating that the quality control steps have been completed and that the programs have been updated.

3.2.1.3.6 Develop annual data documentation for the MDS Manager Programs (consistent with current documentation rules included in the MDS Manager Program) including: variable name, description, values, format and length, and crosswalks of new variables as compared to existing variables.

3.2.1.3.7 Produce standardized data output as follows:

- A. Produce raw data in SAS format and demonstrate the update of quarterly data;
- B. Produce the Admissions Table, adding new data to the database of all processed data for all years;
- C. Produce the Annual Analytic Files, using standardized output from the Admission Table for each year as an analytic file.

3.2.1.3.8. Routine Reports include the reports outlined below. There will be two drafts for review of approach and timeline; reports should take no more than four (4) weeks to complete. Updates are needed to maintain and improve these reports. The design plans, table template, and format need to be approved by the Contract Monitor prior to execution; there will be no more than two drafts reviewed before the template is finalized. Standardized data extracts and reports are as follows. Any additional reports will be requested by the Contract Manager, as specified in Section 3.2.1.5 of this RFP.

- A. Retention rate tables indicating addition of annual data updates;
- B. Length of Stay tables, indicating addition of annual data updates;
- C. Descriptive data on nursing homes and residents, indicating addition of annual data updates.
- D. Consumer Guide tables, indicating addition of semi-annual data updates, examples may be found at: [Consumer Guide to Long term Care Facility Profile](#)  
Example of the supporting data tables for the Consumer Guide may be found here: [NH Resident Characteristics Portal Data](#)

Examples of tables A-C may be found at:

- [COMAR 10.24.08 Supplement 1 "Statistical Data Tables"](#)
- [COMAR 10.24.08 Supplement 2 "Gross and Net 2016 Bed Need Projection for Nursing Home Beds"](#)
- [COMAR 10.24.08 Supplement 3 "Required Regional and Jurisdictional"](#)

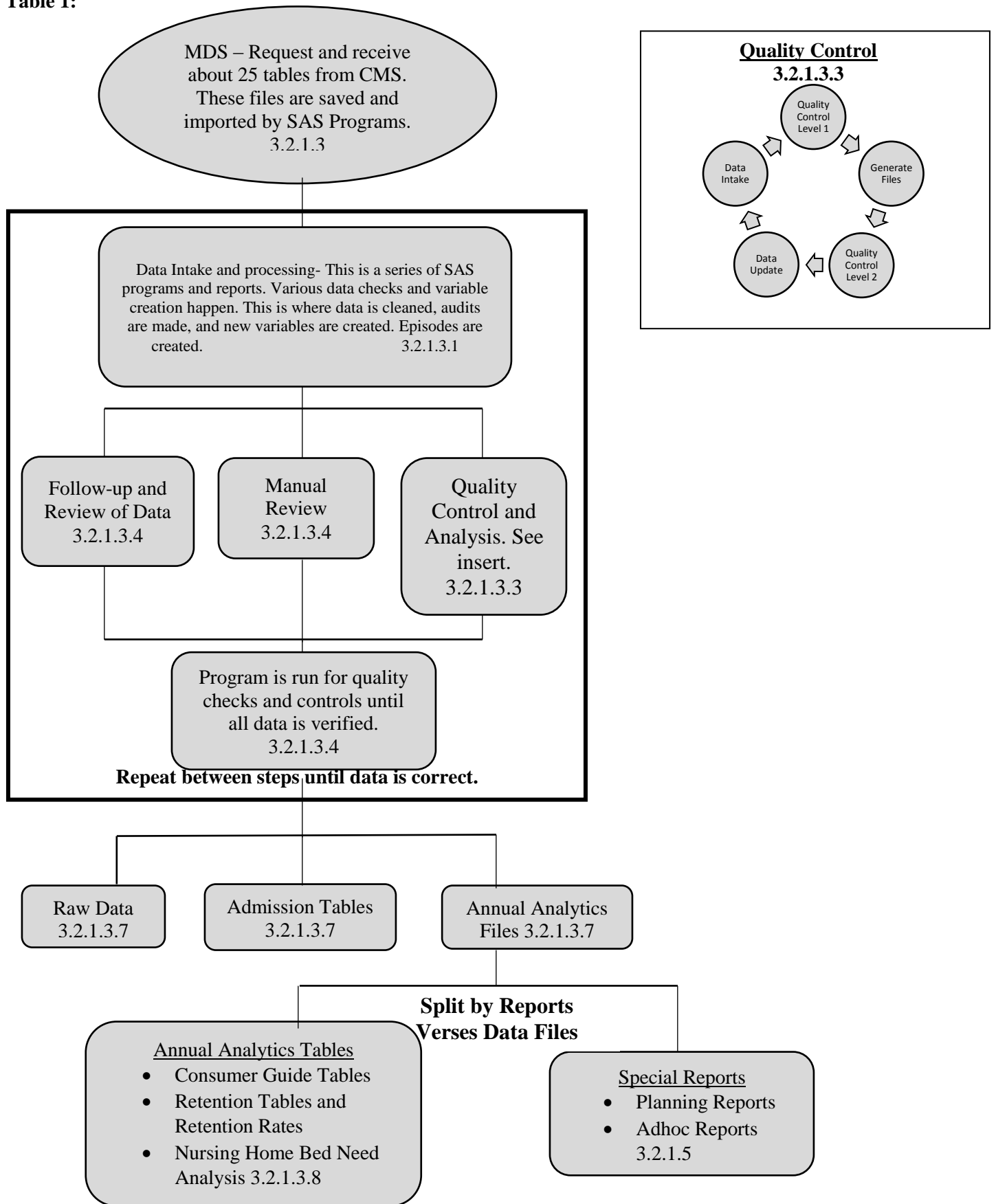
3.2.1.3.9. User Guides and Documentation. The Contractor shall annually provide detailed documentation for:

- A. All programs, including path diagrams, order of processing, recommendations and instructions for use. The contractor shall supplement documentation with training for MHCC staff, annually.
- B. All data, including detailed data dictionaries, frequencies and control totals on key fields, and any known data limitations.

- C. All reports and data extracts, including rules and selection criteria, variables and years used, data dictionaries, and summary statistics, annually.
- D. The Contractor shall provide staff training annually to MHCC staff on any updates to the MDS Manager program and its outputs.

More details on the timeline and deliverables may be found in Section 3.2.1.8 of this RFP.

**Table 1:**



### 3.2.1.4: Maintain and Update Long Term Care Survey Programs, Data, and Reports.

These are a set of programs, written in SAS, which use MHCC data, including Long Term Care data, MDS and Medicaid cost report data, to develop data by facility to support the Commission's Long Term Care Survey at: [http://mhcc.maryland.gov/public\\_use\\_files/compdownload.html](http://mhcc.maryland.gov/public_use_files/compdownload.html).

The Contractor shall maintain and update all Long Term Care Survey programs, data, and reports as described below and outlined in Table 2.

3.2.1.4.1 Develop a Design Plan within 60 days of Contract Commencement and annually in subsequent years. This plan will address how the Contractor will perform the necessary steps outlined in Table 2, in accordance with the delivery schedule outlined in Section 3.2.1.8 of this RFP.

3.2.1.4.2 Perform annual data intake and processing for Long Term Care Survey (LTCS) data. This includes:

- A. Import LTCS data from SQL or Access tables into a SAS file
- B. Import Medicaid Cost Report data from an Excel or CSV file into a SAS file
- C. Merge data into a single file for quality review
- D. Update data based on quality review activities specified in Section 3.2.1.4.3 of this RFP.

3.2.1.4.3 Develop, update, and maintain an ongoing quality review process. Quality Control shall: assure that the file formats are consistent with previous years; produce field level frequencies and variances; perform cross-year trend analyses; perform automated checks supplemented by manual spot checks. Quality checks include:

- A. Verify consistency in formats and frequencies of fields within and across years.
- B. Perform cross-year and cross-facility analyses to assess consistency in reporting. If there are discrepancies, determine the type and amount and discuss with the Contract Monitor via email and written report in Word.
- C. Provide standardized data quality reports for review by the Contract Monitor and MHCC team. MHCC will communicate with facilities and follow up on discrepancies found.
- D. Support Contract Monitor and MHCC team in investigation of any discrepancies in data. Provide training and education to providers to assure accurate data submission, upon the request of the Contract Monitor.
- E. Run initial versions of routine reports, such as the occupancy report, specified in Section 3.2.1.4.5 of this RFP.
- F. Update any revised data provided by facilities and MHCC, as specified in Section 3.2.1.4.3 (c) of this RFP. Obtain input and approval from Contract Monitor. There are 2-4 iterations of this process before the data is finalized.

3.2.1.4.4 Maintain and update all Long Term Care Survey SAS programs. These include programs for reading in data, processing data to create preliminary analytic files, performing quality checks, outputting standard and ad-hoc reports, and producing final analytic files and public use files. In fulfilling this requirement, the Contractor shall do the following:

- A. Review programs for improvement in efficiency and accuracy;
- B. Make recommendations for improvements; and
- C. When recommendations for improvement are recommended and accepted, update programs, when approved by Contract Monitor.

3.2.1.4.5 Develop, Maintain and Update Long Term Care Survey Reports. Routine Reports include the reports outlined below. There will be a minimum of two (2) drafts for review of approach and

timeline; reports shall take no more than 4 weeks to complete. Updates are needed to maintain and improve these reports. The design plans, table template, and format need to be approved by the Contract Monitor prior to execution; there will be no more than two drafts reviewed before the template is finalized. Standardized data extracts and reports are as follows:

- A. Public Use Data Set: see [http://mhcc.maryland.gov/public\\_use\\_files/index.aspx](http://mhcc.maryland.gov/public_use_files/index.aspx)
- B. Nursing Home Occupancy Report: see [http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs\\_Itc/hcfs\\_Itc.aspx](http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_Itc/hcfs_Itc.aspx)
- C. Report on Required Medicaid Payor Percentage: see [http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs\\_Itc/hcfs\\_Itc.aspx](http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_Itc/hcfs_Itc.aspx)
- D. Three year occupancy trends: see <http://mhcc.dhmh.maryland.gov/Itc/Documents/statehealthplan/comar102408/sup1.pdf>  
[http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs\\_Itc/documents/chcf\\_Itc\\_occupancy\\_fy\\_12\\_14.pdf](http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_Itc/documents/chcf_Itc_occupancy_fy_12_14.pdf)
- E. Any additional reports will be requested by the Contract Manager, as specified in Section 3.2.1.5 of this RFP.

