

STATE OF MARYLAND
DEPARTMENT OF HEALTH AND MENTAL HYGIENE



REQUEST FOR PROPOSALS (RFP)

Health Services Cost Review Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Hospital Outpatient Data Processing Services
HSCRC-DBM-07-0301

Offerors are invited to submit proposals in conformance with the requirements established by the specifications herewith.

Minority Business Enterprises Are Encouraged To Respond To This Solicitation.

Publication Date: 03/20/07

Note: Please see Part IV, Section 2.14, clause #2 for cautions regarding the confidentiality of proposals submitted in response to this RFP.

Rev 01/06

Notice to Offerors

Changes in Maryland's Minority Business Enterprise (MBE) Program

New versions of Sections 13-103, 13-104 and 14-303 of the State Finance and Procurement Article of the Maryland Code, relating to increased proposal documentation of MBE commitments, are effective as of October 1, 2004. The Contract under this solicitation will be awarded in accordance with these requirements. As a result, new proposal submission requirements, including certain revised MBE documents, are in effect for this solicitation. These new requirements are set forth elsewhere in this solicitation. Offerors should therefore carefully review **Part II Organization of Proposal, Part III Evaluation and Selection Procedure (Sections 1.0 and 1.2), Part IV RFP Information and Instructions (Section 1.16, and APPENDIX F. Read these sections carefully and follow all requirements exactly.**

Regulatory amendments to Code of Maryland Regulations 21.11.03 Minority Business Enterprise Policies, were adopted by the Board of Public Works on March 16, 2005, with an April 1, 2005 publication date and effective date of April 11, 2005. The text of the amendments can be found in the Maryland Register, 31:26 F.R. 1905 (December 27, 2004) and 32:7 F.F. 685 (April 1, 2005).

Questions or concerns regarding the MBE requirements of this solicitation must be raised prior to receipt of initial proposals.

ENCOURAGEMENT OF PARTICIPATION STATEMENT

The State of Maryland is actively seeking to increase participation from businesses and organizations in the procurement of goods and/or services. Accordingly, all potential bidders/offerors are encouraged to complete the "Notice to Vendors/Contractors," which is on the following page, supplying comments and/or the reason(s) for declining to bid or to make an offer in response to this solicitation. Please return this form either with your submission package or in an envelope addressed to the issuing office listed on the Key Information Summary Sheet, even if you are not submitting a proposal.

STATE OF MARYLAND
VENDORS COMMENTS

To help us improve the quality of State solicitations and make our procurement process more responsive and business-friendly, we ask that you take a few minutes to complete this form. Thank you for your assistance.

Bid/Proposal Number: _____ Entitled: _____

I. If you are not bidding, please indicate why:

Other commitments preclude our participation at this time.

- The subject of the contract is not in our business line.
- We lack experience in the work/commodities required.
- The scope of work is beyond our current capacity.
- We cannot be competitive. (Please explain below.)
- The specifications are either unclear or too restrictive. (Please explain below.)
- Bid/proposal requirements, other than specifications, are unreasonable or too risky. (Please explain below.)
- Time for completion is insufficient.
- Bonding/insurance requirements are prohibitive. (Please explain below.)
- Doing business with government is simply too complicated.
- Prior experience with State of Maryland contracts was unprofitable or otherwise unsatisfactory. (Please explain below.)
- Other: _____

II. Please explain your response further, offer suggestions, or express concerns. (Use the back for additional information.)

REMARKS: _____

OPTIONAL:

Vendor Name: _____ Date: _____

Contact: _____ Phone: _____

Address or email: _____

THANK YOU!!!

KEY INFORMATION SUMMARY PAGE

Title of RFP: - Hospital Outpatient Data Processing Services

RFP Issue Date: - March 20, 2007

RFP Number: HSCRC-DBM-07-0301

Description of services: The Health Services Cost Review Commission (HSCRC), an independent hospital rate setting agency with the Maryland Department of Health and Mental Hygiene, is soliciting proposals from organizations to procure processing and management services to edit and maintain hospital based patient information from Maryland hospitals to support its regulatory responsibilities. The data processing services to be provided through this solicitation pertain to the HSCRC's Outpatient data set and pertains to COMAR 10.37.04 Submission of Hospital Outpatient Data Set to the Commission.

Procurement Method: Competitive Sealed Proposals (COMAR 21.05.03)

Contract Term: July 1, 2007 to June 30, 2010

Option Terms: #1: July 1, 2010 to June 30, 2011

#2: July 1, 2011 to June 30, 2012

eMaryland Marketplace Fee: COMAR 21.02.03.06 requires that the successful offeror under this solicitation pay a fee to support the operation of eMaryland Marketplace. The applicable fee is based on total contract value (including base contract plus all options). A total contract value that is other than an even dollar amount will be rounded to the nearest dollar to determine the appropriate fee level. For example, a total contract value of \$50,000.49 will be rounded to \$50,000 and a Level 1 fee will apply. A total contract value of \$50,000.50 will be rounded to \$50,001 and a Level 2 fee will apply. A copy of COMAR 21.02.03.06 can be found on the eMM website at www.eMarylandMarketplace.com

The fee amount must be included within the rate or price of the proposal/bid and may not be quoted as a separate add-on price.

In order to receive a contract award, a vendor must be registered on eMaryland Marketplace. Contractors shall pay the fee as provided by COMAR 21.02.03.06 and in accordance with guidelines issued by the Maryland Department of General Services. These guidelines can be found on the eMaryland Marketplace website at www.eMarylandMarketplace.com.

Electronic Funds Transfer: By submitting a response to this solicitation, the Offeror agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. The selected Offeror shall register using the attached form COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form (Appendix F). 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 and must include the business identification information as stated on the form and include the reason for the exemption.

Issuing Office: Health Services Cost Review Commission

Issuing Office Point of Contact/Procurement Officer: Diana Kemp
4160 Patterson Avenue
Baltimore Maryland 21215
410-764-2576
dkemp@hscrc.state.md.us

Contract Monitor: Oscar Ibarra
4160 Patterson Avenue
Baltimore, Maryland 21215
410-764-2566
oibarra@hscrc.state.md.us

Deadline for receipt of proposals: Wednesday, April 18, 2007 at 3:00 p.m. local time (eastern daylight standard time).

Proposal(s) Received At: Health Services Cost Review Commission
4160 Patterson Avenue
Baltimore, Maryland 21215
Attn: Diana Kemp

Pre-proposal conference: Health Services Cost Review Commission
Thursday, March 29, 2007 @ 2:00 p.m.
4160 Patterson Avenue
Baltimore, Maryland 21215
Please contact Diana Kemp at 410-764-2576 to arrange for any special needs consideration.

MBE subcontracting goal: A MBE Subcontracting Goal of 25% has been established for the contract to result from this solicitation.

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Glossary of Terms

APR-DRG	All Patient Refined – Diagnosis Related Groups
Case Mix	Provides the health care industry with a consistent method of classifying types of patients, their treatment and associated costs
Case Mix index	A relative measure of average patient activity across hospitals.
Case Mix weights	The relative value of the charges for all cases in each APR-DRG severity cell compared to the average charge for all cases in the state.
CPT	Common Procedure Terminology
Chronic Hospitals	A facility licensed as special hospital-chronic in accordance with COMAR 10.07.01 that serves patients who do not need acute care or care in another kind of specialty hospital, whose needs for frequency of monitoring by a physician and for frequency and duration of nursing care exceeds the requirements of COMAR 10.07.02 for care in a comprehensive care or extended care facility, and whose expected length of stay, typically exceeds 30 days.
Realia COBOL	Programming Language for PC technology
DRG	Diagnosis Related Groups
DSM-IV	Diagnostic and Statistical Manual for Mental Disorders
General Acute Hospitals	A hospital that has the facilities and services necessary for the general medical and surgical care of patients
HCUP	Healthcare Cost and Utilization Project
Hospital Outpatient Data Set	Electronic data file that includes each patient's demographic information as well as diagnosis and procedures released for each patient's hospital outpatient encounter or visit.
ICD CM	International Classification of Diseases Clinical Modification
Psychiatric Hospitals	Hospitals that specialize in treating patients with a mental disease or emotional disorder.
SAS	Statistical Analysis System
STATA	A statistical package for research professionals of all disciplines, from biostatisticians to political scientists.
UB92 and UB04	National Uniform Billing 1992 and 2004

Acceptance of a contract resulting from this RFP indicates intent to comply with all conditions that are part of this solicitation document.

PART I

SPECIFIC REQUIREMENTS OF PROPOSED CONTRACT

1.0 INTRODUCTION

The Health Services Cost Review Commission (HSCRC) is an independent regulatory commission, functioning administratively within the Maryland Department of Health and Mental Hygiene. Public concern regarding the escalation of hospital costs led the Maryland legislature to create the HSCRC in 1971 to set the rates that Maryland's hospitals may charge. The HSCRC collects a wealth of information from Maryland hospitals to support its regulatory responsibilities. The data processing services to be provided through this solicitation pertain to the HSCRC's Outpatient data reporting regulation, Code of Maryland: COMAR 10.37.04 Submission of Hospital Outpatient Data Set to the Commission.

The HSCRC intends to make a single award as a result of this RFP.

All communications regarding this RFP are to be made only by the Procurement Officer (see Key Information Summary Sheet). Information communicated by the Procurement Officer shall constitute the official position of HSCRC.

2.0 BACKGROUND

The HSCRC collects outpatient data from all general acute hospitals in the state. The outpatient data set includes clinical, demographic and charge information. The data set is edited and processed through a microcomputer based processing system. The successful contractor is responsible for the operations, maintenance and modifications to the system. The successful contractor is also responsible for quarterly data processing and management of the outpatient data submitted by the regulated hospitals as well as incorporating changes that may be associated with grouping for Ambulatory Payment Classifications (APCS), Ambulatory Patient Groups (APGs), or other outpatient grouping schemes. The contractor will create subgroups within the submitted data that will be defined by the Commission using Common Procedure Terminology (CPTs).

The successful contractor will be responsible for the operation, maintenance, and modification of the outpatient system. This current solicitation will continue the data collection process with a three year contract term with two one year options for renewal. To meet the objectives of HSCRC, the contractor shall devise and implement a strategy for editing and processing the data through micro-computer based data processing

systems. The HSCRC's rate setting activities are dependent upon the accuracy and timeliness of the data described in this RFP. The data processing and management services provided by the chosen contractor will play a vital role in the continued success of Maryland's unique hospital rate setting system.

3.0 PURPOSE

As a result of successful completion of this contract, the HSCRC will have collected data required under COMAR 10.37.04, Submission of Hospital Outpatient Data Set to the Commission, which is enclosed with this RFP (see Appendix G). The data will be available in a useful format for analysis by HSCRC staff, hospitals, payers, academic researchers, and other government agencies within the parameters established by the HSCRC. Finally, the HSCRC will have received regularly scheduled reports necessary to monitor the performance of the Maryland hospital industry, particularly, though not limited to, the measurement of changes in hospital outpatient case mix based on a selected grouper methodology.

4.0 SERVICES TO BE PERFORMED

4.1 The HSCRC specifies, through COMAR 10.37.04, Submission of Hospital Outpatient Data Set to the Commission, the data reporting requirements and format (see Appendix G). Hospitals submit the required information directly to the contractor (currently via magnetic tape, compact disc, or off site storage locations). The function of receiving and logging in data from hospitals will be performed by the contractor. The contractor will inform HSCRC staff as to the date of submission for each hospital. A fine of \$100 per day may be imposed on a hospital for late submission of the required information unless an extension is requested and approved by HSCRC staff in advance of the deadline. HSCRC is responsible for monitoring and enforcing the timeliness of data submissions and will act as liaison between the contractor and hospital representative. However, the contractor will assist HSCRC staff in tracking these submissions.

4.2 The submission deadline for the outpatient data set is 60 days following the close of the quarter (a sample production schedule is included as Appendix H). Once the data set is received, the contractor will perform all necessary services to edit, update, and maintain the data set. A description of the production process is included (see Appendix K). The data processing programs that have been developed for the data set are written in Realia COBOL with the use of Realia Screen IO and the BTRIEVE file management system. The program developed for the purpose of processing the data set, will be

provided to the contractor.

4.3 The following data management and processing tasks must be performed by the contractor as part of this contract:

- a. Maintain electronic and paper logs of all data received from the hospitals and/or the HSCRC.
- b. Convert data to PC compatible format for processing, in the form of flat Ascii files or comma delimited files.
- c. Generate and review Frequency Reports for a preliminary data quality review of hospital submissions (see Appendix L for a sample). The total of all hospital submissions will be approximately 1.1 million records per quarter.
- d. Identify and document hospital specific data processing problems and communicate issues to the HSCRC contract manager and the hospital case mix liaison (hospital representative) for resolution. Maintain communication until problems are resolved.
- e. Run the data editing system, using the newly submitted data to create the HSCRC Master Files.
- f. Generate hospital specific Error Listing Reports produced by the data editing system for dissemination to the hospital liaisons in accordance with the production schedule (See Appendix L for a sample Error Listing Report).
- g. Generate all auxiliary files which include, but are not limited to, temporary work files and edited confidential master file CD-ROM. The system will include a requirement that the data be separated by CPT code categories to be defined by the HSCRC.
- h. Update all data base maintenance records.
- i. Log in correction and replacement tapes received from the HSCRC and log in completed Error Lists received directly from the hospitals.
- j. Rerun the data editing system with the error corrections to update the HSCRC master file as well as all auxiliary files.
- k. Participate in data collection changes that will assist with grouping all outpatient services.
- l. Update and process confidential and non-confidential data using the APC and/or APG grouper as needed.
- m. Maintain and hold all prior years' data in a repository for analysis.
- n. Test, update and process all case mix data systems – calculating case mix indices and/or charge comparisons for all Maryland hospitals.

