Department of Public Safety and Correctional Services

REQUEST FOR PROPOSALS (RFP)

SOLICITATION NO. Q0017059

Issue Date: April 4, 2017

Inmate Mental Health Services

NOTICE

A Prospective Offeror that has received this document from the Department of Public Safety and Correctional Services website or https://emaryland.buyspeed.com/bso/, or that has received this document from a source other than the Procurement Officer, and that wishes to assure receipt of any changes or additional materials related to this RFP, should immediately contact the Procurement Officer via email to request that addenda to the RFP or other communications be sent to the Prospective Offeror.

Minority Business Enterprises Are Encouraged to Respond to this Solicitation
STATE OF MARYLAND
NOTICE TO VENDORS

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

Title: Inmate Mental Health Services
Solicitation No: Q 0017059

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

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

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

REMARKS:
____________________________________________________________________________________
____________________________________________________________________________________

Vendor Name: ___________________________________________   Date: _______________________
Contact Person: _________________________________     Phone (____) ____ - ________________
Address: ______________________________________________________________________
E-mail Address: __________________________________________

____________________________________________________________________________________
STATE OF MARYLAND
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

RFP KEY INFORMATION SUMMARY SHEET

Request for Proposals: Inmate Mental Health Services

Solicitation Number: Q0017059

RFP Issue Date: April 4, 2017

RFP Issuing Office: Department of Public Safety and Correctional Services

Procurement Officer: Cecilia Januszkiewicz
Suite 1000
300 E. Joppa Road
Towson, Md. 21286
Phone: 410-339-5051
e-mail: cecilia.januszkiewicz@maryland.gov

Contract Manager: Joseph A. Ezeh, MBA
Acting Director
Contracts Administration and Audits
Clinical Services and Inmate Health
6776 Reisterstown Road
Baltimore, Md. 21215
Phone: 410-585-3386
e-mail: joseph.ezeh@maryland.gov

Proposals are to be sent to: Department of Public Safety and Correctional Services
Suite 1000
300 E. Joppa Road
Towson, Md. 21286
Attention: Cecilia Januszkiewicz

Pre-Proposal Conference: April 17, 2017 at 10 a.m. Local Time
Classroom C-202
Public Safety Education and Training Center
Academic and Administrative Center
6852 4th Street
Sykesville, MD 21784

Proposal Due (Closing) Date and Time: June 6, 2017 at 3 p.m. Local Time

MBE Subcontracting Goal: 14 %
VSBE Subcontracting Goal: 1 %
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**SECTION 1 - GENERAL INFORMATION**

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<th>1.1</th>
<th>Summary Statement</th>
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</thead>
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<tr>
<td>1.1.1</td>
<td>The Department of Public Safety and Correctional Services is soliciting proposals from qualified Offerors to provide inmate mental health services at Departmental facilities specified on Attachment Q. During the Contract term, the Department may close existing facilities and may add new facilities and may change the services provided at any facility.</td>
</tr>
<tr>
<td>1.1.2</td>
<td>It is the State’s intention to obtain services as specified in this RFP from a Contract between the selected Offeror and the State. The anticipated duration of services to be provided under this Contract is six (6) years from the Go-Live Date. The State anticipates completing the selection process with award in August 2017 and a Go-Live Date of November 1, 2017.</td>
</tr>
<tr>
<td>1.1.3</td>
<td>The Department intends to make a single award as a result of this RFP. The current Contractor is MHM Maryland, Inc. All documents relating to the 2011 procurement can be found at <a href="http://dbm.maryland.gov/proc-contracts/Pages/contract-library/inmateMentalHealth.aspx">http://dbm.maryland.gov/proc-contracts/Pages/contract-library/inmateMentalHealth.aspx</a></td>
</tr>
<tr>
<td>1.1.4</td>
<td>An Offeror, either directly or through its subcontractor(s), must be able to provide all services and meet all of the requirements requested in this solicitation. The successful Offeror (the Contractor) shall remain responsible for Contract performance regardless of subcontractor participation in the work.</td>
</tr>
<tr>
<td>1.1.5</td>
<td>Reference to a specific Department position, e.g. Contract Manager, Chief Medical Officer, Director of Mental Health Services, Director of Nursing, etc., shall be construed to include a designee, who shall be identified in writing to the Contractor by the person holding the position. Such written identification will typically occur via email.</td>
</tr>
<tr>
<td>1.1.6</td>
<td>Unless clearly not applicable, obligations imposed by this RFP on the Contractor shall be construed to apply to its Staff and obligations of various Contractor Staff shall be construed to apply to the Contractor.</td>
</tr>
</tbody>
</table>

| 1.2 | Abbreviations and Definitions |

For purposes of this RFP, the following abbreviations or terms have the meanings indicated below. A list of Departmental facilities and their acronyms is attached as Attachment Q.

1. **Acute Care Level** - A category of care for Inmates for whom there is a significant chance of the Inmate causing harm to self or others, who exhibit deterioration in mental status or need further observations.

2. **Admission** - An individual who is being processed into any Department facility.

3. **ACA** – American Correctional Association, the national organization of correctional officials that promulgates standards related to correctional custody, including performance standards for mental health services in prisons and jails.
4. **ACOM** - The Area Contract Operations Manager, a DPSCS employee charged with oversight of contract operations within a particular Service Delivery Area.

5. **AED** - Automated External Defibrillator.


7. **Arrestee** - An individual who is arrested in Baltimore City and delivered by the police to the Baltimore Central Booking and Intake Center.

8. **Assessment** - An evaluation of an Inmate’s well-being, including objective data that supports findings made during the Assessment, followed by a plan of care that identifies the specific needs of the Inmate and how those needs will be addressed by the Staff, the Department and Other Healthcare Contractors. The word assessment is also used in this RFP in a generic sense, other than as per this definition, in which case it is not capitalized, e.g., the assessment of Liquidated Damages.

9. **BAFO** – A best and final offer requested by the Procurement Officer to permit written revisions to an Offeror’s initial proposal.

10. **BCBIC** - Baltimore Central Booking and Intake Center.

11. **Bedside Commitment** – A commitment in which a commissioner determines that an Arrestee who is hospitalized should be incarcerated upon release from hospitalization and commits the Arrestee to the Division of Pre-Trial Detention and Services, notwithstanding that the Arrestee has not yet been physically moved to the facility.

12. **BID** – Twice a day.

13. **Business Day(s)** – Monday through Friday excluding Holidays.

14. **Business Hours** - 8:00 a.m. – 5:00 p.m. on Business Days.

15. **Case Management** – As appropriate, the DPSCS unit that is responsible for the Inmate’s base file information related to security classification, housing, disability placement, work assignments, transfer coordination, and selective participation in the coordination with clinical disciplines of complex multi-disciplinary issues or, the coordination of treatment rendered to Inmates with specific diagnoses or requiring high cost or extensive services.

16. **CCHU** – The Department’s Correctional Centralized Hiring Unit.

17. **CDF** – Chesapeake Detention Center, a federal detention facility located in Baltimore and operated by the Department pursuant to a Memorandum of Understanding with the Federal Bureau of Prisons.

18. **CDS** – Controlled Dangerous Substance.

19. **Central Maryland** – The area of Maryland consisting of Anne Arundel, Baltimore, Carroll, Harford and Howard counties and Baltimore City.
20. **Chief Psychologist** - The State employed Maryland licensed psychologist responsible for oversight of mental health services at an individual institution.

21. **CIWA** - Clinical Institute Withdrawal Assessment, a tool used to measure withdrawal complications related to alcohol.

22. **Clinical Director** – A Contractor licensed psychologist who oversees a CMCH unit.

23. **Clinician** - A Psychiatrist or Mental Health Nurse Practitioner.

24. **CMHC or Correctional Mental Health Center** - A licensed mental health unit that houses Inmates who require inpatient psychiatric care.

25. **CMHC-B** – The CMHC located at BCBIC.


27. **CMHC-W** - The CMHC located at MCIW.

28. **COMAR** – Code of Maryland Regulations available on-line at [www.dsd.state.md.us](http://www.dsd.state.md.us).

29. **Comprehensive Mental Health Services** - Inpatient or outpatient psychiatric or psychological care of Inmates with a diagnosable mental illness in accordance with the criteria listed in the DSM, including response to episodes of Inmate acute psychiatric or psychological distress.

30. **Confidential Information** - Any data, files, software, information, or material (whether prepared by the Department or its agents or advisors) in oral, electronic, tangible, or intangible form and however stored, compiled, or memorialized that is classified confidential as defined by the Department. Examples of Confidential Information include, but are not limited to, medical and mental health records, inmate base files, technology infrastructure and data, financial data, trade secrets, equipment specifications, user lists, passwords, and research data. The Department is not required to separately mark or identify information that should be known to be Confidential Information (e.g., personally identifiable information of any nature).

31. **Contract** – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of Attachment A.

32. **Contract Commencement** - The date the Contract is signed by the Department following any required approvals of the Contract, including approval by the Board of Public Works.

33. **Contract Manager** – The DPSCS Contract Manager.

34. **Contract Period** - The length of time the Contractor must maintain the same Monthly Price per Inmate. There are seven Contract Periods covered by this Contract. The first Contract Period begins on the Go Live Date and continues for 12 months. The six Contract Periods following the first Contract Period shall each be for one year.

35. **Contractor** – The selected Offeror that is awarded a Contract by the State.
36. **Contractor’s Contract Manager** – A representative appointed by the Contractor who works from an office located in Central Maryland and is responsible for the overall management and administrative functions of the Contract.

37. **Contractor’s Regional Contract Manager** - A Contractor employee who is responsible for administrative aspects of the Contractor’s mental health services within a SDA.

38. **Contractor’s Regional Psychiatrist** – A Psychiatrist appointed by the Contractor who supervises the delivery of mental health services in a SDA.

39. **Contractor’s Statewide Director of Nursing** - A registered nurse with at least a Master’s Degree in nursing appointed by the Contractor who has responsibility for Statewide recruitment, training, supervision and quality assurance for nurses who are employed by the Contractor.

40. **Contractor’s Statewide Mental Health Director** - A Psychiatrist appointed by the Contractor who works from an office located in central Maryland who is responsible for overseeing all clinical and administrative functions pertaining to the provisions of psychiatric services. This position may be required to provide direct clinical care in limited circumstances.

41. **CPR** – Cardiopulmonary Resuscitation.

42. **CQI or Continuous Quality Improvement** – a program that regularly reviews and studies the processes related to providing the mental health services outlined in this contract and as defined by DPSCS policy.

43. **Critical Incident** - Any incident that disrupts the secure and orderly running of the correctional facility.

44. **Critical Results** - Levels of an item being tested that require an intervention urgently but not immediately, i.e. the detected level is above the normal range but not considered toxic.

45. **Custody** – As appropriate, either (1) DPSCS personnel who are part of the security operations (i.e. guards, wardens, etc.) or (2) that an individual is under the jurisdiction of the Department as an Inmate.

46. **Day or Days** – Calendar day or days.

47. **DEA** – The United States Drug Enforcement Administration.

48. **Department** – The Department of Public Safety and Correctional Services.

49. **DHMH** - The Maryland Department of Health and Mental Hygiene.

50. **Dispensary** - An area in a DPSCS facility from which medical supplies and medications are administered and/or given in clinical processes such as sick call, chronic care clinics, etc.
51. **DME or Durable Medical Equipment** - Equipment that provides therapeutic benefits to a patient in need because of certain medical conditions and/or illnesses, including but not limited to prosthetics, braces, special shoes, glasses, hearing aids, orthopedic devices, and wheel chairs.

52. **DOC or The Division of Correction** - The unit within DPSCS responsible for operating the State’s prison system as set forth in Title 3 of the Correctional Services Article of the Annotated Code of Maryland.

53. **DON** – Director of Nursing, either the Contractor’s or the Department’s.

54. **DPDS or Division of Pre-trial Detention and Services** – The unit within DPSCS responsible for operating the following facilities in Baltimore City: BCBIC, CDF, YDF, and the Baltimore Pre-trial Complex that includes the Annex, the Jail Industries Building, MTC and the Wyatt Building.

55. **DPSCS** – The Department of Public Safety and Correctional Services.

56. **DPSCS or Department Chief Medical Officer** - The DPSCS physician employee who has final authority for clinical issues under the Contract

57. **DPSCS or Department Contract Manager** - The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Department Contract Manager may authorize in writing one or more State representatives to act on behalf of the Department Contract Manager in the performance of the Department Contract Manager’s responsibilities.

58. **DPSCS or Department Director of Mental Health Services** - The Department employee who is a licensed psychologist and who is responsible for the oversight and monitoring of the statewide delivery of mental health services to the Inmate population.

59. **DPSCS or Department Director of Nursing** – The DPSCS employee registered nurse who supervise other Department nurses, monitors CQI and facilitates monitoring of clinical processes with the ACOMS.

60. **DPSCS or Department Regional Assistant Director of Mental Health** - A State employed licensed Psychologist who provides mental health program oversight within each Service Delivery Area.

61. **DPSCS Manager/Director** - The Department Contract Manager, Director of Mental Health Services, Chief Medical Officer or Director of Nursing and/or a designee of any of them.


63. **e-MAR or Electronic Medication Administration Record** - The electronic component of the EPHR used specifically to document the nursing administration of medication orders by the Clinician.
64. **Emergency** - A medical situation involving any individual on the grounds of any DPSCS facility that requires immediate medical or psychiatric attention to prevent serious injury or death.

65. **Emergent Referral** – An Inmate who demonstrates imminent danger to self or others or who presents with altered mental status requiring immediate (not to exceed two (2) hours) assessment by a Mental Health Professional.

66. **eMM** – eMaryland Marketplace, an electronic commerce system administered by the Maryland Department of General Services.

67. **EPHR or Electronic Patient Health Record** - The electronic portion of the Inmate’s medical record that includes documentation for all Medical, Mental Health, Dental and Pharmacy services provided to the Inmate.

68. **Fill Rate** - The monthly percentage of hours filled for each position for each facility compared to the number of hours that would have been provided if, during the month, all positions in the Contractor’s staffing plan were filled and all Staff worked the number of hours indicated in the then current staffing plan.

69. **Formulary** - Listing of medications approved by the P&T Committee for dispensing and administration to Inmates within DPSCS.

70. **Go-Live Date** – The date specified in the Notice to Proceed when the Contractor must begin providing all services required by this solicitation.


72. **Holiday** - State Holidays and other days when the State as a whole is closed. State Holidays can be found at: [http://dbm.maryland.gov/employees/Pages/StateHolidays2017.aspx](http://dbm.maryland.gov/employees/Pages/StateHolidays2017.aspx).

73. **IMMS** - Initial Medical and Mental Health Screening form.

74. **Infirmary** - An area in a DPSCS facility from which Inmates are monitored and/or treated clinically for conditions that require inpatient observation and/or hospital processes that would be part of disease management, including medication administration, IV therapy, etc.

75. **Inmate** - Any person sentenced to Custody or incarcerated within any of the facilities or institutions of the Department, any Arrestee in the Custody of DPDS whether committed or not committed to DPDS, including Bedside Commitments, any alleged parole violator in the Custody of DPSCS, and any person otherwise held in any DPSCS facility, regardless of jurisdiction of original commitment.

76. **Intake Screening** - The initial medical screening of an Inmate using the IMMS form.

77. **Key Personnel** – Key Personnel of the Contractor include: the Statewide and Regional Mental Health Directors, the Statewide Contract Manager, Regional Psychiatrists, Regional Contract Managers, Statewide and Regional Directors of Nursing, Clinical Directors, and any other personnel identified by the Offeror in its Proposal as being essential to the work being performed under the Contract. Key Personnel includes subcontractor personnel and independent contractors who are
proposed for one of the specified positions or who are identified in the Contractor’s proposal as Key Personnel.

78. KOP - Medication(s) required to Keep On Person.

79. Local Time – Time in the Eastern Time Zone as observed by the State of Maryland. Unless otherwise specified, all times shall be Local Time.

80. Long-term Residential Treatment - Individualized treatment in a CMHC lasting more than 12 months.

81. LPN - Licensed Practical Nurse.

82. Maintaining Facility - Any correctional facility within the DPSCS that houses Inmates other than reception processing or Pre-Trial Detention Services.

83. Management Associate - The individual assigned to the Department’s Contract Manager, Director of Mental Health Services, Chief Medical Officer or Director of Nursing as indicated in each section, responsible for gathering data reports and other documents.

84. MAR – The Medication Administration Record, a document in the Inmate’s permanent paper medical record that serves as a legal record of the medications administered to an Inmate at a facility.

85. MBE or Minority Business Enterprise – Any legal entity defined by COMAR 21.01.02.01B (54) which is certified by the Maryland Department of Transportation as provided under COMAR 11.01.10.01.

86. MCCS or The Maryland Commission on Correctional Standards - The DPSCS unit that is responsible for recommending and enforcing standards for State and local correctional facilities as established and governed by the Correctional Services Article of the Maryland Annotated Code.

87. Medication Room - A secured area in which medication and medication carts are stored and secured, along with the secure storage of narcotics.

88. Mental Health – A category of Inmate who has utilized mental health services but who does not necessarily have a diagnosis of mental illness.

89. Mental Health Department Head - The State employee at a Departmental facility who is responsible for oversight of mental health services at the facility when a Chief Psychologist is not assigned to a facility.

90. Mental Health Nurse Practitioner – A certified registered nurse practitioner with specialized training in mental health.

91. Mental Health Plan of Care - A combined summary, by a Psychiatrist, Psychologist, or Mental Health Nurse Practitioner in the EPHR that includes: (a) a summary listing of major mental health problems; and (b) a plan for treatment of such identified major mental health problems, including,
as applicable, medications, testing, and records of past periodic chronic care appointments and access to orders for future periodic chronic care appointments.

92. **Mental Health Population** - Inmates diagnosed with a SMI or an MI described in the DSM or who utilize mental health services but may not have a diagnosis.

93. **Mental Health Practitioner** - A person licensed by the State of Maryland as a Psychiatrist, Mental Health Nurse Practitioner, Psychologist, Licensed Clinical Professional Counselor, or Licensed Certified Social Worker-Clinical, who provides mental health services within the scope of his or her license.

94. **Mental Health Professional** - A Mental Health Practitioner or an RN who provides mental health services within the scope of his or her licensure.

95. **MI or Mental Illness** – A category used to describe an Inmate who has a significant mental health diagnosis but who may not be functionally impaired in the Inmate’s daily activities.

96. **MOU** – Memorandum of Understanding.

97. **NCCHC or National Commission on Correctional Health Care** - The national organization of correctional officials that promulgates standards related to mental health services in prisons and jails.

98. **NextGen™** - The proprietary name and identification of the EPHR system currently utilized by DPSCS. DPSCS is currently using NextGen 5.6.9.12.

99. **Non-Formulary** - Any drug that is not included in the Formulary.

100. **NTP or Notice to Proceed** – A written notice from the Procurement Officer that, subject to the conditions of the Contract, work under the Contract is to begin as of a specified date. The start date listed in the NTP is the Go-Live Date, and is the official start date of the Contract for the actual delivery of services as described in this solicitation. After Contract Commencement, additional NTPs may be issued by either the Procurement Officer or the Department Contract Manager regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date.

101. **OCMS** - The Department’s computerized Offender Case Management System which includes Inmate demographic and facility location information, as well as the IMMS. OCMS is a web based system built on .net technology and sitting on an Oracle database.

102. **Offeror** – An entity that submits a Proposal in response to this RFP.

103. **Off-site** - Any location that is not On-site.

104. **On-call services** - A Contractor Clinician identified on a monthly scheduling calendar to be available for telephone or On-site consultation with on-duty State Mental Health staff, Medical Contractor’s Staff, Contractor Staff or other Healthcare Contractor Staff who is available within fifteen minutes to facilitate care decisions whenever a Clinician is not On-site at a Department facility or readily available.
105. **On-site** - Physically on the premises of a Department facility.

106. **Other Healthcare Contractors** - Any or all of the entities under contract with the Department for the specialized delivery of Dental, Medical or Pharmacy services to Inmates under the jurisdiction of the Department. These Other Healthcare Contractors may be individually referred to in the RFP as the Dental Contractor, Medical Contractor and Pharmacy Contractor.

107. **Outpatient Services** - Mental health services provided to any Inmate who is not in a CMHC.

108. **Overhead Percentage** - A percentage specified in the Offeror’s Financial Proposal that includes employee benefits (including the employer share of payroll taxes) and overhead.

109. **Patient Care Conference** - A multidisciplinary (i.e., Physician, Nursing, Case Management, Social Work, Custody and mental health representatives) conference initiated when there is a complex patient problem requiring multidisciplinary intervention, which is convened by the Contractor’s Statewide Mental Health Director or Regional Psychiatrist, the Medical Contractor’s Regional Medical Director, the DPSCS Chief Medical Officer, the DPSCS Director of Mental Health Services, the DPSCS Director of Nursing or a DPSCS employee designated by the DPSCS Chief Medical Officer.

110. **Patient Health Record** – EPHR and hard copy records of health care services provided to an Inmate as required per Department policy and procedure including any records received from any external healthcare treatment facility, created by Other Healthcare Contractors and any Staff working for the Contractor or Other Healthcare Contractor.

111. **PATX or Patuxent** - The prison within the Department for Inmates committed under sentence to the Commissioner of Correction, but who are found eligible for one of Patuxent’s programs targeted to the needs of chronic offenders. Governance of Patuxent is in accordance with Title 4 of the Correctional Services Article, Maryland Annotated Code. Patuxent is independent of the Division of Correction. However, DOC Inmates may be incarcerated at Patuxent even when not admitted to one of the Patuxent remediation programs.

112. **P& T Committee** - The Department’s Pharmacy and Therapeutics Committee.

113. **PREA** - The 2003 Federal Prison Rape Elimination Act (as may be amended) supporting the prevention, reduction and elimination of sexual violence in US prisons.

114. **Pre-Trial** - An Arrestee awaiting trial who is in the custody of the DPDS.