3.2.1.4.6 Develop standardized data and extracts as follows:

- A. Annual analytic files for all facility types: nursing home, chronic hospital; adult day care; assisted living; and
- B. Public use data sets for each facility type; and
- C. Semiannual Consumer Guide Extracts.

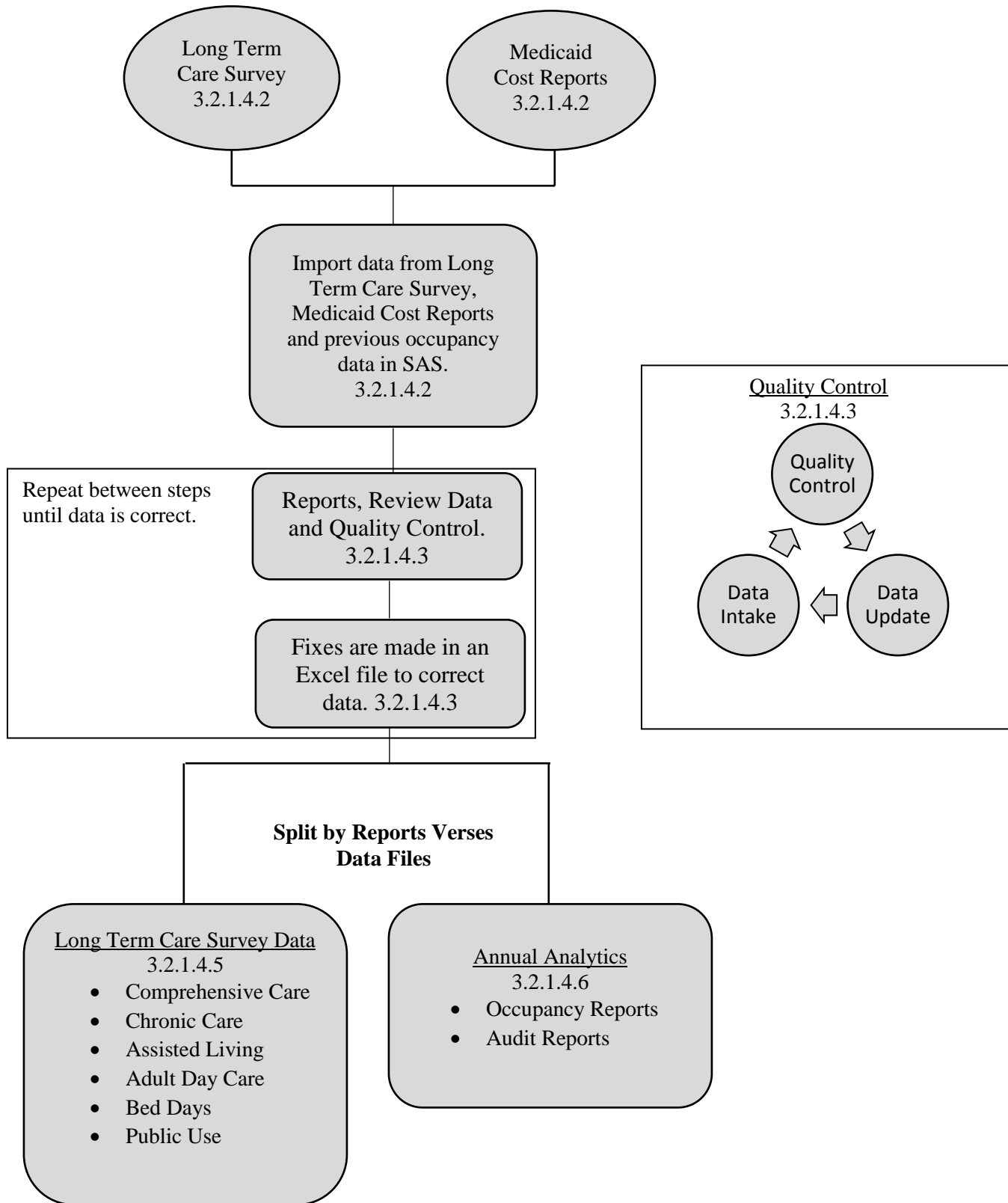
3.2.1.4.7 User Guides and Documentation. The Contractor shall develop annual data documentation for the Long Term Care Survey Programs (consistent with current documentation rules) including, but not limited to: variable name, description, values, format and length, and crosswalks of new variables as compared to existing variables. The Contractor shall provide detailed documentation for:

- A. All programs, including path diagrams, order of processing, recommendations and instructions for use. The Contractor shall supplement documentation with training for MHCC staff annually.
- B. All data, including detailed data dictionaries, frequencies and control totals on key fields, and any known data limitations.
- C. All reports and data extracts, including rules and selection criteria, variables and years used, data dictionaries, and summary statistics, annually.

More details on the timeline and deliverables may be found in Section 3.2.1.8 of this RFP.

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**Table 2:**



**3.2.1.5. Develop Special Reports.** The Contractor shall produce additional reports that are not routine or annual as specified in this section.

3.2.1.5.1 Respond to Task Orders for data analysis to support MHCC Certificate of Need and planning functions. The MHCC will submit Task Orders for special studies prior to initiating any work under this subsection. These studies will be conducted on a unit work basis using the labor categories identified in the financial proposal (Attachment F). No special study work shall be paid without the submission of a special study analysis and staffing plan and written approval of the Contract Monitor. The Contractor will be permitted, no more than two drafts of the format and timeline before the report format is finalized. The reports should take no more than 4 weeks to produce.

Examples are as follows:

- Support nursing home bed need projection activities, including:
  - Analyses to explore bed need, diversion, level of care
  - Data extracts
  - Methodology development / proposals
  - Document, as-needed
  - Identify types of documents and checkpoints/deliverables possible
  
- Support CON analyses, including
  - Analyses to explore market share, retention rates, population needs
  - Data extracts
  - Document, as-needed
  - Identify types of documents and checkpoints/deliverables possible

3.2.1.5.2 Develop materials for work groups and proposed regulations, and present to Work Groups, Advisory Groups, and the Commission when meetings relating to long term care planning are held. The MHCC will submit a Task Order for a special report or update for a work group or Commission presentation prior to initiating any work under this subsection. These studies will be conducted on a unit work basis using the labor categories identified in the financial proposal (Attachment F). No special study work shall be paid without the submission of a special study analysis and staffing plan and written approval of the Contract Monitor. Materials may include: data tables, analysis, trend data, and need projections that support regulations developed by MHCC staff.

3.2.1.5.3 Labor Categories for Task Order Work. The Contractor shall use the four labor categories listed in Section 3.2.2 of the RFP (Project Manager, Subject Matter MDS Clinical Consultant, Advanced SAS Programmer, and SAS Programmer) in responding to the Task Order work specified in Sections 3.2.1.5.1 and 3.2.1.5.2.

**3.2.1.6 Key Data Sets and Regulations**

Key data sets required for this contract will be supplied to the Contractor by the MHCC within 30 days of award of contract.

Relevant COMAR provisions describing the data sets are provided in the following table:

Source	Maryland /Federal Regulations	Description
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State Health Plan for Facilities and Services: Nursing Home and Home Health Agency Services	COMAR 10.24.08	This Plan contains the policies and standards that govern certificate of need review.
Nursing Home Occupancy Table	COMAR 10.24.08 Supplement 3 <a href="http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_ltc/documents/chcf_ltc_occupancy_fy12_14.pdf">http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_ltc/documents/chcf_ltc_occupancy_fy12_14.pdf</a>	Annual update of nursing home occupancy statewide and by jurisdiction
Nursing Home Medicaid Participation Rates	COMAR 10.24.08 Supplement 3 <a href="http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_ltc/documents/chcf_ltc_part_rate_fy2014.pdf">http://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_ltc/documents/chcf_ltc_part_rate_fy2014.pdf</a>	Annual update of required nursing home Medicaid participation rates
Long Term Care Survey	COMAR 10.24.03	Requirements for annual online data collection from long term care providers
Certificate of Need regulations	COMAR 10.24.01	Requirements governing the CON review of services regulated by the Commission
MDS 3.0 Survey Data	<a href="https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/NursinghomeQualityInits/MDS30RAIManual.html">https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/NursinghomeQualityInits/MDS30RAIManual.html</a>	Regulations regarding the MDS survey
Long Term Care Survey	<a href="http://mhcc.maryland.gov/public_use_files/index.aspx">http://mhcc.maryland.gov/public_use_files/index.aspx</a>	Public use files-output from Long Term Care Survey
Medicaid Cost Report	<a href="http://mhcc.maryland.gov/public_use_files/index.aspx">http://mhcc.maryland.gov/public_use_files/index.aspx</a>	Public use files-output from Long Term Care Survey

### 3.2.1.7: Ownership

All programs, web application files, queries, views, reports, tables, databases, data files, source code and documentation developed by the Contractor in the course of performing its duties and obligations under the Contract shall be owned by the Commission. The ownership provision is in consideration of the Contract's use of public funds in collecting or preparing such data, information, and reports. Data, information, and reports shall not be used by the Contractor for any independent project of the Contractor or publicized by the Contractor without written permission of the Commission. Subject to applicable State and Federal laws and regulations, the Commission shall have full and complete rights to reproduce, duplicate, disclose, modify and otherwise use all such data, information, and reports. The Contractor shall make available all such programs, web application files, queries, views, reports, tables, databases, data files, source code and documentation to the Commission within thirty (30) days following the end of the Contract or a longer period if needed to produce required products, as approved by the Commission.