4.4 The contractor will provide an analysis of the data which includes maintaining

and updating the ICD-9-CM, CPT and HCPCS code conversion files to permit comparisons of clinical data across time periods. Prepare special analyses and reports as requested by the HSCRC. Provide the reports on hard copy and by electronic files that are amendable to further manipulation.

4.5 The Contractor must develop and implement a quality control plan that identifies Contractor activities designed to ensure the efficient performance of tasks. The plan must incorporate continuous quality improvement activities that can be documented in the quarterly production packets (see Appendix L). For example, the contractor must review and sign off on the reasonableness of the hospitals' quarterly visit and/or encounter count and totals, prior to the completion of the production process. Erroneous data must be identified and the issue communicated to the hospital and the HSCRC contract manager. The contractor's quality control activities are subject to the HSCRC's approval and modification.

4.6 The contractor will develop and implement system modifications and enhancements to support HSCRC data collection and reporting requirements. System modifications and enhancements must be included in the cost of this contract. Standard system modifications will include incorporating edits to accommodate annual changes in ICD-9-CM, CPT and HCPCS codes. The cost for purchase of the codes files is to be included in the contract price. The cost is a standard price established by the companies who produce the health care coding structures. The installation and analysis of APC/APG software is an additional expense that should be included in the contract price. The contractor must receive approval from the HSCRC contract manager prior to implementation of any modifications and enhancements to the data processing system.

5.0 REQUIREMENTS

5.1 The Contractor must provide the necessary equipment available to function as an emergency backup system in order to have the data available within 24 hours of a failure of the equipment provided by the HSCRC (see Appendix J).

5.2 The contractor will be responsible for all costs associated with the licensure of all software associated with this project.

5.3 The patient level data sets to be processed through this contract are considered confidential. Accordingly, the contractor must agree not to release or disclose the patient level data sets to any party without written approval from the HSCRC. An example of HSCRC's Assurance of Data Confidentiality and Security agreement is enclosed (see Appendix I). The Contractor must develop and implement a data

confidentiality and security plan to be submitted as part of this proposal.

5.4 The Contractor must comply with the HSCRC policy and procedures on the release of non-confidential data. The HSCRC generates a non-confidential data set for public use. The charge for the data set is established by the HSCRC. The HSCRC reserves the right to authorize the contractor to generate and distribute the public use data set in a manner and format established by the HSCRC. The costs associated with the generation of the data set copies shall be covered through the charge for the public use/non-confidential data.

5.5 The contractor must comply with HSCRC disclaimer requirements. If the vendor performs services, similar to the services identified in this contract, that are not performed in the fulfillment of this contract, then those products and services must be clearly identified as not official HSCRC products and/or services.

5.6 The contractor must acknowledge that all programs, reports, system modifications, production outputs, enhancements, etc. developed in fulfillment of this contract shall be documented and considered confidential unless specifically stated otherwise by the HSCRC. All programs, files, software and documentation shall be considered the property of HSCRC, and its use for purposes not specified in this contract shall be prohibited.

5.7 The contractor must acknowledge that the confidentiality of existing and newly developed software and production outputs will be determined by the HSCRC.

5.8 The contractor must provide, as part of this proposal, documentation that the staff performing the contracted tasks possess specific knowledge of the following classification systems:

- a. International Classification of Diseases – Clinical Modification – (ICD9-CM and ICD10-CM)
- b. Common Procedure Terminology – (CPT)
- c. Healthcare Common Procedure Coding System – (HCPCS)
- d. National Uniform Billing 1992 – (UB92 and UB04) This is a classification designed to standardize health service categories for patient billing
- e. Ambulatory Payment Classifications (APCs)
- f. Ambulatory Patient Groups (APGs)
- g. Supply, update and process data with the new Federal Grouper annually.

5.9 The contractor must perform all work within the continental United States. Under no circumstances, shall the work be sent off shore. This includes the work

performed by all subcontractors. The contractor must identify the location at which all work is to be performed, including services performed by the

6.0 DELIVERABLES

- 6.1 Production of the outpatient data set on a quarterly basis. The outpatient data that is submitted by the hospitals will include a quarterly total of approximately 1.1 million records that contain one record type 1 and two record type 2s for each individual patient encounter and/or visit submitted.
- 6.2 Production of the following reports, on a quarterly basis, to be generated from the previously mentioned data set (see Appendix L for examples):
- HSCRC Outpatient Process Summary Correction Run (Currently Ambulatory Surgery)
 - Hospital Summary Before and After Update
 - Percent Error List
 - Charges by Payor Report
 - Charges by CPT Procedure
 - Master File Status Report - Monthly Cases, Nature of Surgery, Admission Source, Sex, Race, Ethnicity, Marital Status, County Codes, Zip Code, Disposition of the Patient, Principle Diagnosis, Other Diagnosis, Payment Source, Secondary Payment Source, Principal Payer, Secondary Payer, Patient Age, Charge Breakdowns (Total, Operating, Daily, Drug, Lab, X-Ray, Supply, Miscellaneous and Other)
 - Statistical Summary
 - Develop case mix reports that will assist the HSCRC staff to establish case targets under new HSCRC Methodology under development.
- 6.3 The Contractor will provide the following information, on a quarterly basis, for each production run of the data sets:
- Reconciliation reports to be developed to provide a comparison of revenue and volume data between the case mix data and the hospital financial statements
 - Audit records of data dissemination
 - Identify and document hospital specific data processing problems
 - Frequency Reports

6.4 The Contractor, when requested, must supply data files to the following agencies, at no additional charge:

- All consultants working for HSCRC
- The HCUP national data base systems
- MHCC (the Maryland Health Care Commission) and DHMH

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PART II

ORGANIZATION OF PROPOSAL

1.0 GENERAL FORMAT

1.1 Two-Part Submission

A. Offerors shall submit in separate sealed envelopes technical and financial proposals in the following manner:

1.) One (1) original (to be so labeled) and four (4) copies (one unbound and marked "PIA Copy"*) of the technical proposal in a sealed envelope clearly labeled "Technical Proposal"; and,

2.) One (1) original (to be so labeled) and four (4) copies (one unbound and marked "PIA Copy"*) of the financial proposal in a sealed envelope clearly labeled "Financial Proposal".

*(see part IV, Section 1.4 for an explanation of this Public Information Act (PIA) copy)

B. Each envelope shall, in addition, be labeled with the following:

- 1.) The offeror's name and business address;
- 2.) The due date/time for receipt of proposals; and
- 3.) The title of the RFP.

C. All pages in the technical proposal must be numbered, either consecutively from beginning to end, or consecutively by section.

1.2 Transmittal Letter

Technical proposals are to be accompanied by a brief transmittal letter prepared on the offeror's letterhead, and signed by an individual who is authorized to commit the offeror to the services and requirements as stated in the RFP and proposals. This transmittal letter shall include:

A. The name, title, address, telephone number, and electronic mail address of the person authorized to bind the offeror to the contract, who will receive all official notices concerning this RFP; and

B. The Offeror's Federal Tax Identification Number or Social Security Number.

C. Acknowledgement of the receipt of any amendments/addenda to the RFP.

2.0 VOLUME I: TECHNICAL PROPOSAL

2.1 Format

Proposals shall be clear and precise and shall affirmatively address all points as outlined in Part I, Section 4.0 and 5.0., using the specific headings as a guide for preparing said proposal. All offerors shall present their technical proposal in the following manner:

1.) Proposal Overview

The proposal overview should briefly summarize the offeror's understanding of the major issues being faced by the HSCRC, its corporate organizational qualifications, and the qualifications of personnel to be used for the project.

2.) Understanding of the Problem

This should document the offeror's understanding of the issues being faced by the HSCRC: i.e. changes to the regulatory system, long term goals for industry payment levels, administrative savings to be achieved within the system and reduction in the complexity of administering the system and improving data quality.

3.) Contractor Qualifications

This shall describe the qualifications and experience of the offeror and should include an organizational chart. It should summarize any experience with the Hospital Rate Setting System and its knowledge and understanding of health care hospital payment design issues.

4.) Personnel Qualifications

This section shall describe the qualifications of the personnel to be used in the completion of the contract. The roles, responsibilities, and lines of authority of the proposed staff shall be clearly described. As background, resumes or job descriptions

for each staff member associated with the project shall be included.

5.) References

The offeror must supply references to support the proposal. The references shall not be part of the State Department of Health and Mental Hygiene. References that can attest to the performance of the offeror in related hospital consulting and auditing in a similar scope of work over the last five years will be more favorably regarded. The name, title, telephone number, and e-mail address of the person(s) to contact must be supplied. The State shall have the right to contact any reference of its choosing as part of the evaluation and selection process.

The offeror must provide a list of all contracts with any entity of the State of Maryland that it is currently performing or which has been completed with the last 5 years. For each identified contract the Offeror is to provide in its Technical Proposal:

- The State contracting entity
- A brief description of the services/goods provided
- The dollar value of the contract
- The term of the contract
- The State employee contact person (name, title, telephone number and if possible e-mail address)
- 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 considered as part of the experience and past performance evaluation criteria of the RFP.

6.) Work Plan

The offeror shall give a definitive description of the proposed plan to meet the requirements of the RFP. It shall include the specific methodology(s) and/or techniques to be used by the offeror in providing the required services as outlined in Part I, Section 4.0 Services to be Performed.

7.) Knowledge of Software

The offeror will demonstrate adequate knowledge of work processing and/or graphics software to generate camera ready reports suitable for publication. The HSCRC prefers that the offeror have knowledge and experience in Statistical Analysis System (SAS) to be consistent with the software used by the HSCRC. The offeror must demonstrate experience and expertise in Realia COBOL.

8.) Development of a Processing System

If an offeror plans to propose a processing system in a language other than COBOL, it must provide comparable data editing and management features, to that of the current system. The offeror must detail what language will be used, and why it would be better for the HSCRC.

9.) Economic Benefit to the State of Maryland

The offeror shall describe the benefits that will accrue to the Maryland economy as a direct or indirect result of the offeror's performance of the contract resulting from this RFP. Economic benefits include:

- a. The contract dollars to be recycled into Maryland's economy in support of the contract, through the use of Maryland subcontractors, suppliers, and joint venture partners. Offerors should be as specific as possible and provide a breakdown of expenditures in this category without divulging their actual bid price or combination of amounts and percentages that would allow calculation of the bid price.
- b. The number and types of jobs for Maryland residents resulting from the contract. Indicate job classifications, number of employees in each classification, and the aggregate payroll to which the contractor has committed at both prime and, if applicable, subcontract levels.
- c. Tax revenues to be generated for Maryland and its political subdivisions as a result of this contract. Indicate tax category (sales tax, payroll taxes, inventory taxes and estimated personal income taxes for new employees).
- d. Provide a forecast of the total tax revenues resulting from the contract.
- e. Subcontract dollars committed to Maryland small business and MBEs.

In addition to factors listed above, the offeror should explain any other economic benefits to the State of Maryland that would result from the offeror's proposal.

2.2 Summary of items to be completed and submitted with Technical Proposal

1.) Bid/Proposal Affidavit

State procurement regulations require that each proposal submitted by an offeror include a Bid/Proposal Affidavit. A copy of this Affidavit is included as Appendix C of Part VI of this RFP.

2.) References

3.) Organizational Chart

4.) The offeror must include in its proposal a commonly accepted method to prove its fiscal integrity. Some acceptable methods include but are not limited to one or more of the following:

- a. Dunn and Bradstreet Rating,
- b. Standard and Poor's Rating,
- c. Recently audited (or best available) financial statements,
- d. Lines of credit,
- e. Evidence of a successful financial track record, and
- f. Evidence of adequate working capital.

5.) The offeror must include a Legal Action Summary in its technical proposal. This summary must 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, number court, and what the final ruling or determination was from the court.
- d. in instances where litigation is ongoing and the offeror has been directed not to disclose information by the court, provide the name of the judge and location of the court.

e. describe how the offeror is configured managerially, financially, and individually so as to afford the assurance that it can execute a contract successfully.

Subcontractors, if any, except for subcontractors that shall be used solely to satisfy the MBE subcontracting goal, shall be identified and a complete description of their role relative to the proposal included in the proposal.