115. **Procurement Officer** – Prior to the award of any Contract, the sole point of contact in the State for purposes of this solicitation. After Contract award, the Procurement Officer has responsibilities as detailed in the Contract (Attachment A), and is the only State representative who can authorize changes to the Contract. The Department may change the Procurement Officer at any time by written notice to the Contractor.

116. **Proposal** – As appropriate, either or both of an Offeror’s Technical or Financial Proposal.
117. **Psychiatric Nurse** - A registered nurse who within the past 10 years has at least one year of continuous experience providing nursing services to mentally ill patients at an inpatient mental health facility or correctional facility with five or more beds for mentally ill patients.

118. **Psychiatrist** – A physician who is Board certified or Board eligible in Maryland in psychiatry and neurology.

119. **Psychology Associate** - An individual with a Master's degree in psychology who is registered as a psychology associate by the Maryland Board of Examiners of Psychologists.

120. **Referral** – A request (in person, by phone or in writing) by an Inmate, State mental health staff, Custody or other State staff, or Staff of Other Healthcare Contractors that an Inmate be subject to an Assessment by Contractor Staff to determine whether the Inmate is in need of mental health services.

121. **RFP** – This Request for Proposals issued by the Department of Public Safety.

122. **RN** - Registered Nurse.

123. **Route** - Means of administering medication.

124. **Routine Referral** - An Inmate who demonstrates any mental illness symptom or history of mental illness that is not considered urgent, emergent or serious.

125. **SDA or Service Delivery Area** - Geographically designated regions into which the State is divided for purposes of managing Inmate mental health services. Institutions and their SDAs are listed in Attachment Q.

126. **7 Day Mental Status Exam** – The comprehensive mental status examination of Inmates that occurs within 7 days of Inmates after the SRE.

127. **Sick Call Slip** - A slip that the Inmate completes when requesting medical, mental health or dental services.

128. **SIR or Serious Incident Report** – The DPSCS form for reporting serious incidents.

129. **SMI or Serious Mental Illness** - A mental disorder as defined in Maryland COMAR title 10.21.17.02.

130. **Special Confinement** - Areas within a correctional facility that house Inmates subject to special restrictions within the facility. Special Confinement includes, but is not limited to, disciplinary segregation, administrative segregation, protective custody, maximum security level 2 Structured Housing and Structured Housing for SMI population.

131. **Special Needs Unit** - A unit that has been established for Inmates who suffer from a mental disorder, have demonstrated difficulty functioning within a general population setting and require services beyond chronic care clinics but less than that required for Inmates in CMHCs. Currently, there are four Special Needs units: a Maximum Security Facility located at NBCI, a Maximum
Security Facility located at MCI - W, a Medium Security Facility located at RCI and a Pre-Trial Facility located at BCBIC.

132. **Staff** - The Contractor’s employees, subcontractors, the employees of a subcontractor, and specialists and consultants used by the Contractor.

133. **Start-up Period** – The time between the Contract Commencement Date and the Go-Live Date during which the Contractor shall perform start-up activities necessary to enable the Contractor to begin the successful performance of Contract activities as of the Go-Live Date.

134. **State** – The State of Maryland.

135. **State Mental Health Facility**– A facility operated by the State of Maryland that serves those who are identified as having a Mental Illness and are receiving treatment.

136. **Stepdown unit** – A 32 bed mental health unit located at Patuxent that prepares Inmates leaving a CMHC to return to the general population at a Maintaining Facility.

137. **Structured Housing** – A Special Confinement unit that provides for a controlled environment for the most violent and dangerous Inmates in which the Inmates are provided services in an effort to modify their behavior to assure a successful transition into the general prison population or the community. Structured Housing units are currently located at MCIW, NBCI, and WCI.

138. **Sub-acute Care Level** - A category of care for Inmates for whom the level of dangerousness to self is stabilized but there is still a possibility of harm to self or others.

139. **Suicide Risk Evaluation or SRE** – A suicide screening tool in EPHR that is administered within 24 hours of an Inmate entering a DPSCS facility from the community and within 72 hours of placement in a Special Confinement Area.

140. **Super Users** - Contractor Staff with an enhanced level of training and skills in the application of the EPHR who act as problem-solvers for system inquiries at the facility level.

141. **Telemedicine** - The remote diagnosis and treatment of medical and mental health conditions using technology.

142. **Total Proposal Price** - The Offeror’s total proposed price for services in response to this solicitation, included in the Financial Proposal with Attachment F, and used in the financial evaluation of Proposals.

143. **Transition unit** – The 34 bed unit located at PATX for the SMI population who need re-entry services.

144. **Urgent Referral** - An Inmate who shows symptoms of acute mental illness (e.g., thought disorder, mood disorder or impulse disorder) and must be seen within 24 hours.

145. **Use of Force** - A response to any incident in which legal deterrent force was required to be applied such as physical restraining or extraction of an Inmate.
146. **VSBE** – A Veteran-owned Small Business Enterprise verified by the Center for Verification and Evaluation of the United States Department of Veterans Affairs as a veteran-owned small business.

### 1.3 Contract Type

The Contract that results from this RFP shall be a fixed price contract in which the prices quoted are subject to contractually-specified adjustments as defined in COMAR 21.06.03.02A(2).

### 1.4 Contract Duration

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

1.4.2 The period of time from the date of Contract Commencement through the Go-Live Date will be the Contract Start-up Period. During the Start-up Period the Contractor shall perform start-up activities necessary to enable the Contractor to begin the successful performance of Contract activities as of the Go-Live Date. No compensation will be paid to the Contractor for any activities it performs during the Start-up Period.

1.4.3 As of the Go-Live Date contained in a Notice to Proceed, the Contractor shall perform all activities required by the Contract, including the requirements of this solicitation, and the offerings in its Technical Proposal, for the compensation described in its Financial Proposal.

1.4.4 The duration of the Contract will be from Contract Commencement plus six (6) years from the Go-Live Date.

### 1.5 Procurement Officer

The Procurement Officer is the sole point of contact in the State for purposes of this solicitation prior to the award of any Contract. The name and contact information of the Procurement Officer are indicated in the RFP Key Information Summary Sheet. The Department may change the Procurement Officer at any time by written notice.

### 1.6 Contract Manager

The Contract Manager is the State representative for this Contract who is primarily responsible for Contract administration functions after Contract award. The name and contact information of the Contract Manager are indicated in the RFP Key Information Summary Sheet. The Department may change the Contract Manager at any time by written notice.
1.7 Pre-Proposal Conference and Site Visits

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

In order to assure adequate seating and other accommodations at the Conference, please e-mail the Pre-Proposal Conference Response Form (Attachment E) to the Procurement Officer as soon as possible but no later than April 13, 2017. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please notify the Procurement Officer at least five (5) Business Days prior to the Pre-Proposal Conference date. The Department will make a reasonable effort to provide such special accommodation.

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

Prospective Offerors are encouraged to participate in site visits to familiarize themselves with where services are to be provided to be more fully informed as to physical plant specifics and how these needs should be considered in the development of proposals.

Tours will not be used to answer questions about the RFP; rather the purpose of the tours is to familiarize potential offerors with the geography and physical layout of the facilities to be served by the Contractor. Questions concerning the solicitation will not be answered during a site visit, and should be submitted in writing to the Procurement Officer. See RFP Section 1.9.

In order to assure adequate preparation and accommodations for the site visits and tours, it is requested that no more than two representatives of each potential Offeror attend. Attachment Z provides the schedule and instructions for site visits.

All visitors to DPSCS facilities are subject to Entry and Exit Procedures – Correctional Facilities, Directive OPS.110.0033 relating to entry to DPSCS facilities. The Directive is located at [http://itcd.dpscs.state.md.us/PIA/ShowFile.aspx?fileID=1460](http://itcd.dpscs.state.md.us/PIA/ShowFile.aspx?fileID=1460)

Directions to the DPSCS facilities can be found at: [http://www.dpscs.state.md.us/locations/prisons.shtml](http://www.dpscs.state.md.us/locations/prisons.shtml)

1.8 eMarylandMarketplace

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

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

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

### Questions

Written questions from prospective Offerors will be accepted by the Procurement Officer prior to the Conference. If appropriate, such questions will be answered at the Conference. No substantive question will be answered prior to the Conference and answers to questions provided at the conference are to be considered informal guidance. Any questions for which an official response is desired should be submitted via eMaryland Marketplace. Questions, both oral and written, will also be accepted from prospective Offerors attending the Conference. If possible and appropriate, these questions will be answered at the Conference.

Questions will also be accepted subsequent to the Conference and should be submitted to the Procurement Officer via eMaryland Marketplace in a timely manner prior to the Proposal due date. Offerors are encouraged to submit questions as early as possible and at least ten (10) days prior to the Proposal due date. The Procurement Officer, based on the availability of time to research and communicate an answer, shall decide whether an answer can be given before the Proposal due date. Time permitting, answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be distributed to all vendors that are known to have received a copy of the RFP in sufficient time for the answer to be taken into consideration in the Proposal.

### Procurement Method

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

#### Proposals Due (Closing) Date and Time

Proposals, in the number and form set forth in Section 4.2 “Proposals” must be received by the Procurement Officer at the Procurement Officer’s address no later than the Proposal Due date and time indicated in the RFP Key Information Summary Sheet in order to be considered.

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

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

**Proposals may not be submitted by e-mail or facsimile. Proposals will not be opened publicly.**
Vendors not responding to this solicitation are requested to submit the “Notice to Vendors” form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements, etc.). This form is located in the RFP immediately following the Title Page (page ii).

### 1.12 Multiple or Alternate Proposals

Multiple and/or alternate Proposals will not be accepted.

### 1.13 Economy of Preparation

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

### 1.14 Public Information Act Notice

An Offeror should give specific attention to the clear identification of those portions of its Proposal that it considers confidential and/or proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Md. Code Ann., General Provisions Article, Title 4. (Also, see RFP Section 4.4.2.2 “Claim of Confidentiality”). This confidential and/or proprietary information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical Proposal and if applicable, separately in the Financial Proposal.

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

### 1.15 Award Basis

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

### 1.16 Oral Presentation

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

### 1.17 Duration of Proposal

Proposals submitted in response to this RFP are irrevocable for 180 days following the closing date for submission of Proposals or best and final offers if requested. This period may be extended at the Procurement Officer’s request only with the Offeror’s written agreement.
1.18 Revisions to the RFP

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

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

1.19 Cancellations

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

1.20 Incurred Expenses

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

1.21 Protest/Disputes

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

1.22 Offeror Responsibilities

The selected Offeror shall be responsible for all products and services required by this RFP. All subcontractors must be identified and a complete description of their role relative to the Proposal must be included in the Offeror’s Proposal. If applicable, subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate Attachment(s) of this RFP (see Section 1.33 “Minority Business Enterprise Goals” and Section 1.41 “Veteran-Owned Small Business Enterprise Goals”).
If an Offeror that seeks to perform or provide the services required by this RFP is the subsidiary of another entity, all information submitted by the Offeror, including but not limited to references, financial reports, or experience and documentation (e.g. insurance policies, bonds, letters of credit) used to meet minimum qualifications, if any, shall pertain exclusively to the Offeror.

### 1.23 Substitution of Personnel

**A. Continuous Performance of Key Personnel**

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

**B. Definitions**

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

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

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

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

**C. Key Personnel General Substitution Provisions**

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

1. The Contractor shall demonstrate to the Contract Manager’s satisfaction that the proposed substitute Key Personnel have qualifications at least equal to those of the Key Personnel for whom the replacement is requested.

2. The Contractor shall provide the Contract Manager with a substitution request that shall include:
• A detailed explanation of the reason(s) for the substitution request;
• The resume of the proposed substitute personnel, signed by the substituting individual and his/her formal supervisor;
• The official resume of the current personnel for comparison purposes; and
• Any evidence of any required credentials.

3. The Contract Manager may request additional information concerning the proposed substitution. In addition, the Contract Manager and/or other appropriate State personnel involved with the Contract may interview the proposed substitute personnel prior to deciding whether to approve the substitution request.

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

D. Replacement Circumstances

1. Voluntary Key Personnel Replacement

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

2. Key Personnel Replacement Due to Vacancy

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

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

3. Key Personnel Replacement Due to an Indeterminate Absence

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

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

4. Directed Personnel Replacement

a. The Contract Manager may direct the Contractor to replace any personnel (not limited to Key Personnel) who are perceived as being unqualified, non-productive, unable to fully perform the job duties due to full or partial Incapacity or Extraordinary Personal Circumstance, disruptive, or known, or reasonably believed, to have committed a major infraction(s) of law, agency, or Contract requirements. Normally, a directed personnel replacement will occur only after prior notification of problems with requested remediation, as described in paragraph 4.b. If after such remediation the Contract Manager determines that the personnel performance has not improved to the level necessary to continue under the Contract, if at all possible at least fifteen (15) days notification of a directed replacement will be provided. However, if the Contract Manager deems it necessary and in the State’s best interests to remove the personnel with less than fifteen (15) days’ notice, the Contract Manager can direct the removal in a timeframe of less than fifteen (15) days, including immediate removal.

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

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

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

Replacement or substitution of personnel under this section shall be in addition to, and not in lieu of, the State’s remedies under the Contract or which otherwise may be available at law or in equity.
5. In the event the Contractor is directed by the DPSCS Contract Manager, the DPSCS Director of Mental Health Services or the DPSCS Chief Medical Officer to replace Staff originally hired as a Key Personnel under the Contract, the Contractor may request approval from the DPSCS Director of Mental Health Services or the DPSCS Chief Medical Officer to keep that Staff employed under the contract, but placed in a lower level position. The DPSCS Director of Mental Health Services or DPSCS Chief Medical Officer will provide approval/disapproval of said request within five (5) Business Days.

6. The DPSCS Chief Medical Officer, the DPSCS Director of Mental Health Services, DPSCS DON, DPSCS Contract Manager, ACOM, Warden or Warden designee may for just cause at his/her sole discretion, remove from or refuse admittance to any Department facility any Staff providing services under this Contract without incurring penalty or cost for exercising this right. The Contractor shall be responsible for assuring that the services, which the Staff so removed or denied access was responsible for, are delivered.

### 1.24 Mandatory Contractual Terms

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

### 1.25 Bid/Proposal Affidavit

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

### 1.26 Contract Affidavit

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

### 1.27 Compliance with Laws/Arrearages

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

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

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

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

1.29 False Statements

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

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

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

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

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

1.30 Payments by Electronic Funds Transfer

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

1.31 Prompt Payment Policy

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

1.32 Electronic Procurements Authorized

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

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

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

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

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

   (a) the solicitation (e.g., the IFB/RFP);
   (b) any amendments;
   (c) pre-Bid/Proposal conference documents;
   (d) questions and responses;
   (e) communications regarding the solicitation or Bid/Proposal to any Bidder/Offeror or potential Bidder/Offeror;
   (f) notices of award selection or non-selection; and
   (g) the Procurement Officer’s decision on any Bid protest or Contract claim.

2. A Bidder/Offeror or potential Bidder/Offeror may use e-mail or facsimile to:

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

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

1. submission of initial Bids or Proposals;
2. filing of Bid Protests;
3. filing of Contract Claims;
4. submission of documents determined by the Department to require original signatures (e.g., Contract execution, Contract modifications, etc.); or
5. any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Bidder/Offeror be provided in writing or hard copy.

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

1.33 Minority Business Enterprise Goals

1.33.1 Establishment of Goal and Subgoals.

An overall MBE subcontractor participation goal of 14% for each year of the contract, including any option years, has been established for the Contract. The goal shall be applied to total Contract value.

There are no MBE subcontractor participation subgoals for this procurement.

1.33.2 Attachments D-1 to D-5 – The following Minority Business Enterprise participation instructions, and forms are provided to assist Bidders/Offerors:

<table>
<thead>
<tr>
<th>Attachment</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>D-1A</td>
<td>MBE Utilization and Fair Solicitation Affidavit &amp; MBE Participation Schedule (must be submitted with Bid/Proposal)</td>
</tr>
<tr>
<td>D-1B</td>
<td>Waiver Guidance</td>
</tr>
<tr>
<td>D-1C</td>
<td>Good Faith Efforts Documentation to Support Waiver Request</td>
</tr>
<tr>
<td>D-2</td>
<td>Outreach Efforts Compliance Statement</td>
</tr>
<tr>
<td>D-3A</td>
<td>MBE Subcontractor Project Participation Certification</td>
</tr>
<tr>
<td>D-3B</td>
<td>MBE Prime Project Participation Certification</td>
</tr>
<tr>
<td>D-4A</td>
<td>Prime Contractor Paid/Unpaid MBE Invoice Report</td>
</tr>
<tr>
<td>D-4B</td>
<td>MBE Prime Contractor Report</td>
</tr>
<tr>
<td>D-5</td>
<td>Subcontractor/Contractor Unpaid MBE Invoice Report</td>
</tr>
</tbody>
</table>

1.33.3 A Bidder/Offeror shall include with its Bid/Proposal a completed MBE Utilization and Fair Solicitation Affidavit (Attachment D-1A) whereby:
(a) The Bidder/Offeror acknowledges the certified MBE participation goal and commits to make a
good faith effort to achieve the goal and any applicable subgoals, or requests a waiver, and
affirms that MBE subcontractors were treated fairly in the solicitation process; and

(b) The Bidder/Offeror responds to the expected degree of MBE participation, as stated in the
solicitation, by identifying the specific commitment of certified MBEs at the time of
Bid/Proposal submission. The Bidder/Offeror shall specify the percentage of total contract
value associated with each MBE subcontractor identified on the MBE participation schedule,
including any work performed by the MBE Prime (including a Prime participating as a joint
venture) to be counted towards meeting the MBE participation goals.

(c) A Bidder/Offeror requesting a waiver should review Attachment D-1B (Waiver Guidance) and
D-1C (Good Faith Efforts Documentation to Support Waiver Request) prior to submitting its
request.

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

1.33.4 Bidders/Offerors are responsible for verifying that each MBE (including any MBE Prime and/or
MBE Prime participating in a joint venture) selected to meet the goal and any subgoals and
subsequently identified in Attachment D-1A is appropriately certified and has the correct NAICS
codes allowing it to perform the committed work.

1.33.5 Within ten (10) Business Days from notification that it is the recommended awardee or from the date
of the actual award, whichever is earlier, the Bidder/Offeror must provide the following
documentation to the Procurement Officer.

(a) Outreach Efforts Compliance Statement (Attachment D-2).

(b) MBE Subcontractor/Prime Project Participation Certification (Attachment D-3A/3B).

(c) If the recommended awardee believes a waiver (in whole or in part) of the overall MBE goal or
of any applicable subgoal is necessary, the recommended awardee must submit a fully-
documented waiver request that complies with COMAR 21.11.03.11.

(d) Any other documentation required by the Procurement Officer to ascertain Bidder/Offeror
responsibility in connection with the certified MBE subcontractor participation goal or any
applicable subgoals.

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

1.33.6 A current directory of certified MBEs is available through the Maryland State Department of
Transportation (MDOT), Office of Minority Business Enterprise, 7201 Corporate Center Drive,
Hanover, Maryland 21076. The phone numbers are (410) 865-1269, 1-800-544-6056, or TTY (410)
865-1342. The directory is also available on the MDOT website at
http://mbe.mdot.state.md.us/directory/. The most current and up-to-date information on MBEs is
available via this website. Only MDOT-certified MBEs may be used to meet the MBE subcontracting goals.

1.33.7 The Contractor, once awarded a Contract, will be responsible for submitting or requiring its subcontractor(s) to submit the following forms to provide the State with ongoing monitoring of MBE Participation:

(a) Attachment D-4A (Prime Contractor Paid/Unpaid MBE Invoice Report).
(b) Attachment D-4B (MBE Prime Contractor Report, if applicable)
(c) Attachment D-5 (MBE Subcontractor/Contractor Unpaid MBE Invoice Report).

1.33.8 A Bidder/Offeror that requested a waiver of the goal or any of the applicable subgoals will be responsible for submitting the Good Faith Efforts Documentation to Support Waiver Request (Attachment D-1C) and all documentation within ten (10) Business Days from notification that it is the recommended awardee or from the date of the actual award, whichever is earlier, as required in COMAR 21.11.03.11.

1.33.9 All documents, including the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (Attachment D-1A), completed and submitted by the Bidder/Offeror in connection with its certified MBE participation commitment shall be considered a part of the resulting Contract and are hereby expressly incorporated into the Contract by reference thereto. All of the referenced documents will be considered a part of the Bid/Proposal for order of precedence purposes (see Contract – Attachment A, Section 2.1).

1.33.10 The Bidder/Offeror is advised that liquidated damages will apply in the event the Contractor fails to comply in good faith with the requirements of the MBE program and pertinent Contract provisions. (See Contract – Attachment A, “Liquidated Damages” clause).

1.33.11 As set forth in COMAR 21.11.03.12-1(D), when a certified MBE firm participates on a Contract as a Prime Contractor (including a joint-venture where the MBE firm is a partner), a procurement agency may count the distinct, clearly defined portion of the work of the contract that the certified MBE firm performs with its own work force towards fulfilling up to fifty-percent (50%) of the MBE participation goal (overall) and up to one hundred percent (100%) of not more than one of the MBE participation sub-goals, if any, established for the contract.

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

As set forth in COMAR 21.11.03.12-1, once the Contract work begins, the work performed by a certified MBE firm, including an MBE Prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract.

1.33.12 With respect to Contract administration, the Contractor shall:
(a) Submit to the Department’s designated representative by the 10th of the month following the reporting period:

i. A Prime Contractor Paid/Unpaid MBE Invoice Report (Attachment D-4A) listing any unpaid invoices, over 45 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made; and

ii. (If Applicable) An MBE Prime Contractor Report (Attachment D-4B) identifying an MBE Prime’s self-performing work to be counted towards the MBE participation goals.

(b) Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit to the Department’s designated representative by the 10th of the month following the reporting period an MBE Subcontractor Paid/Unpaid Invoice Report (Attachment D-5) that identifies the Contract and lists all payments to the MBE subcontractor received from the Contractor in the preceding reporting period month, as well as any outstanding invoices, and the amounts of those invoices.