### 3.2.1.8 Timetable and Deliverables

The following tables lists the key tasks to be completed.

**Annual Requirements**

**Due Date for Completion**

**Time Period for First Year**

**Work Plan/Project Management: 3.2.1.1**

Meet with Contract Manager at Kick-Off meeting (3.2.1.1.2)		15 days after Contract Commencement
Develop work plan including timeline for all products and deliverables and obtain MHCC approval (3.2.1.1.1)		60 days after Contract Commencement
Hold bi-weekly meetings with MHCC staff (3.2.1.1.5)		Starting 30 days after Contract Commencement and held every other week.

**Staying Current with Policy Changes: 3.2.1.2**

Provide information on impacts of upcoming changes to MDS variables that may need to be added or replaced (3.2.1.2.1)	Annually by October 30th and as requested by Contract Monitor per Task Order	60 days after Contract Commencement
Provide recommendations on impact of changes to Maryland Medicaid reimbursement policies and procedures. (3.2.1.2.2)	Annually by July 31st and as requested by Contract Monitor per Task Order	90 days after Contract Commencement
Provide written recommendations on the impact of changes in Medicare and Medicaid on data processing and analysis. (3.2.1.2.3)	Annually June 30 <sup>th</sup> and as requested by Contract Monitor per Task Order	90 days after Contract Commencement
Provide written recommendations on variables that need to be replaced, updated, or eliminated as a result of changes to MDS 3.0 variables (3.2.1.2.4)	Annually by October 30th	120 days after Contract Commencement
Develop a crosswalk detailing changes in MDS variables over time as compared to previous data sets (3.2.1..2.5)	Annually by October 30th	150 days after Contract Commencement

**Maintain and Update MDS Manager Programs and Data: 3.2.1.3**

Initial processing of data and program and episode construction as specified (3.2.1.3.1.)	Quarterly (by July 1, October 1, January 1, and April 1)	Starting 30 days after Contract Commencement and at 90 day intervals thereafter
Develop a design plan as specified (3.2.1.3.2)	Annually by October 30th	60 days after Contract Commencement.
Testing results (written reports and Excel) of quality review process with proposed solutions (written documents) (3.2.1.3.3-3.2.1.3.5)	Annually by December 1 <sup>st</sup>	120 days after Contract Commencement

Develop annual data documentation for MDS Manager Programs (3.2.1.3.6)	Annually by December 15th	150 days after Contract Commencement
Produce standardized data output and data extract as specified (3.2.1.3.7)	Annually December 15th	120 days after Contract Commencement
Produce routine reports as required: Retention rate tables; Length of Stay tables; Descriptive data on nursing home residents (3.2.1.3.8)	Annually by December 1st	300 days after Contract Commencement
Consumer Guide tables (3.2.1.3.8)	Semi-Annually (June 1 <sup>st</sup> and December 1 <sup>st</sup> )	150 and 300 days after Contract Commencement
Develop User Guides and Documentation including training (3.2.1.3.9)	Annually by December 1 <sup>st</sup>	300 days after Contract Commencement

#### **Maintain and Update Long Term Care Survey Programs, Data, and Reports: 3.2.1.4**

Develop design plan as outlined (3.2.1.4.1)	Annually by November 1st	60 days after Contract Commencement
Perform annual data intake and processing for Long Term Care Survey as specified (3.2.1.4.2)	Annually by December 1st	150 days after Contract Commencement
Develop, update, and maintain ongoing quality review process. Testing results from quality control program.(3.2.1.4.3)	Annually by December 31st	300 days after Contract Commencement
Maintain and update Long Term Care survey SAS programs as specified to produce data to support Long Term Care Survey reports(3.2.1.4.4)	Ongoing	Ongoing
Develop, maintain and update standardized data extracts and routine Long Term Care Survey reports including: Public use data set; Nursing Home Occupancy Report; Required Medicaid Participation Report; 3-year Occupancy Trends (3.2.1.4.5)	Annually by December 1st	300 days after Contract Commencement

Develop standardized data and extracts as specified in 3.2.1.4.6

Annually by December 15th

300 days after Contract Commencement

Develop User Guide and Documentation (3.2.1.4.7)

Annually by December 30th

300 days after Contract Commencement

**Develop Special Reports: 3.2.1.5.**

Respond to requests for data analysis to support planning and Certificate of Need activities (3.2.1.5.1)

Upon the written request of MHCC's Contract Monitor per Task Order

Upon the written request of MHCC's Contract Monitor

Develop materials for work groups to assist in various activities, including but not limited to, the drafting of proposed regulations, and to present these materials to various work groups, advisory groups, and the Commission as specified.(3.2.1.5.2)

Upon the written request of MHCC's Contract Monitor per Task Order

Upon the written request of MHCC's Contract Monitor. Two drafts will be permitted before the document is finalized. Final draft should be prepared within 30 days of request.

### 3.2.2. Staffing Requirements:

At a minimum, the Contractor shall assign the following Key Personnel, all of whom are subject to the provisions of Section 1.23 of this RFP.

- **Project Manager.** A full time equivalent (FTE) Project Director dedicated, but not necessarily exclusive to, this Contract. This individual is responsible for the coordination and operation of all aspects of the Contract, including assuring that products are delivered within budget and on time. The Project Manager shall possess at least three years of demonstrated experience within the last five years with overseeing and managing a project that includes: MDS coding policies and procedures for the federal MDS as well as state-specific Section S; structural, clinical, and policy changes from MDS 2.0 to 3.0; assessment of clinical and demographic data and its impact on health policy, especially the use of nursing homes and community-based services; working with the Maryland Medicaid program, specifically Medicaid cost reports and recent changes to the Medicaid reimbursement system; coordination of Medicaid cost report data with MDS data and its impact on health policy and planning; overseeing projects using large data sets involving SAS program analysis; interpretation and analysis of Medicare data and policies, MDS data, and their impact on long term care policy and planning; and overseeing a large and complex data analysis and policy development project with proven experience in producing quality work within required timeframes.
- **Subject Matter MDS Clinical Consultant.** An FTE Subject Matter MDS Clinical Consultant dedicated, but not necessarily exclusive to, this Contract. The Subject Matter MDS Clinical Consultant shall possess at least three years of demonstrated experience within the last five years with producing independent work and contributing to a project that includes: MDS coding policies and procedures for the federal MDS as well as state-specific Section S; experience with MDS 2.0 and the changes from MDS 2.0 to MDS 3.0; experience with MDS clinical and demographic data and its impact for health policy, including the use of nursing homes and community-based services; experience with programs of diversion of individuals from nursing homes (Section Q data), including data on need projections based on diversion from nursing homes; experience in working with the Maryland Medicaid program, specifically Medicaid cost reports and recent changes to the Medicaid reimbursement system for nursing homes; experience in interpretation and analysis of Medicare data and policies, MDS data, and their impact on long term care policy and planning; and experience with the literature and data analysis done by other states related to MDS and planning for long-term care services.
- **Advanced SAS Programmer.** An FTE Advanced SAS Programmer dedicated, but not necessarily exclusive to, this Contract. The Advanced SAS Programmer shall possess at least three years of experience within the last five years with producing independent work and contributing to a project that includes: MDS coding policies and procedures for the federal MDS as well as state-specific Section S; experience with MDS 2.0 and the changes from MDS 2.0 to MDS 3.0; experience with MDS clinical and demographic data and its impact for health policy, including the use of nursing homes and community-based services; experience in working with the Maryland Medicaid program, specifically Medicaid cost reports and recent changes to the Medicaid reimbursement system for nursing homes; experience with the coordination of Medicaid cost report data with MDS data and its impact on health policy and planning; experience in developing SAS programs and overseeing projects using large data sets involving SAS program analysis; experience in troubleshooting and recommending ways of streamlining complex SAS datasets; and experience in overseeing a large and complex data analysis and policy development project with proven experience in producing quality work within required timeframes.
- **SAS Programmer.** An FTE SAS Programmer dedicated, but not necessarily exclusive to, this Contract. The SAS Programmer shall possess at least three years of experience within the last five years with producing independent work and contributing to a project that includes: MDS coding policies and procedures for the federal MDS as well as state-specific Section S; experience in working with the Maryland Medicaid program, specifically Medicaid cost reports and recent changes to the Medicaid reimbursement system for nursing homes; experience in combining large data sets, such as MDS with Medicaid data; experience in developing

SAS programs and contributing to projects using large data sets involving SAS program analysis; experience in troubleshooting and recommending ways of streamlining complex SAS datasets; and experience in development of large and complex data analysis and policy development project with proven experience in producing quality work within required timeframes.

**Other Staff.** Other staff may be included with appropriate qualifications to meet the project needs as specified.

Experience shall be demonstrated by providing three references from the past five years for each category of staffing as to the individual's experience in development of the required work products with a sample of work products tied to these references.

### **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 visible location at all times.

#### **3.3.2 Information Technology**

For purposes of this solicitation and the resulting Contract:

- (a) "Sensitive Data" means information that is protected against unwarranted disclosure, to include Personally Identifiable Information (PII), Protected Health Information (PHI) or other private/confidential data, as specifically determined by the State. Sensitive Data includes information about an individual that (1) can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; (2) is linked or linkable to an individual, such as medical, educational, financial, and employment information; (3) falls within the definition of "personal information" under Md. Code Ann., State Govt. § 14-3501(d); or (4) falls within the definition of "personal information" under Md. Code Ann., St. Fin. & Proc. § 10-1301(c).
- (b) "Relevant subcontractor" includes any subcontractor that assists the Contractor in the critical functions of the Contract, handles Sensitive Data, and/or assists with any related implemented system, excluding subcontractors that provide secondary services that are not pertinent to assisting the Contractor in the critical functions of the Contract, handling Sensitive Data, and/or assisting with any related implemented system.
- (c) The Contractor, including any relevant subcontractor(s), shall implement administrative, physical, and technical safeguards to protect State data that are no less rigorous than accepted industry standards for information security such as those listed below, and shall ensure that all such safeguards, including the manner in which State data is collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws as well as the terms and conditions of this solicitation and resulting Contract.