6.) *MBE Utilization and Fair Solicitation Affidavit* (Appendix F, MBE Attachment A)

* * * * *

NOTE: If an offeror fails to submit MBE Attachment A at the time of submittal of the offer, the Procurement Officer will deem the offer not reasonably susceptible of being selected for award of contract.

* * * * *

7.) Confidentiality Statement w/ justification (Identify any sections of the proposal that are considered "trade secrets" and/or confidential or proprietary information. For a detailed explanation of this requirement, see Part IV, Section 1.4 Confidentiality of Proposals).

3.0 Volume II: FINANCIAL PROPOSAL

3.1 Format

Offerors shall enter all price information on Appendix A : "Financial Proposal Sheet" and submit it under separate sealed cover as described in Part II, Section 1.1 above. When preparing their financial proposal, Offerors should take into account the requirements for payment of an eMaryland Marketplace fee, which may not be separately priced (see Key Information Summary).

3.2 Summary of items to be completed and submitted with the Financial Proposal

1.) MBE Participation Schedule (Appendix F, MBE Attachment B)

* * * * *

NOTE: If an offeror fails to submit MBE Attachment B at the time of submittal of the offer, the Procurement Officer shall deem the offer not reasonably susceptible of being selected for award of contract and the proposal will not be further considered.

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2.) Confidentiality Statement w/ justification (Identify any sections of the proposal that are considered "trade secrets" and/or confidential or proprietary information. For a detailed explanation of this requirement, see Part IV, Section 1.4 Confidentiality of Proposals).

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PART III

EVALUATION AND SELECTION PROCEDURE

1.0 Evaluation Committee

A committee will conduct the evaluation of proposals. Proposals will be reviewed as a preliminary matter by the Procurement Officer to determine if they meet all minimum requirements set forth in the Key Information Summary and Part I, section 1.0, and if the required MBE documentation is included. Offerors that do not submit a properly completed and signed *MBE Utilization and Fair Solicitation Affidavit* (Appendix F, MBE Attachment A) with their technical proposal will be found not reasonably susceptible of being selected for award. Proposals that do not meet the minimum requirements, or are otherwise found not reasonably susceptible of selection for award will not be considered further and the financial proposal will be returned unopened. During the evaluation process, the committee may request technical assistance from any source. Technical proposals will be evaluated in accordance with the criteria listed in Part III, Section 1.1 below.

The financial proposals will not be distributed to the committee until the technical evaluation is completed. Alternatively, a separate committee may be established to evaluate financial proposals concurrently with the committee that is evaluating the technical proposals. In this case, the separate committees may have no contact with each other until the time that both committees have completed their assigned tasks.

1.1 Evaluation Criteria

The evaluation criteria set forth below are arranged in descending order of importance. (1 is more important than 2 and 2 is more important than 3, etc.).

1.) Understanding the Problem

The offeror has demonstrated a clear understanding of:

- a.) Coding classification systems and updates;
- b.) The issues faced by the HSCRC methodology;
- c.) The HSCRC rate setting system; and
- d.) HSCRC data collection and reporting requirements.

2.) Experience and Qualifications of Offeror

- a.) company history;
- b.) experience with the healthcare industry financing, coding, and reimbursements;
- c.) knowledge of Maryland's position with the Medicare waiver test;
- d.) ability to identify and document specific hospital data processing problems;
- e.) ability to work with hospital assigned personnel to evaluate errors and solicit corrections;
- f.) ability to keep current with coding requirements and regulations;
- g.) experience with healthcare payment design issues; and
- h.) experience in using and analyzing national healthcare data sources such as American Hospital Association (AHA) statistical data, and medical claims and cost report data.

1.2 Evaluation Process

The Procurement Officer will first determine if all minimum requirements as specified in the RFP, have been met, including submission of a completed *MBE Utilization and Fair Solicitation Affidavit* (Appendix F, MBE Attachment A). Any technical proposal that does not include a completed *MBE Utilization and Fair Solicitation Affidavit* (Appendix F, MBE Attachment A) will be determined "not reasonably susceptible for award of contract." Any offeror who does not meet minimum requirements will be declared "not responsible." If either determination is made at this point the offeror's proposal will be returned without opening the financial portion. The committee will then evaluate each technical proposal using the evaluation criteria set forth above. As part of this evaluation, the Committee may hold discussions with all qualified or potentially qualified offerors (see Section 1.3 below). Only those offerors whose technical proposals are ultimately deemed reasonably susceptible of being selected for award and who are determined "responsible" will be considered "qualified offerors." Accordingly, if the committee, with the concurrence of the Procurement Officer, determines at any time that an offeror is not reasonably susceptible of being selected for award, or the Procurement Officer determines an offeror not to be responsible, that offeror will be notified and the financial proposal returned unopened if possible.

Following the completion of the technical evaluation of all offerors, including any discussions, the committee will rank each qualified offeror's technical proposal. Unless there is a separate evaluation team to review financial proposals, the financial proposal of each qualified offeror will then be distributed to the committee. If an MBE subcontracting goal has been assigned to the solicitation, the Procurement Officer will first determine if a completed *MBE Participation Schedule* (Appendix F, MBE

Attachment B) has been included with the financial proposal. If not, the entire proposal will be declared “not reasonably susceptible for award of contract,” and will not be given further consideration. The committee may then reenter into discussions concerning the qualified proposals. Unless already evaluated by the financial team, at this point the committee will rank each offeror's financial proposal from lowest to highest cost to the State. Then, if it is determined to be in the best interest of the State, the Procurement Officer may invite offerors to make final revisions to their technical and/or financial proposals through submission of a Best and Final Offer (See Part III, Section 1.4).

The committee will recommend the offeror whose overall proposal provides the most advantageous offer to the State considering price and the evaluation criteria set forth in the RFP. In the case of multiple awards the next advantageous, and the next after that up to the number stated in Part I, Section 1.0, will also be recommended. In arriving at this recommendation, the technical proposal will be afforded more weight than the financial proposal. If, however, the technical ranking is essentially equal for two or more offerors, the cost as described in the financial proposal may become the primary determinant of award.

As permitted by COMAR 21.05.03.03A (6), the Procurement Officer and agency head may accept or decline any or all recommendations from the committee. Nevertheless, in each case, the criteria set forth in Part III, Section 1.1 will govern decisions.

The HSCRC will notify all offerors of the outcome of the solicitation. The notification will include instructions and the deadline for the recommended offeror to submit the remaining MBE documentation: *Outreach Efforts Compliance Statement (Appendix F, MBE Attachment C)* and *MBE Subcontractor Project Participation Statement (Appendix F, MBE Attachment D)*. Once all contract approvals have been obtained, notice of award of the contract will be published by the DHMH in the eMaryland Marketplace.

1.3 Discussions

The Evaluation Committee may enter into discussions with qualified or potentially qualified offerors as set forth in COMAR 21.05.03.03.C. Discussions, however, need not occur (See COMAR 21.05.03.02.A (4)). Offerors may be asked to participate in face-to-face discussions with the committee or other State representatives concerning either or both their technical or financial proposals. At the discretion of the HSCRC, discussions may also be conducted via teleconference or may take the form of questions to be answered by the offerors and conducted by mail, E-mail, or facsimile transmission.

1.4 Best and Final Offers

When it is deemed in the best interest of the State, the Procurement Officer may permit qualified offerors to revise either their initial technical or initial financial proposal or both initial proposals by submitting a Best and Final Offer (BAFO). The Procurement Officer shall notify each qualified offeror of the scope of the requested BAFO, and shall establish a date and time for the offeror's submission. The Procurement Officer may require more than one series of discussions and BAFOs for either or both proposals if the agency head or designee makes a determination that it is in the State's best interest to conduct additional discussions or change the HSCRC's requirements and require another submission of a BAFO. If more than one BAFO is requested, an offeror's immediate previous offer shall be construed as its best and final offer unless the offeror submits a timely notice of withdrawal or another BAFO. The Procurement Officer may consult with and seek the recommendation of the Evaluation Committee during the best and final offer process.

1.5 Debriefing of Unsuccessful Offerors

Unsuccessful offerors shall be debriefed upon their written request to the Procurement Officer. The HSCRC shall honor requests for debriefings at the earliest permissible time.

1.6 Protests

The State of Maryland provides formal procedures for any offeror to protest the award, or the proposed award, of a contract. All protests must be filed in accordance with Md. Code Ann., St. Fin. & Proc. §15-215 through §15-223 and with COMAR 21.10.02.

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PART IV

GENERAL INFORMATION AND INSTRUCTIONS

1.0 PROPOSAL INFORMATION

1.1 Pre-proposal Conference (See Key Information Summary Sheet for location, time, etc.)

While attendance at the pre-proposal conference is not mandatory, the information presented may be informative. All interested offerors are encouraged to attend in order to be better able to prepare an acceptable proposal.

In order for the HSCRC to prepare for this conference, prospective attendees are requested to telephone Diana Kemp at 410-764-2576 no later than March 16, 2007 to provide notice of the anticipated number of individuals who will attend, as well as to provide an acknowledgement of receipt of the RFP.

Any individual interested in attending the pre-proposal conference who is in need of an accommodation due to his/her disability should contact the Issuing Office a minimum of five working days prior to the conference to request the necessary accommodation.

1.2 Questions and Inquiries

Questions may be submitted in writing to the Procurement Officer only, in advance of the pre-proposal conference. As practical and appropriate, the answers to these pre-submitted questions will be provided at the pre-proposal conference. Additionally, questions, both oral and written, will be accepted from the prospective offerors attending the pre-proposal conference and will be answered at this conference or in a subsequent transmittal.

Subsequent to the pre-proposal conference, the Procurement Officer will accept written questions until there is insufficient time for a response to impact on a proposal submission. Questions that have not been previously answered and that are deemed to be substantive in nature will be answered only in writing, with both the question(s) and answer(s) being distributed to all persons known by the Procurement Officer to have obtained the RFP.

Should a potential offeror identify alleged ambiguities in the specifications or contract provisions included in this RFP, or should there be doubt as to the meaning or intent of any section or subsection herein, the potential offeror must request clarification from the Procurement Officer prior to the proposal due date. Failure to do so may prevent consideration of a future protest. (see COMAR 21.10.02.03).

1.3 RFP Revisions

If it becomes necessary to revise any part of this RFP, addenda will be provided to all persons who are known by the Procurement Officer to have received the RFP. Acknowledgement of the receipt of all amendments, addenda, and changes issued shall be required from all persons receiving the RFP. Failure to acknowledge receipt of addenda will not excuse any failure to comply with the contents of the addenda.

1.4 Confidentiality of Proposals

The copy marked "PIA" of any proposal submitted in response to this RFP must identify all parts of the technical and financial proposal that the offeror deems to contain trade secrets or information of a confidential and/or proprietary nature. (see Part II, section 1.1, A) This copy must also include a statement by the offeror regarding the rationale for the parts so identified. Compliance with this requirement is set forth in Part IV, Section 2.14, #2. Note that a blanket statement by an offeror that its entire proposal is confidential or proprietary is unacceptable.

1.5 Duration of Offer

A proposal submitted in response to this solicitation is binding upon the offeror and is considered irrevocable for a minimum of 120 days following the closing date for receipt of initial proposals or the closing date for a best and final offer, if any. This period may be extended by written mutual agreement between the offeror and the State.

1.6 Modifications or Withdrawals

Proposals may be modified or withdrawn by written notice to the Procurement Officer prior to the closing date/deadline for receiving proposals. A facsimile transmission is also acceptable for this purpose; however, offerors are advised to document the exact date/time of transmission. A printed fax confirmation sheet is sufficient.

1.7 Late Actions

A proposal, request to withdraw a proposal, or a modification to a proposal is late, if the Procurement Officer does not receive it by the closing date and time at the place designated for receipt of proposals (See Key Information Summary Sheet). A late proposal, late request for withdraw or late modification will not be considered, except under the following circumstances:

A. When a late proposal is received before contract award and the proposal, the modification, or withdrawal would have been timely but for the action or inaction of State personnel directing the procurement activity or by the action or inaction of their employees.

B. A late modification of a successful proposal, which makes its terms more favorable to the State, shall be considered at any time it is received and may be accepted at the sole discretion of the State. (See COMAR 21.05.02.10)

1.8 Rights of Procurement Officer

The Procurement Officer reserves the right to cancel this RFP, in whole or in part, to reject any or all proposals, to waive minor irregularities in proposals, and/or to allow the offeror to correct a minor irregularity if the best interest of the State will be served by so doing. Additionally, the Procurement Officer, at his/her discretion, may negotiate with all qualified (or potentially qualified) offerors in an effort to serve the best interests of the State of Maryland.

1.9 Incurred expenses

The State of Maryland is not responsible for any expenses incurred by the offeror in preparing and submitting a proposal in response to this RFP.

1.10 Multiple Proposals

An offeror may not submit multiple proposals in response to this solicitation.