(c) Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the Contract, the type of work performed by each, and the actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.

(d) Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State’s representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the Contract.

(e) Upon completion of the Contract and before final payment and/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.

### 1.34 Living Wage Requirements

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

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

Additional information regarding the State’s living wage requirement is contained in Attachment G. Bidders/Offerors must complete and submit the Maryland Living Wage Requirements Affidavit of Agreement (Attachment G-1) with their Bid/Proposal. If a Bidder/Offeror fails to complete and submit the required documentation, the State may determine a Bidder/Offeror to be not responsible under State law.
Contractors and subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier area. The specific living wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George’s, Howard, Anne Arundel and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State Contract pursuant to §18-102(d) of the State Finance and Procurement Article shall assign the tier based upon where the recipients of the services are located.

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

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

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

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

### 1.35 Federal Funding Acknowledgement

1.35.1 There are programmatic conditions that apply to this Contract due to Federal funding. (see Attachment H).

1.35.2 The total amount of Federal funds allocated for inmate mental health services is approximately $314,000 in Maryland State fiscal year 2017. This represents approximately less than 1% of all Departmental funds budgeted for this purpose. This does not necessarily represent the amount of funding available for any particular grant, contract, or solicitation.

1.35.3 This Contract contains federal funds. The source of these federal funds is reimbursements from the US Marshalls for the cost of operation of the Chesapeake Detention Center pursuant to a Memorandum of Understanding. The conditions that apply to all federal funds awarded by the Department are contained in Federal Funds Attachment H. Any additional conditions that apply to this particular federally-funded contract are contained as supplements to Federal Funds Attachment H and Bidders/Offerors are to complete and submit these Attachments with their Bid/Proposal as
instructed in the Attachments. Acceptance of this agreement indicates the Bidder/Offeror’s intent to comply with all conditions, which are part of this Contract.

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1.36</strong> Conflict of Interest Affidavit and Disclosure</td>
<td>A Conflict of Interest Affidavit is not required pursuant to COMAR 21.05.08.08(F) for this procurement. An Offeror is required to disclose to the Procurement Officer any actual or potential conflict of interest as it arises, before or after award, in accordance with COMAR 21.05.08.08.</td>
</tr>
<tr>
<td><strong>1.37</strong> Non-Disclosure Agreement</td>
<td>All Bidders/Offerors are advised that this solicitation and any resultant Contract(s) are subject to the terms of the Non-Disclosure Agreement (NDA) contained in this solicitation as Attachment J. This Agreement must be provided within five (5) Business Days of notification of proposed Contract award; however, to expedite processing, it is suggested that this document be completed and submitted with the Bid/Proposal.</td>
</tr>
<tr>
<td><strong>1.38</strong> HIPAA - Business Associate Agreement</td>
<td>A HIPAA Business Associate Agreement is not required for this procurement.</td>
</tr>
<tr>
<td><strong>1.39</strong> Nonvisual Access</td>
<td>By submitting a Bid/Proposal, the Bidder/Offeror warrants that the information technology offered under the Bid/Proposal: (1) provides equivalent access for effective use by both visual and nonvisual means; (2) will present information, including prompts used for interactive communications, in formats intended for both visual and nonvisual use; (3) if intended for use in a network, can be integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired; and (4) is available, whenever possible, without modification for compatibility with software and hardware for nonvisual access. The Bidder/Offeror further warrants that the cost, if any, of modifying the information technology for compatibility with software and hardware used for nonvisual access will not increase the cost of the information technology by more than five percent (5%). For purposes of this solicitation and resulting Contract, the phrase “equivalent access” means the ability to receive, use, and manipulate information and to operate controls necessary to access and use information technology by nonvisual means. Examples of equivalent access include keyboard controls used for input and synthesized speech, Braille, or other audible or tactile means used for output. The Maryland IT Nonvisual Access standards can be found at: <a href="http://www.doit.maryland.gov">www.doit.maryland.gov</a>, keyword: NVA.</td>
</tr>
<tr>
<td><strong>1.40</strong> Mercury and Products That Contain Mercury</td>
<td>This solicitation does not include the procurement of products known to likely include mercury as a component.</td>
</tr>
</tbody>
</table>
1.41 Veteran-Owned Small Business Enterprise Goal

1.41.1 NOTICE TO BIDDERS/OFERORS

Questions or concerns regarding the Veteran-Owned Small Business Enterprise (VSBE) participation goal of this solicitation must be raised before the due date for submission of Bids/Proposals.

1.41.2 PURPOSE

The Contractor shall structure its procedures for the performance of the work required in this Contract to attempt to achieve the VSBE participation goal stated in this solicitation. VSBE performance must be in accordance with this section and Attachment M, as authorized by COMAR 21.11.13. The Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this section and Attachment M.

Veteran-Owned Small Business Enterprises, or VSBEs, must be verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs. The listing of verified VSBEs may be found at http://www.vetbiz.gov.

1.41.3 VSBE GOAL

A VSBE participation goal of one (1) % of the total Contract dollar amount has been established for this procurement. By submitting a response to this solicitation, the Bidder or Offeror agrees that this percentage of the total dollar amount of the Contract will be performed by verified veteran-owned small business enterprises.

1.41.4 SOLICITATION AND CONTRACT FORMATION

A Bidder/Offeror must include with its Bid/Proposal a completed Veteran-Owned Small Business Enterprise Utilization Affidavit and Prime/Subcontractor Participation Schedule (Attachment M-1) whereby:

(1) the Bidder/Offeror acknowledges it: a) intends to meet the VSBE participation goal; or b) requests a full or partial waiver of the VSBE participation goal. If the Bidder/Offeror commits to the full VSBE goal or requests a partial waiver, it shall commit to making a good faith effort to achieve the stated goal.

(2) the Bidder/Offeror responds to the expected degree of VSBE participation as stated in the solicitation, by identifying the specific commitment of VSBEs at the time of Bid/Proposal submission. The Bidder/Offeror shall specify the percentage of contract value associated with each VSBE prime/subcontractor identified on the VSBE Participation Schedule.

As set forth in COMAR 21.11.13.05.B(2), when a verified VSBE firm participates on a Contract as a Prime Contractor, a procurement agency may count the distinct, clearly defined portion of the work of the contract that the VSBE Prime Contractor performs with its own work force towards meeting up to one hundred percent (100%) of the VSBE goal.

In order to receive credit for self-performance, a VSBE Prime must list its firm in the VSBE Prime/Subcontractor Participation Schedule (Attachment M-1) and include information regarding the work it will self-perform. For any remaining portion of the VSBE goal that is not to be performed by the VSBE Prime, the VSBE Prime must also identify verified VSBE subcontractors used to meet the remainder of the goal.

Within ten (10) Business Days from notification that it is the apparent awardee, the awardee must provide the following documentation to the Procurement Officer.

(1) VSBE Project Participation Statement (Attachment M-2);
(2) If the apparent awardee believes a full or partial waiver of the overall VSBE goal is necessary, it must submit the Good Faith Efforts Documentation (Attachment M - 1 C) a fully-documented waiver request that complies with COMAR 21.11.13.07; and

(3) Any other documentation required by the Procurement Officer to ascertain Bidder/Offeror responsibility in connection with the VSBE participation goal.

*If the apparent awardee fails to return each completed document within the required time, the Procurement Officer may determine that the apparent awardee is not responsible and therefore not eligible for Contract award.*

### 1.41.5 CONTRACT ADMINISTRATION REQUIREMENTS

The Contractor, once awarded the Contract shall:

1. Submit monthly to the Department a report listing any unpaid invoices, over 45 days old, received from any VSBE subcontractor, the amount of each invoice, and the reason payment has not been made. (Attachment M-3)

2. Include in its agreements with its VSBE subcontractors a requirement that those subcontractors submit monthly to the Department a report that identifies the prime contract and lists all payments received from Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices. (Attachment M-4)

3. Maintain such records as are necessary to confirm compliance with its VSBE participation obligations. These records must indicate the identity of VSBE and non-VSBE subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed. The subcontract agreement documenting the work performed by all VSBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.

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 VSBE participation obligations. The Contractor must retain all records concerning VSBE participation and make them available for State inspection for three years after final completion of the Contract.

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 VSBE subcontractors.

### 1.42 Location of the Performance of Services Disclosure

The Bidder/Offeror is required to complete the Location of the Performance of Services Disclosure. A copy of this Disclosure is included as Attachment N. The Disclosure must be provided with the Bid/Proposal.

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

This solicitation does not require a DHR Hiring Agreement.

### 1.44 Small Business Reserve (SBR) Procurement

This solicitation is not designated as a Small Business Reserve (SBR) Procurement.
1.45 Estimates of Population or Expenditures

This RFP includes estimates of population and information regarding past experience with respect to certain expenditures, procedures and populations. This information is provided for informational purposes only. The Department makes no representation that actual population or expenditures during the term of the Contract will approximate these estimates or past experience. There is no guarantee of any minimum or maximum amounts for the expenditures or population. The Contractor must perform work at the prices listed in its Financial Proposal, regardless of the actual population and expenditures experienced during the Contract term.

1.46 Applicable Policies

All services rendered under the Contract resulting from this RFP shall be in accordance with the Department’s policies and procedures and all federal and Maryland laws, regulations and policies (as amended from time to time) relating to the delivery of services under the Contract.

1.47 Delivery of Final Documents

Any aspects of the Contractor’s Technical Proposal (such as draft reports, plans, policies, etc.) that were provided in draft, summarized, or incomplete, illustrative form shall be completed, detailed and finalized and submitted to the DPSCS Contract Manager and the DPSCS Director of Mental Health Services within thirty (30) days of Contract Commencement, unless a different submission timeframe or instruction is provided elsewhere in the RFP. The DPSCS Contract Manager and the DPSCS Director of Mental Health Services shall have up to ten (10) days to review the submissions and provide comments. Submission revisions incorporating comments from the DPSCS Contract Manager’s and the DPSCS Director of Mental Health Services are due to the DPSCS Contract Manager and the DPSCS Director of Mental Health Services within five (5) days of receipt of the comments.

1.48 Current Contract Documents

All documents related to the 2011 procurement by the Department of mental health services are available at http://dbm.maryland.gov/proc-contracts/Pages/contract-library/inmateMentalHealth.aspx.
SECTION 2 – MINIMUM QUALIFICATIONS

2 Offeror Minimum Qualifications

2.1 Each Offeror shall clearly demonstrate and document within its Technical Proposal that, as of the proposal due date, the Offeror meets the following Minimum Qualifications. Required documentation shall be provided in Tab D as outlined in RFP Section 4.4.2.5 minimum Qualifications Documentation. The Executive Summary shall include reference to the page number(s) in the proposal where such evidence can be found. As proof of meeting this requirement, the Offeror shall provide with its Proposal three (3) references able to attest to the Offeror’s experience in providing mental health services as described below.

2.2 An Offeror shall, for the three (3) years immediately preceding the date of Proposal submission, have simultaneously and continuously provided Comprehensive Mental Health Services for all three (3) of the following circumstances:

2.2.1 Within at least one (1) correctional system [defined as a single unified organization for the incarceration of individuals charged or convicted of a criminal act comprised of a minimum of six (6) geographically separate locations that is operated by or for a single government entity in the United States or Canada]. For purposes of this minimum qualification, “government entity” means any city, township, county, parish, state, province, or federal district or territory with a population of at least 50,000 residents.

2.2.2 For a total average daily population of at least 10,000 prisoners at least eighteen (18) years of age, without regard to how many of these prisoners actually require mental health services. The Offeror may meet the requirement of 10,000 total prisoners by aggregating the average daily population of all prisons, jails, or criminal detention centers where it provides mental health services regardless of whether or not each facility is part of a correctional system.

2.2.3 To a single prison, jail, criminal detention center, physical facility or single institution housing a minimum average daily population of 1,500 prisoners at least eighteen (18) years of age without regard to how many of these prisoners actually require mental health services.

2.3 Meeting these minimum requirements does not guarantee that the Offeror will be deemed responsible, have its Proposal deemed reasonably susceptible of being selected for award, or have its Proposal determined to be the Most Advantageous Proposal.

2.4 The experience of various personnel of the Offeror while employed by entities or organizations other than the Offeror shall not be considered in determining whether the minimum qualifications are met by the Offeror.

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SECTION 3 – SCOPE OF WORK

3.1 Background and Purpose

3.1.1 In accordance with the terms of this RFP which are incorporated by reference into the Contract, the Contractor shall provide all primary mental health services for all Inmates in the facilities listed in Attachment Q and such facilities as may be added during the Contract term.

3.1.2 These services are one component of the Inmate health services program within the Department. The Department has separate contracts for medical services, dental services and pharmacy services. These contracts are available online at [http://dbm.maryland.gov/proc-contracts/Pages/contract-library/DPSCSContracts.aspx](http://dbm.maryland.gov/proc-contracts/Pages/contract-library/DPSCSContracts.aspx). The Contractor has certain limited responsibilities in these areas as described in this RFP and is responsible for reviewing each of these Contracts.

3.1.3 The services provided in programs developed under this RFP shall be delivered in a manner that demonstrates understanding and respect for the diversity of the populations being served. Cultural Competence is the ongoing practice of integrating knowledge, information and data from and about individuals, families, communities and groups to improve the quality and acceptability of mental health care. In addition to cultural considerations such as primary language, ethnicity, age, gender identity, sexual orientation and spiritual practices, Mental Health Practitioners need to consider the cultural health and mental health beliefs, values and practices of the people receiving mental health services in a correctional setting. Recognizing recovery from mental illness is unique and individual, adapting approaches and interventions based upon the individual being served is necessary.

3.2 Scope of Work – General

3.2.1 The Contractor shall provide mental health services for all Inmates requiring such services including personnel, equipment (except as excluded herein), and supplies (other than onsite medications) and onsite specialists. Except as provided in §3.18 of this RFP, the total compensation for all services and equipment to be provided by the Contractor shall be as proposed by the Offeror in Attachment F.

Other than in CMHCs, psychology services in the institutions are provided by State employees. Except for the Eligible Persons Program and the Youthful Offender Program that are the responsibility of State Mental Health staff, psychiatry services in the institutions are provided by the Contractor.

The Contractor shall coordinate with the DPSCS Director of Substance Abuse Treatment, State substance abuse counselors and community programs for the provision of mental health support for medical substance abuse services. The Contractor is not expected to provide any substance abuse services, directly or indirectly. However, the Contractor is to coordinate and collaborate with the methadone treatment program provided by the Medical Contractor. The Contractor shall also provide psychiatric evaluations, psychiatric medication management, management of acute mental decompensation and suicidal or homicidal ideation for this population.

The Contractor shall work with the Department’s mental health staff, Other Healthcare Contractors, the Department’s Custody, social work, substance abuse and case management staffs to obtain the
best possible outcomes for Inmates with mental illness. Contractor shall have no control over any State staff. Attachment P includes a list of current State mental health authorized positions and vacancies by facility and qualification. Attachment X provides information about SREs and 7 Day Exams in FY 2016. Attachment Y is a summary of mental health services provided in 2015 and 2016.

The Contractor shall provide a consultant with documented training in gender dysphoria and gender re-assignment on an as needed basis who shall treat gender dysphoria in accordance with Directive OPS.131.0001- Identification, Treatment and Correctional Management of an Inmate Diagnosed with Gender Dysphoria (http://itcd.dpscs.state.md.us/PIA/ShowFile.aspx?fileID=1467). The consultant shall also provide training for Staff and, when needed, provide advice to the DPSCS Chief Medical Officer and the DPSCS Director of Mental Health Services and serve as an expert for the Office of the Attorney General in DPSCS litigation or complaints.

3.2.2 Currently, approximately 5500 committed Inmates have at least one Mental Illness. This number does not include those Inmates who are not committed or Inmates whose sole diagnosis is anti-social personality disorder. Of the 5500, approximately 1400 experience Serious Mental Illnesses including severe personality disorders. Inmates with severe personality disorders are not necessarily located in a CMHC. Institutions, their locations, their assigned SDA, and the security level of the institution are provided in Attachment Q. At the Department’s request, the Contractor shall participate in the development and transition plan for any new facility or mission change at any existing facility and shall send a representative to related meetings.

3.2.3 Contractor shall provide committed Arrestees with full mental health services. Arrestees who are not yet committed but are experiencing acute symptoms of mental illness and/or suicidal/homicidal ideation will be seen as an Emergency referral. Services for all Inmates whether or not committed are to be included in the Contractor’s staffing matrix and proposed price at no additional cost.

3.2.4 All Federal Inmates located in any DPSCS facility shall be treated in the same manner as other Inmates, including utilization management practices. The Contractor’s Contract Manager shall notify the Department’s Contract Manager via email with an inpatient daily report every time a federal Inmate has any Off-site hospitalization, including hospitalization at a State Mental Facility or receives any Emergency treatment.

3.2.5 Threshold, Inc. is a private non-profit organization that provides pre-release services for male Inmates from Baltimore City. An Inmate at Threshold will be provided routine care onsite at Threshold by Threshold staff. Mental health care that is beyond routine care shall be provided by the Contractor to Threshold Inmates in the same manner and on the same terms as those provided for Inmates in Departmental facilities. Inmates at Threshold who need care are transported to a DPSCS facility. Relevant provisions of the contract with Threshold are available as Attachment S. For more information about Threshold, please see: http://dpscs.maryland.gov/locations/thresh_links.shtml.

3.2.6 The Contractor shall provide consultation to the Department on matters of Inmate movement within Departmental facilities to ensure that the mental health needs of the Inmate patients are met.

3.2.7 The Contractor shall provide Emergency medical services (e.g., CPR) and first aid to Inmates, visitors and staff in CMHCs until the Medical Contractor can respond or the Inmate is transported to an Off-site medical facility for Emergency treatment.
3.2.8 At the request of the Department, the Contractor shall respond to all Custody Use of Force and similar incidents (e.g., incidents involving extreme harm or death or any incident that would create severe psychological distress) to evaluate and provide mental health services to Inmates and State staff. Contractor shall not be required to participate in the act of Custody extraction. Requests shall generally be made by phone. If the Medical Contractor requests assistance from the Mental Health Contractor in these incidents, the Mental Health Contractor is expected to assist.

3.2.9 The Contractor shall perform evaluations for competency to assist in issues of guardianship and in disciplinary proceedings in DPSCS facilities.

3.2.10 The Contractor’s work shall be subject to the oversight of the Department’s Contract Manager, the Department’s Director of Mental Health Services, the Department’s Chief Medical Officer and the Department’s Director of Nursing. The Department Contract Manager has the sole authority to order the Contractor to take specific actions that the Department deems administratively appropriate that are consistent with the terms of the Contract. The Department’s Director of Mental Health Services, Chief Medical Officer or Director of Nursing may order the Contractor to take specific actions that the Department deems clinically appropriate that are consistent with the terms of the Contract. The Department’s Chief Medical Officer shall have full and final authority to direct any clinical action under the Contract. In the event of a disagreement regarding clinical action, the decision of the Department’s Chief Medical Officer shall prevail.

3.2.11 No later than the Go-Live Date the Contractor shall be responsible for implementing the full terms of the integrated mental health care system described in the RFP and the Contractor’s Technical Proposal in coordination with the Department’s Mental Health Staff.

### 3.3 Multi-Contractor Model for Delivery of Inmate Health Care

3.3.1 The multi-disciplinary services system for the delivery of Inmate health care requires collaboration with Other Healthcare Contractors, subcontractors, Custody, and the Department. In order to meet the total health care needs of the individual Inmate in a timely, safe, and holistic manner, collegial relationships are to be fostered and maintained throughout the duration of the Contract.

3.3.2 As described within this RFP, the Department depends on regular meetings on an array of substantive issues to address Inmate health needs. The Contractor shall provide appropriate representatives to serve on and attend all committee meetings as required by the Department.

3.3.3 The Contractor shall participate in Quarterly Regional Multi-Disciplinary Trends/Cost Effective Practices Meeting with Other Healthcare Contractors to identify trends and promote cost effective practices for the delivery of clinical services. In addition to these meetings, the Contractor is expected to communicate routinely with the Other Healthcare Contractors.

3.3.4 Full integration of a health care system requires that there be collegial relationships between disciplines regardless of employer or contract holder. That integration extends to the Department and it is expected that the Contractor shall share information openly with the Department health care management team to ensure the Department is aware of positive progress as well as any adverse situations that arise throughout the term of the Contract. Accordingly, Contractor Staff should be
able to speak openly with Department representatives without filter or fear of retribution from the Contractor, either directly or indirectly.

3.3.5 As part of the multi-Contractor model, Contractor shall cooperate with Other Healthcare Contractors in scheduling clinics to assure that Inmates will receive appropriate care from all Contractors.

3.3.6 When the Mental Health and Medical Contractors are unable to effectively and timely resolve issues regarding the management of health care needs for Inmates with Mental Illness, these issues will be brought to the attention of both the Department’s Director of Mental Health Services and the DPSCS Chief Medical Officer for resolution.

3.4 Start Up and Kick-off Meetings

3.4.1 Within three (3) Business Days of Contract Commencement and for up to sixty (60) days following Contract Commencement, the Contractor shall be required to attend mandatory Weekly Start Up Meetings with the DPSCS Contract Manager at the Reisterstown Road Office Complex. At the sole discretion of the DPSCS Contract Manager, any of these meetings may be conducted via teleconference.

3.4.2 The Contractor shall also be required to attend four Contract Kick-off Meetings, one covering each of the SDAs, during which DPSCS representatives will provide an introduction of the Contractor and an explanation of the Contract specifications and provisions.

These Contract Kick-off Meetings will be held between 40 and 50 days after Contract Commencement. Each Kick-off meeting will be held within the geographic confines of the SDA for which it is being held. The specific time, date and location for each Kick-off Meeting will be determined by the DPSCS Contract Manager in cooperation with the Contractor. At least ten (10) days’ notice of each meeting will be provided to the Contractor.

3.4.3 At a minimum, Contractor’s Contract Manager and the Contractor’s Statewide Mental Health Director must attend all Weekly Start Up meetings and all Contractor Kick-off meetings. Attendance at meetings is included in the Contractor’s fixed price and shall not be separately billed.