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

### 3.3.2.1 Information Security Requirements

To ensure appropriate data protection safeguards are in place, the Contractor and any relevant subcontractor(s) shall at a minimum implement and maintain the following information technology controls at all times throughout the life of the Contract. The Contractor and any relevant subcontractor(s) may augment this list with additional information technology controls.

- (a) Apply hardware and software hardening procedures as recommended by the manufacturer to reduce the Contractor/subcontractor's systems' surface of vulnerability. The purpose of system hardening procedures is to eliminate as many security risks as possible. These procedures may include but are not limited to removal of unnecessary software, disabling or removing of unnecessary services, the removal of unnecessary usernames or logins, and the deactivation of unneeded features in the Contractor/subcontractor's system configuration files.
- (b) Ensure that anti-virus and anti-malware software is installed and maintained on all systems supporting the services provided under this Contract; that the anti-virus and anti-malware software is automatically updated; and that the software is configured to actively scan and detect threats to the system for remediation.
- (c) Enforce strong user authentication and password control measures over the Contractor/subcontractor's systems supporting the services provided under this Contract to minimize the opportunity for unauthorized system access through compromise of the user access controls. At a minimum, the implemented measures should be consistent with the most current State of Maryland Department of Information Technology's Information Security Policy (<http://doit.maryland.gov/support/Pages/SecurityPolicies.aspx>), including specific requirements for password length, complexity, history, and account lockout.

### 3.3.2.2 Working Environment

The selected contractor will access the MHCC local area network (LAN) through a secure remote connection (Cisco Virtual Private Network or Logmein). Each member of the contracting team will have a local network account and will operate within the MHCC LAN as a network user with access to sensitive data. Each member of the contracting team will be required to sign and acknowledge receipt and understanding of the rules, policies and procedures as outlined in "The Maryland Health Care Commission Privacy and Security Document." Each member of the contracting team will be required to sign all permission documents granting remote access to the MHCC LAN. Upon successful access to the MHCC LAN, each member of the contracting team will use network resources as granted by the MHCC LAN system administrator as setup in user access control lists (ACL). Each member of the contracting team will use the software loaded on the MHCC local workstation setup for remote access. Each contracting team member will access MHCC data, located on the internal MHCC database server, through the use of licensed SAS Enterprise Guide software loaded on the local MHCC workstation. The contracting team is only allowed one active remote user at a time.

### 3.3.2.4 Incident Response Requirement

- (a) The Contractor shall notify the Contract Monitor when any Contractor and/or subcontractor system that may access, process, or store State data or work product is subject to unintended access or attack. Unintended access or attack includes compromise by computer malware, malicious search engine, credential compromise or access by an individual or automated program due to a failure to secure a system or adhere to established security procedures.
- (b) The Contractor shall notify the Contract Monitor within one (1) Business Day of the discovery of the unintended access or attack by providing notice via written or electronic correspondence to the Contract Monitor and Procurement Officer.
- (c) The Contractor shall notify the Contract Monitor within one (1) Business Day if there is a threat to the Contractor and/or subcontractor's systems as it pertains to the use, disclosure, and security of the Department's Sensitive Data.
- (d) If an unauthorized use or disclosure of any Sensitive Data occurs, the Contractor must provide written notice to the Contract Monitor within one (1) Business Day after the Contractor's discovery of such use or disclosure and, thereafter, all information the State requests concerning such unauthorized use or disclosure.
- (e) The Contractor, within one (1) Business Day of discovery, shall report to the Contract Monitor any improper or non-authorized use or disclosure of Sensitive Data. The Contractor's report shall identify:
  - 1. the nature of the unauthorized use or disclosure;
  - 2. the Sensitive Data used or disclosed;
  - 3. who made the unauthorized use or received the unauthorized disclosure;
  - 4. what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and:
  - 5. what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure.
  - 6. the Contractor shall provide such other information, including a written report, as reasonably requested by the State.
- (f) The Contractor shall comply with all applicable laws that require the notification of individuals in the event of unauthorized release of PII or other event requiring notification. In the event of a breach of any of the Contractor's security obligations or other event requiring notification under applicable law, the Contractor agrees to assume responsibility for informing all such individuals in accordance with applicable law and to indemnify, hold harmless and defend the State and its officials and employees from and against any claims, damages, or other harm related to such security obligation breach or other event requiring the notification.
- (g) This Section 3.3.2.4 shall survive expiration or termination of the Contract.

<b>3.4 Insurance Requirements</b>
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3.4.1 The Contractor shall maintain Commercial General Liability Insurance 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, with a limit of \$500,000 per occurrence and \$1,500,000 aggregate.



- 3.4.2 Within five (5) Business Days of recommendation for Contract award, and before any work begins, the Contractor shall provide the Procurement Officer with current certificates of insurance, and shall update such certificates periodically, but no less than annually in multi-year contracts, as directed by the Contract Monitor. Such copy of the Contractor's current certificate of insurance shall contain at minimum the following:
- a. Workers' Compensation – The Contractor shall maintain such insurance as necessary and/or as required under Workers' Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act.
  - b. Commercial General Liability as required in Section 3.4.1.
- 3.4.3 The "State of Maryland, its officers, employees and agents" shall be listed as an additional insured on any Commercial General Liability, Auto Liability, Professional/Cyber Liability, and excess liability or umbrella policies with the exception of Worker's Compensation Insurance, which is currently handled by the Chesapeake Employer's Insurance Company (formerly Injured Worker's Insurance Fund). All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Contract Monitor, by certified mail, not less than 30 days' advance notice of any non-renewal, cancellation, or expiration. In the event the Contract Monitor receives a notice of non-renewal, the Contractor shall provide the Contract Monitor with an insurance policy from another carrier at least 15 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.
- 3.4.4 The Contractor shall require that any subcontractors providing primary services (as opposed to non-critical, ancillary services) under this Contract obtain and maintain the same levels of insurance and shall provide the Contract Monitor with the same documentation as is required of the Contractor.

## **3.5 Problem Escalation Procedure**

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

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

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

- The process for establishing the existence of a problem;
- Names, titles, and contact information for progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;
- For each individual listed in the Contractor's PEP, the maximum amount of time a problem will remain unresolved with that individual before the problem escalates to the next contact person listed in the Contractor's PEP;
- Expedited escalation procedures and any circumstances that would trigger expedited escalation procedures;

- The method of providing feedback on resolution progress, including the frequency of feedback to be provided to the State;
- Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays, etc.) and on an emergency basis; and
- A process for updating and notifying the Contract Monitor of any changes to the PEP.

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

<b>3.6 Invoicing</b>
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**3.6.1 General**

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

- Contractor name and address;
- Remittance address;
- Federal taxpayer identification number (or if sole proprietorship, the individual’s social security number);
- Invoice period (i.e. time period during which services covered by invoice were performed);
- 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. Also see the “Living Wage” provision of the Contract, if applicable, which allows for withholding of payment under certain circumstances. 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**

The Contractor shall submit invoices by the 15<sup>th</sup> of the month following the month in which services were performed.

An invoice may not be submitted by the Contractor until the MHCC Contract Monitor (or a designee) has accepted that the applicable Deliverable item has been successfully completed or achieved. Prior to the submission of an invoice for a deliverable at the price specified for that deliverable on Attachment F, the Contractor shall submit a written notice to the Contract Monitor that the Milestone or Deliverable item has been completed. Such notice shall include at a minimum:

- Identification of Deliverable item.

- An expenditures report or detailed billing report that provides a description of the work performed toward completion of the Deliverable item and identification of the person performing the work.

### 3.6.3 Ad-hoc Unit Work

Section 3.2.1.5 Develop Special Reports and extra technical and analytical services provided beyond the scope of the fixed price portion of the Contract. For completion of the Ad Hoc work, the Contractor shall be paid based on a fully loaded hourly rate in an amount not to exceed 200 hours annually, based upon the hourly rates proposed in Attachment F. Hourly rates shall be separately and distinctly listed on each invoice, with the names, times, and dates of the persons working them and with Contractor time sheets for those persons as supporting documentation.

## 3.7 MBE Reports

If this solicitation includes an 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:

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

## 3.8 VSBE Reports

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

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

## 3.9 SOC 2 Type 2 Audit Report

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

## 3.10 End of Contract Transition

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

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

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## **SECTION 4 – PROPOSAL FORMAT**

### **4.1 Two Part Submission**

Offerors shall submit Proposals in separate volumes:

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

### **4.2 Proposals**

4.2.1 **Volume I – Technical Proposal, and Volume II – Financial Proposal shall be sealed separately from one another.** It is preferred, but not required, that the name, email address, and telephone number of the Offeror be included on the outside of the packaging for each volume. Each Volume shall contain an unbound original, so identified, and five (5) copies. Unless the resulting package will be too unwieldy, the Department’s preference is for the two (2) sealed Volumes to be submitted together in a single package including a label bearing:

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

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

4.2.2 An electronic version (on Compact Disk/CD, Digital Versatile Disc/DVD, or Universal Serial Bus/USB Flash/Thumb Drive) of Volume I-Technical Proposal in Microsoft Word format must be enclosed with the original Volume I - Technical Proposal submission. An electronic version (on CD, DVD, or USB Flash Drive) of Volume II - Financial Proposal in Microsoft Word or Microsoft Excel format must be enclosed with the original Volume II - Financial Proposal submission. Each CD/DVD/USB Flash Drive must be labeled on the outside with the RFP title and number, name of the Offeror, and volume number. Each CD/DVD/USB Flash Drive must be packaged with the original copy of the appropriate Proposal (Technical or Financial).