1.11 Alternate Proposals

An offeror may not submit an alternate proposal in response to this RFP. Accordingly, if there is any item, including any of the standard contract provisions (See Part IV, Section 2.14 below), with which the offeror cannot or will not comply, any exception(s) must be clearly noted and explained. Offerors are warned, however, that exception(s) may be

unacceptable to the HSCRC and may cause an offeror to be deemed not responsible or not reasonably susceptible of being selected for award.

1.12 Corporate Registration/Verification of Tax Payment

Before a corporation can do business in the State it must be registered and in good standing with the Department of Assessments and Taxation, State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. It is strongly recommended that any potential Offeror complete registration and ensure that it is in good standing prior to the due date for receipt of proposals. An Offeror's failure to complete registration and be in good standing with the Department of Assessments and Taxation may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

The successful offeror shall be responsible for ensuring that all subcontractors meet these requirements, and further, that the contractor and all subcontractors shall meet these requirements for the duration of the contract, including option years.

Any potential offeror who has questions concerning this requirement is advised to contact the Department of Assessments and Taxation, at (410) 767-1330. It is strongly recommended that potential offerors and subcontractors be completely registered prior to the due date for receipt of proposals. Failure to register may result in an offeror's proposal being deemed unacceptable for award.

1.13 Delivery/Handling of Proposals

Offerors may either mail or hand-deliver proposals. Hand-delivery includes delivery by commercial carrier. For any type of direct (non-mail) delivery, Offerors are advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery. (See Part VI, Appendix B, "Standard Addendum for the Means of Delivering Bids or Proposals.")

Proposals will not be opened publicly, but will be opened in the presence of at least two State employees. After the established due date, 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.

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

1.14 Federal Funding Acknowledgement

No Federal Funding will be used in this contract.

1.15 MBE Requirements

A. Subcontracting Participation Goal

A Minority Business Enterprise (MBE) subcontract participation goal of an amount not less than 25% of the total dollar value of the contract has been established for this procurement. By submitting a response to this solicitation, the offeror agrees that one or more Maryland Department of Transportation (MDOT) certified MBEs will perform this percentage of the dollar value of the contract. That is, a prime contractor — including an MBE prime contractor or a prime contractor comprising a joint venture that includes MBE partner(s)— must accomplish an amount of work not less than the MBE subcontract goal with certified MBE subcontractors. In the event that two or more offers are determined by the Procurement Officer to be equal, the Department of Health and Mental Hygiene may award a contract to the offeror whose proposal reflects the highest percentage of certified MBE participation.

B. Proposal/Contract Submission Requirements – MBE Participation Documentation

1.) *MBE Utilization and Fair Solicitation Affidavit* (Appendix F, MBE Attachment A)

The following document shall be considered as part of the contract and shall be furnished by the offeror with the offeror's technical proposal. The offeror shall submit a completed *MBE Utilization and Fair Solicitation Affidavit* (see Appendix F, MBE Attachment A), whereby the offeror acknowledges the MBE participation goal and commits to make a good faith effort to achieve it, and affirms that in the solicitation of subcontract quotations or offers, MBE subcontractors were provided not less than the same information and amount of time to respond as were non-MBE subcontractors, and that the solicitation process was conducted in such a manner so as to not otherwise place MBE subcontractors at a competitive disadvantage to non-MBE subcontractors. Offerors must select either box 1b on the Affidavit, reflecting an intention to make a good faith effort to meet the goal, or box 1c on the Affidavit, reflecting an expectation that the goal will be partially, or not at all, met and that a waiver will be requested. This Affidavit must be submitted with the technical proposal.

2.) *MBE Participation Schedule* (Appendix F, MBE Attachment B)

The following document shall be considered as part of the contract and shall be

furnished by the offeror with the offeror's financial proposal. The offeror shall submit a completed *MBE Participation Schedule* (see Appendix F, MBE Attachment B) of MDOT certified Minority Business Enterprises whereby the offeror responds to the expected degree of Minority Business Enterprise participation as stated in the solicitation, by identifying the specific commitment of certified Minority Business Enterprises at the time of submission and naming each proposed certified MBE who will participate in the project and describing the contract items to be performed or furnished by the MBE. The offeror shall specify the price and/or the percentage of contract value associated with each MBE subcontractor identified on the *MBE Participation Schedule*. This Attachment must always accompany the financial proposal. If Box 1b of the Affidavit (Appendix F, MBE Attachment A) is selected, Part 1 and Part 2 of this Attachment B must be fully completed as set forth herein. If Box 1c is selected, Part 1 of this Attachment B must be completed and Part 2 must include any MBE subcontractors that will partially complete the goal, or, if a total waiver is to be requested, the information in Part 2 may be blank. Note, this Attachment B must be submitted with the financial proposal regardless of which option (b or c) is selected in section 1 of the Affidavit (Appendix F, MBE Attachment A).

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ATTENTION: If an offeror fails to submit properly completed MBE Attachment A and MBE Attachment B at the time of submittal of the offer as required, the Procurement Officer will deem the offer not reasonably susceptible of being selected for award of contract.

3.) Other Documentation

Within 10 working days from notification that it is the apparent successful offeror, or from the date of award, whichever is earlier, (COMAR 21.11.03.10.B), the apparent successful offeror must submit to the Department of Health and Mental Hygiene's Procurement Officer:

(a.) A completed *Outreach Efforts Compliance Statement* (see Appendix F, MBE Attachment C), signed by the offeror, which shall be considered as part of the contract. It shall include:

- (i) A listing of specific work categories identified by the offeror in which there are subcontracting opportunities,
- (ii) Copies of written solicitations used to solicit certified MBEs for these subcontracting opportunities,
- (iii) A description of the offeror's attempts to personally contact the solicited MBEs, and
- (iv) A description of the offeror's efforts to fulfill or seek waiver of bonding requirements, if bonding required.

(b.) A completed *Subcontractor Project Participation Statement* (see Appendix F, MBE Attachment D). This statement must be consistent with the information included on the *MBE Participation Schedule* (Appendix F, MBE Attachment B), unless any changes in MBE subcontractors have been submitted to and approved by the Department. The *Subcontractor Project Participation Statement*, which shall be considered to be part of the contract, shall be signed by both the offeror and each MBE listed and shall include:

(i) A statement of intent to enter into a contract between the prime offeror and each subcontractor if a contract is executed between the HSCRC and the prime contractor, and

(ii) The amount and type of bonds required of MBE subcontractors, if any.

(c.) Any other documentation considered appropriate by the HSCRC to ascertain offeror responsibility in connection with the contract MBE participation goal.

ATTENTION: If the apparent awardee fails to return each completed document within the required time, and in compliance with the requirements of this section B.2, the Procurement Officer may determine that the apparent awardee is not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.

4.) MBE Participation Waiver

If the apparent successful offeror is unable to achieve the contract goal for certified MBE participation, the offeror must submit instead of, or in conjunction with an *MBE Subcontractor Project Participation Statement*, a written request for a waiver with justification, to include the following:

(a) A detailed statement of the efforts made to select portions of the proposed work to be performed by the certified MBE's in order to increase the likelihood of achieving the stated goal;

(b) A detailed statement of the efforts made to contact and negotiate with certified MBEs including the names, addresses, dates, and telephone numbers of the certified MBEs contacted and a description of the information provided to the certified MBEs regarding

plans, specifications, and anticipated time schedules for portions of the work to be performed;

(c) As to each certified MBE that placed a subcontract quotation or offer that the apparent successful offeror considered not to be acceptable, a detailed statement of the reasons for this conclusion; and

(d) In the event certified minority subcontractors are found to be unavailable, a signed and notarized *MBE Statement of Unavailability* (Appendix F, MBE Attachment E) must be prepared by the apparent successful offeror, including the names, addresses, dates, and telephone numbers of the certified MBEs contacted, and the reason each MBE is unavailable. A waiver of a certified MBE contract goal shall be granted only upon reasonable demonstration by the apparent successful offeror that certified MBE participation was unable to be obtained or was unable to be obtained at a reasonable price and if the Secretary or designee determines that a waiver serves the public interest. The Code of Maryland Regulation citation (COMAR 21.11.03.11) governing the MBE waiver is included. (Appendix F, MBE Attachment F)

C. MBE Compliance

The Department will ensure ongoing compliance with subcontracting requirements by way of periodic reviews conducted by the Department and periodic reporting by both the prime contractor and certified MBE subcontractor(s). To this end the contractor shall:

- 1.) Submit monthly to the Department as noted below a *Prime Contractor Unpaid MBE Invoice Report* (Appendix F, MBE Attachment G) listing any unpaid invoices, over 30 days old, received from any certified MBE contractor, the amount of each invoice and the reason payment has not been made;
- 2.) Include in its agreement with certified MBE subcontractors a requirement that those subcontractors submit monthly to the Department, a *Subcontractor Payment Report* (Appendix F, MBE Attachment H) that identifies the prime contract and lists all payments received from the contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices;

Attention: One copy of each report noted above, is to be submitted monthly to the Department's Contract Monitor identified in this PART III of this solicitation and to the Office of Community Relations, 5th floor, 201 West Preston Street, Baltimore, MD 21201 (410) 767-6600.

- 3.) Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of the work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the contractor and furnished to the Procurement Officer on request;
- 4.) Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for Department inspection for a period of three years after final completion of the contract; and
- 5.) At the option of the procurement agency, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

Upon determining the contractor's non-compliance, the Department shall notify the contractor in writing of its findings and shall specify what corrective actions are required. The contractor shall be required to initiate the corrective actions within 10 days and complete them within the time specified by the Department. If the Department determines that substantial noncompliance with MBE contract provisions exists and that the prime contractor refuses or fails to take corrective action required by the Department, then the following sanctions may be invoked:

- 1.) Withholding payment;
- 2.) Termination of the contract;
- 3.) Suspension of the right of the contractor to participate in any future contracts;
- 4.) Referral to the Office of the Attorney General for appropriate action;
- 5.) Initiation of any other specific remedy identified by the Contract; and
- 6.) Any other compliance mechanism authorized in COMAR 21.11.03. or available at law.

D. If the Department determines that the contractor has not complied with the certified MBE subcontractor participation goal, and has not obtained a waiver (See Appendix F, MBE Attachment F), the Procurement Officer, upon review by the Office of the Attorney General, may determine the contractor to be in breach of contract. The reasons for this action shall be specified in writing and mailed or delivered to the contractor.

E. All questions related to MBE certification must be directed to:

Maryland Department of Transportation
Office of Minority Business Enterprise/Equal Opportunity
P.O. Box 8755
BWI Airport
Baltimore, Maryland 21240
Telephone: (410) 865-1269

2.0 CONTRACT INFORMATION

2.1 Duration of Contract

The contract resulting from this RFP shall be for a period of three (3) years, as stated on the Key Information Summary Sheet. All options shall be exercised at the sole discretion of the State and shall comply with all terms and conditions in force at the time the option exercised.

If the contract does not commence on the date stated, the contract shall be effective for three (3) years from the actual commencement date.

At the sole discretion of the State, any contract awarded as a result of this RFP may be extended for six months in order to maintain continuity of care or to assure continued delivery of essential goods and services pending award of a subsequent contract. In the event of an extension:

- 1.) All terms and conditions of the contract in force prior to the extension shall continue in force in the extended contract, and
- 2.) Compensation to the vendor shall be prorated, based on the most recent annual payment figure.

2.2 Invoicing/Payment/Retainage/Withholding

A. Invoicing

1.) The contractor shall bill the Department on a monthly basis.

2.) Invoices must be addressed to: DHMH General Accounting, 201 W. Preston Street, 3rd Floor, Baltimore, Maryland 21201 with one copy of this invoice, marked "copy", submitted to Diana Dembeck, Fiscal Officer, Health Services Cost Review Commission, 4160 Patterson Avenue, Baltimore, Maryland 21215. All invoices must (at a minimum) be signed and dated in addition to including the vendor's mailing address, the vendor's Social Security number or Federal Tax ID number, the State's assigned contract control number and ADPICS number, the goods/services provided, the time period covered by the invoice, and the amount of requested payment.

B. Payment

Electronic Funds Transfer (EFT) will be used to pay the Contractor for the contract resulting from this solicitation and any other State payments unless the State Comptroller's Office grants the Contractor an exemption. 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 and must include the business identification information as stated on the form and include the reason for exemption.

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

C. Funding for any contract(s) resulting from this RFP is dependent upon appropriations from the Maryland General Assembly.

2.3 Contract Type

The contract resulting from this RFP will be a Firm Fixed Price Contract as described in COMAR 21.06.03.02A.1.

2.4 Subcontracting

With prior written approval by the State, the successful offeror may subcontract certain elements of a contract awarded as a result of this RFP. Notwithstanding any subcontracting arrangement, the successful offeror shall be held fully responsible to the Department for the proper accomplishment of all elements of the contract.

All subcontractors must be identified in the offeror's proposal, including a description of the subcontractor's role in the performance of the contract.

Subcontractors must meet the same mandatory requirements as the primary contractor, and will have to comply with the provisions of this RFP concerning staff qualifications and experience for the specific levels of services required for this contract.