3.5 Consent Decrees and Litigation

3.5.1 The Department is subject to a consent decree in Carter v. Kamka, 515 F. Supp. 825 (D. Md. 1980) under which the Department contracts with an independent Legal Services Provider (“Legal Services Provider”) to provide legal assistance to Inmates. The current Legal Services Provider is the Prisoner Rights Information System of Maryland, Inc. (“PRISM”). In accordance with the Carter v. Kamka consent decree, the Contractor agrees to fully cooperate with the Medical Contractor in assuring that mental health records are available as requested by the Legal Services Provider.

3.5.2 The Department is a party to a Settlement Agreement dated November 18, 2015, and approved by the Court as amended on June 28, 2016, in DuVall v. Hogan, United States District Court for the District of Maryland Civil Case No. 1:94-CV-02541-ELH. The Settlement Agreement affects mental health services rendered to Inmates confined at certain DPDS facilities. The Settlement Agreement and the Amendment to the Settlement Agreement are available as Attachment T. The
Contractor shall fully comply with the provisions of the Settlement Agreement and shall indemnify the Department for any violations occurring during the course of the Contract arising from the failure of the Contractor to deliver mental health services as required under the Settlement Agreement and this RFP. This indemnity obligation shall survive the termination or expiration of the Contract.

3.5.3 If the Contractor is sued regarding any activity under this Contract, the Contractor shall provide the DPSCS Contract Manager and the DPSCS Director of Mental Health Services with a copy of the Complaint as soon as possible after service of the Complaint. The Contractor shall notify the DPSCS Contract Manager when (1) dispositive motions are filed; (2) discovery proceedings are held; (3) a trial date is set; (4) the trial is held; (5) the judgement is rendered; and (6) an appeal is noted. All rulings on dispositive motions, judgments and settlements, and the terms of any judgment or settlement shall also be reported, regardless of whether the named defendant is the corporate defendant, a corporate subcontractor, or an individual employed by the Contractor or a subcontractor if the suit arises from performance of the services under this RFP and resulting Contract.

3.5.4 For any claim filed with the Contractor, the Contractor shall cooperate with the Department with the defense of such claim. For any claim filed with the Department, the Department will notify the Contractor and will coordinate with the Contractor for any necessary information needed in the suit.

3.5.5 The Contractor shall provide any fact or expert testimony required in any litigation arising from a claim relating to services rendered under the Contract. This requirement shall survive the expiration or termination of the Contract.

3.5.6 The Contractor shall have no responsibility for forensic proceedings challenging competency or criminal responsibility. Forensic proceedings challenging competency or criminal responsibility are handled by the Department of Health and Mental Hygiene. The Contractor may be required to participate in litigation involving non-forensic issues of competency.

3.5.7 The Contractor shall cooperate with the Department’s internal investigatory process and State employee disciplinary process as directed by the Contract Manager. Such cooperation shall include, but not be limited to, providing and making its employees available to provide oral or written statements, testimony, or documents in a timely manner and without requiring a subpoena.

3.6 Contractor Staffing

3.6.1 The Department has identified the recommended clinical and non-clinical staffing plan for the Contract in Attachment R. The Department believes that its suggested staffing plan is appropriate to perform the scope of work outlined in this RFP but the Offeror may propose a different staffing plan. Contractor shall use Attachment R as the basis for its staffing plan but shall track any changes to Attachment R so that the difference between the Department’s plan and the Contractor’s plan is evident. Contractor’s plan should also include minimum hourly rates for each position in Attachment R or its plan. The final staffing plan submitted in response to 4.4 Tab F shall be formalized as the Contractor’s initial staffing plan. Any changes to the staffing plan must be approved in writing by the DPSCS Contract Manager and the DPSCS Director of Mental Health Services. No certified medication administration aides may be utilized under the Contract.
The average daily population of each facility for Fiscal Years 2014 through 2016 is provided in Attachment W. For informational purposes only, the Department’s estimate of average daily population (including non-committed Inmates) is:

<table>
<thead>
<tr>
<th>FY</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2017</td>
<td>22305</td>
</tr>
<tr>
<td>FY 2018</td>
<td>21680</td>
</tr>
<tr>
<td>FY 2019</td>
<td>21050</td>
</tr>
<tr>
<td>FY 2020</td>
<td>20425</td>
</tr>
<tr>
<td>FY 2021</td>
<td>19800</td>
</tr>
</tbody>
</table>

3.6.2 Upon thirty (30) days written notice, at any time during the Contract term, the Department’s Chief Medical Officer may direct the Contractor to re-allocate positions among facilities with no increase in cost. Upon thirty (30) days written notice, at any time during the Contract term, the Department’s Chief Medical Officer may direct the Contractor to add or reduce positions. If positions are added, the Contractor shall be entitled to an increase in the Contract price based on the minimum hourly rate specified in the Contractor’s Technical Proposal for such position adjusted by the Overhead Percentage multiplied by the number of hours that the position will be filled in a Contract Period. If positions are eliminated, the Department shall be entitled to a decrease in the price based on the minimum hourly rate specified in the Contractor’s Technical Proposal for such position adjusted by the Overhead Percentage multiplied by the number of hours that the position will be unfilled in a Contract Period. Any added positions shall be included in the Fill Rate and any eliminated positions shall be removed from the calculation of the Fill Rate.

3.6.3 In addition to a staffing plan, the Contractor shall provide an organization chart. The final organization chart submitted in response to RFP § 4.4 Tab F shall be formalized as the Contractor’s initial organization chart.

3.6.4 At least fifteen (15) Business Days before the start of each Contract Period beginning with the second Contract Period, the Contractor shall submit a staffing plan which reflects its then current staffing arrangement for approval by the DPSCS Contract Manager and the DPSCS Director of Mental Health. This Annual Staffing Plan shall indicate all positions working under this Contract, either On-Site or at a Contractor Off-site location in Maryland such as a regional office, including the typical work hours and location for each position. Each Annual Staffing Plan shall highlight staff additions or deletions by location, since the initial staffing plan or the then current Annual Staffing Plan, as applicable and shall provide the rationale for any changes. Total changes (whether increases or decreases) in the number of Staff working under the Contract shall also be specifically described. Off-site refers to Contractor personnel that might work in a central administrative, or regional or home office and that provide assistance with the delivery of mental health services as required by the RFP, but typically do not do so On-site. Such assistance might be in areas such as: developing/adapting/updating policies and procedures; developing and/or providing training; IT support; validating and updating Staff credentials; Staff recruitment/retention activities; maintaining statistics and/or creating reports.

3.6.5 The Contractor shall generate a monthly facility staffing schedule for every facility, 10 days prior to the start of the next service month. The monthly schedule shall reflect required hours for every position at every facility. The monthly schedule must be submitted to and approved by the
Department Contract Manager, the Department Director of Mental Health Services and the Department Regional Director of Mental Health. ACOMs shall be able to make entries into the system for approval or disapproval of schedule changes. The staffing schedules shall be added to the document management system.

3.6.6 Except as provided in 3.6.7, the Contractor shall maintain a minimum 96% Fill Rate for each position in accordance with the Contractor’s current DPSCS approved staffing plan. The 96% Fill Rate will be calculated for each facility and separately for each position based on the total number of hours provided per month versus the aggregate number of hours required by the current staffing plan. Liquidated Damages will be assessed for the failure to maintain a 96% staffing level for each position listed in the DPSCS approved staffing plan Department-wide. Attachment V lists the schedule of Liquidated Damages.

3.6.6.1 No later than 10th day of the following month the Contractor shall submit a report to the DPSCS Contract Manager that summarizes the position hours required versus position hours provided during the preceding month. The Contractor shall provide any additional information requested by the DPSCS Contract Manager necessary to review and verify information in the report. This report will be used by the Department to calculate any liquidated damages due the Department for the preceding month.

3.6.6.2 No later than the 10th of each month, the Contractor shall ensure the staff scheduling database is updated to reflect all vacancies existing as of the first day of that month.

3.6.6.3 The time spent in orientation and in-service training by Clinicians and Mental Health Professionals will count toward the hours required by the Contract (i.e. the 96% fill rate), as long as the orientation or training is required by the Department for facility access or facility accreditation. Time for continuing education required by professional licensing boards does not count toward the hours required by the Contract. Hours provided via telemedicine by appropriate Mental Health Professionals will count toward the required staffing matrix hours.

3.6.7 Nursing positions for CMHCs and sick call must be staffed at all times in accordance with the Contractor’s current DPSCS approved staffing plan, regardless of vacancies or absences (i.e., staffing must be at 100% of approved staffing plan). Liquidated damages for failure to attain the 100% Fill Rate shall be calculated as described in Section 3.6.6 except that 100% shall be substituted for 96%.

3.6.8 In addition to the liquidated damages for failure to achieve a 96% fill rate, if a Mental Health Professional vacancy exists for more than 30 days and the Contractor fails to engage replacement personnel, beginning on the thirty-first (31st) day and continuing each day until such time that the position is filled, the Contractor shall pay liquidated damages equal to the minimum hourly rate for such position listed in the Contractor’s Technical Proposal adjusted by the Overhead Percentage multiplied by the number of hours for which the position is vacant.

3.6.9 The Contractor may not hire (1) a Statewide Contract Manager or Regional Contract Managers without the approval of the DPSCS Contract Manager; (2) a Statewide Mental Health Director or Regional Psychiatrists without the approval of the DPSCS Director of Mental Health and the DPSCS Chief Medical Officer; (3) Statewide and Assistant Directors of Nursing without the approval of the

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DPSCS Director of Nursing; or (4) a Clinical Director of a CMHC without the approval of the DPSCS Director of Mental Health Services. A resume of each candidate shall be submitted to the appropriate DPSCS Manager/Director who may require, prior to the completion of the hiring process, a meeting with the Contractor’s Contract Manager to review the credentials and approve candidates for all Statewide and regional positions.

3.6.9.1 If Statewide or regional managers or directors are hired without the required approvals and the qualifications do not meet the requirements for the position, regardless of staff level or length of service, the Department reserves the right to exclude Staff from the institution and to consider the absence a failure to provide Staff in accordance with the then current staffing plan.

3.6.10 Contractor shall not restrict the transfers of Staff filling RN or LPN positions among different DPSCS facilities and shall prohibit its subcontractors from restricting such transfers.

3.6.11 The Contractor will provide a monthly report to the Director for Mental Health Services of all vacancies, recruitment efforts, and proposed new hires by position and vacancy or start date, as applicable. Additionally, the Contractor shall submit any and all materials requested by the Department for review when making qualification decisions, including a signed application for employment.

3.6.12 During the Contract term, neither the Contractor nor any of its subcontractors shall hire State employees (full-time, part-time, temporary or contractual) to provide services under the Contract.

3.6.13 No position shall be filled by more than two people at the same time.

### 3.7 Contractor’s Management

3.7.1 The Contractor shall provide professional management services and oversight of all Mental Health Professionals and all other Staff by qualified mental health, nursing, and administrative leadership. The Contractor shall provide strategic operational planning as well as clinical and administrative consultation at the Department’s request. The management structure indicated on the organization chart shall constitute a critical component of the staffing pattern for which the Contractor is obligated.

3.7.2 The Contractor shall have a Statewide Mental Health Director and a Statewide Director of Nursing and shall also have four Regional Psychiatrists and a Psychiatrist who shall not be assigned to an SDA but shall be available to provide psychiatric services when a Psychiatrist or a Mental Health Nurse Practitioner is absent for any reason. Regional Psychiatrists shall have both clinical and administrative duties including Non-Forms, monthly S/P meeting and ARP investigations. These positions are separate and distinct from the Contractor’s Contract Manager. Except for a period not to exceed ninety consecutive days during an active recruitment to fill a position and only with the approval of the DPSCS Director of Mental Health Services, Mental Health Practitioners may not fill both a position as a Mental Health Practitioner and as a Contractor Statewide or Regional Manager or Director.

3.7.3 Contractor’s Regional Mental Health Directors shall report to the Contractor’s Contract Manager and the Contractor’s CQI Manager. Contractor Mental Health Practitioners and all other Staff shall
report to the appropriate Contractor Regional Psychiatrist who in turn shall report to the Contractor’s Statewide Mental Health Director for all clinical related activities. The Clinical Directors of CMHCs will report to the Statewide Mental Health Director. Psychiatric nurses shall report to the Contractor’s Statewide Director of Nursing.

3.7.4 Administrative management shall not make clinical determinations. Clinical determinations shall be made by Mental Health Practitioners in consultation with and support of the Contractor’s Mental Health Director, Regional Psychiatrists, Clinical Director and Directors of Nursing.

3.7.5 Requests for leave of more than ten (10) Business Days by Contractor’s Statewide or regional Directors or Managers shall be submitted to the DPSCS Director of Mental Health Services for approval, at least thirty (30) Business Days before the leave is to begin. Contractor shall coordinate Staff schedules so that Statewide and regional Directors, Psychiatrists, Clinical Directors and Managers are not on leave simultaneously. The DPSCS Director of Mental Health Services has the right to refuse the requests for leave based on the needs of the Department.

3.7.6 The Contractor shall conduct internal Monthly Administrative and Clinical Meetings, or at a greater frequency if so identified in its final Technical Proposal. Written minutes of those meetings shall be provided to the DPSCS Contract Manager and shall be added to the document management system.

3.7.7 The Contractor shall adopt and implement policies that clearly communicate the responsibility, accountability, and consequences of Staff’s failure to perform tasks related to specified duties. The Department shall have the right to review actions taken by the Contractor and documentation related to Staff who are identified as not meeting the obligation of the Contract related to any and all aspects of Inmate mental health services.

3.8 Staff Qualifications and Credentials

3.8.1 The Contractor shall employ only those Mental Health Professionals who maintain the proper training, licenses, certificates, cooperative agreements and registrations required by the various Health Occupations Boards under Maryland and federal law. All Mental Health Professionals shall only perform duties within the scope of their license or certification.

3.8.2 The Contractor must submit to the CCHU and the ACOM for pre-employment approval, all required credentialing documentation prior to initiation of new Staff orientation. The credentialing documentation and the approval by the CCHU and the ACOM will be posted in a folder for each Staff in the document management system.

3.8.3 The following documentation is the minimum documentation that must be submitted and retained by the Contractor for each Staff.

3.8.3.1 For all Staff:

(1) Signed application;
(2) Verification of at least 3 professional references;
(3) Documentation of DPSCS pre-employment background check;
(4) Evidence of pre-hire drug screen (conducted by an independent third-party) with negative result;
(5) Current CPR and AED certification. Proof of on-line education and certification is acceptable;
(6) PREA Certification; and
(7) All medical information required for Staff to meet minimal standards of health such as Tuberculosis and Hepatitis B screening.

3.8.3.2 Additional credentials for Mental Health Professionals:

(1) Verification of education, training, work history for the past five years, including name and title of person who verified employment and date on which verification occurred;
(2) Current license to practice in Maryland;
(3) Current Board certification or board eligibility in psychiatry and neurology (Psychiatrists only);
(4) Copy of the Mentor designation for CRNPs with less than 18 months of practice in any State (for Mental Health Nurse Practitioner’s only);
(5) Documentation of one year of mental health training (for Mental Health Nurse Practitioner’s only);
(6) Current DEA and CDS certificate(s);
(7) National Practitioner Data Bank self-inquiry submission results; and
(8) Board of Physicians Practitioner’s Profile for those Clinicians who are licensed by the Board of Physicians.

3.8.3.3 Additional credentials for RNs and LPNs:

(1) Current license to practice in Maryland. Out of state nursing licensure must include documentation explaining permission to work with a compact license and include state issued identification for verification of residency; and

(2) Documentation of at least one year of continuous experience providing nursing services to mentally ill patients at a mental health or correctional facility with five or more beds for mentally ill patients during the past 10 years (Psychiatric Nurses only).

3.8.3.4 Additional requirements for all other Mental Healthcare Professionals:

(1) Current Maryland license or certification to practice.

3.8.4 All Staff will be subject to a pre-employment background criminal records check by the Department. All Staff must report to CCHU or a satellite location to submit fingerprints to the Department to complete the background check. This requirement applies to all Staff, including a person who was previously employed by the State, the Contractor, or Other Healthcare Contractors if there is a gap in employment. If the Contractor elects to conduct its own preliminary fingerprinting and criminal history check on prospective Staff, it shall be at the Contractor’s expense. The Department will still perform an official check at no cost to the Contractor. Criminal background checks may be required at any time while the Staff is assigned to perform services under this Contract.
3.8.5 All Staff will be subject to pre-employment drug testing and random drug testing during the term of the Contract. Positive drug test results will result in immediate termination of the Staff from the Contract.

3.8.6 Tours of a facility for prospective new employees will be coordinated with the DPSCS Regional Assistant Director of Mental Health.

3.8.7 Proof of completion of required pre-employment training shall be included in the Staff’s credentialing folder.

3.8.8 No Staff is permitted to begin work in the facilities until all credentialing documentation has been received and approved and all background checks, drug testing and orientation have been completed. Once all these processes are completed, the CCHU shall notify the Contractor. The ACOM shall post approval to begin work in the Staff’s file in the document management system.

3.8.9 All individuals who were employed as Staff under the prior Mental Health Services Contract must complete the entire credentialing (including background checks and drug testing) process under the new Contract with the new Contractor within 60 days of the Go-Live Date. The Contractor may request an extension for background checks and drug testing for these Staff if there is documentation in the files transferred by the prior Contractor that the Staff were subject to such checks and testing upon hiring. Such extension shall not exceed 90 days after the Go-Live Date and is subject to the approval of the DPSCS Contract Manager.

3.8.10 The Contractor’s Statewide Mental Health Director must be a physician licensed in Maryland and be Board certified in Psychiatry and Neurology. Contractor’s Regional Contract Managers must be Mental Health Professionals with at least a Master’s Degree in the mental health field.

3.8.11 The Contractor’s Statewide Director of Nursing must be a masters level Registered Nurse registered in Maryland. Contractor shall provide an Assistant Director of Nursing for each CMHC and one for the Baltimore Pre-Trial Complex. Each Assistant Director of Nursing must have at least a Bachelor’s Degree in Nursing.

3.8.12 Mental Health Practitioners shall not be used to provide administrative duties.

3.8.13 ACOMs, Regional Assistant Directors of Mental Health, and the Mental Health Department Head for the facility shall be provided the opportunity to review the credentials and to meet with candidates for Psychiatrist, Psychiatric Nurse, or Mental Health Nurse Practitioner and provide input to the DPSCS Director of Mental Health Services who may direct the Contractor that the individual not be hired.

3.8.14 The Contractor shall use the web-based document management system for the storage, retrieval, reporting and auditing capabilities for credentials of all of the Contractor’s Staff. At a minimum, the Contractor shall include:

(1) Current policies and procedures that define the credentialing;
(2) All credentialing related documents;
(3) Prior to the performance of any services under the Contract and within five days after the renewal date of any credential, evidence of all federal, state and local licenses, certificates,
registrations, cooperative agreements and specialty board certifications or notices of eligibility for certification, that are legally required for any Staff.

### 3.9 Staff Retention and Compensation

3.9.1 Recruitment and retention of qualified Staff helps the Contractor fulfill its obligations under the Contract. Inmates also benefit from the stability of the Contractor’s workforce. Accordingly, the Contractor shall take all reasonable actions to minimize both the number and duration of Staff vacancies. To this end the Contractor shall make all reasonable efforts to hold annual Staff turnover to less than 10%.

3.9.2 Among the important means to achieve a stable workforce is the payment of adequate salaries and wages, along with attractive employee benefits. To help assure the adequacy of wages, salaries and benefits, Offerors shall identify minimum payment rates (wages and salaries) for each position listed on [Attachment R](#) and any additional positions identified by the Offeror as necessary to the performance of the Contract. The Offeror shall also identify benefits available to its personnel and other means of recruiting and retaining Staff. However, in no instance may the minimum payment rate for any position be less than permitted under the State’s Living Wage law.

3.9.3 No more than 30 days after the Go-Live Date, the Contractor shall submit an affidavit to the DPSCS Contract Manager certifying that the wages and salaries being paid for all positions are at least the level of the payment rates per position contained in its Technical Proposal. In addition, no more than 30 days after the Go-Live Date, the Contractor shall submit to the DPSCS Contract Manager signed statements from no less than 10% of its Staff (selected by the DPSCS Contract Manager) in each different type of position (e.g., Psychologist, Mental Health Nurse Practitioner, LPN, Psychiatrist, clerks, etc.), including subcontractor Staff, that the Staff are receiving at least the minimum hourly rate for the position as specified in the Contractor’s Technical Proposal. In instances when fewer than ten Staff occupy any type of position, a signed statement shall be submitted for at least one person occupying that position.

3.9.4 These signed statements shall identify the:
- Name of the person making the statement;
- Position;
- Assigned work location;
- Minimum payment rate for the position as per the technical response;
- Signature of the person; and
- Date of the signature, which cannot be earlier than the Go-Live Date, nor later than 30 days after the Go Live Date.

3.9.5 No more than 30 days after the start of the each subsequent Contract Period the same affidavit for all Staff and certifications of at least 10% of Staff as described in § 3.9.3 shall be submitted to the DPSCS Contract Manager. The Staff certifications for each Contract Period shall be from different persons than those submitted previously, unless there are too few persons occupying a given position for this to occur, in which case the certification may be submitted from a person who has previously submitted one. In addition to the annual sample certifications, at any time during the Contract term, the DPSCS Contract Manager may select Staff and require a certification that wages are being paid as described on the Contractor’s most recent annual affidavit.
3.9.6 If it is determined that any Contractor Staff are receiving less than the payment rate contained in the Contractor’s Technical Proposal, the Contractor must immediately adjust the payment rate for such Staff to the rate contained in the Contractor’s Technical Proposal and make restitution to each such Staff for the difference between the person’s actual payment rate and the rate contained in the Contractor’s Technical Proposal plus 5% of this difference as a liquidated damage. The Contractor shall make restitution (including the liquidated damages) to the Staff within thirty (30) calendar days of notification by the Contract Manager. Failure to make such restitution as required shall result in the imposition of liquidated damages payable to the State of an amount equal to the difference between the actual payments to the affected Staff and the rate contained in the Contractor’s Technical Proposal.