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

4.2.4 Beginning with Tab B (see RFP Section 4.4.2.3), all pages of both Proposal volumes shall be consecutively-numbered from beginning (Page 1) to end (Page “x”). The Title Page, Table of Contents, and any Claim of Confidentiality (Tabs A and A-1; see RFP Sections 4.4.2.1 and 4.4.2.2), should be numbered using small Roman numerals (ex. i, ii, iii, iv, v, etc).

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

### **4.3 Delivery**

Offerors may either mail or hand-deliver Proposals.

- 4.3.1 For U.S. Postal Service deliveries, any Proposal that has been received at the appropriate mailroom, or typical place of mail receipt, for the respective procuring unit by the time and date listed in the RFP will be deemed to be timely. If an Offeror chooses to use the U.S. Postal Service for delivery, the Department recommends that it use Express Mail, Priority Mail, or Certified Mail only as these are the only forms for which both the date and time of receipt can be verified by the Department. 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 and an Offeror using first class mail will not be able to prove a timely delivery at the mailroom.
- 4.3.2 Hand-delivery includes delivery by commercial carrier acting as agent for the Offeror. For any type of direct (non-mail) delivery, an Offeror is advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery.
- 4.3.3 After receipt, a Register of Proposals will be prepared that identifies each Offeror. The Register of Proposals will be open to inspection only after the Procurement Officer makes a determination recommending the award of the Contract.

**4.4 Volume I – Technical Proposal**

**Note: No pricing information is to be included in the Technical Proposal (Volume 1). Pricing information is to be included only in the Financial Proposal (Volume II).**

**4.4.1 Format of Technical Proposal**

Inside a sealed package described in Section 4.2 “Proposals,” the unbound original, five (5) copies, and the electronic version shall be provided. The RFP sections are numbered for ease of reference. Section 4.4.2 sets forth the order of information to be provided in the Technical Proposal, e.g., Section 4.4.2.1 “Title and Table of Contents,” Section 4.4.2.2 “Claim of Confidentiality,” Section 4.4.2.3 “Transmittal Letter,” Section 4.4.2.4 “Executive Summary,” etc. In addition to the instructions below, responses in the Offeror’s Technical Proposal should reference the organization and numbering of Sections in the RFP (ex. “Section 3.2.1 Response . . . ; “Section 3.2.2 Response . . . ,” etc.). This Proposal organization will allow State officials and the Evaluation Committee (see RFP Section 5.1) to “map” Offeror responses directly to RFP requirements by Section number and will aid in the evaluation process.

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

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

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

**4.4.2.2 Claim of Confidentiality (If applicable, submit under TAB A-1)**

Any information which is claimed to be confidential is to be noted by reference and included after the Title Page and before the Table of Contents, and if applicable, also in the Offeror’s Financial Proposal. An explanation for each claim of confidentiality shall be included (see Section 1.14 “Public Information Act Notice”). The entire Proposal should not be given a blanket confidentiality designation. Any confidentiality designation must apply to specific sections, pages, or portions of pages of the Proposal.

**4.4.2.3 Transmittal Letter (Submit under TAB B)**

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

- Name and address of the Offeror;
- Name, title, e-mail address, and telephone number of primary contact for the Offeror;
- Solicitation Title and Solicitation Number that the Proposal is in response to;
- Signature, typed name, and title of an individual authorized to commit the Offeror to its Proposal;
- Federal Employer Identification Number (FEIN) of the Offeror, or if a single individual, that individual's Social Security Number (SSN);
- Offeror's eMM number;
- Offeror's MBE certification number (if applicable);
- Acceptance of all State RFP and Contract terms and conditions (see Section 1.24); if any exceptions are taken, they are to be noted in the Executive Summary (see Section 4.4.2.4); and
- Acknowledgement of all addenda to this RFP.

#### **4.4.2.4 Executive Summary (Submit under TAB C)**

The Offeror shall condense and highlight the contents of the Technical Proposal in a separate section titled "Executive Summary." The Summary shall identify the Service Category(ies) and Region(s) for which the Offeror is proposing to provide services (if applicable). In addition, the Summary shall indicate whether the Offeror is the subsidiary of another entity, and if so, whether all information submitted by the Offeror pertains exclusively to the Offeror. If not, the subsidiary Offeror shall include a guarantee of performance from its parent organization as part of its Executive Summary (see RFP Section 1.22 for more information).

The Summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (Attachment A), or any other attachments. Exceptions to terms and conditions may result in having the Proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award.

If the Offeror has taken no exceptions to the requirements of this RFP, the Contract (Attachment A), or any other attachments, the Executive Summary shall so state.

#### **4.4.2.5 Minimum Qualifications Documentation (If applicable, Submit under TAB D)**

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

#### **4.4.2.6 Offeror Technical Response to RFP Requirements and Proposed Work Plan (Submit under TAB E)**

- a. The Offeror shall address each Scope of Work requirement (Section 3.2) in its Technical Proposal and describe how its proposed services, including the services of any proposed subcontractor(s), will meet or exceed the requirement(s). If the State is seeking Offeror agreement to any requirement(s), the Offeror shall state its agreement or disagreement. Any paragraph in the Technical Proposal that responds to a Scope of Work (Section 3.2) requirement shall include an explanation of how the work will be done. Any exception to a

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

- b. The Offeror shall give a definitive **section-by-section** description of the proposed plan to meet the requirements of the RFP, i.e., a Work Plan. The Work Plan shall include the specific methodology and techniques to be used by the Offeror in providing the required services as outlined in RFP Section 3, Scope of Work. The description shall include an outline of the overall management concepts employed by the Offeror and a project management plan, including project control mechanisms and overall timelines. Project deadlines considered contract deliverables must be recognized in the Work Plan.
- c. The Offeror shall identify the location(s) from which it proposes to provide the services, including, if applicable, any current facilities that it operates, and any required construction to satisfy the State's requirements as outlined in this RFP.
- d. The Offeror shall provide a draft Problem Escalation Procedure (PEP) that includes, at a minimum, titles of individuals to be contacted by the Department's Contract Monitor should problems arise under the Contract and explain how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. Final procedures shall be submitted as indicated in RFP Section 3.5.
- e. The Offeror shall provide a detailed staffing plan and Gantt Chart to address the Work Plan

#### 4.4.2.7 **Experience and Qualifications of Proposed Staff (Submit under TAB F)**

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

The Offeror shall describe in detail how the proposed staff's experience and qualifications relate to their specific responsibilities, including any staff of proposed subcontractor(s), as detailed in the Work Plan. The Offeror shall include individual resumes for the Key Personnel, including Key Personnel for any proposed subcontractor(s), who are to be assigned to the project if the Offeror is awarded the Contract. Each resume should include the amount of experience the individual has had relative to the Scope of Work set forth in this solicitation. Letters of intended commitment to work on the project, including letters from any proposed subcontractor(s), shall be included in this section. The Offeror shall provide an Organizational Chart outlining personnel and their related duties. The Offeror shall include job titles and the percentage of time each individual will spend on his/her assigned tasks. Offerors using job titles other than those commonly used by industry standards must provide a crosswalk reference document.

Offerors with senior level staff with at least three years of experience in the coordination of Medicaid cost report data with MDS data and its impact on health policy and planning, as attested to by references and sample work products, will be evaluated more favorably than Offerors whose senior level staff do not have this experience.

#### 4.4.2.8 **Offeror Qualifications and Capabilities (Submit under TAB G)**

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

- a. The number of years the Offeror has provided the similar services, and specifically;



- i. The Offeror’s working experience with MDS coding policies and procedures for the federal minimum data set (MDS) 3.0 data, including Section S (state-specific) data, as well as experience with the MDS 2.0 data, as attested to by references and sample work products tied to these references.
  - ii. The Offeror’s working experience with MDS clinical and demographic data and its impact for health policy, including the use of nursing home and community-based services. This includes variables and procedures for the federal minimum data set (MDS) 3.0 data, as well as experience with the MDS 2.0 data, as attested to by references and sample work products tied to these references.
  - iii. The Offeror’s experience working with Medicaid data and demonstrate familiarity with Maryland Medicaid cost reports and the Maryland Medicaid reimbursement system, as attested to by references and sample work products tied to these references.
  - iv. The Offeror’s experience with advanced level SAS programming for the interpretation, analysis, and reporting of State and Federal health care data, including MDS data as attested to by references and sample work products tied to these references.
  - v. The Offeror’s working experience in the interpretation and analysis of Medicare data and policies, MDS data, other health care data, and their impact on State and Federal long term care policy and planning, including experience with the extraction of data as attested to by references and sample work products tied to these references.
- b. The number of clients/customers and geographic locations that the Offeror currently serves;
  - c. The names and titles of headquarters or regional management personnel who may be involved with supervising the services to be performed under this Contract;
  - d. The Offeror’s process for resolving billing errors; and
  - e. An organizational chart that identifies the complete structure of the Offeror, including any parent company, headquarters, regional offices, and subsidiaries of the Offeror.

**4.4.2.9 References (Submit under TAB H)**

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

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

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

**4.4.2.10 List of Current or Prior State Contracts (Submit under TAB I)**

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

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

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

#### **4.4.2.11 Financial Capability (Submit under TAB J)**

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

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

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

#### **4.4.2.12 Certificate of Insurance (Submit under TAB K)**

The Offeror shall provide a copy of its current certificate of insurance showing the types and limits of insurance in effect as of the Proposal submission date. The current insurance types and limits do not have to be the same as described in Section 3.4. See Section 5.6 for the required insurance certificate submission for the recommended Offeror.

#### **4.4.2.13 Subcontractors (Submit under TAB L)**

The Offeror shall provide a complete list of all subcontractors that will work on the Contract if the Offeror receives an award, including those utilized in meeting the MBE and/or VSBE subcontracting goal, if applicable. This list shall include a full description of the duties each subcontractor will perform and why/how each subcontractor was deemed the most qualified for this project. See Sections 4.4.2.6 and 4.4.2.7 for additional Offeror requirements related to Subcontractors.