2.5 Contract Document

Part V of this RFP will serve as the contract between the Department and the successful offeror for goods/services detailed in Part I of this RFP. All requirements, conditions, and stipulations contained therein shall prevail once all mandated approvals have been received and the Department of Health and Mental Hygiene and the successful contractor execute the contract.

2.6 Contract Affidavit

All offerors are advised that, if a contract is awarded as a result of this RFP, the successful offeror will be required to complete a Contract Affidavit as set forth in Appendix D. The Contract Affidavit must be submitted within ten (10) business days of being notified of being recommended for award.

2.7 Insurance Requirements

The successful offeror resulting from this RFP must show evidence of third party legal liability insurance for themselves and any subcontractor under the agreement covering claims arising from the operations and provided under this contract. These insurance coverages shall include the statutory limit for Workers' Compensation coverage; a minimum of \$500,000 aggregate for Commercial General Liability coverage; a minimum of \$100,000 for each Professional Liability or Malpractice coverage, if applicable; and automobile liability coverage, if applicable. All coverages shall be provided by insurance companies licensed to do business in the State of Maryland and shall be endorsed to provide 30 day notice of cancellation or non-renewal to the Department's Contract Monitor.

All insurance shall be in an amount and type acceptable to the State of Maryland. Any

self-insurance program must be documented including any necessary regulatory approval. The Contractor will name the State of Maryland as an Additional Named Insured on all liability policies (Workers' Compensation excepted) and provide certificates of insurance evidencing this coverage prior to the commencement of any activities.

2.8 Amendments

Any amendment to this contract must first be agreed to in writing by both parties and approved by the Procurement Officer, subject to any additional approvals as may be required by State law. No amendment to this contract shall be binding unless so approved.

2.9 Substitution of Personnel

All personnel described in the contractor's proposal, or identified at the initiation of the contract, shall perform continuously for the duration of the contract, and for so long as performance is satisfactory to the Department's Contract Monitor. The Contract Monitor will give written notice of performance issues to the contractor, clearly describing the problem and delineating remediation requirement(s). The contractor shall respond with a written remediation plan within three business days and implement the plan immediately upon written acceptance of the Contract Monitor. If performance issues persist, the Department's Contract Monitor may give written notice or request the immediate removal of person(s) whose performance is at issue, including the Director of Operations, and determine whether a substitution is required.

The contractor may not substitute personnel, other than by reason of an individual's death, sudden illness or termination of employment, without the prior written approval of the Contract Monitor. To replace any personnel specified in the contractor's proposal, the contractor shall submit the resumes of the proposed substitute personnel to the Contract Monitor for approval at least two weeks prior to the effective date of substitution. All proposed substitute personnel shall have qualifications at least equal to those of the replaced personnel, and shall be approved by the Contract Monitor.

2.10 Reciprocal Preferences

Although Maryland law does not authorize procuring agencies to favor resident Offerors in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. Therefore, as described in COMAR 21.05.01.04, a resident business preference will be given if: a responsible Offeror whose headquarters, principal base of operations, or principal site that will primarily provide the

services required under this RFP is in another state submits the most advantageous offer; the other state gives a preference to its residents through law, policy, or practice; and, the preference to be applied to the contract award herein 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 residents.

2.11 Standard Contract Clauses

All vendors should thoroughly review the following mandatory contract clauses. Upon contract award, the successful offeror will be required to fully abide by these provisions in addition to the actual delivery of services as detailed in Part I of this RFP.

Both parties agree that the following standard contract provisions are hereby incorporated into and made an integral part of this RFP and resulting contract(s), if any.

1. FINANCIAL DISCLOSURE

The Contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State 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 these contracts, leases or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

2. PUBLIC INFORMATION ACT NOTICE

Offerors should give specific attention to the identification of those portions of their proposals that they deem to be confidential, proprietary information or trade secrets and provide any justification why the identified materials, upon request, should not be disclosed by the State under the Access to Public Records Act, State Government Article, Title 10, Subtitle 6, Annotated Code of Maryland. The justification in support of non-disclosure must accompany the PIA copy of the proposal. Upon request for information from a third party, the Procurement Officer is required to make an independent determination as to whether the information may or may not be disclosed. A blanket statement by an offeror that its entire proposal is confidential or proprietary is unacceptable.

3. APPROVALS

This contract may be subject to approval by the Office of the Attorney General, the Maryland Department of Budget and Management, and the Board of Public Works.

4. MULTI-YEAR CONTRACTS

If the General Assembly fails to appropriate funds, or if funds are not otherwise made available for continued performance of the contract for any fiscal period of the contract succeeding the first fiscal period, the contract shall be automatically cancelled 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 Department's rights or the Contractor's rights under any other termination clause in the contract. The effect of termination of the contract hereunder will be to discharge both the Contractor and the Department 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 non-recurring 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.

5. MODIFICATION OF CONTRACT - GENERAL

This contract may be amended as the Department and the Contractor mutually agree in writing (subject to any necessary approvals of the Office of the Attorney General, Department of Budget and Management and, in certain cases, the Board of Public Works). No amendment may change significantly the scope of the original solicitation or, if none, the original contract. An amendment to this contract does not alter the other terms of the contract, except to the extent necessary to make them consistent with the amendment. This contract may not be amended to provide salary and wage increases for the Contractor's employees with the intention of making these increases consistent with salary and wage increases given to employees of the State except as provided in Title 10, Section 10-905 of the Health-General Article, Annotated Code of Maryland.

6. MODIFICATION OF CONTRACT - SALARY INCREASES AND EMERGENCIES

Subject to the approval of the Department of Budget and Management, the Department shall have the ability to supplement this contract for:

- A. Increases in salaries without consequent increases in deliverables if the increase in salaries results from increases in specific appropriations for that purpose, or
- B. Unanticipated emergencies impairing the ability of the provider, through no fault of its own, to perform as per this contract.

7. NON - HIRING OF STATE EMPLOYEES

No official or employee of the State of Maryland, as defined under State Government Article, §15-102, Annotated Code of Maryland, whose duties as an 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.

8. CONFLICT OF INTEREST LAW

It is unlawful for any State officer, employee, or agent to participate personally in his official capacity through decision, approval or disapproval, recommendation, advice, or investigation in any contract or other matter in which he, his spouse, parent, minor child, brother, or sister has a financial interest or to which any firm, corporation, association, or other organization in which he has a financial interest or in which he is serving as an officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, is a party, unless such officer, employee, or agent has previously complied with the provisions of the Maryland Code Annotated, State Gov't. Article, §15-501 et seq.

9. DISPUTES

This contract shall be subject to the provisions of the Annotated Code of Maryland, State Finance and Procurement Article, Title 15, Subtitle 2, and COMAR 21.10. In accordance with the requirement of COMAR 21.10.04.02 the Contractor must file a written notice of a claim with the procurement officer within thirty days after the basis for the claim is known or should have been known, whichever is earlier, but no later than the date final payment is made under the contract. Pending a resolution of a claim, the Contractor shall proceed diligently with the performance of the contract in accordance with the Procurement Officer's decisions.

10. MARYLAND LAW PREVAILS

The Provisions of this contract shall be governed by the laws of the State of Maryland.

11. NON-DISCRIMINATION IN EMPLOYMENT

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry or disability of a qualified individual with a disability; (b) to include a provision similar to that contained in subsection (a), above, in any 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.

12. CONTINGENT FEE PROHIBITION

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

13. TERMINATION FOR DEFAULT

The rights and remedies of the State under the contract are cumulative. The enforcement of any right or election of any remedy by the State provided by the contract for any breach of the contract will not preclude the State from enforcing other rights and availing itself of other remedies available under the contract for the same breach or any other breach of the contract.

If the contractor fails to properly perform its obligations under the contract, the State may correct any deficiencies at the contractor's expense.

If the Contractor fails to fulfill its obligations under this contract properly and on time, or otherwise violates any provision of the Contract, the Department 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 Department's option, become the State's property. The Department 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 Department can affirmatively collect damages. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

14. TERMINATION FOR CONVENIENCE

The Department may terminate the performance of work under this contract in accordance with this clause, in whole, or from time to time in part, whenever the Department shall determine that the termination is in the best interest of the State. The Department will pay all reasonable costs associated with this contract that the Contractor has incurred up to the date of termination and all reasonable costs associated with termination of the contract. However, the Contractor shall not be reimbursed for any anticipatory profits, which 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).

15. TAX EXEMPTIONS

The State is generally exempt from Federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. Exemption certificates shall be completed upon request. Where a Contractor is required to furnish and install material in the construction or improvement of real property in performance of a contract, the Contractor shall pay the Maryland sales tax and the exemption does not apply.

16. ARREARAGES

By submitting a response to this solicitation, a vendor hereby represents and warrants that:

- A. It is qualified to do business in the State of Maryland and that it will take any action as, from time to time hereafter, may be necessary to remain so qualified; and
- B. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, 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 if selected for contract award.

17. NON-ASSIGNMENT

The Contractor may not, during the term of this contract or any renewals or extensions of the contract, assign or sub-contract all or any part of the contract without the prior written consent of the Procurement Officer. However, the contractor may assign monies receivable under a contract after due notice to the Department's contract monitor.

18. DOCUMENTS RETENTION AND INSPECTION CLAUSE - OTHER THAN RESIDENTIAL HEALTH CARE FACILITIES CONTRACTS

The Contractor and sub-contractors shall retain and maintain all records and documents relating to this contract for a period of five (5) years after final payment by the State hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the procurement officer or designee, at all reasonable times.

19. DOCUMENTS RETENTION AND INSPECTION CLAUSE - RESIDENTIAL HEALTH CARE FACILITIES CONTRACTS

If the Contractor supplies services to a State residential health care facility under the Mental Hygiene Administration, the Family Health Administration, the Alcohol and Drug Abuse Administration, or the Developmental Disabilities Administration, the Contractor agrees, in addition to the requirements of Clause 18, above:

- A. That pursuant to 42 Code of Federal Regulations (C.F.R.) Part 420, the Secretary of Health and Human Services, and the Comptroller General of the United States, or their duly authorized representatives, shall be granted access to the Contractor's contract, books, documents and records necessary to verify the cost of the services provided under this contract, until the expiration of four years after the services are furnished under this contract; and
- B. That similar access will be allowed to the books, documents and records of any organization related to the Contractor or controlled by the Contractor (as those terms are defined in 42 C.F.R. (420.301) if that organization is sub-contracting to provide services with a value of \$10,000 or more in a twelve-month period to be reimbursed through funds provided by this contract.

20. INDEMNITY (HOLD HARMLESS) CLAUSE

A. Definitions:

For the purpose of this clause only, the following terms have the meanings indicated:

- (1) "Contractor" means the Contractor, its officers, employees, agents, and representatives.
- (2) "State" means the State, its departments, agencies, officials, officers, and

employees.

(3) "Subcontractor" means any sub-contractor of the contractor, its officers, employees, agents, and representatives.

B. Indemnification by Contractors

The contractor shall indemnify and hold the State of Maryland harmless for any cost, expense, loss, liability, fine, or penalty of any nature or character whatsoever that the State may incur as a result of a failure of the contractor, or its subcontractor(s), to comply with the terms of this agreement (or any part thereof), negligence of the contractor, injury or death to any person, damage to property, nuisance (public or private), or trespass arising out of or attributable to the performance of work by the contractor or its subcontractor(s), except to the extent caused by the negligent or willful act or omission of the State or its employees, agents, or independent contractors, other than the contractor, or its subcontractor(s).

The contractor further agrees to indemnify the State for damage, loss, or destruction of State property in the contractor's care, custody, and/or control during the term of this contract due to the action or inaction of the contractor or its subcontractor(s).

C. Liability of the State

State law prohibits the State from incurring, by way of an indemnity agreement, a potentially unlimited liability when no funds have been appropriated to fund the liability, the risk is uninsured, and the indemnity agreement is not conditioned upon the future appropriation of funds to satisfy the liability. Notwithstanding any other provisions of the contract documents, the State shall have no liability to the contractor under the circumstances described in this paragraph.

The State has no obligation to provide legal counsel or legal defense to the Contractor or its sub-contractors in the event that a suit, claim or action of any character is brought by any person or persons not party to the contract against the Contractor or its sub-contractors as a result of or relating to the Contractor's obligations under this contract.

The State has no obligation for the payment of any judgments or the settlement of any claims made against the Contractor or its sub-contractors as a result of or relating to the Contractor's obligations under this contract.

D. Notice of Cooperation in Litigation

The Contractor will immediately give notice to the Procurement Officer of any claim or suit made or filed against the Contractor or its sub-contractors regarding any matter resulting from or relating to the Contractor's obligations under this 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 obligations under this contract.

21. COST AND PRICE CERTIFICATION

A. The Contractor shall submit cost or price information and shall certify that, to the best of its knowledge, the information submitted is accurate, complete, and current as of a mutually determined specified date prior to the conclusion of any price discussions or negotiations for:

(1) A negotiated contract if the total contract price is expected to exceed \$100,000, or a smaller amount set by the Procurement Officer; or

(2) A change order or contract modification, expected to exceed \$100,000, or a smaller amount set by the Procurement Officer.