3.10 Orientation and Training

3.10.1 The Contractor shall develop and maintain a comprehensive competency based orientation program for new Staff and shall provide an annual refresher training program for all Staff which shall be detailed in a Training Manual. Training shall be in compliance with MCCS, NCCHC and ACA standards, and the applicable practice requirements of any regulatory body with jurisdiction over the provision of mental health services. No Staff may begin work without completing Contractor’s orientation program. The orientation program shall include, at a minimum, the following:

(1) Alcohol and detoxification management CIWA/COW;
(2) Basics of working in a prison setting;
(3) Basics of working with individuals with serious mental illness;
(4) Confidentiality;
(5) Contractor policies and procedures including how to access them;
(6) Correctional mental health best practices;
(7) CPR;
(8) Departmental organization;
(9) Departmental policies and procedures, including how to access these policies and procedures;
(10) Documentation;
(11) EPHR;
(12) Emergency medication;
(13) Emergency response;
(14) Facility specific operational requirements
(15) Gender dysphoria
(16) HIPAA;
(17) Limits of the scope of responsibility of the Staff’s discipline;
(18) Managing manipulative behavior;
(19) Medication administration;
(20) Medication ordering for release;
(21) Mental health care best practices;
(22) PREA;
(23) Prescribing practices;
(24) Special Confinement area rounds and medication administration as a specialty;
(25) Sexual assault;
Within 30 days before or after the annual anniversary date of the initial training, refresher competency training shall be held in each of the areas listed above.

The Nursing orientation plan shall also include a mentorship with a professional nurse mentor with documented evidence that enables the nurse to be called a mentor. A roster of available mentors and persons assigned to those mentors shall be made available upon request of the DPSCS Director of Nursing or ACOM.

3.10.2 The orientation plan, an orientation manual and schedule including all orientation materials shall be described in the Offeror’s Technical Proposal and a final orientation plan, manual and schedule shall submitted to the DPSCS Director of Mental Health Services, DPSCS Chief Medical Officer and DPSCS Director of Nursing electronically no later than thirty-five (35) days after Contract Commencement. The DPSCS Director of Mental Health Services, DPSCS Chief Medical Officer and DPSCS Director of Nursing shall have up to fifteen (15) days to review the manuals and provide comments. The Contractor shall notify the DPSCS Director of Mental Health Services, DPSCS Chief Medical Officer and DPSCS Director of Nursing, within ten (10) days of receipt of the comments, that the final policies and procedures manuals with the agreed upon corrections are electronically available.

The orientation plan, manual and schedule shall be updated no less frequently than annually. The final orientation manual and all updates shall be added to the document management system. The DPSCS Contract Manager shall be notified of all changes to the orientation manual.

The orientation plan shall provide competency check lists evidencing successful completion of competency training, which shall be accessible in the credentialing files of all licensed personnel and of all personnel working under the license of professional personnel. The orientation plan shall require orientation of all Clinicians at the facilities to which they are assigned and shall require that all Clinicians meet with State Mental Health Staff and the administrative staff of the Warden at the facilities to which they are assigned.

3.10.3 In accordance with MCCS requirements, signed paper logs of attendance for all orientation and training programs shall be maintained and available on request. Electronic copies of the logs shall be added to the document management system no later than thirty (30) days after the training.

3.10.4 All trainers shall possess the credentials, licenses and/or certificates required by law and regulation to provide the training and continuing professional orientation.

3.10.5 Contractor shall also permit Department staff and Other Healthcare Contractors’ and subcontractor’s staff to attend its non-Contractor specific or non-confidential orientation and in-service training as space allows.

3.10.6 In addition to the annual refresher training, no later than thirty (30) days after having been notified by the DPSCS Contract Manager, DPSCS Director of Mental Health Services, DPSCS Chief Medical Officer or DPSCS DON of any new Department directives, manuals, policies, protocols,
and/or procedures, or within thirty (30) days of adopting modifications to its own policies, procedures, etc., the Contractor shall provide training to those Staff members that may be required to apply the new policies.

3.10.7 All Mental Health Professionals shall have skills training and testing (not paper based) at least quarterly in Emergency care including checking vital signs, operation of an AED, CPR, use of naloxone for drug overdoses, starting IV fluids, and use of oxygen. Documentation of successful completion of the training shall be included in the Staff’s personnel folder in the document management system and in the training database. In addition, a report of all participants in the training shall be provided to the DPSCS Director of Mental Health Services. Failure to provide the training or include it in the personnel folder or in the training database or failure to provide the report shall result in liquidated damages as provided on Attachment V.

3.10.8 No later than thirty (30) days after Contract Commencement and monthly thereafter, the Contractor shall develop and maintain documentation and will add to the document management system the following:

1. Logs of Staff attendance and Other Healthcare Contractor staff at Contractor orientation, training and refresher training sessions;
2. Logs of Staff credentialing/license renewals;
3. In-service training schedules;
4. Documentation of security training; and
5. Date of peer review completion.

3.10.9 In order to attend training in lieu of working their normal hours, Contractor’s Staff shall submit a written request to the appropriate Department manager (Director of Mental Health Services for Psychiatrist, Psychologist, Mental Health Nurse Practitioners, Licensed Clinical Professional Counselors, DON for Psychiatric Nurse, Registered Nurse and LPNs, and DPSCS Contract Manager for non-Mental Health Professional managers) at least thirty (30) days in advance of the proposed training date. The request shall include: (1) the title or subject, date, time and approximate duration of the training; (2) the position(s) covered by the request; (3) the amount of time authorized for the training, including reasonable travel time if the training is less than 8 hours; and (4) a plan for service delivery that addresses how services will continue to be provided during the absence of the Staff attending the training. No authorization will be granted until the Department is assured that all positions will be staffed or covered in a manner that will not interrupt services. As appropriate, the DPSCS Manager/Director may approve the substitution of training for work duties. Requests submitted with less than thirty (30) days advance notice may be considered for approval.

3.11 Security Training

3.11.1 No Staff may enter a Department facility or perform any Contract related duty On-site until the individual has taken mandatory DPSCS pre-service/security orientation and training which is generally 40 hours in duration. Existing Staff of the current contractor who will continue employment with the Contractor need not repeat the training. Staff shall receive DPSCS approved refresher security training of approximately 8 hours at least annually.
3.11.2 DPSCS generally has an average of 8–10 slots per month available for training for Contractor Staff. If a need arises for expedited training, DPSCS will facilitate the training. If the Contractor has Staff ready for training, but DPSCS has no training slots available, liquidated damages will not be assessed because the failure to fill a position is not caused by the Contractor.

3.11.3 Individuals re-hired as Staff after a break in service must retake the required security orientation and training before entering a Department facility unless the return to service occurs in the same calendar year as the departure.

### 3.12 Contractor Staff Time Reporting

3.12.1 The Contractor shall use the web-based biometric timekeeping system that is provided by the Medical Contractor. The Mental Health Contractor will have administrative rights to maintain its own portion of the System. The Contractor may elect to use a system that it provides at its own cost but the Contractor must provide an interface with the system provided by the Medical Contractor at its sole cost and expense. The current Medical Contractor uses the Kronos timekeeping system. Contractor shall make all Staff available for training in using the system before beginning work. The system will be available to the Contractor at no cost.

3.12.2 The system will provide extensive data analysis capabilities, including a comparison of hours provided versus hours required for every position by facility and SDA by the 10th of the month following each service month; and records changes made to Staff schedules or any changes made to Staff’s time and attendance records.

3.12.3 DPSCS personnel (and other State employees as approved by the DPSCS Contract Manager) shall have searchable read-only access to the timekeeping system.

3.12.4 In addition to using the biometric timekeeping system, all Staff shall sign in and out on forms provided by the Department whenever such person enters or leaves a work site. This sign in and sign out procedure is for site security purposes and is mandatory.

### 3.13 Contractor Staff Institutional Security

The Contractor and Staff shall follow all of the security regulations of the Department. Violation of the security regulations by the Contractor or Staff is sufficient cause for: (1) replacement of the individual violating the security regulations; (2) replacement of a subcontractor; and (3) in accordance with COMAR 21.07.01.11, termination of the Contract.

### 3.14 Contractor Staff Disciplinary Actions

3.14.1 The Contractor is responsible for actions and omissions of all Staff providing services under this Contract. The Contractor shall ensure that Staff complies with all Departmental policies, procedures and directives. If there is any conflict between the Contractor’s policies and those of the Department, the Department’s policies shall prevail.

3.14.2 Within twenty-four hours of any disciplinary action, the Contractor shall simultaneously inform the DPSCS Chief Medical Officer, the DPSCS Director of Mental Health Services and the DPSCS DON.
of all disciplinary actions, including the identity of the individual, the reason for the disciplinary action and the nature of the disciplinary action taken against any Staff who provides any services required under this Contract. Contractor shall provide immediate notice to the DPSCS Chief Medical Officer, the DPSCS Director of Mental Health Services and the DPSCS DON of any Staff who have been prohibited by any facility management from entering a facility or who have left their post without notice or approval. The Contractor shall provide any documentation of the incident requested by the DPSCS Chief Medical Officer and DPSCS DON. Failure to report Staff disciplinary actions will result in assessment of liquidated damages.

### 3.15 Telephones; Minimizing Waste

3.15.1 The Department will provide to On-site Staff such onsite telephone services, utilities service and office space as provided to Department employees.

3.15.2 The Contractor shall have cell phones available for Staff to use in the event Department phones are not active. Cell phones shall comply with DPSCS security and inventory procedures. Staff may not use personal cell phones within the facilities.

3.15.3 The Contractor shall require Staff to keep a log of all long distance calls (including those made to the Contractor’s offices if located outside the local calling area) made from Department phones and provide it to the Department Contract Manager monthly. The log shall list the date, time, phone number, name of the party called and name of the person making the call. The Department will determine the cost of such calls and, at the option of the Department Contract Manager, either submit a bill to the Contractor for payment, or deduct the cost of long distance phone service from payments made to the Contractor, via an itemized offset against an invoice.

3.15.4 The Contractor shall encourage its onsite Staff to conserve utilities, and minimize non-biological waste by conserving and recycling.

### 3.16 Contractor Policies and Procedures

3.16.1 The Department must approve the policies and procedures of the Contractor pertaining to the delivery of services under the Contract prior to implementation. The Contractor’s policies and procedures must (1) be consistent with Department policies and procedures; (2) comply with ACA, NCCHC, and MCCS standards and applicable Maryland statutes, regulations, policies and guidelines and (3) take into account any restrictions or requirements placed on licensure by the respective licensing boards. Disputes about conflicts between Department and Contractor policies and procedures will be decided by the DPSCS Contract Manager or the DPSCS Chief Medical Officer, as appropriate, and the decision shall be final.

Current Department policies and procedures, including Clinical Services and Inmate Health Manuals may be found at: [http://dpscs.maryland.gov/pia/index.shtml](http://dpscs.maryland.gov/pia/index.shtml). The Department currently has Health Manuals on the following topics: Administration, Chronic Disease, Infection Control, Infirmary Care, Inmate Deaths, Medical Evaluations, Medical Records, Pharmacy Services, Pregnancy Management, Sick Call, and Substance Abuse.
3.16.2 Draft policies and procedures manuals shall be described in the Contractor’s Technical Proposal and shall be submitted to the DPSCS Director of Mental Health Services, DPSCS Chief Medical Officer and DPSCS Director of Nursing electronically no later than thirty-five (35) days after Contract Commencement. When submitting the draft policies and procedures for review, the Contractor will highlight those portions of its policy and procedure manuals that are not covered in DPSCS manuals. The DPSCS Director of Mental Health Services, DPSCS Chief Medical Officer and DPSCS Director of Nursing shall have up to fifteen (15) days to review the manuals and provide comments. The Contractor shall notify the DPSCS Director of Mental Health Services, DPSCS Chief Medical Officer and DPSCS Director of Nursing, within ten (10) days of receipt of the comments, that the final policies and procedures manuals with the agreed upon corrections are electronically available.

3.16.3 Contractor’s policies and procedures shall be reviewed and updated at least once in every twelve (12) month period from the Go-Live Date and no later than the anniversary date of the Go-Live Date. A statement signed by the Contractor’s Statewide Medical Director in Maryland confirming that such a review has been conducted, along with any revisions, shall be submitted to the Department Director of Mental Health Services, Department Director of Nursing, Department Contract Manager and Department Chief Medical Officer by the scheduled review date. The statement shall specifically note what changes have been made and where the changes may be found in the document. Failure to demonstrate annual policy review shall result in liquidated damages.

3.16.4 Policies and Procedures shall include, but are not limited to, direction regarding the following:

1. Administrative matters;
2. ARP and grievance process;
3. Certification and Emergency petitions;
4. CMHC operations;
5. Continuous Quality Improvement;
6. Emergency care;
7. Emergency medication;
8. Emergency management plans;
9. Equipment and supply inventory control;
10. Gender specific policies, e.g. restraining pregnant females;
11. Guardianship and surrogate decision making;
12. Health education programs;
13. IMMS process;
14. Infection control;
15. Infirmary care in CMHCs;
16. Inmate deaths and mortality review;
17. Inspection and repair plans;
18. Integration of medical services with the Medical Contractor
   a. Coordination of services;
19. Integration of pharmacy services with Pharmacy Contractor
   a. Non-Formulary process;
20. Medical records;
21. Medication administration and medication administration practices;
22. On-call policy
23. Palliative care;
24. Psychiatric evaluation;
(25) Release planning
(26) Restraints
(27) Risk management;
(28) 7 day mental status exam;
(29) Special Confinement area rounds;
(30) Sick Call;
(31) Specialty care;
(32) Suicide prevention and risk evaluation;
(33) Telepsychiatry
(34) Utilization management and utilization review; and
(35) Withdrawal and detoxification practices.

3.16.5 The Contractor shall add all of its final policies and procedures to the document management system.

3.17 Reports, Databases, Meetings, Agendas, Minutes

3.17.1 Contractor shall hire a report coordinator to assure that all reports required by this RFP are completed and submitted in accordance with the provisions of this RFP.

3.17.2 All reports, logs, lists, plans, manuals and databases required under this RFP and the resulting Contract shall be in the form and format directed by the Department and shall be added to the web-based document management service or system selected by and paid for by the Contractor and approved by the Department. Reports, logs, lists and databases are in addition to entries required into the EPHR. The proposed document management system shall be identified in the Contractor’s Technical Proposal. The Contractor shall assure that the selected document management system or service complies with information technology requirements specified in this RFP and federal and State laws relating to health records. The current Contractor uses NetDocuments.

3.17.3 Access to all documents and databases required under this RFP shall be determined by the DPSCS Director of Mental Health Services, DPSCS Chief Medical Officer or the DPSCS Contract Manager. Unless otherwise provided in this RFP or approved in writing by the DPSCS Chief Medical Officer, all documents and databases shall be provided in a searchable format. The Department shall have access to all documents and databases in the document management system without restriction. The Contractor shall notify via email the DPSCS Director and Deputy Director of Mental Health Services and the DPSCS Contract Manager each time a report, log or database is revised or added to the document management system.

3.17.4 All documents, databases and data contained in the documents or databases created or maintained under the Contract are the sole property of the Department and shall be transferred at the termination of the Contract in an unlocked format to allow continued use of the documents, data and databases by the Department and any successor Contractor. Contractor shall have no proprietary right to the documents, databases or data.

All databases, documents and monthly reports created or maintained under the current contract with MHM shall be available to the Contractor.
3.17.5 All databases and data tracking tools are subject to periodic revisions and updates and shall be made available to the Department’s Director of Mental Health Services, Department’s Contract Manager, Department’s Chief Medical Officer and the Department’s Director of Nursing.

3.17.6 If not otherwise specified in this RFP, monthly reports shall be submitted by the 10th of the following month. Quarterly reports shall be submitted by the 10th of the month following the last day of the quarter. Annual reports shall be submitted by the last day of January. If the date on which the report is due is not a Business Day, the report shall be submitted on the next Business Day. Late or missing reports shall be subject to the imposition of liquidated damages as reflected on Attachment V.

3.17.7 The Contractor may be required to provide specific reports directly to the Director and Deputy Director of Mental Health.

3.17.8 The Contractor shall be responsible for preparing an agenda for all meetings that it chairs or conducts regarding mental health issues, including but not limited to, committee meetings and quarterly Statewide CQI meetings. Proposed agendas shall be submitted to the DPSCS Contract Manager and to the DPSCS Director of Mental Health Services at least ten (10) Business Days prior to each meeting. The Contractor shall make all reasonable efforts to accommodate changes requested by Department staff.

3.17.9 The Contractor shall be responsible for taking all minutes or notes during any meeting conducted with the DPSCS Contract Manager and Director of Mental Health Services or, upon specific written request by the DPSCS Manager/Director or ACOM. A written copy of the minutes/notes shall be submitted to the appropriate DPSCS Manager/Director within five (5) Days of the meeting. The DPSCS Manager/Director shall have up to five (5) Days to review the minutes/notes and provide comments. The final minutes/notes of the meeting shall be submitted to the DPSCS Manager/Director within two (2) Business Days of receipt of the comments. All final approved minutes shall be included in the document management system.

3.17.10 Unless otherwise directed by the Department, the Contractor may utilize voice or other recording devices during meetings to ensure that accurate and thorough minutes can be prepared.

3.18 Equipment and Supplies

3.18.1 The Contractor, at its sole cost and expense, shall supply and replace as necessary or as directed by the ACOM in each CMHC all office supplies, office furniture, medical supplies and medical equipment including medical beds where necessary, equipment (including refrigerators for medication storage) for the On-site storage of all medications and biologicals received from the Pharmacy Contractor, medication carts for the delivery of medications (including somatic medications) throughout the CMHCs and emergency carts for responding to clinical crises throughout the CMHCs. The emergency carts shall be stocked in accordance with the P & T Committee list of emergency medications.

3.18.2 At the beginning of the contract term, the Department will provide nine (9) bar code scanners for use by the Contractor to receive medication deliveries. During the contract term, the Contractor shall be responsible for maintaining the bar code scanners and for replacing missing or damaged scanners. Replacement scanners shall be Honeywell Voyager 1450G- 2D omnidirectional area-imaging
scanners (1D, PDF417, and 2D), including stand and USB cable. Periodically, the Pharmacy Contractor will inventory the scanners and Contractor will replace any missing or damaged scanners identified by the Pharmacy Contractor. If the Department adds locations for medication deliveries for mental health services, Contractor shall be responsible for providing, maintain and replacing the additional scanners which will be added to the inventory. Currently, medication is delivered to CMHC- B, CMHC –W and 7 locations at Patuxent.

3.18.3 The Contractor, at its sole cost and expense, shall supply and replace as necessary or as directed by the ACOM at least two suicide smocks and blankets for each Acute Care Level bed.

3.18.4 Contractor shall maintain the equipment in proper working order, including preventive maintenance as recommended by the manufacturer, industry standards, or DPSCS. The DPSCS Contract Manager may direct repair, maintenance or replacement of equipment at the Contractor’s expense if equipment is found in disrepair or is not properly maintained.

3.18.5 All equipment, furniture and supplies purchased under the Contract shall be new and unused except with the written approval of the ACOM. All equipment, furniture and supplies existing at the time of Contract Commencement or purchased during the term of the Contract shall become the property of the State regardless of the purchase price. Contractor shall assure that any equipment and furniture acquired through a lease-purchase shall become the property of the State at the end of the lease term. No lease purchase agreement shall extend beyond the term of the Contract. Contractor may not lease any furniture or equipment without the prior approval of the DPSCS Contract Manager.

3.18.6 The Contractor may use the furniture and equipment listed on Attachment U. As of the Go-Live Date, the Contractor shall have acquired and installed any additional or replacement equipment that it deems necessary for its operations under the Contract and identifies in its Technical Proposal as requiring replacement. The cost for such equipment shall be included within the price quoted by the Contractor in its Financial Proposal.

3.18.7 Unless that equipment or furniture was proposed in the Contractor’s Proposal, after Contract Commencement, the Department’s Contract Manager must approve the purchase of any single piece of equipment or furniture, if: (a) the cost exceeds $500; (b) installation is required; (c) substantial use of electricity or space is required; or (d) the equipment is information technology related. If the cost of a single piece of equipment approved for purchase by the Department’s Contract Manager exceeds $10,000, the Department will pay 50% of the amount of the purchase price that is in excess of $10,000. The cost of the equipment shall be determined with reference to the total purchase price or total lease costs for such equipment and shall not include the cost of any training, equipment, warranty, maintenance or licensing costs, or the cost of supplies. The DPSCS Contract Manager shall be the sole determiner of equipment value and the DPSCS Contract Manager’s determination shall be final.

3.18.8 If the Department implements any change in the manner in which mental health services are delivered necessitating the purchase of additional types or quantities of equipment, upon written approval of the DPSCS Contract Manager, the Contractor may bill the Department for such additional purchases. The Contractor shall submit the original invoice to the DPSCS Contract Manager as evidence of the actual purchase price of the equipment. No mark-ups shall be allowed
beyond the cost of the actual purchase price, including any necessary associated costs, such as delivery, installation, training, etc.

3.18.9 The Department will provide desktop or lap top computers, printers, scanners and fax machines and internet connections for Staff. Email for Staff shall be provided by the Contractor. Email shall comply with Departmental security policies and state and federal law relating to confidentiality of personally identifying information and personal health information. The Contractor shall provide to the Contract Manager a global email list for Staff. Contractor shall assure that the list is current at all times.

3.18.10 The Medical Contractor shall provide for use by the Mental Health Contractor a Polycom Real Presence Practitioner Cart 8000 (or equivalent). There is currently a tele-psychiatry unit at WCI that is equipped. The Department has required that tele-psychiatry units be established at ECI, JCI, NBCI, and Patuxent with an additional unit on hand for deployment at the discretion of the Department. If any such equipment is lost, damaged or stolen due to the fault of the Contractor, the Contractor shall be responsible for all associated costs.