#### **4.4.2.14 Legal Action Summary (Submit under TAB M)**

This summary shall include:

- a. A statement as to whether there are any outstanding legal actions or potential claims against the Offeror and a brief description of any action;

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

#### 4.4.2.15 Economic Benefit Factors (Submit under TAB N)

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

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

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

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

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

- a. generic statements that the State will benefit from the Offeror's superior performance under the Contract;
- b. descriptions of the number of Offeror employees located in Maryland other than those that will be performing work under this Contract; or
- c. tax revenues from Maryland based employees or locations, other than those that will be performing, or used to perform, work under this Contract.

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

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

- The Contract dollars to be recycled into Maryland's economy in support of the Contract, through the use of Maryland subcontractors, suppliers and joint venture partners. Do not include actual fees or rates paid to subcontractors or information from your Financial Proposal;
- The number and types of jobs for Maryland residents resulting from the Contract. Indicate job classifications, number of employees in each classification and the aggregate payroll to which the Offeror has committed, including contractual commitments at both prime and, if applicable,

subcontract levels. If no new positions or subcontracts are anticipated as a result of this Contract, so state explicitly;

- Tax revenues to be generated for Maryland and its political subdivisions as a result of the Contract. Indicate tax category (sales taxes, payroll taxes, inventory taxes and estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from the Contract;
- Subcontract dollars committed to Maryland small businesses and MBEs; and
- Other benefits to the Maryland economy which the Offeror promises will result from awarding the Contract to the Offeror, including contractual commitments. Describe the benefit, its value to the Maryland economy, and how it will result from, or because of the Contract award. Offerors may commit to benefits that are not directly attributable to the Contract, but for which the Contract award may serve as a catalyst or impetus.

#### 4.4.3 Additional Required Technical Submissions (Submit under TAB O)

4.4.3.1 The following documents shall be completed, signed, and included in the Technical Proposal, under TAB O that follows the material submitted in response to Section 4.4.2.

- a. Completed Bid/Proposal Affidavit (**Attachment B**).
- b. Completed Maryland Living Wage Requirements Affidavit of Agreement (**Attachment G-1**).
- c. A Signed Statement from the Offeror's Parent Organization Guaranteeing Performance of the Offeror. **\*see Section 1.22**
- d. Completed Conflict of Interest Affidavit and Disclosure (**Attachment I**) **\*see Section 1.36**.
- e. Completed Location of the Performance of Services Disclosure (**Attachment N**) **\*see Section 1.42**.

## 4.5 Volume II – Financial Proposal

Under separate sealed cover from the Technical Proposal and clearly identified in the format identified in Section 4.2 "Proposals," the Offeror shall submit an original unbound copy, five (5) copies, and an electronic version in Microsoft Word or Microsoft Excel of the Financial Proposal. The Financial Proposal shall contain all price information in the format specified in **Attachment F**. The Offeror shall complete the Financial Proposal Form only as provided in the Financial Proposal Instructions and the Financial Proposal Form itself.

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

### **5.1 Evaluation Committee**

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

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

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

#### **5.2.1 Offeror's Technical Response to RFP Requirements and Work Plan (See RFP Section 4.4.2.6)**

- A. Does the Offeror's response clearly demonstrated an understanding of the scope of work, deliverables and timeframes?
- B. Does the Offeror's response and references demonstrate a working relationship with CMS and a detailed understanding of the minimum data set (MDS), its coding, and impact on long term care planning? (See RFP Section 3.2.1.2.1.)
- C. Does the Offeror's response and references demonstrate an understanding of Medicaid Cost Reports, particularly the Maryland Medicaid reimbursement system, in order to coordinate Medicaid data with MDS data? (See RFP Section 3.2.1.2.2)
- D. Does the Offeror's response demonstrate the ability to process large data sets, (e.g. MDS Manager) using SAS, and producing updates to coding within timeframes specified as needed? (See RFP Section 3.2.1.3)
- E. Does the Offeror's response and references demonstrate an understanding of long term care planning, including zip code allocation, migration and retention rates, and diversion to community-based services? (See RFP Section 3.2.1.5.)
- F. Does the Offeror's response demonstrate the ability to conduct analysis of long term care data sets necessary for policy and planning? (see RFP Section 3.2.1.4.5)
- G. Does the Offeror's response demonstrate the ability to develop and review software in SAS code and produce annually a data dictionary, glossary, and codebook? (See RFP Section 3.2.1.3.9)

#### **5.2.2 Experience and Qualifications of Proposed Staff (See RFP Section 3.2.2)**

- A. How well are the individuals proposed to staff this project properly matched with respect to their past work experience, credentials, and experience conducting similar work? (See RFP Section 3.2.2)
- B. What is the extent of experience of the proposed project manager in managing similar projects? (See RFP Section 3.2.2)
- C. Does staff demonstrate familiarity with the work of CMS on development of, and revisions to MDS 2.0 and 3.0? (See RFP Section 3.2.1.2)
- D. Does staff demonstrate experience with SAS, especially relating to large health care data sets, including MDS and Maryland Medicaid data? (See RFP Section 3.2.1.2)
- E. Does staff demonstrate sufficient experience with use of nursing homes, variables in the MDS, and methods of projecting future need for long term care services? (See RFP Section 3.2.1.5)

#### **5.2.3 Offeror Qualifications and Capabilities, including proposed Subcontractors (See RFP Section 3.2.2.)**

- A. What is the extent of corporate experience conducting similar work?
- B. To what extent has the Offeror demonstrated the ability to produce high quality deliverables within Work Plan and timeframes?
- C. What is the extent of corporate experience with CMS, especially development work on MDS 2.0 and 3.0? (See RFP Section 3.2.1.1)
- D. What is the extent of corporate experience working with Maryland Medicaid data, especially in linking it with MDS data? (See RFP Section 3.2.1.2.)

5.2.4 Economic Benefit to State of Maryland (See RFP Section 4.4.2.15)

### **5.3 Financial Proposal Evaluation Criteria**

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

### **5.4 Reciprocal Preference**

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

- The Maryland resident business is a responsible Offeror;
- The most advantageous offer is from a responsible Offeror whose principal office or principal operations through which it would provide the services required under this RFP is in another state;
- The other state gives a preference to its resident businesses through law, policy, or practice; and
- The Maryland resident preference does not conflict with a federal law or grant affecting the procurement Contract.

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

### **5.5 Selection Procedures**

#### **5.5.1 General**

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

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

award, that Offeror's Financial Proposal will subsequently be returned if the Financial Proposal is unopened at the time of the determination.

### 5.5.2 Selection Process Sequence

5.5.2.1 A determination is made that the MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) is included and is properly completed, if there is an MBE goal. In addition, a determination is made that the Veteran-Owned Small Business Enterprise (VSBE) Utilization Affidavit and Subcontractor Participation Schedule (**Attachment M-1**) is included and is properly completed, if there is a VSBE goal. Finally, a determination is made that all Offeror Minimum Qualifications, if any (See RFP Section 2), have been satisfied.

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

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

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

5.5.2.5 When in the best interest of the State, the Procurement Officer may permit Qualified Offerors to revise their initial Proposals and submit, in writing, Best and Final Offers (BAFOs). The State may make an award without issuing a request for a BAFO.

### 5.5.3 Award Determination

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

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

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

- a. Contract (**Attachment A**),
- b. Contract Affidavit (**Attachment C**),
- c. 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.**

## **RFP ATTACHMENTS**

### **ATTACHMENT A – Contract**

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

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

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

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

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

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

If required (see Section 1.33), these Attachments include the MBE subcontracting goal statement, instructions, and MBE Attachments D-1 through D-5. Attachment D-1 must be properly completed and submitted with the Offeror's Technical Proposal or the Proposal will be deemed not reasonably susceptible of being selected for award and rejected. Within 10 Business Days of receiving notification of recommendation for Contract award, the Offeror must submit Attachments D-2 and D-3A/B.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

If required (see Section 1.42), this Attachment must be completed and submitted with the Technical Proposal.

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

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

## ATTACHMENT A – CONTRACT

### MHCC 17-001 “Minimum Data (MDS) and Long Term Care Planning Consultant”

THIS CONTRACT (the “Contract”) is made this (“X<sup>th</sup>”) day of (month), (year) by and between (Contractor’s name) and the STATE OF MARYLAND, acting through the Maryland Health Care Commission.

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

#### 1. Definitions

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

- 1.1 “COMAR” means Code of Maryland Regulations.
- 1.2 “Contract” means this agreement between (Contractor’s name) and the State of Maryland, acting through the Maryland Health Care Commission.
- 1.3 “Contract Monitor” means the following Department employee identified as the Contract Monitor: Linda Cole, Chief, Long Term Care Policy and Planning, Maryland Health Care Commission
- 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 Maryland Health Care Commission.
- 1.6 “Financial Proposal” means the Contractor’s Financial Proposal dated (Financial Proposal date).
- 1.7 “Procurement Officer” means the following Department employee identified as the Procurement Officer: Andrea Allen, Maryland Health Care Commission
- 1.8 “RFP” means the Request for Proposals for Minimum Data (MDS) and Long Term Care Planning Consultant Solicitation # MHCC 17-001, and any addenda thereto issued in writing by the State.
- 1.9 “State” means the State of Maryland.
- 1.10 “Technical Proposal” means the Contractor’s Technical Proposal dated (Technical Proposal date).

#### 2. Scope of Contract

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

Exhibit A – The RFP

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

Exhibit C – The Proposal (Technical and Financial)

- 2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract or the RFP. No other order, statement, or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.
- 2.3 While the Procurement Officer may, at any time, by written change order, make unilateral changes in the work within the general scope of the Contract as provided in Section 2.2 above, the Contract may be modified by mutual agreement of the parties, provided: (a) the modification is made in writing; (b) all parties sign the modification; and (c) all approvals by the required agencies as described in COMAR Title 21, are obtained.