B. 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 agreed upon between the parties, was inaccurate, incomplete, or not current.

22. PAYMENT OF STATE OBLIGATIONS AND INTEREST

A. Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the State's receipt of a proper invoice from the Contractor. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable, are prohibited.

B. Section 15-104 et seq. of the State Finance and Procurement Article, Annotated Code of Maryland, provides that the State shall remit payment to the Contractor within forty-five (45) days after receipt of a proper invoice pursuant to any authorized, written procurement contract. Except as provided in Section 15-105 of this Article, the State's failure to remit payment within this period may entitle the Contractor to interest at the rate specified in 15-104 of this Article, for the period that begins thirty one (31) calendar days after the receipt date. This amount, if paid, shall be in lieu of payment of any other late charge(s) by the State.

C. For purposes of this contract, an amount will not be deemed "due and payable" and interest payments will not be authorized for late payments unless the following conditions have been met:

(1) The amount invoiced is consistent with the amount agreed upon by the parties to the contract.

(2) The goods or services have been received by the State and the quantity received agrees with the quantity ordered.

(3) The goods or services meet the qualitative requirements of the contract and have been accepted by the State.

(4) The proper invoice has been received by the party or unit of government specified in the contract.

(5) The invoice is not in dispute.

(6) If the contract provides for progress payments, the proper invoice for the progress payment has been submitted pursuant to the schedule contained in the contract.

(7) If the contract provides for withholding a retainage and the invoice is for the retainage, all stipulated conditions for release of the retainage have been met.

D. In order to receive payment of interest, the Contractor must submit a proper invoice for accrued interest within 30 calendar days after the payment date (i.e., the date of the check from the State Treasurer that pays the Contractor for the goods supplied or the service rendered) of the amount on which the interest accrued. Interest may not be claimed (1) if a claim has been filed under Title 15, State Finance and Procurement Article (Procurement Contract Administration and Dispute Resolution)

Annotated Code of Maryland, (2) for more than one year following the 31st calendar day after the date that a proper invoice is received by a State agency, or (3) on an amount representing unpaid interest.

23. INSPECTION OF PREMISES

The Contractor agrees to permit authorized officials of the State to inspect, at reasonable times, its plant, place of business, job site, or any other location that is related to the performance of the contract.

24. INCORPORATION BY REFERENCE

All terms and conditions of the solicitation, and any amendments thereto, are made a part of this contract. In the event of contract award, the contract shall consist of the RFP, including all addenda, exhibits, and attachments, and the entire proposal submitted by the successful offerer except for any portions specifically excluded by contract. This shall constitute the entire agreement between the contracting parties, superseding all representations, commitments, conditions, or agreements that may have been made orally or in writing prior to the execution of the contract.

25. SPECIFICATIONS

All materials, equipment, supplies or services shall conform to Federal and State laws and regulations and to the specifications contained in the solicitation.

26. DELIVERY AND ACCEPTANCE

Delivery shall be made in accordance with the solicitation specifications. The State, in its sole discretion, may extend the time of performance for excusable delays due to unforeseeable causes beyond the Contractor's control. The State unilaterally may order in writing the suspension, delay, or interruption of performance hereunder. The State reserves the right to test any materials, equipment, supplies, or services delivered to determine if the specifications have been met. The materials listed in the bid or proposal shall be delivered FOB the point or points specified prior to or on the date specified in the bid or proposal. Any material that is defective or fails to meet the terms of the solicitation specifications shall be rejected. Rejected materials shall be promptly replaced. The State reserves the right to purchase replacement materials in the open market. Contractors failing to promptly replace materials lawfully rejected shall be liable for any excess price paid for the replacement, plus applicable expenses, if any.

27. ANTI-BRIBERY

Potential contractors and contractors are required to be aware of the Maryland Code Annotated, State Finance and Procurement Article, §16-202, that requires that any person convicted of bribery, attempted bribery, or conspiracy to bribe committed in the obtaining of a contract from the State or any of its subdivisions, shall be subject to disqualification pursuant to the Annotated Code of Maryland, State Finance and Procurement Article, §16-202, from entering into a contract with the State, or any county or other subdivision of the State.

28. REGISTRATION

In accordance with the Maryland Code Annotated, Corporations and Associations Article, §7-201 et seq., corporations not incorporated in the State shall be registered with the State Department of Assessments and Taxation, 301 West Preston Street, Baltimore, Maryland 21201, before doing any interstate or foreign business in this State. Before doing any intrastate business in this State, a foreign corporation shall qualify with the Department of Assessments and Taxation. The Contractor shall be responsible for ensuring that all subcontractors meet these requirements, and further that the contractor and all subcontractors meet these requirements for the duration of the contract.

29. EPA COMPLIANCE

Materials, supplies, equipment, or services shall comply in all respects with the Federal Noise Control Act of

1972, where applicable.

30. OCCUPATIONAL SAFETY AND HEALTH ACT (O.S.H.A.)

All materials, supplies, equipment, or services supplied as a result of this Contract shall comply with the applicable U.S. and Maryland Occupational Safety and Health Act standards.

31. PATENTS, COPYRIGHTS, TRADE SECRETS & INDEMNIFICATION

If the contractor furnishes any design, device, material process, or other item which is covered by a patent or copyright, or which is proprietary to, or a trade secret of another, it is solely the responsibility of the contractor to obtain the necessary permission or license to use the item or items. The contractor hereby grants to the Department a royalty-free, nonexclusive, and irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so, all data now and hereafter covered by copyright, and warrants that it has the authority to do this.

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: 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.

If the contractor obtains or uses for purposes of the contract (or any subcontracts) any design, device, material, process, supplies, equipment, text, instructional material, services or other work, the contractor shall indemnify the State, DHMH, their officials, agents, and employees with respect to any claim, action, cost, or judgement for patent, trademark, or copyright infringement, arising out of the possession or use of any design, device, material, process, supplies, equipment, text, instructional material, services or other work covered by this contract.

32. STATE CONTRACT PREVAILS

Whenever a Vendor/Contractor's Standard Contract is used along with this State's RFP document, including Section V of the RFP as the Contract document, this RFP document, including Section V of this RFP as the Contract document, shall prevail in the event of conflict between any provision of the two contracts when the State determines it to be in its best interest.

33. CHANGE ORDERS AND SUSPENSION OF WORK

Both parties agree that pursuant to the Annotated Code of Maryland, State Finance and Procurement Article, § 13-218, 1) the State has the unilateral right to order in writing changes in the work within the scope of the contract; and 2) the procurement officer unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for a period of time as the procurement officer may determine to be appropriate for the convenience of the State.

34. RIGHTS IN DATA

Work produced as a result of this solicitation is and shall remain the sole property of the Department of Health & Mental Hygiene (DHMH).

The contractor agrees that all documents, equipment, and materials, including but not limited to, reports, drawings, studies, specifications, estimates, texts, computer software including software documentation and related materials, maps, photographs, designs, graphics, mechanicals, art work, computations and data prepared by or for, or purchased by or for, the contractor because of this contract shall, at any time during the term of the contract, be available to DHMH and shall become and remain the exclusive property of DHMH during and upon termination or completion of the services required to be performed under this contract.

DHMH shall have the right to use same without restriction and without compensation to the contractor other than that provided in this contract.

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

The contractor shall report to the Department, promptly and in written detail, each notice or claim of copyright infringement received by the Vendor with respect to all data delivered under this agreement.

The contractor shall not affix any restrictive markings upon any data and if markings are affixed, the Department shall have the right at any time to modify, remove, obliterate, or ignore the markings.

35. 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 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 without the fault or negligence of either the Contractor or the subcontractors or suppliers.

36. PRE-EXISTING REGULATIONS

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

37. POLITICAL CONTRIBUTION DISCLOSURE

The Contractor shall comply with the Annotated Code of Maryland, Election Law Article, §§ 14-101—14-108, which requires that every person that enters into contracts, leases or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$100,000 or more, shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, or an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

38. COMPLIANCE WITH LAWS

By submitting a response to this solicitation, a vendor hereby represents and warrants that:

- A. It is qualified to do business in the State of Maryland and that it will take any action as, from time to time hereafter, may be necessary to remain so qualified;

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

C. 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.

39. PROHIBITION OF SEXUAL HARASSMENT

The Contractor shall operate under this agreement so that no employee or client is subjected to sexual harassment in the workplace or in locations and situations otherwise associated with the performance of duties per the terms of this contract. Further, except in sub-contracts for standard commercial supplies or raw materials, the Contractor shall include this clause, or a similar clause approved by DHMH, in all sub-contracts. The Contractor has primary responsibility for enforcement of these provisions and for securing and maintaining the sub-contractor's full compliance with both the letter and spirit of this clause.

40. COMPLIANCE WITH FEDERAL HIPAA AND STATE CONFIDENTIALITY LAW

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

1. As necessary, adhering to the privacy and security requirements for protected health information and medical records under federal HIPAA and State MCMRA and making the transmission of all electronic information compatible with the federal HIPAA requirements;
2. Providing training and information to employees regarding confidentiality obligations as to health and financial information and securing acknowledgement of these obligations from employees to be involved in the contract; and
3. Otherwise providing good information management practices regarding all health information and medical records.

B. Based on the determination by the Department that the functions to be performed in accordance with the Services to Be Performed set forth in Part I constitute business associate functions as defined in HIPAA, the selected offeror shall execute a business associate agreement as required by HIPAA regulations at 45 CFR §164.501. The fully executed business associate agreement must be submitted within 10 working days after notification of selection, or within 10 days after award, whichever is earlier. Upon expiration of the ten-day submission period, if the Department determines that the selected offeror has not provided the HIPAA agreement required by this solicitation, the Procurement Officer, upon review of the Office of the Attorney General and approval of the Secretary, may withdraw the recommendation for award and make the award to the next qualified offeror.

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

PART V CONTRACT

Upon recommendation for award the offeror will be instructed to complete, sign and date the pages of this section. In so doing, the offeror binds itself to all of the provisions, terms, and specifications contained in the contract.

- A. PARTIES TO THE CONTRACT -- Each party to this agreement represents and warrants to the other that it has the full right, power, and authority to execute this contract. The contractual agreement resulting from this RFP, HSCRC/DBM-06-0501, is by and between

_____,
hereinafter called the *Contractor* or the *Vendor*, and Health Services Cost Review Commission, a unit of the State of Maryland Department of Health and Mental Hygiene, hereinafter called the *HSCRC*.

IN CONSIDERATION OF the premises and the covenants herein contained, the parties agree as follows:

- B. CONTRACT TERM AND PRICE-- The official commencement and termination dates of the original contract period and any options, and the total contract price including any options shall be:

Contract Term	Begin	End	Amount	NTE
Base Contract	<u>07/01/2007</u>	<u>06/30/2010</u>	\$ _____	_____
Option #1 (if any)	<u>07/01/2010</u>	<u>06/30/2011</u>	\$ _____	_____
Option #2 (if any)	<u>07/01/2011</u>	<u>06/30/2012</u>	\$ _____	_____
Total Amount of Options	\$ _____			
Total Potential Cost of Contract with Options	\$ _____			

- D. CONTRACT AND APPROVAL IDENTIFIERS -- Identifiers for this contract shall include, but not necessarily be limited to:

The Contract Number: HSCRC-DBM-07-0301

ADPICS Number: M0047206120

EMaryland Market Place Contractor Registration Number*: _____

*Note: Contract will not be awarded without eMM registration number.

- E. INCORPORATION BY REFERENCE

This contract, identified in Section D of this Part V consists of the RFP document HSCRC-DBM-07-0301 Parts I through VI, including all Exhibits, Appendices and Addenda, and the successful offeror's entire final proposal including both the financial and the technical elements dated _____, which are incorporated into this contract by reference.

Note: Incorporation by reference does not necessarily create a public record permissible for disclosure.

In Witness Whereof, the parties hereto have set their hands and seals:

(Signatory for the **CONTRACTOR**)

By: _____

(Signature)

Name(Typed)

Title(Typed)

Date

(Signatory for the **DEPARTMENT** shall be the Secretary or designee)

By: _____
John M. Colmers, Secretary

OR DESIGNEE

(Signature)

Name(Typed)

Title(Typed)

Date of signing by Secretary or Designee

Approved as to form and Legal Sufficiency

This _____ day of _____ 20 _____

By: _____

Name (Typed)

PART VI
APPENDICES

APPENDIX A

Financial Proposal Sheet

APPENDIX A
Financial Proposal Sheet

(1) Tasks	(2) Fixed Price Base 3 Years	(3) 1 st year option for renewal	(4) 2 nd year option for renewal	(5) Total Price for 5 years
6.1 Production of the outpatient data set on a quarterly basis. 6.2 Production of reports on a quarterly basis. • HSCRC Outpatient Process Summary • Hospital Summary Before and After Update • Percent Error List • Charges by Payor Report • Charge by CPT • Master File Status Report • Statistical Summary • Develop Reports to be used to establish case targets under new outpatient regulation. 6.3 Production of Analysis Reports on a quarterly basis. • Reconciliation Reports • Audit of Data Dissemination • Data Processing Error Report • Frequency Reports 6.4 Supply data files to consultants working for HSCRC, HCUP and MHCC.				
TOTAL				

APPENDIX B

Standard Addendum for the Means Of Delivering Bids or Proposals

MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE
Standard Addendum for the Means of Delivering Bids or Proposals

Any bid or proposal due to any unit of the Maryland Department of Health and Mental Hygiene shall be delivered/transmitted as described in this addendum. The failure of any bidder or offeror to follow these instructions may result in its bid or offer not being received by the due time and date, which will result in the rejection of that bid or offer.