### 3.19 Equipment Inventory

3.19.1 When the Contractor purchases any equipment or furniture with a cost of more than $200 and a useful life of more than a year, equipment information shall be provided to the Medical Contractor who is responsible for maintaining a perpetual consolidated Inmate healthcare equipment inventory and shall be marked with State inventory tags consistent with the DGS Inventory Control Manual. Maintenance and repair records of all equipment being used by Contractor for the performance of this Contract shall be provided to the Medical Contractor for inclusion in the inventory.

3.19.2 The Medical Contractor is responsible for the taking and maintaining a perpetual equipment inventory. The Contractor shall cooperate with the personnel of the Department and the Medical Contractor during the physical inventory and in preparing the required reports as follows:

1. No later than 20 days before the current contract’s expiration date, a complete physical inventory signed by the Current Contractor, Awarded Contractor, Medical Contractor, and DPSCS Contract Manager.
2. No later than June 30 of each of the first six Contract Periods, an annual inventory report including a completed and signed DPSCS Property Form by each facility’s property officer.
3. Within 20 days of the end of the Contract, even if an incumbent is being re-awarded the contract, a complete final physical inventory signed by the Current Contractor.

3.19.3 The Contractor shall adhere to the requirements set forth in the Department of General Services (DGS) Inventory Control Manual: [http://dgs.maryland.gov/Documents/inventory/InventoryControlManual.pdf](http://dgs.maryland.gov/Documents/inventory/InventoryControlManual.pdf). Where the DGS Manual requires responsibilities (e.g. reporting) to DGS, the Contractor shall be responsible to the Medical Contractor instead.

3.19.4 The Contractor shall provide the following information to the Medical Contractor as each item is acquired and for preparation of initial, annual and final inventories as required under the Medical Contract:
1) Equipment description;
2) Name of supplier and purchase order or other acquisition document number.
3) Acquisition cost and date, or equipment value of any lease / purchase determined in accordance with Department policy and date of lease initiation;
4) Physical location of item (Facility code and room number or name);
5) Serial number, if any;
6) State tag number; and
7) Equipment Condition.

3.19.5 The Contractor shall replace or reimburse the Department for any equipment that it is unable to locate, except for equipment that was approved in writing by the DPSCS Contract Manager for removal from the report. The Mental Health and Medical Contractors shall concur on any discrepancies before any final report is made to the Department for any equipment loss assessment.

3.19.6 If it becomes necessary to transfer any piece of equipment from one Department location to another, the Contractor will complete and submit to the Medical Services Contractor and to designated Department inventory control personnel at each facility the appropriate Equipment Transfer Form prior to moving the equipment and will follow Department protocol for the transfer of the equipment.

3.20 Physical Plant

The Contractor shall not make any physical alterations to any Department structure without the written permission of the Department.

3.21 Mental Health Care Services - General

3.21.1 The Department utilizes three levels of severity to describe the Inmate Mental Health population. These levels are: Serious Mental Illness; Mental Illness and Mental Health. The Contractor shall provide services to Inmates with SMI and MI diagnosis and, upon request of Department Mental Health staff, to Inmates without a diagnosis.

3.21.2 Upon receipt of a Referral the Contractor shall complete the appropriate DPSCS form and provide it to the Chief Psychologist or the Mental Health Department Head of the facility where the Inmate subject of the Referral is located.

3.21.3 The Contractor shall provide outpatient services as provided on Attachment R. Based upon the needs of the institution and availability of treatment space, this schedule may or may not correspond to Monday through Friday and daytime hours. Contractor shall submit for approval a schedule of the proposed dates, times and locations for services to the ACOM and the DPSCS Regional Director of Mental Health Services at least ten (10) Business Days before the end of each month. Contractor shall also provide services seven (7) days per week and twenty-four (24) hours per day including Holidays at all CMHCs and at BCBIC.

3.21.4 The Contractor shall provide intake services, suicide screenings and 7 Day Mental Status Exams at, CDF, ECI, MCIW MCTC, and MRDCC five (5) days per week, typically for only one shift (i.e., eight (8) hours a day) and seven (7) days per week including Holidays 24 hours per day at BCBIC.
As specifically requested by the Regional Assistant Director of Mental Health Services or ACOM, the Contractor shall provide intake services at MRDCC at times other than the regularly scheduled shift. The Department may identify additional or alternative intake facilities and shifts during the term of the Contract.

3.21.5 The Contractor shall:

(1) Provide On-Call services seven (7) days per week and twenty-four (24) hours per day including State Holidays to all facilities;
(2) Provide mental health consultation services to Inmates, including Inmates admitted to Infirmaries, upon Referral from the Medical Contractor, State Psychology staff, or Custody;
(3) Assist in the Inmate’s transition to the community including the development and monitoring of necessary tracking systems for release dates and ongoing needs;
(4) Make specialty care referrals (e.g., special housing, Acute Care Level, certification to the DHMH, gender dysphoria or identity) as needed and make referrals to the Medical Contractor for any somatic problems consistent with Department policy. Specialty care may include certification of an Inmate to DHMH where care of the Inmate is beyond the Contractor’s and/or Department’s ability to manage or deliver. Such certification shall occur only with the approval of the Director of Mental Health Services;
(5) Provide for the diagnosis of gender dysphoria consistent with the Department’s policy on the treatment of gender dysphoria (http://itcd.dpssc.state.md.us/PIA/ShowFile.aspx?fileID=1467) and track On-site and Off-site referrals for gender identity treatment;
(6) Provide training for its Staff, staff of Other Healthcare Contractors and State staff regarding gender dysphoria;
(7) Implement a system of internal utilization specialty management to monitor referrals to specialty care and Off-Site inpatient mental health hospital utilization when the need for services is generated by the Contractor’s Staff; and
(8) Maintain a record of all patient interaction and events in the patient’s EPHR.

3.21.6 Off-site care including Off-site hospitalization and/or emergency room treatment and associated costs are the responsibility of the Medical Contractor. If the Mental Health Contractor determines that an Inmate needs to be referred for Off-site ambulatory, specialty or hospital care, it will do so in conjunction with the Medical Contractor’s Regional Medical Director through the utilization management process. Referrals for consultation with the gender dysphoria consultant required under Section 3.2.1 shall be the responsibility of the Contractor. Recommendations by the Contractor’s gender dysphoria consultant shall be shared with the Medical Contractor. Somatic interventions will be subject to the Medical Contractor’s utilization management process.

3.21.7 The Medical Contractor shall manage the medical treatment for gender dysphoria.

**3.22 Intake Screening**

3.22.1 All Inmates newly admitted to DPSCS facilities receive a medical and mental health Intake Screening by the Medical Contractor upon arrival at a DPSCS facility. During the Intake Screening based on responses to the IMMS, the Medical Services Contractor categorizes the Inmates’ mental status as Emergent, Urgent or Routine. Those Inmates categorized as Emergent or Urgent are referred by the Medical Contractor to the Contractor for a determination of the level of observation
and housing necessary for the Inmate and a Referral for further treatment and evaluation if necessary.

3.22.2 Inmates returning to the Department through an institution other than an Intake facility during off-hours or on a weekend or Holiday shall be evaluated as provided in section 3.22.1 through the use of the On-call Psychiatrist or Mental Health Nurse Practitioner.

3.22.3 Within 24 hours of Admission to any intake facility (whether as a new Admission, a parole/probation violator, an escapee or from the community or as a transfer from another facility or another correctional system) each Inmate shall receive a suicide screening as provided in the Department’s Clinical Guidelines for Suicide Prevention (http://itcd.dpscs.state.md.us/PIA/ShowFile.aspx?fileID=1151). The results of the screening must be entered immediately into the Inmate’s EPHR. The Contractor shall also adhere to the requirements of the Inmate Self-Harm and Suicide Prevention Directive (http://itcd.dpscs.state.md.us/PIA/ShowFile.aspx?fileID=540).

3.22.4 A Mental Health Professional is responsible for prescribing and reordering psychiatric medications. The Mental Health Professional shall ensure coordination with the Medical Contractor for the continuation of any Inmate’s psychiatric medications.

3.22.5 When a request for a bridge order for psychotropic medications is made for an Inmate, and the bridge order is approved, the Contractor shall provide an in-person evaluation by a Psychiatrist or Mental Health Nurse Practitioner within 14 days, or sooner if clinically indicated. In the event that a bridge order is denied, the Inmate shall be evaluated in-person by a Psychiatrist or Mental Health Nurse Practitioner within 24 hours of denial of medication.

3.22.6 All information obtained, tests performed and recommendations made during the Intake Screening shall be entered into the EPHR, if available, or approved paper form if not available and scanned into the EPHR. Information shall be transferred as necessary and appropriate to relevant fields within EPHR once the EPHR file is established following commitment.

3.22.7 BCBIC is a high volume Intake facility, and Arrestees must be processed and be seen by a Court Commissioner within 24 hours of arrest. The screening area must be adequately staffed at all times in accordance with the staffing plan approved by the Department Contract Manager to prevent back up. Sufficient Staff shall be provided to avoid any backup of the Intake process due to waiting for mental health screening.

3.22.8 The Baltimore City Courts may sentence Inmates to a weekend or weekend(s) of confinement at a Departmental facility. The number of Inmates serving weekend sentences average between 20 and 25 per weekend. During the first weekend of confinement, the Contractor must provide a suicide screening for these Inmates within two hours of entry into BCBIC and respond to any Emergency psychiatric situation involving a weekender.

### 3.23 SRE and 7 Day Mental Status Exam

3.23.1 Contractor shall complete an SRE for each Inmate within 24 hours of the Inmate’s entrance into any intake facility. Contractor’s Psychiatric Nurses shall complete an SRE within 72 hours for each Inmate placed in Special Confinement. No later than seven (7) days after the SRE, a Contractor
Mental Health Professional shall complete a Seven (7) Day Mental Status Exam for all Inmates, including parole violators and escapees. Contractor shall utilize the DPSCS template for both the SRE and the mental status exam. Any referral from the SRE or Seven day follow-up will be referred to onsite staff, whether State Mental Health Staff or Contractor's staff.

3.23.2 The findings and follow-up from the SRE and the Seven (7) Day Mental Status Exam must be entered immediately into the Inmate’s EPHR. Contractor shall provide a SRE and a Monthly 7 Day Mental Health Status Exam report documenting all exams conducted during the month.

3.23.3 The 7 Day Mental Status Exam is required for all Inmates even if the Inmate has been seen by another Mental Health Professional after Admission. If the inmate is transferred out of the intake facility, admitted to an Infirmary or hospitalized before the 7 Day Mental Status Exam is completed, the Contractor shall complete the 7 Day Mental Status Exam at the Inmate’s location or, if the Inmate is hospitalized, within seven (7) days of the Inmate’s return to a DPSCS facility. State mental health staff will not conduct the 7 Day Mental Health Status Exam even if the Inmate is transferred out of the intake facility.

### 3.24 On-site Outpatient Services

3.24.1 The Contractor shall provide On-site Outpatient Services including Sick Call for Routine and Urgent Conditions, chronic care clinics, response to Referrals, Special Confinement rounds, coordinated multidisciplinary treatment planning, participation in Special Needs Units treatment, activity therapy for the Structured Housing Units and Special Needs programs, and intervention and management in the course of mental health emergencies. Special Confinement populations shall be triaged and receive services equivalent to the sick call and chronic care services provided to general population Inmates.

3.24.2 Except as provided in 3.24.3, the Contractor shall provide all outpatient psychiatric services at PATX including medication administration at the PATX assessment unit. The Contractor shall also provide mental health services to a 32 bed mental health Step Down Unit and a 32 bed Transition Unit at PATX. The Contractor’s responsibility for this unit shall consist of seeing each Inmate at least every 90 days and responding to Referrals from State staff.

3.24.3 The Contractor will not provide services for the Eligible Persons Program and the Youthful Offender Program at PATX or have any responsibilities for these two programs except as required when the State employed Psychiatrist is absent or if an Inmate requires admission to a CMHC. Approximately 300 Inmates participate in these programs. The Inmates participating in these programs are Inmates who are categorized as Mental Health and who are able to function in the general population.

3.24.4 At all DPSCS facilities, the Medical Contractor will receive and review daily all Sick Call Slips to determine any Inmates who should be seen by a Mental Health Practitioner. Sick Call Slips referred by the Medical Contractor for pre-trial facilities will be triaged by the Contractor. Sick Call Slips referred by the Medical Contractor for all other facilities shall be reviewed by the Chief Psychologist or Mental Health Department Head to determine if the Inmate should be seen by the State Mental Health staff or the Contractor’s Staff.

3.24.5 Sick Call Slips asserting a psychiatric or mental health complaint considered to be urgent or emergent by a Chief Psychologist or Mental Health Department Head require a response by a Mental
Health Practitioner On-site or On-call no later than two (2) hours after Referral for an Emergent Condition and no later than twenty four (24) hours after Referral for an Urgent Condition. All other Referrals shall be seen by a Mental Health professional no later than 5 days from the receipt of the Referral or Sick Call Slips from a Chief Psychologist or Mental Health Department Head.

3.24.6 Inmates housed at DPDS who have submitted a Sick Call Slip shall be seen by a Mental Health Professional within 48 hours of the receipt of the Sick Call Slip.

3.24.7 Sick call clinics conducted by a Psychiatric Nurse for pre-trial facilities are to be held on regular dates and schedules no less than five days a week (Monday through Friday, excluding State Holidays). Sick call clinics conducted by a Psychiatric Nurse for DOC facilities are to be held on regular dates and schedules at least once per week (Monday through Friday, excluding State Holidays) or as designated in Attachment R. Sick call clinics may not be cancelled without the specific written consent of the DPSCS Regional Director of Mental Health Services and the ACOM.

Fixed clinic times, locations and staffing shall be provided using an Excel spreadsheet no later than ten (10) Business Days prior to the first day of each calendar month to the ACOM assigned to the SDA, the Chief Psychologist/Mental Health Department Head of the institution where the clinic is to be held, and the designated Custody officials for that SDA. Clinic hours shall be posted in the Dispensary of every correctional facility and other areas as directed by Custody. The clinic schedules shall also be added to the document management system.

Each sick call clinic shall be of such duration that all scheduled Inmates shall be seen. There shall be no backlogs of Inmates to be seen in sick call. Same day Referrals for Emergent Conditions shall be seen during a clinic session on the same day that the Inmate appears for services.

3.24.8 All documentations of sick call clinic encounters in the EPHR shall be made the same day, which includes documentation of missed appointments and refusals. As required by DPSCS Refusal for Treatment Policy, Inmates must sign the refusal, or if the Inmate refuses to sign the refusal, two Contractor Staff (not Custody) must witness and sign the Inmate’s refusal. In addition, in accordance with DPSCS Sick Call Policy, documentation of every missed appointment shall be entered in the EPHR. In accordance with the Sick Call Policy, any Inmate who chooses not to keep an appointment must be brought to the sick call location to sign the refusal form.

3.24.9 To provide continuity of care, Psychiatric Nurses shall be assigned to Sick Call clinics for at least six consecutive months. The Contractor shall submit to the ACOM a schedule of the assigned Psychiatric Nurse for the first six month period on the Go-Live Date. No later than 30 days prior to the end of the current six month period, the Contractor shall submit to the ACOM a schedule of the assigned Psychiatric Nurse for the next six month period.

3.24.10 The Contractor shall maintain an electronic log of all Sick Call Slips and Referrals. If no log is available in the EPHR system, the Contractor shall maintain the log using MS Excel and shall add the spreadsheet to the document management system. The log shall contain, at a minimum, the following:

(1) Inmate name and DOC or SID number;
(2) Date Sick Call Slip was submitted;
(3) Nature of complaint;
(4) Triage decision;
(5). Date and time of triage decision;
(6). Name and credentials (title) of person making the triage decision;
(7). Date scheduled to be seen;
(8). Date seen;
(9). Reason for missed appointment, if applicable;
(10). Date of Referral to Mental Health Professional, including provider discipline (e.g., psychiatry, psychology, social work, mental health counselor and psychiatric RN); and
(11). Disposition.

This data will be formatted in a Monthly Sick Call Log summary report and submitted monthly to the Regional Assistant Director of Mental Health Services and the ACOM. The summary report shall include, at a minimum, the number of sick call slips received, processed and seen by discipline, total sick call requests, total of sick call requests seen within the required timeframe and total of non-compliant sick call requests with reasons for non-compliance.

3.24.11 Clinicians shall conduct rounds in each Infirmary weekly (or more frequently as may be necessary) and will speak with each Inmate to determine if there are any mental health needs.

3.24.12 Psychiatric Nurses shall conduct rounds in each Special Confinement area weekly and in each Structured Housing Unit at least twice per week and will speak with each Inmate to determine if there are any mental health needs. The individual making the rounds shall have visual contact with each Inmate and shall make a verbal inquiry as to the Inmate’s mental condition. Rounds shall be completed between the hours of 6 a.m. to 6 p.m. and consistent with Custody’s ability to provide escorts into the area. Any resulting examination and treatment shall be referred for evaluation and treatment consistent with DPSCS policy.

3.24.12.1 A log of all Special Confinement area rounds shall be maintained in a format approved by the DPSCS Director of Nursing and will include the total number of Inmates in the Special Confinement area, the number of Inmates with SMI, the date of the visit, all persons visited and the number of Referrals resulting from the visit during those rounds. Visits to Inmates without mental health complaints shall appear on this log but additional EPHR documentation on these Inmates is not required.

3.24.12.2 Documentation for Inmates in Special Confinement reporting a mental health complaint or diagnosed with an SMI shall be entered into the EPHR for that Inmate and shall include:

(1). Nature of the mental health complaint;
(2). Disposition of the Inmate’s complaints;
(3). The name and title of the Staff making the rounds;
(4). The date the Inmate was seen;
(5). Confirmation that visual and verbal contact did occur and any observations resulting from that visual or verbal contact;
(6). Information on referrals for medical or dental needs and the date that information is relayed to that specialty; and
(7). All complaints regarding medical needs.
3.24.13 Contractor Staff shall coordinate scheduling for rounds in Special Confinement areas with State Mental Health staff to assure that Contractor rounds and State Psychology rounds are conducted on different days.

3.25 Chronic Care

3.25.1 The Contractor shall operate a comprehensive chronic care program that ensures that conditions requiring chronic care are appropriately diagnosed and treated. Chronic care conditions include SMI, and MI. All Inmates diagnosed with a chronic care condition and such other Inmates as designated by a Mental Health Professional shall be enrolled in chronic care mental health clinics to assure regular follow up and evaluation of Mental Health Plan of Care efficacy. Inmates diagnosed with MI may be disenrolled from a chronic care clinic if they no longer need this level of care. Inmates diagnosed with SMI who refuse medication must remain enrolled in the chronic care clinic and must be seen at least every 90 days.

3.25.2 The Contractor shall operate mental health chronic care clinics on a monthly schedule approved by the ACOM. Fixed clinic times, locations and staffing shall be provided using an Excel spreadsheet no later than ten (10) Business Days prior to the first day of each calendar month to the ACOM assigned to the SDA, the Chief Psychologist/Mental Health Department Head of the institution where the clinic is to be held, and the designated Custody officials. The DPSCS Regional Assistant Director of Mental Health shall be notified of any clinics that are canceled as soon as Contractor is aware that the clinic will be cancelled but no later than the time at which the clinic was to begin. Notification of cancellation shall include reason for cancellation. Clinics shall only be cancelled if there are extenuating circumstances, such as a death or physical injury to the Staff scheduled for the clinic. Contractor shall include in the cancellation notice the date to which the clinic has been re-scheduled. All cancelled clinics must be re-scheduled. The schedule shall be developed jointly with State mental health staff, Other Healthcare Contractors and DPSCS facility staff to minimize conflicts regarding space allocation. Any changes to these schedules involving Custody require pre-approval by the ACOM.

3.25.3 Chronic care patients shall be seen in person at least every 90 days by the Contractor’s Clinicians. An updated Mental Health Plan of Care utilizing the treatment plan template shall be recorded in EPHR for every chronic care visit and each visit shall be recorded as a chronic care visit in EPHR. If Telepsychiatry is being utilized for chronic care clinics, each Inmate must be seen in person for every other chronic care appointment.

3.25.4 To provide continuity of care, Clinicians shall be assigned to chronic care clinics for at least six consecutive months. The Contractor shall submit to the DPSCS Director of Mental Health Services and the ACOM a schedule of the assigned Clinicians for the first six month period on the Go-Live Date. No later than 30 days prior to the end of the current six month period, the Contractor shall submit a schedule of the assigned Clinicians for the next six month period to the ACOM. Substitutions for vacation, illness, or training shall be submitted and approved by the DPSCS Director of Mental Health Services or DON.

3.25.5 The Contractor shall create and maintain a Mental Health Chronic Care database that includes all persons enrolled in Mental Health Chronic Care clinics and includes historical as well as current information including, but not limited to the following data elements:
1. Service Delivery Area and facility;
2. Inmate name;
3. Inmate DOC or SID number;
4. Diagnosis #1;
5. Diagnosis #2;
6. Diagnosis #3;
7. Date of enrollment in the chronic care clinic;
8. Date of last chronic care clinic attendance;
9. Date of next scheduled attendance;
10. Date actually seen in the clinic;
11. Estimated Inmate release date;
12. Date psychiatric medication started;
13. Date psychiatric medication stopped;
14. Traumatic brain injury (if any); and
15. Status, i.e., active or inactive.

The Contractor shall include in the database all Inmates identified with a chronic mental health condition and include them in the database irrespective of whether they are actively being treated. Refusals by patients for monitoring in chronic care clinics will not negate the responsibility to track and identify the Inmate as having the condition in the database. This database shall be maintained in an Excel spreadsheet and added to the document management system by the tenth day of each month.

3.25.6 The Contractor shall ensure that an Inmate on chronic medications experiences no interruption in the administration of the medication as a result of non-availability due to the failure to order the medication.

3.25.7 The Contractor shall provide monthly psycho-education groups only for the SMI Inmates in the general population. Each month, the Contractor shall provide a list of all Inmates and the group leader in attendance and topics covered at each group meeting. Contractor shall conduct weekly groups for the SMI Inmates in all Special Needs Units and Structured Housing Units.