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

- 3.1 The term of this Contract begins on the date the Contract is signed by the Department following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required. The Contractor shall provide services under this Contract as of the Go-Live date contained in the written Notice to Proceed. From this Go-Live date, the Contract shall be for a period of approximately **four (4)** years beginning **November 1, 2016** and ending on **October 31, 2020**.
- 3.2 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 in the Financial Proposal. Unless properly modified (see above Section 2.3), payment to the Contractor pursuant to this Contract, including the base term and any option exercised by the State, shall not exceed \$ (enter NTE amount).

Contractor shall notify the Contract Monitor, 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 must include the Contractor's Federal Tax Identification or Social Security Number for a Contractor who is an individual which is (Contractor's FEIN or SSN). Charges for late payment of invoices other than as prescribed at Md. Code Ann., State Finance and Procurement Article, §15-104 are prohibited.

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

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

## **5. Rights to Records**

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

## **6. Exclusive Use**

- 6.1 The State shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable of being copyrighted, the State shall be the copyright owner and Contractor may copyright material connected with this project only with the express written approval of the State.
- 6.2 Except as may otherwise be set forth in this Contract, Contractor shall not use, sell, sub-lease, assign, give, or otherwise transfer to any third party any other information or material provided to Contractor by the Department or developed by Contractor relating to the Contract, except that Contractor may provide said information to any of its officers, employees and subcontractors who Contractor requires to have said information for fulfillment of Contractor's obligations hereunder. Each officer, employee and/or subcontractor to whom any of the

Department's confidential information is to be disclosed shall be advised by Contractor of and bound by confidentiality and intellectual property terms substantively equivalent to those of this Contract.

## **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. Confidential or Proprietary Information and Documentation**

- 8.1 Subject to the Maryland Public Information Act and any other applicable laws including, without limitation, HIPAA, the HI-TECH ACT, and the Maryland Medical Records Act and the implementation of regulations promulgated pursuant thereto, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents, and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided that the data may be collected, used, disclosed, stored, and disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that: (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.
- 8.2 This Section 8 shall survive expiration or termination of this Contract.

## **9. Loss of Data**

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

## **10. Indemnification**

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

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

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

## **12. Disputes**

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

## **13. Maryland Law**

- 13.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.
- 13.2 The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland), does not apply to this Contract or to any purchase order or Notice to Proceed issued under this Contract, or any software, or any software license required hereunder.
- 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, sexual orientation, gender identification, marital status, national origin, ancestry, genetic information, or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

#### **15. Contingent Fee Prohibition**

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the 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, Title 14, which requires that every person that enters into a contract for a procurement with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall, file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on: (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. Additional information is available on the State Board of Elections website: [http://www.elections.state.md.us/campaign\\_finance/index.html](http://www.elections.state.md.us/campaign_finance/index.html).

**24. 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 or federal retention requirements (such as HIPAA), 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. In the event of any audit, the Contractor shall provide assistance to the State, without additional compensation, to identify, investigate, and reconcile any audit discrepancies and/or variances. This Section 24 shall survive expiration or termination of the Contract.

## **25. Right to Audit**

- 25.1 The State reserves the right, at its sole discretion and at any time, to perform an audit of the Contractor's and/or subcontractor's performance under this Contract. An audit is defined as a planned and documented independent activity performed by qualified personnel including but not limited to State and federal auditors, to determine by investigation, examination, or evaluation of objective evidence from data, statements, records, operations and performance practices (financial or otherwise) the Contractor's compliance with the Contract, including but not limited to adequacy and compliance with established procedures and internal controls over the Contract services being performed for the State.
- 25.2 Upon three (3) Business Days' notice, the Contractor and/or any subcontractors shall provide the State reasonable access to their respective records to verify conformance to the terms of the Contract. The Department may conduct these audits with any or all of its own internal resources or by securing the services of a third party accounting or audit firm, solely at the Department's election. The Department may copy, at its own expense, any record related to the services performed and provided under this Contract.
- 25.3 The right to audit shall include any of the Contractor's subcontractors including but not limited to any lower tier subcontractor(s) that provide essential support to the Contract services. The Contractor and/or subcontractor(s) shall ensure the Department has the right to audit such subcontractor(s).
- 25.4 The Contractor and/or subcontractors shall cooperate with Department and Department's designated accountant or auditor and shall provide the necessary assistance for the Department or Department's designated accountant or auditor to conduct the audit.
- 25.5 This Section shall survive expiration or termination of the Contract.

## **26. Compliance with Laws**

The Contractor hereby represents and warrants that:

- 26.1 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;
- 26.2 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;
- 26.3 It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and

26.4 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.

## **27. 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.

## **28. 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.

## **29. Liability**

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

- 29.1 For infringement of patents, copyrights, trademarks, service marks, and/or trade secrets, as provided in Section 7 of this Contract;
- 29.2 Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and
- 29.3 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.

## **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, sexual identity, genetic information or an individual's refusal to submit to a genetic test or make available the results of a genetic test or on the basis of disability or 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 Contract between the Contractor and subcontractor, due to be distributed to the subcontractor; and
- b. An amount withheld because of issues arising out of a Contract or occurrence unrelated to the Contract 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. Living Wage**

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

### **33. Variations in Estimated Quantities**

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

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

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

### **35. 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: Andrea Allen

Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, MD 21215  
Phone: 410-764-8791 Fax: 410-358-8811  
e-mail: [andrea.allen@maryland.gov](mailto:andrea.allen@maryland.gov)

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

**36. Parent Company Guarantee**

(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.

**37. Confidentiality of Health and Financial Information**

The Contractor agrees to keep information obtained in the course of this contract confidential in compliance with any applicable State and federal confidentiality 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.

**38. 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.

**39. Miscellaneous**

39.1 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.

39.2 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.

CONTRACTOR

STATE OF MARYLAND  
MARYLAND HEALTH CARE  
COMMISSION

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

\_\_\_\_\_  
By: Ben Steffen, Executive Director  
Or designee:

\_\_\_\_\_  
Date

\_\_\_\_\_  
\_\_\_\_\_  
Date

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

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

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

## ATTACHMENT B – BID/PROPOSAL AFFIDAVIT

### A. AUTHORITY

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

### B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned Bidder/Offeror hereby certifies and agrees that the following information is correct: In preparing its Bid/Proposal on this project, the Bidder/Offeror has considered all Proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in § 19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. "Discrimination" means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, sexual identity, 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:

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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;

(9) Been convicted of a violation of one or more of the following provisions of the Internal Revenue Code:

(a) §7201, Attempt to Evade or Defeat Tax;

(b) §7203, Willful Failure to File Return, Supply Information, or Pay Tax,

(c) §7205, Fraudulent Withholding Exemption Certificate or Failure to Supply Information,

(d) §7205, Fraud and False Statements, or

(e) §7207, Fraudulent Returns, Statements, or Other Documents;

(10) Been convicted of a violation of 18 U.S.C. §286, Conspiracy to Defraud the Government with Respect to Claims, 18 U.S.C. §287, False, Fictitious, or Fraudulent Claims, or 18 U.S.C. §371, Conspiracy to Defraud the United States;

(11) Been convicted of a violation of the Tax-General Article, Title 13, Subtitle 7 or Subtitle 10, Annotated Code of Maryland;

(12) Been found to have willfully or knowingly violated State Prevailing Wage Laws as provided in the State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure Act; and

(ii) Not overturned on judicial review;

(13) Been found to have willfully or knowingly violated State Living Wage Laws as provided in the State Finance and Procurement Article, Title 18, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure Act; and

(ii) Not overturned on judicial review;

(14) Been found to have willfully or knowingly violated the Labor and Employment Article, Title 3, Subtitles 3, 4, or 5, or Title 5, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure Act; and

(ii) Not overturned on judicial review; or

(15) 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)—(14) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body,

the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

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**E. AFFIRMATION REGARDING DEBARMENT**

**I FURTHER AFFIRM THAT:**

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

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**F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES**

**I FURTHER AFFIRM THAT:**

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

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

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**G. SUBCONTRACT AFFIRMATION**

**I FURTHER AFFIRM THAT:**

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and

Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

#### H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

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

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

#### I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

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

#### J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

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

#### K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

- (1) The undersigned certifies that, in accordance with State Finance and Procurement Article, §17-705, Annotated Code of Maryland:
  - (a) It is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland; and
  - (b) It is not engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland.

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

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

I FURTHER AFFIRM THAT:

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

M. I FURTHER AFFIRM THAT:

Any claims of environmental attributes made relating to a product or service included in the Bid or Proposal are consistent with the Federal Trade Commission’s Guides for the Use of Environmental Marketing Claims as provided in 16 CFR §260, that apply to claims about the environmental attributes of a product, package, or service in connection with the marketing, offering for sale, or sale of such item or service.

N. 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)

**SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL**

**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, Title 14, Annotated Code of Maryland, which requires that every person that enters into a contract for a procurement with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on: (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.

#### E. DRUG AND ALCOHOL FREE WORKPLACE

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

#### I CERTIFY THAT:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) I acknowledge and agree that:

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

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

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

**F. CERTAIN AFFIRMATIONS VALID**

**I FURTHER AFFIRM THAT:**

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

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

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

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

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



**ATTACHMENTS D – MINORITY BUSINESS ENTERPRISE FORMS**

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

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

**Solicitation Number MHCC 17-001**  
MINIMUM DATA SET (MDS) AND LONG TERM CARE PLANNING CONSULTANT

A Pre-Proposal Conference will be held at the date, time, and location indicated in the RFP Key Information Summary Sheet (near the beginning of the solicitation, after the Title Page and Notice to Vendors).

Please return this form at least five (5) Business Days prior to the Pre-Proposal Conference date, advising whether or not you plan to attend. The completed form should be returned via e-mail or fax to the Procurement Officer. The Procurement Officer’s contact information is provided in the RFP Key Information Summary Sheet.

Please indicate:

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

- 1.
- 2.
- 3.