There are three acceptable means of delivering/transmitting a bid or offer:

1. The United States Postal Service;
2. Hand delivery by the bidder/offeror itself; and
3. Hand delivery by a commercial delivery/courier company acting as an agent of the bidder/offeror.

For U. S. Postal Service Deliveries

For U.S. Postal Service deliveries, any bid or proposal which 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 or specifications will be deemed to be timely.

If a vendor chooses to use the United States Postal Service for delivery, the Department recommends that it use Express Mail, Priority Mail, or Certified Mail only.

These are the only forms of U.S. Postal Delivery for which both the date and time of receipt can be verified by the Department. A vendor using first class mail will, therefore, not be able to prove a timely delivery at the mailroom. It may take several days for an item sent by first class mail to make its way by normal internal mail pickup to a procuring unit's bid box.

For Hand Deliveries by Vendors and Deliveries
By Commercial Courier Services

These deliveries must be delivered directly to the room or location specified in the RFP or solicitation and placed in the designated bid box. A bidder who uses a commercial courier service must take appropriate action to ensure that the courier actually delivers the bid/offer to the specified location and not to the Department's mailroom or loading dock. The bid/offer will not be deemed to have been received until it is placed in the designated bid box.

For any type of hand delivery, the vendor or its commercial courier services should request a signed receipt from a procuring unit employee which notes the title of the procurement, the name of the vendor, and the time and date of receipt at the bid box.

Identifying Information

All envelopes containing bids or offers, no matter how transmitted, must contain this information prominently displayed:

- either "Sealed Bid" or "Sealed Proposal," as appropriate;
- the exact title of the bid or proposal as noted in the RFP or specifications;
- the due time and date; and
- the name of the bidder/offeror.

Questions on any of these requirements should be directed to the Department contact person identified in the RFP or to the Office of Contract Policy Management and Procurement at (410) 767-5816.

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APPENDIX C

Bid/Proposal Affidavit

ATTACHMENT B – BID/PROPOSAL AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the (title) _____ and the duly authorized representative of (business) _____ and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder 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, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendors, 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 or 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.

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):

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

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

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

- a. 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 arising out of the submission of bids or proposals for a public or private contract;

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

(5) Been convicted of a violation of Section 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 subsection (1) through (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 or proposals for a public or private contract; [or]

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

(9) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract; or

(10) 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 Section B and subsections (1) through (7) 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):

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):

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):

G. SUB-CONTRACT 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 or offer that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or financial proposal of the bidder or 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 or offer is submitted.

I. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of Section 13-221 of the State Finance and Procurement Article of the 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.

J. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

K. 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 or offer, 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 whom 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' 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 §J(2)(b), above;
- (h) Notify its employees in the statement required by §J(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 five days after a conviction;
- (i) Notify the procurement officer within 10 days after receiving notice under §J(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;
- (j) Within 30 days after receiving notice under §J(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 §J(2)(a)—(j), above.
- (3) If the business is an individual, the individual shall certify and agree as set forth in §J(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.

L. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

(1) The business named above is a (domestic ____) (foreign ____) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is: Name: Address:

— .

(If not applicable, so state).

(2) 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.

M. 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.

N. Repealed.

O. 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 or proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and

covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

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

Date: _____ By: __ (Authorized Representative and Affiant) __

APPENDIX D
CONTRACT AFFIDAVIT

CONTRACT AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

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

_____ and that I possess the legal authority to make this Affidavit on behalf of my self and the business for which I am acting.

B. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

1. The business named above is a (domestic _____) (foreign _____) corporation registered in accordance with the Corporations and Associations Article, Annotated Code of Maryland, and that it is in good standing and has filed all of its annual reports together with filing fees, with the Maryland State Department of Assessments and Taxation, and that the name and address of its resident agent filed with the State Department of Assessments and Taxation is:

Name: _____

Address: _____

2. 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 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.

C. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgments contained in that certain Bid/Proposal Affidavit dated _____, 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: _____
(Authorized Representative and Affiant)

APPENDIX E

Form COT/GAD X-10

**State of Maryland
Comptroller of Maryland**

Vendor Electronic Funds Transfer (EFT) Registration Request Form

Date of request _____

Business identification information (Address to be used in case of default to check):

Business name _____

Address line 1 _____

Address line 2 _____

City _____ State _____

Zip code:

--	--	--	--	--	--

--	--	--	--	--	--

Business taxpayer identification number:

Federal Employer Identification Number:

--	--

--	--	--	--	--	--	--	--

(or) Social Security Number:

--	--	--

--	--

--	--	--	--	--	--

Business contact name, title, and phone number including area code. (And address, if different from above).

Financial institution information:

Name and address

Contact name and phone number (include area code)

ABA number:

--	--	--	--	--	--	--	--	--	--

Account number:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Account type: ☐ Checking ☐ Money Market

A VOIDED CHECK from the bank account must be attached.

Transaction requested:

1. ☐ Initiate all disbursements via EFT to the above account.
2. ☐ Discontinue disbursements via EFT, effective _____

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3. _____ Change the bank account to above information – a copy of the approved Registration Form for the previous bank account must be attached.

I am authorized by * _____ (hereinafter Company) to make the representations contained in this paragraph. Company authorizes the Comptroller and the Treasurer of Maryland to register it for electronic funds transfer (EFT) using the information contained in this registration form. Company agrees to receive all funds from the State of Maryland by electronic funds transfer according to the terms of the EFT program. Company agrees to return to the State of Maryland any EFT payment incorrectly disbursed by the State of Maryland to the Company's account. Company agrees to hold harmless the State of Maryland and its agencies and departments for any delays or errors caused by inaccurate or outdated registration information or by the financial institution listed above.

*Name of registering business entity

Signature of company treasurer, controller, or chief financial officer and date

Completed by GAD/STO

Date Received _____

GAD registration information verified _____ Date to STO _____

STO registration information verified _____ Date to GAD _____

R*STARS Vendor No. and Mail Code Assigned:

_____/_____/_____

State Treasurer's Office approval date

General Accounting Division approval date

To Requestor:

Please retain a copy of this form for your records. Please allow approximately 30 days from the date of your request for the Comptroller's and Treasurer's Offices to process your request.

Failure to maintain current information with this office could result in errors in payment processing. If you have any questions, please call the EFT registration desk at 410-260-7375.

Please submit form to: EFT Registration, General Accounting Division

Room 205, P.O. Box 746

Annapolis, Maryland 21404-0746

COT/GAD X-10

APPENDIX F

MBE Instructions and Attachments

MBE SUBCONTRACTING PARTICIPATION INSTRUCTIONS

MBE ATTACHMENTS A-H

- I.** As a component of the offeror's Technical proposal, the offeror shall submit one original and two copies of a completed **Certified MBE Utilization and Fair Solicitation Affidavit (MBE Attachment A)**, signed by the offeror, which shall become part of the contract. Offerors shall select either box 1b or 1c to reflect their anticipated compliance or inability to comply with the established goal. Failure to include this Attachment A with the Technical proposal shall result in a determination that the entire proposal is not reasonably susceptible for award of contract.
- II.** As a component of the offeror's Financial proposal, the offeror shall submit one original and two copies of a completed **MBE Participation Schedule (MBE Attachment B)**, signed by the offeror, which shall become part of the contract. Part I of Attachment B shall be completed regardless of the selection made on Attachment A. In the event box 1b or 1c (and a partial waiver is requested) is selected in Attachment A; Part II of Attachment B shall be completed. In the event box 1c is selected in Attachment A, and a full waiver is requested; Part II of Attachment B shall be left uncompleted. Failure to include this Attachment B with the Financial proposal shall result in a determination that the entire proposal is not reasonably susceptible for award of contract.

If completed, Part II of Attachment B shall include the following information:

- (a) The name of each proposed MBE who will participate in the project, the amounts to be paid each subcontractor, the percentage of the total contract represented by each subcontract and descriptions of the services to be performed or items to be furnished by the MBE.
- (b) Any other documentation considered appropriate by the Department of Health and Mental Hygiene to ascertain compliance with the Contract MBE participation goal.

Failure to include either MBE Attachment with its appropriate proposal (Attachment A - Technical proposal / Attachment B - Financial proposal) will render the entire proposal not reasonably susceptible of being awarded a contract and cause the Department to cease consideration of it.

- III.** Within 10 days of being notified that it has been recommended for award of a contract, the offeror shall submit one original and two copies of a completed **Outreach Efforts Compliance Statement (MBE Attachment C)**, signed by the offeror, which shall become part of the contract. It shall include:
- (a) A listing of specific work categories identified by the offeror in which there are subcontracting opportunities,
 - (b) Copies of written solicitations used to solicit certified MBEs for these subcontracting opportunities.
 - (c) A description of the offeror's attempts to personally contact the solicited MBEs.
 - (d) A description of offeror's efforts to fulfill or seek waiver of bonding requirements, if bonding is required.

- IV. Within 10 days of being notified that it has been recommended for award of a contract, the offeror shall submit one original and two copies of a completed **MBE Subcontractor Project Participation Statement (MBE Attachment D)**). This statement must be consistent with the information included on the MBE Participation Schedule (MBE Attachment B), unless any changes in MBE subcontractors have been submitted to and approved by the Department. The Statement shall be signed by both the offeror and each MBE listed and shall include:
- (a) A statement of intent to enter into a contract between the prime contractor and each subcontractor if a contract is executed between the Department of Health and Mental Hygiene and the prime Contractor.
 - (b) The amount and type of bonds required of MBE subcontractors, if any.
- V. Whenever a modification or option is exercised the procuring unit will have to obtain MBE Participation Schedule (MBE Attachment B) and submit it to the Office of Contract Policy, Management and Procurement with the modification/option submission package. If the MBE subcontractor, previously listed on the MBE Participation Schedule, changes from original submission, MBE Attachments B & D must be submitted with the procurement request.

V. MBE Participation Waiver

If the offeror is unable to achieve the Contract goal for certified MBE participation, the offeror shall submit instead of or in conjunction with an MBE Subcontractor Project Participation Statement, a request in writing for a waiver with justification, to include the following:

- (a) A detailed statement of the efforts made to select portions of the proposed work to be performed by the certified MBEs in order to increase the likelihood of achieving the stated goal;
- (b) A detailed statement of the efforts made to contact and negotiate with certified MBEs including the names, addresses, dates, and telephone numbers of the certified MBEs contacted and a description of the information provided to the certified MBEs regarding plans, specifications, and anticipated time schedules for portions of the work to be performed;
- (c) As to each certified MBE that placed a subcontract quotation or offer that the apparent successful offeror considered not to be acceptable, a detailed statement of the reasons for this conclusion; and
- (d) In the event certified minority subcontractors are found to be unavailable, a signed and notarized **MBE Statement of Unavailability (MBE Attachment E)** must be prepared by the offeror, including the names, addresses, dates, and telephone numbers of the certified MBEs contacted, and the reason each MBE is unavailable.

The Code of Maryland Regulation citation (COMAR 21.11.03.11) governing the MBE waiver is included as **MBE Attachment F**.

VI. MBE Participation Compliance

To assure compliance with certified MBE subcontract requirements, the Department shall conduct periodic reviews and require periodic reports from both the prime contractor and the certified MBE subcontractor(s). The reviews and reports may consist of, but not be limited to:

- (a) The prime contractor shall submit **monthly** to the Department as noted below a **Prime Contractor Unpaid MBE Invoice Report (MBE Attachment G)** listing any unpaid invoices, over 30 days old, received from any certified MBE contractor, the amount of each invoice and the reason payment has not been made.
- (b) The prime contractor shall include in its agreement with certified MBE subcontractors a requirement that those subcontractors submit monthly to the Department, a **Subcontractor Payment Report (MBE Attachment H)** that identifies the prime contract and lists all payments received from the contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices.

One copy of each report noted above, is to be submitted monthly to the Department's Contract Monitor as listed on page 5 of this solicitation and to the Office of Community Relations, 5th floor, 201 West Preston Street, Baltimore MD 21201 (410) 767-6600.

- (c) The prime contractor shall maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of the work performed.
- (d) The offeror, by submitting a proposal, in the event of contract award, shall consent as prime contractor to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. The contractor must retain all records concerning MBE participation and make them available for Department inspection for a period of three years after final completion of the contract.