**3.26 On-Site Inpatient Care**

3.26.1 The Contractor shall provide mental health services, including psychology and psychiatry services to all Inmates in a CMHC. The Department has the following CMHCs:

- CMHC-B with approximately 32 male beds
- CMHC-J with approximately 190 male beds
- CMHC-W with approximately 13 female beds

3.26.2 At CMHC-J, the Contractor shall provide psychiatric and mental health services that include units for all care categories as follows: Acute, Sub-acute, Short Term Residential and Long-term Residential units. The Clinical Director at CMHC-J shall be a psychologist who will be assisted by other personnel designated in the staffing matrix (Attachment R).
3.26.3 If there are no available beds in the appropriate CMHC to accommodate a new admission for evaluation, the Contractor’s Statewide Mental Health Director shall refer the situation to the Department’s Director of Mental Health Services for direction.

3.26.4 The Contractor shall document psychiatric admission evaluations in the Inmate’s EPHR within 24 hours of Admission during the week and by the next business day if admitted during the weekend. Each Inmate treated in a CMHC shall have a Mental Health Plan of Care prepared and documented in EPHR within 24 hours of Admission during the week and by the next business day if admitted during the weekend. In the current EPHR the Mental Health Plan of Care shall be documented utilizing the treatment plan template. Inmates admitted to a CMHC shall be referred immediately to the Medical Contractor for medical consultation and ongoing medical management. When an Inmate who requires inpatient mental health treatment cannot be placed in a CMHC due to medical co-morbidities, the Contractor’s Psychiatrist shall have contact with the Inmate in the Infirmary upon admission to the Infirmary and at least weekly thereafter or more frequently if clinically required. The Contractor’s Statewide Mental Health Director will consult with the Medical Contractor’s Statewide Medical Director to assure that the Inmate’s medical and mental health needs are being addressed. If the Contractor and the Medical Contractor cannot agree, the DPSCS Director of Mental Health and the DPSCS Chief Medical Officer shall resolve the issue.

3.26.5 Each inmate admitted to a CMHC shall only be admitted upon the order of a Mental Health Practitioner.

3.26.6 A Mental Health Practitioner will see Inmates on suicide precautions daily and Inmates on close observation will be seen every other day. A Mental Health Practitioner will see Inmates on level zero every other day, Inmates on level 1 weekly, Inmates on level 2 and 3 every other week and Inmates on levels 4 and 5 every 45 days.

3.26.7 The Contractor shall maintain a CMHC contact log which shall document all contact made by a Mental Health Professional with any Inmate in a CMHC. All entries shall be recorded immediately. The log shall be maintained by the Contractor in the document management system. The Contractor shall also document all encounters in the Inmate’s EPHR.

3.26.8 Prior to discharging any Inmate from a CMHC, the Contractor shall consult with the DPSCS Deputy Director of Mental Health Services and the DPSCS Regional Director to which the Inmate is being discharged. The DPSCS Deputy Director may postpone or deny a proposed discharge based on the needs of the Maintaining Facility.

3.26.9 All discharges from CHMCs are to be coordinated with the Department’s mental health staff of the Inmate’s home institution. The Contractor shall schedule and conduct a bi-weekly discharge teleconference for the CMHC-J that will include a DPSCS representative from each institution. Discharge summaries shall be provided to the DPSCS Deputy Director and the Regional Director at least 72 hours prior to the statewide discharge conference call and to the Staff at the Maintaining Facility at least 48 hours prior to the conference call. Discharges from CMHC-W, will be discussed at a weekly or biweekly treatment team meeting depending on the needs of the unit. DPDS female detainees may only be discharged to BCBIC through this treatment team. Contractor Mental Health Practitioners and nurses from BCBIC are required to attend the weekly treatment team via video conference.
3.27 On-Call Coverage

3.27.1 The Contractor shall designate an On-call Clinician to deliver On-call coverage 24 hours per day, seven days per week who shall respond by telephone within fifteen minutes of the telephone call for service and shall provide direction to the Medical Contractor or State staff. If requested to do so by the DPSCS Director of Mental Health or if the situation warrants direct Assessment, the On-call Clinician shall report to the institution within one hour after notification. If there is disagreement regarding the need for an On-site Assessment, the Contractor’s Mental Health Director shall resolve the dispute and if the Contractor’s Mental Health Director is unable to resolve the dispute, the Department’s Director of Mental Health Services shall make a final decision.

3.27.2 The On-Call Clinician shall be available directly, not through the use of an answering service. If the On-Call Clinician does not answer the call, the Contractor’s Statewide Mental Health Director shall be contacted by cell phone. The Contractor shall provide cell phone numbers for each On-call Clinician and for the Contractor’s Statewide Mental Health Director. If the Contractor’s On-Call Clinicians and the Contractor’s Statewide Mental Health Director do not respond within ten minutes of the call, liquidated damages shall be imposed.

3.27.3 All calls to an On-call Clinician shall be appropriately documented within the EPHR or appropriate patient chart. The documenter shall take precaution in documenting the conversation to avoid risk management issues, i.e. documenter shall state facts and offer no opinions regarding physician response. On-call Clinicians shall document all encounters, including onsite, remote and after hours consultations in the EPHR within 12 hours. If the 12 hour timeframe falls on other than a Business Day, the documentation must occur by the close of the next Business Day.

3.27.4 The Contractor shall maintain an updated On-call Clinician list to be posted in all Infirmary, Dispensary and sick call areas and distributed to all Other Healthcare Contractors. This list shall identify the On-call Clinician by name, and include the Clinician’s cell phone number(s), and, if applicable, text/email address.

3.27.5 In addition to the On-call Clinician, a back-up or secondary On-call Clinician shall be identified, with the same contact information as above, in case unforeseen circumstances preclude the primary On-call Clinician from responding within the timeframe required in this section.

3.27.6 The Contractor’s Regional Psychiatrist shall provide to its On-Call providers an electronic list of Inmates in CMHCs who are (1) at risk of injury to self or others; (2) medically or psychologically compromised or (3) are engaged in a caloric restriction or a hunger strike. In preparing the list, the Contractor shall consult with the DPSCS Regional Mental Health Director in each SDA. The list shall be reviewed upon the occurrence of any adverse event but no less frequently than twice each week and shall be documented in the EPHR.

3.27.7 At least monthly, the Contractor shall assess the responsiveness of its On-call Clinicians and shall report the results to the State Director of Mental Health Services.
3.28 Emergency and Critical Incident Response

3.28.1 The Contractor shall provide emergency psychiatric care for Inmates in CMHCs. Emergency psychiatric care includes but is not limited to talking to the Inmate to de-escalate the situation, ordering emergency medication to ensure the safety of the Inmate or others and using mental health restraints. If emergency medication is administered, the Inmate shall be moved to a location where there are nurses providing 24 hour care.

3.28.2 As requested by DPSCS in an Emergency, Mental Health Professionals shall provide mental health support to any person in a DPSCS facility. Providing such Emergency support to persons other than Inmates does not imply the establishment of a therapeutic relationship but is psychological first aid to stabilize and refer for further mental health treatment as appropriate. During the past two years, the Contractor has not provided mental health support to any person other than Inmates.

3.28.3 All emergencies to which the Contractor responded shall be reported as required in section 3.48 of this RFP.

3.28.4 The Medical Contractor is responsible for all medical services and costs including emergency room services provided to Inmates.

3.29 Terminally Ill Patients

The Contractor shall participate with the Medical Contractor, Social Work staff and other Department staff in the development of a plan of care and support services for Inmates in need of palliative care and pain management.

3.30 Patient Care Conference

Patient Care Conferences shall be planned and implemented for any Inmate in need of interdisciplinary care planning, such as those with multiple diagnoses requiring acute attention to treatment to avoid error, behavioral problems disrupting clinical services, or Inmates located outside of Maryland that may require special planning for continuity of care. The Contractor shall participate in Patient Care Conferences as requested by the Medical Contractor, the DPSCS Director of Mental Health Services, or the DPSCS Chief Medical Officer or as convened by the Contractor. The Medical Contractor’s Statewide Medical Director will act as the primary facilitator of the Conference with support from any designee from Other Healthcare Contractors. Any disputes arising from the Patient Care Conference shall be presented to the DPSCS Chief Medical Officer and the DPSCS Director of Mental Health Services for resolution.

3.31 Suicide Prevention Program

3.31.1 In consultation with DPSCS Mental Health staff, the Contractor shall implement a suicide prevention program to attempt to reduce the number of suicides to zero.

3.31.2 Contractor shall immediately notify the DPSCS Director of Mental Health Services, the DPSCS Deputy Director of Mental Health Services and the DPSCS Chief Medical Officer of each completed
No later than 24 hours after any suicide related ideation, gesture, or attempt or, the Contractor shall report the action to the Director of Mental Health Services using the form in the Department’s Clinical Guidelines for Suicide Prevention (http://itcd.dpscs.state.md.us/PIA/ShowFile.aspx?fileID=1151).

3.31.3 No later than 72 hours after an Inmate is placed in Special Confinement, a suicide Assessment shall be completed by a Psychiatric Nurse or higher. The Assessment shall be completed in person and in a confidential manner. Suicide Assessments forms are not to be completed by Inmates. The results of this Suicide Assessment shall be immediately entered into the EPHR. If this Assessment indicates an elevated risk of suicide, the Contractor shall take all appropriate treatment measures and shall immediately notify the appropriate State mental health staff and Custody at the facility and follow the policy and procedures of the Department’s Clinical Guidelines for Suicide Prevention.

3.31.4 The Contractor shall hold a weekly video conference for its Staff, the staff of the Medical Contractor, and DPSCS Mental Health staff on the topic of suicide prevention. The conference will, at a minimum, consist of a discussion of (1) all suicidal actions for the previous week; (2) all incidents of self-injurious behavior; (3) all admissions to CMHCs; (4) high risk patients admitted to CMHCs; and (5) patients with SMI in Infirmaries or CMHCs that are not on suicide watch.

3.31.5 In each SDA, the Contractor’s Regional Psychiatrist will lead a monthly discussion of significant suicidal action within the past month and will present information on the most recent literature on the issue of suicide prevention programs. An agenda and material that will be discussed will be provided by the Contractor at least 72 hours before the meeting to the DPSCS Director of Mental Health Services and the DPSCS Regional Mental Health Directors who may add items to the agenda for discussion at the meetings.

3.31.6 The Contractor shall provide training by qualified trainers on suicide prevention to its Staff and the staff of DPSCS.

3.31.7 The Contractor shall maintain a suicide database that includes a list of all suicides, suicide attempts and suicide events. The suicide data base will be reviewed at the monthly suicide prevention meeting and the Contractor may be asked for updates on anyone named on that list during this meeting. Each month, the Contractor shall reconcile its suicide database to the Department’s Mental Health Services unit database and shall provide any information that is missing in the DPSCS database to the Deputy Director of Mental Health Services.

3.32 Suicide Mortality Review

3.32.1 The Psychiatrist who most recently treated the Inmate shall chair a suicide mortality review for all completed suicides within 72 hours on a weekend unless the DPSCS Director of Mental Health Services specifies a longer period. The DPSCS Director of Mental Health Services may direct that a similar review occur for an attempted suicide as well.

3.32.2 Suicide mortality reviews shall include the presumed method of suicide, factors that may have contributed to the suicide, an assessment of treatment and care provided to the Inmate in weeks leading up to the suicide, and any other information necessary to assure that all appropriate measures necessary for the care and treatment of the Inmate were consistent with the Department’s policies.
Suicide mortality reviews shall be coordinated with the DPSCS Regional Assistant Directors of Mental Health Services and the ACOMs.

3.32.3 Suicide mortality review reports shall be submitted to the Director of Mental Health Services and forwarded to the Director’s assistant. Reports will also be forwarded to the Management Associate for the Department’s Chief Medical Officer for inclusion in the final chart review of the Inmate. This report shall be submitted to the DPSCS Director of Mental Health Services and the DPSCS Regional Directors of Mental Health as part of the Contractor’s regional monthly and quarterly multi-Contractor CQI reports. Any significant findings resulting from suicide mortality reviews shall be addressed in the quarterly CQI meeting.

3.32.4 In the case of a suicide mortality review that discloses an opportunity for improvement in the processes or delivery of care, whether or not the care rendered was within community standards, a corrective action plan will be developed and submitted to the DPSCS Regional Assistant Director of Mental Health Services and the ACOM within 15 days. The Corrective Action Plan must be approved by the DPSCS Regional Assistant Director for Mental Health Services and the ACOM and a monthly report on progress must be submitted by the 10th of each month for the preceding month’s activities.

3.32.5 The Contractor shall also participate in the mortality review process in accordance with the Department’s Inmate Deaths Manual (http://itcd.dpscs.state.md.us/PIA/ShowFile.aspx?fileID=683).

3.33 Sexual Assaults

3.33.1 Upon receipt of a complaint of sexual assault, a Mental Health Professional shall immediately refer the Inmate to the Medical Contractor and shall contact the DPSCS Internal Investigative Division to report the assault and receive directions about next steps. Documentation of the complaint and any visual findings shall be included in the EPHR.

3.33.2 If a Referral is made to the Contractor, a Mental Health Professional shall provide trauma assessment and counseling to any affected Inmate, any Staff member, State staff or visitor regarding any allegations or complaints of sexual assault. During the past two years, the total number of employees or visitors who have received counseling from the incumbent Contractor is zero. The Mental Health Professional receiving the referral of an Inmate shall record documentation of the complaint and response in the Inmate’s EPHR.

3.33.3 All Staff shall follow Departmental policy regarding sexual assaults involving any person within any DPSCS facility and shall comply with PREA. The Contractor shall take all reasonable steps to assure that its Staff does not engage in sexual misconduct in accordance with PREA standards.

3.33.4 The Contractor shall train Staff on identification of evidence of unreported sexual assault and appropriate processes for possible sexual assault cases.

3.33.5 The Contractor shall submit a serious incident report on each identified Inmate sexual assault within 24 hours of the incident to the Department’s Regional Assistant Director of Mental Health Services.

3.33.6 Contractor shall maintain a database of all PREA related events on a monthly basis.
3.34 Transfer, Discharge and Release

3.34.1 Contractor shall triage all transfers between facilities of Inmates who are under care for Mental Illness and schedule the Inmate with the Psychiatrist accordingly.

3.34.2 An Inmate transferring from one facility to another shall be screened by State mental health staff no later than seven (7) days after the transfer to ensure stability and continued availability of medication.

3.34.3 For Inmates who are being discharged from a CMHC to a facility, the Contractor shall complete a transfer screening form in EPHR and participate with the State Mental Health staff in a discharge planning meeting prior to an Inmate’s discharge from a CMHC.

3.34.4 The Contractor shall ensure continuity of care by adhering to Department policy and procedures on transfer and by completing a transfer assessment form and a continuity of care form. Contractor shall notify the Medical Contractor of all discharges.

3.34.5 In accordance with continuity of care protocols, at least 120 days prior to an Inmate’s release, Contractor shall initiate a review for the need of community services and shall cooperate with the Department’s Office of Social Work Services and the Medical Contractor’s discharge planning staff to ensure the availability of necessary community services upon release.

3.34.6 Contractor shall complete required examinations and health related forms for social security income benefits, Medicaid, or any other entitlement program or any re-entry program for which the Inmate might be eligible upon release and forward copies of those forms to the SDA Social Work personnel and the Medical Contractor’s staff in the SDA.

3.34.7 The Contractor shall coordinate with the Medical Contractor and the Pharmacy Contractor to ensure that an Inmate who is on medication at the time of release is provided with medication, or a prescription for medication, for a 30-day supply of each medication currently prescribed, unless the medication if taken in sufficient quantity could cause harm.

3.34.8 Medication provided to the Inmate upon release shall be appropriately packaged and labeled for use in the community. The Inmate’s institutional supply of medications shall not be utilized as release medications unless a separate release supply is not received and the date of release has arrived. In this event, the Contractor Staff shall comply with the Pharmacy Services Manual regarding a less than 30-day supply of discharge medications.

3.34.9 Contractor shall designate release planning Staff who shall work with the Medical Contractor, Department Case Management and Social Work to assure adherence to Department policy regarding release requirements. Contractor has primary responsibility for release planning for all Inmates in CMHCs, the Special Needs Unit located at BCBIC and at facilities for which release planners are specified in Attachment R. The Contractor shall also provide “wraparound” services that include first appointment completion, substance abuse enrollment, mental health services, and other health related re-entry services.
3.34.10 No less than two weeks in advance of release, Contractor shall complete any forms requested in conjunction with the Department’s cooperative venture with core service agencies in each county and Baltimore City to arrange community services for Inmates being released.

3.34.11 There will be times when an Inmate is released earlier than reflected on the Department’s release schedule. Upon notice of such accelerated release, the Contractor must update its release database in sufficient time to ensure that all required release activities are performed as of the release date. If an Inmate is released sooner than anticipated, the Contractor shall make all reasonable efforts to satisfy all requirements of this section 3.34, within whatever advance notice timeframe is provided, whether that advance notice is 30 days, 1 week, or 24 hours.

3.35 Research and Clinical Trials

3.35.1 The Contractor shall cooperate with Department approved research studies and/or special clinical programs.

3.35.2 Research shall not be conducted without specific written approval by the DPSCS Contract Manager, DPSCS Chief Medical Officer, the DPSCS Director of Mental Health Services and the Department’s Research Committee.

3.36 Telemedicine

3.36.1 The Department has established a telemedicine site at WCI. New telepsychiatry sites will be established at ECI, JCI, NBCI, and Patuxent by the Medical Contractor under the new contract that is to be awarded in 2017. An additional unit will be available at the direction of the Chief Medical Officer. The staffing plan contained in Attachment R includes a consideration of staff efficiencies resulting from these telemedicine sites. The Contractor shall utilize the Department’s existing telemedicine equipment for telepsychiatry, patient care conferences, release planning and any other appropriate purpose.

3.36.2 The Contractor shall have On-site Staff including a psychiatric RN and administrative personnel to ensure functionality of the system, coordination with Custody and State mental health staff and address problems as they arise.

3.36.3 Video telemedicine services shall be used when medically or psychiatrically indicated for patient care conferences to establish interdisciplinary plans of care or release plans, for enrollment in Medicaid and Medicare, and for patient care.

3.36.4 The Contractor shall include in its Technical Proposal a plan describing the services to be provided via telemedicine. The plan shall specifically address the reason for the use of telemedicine, the time frame in which the telemedicine services will be provided, coordination with State mental health staff and Custody and the nature and method of clinical and statistical information to be provided to State mental health staff.

3.36.5 The Contractor will provide a Psychiatrist to provide services through telemedicine. The psychiatrist shall be On-site as required by the Department’s Telehealth Policy. All Mental Health Professionals
providing services via telemedicine shall be subject to the approval of the DPSCS Chief Medical Officer and shall be licensed in Maryland.

3.36.6 The Contractor shall maintain an electronic log documenting the use of Telemedicine equipment to include, but not be limited to, the following:

1. The date used;
2. The facility where used (e.g. Infirmary, office, exam room, etc.);
3. The time used;
4. The reason for equipment’s use (e.g. in-service, outpatient specialty consult, etc.);
5. Inmate name and DOC number;
6. Participants in the process; and
7. Indication of whether or not the Inmate was present during the Telemedicine encounter.

The Contractor shall maintain the usage log in an Excel spreadsheet that will be added to the document management system.

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<th>3.37 Medication</th>
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3.37.1 The Contractor shall:

1. Adhere to the Department’s Pharmacy Services Manual (http://itcd.dpscs.state.md.us/PIA/ShowFile.aspx?fileID=686);
2. Enter all medication orders correctly into the EPHR;
3. If there is no link between EPHR and the Pharmacy, work with the Medical and Pharmacy Contractors to establish a paper process to ensure orders are processed via fax;
4. Ensure that only Formulary medications are ordered unless approvals are obtained for Non-Formulary medications as required in this RFP;
5. Appropriately document medication prescribing and monitoring;
6. Document and report all medication errors to the facility ACOM and the DPSCS DON via email by the Contractor’s Regional DON for the facility in which the error occurred during the shift in which the error occurred; and
7. Provide locking medication carts for the administration of medication in CMHCs.

3.37.2 At CMHCs, BCBIC Special Needs Unit and Patuxent step-down, transition and assessment units, the Contractor shall also:

1. Receive medication shipments from the Pharmacy Contractor and verify the shipment against the order using barcode scanners to be provided by the Medical Contractor;
2. Provide the Department with all inventory and shipment verification information relating to medications;
3. Properly store all medications;
4. Promptly make shipments available for administration;
(5). Maintain supplies of stock medications in cooperation with the Pharmacy Contractor and as approved by the P & T Committee;
(6). Administer medications in accordance with written orders from appropriate medical and Mental Health Professionals and the Department’s Pharmacy Manual;
(7). Appropriately document medication administration;
(8). Track usage of stock medications;
(9). Inspect and audit for expired drugs. Any expired drug identified through such inspection or audit shall be removed and returned to the Pharmacy Contractor with a report to the DPSCS ACOM for that Service Delivery Area and the Pharmacy Contractor;
(10). Securely store non-narcotic drugs in a locked Medication Room in an Infirmary or Dispensary in a locked medication cart;
(11). Comply with narcotic and methadone storage requirements (e.g., double locks, accurate counts with Custody and Contractor, DEA accepted forms of documentation for receipt and use of narcotics);
(12). Maintain and update logs for each dose of narcotics administered consistent with the requirements of the Maryland Board of Pharmacy, the Alcohol and Drug Administration of the Department of Health and Mental Hygiene, DEA and all other State and federal agencies governing their usage; and
(13). Use the Medical Contractor’s automated barcoded medication dispensing system that identifies which medications have been dispensed to which Inmate, when and by whom.