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

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

---

Signature

Title

---

Name of Firm (please print)

## ATTACHMENT F – FINANCIAL PROPOSAL INSTRUCTIONS

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

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

- A) All Unit and Extended Prices must be clearly entered in dollars and cents, e.g., \$24.15. Make your decimal points clear and distinct.
- B) All Unit Prices must be the actual price per unit the State will pay for the specific item or service identified in this RFP and may not be contingent on any other factor or condition in any manner.
- C) All calculations shall be rounded to the nearest cent, i.e., .344 shall be .34 and .345 shall be .35.
- D) Any goods or services required through this RFP and proposed by the vendor at **No Cost to the State** must be clearly entered in the Unit Price, if appropriate, and Extended Price with **\$0.00**.
- E) Every blank in every Financial Proposal Form shall be filled in. Any changes or corrections made to the Financial Proposal Form by the Offeror prior to submission shall be initialed and dated.
- F) Except as instructed on the Financial Proposal Form, nothing shall be entered on or attached to the Financial Proposal Form that alters or proposes conditions or contingencies on the prices. Alterations and/or conditions may render the Proposal not reasonably susceptible of being selected for award.
- G) It is imperative that the prices included on the Financial Proposal Form have been entered correctly and calculated accurately by the Offeror and that the respective total prices agree with the entries on the Financial Proposal Form. Any incorrect entries or inaccurate calculations by the Offeror will be treated as provided in COMAR 21.05.03.03E and 21.05.02.12, and may cause the Proposal to be rejected.
- H) If option years are included, Offerors must submit pricing for each option year. Any option to renew will be exercised at the sole discretion of the State and will comply with all terms and conditions in force at the time the option is exercised. If exercised, the option period shall be for a period identified in the RFP at the prices entered in the Financial Proposal Form.
- I) All Financial Proposal prices entered below are to be fully loaded prices that include all costs/expenses associated with the provision of services as required by the RFP. The Financial Proposal price shall include, but is not limited to, all: labor, profit/overhead, general operating, administrative, and all other expenses and costs necessary to perform the work set forth in the solicitation. No other amounts will be paid to the Contractor. If labor rates are requested, those amounts shall be fully-loaded rates; no overtime amounts will be paid.
- J) Unless indicated elsewhere in the RFP, sample amounts used for calculations on the Financial Proposal Form are typically estimates for evaluation purposes only. Unless stated otherwise in the RFP, the Department does not guarantee a minimum or maximum number of units or usage in the performance of this Contract.
- K) Failure to adhere to any of these instructions may result in the Proposal being determined not reasonably susceptible of being selected for award.

## **ATTACHMENT F – FINANCIAL PROPOSAL FORM**

### **FINANCIAL PROPOSAL FORM**

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

The Financial Tables are Excel spreadsheets and when you double click each table it will open as a separate document. This will enable you to input all proposed cost allowing the sum totals to auto-populate in each table along with the Total Proposal Price.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**

**Financial Table 1: Fixed Work Prices for Deliverables**

<i>Section #</i>	<i>Deliverable</i>	<i>Year 1</i>	<i>Year 2</i>	<i>Year 3</i>	<i>Year 4</i>
<b>3.2.1.1</b>	<b>Work Plan/Project Management</b>				
3.2.1.1.2	Kick-Off meeting	\$ -			
3.2.1.1.1	Development of draft work plan	\$ -	\$ -	\$ -	\$ -
3.2.1.1.4	Development of final work plan	\$ -	\$ -	\$ -	\$ -
3.2.1.1.5	Bi-weekly meetings	\$ -	\$ -	\$ -	\$ -
<b>3.2.1.2</b>	<b>Staying Current with Policy Changes</b>				
3.2.1.2.1	Report impending updates to MDS coding and data collection.	\$ -	\$ -	\$ -	\$ -
3.2.1.2.2	Report changes to the Medicaid reimbursement system	\$ -	\$ -	\$ -	\$ -
3.2.1.2.3	Recomendations on the changes in CMS, Medicare, and Medicaid on data processing and analyses	\$ -	\$ -	\$ -	\$ -
3.2.1.2.4	Recommendations on changes regarding variables	\$ -	\$ -	\$ -	\$ -
3.2.1.2.5	Develop crosswalk	\$ -	\$ -	\$ -	\$ -
<b>3.2.1.3</b>	<b>Maintain and Update MDS Manager Programs and Data</b>				
3.2.1.3.1	Processing of data and episode construction	\$ -	\$ -	\$ -	\$ -
3.2.1.3.2	Development of design plan	\$ -	\$ -	\$ -	\$ -
3.2.1.3.3 - 3.2.1.3.5	Development and production of a quality review process; annual testing results and proposed solutions reports	\$ -	\$ -	\$ -	\$ -
3.2.1.3.6	Development of annual data documentation	\$ -	\$ -	\$ -	\$ -
3.2.1.3.7	Production of standardized data output and data extracts	\$ -	\$ -	\$ -	\$ -
3.2.1.3.8	Production of routine reports as specified				
A.	Retention Rate	\$ -	\$ -	\$ -	\$ -
B.	Length of Stay	\$ -	\$ -	\$ -	\$ -
C.	Descriptive Data	\$ -	\$ -	\$ -	\$ -
D.	Consumer Guide	\$ -	\$ -	\$ -	\$ -
3.2.1.3.9	Development of User Guide and documentation	\$ -	\$ -	\$ -	\$ -
D.	Training of MHCC staff	\$ -	\$ -	\$ -	\$ -
<b>3.2.1.4</b>	<b>Maintain and Update Long Term Care Survey Programs, Data and Reports</b>				
3.2.1.4.1	Development of design plan	\$ -	\$ -	\$ -	\$ -

3.2.1.4.2	Perform annual data intake and processing	\$ -	\$ -	\$ -	\$ -
3.2.1.4.3	Develop, update and maintain ongoing review process	\$ -	\$ -	\$ -	\$ -
3.2.1.4.4	Maintain and update LTC survey SAS programs and produce data	\$ -	\$ -	\$ -	\$ -
3.2.1.4.5	Production of routine reports as specified				
A.	Public Use Data Set	\$ -	\$ -	\$ -	\$ -
B.	Nursing Home Occupancy Report	\$ -	\$ -	\$ -	\$ -
C.	Report on Required Medicaid Payor Percentage	\$ -	\$ -	\$ -	\$ -
D.	Three year occupancy trends	\$ -	\$ -	\$ -	\$ -
3.2.1.4.6	Develop, maintain and update standardized data extracts	\$ -	\$ -	\$ -	\$ -
3.2.1.4.7	Development of User Guide, documentation and training	\$ -	\$ -	\$ -	\$ -
A.	Training of MHCC staff	\$ -	\$ -	\$ -	\$ -
<b>Total Price Per Contract Year</b>		\$ -	\$ -	\$ -	\$ -

**Financial Table 2: Fixed Unit Prices for Ad Hoc Unit Work Deliverables**

The Contractor shall plan for 200 hours of ad hoc unit work by one or more of its labor categories as requested by the Contract Monitor. The Offeror shall submit a fully loaded fixed hourly rate, which shall be charged for each labor category requested by the Contract Monitor to conduct specific ad hoc unit work. The rate of unit work shall include all indirect costs, overhead, out-of-pocket costs, etc., the Contractor expects to incur in connection with the resulting contract other than travel costs. In-State travel costs (including travel to Washington, D.C.) for unit work will not be reimbursed. Out-of-State travel costs for unit work will be reimbursed only for out-of-state travel that has received the prior written approval of the Contract Monitor, and then only up to the maximum rates allowed by State employees. Travel time, however, is not reimbursable. All unit work will be reimbursed only upon the written approval of the Contract Monitor.

<b>Contract Year 1</b>			
<i>Job Title/Labor Category</i>	<i>Estimated Labor Hours</i>	<i>Hourly Labor Rates</i>	<b>Total</b>
Project Manager	20	\$ -	\$ -
Subject Matter Expert	60	\$ -	\$ -
Advanced SAS Programmer	60	\$ -	\$ -
SAS Programmer	60	\$ -	\$ -
<b>Total Price for Ad Hoc Unit Work</b>			
	200		\$ -

<b>Contract Year 2</b>			
<i>Job Title/Labor Category</i>	<i>Estimated Labor Hours</i>	<i>Hourly Labor Rates</i>	<b>Total</b>
Project Manager	20	\$ -	\$ -
Subject Matter Expert	60	\$ -	\$ -
Advanced SAS Programmer	60	\$ -	\$ -
SAS Programmer	60	\$ -	\$ -
<b>Total Price for Ad Hoc Unit Work</b>			
	200		\$ -

<b>Contract Year 3</b>			
<i>Job Title/Labor Category</i>	<i>Estimated Labor Hours</i>	<i>Hourly Labor Rates</i>	<b>Total</b>
Project Manager	20	\$ -	\$ -
Subject Matter Expert	60	\$ -	\$ -
Advanced SAS Programmer	60	\$ -	\$ -
SAS Programmer	60	\$ -	\$ -
<b>Total Price for Ad Hoc Unit Work</b>			
	200		\$ -

<b>Contract Year 4</b>			
<i>Job Title/Labor Category</i>	<i>Estimated Labor Hours</i>	<i>Hourly Labor Rates</i>	<b>Total</b>
Project Manager	20	\$ -	\$ -
Subject Matter Expert	60	\$ -	\$ -
Advanced SAS Programmer	60	\$ -	\$ -
SAS Programmer	60	\$ -	\$ -
<b>Total Price for Ad Hoc Unit Work</b>			
	200		\$ -

**TOTAL CONTRACT PRICE**      \$                      -      **(BASIS OF AWARD)**

Submitted By:

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

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

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

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

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

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

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

Maryland Living Wage Requirements Affidavit of Agreement

(submit with Bid/Proposal)

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

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

Address \_\_\_\_\_

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

If the Contract Is Exempt from the Living Wage Law

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

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

- checkbox 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 THIS AFFIDAVIT 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**

This solicitation does not require a Conflict of Interest Affidavit and Disclosure.

**ATTACHMENT J – NON-DISCLOSURE AGREEMENT**

This solicitation does not require a Non-Disclosure Agreement.

**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.

**ATTACHMENTS 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.