VII. All questions related to certification, as an MBE must be directed to:

Maryland Department of Transportation
Office of Minority Business Enterprise/Equal Opportunity
P.O. Box 8755
BWI Airport
Baltimore, Maryland 21240
Telephone: (410) 865-1269

Certified MBE Utilization
and Fair Solicitation
Affidavit

* * * * *NOTICE * * * * *

Effective October 1, 2004, this document shall be included with the submittal of the bid or offer, regardless of whether the bidder or offeror is seeking a waiver to the subcontracting goal. If the bidder or offeror fails to submit this form with the bid or offer, the procurement officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

In conjunction with the bid or offer submitted in response to Solicitation No. _____, I affirm the following (complete paragraph 1a. and check and complete paragraph 1b. or 1c.):

- 1a. I acknowledge the overall certified Minority Business Enterprise (MBE) participation goal of _____ percent and, if specified in the solicitation, subgoals of _____ percent for MBEs classified as African American-owned and _____ percent for MBEs classified as women-owned.
- ☐ 1b. I have made a good faith effort to achieve this goal and intend to meet or surpass it. I acknowledge that the MBE subcontractors/suppliers listed in the MBE Participation Schedule (MBE Attachment B) shall be used to accomplish the percentage(s) of MBE participation notated above in 1a.

OR

- ☐ 1c. After having made a good faith effort to achieve the MBE participation goal, I conclude I am unable to achieve it. Instead, I propose to achieve MBE participation of _____% and request a waiver of the remainder of the goal. Within 10 business days of receiving notice that I or the firm I represent is the recommended bidder or recommended offeror, I will submit a written waiver request compliant with COMAR 21.11.03.11. I acknowledge that the MBE subcontractors/suppliers listed in the MBE Participation Schedule (MBE Attachment B) shall be used to accomplish the percentage of MBE participation I am able to achieve.
2. I have identified the specific commitment of certified Minority Business Enterprises by completing and submitting an MBE Participation Schedule (MBE Attachment B) with the bid or financial proposal.
3. I understand that if I am notified that I am the apparent awardee, I must submit the following documentation within 10 working days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier.
- (a) Outreach Efforts Compliance Statement (Attachment C)
 - (b) Subcontractor Project Participation Statement (Attachment D)
 - (c) MBE Waiver Request per COMAR 21.11.03.11 (if applicable)
 - (d) Any other documentation required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

I acknowledge that if I fail to return each completed document within the required time,

the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.

4. In the solicitation of subcontract quotations or offers, MBE subcontractors were provided not less than the same information and amount of time to respond as were non-MBE subcontractors.
5. The solicitation process was conducted in such a manner so as to not place MBE subcontractors at a competitive disadvantage to non-MBE subcontractors.

I solemnly affirm under the penalties of perjury that the contents of this paper are true to the best of my knowledge, information, and belief.

Bidder/Offeror Name

Signature of Affiant

Address

Printed Name, Title

Date

Submit this Affidavit with Bid/Technical Proposal
Maryland Department of Health and Mental Hygiene
201 West Preston Street
Baltimore, Maryland 21201

MBE Participation Schedule

◀◀◀◀◀ NOTICE ▶▶▶▶▶

Effective October 1, 2004, this document shall be included with the submittal of a bid or financial proposal. The bidder shall complete Part I in all cases. If Box (1b.) is selected in Attachment A, Part II shall be completed to identify all MBE subcontractors. If Box (1c.) is selected on Attachment A, MBE subcontractors that will partially meet the goal shall be identified, or, if a total waiver is requested, the Part II may not be completed. In no case, however, shall this Attachment be omitted in its entirety or submitted without completing Part I and signing. If the bidder or offeror fails to submit the form with the bid or financial proposal as required, the procurement officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

PART I.

Prime Contractor: (Firm Name, Address, Phone)	Project Description
Project Number: DHMH OCPMP ____ - _____	Total Contract Amount: \$

PART II.

List Information For Each Certified MBE Subcontractor On This Project

A. Minority Firm: (Name, Address, Phone)	MBE Certification Number:
	Minority Firm Tax I.D. Number:
Work to Be Performed:	
Project Commencement Date:	Project Completion Date:
Agreed Dollar Amount: \$	Percentage of Total Contract:
B. Minority Firm: (Name, Address, Phone)	MBE Certification Number:
	Minority Firm Tax I.D. Number:
Work to Be Performed:	

Project Commencement Date:	Project Completion Date:
Agreed Dollar Amount: \$	Percentage of Total Contract:

C. Minority Firm: (Name, Address, Phone)	MBE Certification Number:
	Minority Firm Tax I.D. Number:
Work to Be Performed:	
Project Commencement Date:	Project Completion Date:
Agreed Dollar Amount: \$	Percentage of Total Contract:
D. Minority Firm: (Name, Address, Phone)	MBE Certification Number:
	Minority Firm Tax I.D. Number:
Work to Be Performed:	
Project Commencement Date:	Project Completion Date:
Agreed Dollar Amount: \$	Percentage of Total Contract:
E. Minority Firm: (Name, Address, Phone)	MBE Certification Number:
	Minority Firm Tax I.D. Number:
Work to Be Performed:	
Project Commencement Date:	Project Completion Date:
Agreed Dollar Amount: \$	Percentage of Total Contract:

Minority Firms Total Dollar Amount \$ _____ Minority Firms Total Percentage of Contract _____ %

Sub-percentage women owned MBE _____ % Sub-percentage African American owned MBE _____ %

Document Prepared By:	
Name	Title

List Additional MBE Subcontractors or Provide Additional Comments on Separate Form.

Submit this Affidavit with Bid/Financial Proposal
Maryland Department of Health and Mental Hygiene
201 West Preston Street
Baltimore, Maryland 21201

(Rev. 12/04)

MBE Participation Schedule (continued)
Append to MBE Attachment B if needed.

F. Minority Firm: (Name, Address, Phone)	MBE Certification Number:
	Minority Firm Tax I.D. Number:
Work to Be Performed:	
Project Commencement Date:	Project Completion Date:
Agreed Dollar Amount: \$	Percentage of Total Contract:
G. Minority Firm: (Name, Address, Phone)	MBE Certification Number:
	Minority Firm Tax I.D. Number:
Work to Be Performed:	
Project Commencement Date:	Project Completion Date:
Agreed Dollar Amount: \$	Percentage of Total Contract:
H. Minority Firm: (Name, Address, Phone)	MBE Certification Number:
	Minority Firm Tax I.D. Number:
Work to Be Performed:	
Project Commencement Date:	Project Completion Date:
Agreed Dollar Amount: \$	Percentage of Total Contract:
I. Minority Firm: (Name, Address, Phone)	MBE Certification Number:
	Minority Firm Tax I.D. Number:
Work to Be Performed:	
Project Commencement Date:	Project Completion Date:
Agreed Dollar Amount: \$	Percentage of Total Contract:

Outreach Efforts

MBE Attachment C

Compliance Statement

In conjunction with the bid or offer submitted in response to Solicitation No. _____, I state the following:

1. Bidder/ Offeror identified opportunities to subcontract in these specific work categories (Attach additional pages if necessary):
 -
 -
 -
 -
2. Attached to this form are copies of written solicitations (with bidding instructions) used to solicit certified MBEs for these subcontract opportunities.
3. Bidder/Offeror made the following attempts to contact personally the solicited MBEs. (Attach additional pages if necessary):
 -
 -
 -
 -
4. ☐ Bidder/Offeror assisted MBEs to fulfill or to seek waiver of bonding requirements. (Describe Efforts) (Attach additional pages if necessary)

☐ This project does not involve bonding requirements.
5. ☐ Bidder/Offeror did / did not attend the pre-bid conference.
☐ No pre-bid conference was held.

Bidder/Offeror Name

By: _____

Address

SS

Name, Title

Date

To Be Submitted By Recommended Bidder/Offeror

Maryland Department of Health and Mental Hygiene
201 West Preston Street
Baltimore, Maryland 21201

(Rev. 12/04)

Subcontractor

Project Participation Statement

Submit one form for each Certified MBE listed in the MBE Participation Schedule

Provided that _____ is awarded the State contract in
(Prime Contractor Name)
conjunction with Solicitation No. _____, it and _____
(Subcontractor Name)
MDOT Certification No. _____, intend to enter into a contract by which
Subcontractor shall _____
(Describe Work)

- _____ No bonds are required of Subcontractor.
- _____ The following amount and type of bonds are required of Subcontractor:
- -
 -

Prime Contractor Signature Subcontractor Signature

By: _____
By: _____
Name, Title Name, Title

Date Date

To Be Submitted By Recommended Bidder/Offeror
Maryland Department of Health and Mental Hygiene
201 West Preston Street
Baltimore, Maryland 21201

(Rev.

The statements contained above are, to the best of my knowledge and belief, true and accurate.

(Name)

(Title)

(Number)(Street)

(City)

(State)

(Zip)

(Signature)

Note: Certified minority business enterprise must complete Section II on reverse side.

Section II (to be completed by CERTIFIED MINORITY BUSINESS ENTERPRISE)

I hereby certify that the firm of _____ MBE
Cert.# _____

(Name of MBE Firm)

located at

(Number)

(Street)

(City)

(State) (Zip)

was offered the opportunity to bid on project number _____, ON _____

(Date)

by _____

(Prime Contractor's Name)

(Prime Contractor Official's Name)

(Title)

The statements contained in Section I and Section II of this document are, to the best of my knowledge and belief, true and accurate.

(Name)

(Title)

(Phone)

(Signature)

(Fax Number)

MARYLAND DEPARTMENT OF HEALTH & MENTAL HYGIENE
Code of Maryland Regulations (COMAR)
Title 21, State Procurement Regulations
(regarding a waiver to a Minority Business Enterprise subcontracting goal)

COMAR 21.11.03.11 - Waiver.

- A. If, for any reason, the apparent successful bidder or offeror is unable to achieve the contract goal for certified MBE participation, the bidder or offeror may request, in writing, a waiver to include the following:
- (1) A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBEs in order to increase the likelihood of achieving the stated goal;
 - (2) A detailed statement of the efforts made to contact and negotiate with certified MBEs including:
 - (a) The names, addresses, dates, and telephone numbers of certified MBEs contacted, and
 - (b) A description of the information provided to certified MBEs regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed;
 - (3) As to each certified MBE that placed a subcontract quotation or offer that the apparent successful bidder or offeror considers not to be acceptable, a detailed statement of the reasons for this conclusion;
 - (4) A list of minority subcontractors found to be unavailable. This list should be accompanied by an MBE unavailability certification signed by the minority business enterprise, or a statement from the apparent successful bidder or offeror that the minority business refused to give the written certification: and
 - (5) The record of the apparent successful bidder or offeror's compliance with the outreach efforts required under Regulation .09B(2)(b).
- B. A waiver of a certified MBE contract goal may be granted only upon reasonable demonstration by the bidder or offeror that certified MBE participation was unable to be obtained or was unable to be obtained at a reasonable price and if the agency head or designee determines that the public interest is served by a waiver. In making a determination under this section, the agency head or designee may consider engineering estimates, catalogue prices, general market availability, and availability of certified MBEs in the area in which the work is to be performed, other bids or offers and subcontract bids or offers substantiating significant variances between certified MBE and non-MBE cost of participation, and their impact on the overall cost of the contract to the State and any other relevant factor.

- C. An agency head may waive any of the provisions of Regulations .09-.10 for a sole source, expedited, or emergency procurement in which the public interest cannot reasonably accommodate use of those procedures.
- D. When a waiver is granted, except waivers under Section C, one copy of the waiver determination and the reasons for the determination shall be kept by the MBE Liaison Officer with another copy forwarded to the Office of Minority Affairs.

Maryland Department of Health and Mental Hygiene

**Minority Business Enterprise Participation
Prime Contractor Unpaid MBE Invoice Report**

To Be Completed Monthly by Prime Contractor

Report
Month/Yr _____
Report Due by 15th of _____

Contract # DHMH/OCPMP _____
Contracting _____
Unit _____
Contract _____
Amount _____

Prime Contractor Name _____ Contact Person _____

Address _____

City _____ State _____ Zip _____

Subcontractor Name* _____ Contact

Person _____

Address _____

City _____ State _____ Zip _____

Phone _____ Fax _____ email _____

Subcontractor Services Provided _____

List any unpaid invoices over 30 days old received from this vendor and reason for non-payment.

	Invoice #	Amount \$
1.		

*** If more than one MBE subcontractor is used for this contract, please use separate report forms. Return one copy of this form to each of the following addresses:**

_____, Contract
Monitor
_____(Contracting
Unit) Maryland Department of Health and Mental Hygiene

**Ms. Beverly Spence
Maryland DHMH
Office of Community
Relations
201 West Preston Street,
5th floor Baltimore, MD
21201**

Date _____
Signature _____

APPENDIX G

COMAR 10.37.04 SUBMISSION OF HOSPITAL OUTPATIENT DATA SET TO THE COMMISSION

Please refer to the following link to obtain a copy of this Regulation:

http://www.dsd.state.md.us/comar/subtitle_chapters/10_Chapters.htm#Subtitle37