3.37.3 A Mental Health Professional shall work with the Medical Contractor to ensure the controlled and timely distribution of prescribed psychiatric medications to Inmates with mental illness. Inmates going to Court, being transferred or released will have their medication, including mental health medication, packaged and sent with the Inmate through the Medical Contractor’s staff. The Medical Contractor is responsible for emergency medication administration except for Inmates in CMHCs. For Inmates in CMHCs, the Contractor shall be responsible for medication administration. During a psychiatric Emergency for an out-patient Inmate, the On-call Psychiatrist would provide the medication order which would be administered by the Medical Contractor’s staff On-Site.

3.37.4 The Contractor shall provide mental health nursing Staff to administer medication including all somatic (insulin injection, hepatitis injections as indicated, etc) and psychotropic medications to (1) all Inmates in CMHCs, (2) the 64-bed Assessment and 64-bed Step-down/Transition units at Patuxent and (3) the 40-bed Special Needs Unit at BCBIC. Mental Health Professionals shall record the actual time of medication(s) administration on a Department approved MAR, including eMAR, when implemented. Medications not given are to be documented according to Department policy on that same record with a reason given for the non-delivery and an identification of the nurse not administering the medication and an identification of the Mental Health Professional not administering the medication.

3.37.5 The Contractor’s Psychiatrists, in consultation with the Pharmacy Contractor’s clinical PharmD, shall conduct a quarterly medication review for each chronic care Inmate in conjunction with the regional P &T Committee meeting. The review shall be documented in the Inmate’s EPHR.
3.37.6 In any circumstance when the Contractor’s Staff did not place medication orders in a timely manner, the Contractor shall take all necessary actions to obtain and administer the necessary medication prior to the end of the 8 hour shift. If a Stat order is placed with the Pharmacy Contractor to compensate for a missed order, the Contractor shall be responsible for any fees incurred, including fees incurred by the Department as a result of receiving expedited delivery of medication.

3.37.7 Stat and new medication orders from stock shall be administered by an RN or higher level provider. All other medication administration will be conducted by LPNs or higher level of licensed personnel. LPNs will be supervised by a registered nurse or higher who will be held accountable for the LPN’s performance.

3.37.8 No change in the format for medication administration will be permitted without the written permission of the DPSCS Chief Medical Officer, DPSCS Director of Nursing and ACOM for the SDA. This includes but is not limited to:

(1). Changes in the location of where medications are administered.
(2). Verification processes relating to the MAR or e-MAR ensuring that the right medication is administered to the right person.
(3). Watch Take medication processes, also known as Direct Observation Therapy, to ensure that the Inmate is seen swallowing, injecting or applying the medication before moving to the next Inmate.

3.37.9 Keep On Person medications may not be initiated unless consistent with the Department’s KOP Policy, which includes:

(1). The Clinician has determined that KOP is appropriate by evaluation and that determination is entered in the EPHR;
(2). The medication has been approved as KOP by the DPSCS Chief Medical Officer in collaboration with the Statewide and/or Regional P&T Committees;
(3). The Inmate has been educated on the process of taking his or her medication and how to get refills and provided a written copy of the signed agreement required to participate in KOP. The original signed agreement shall be placed in the Inmate’s patient health record;
(4). The Inmate signs an acknowledgment of receipt of a specific number of pills/ointment/creams on a specific date; and
(5). The nurse or designee (as permitted by licensure) signs to acknowledge that the medication was delivered to the Inmate.

3.37.10 Stock medication shall be used in response to Stat orders and newly ordered medication for an Inmate when available, if the Inmate has not yet received patient specific drugs, or in other cases as agreed upon between the Department, the Contractor and Mental Health Contractor in collaboration with the Pharmacy Contractor.

3.37.10.1 Use of stock medication will require:

(1) Documentation on the stock card as described in the Clinical Services and Inmate Health Pharmacy Services Manual (http://itcd.dpscs.state.md.us/PIA/ShowFile.aspx?fileID=686); and
(2) Documentation on the MAR or in the e-MAR (when available) that the medication was given from stock, that includes the time, date, Route, and initials of the Mental Health Professional administering the medication.

3.37.10.2 The Contractor will have available in the Medication Rooms for review by a designated DPSCS employee records of all stock medications received consistent with established par levels, and records of usage (documentation on the stock card). Liquidated damages will be assessed for missing documentation.

3.37.11 Approval for the use of Non-Formulary medications shall be in consultation with the Pharmacy Contractor and the Contractor’s Regional Psychiatrist. Recommendations of the Pharmacy Contractor regarding an alternative pharmaceutical agent or combination of medications must be followed. Any appeals by the Contractor will first be reviewed by the Contractor’s Statewide Mental Health Director with the Pharmacy Contractor. If the appeal is supported by the Contractor’s Statewide Mental Health Director, it will proceed to the DPSCS Chief Medical Officer whose decision shall be final. Non-Formulary medication orders must be approved or declined within 8 hours of the request and must be ordered within 24 hours of approval and administered within 8 hours of receipt of the medication.

3.37.12 A Monthly Medication Errors Summary Report of all medication errors with trending and analysis and corrective actions as required will be provided monthly to the ACOM and DPSCS DON and shall be reported and monitored at the Regional monthly and quarterly CQI meetings and the quarterly statewide P&T committee meetings.

3.37.13 The Department reserves the right to implement changes in the medication administration process.

### 3.38 Pharmacy and Therapeutics Committee

Contractor’s Regional Psychiatrists and Psychologists are required to attend the monthly Regional P&T Committee meeting led by the Pharmacy Contractor and the Medical Contractor’s Regional Medical Director. Contractor’s Statewide Mental Health Director and such other Contractor Staff as the Department may request are required to attend the quarterly Statewide P&T Committee meeting chaired by the Pharmacy Contractor and the DPSCS Chief Medical Officer.

The monthly and quarterly P&T meetings identify pharmacy utilization trends and review over the counter distribution, Non-Formulary choices, medication administration errors, cost effectiveness, prescriber patterns and trending, and any other information relating to overall pharmaceutical usage. Additions and deletions to the Department’s drug Formulary are determined at the quarterly Statewide P&T meetings.

### 3.39 Laboratory Services

3.39.1 The Contractor shall be responsible for all costs related to diagnostic tests ordered by it for mental health reasons. Diagnostic services includes blood draws, smears, cultures, and any other diagnostic collection of specimens and data collection and all transportation of specimens, testing data and documents. Diagnostic testing of urine for the detection of drug or alcohol use is not a diagnostic test to be provided under the Contract.
3.39.2 Diagnostic services shall be available daily. Contractor shall provide phlebotomists to obtain specimens. If phlebotomists are not available, Contractor’s nursing and higher-level medical Staff shall be utilized. No test shall be delayed due to the absence of phlebotomists.

3.39.3 The Contractor shall establish a relationship with a laboratory of its choosing. If the Contractor utilizes the same lab as the Medical Contractor, the Contractor shall have a separate contractual relationship with the lab and shall not obtain services under the Medical Contractor’s contract with the lab. The Contractor shall describe in its Technical Proposal the laboratory it intends to use. The laboratory shall have the capability to transfer lab results electronically within 24 hours of the results to the EPHR via a direct interface. If the Contractor’s lab provider fails to provide adequate services or is unable to transmit results electronically, the DPSCS Chief Medical Officer may direct the Contractor to remove the lab provider and obtain a new lab provider with the required capability. The new lab provider will be subject to the approval of the DPSCS Chief Medical Officer.

3.39.3.1 Laboratory services shall include daily pick up of specimens, provisions for stat services, and delivery of result reports.

3.39.3.2 The Contractor shall ensure that the contracted laboratory has a quality improvement plan, which includes equipment calibration and check of reagents for viability and expiration.

3.39.4 The Contractor shall ensure that all Stat laboratory results shall be received within four hours of the draw by a nurse or higher, with the exception of tests that cannot be completed within that timeframe, such as cultures. The On-Call Psychiatrist or Mental Health Nurse Practitioner shall be notified immediately of all Stat reports.

3.39.5 A Mental Health Professional shall review all laboratory results within 48 hours after receipt of test results to assess the follow-up care indicated, and screen for discrepancies between the clinical observations and laboratory results. All laboratory results shall be entered in the appropriate EPHR template within forty-eight (48) hours of receipt of the results. No lab result shall be entered into EPHR without verification of a review by a Mental Health Professional that contains an initialed date and time indication on the form. Validation of all lab reviews in EPHR by the Mental Health Professional shall be done for all electronic as well as paper lab results received. If a paper lab report is generated, such lab report must be scanned into EPHR after it has been reviewed and signed by the Mental Health Professional.

3.39.6 All abnormal laboratory results shall be brought to the attention of the Mental Health Professional no later than the same day the results are received or within four hours, whichever is longer. All laboratory Critical Results shall be brought to the attention of the Statewide Mental Health Director the same day the results are received. If the Contractor’s Statewide Mental Health Director is absent the results shall be brought to the attention of the On-call Psychiatrist or Mental Health Nurse Practitioner for that facility. Upon receipt, the Mental Health Professional shall review and make a notation in the EHR regarding those Critical Results and the plan for care subsequent to the results.

3.39.7 Diagnostic testing with routine results shall be shared with the Inmate within seven (7) Business Days of receipt of those results. Diagnostic testing with Critical Results shall be shared with the Inmate within 24 hours of receipt of those results.

3.39.8 A monthly lab tracking report shall be initiated that sets forth:
(1). Inmate name and DOC number;
(2). Date of order;
(3). Date test drawn;
(4). Date results received;
(5). Date results reviewed by Clinician;
(6). Date results shared with Inmate; and
(7). Date lab review documented in the EPHR

3.39.9 The Contractor shall audit the lab tracking report in the Baltimore Pre-Trial Complex, and shall submit to the DPSCS ACOM proof the audit was completed by the 10th of every month.

3.40 Patient Health Records

3.40.1 The Contractor shall maintain for each Inmate a HIPAA compliant confidential, secure Patient Health Record that also complies with all other federal and State laws regarding patient confidentiality and that includes all encounters and medication orders in accordance with the Department’s Medical Records Manual (http://itcd.dpscs.state.md.us/PIA/ShowFile.aspx?fileID=685).

3.40.2 The Medical Contractor is the Department’s designated custodian of all electronic and hardcopy Patient Health Records, including any records created by the Contractor. The Contractor shall forward, in a timely manner, the originals or copies of all hard copy Patient Health Records created under this Contract to the Medical Contractor.

3.40.3 The Contractor shall not affix its name or logo on any aspect of any Patient Health Record.

3.40.4 To minimize hard copy material, the Contractor shall utilize forms as they exist in EPHR. Only approved Department forms may be used. If a Department form for a particular purpose does not exist, the Contractor shall work with the Department Contract Manager to develop a Department approved form for that purpose. The Contractor may develop a temporary form but may not use the temporary form until it has been submitted to and approved by the Department Contract Manager. If the Department agrees to incorporate a form proposed by the Contractor into EPHR, the Contractor agrees to relinquish any proprietary rights in that form.

3.40.5 Consistent with the Department’s Medical Records Manual, the Contractor shall maintain a hard copy of those documents that must be contained in the Patient Health Record and are not feasible to be maintained in EPHR and those documents that would assure the Contractor’s ability to provide necessary patient care in the event that the EPHR system became corrupted or was otherwise not available.

3.40.6 The Contractor shall provide representatives to serve on and attend all statewide and regional medical records committee meetings as required by the Department Contract Manager. Meetings of the committee shall be held at least monthly.

3.40.7 The Contractor shall make records available to interdisciplinary health care staff, Department representatives, the Maryland Attorney General’s Office and others as designated by the Department to have access to these files and shall comply with Department policy and procedure regarding
sharing necessary information without violating HIPAA requirements. Questions regarding sharing of information should be directed to the ACOMs or to the Department’s Director of Mental Health Services or DON.

### 3.41 Electronic Patient Health Record System

**3.41.1** The Department through a current contract with NextGen Health Care provides an EPHR system. Payment for licenses and maintenance for the EPHR system and replacement of system hardware are the responsibility of the Department. During the term of the Contract, the Department intends to procure a new EPHR system. The Contractor shall have the same responsibilities for any successor EPHR system implemented during the term of the Contract as for the existing EPHR.

**3.41.2** The Medical Contractor is responsible for providing an initial and ongoing training program for all EPHR users. Initial training for Contractor Staff shall occur no later than 40 days after Contract Commencement. Contractor shall arrange for training for Super Users at least every three months and for all EPHR users at least every 12 months.

**3.41.3** The current EPHR has several mental health related templates including, but not limited to:

1. Intake Evaluation;
2. Psychiatric Evaluation;
3. Progress Notes;
4. Treatment Plan Template;
5. Psychopharmacology; and
6. SRE.

**3.41.4** The Contractor shall designate an administrative Staff to serve as account administrator for the EPHR system for communicating with the Medical Contractor regarding logon assignments for Staff. Contractor shall review its individual license holders for the EPHR each month and notify the Medical Contractor of those individuals who are no longer providing services to the Department.

**3.41.5** The Contractor shall maintain a sufficient pool of Super Users in each SDA who will provide On-site problem solving. The Contractor shall add to the document management system each month the names of the Contractor’s current Super Users and their contact information.

**3.41.6** The Contractor shall utilize a procedure for periods of temporary EPHR unavailability for any reason which includes entering clinical information in EPHR replicated forms and transcription of such information into the EPHR within 24 hours after the system becomes available. The Contractor’s policies shall also include a method for communicating among its Mental Health Professionals during EPHR unavailability.

**3.41.7** Contractor shall not print notes from Inmate charts except as directed by the DPSCS Director of Mental Health Services. All requests for any portion of a medical record shall be submitted to the Mental Health Department Head of the facility for processing.
3.42 Hazardous Waste

The Medical Contractor shall provide for the removal and disposal of all bio-hazardous or toxic waste created by the operation of the Inmate health care program in accordance with federal and State laws.

3.43 Safety and Sanitation Control

3.43.1 The Contractor shall ensure that its Staff is familiar with, and complies with appropriate safety and sanitation procedures including, but not limited to, proper use of hazardous waste receptacles, proper storage of materials that require refrigeration, and limits on use of refrigerators procured to store medications or laboratory samples.

3.43.2 The Contractor shall coordinate with the Medical Contractor for monthly safety and sanitation inspections of the CMHCs.

3.43.3 The Contractor will submit a monthly safety and sanitation report to the Medical Contractor, the SDA Multidisciplinary Continuous Quality Improvement Committee and to the Department’s DON and ACOM. The report will address areas in need of repair, replacement, or cleaning and shall make appropriate recommendations for corrections of deficiencies noted. For deficiencies in areas that are within the Contractor’s control, a plan for corrective action shall be provided within ten (10) Business Days to the DPSCS DON and the ACOM.

3.44 Emergency Preparedness

3.44.1 The Contractor shall ensure that Staff are available to provide mental health services On-site as required by this Contract during severe weather, natural disasters, pandemics and other emergencies.

3.44.2 The Contractor shall develop and implement, as necessary, an Emergency Management Plan covering treatment and evacuation procedures for both individual and multiple casualties or patients, consistent with the Department’s and specific facility’s Emergency Preparedness Plans and/or Continuity of Operations Plans.

3.44.2.1 The Emergency Management Plan shall include mass disaster drills and one man down drills initiated by the Contractor and shall provide for at least one mass disaster drill Department-wide annually so that over a three-year period each shift has participated in a drill.

3.44.2.2 The draft Emergency Management Plan submitted in the Contractor’s Technical Proposal shall be finalized and submitted to the DPSCS Contract Manager, DPSCS DON and ACOM no later than forty (40) days after Contract Commencement. The ACOM, DPSCS Contract Manager and DPSCS DON shall have up to ten (10) days to review the draft Plan and provide comments. The Final Plan is due to the ACOM, DPSCS Contract Manager and DPSCS DON within five (5) days of receipt of the comments.
3.44.3 The Contractor shall participate in (1) institutional mock disaster and other types of drills no less than annually at each facility in collaboration with DPSCS security staff, and (2) Departmental requests for regional and statewide emergency services plan rehearsals which include Contractor’s response to a natural disaster, aviation accident, mass evacuation, power outages, individual injuries, weather-related evacuation procedures, etc. If in the opinion of the DPSCS Chief Medical Officer and DPSCS Director of Mental Health Services any drill evidences a significant deficiency or unsatisfactory result, the medical portion of the mock disaster or other drill shall be re-conducted at the direction of the DPSCS Chief Medical Officer or the DPSCS Director of Mental Health Services.

3.44.4 In collaboration with the Medical Contractor and State mental health staff, the Contractor shall develop and participate in quarterly drills related to suicide attempts (e.g. cutting, hanging, etc.) at each facility. At least thirty (30) days before the beginning of each Contract Period, Contractor shall provide the schedule of drills for that Contract Period. The schedule for the first Contract Period shall be provided at least thirty (30) days before the Go-Live Date. The schedule shall be subject to the approval of the ACOM and the DPSCS DON.

3.44.5 Within 24 hours of the completion of any disaster, drill or rehearsal the Contractor shall document and critique the response of its Staff, develop corrective action plans as necessary and submit the plans to the ACOM for the SDA within 30 days of the drill.

### 3.45 Grievances and Complaints

3.45.1 The Department will forward to the Contractor any Inmate correspondence and any correspondence from other persons of interest relating to ARP requests and grievances. The Contractor shall investigate and respond in accordance with the ARP directive and the Inmate Grievance Procedure available at [http://dpscs.maryland.gov/pia/index.shtml](http://dpscs.maryland.gov/pia/index.shtml).

3.45.2 Complaints received by the Department that are not covered by the ARP or grievance procedure shall be forwarded to the Contractor. No later than 10 calendar days after the receipt of the complaint or as directed by the Department, the Contractor shall provide a proposed response for review by the Department’s Director of Nursing. Proposed responses that do not adequately address the complaint will be returned to the Contractor for re-investigation and a more appropriate response.

3.45.3 If the Contractor receives a complaint directly, the Contractor shall immediately notify the Department of the receipt of the complaint and shall prepare a response for review as provided in section 3.45.2.

3.45.4 The DPSCS Chief Medical Officer or the DPSCS Director of Mental Health Services may direct the Contractor to take specified action with regard to a complaint.

3.45.5 The Contractor shall provide and share data related to ARPs and grievances in the monthly CQI meetings in all SDAs and shall submit to the Department’s Contract Manager and DON, a quarterly summary report by SDA, by facility and nature of claim providing at a minimum trends and corrective action plans. The quarterly report shall include an assessment of whether corrective action is necessary or appropriate to respond to any trends and shall recommend a corrective action plan where appropriate.
3.45.6 All complaints, grievances and ARPs related to the Contract shall be tracked in an Excel spreadsheet that will include the following information:

- Inmate name and DOC number;
- Institution or facility name where the Inmate is located or housed;
- ARP or grievance case number;
- Service Delivery Area;
- Subject of complaint;
- Date of receipt of the ARP or grievance from Inmate;
- Date ARP received by the vendor from DPSCS Coordinator;
- ARP due date;
- ARP completion date;
- Notes field;
- Spreadsheet calculated formula reflecting the number of days in which the response is due or overdue); and
- Disposition.

### 3.46 Continuous Quality Improvement

3.46.1 As described in its Technical Proposal, the Contractor shall implement a CQI program and participate as required by the Department’s Manager/Director in all quality improvement programs, peer review, utilization review, risk management and any accreditation activities described in this RFP. Although part of CQI, Peer Review, Safety and Sanitation Inspections, Risk Management, and Utilization Review are described in separate RFP sections.

3.46.2 The Contractor shall participate in:

1. Quarterly State-wide multidisciplinary Committee meetings, chaired by the Medical Contractor. Contractor representatives shall include the Contractor’s Director of Mental Health, Director of Nursing and Contract Manager. Contractor may include other representatives as appropriate. Such meetings will include updates on psychiatric clinics, psychiatric back logs, Special Confinement rounds, clinical review of certain cases (i.e. behavioral vs. mental health etiology, suicide prevention programs), and other appropriate mental health topics that can lead to improved quality of care in the Service Delivery Areas.

2. Quarterly Service Delivery Area multidisciplinary CQI Committee meetings and reviews in each Service Delivery Area to monitor the mental health services provided; collect, trend and disseminate data; develop and monitor corrective action plans; and facilitate communication between disciplines.

3.46.3 Contractor shall provide corrective action plans as directed by the Department’s Director of Mental Health Services.

### 3.47 Peer Review

3.47.1 The Contractor’s Director of Mental Health Services shall manage an internal professional peer review process for Mental Health Practitioners. In addition, the Medical Contractor manages an external process for professional peer review for Mental Health Nurse Practitioners, Psychiatrists and Psychologists. The Contractor’s Mental Health Nurse Practitioners, Psychiatrists and
Psychologists will participate in and contribute to the Medical Contractor’s external peer review process.

3.47.2 The Contractor’s internal peer review process shall include an annual review (based on hire date) of the work of Mental Health Professionals by a discipline appropriate, clinically equivalent, Mental Health Practitioner. Results of the review will be provided to the Department’s Director of Mental Health Services within 15 days after the anniversary of the hire date.

3.47.3 For Mental Health Professionals judged not to meet professional standards, a report shall be submitted to the DPSCS Director of Mental Health Services within five Business Days of the failure to meet standards determination along with an action plan (e.g., suspension, additional training, etc.) to address the failure. A monthly status report shall be provided regarding the action plan until final resolution. Contractor shall also submit a summary report reflecting all peer review results each year within 10 days of January 1, and July 1, to the DPSCS Director of Mental Health Services.

3.47.4 If the care in a specific death review was deemed below standards such that concerns related to ongoing competency are raised, a Mental Health Practitioner specific peer review shall be conducted at the request of the DPSCS Director of Mental Health Services. A final report must be submitted via email within 10 working days of the death to the DPSCS Director of Mental Health Services.

3.47.5 Contractor shall establish and maintain an internal Peer Review Database for all Mental Health Practitioners to which the Department shall have continuous access though the document management system. The database shall be capable of being sorted by professional discipline, hire date and by those who fail to meet professional standards. The database will contain all of the elements of a peer review for that discipline. At a minimum, the database will include:

1. The name of the individual;
2. The individual’s professional discipline;
3. The date of the review;
4. A list of the source material used for the review;
5. Any verbal results from a review summarized;
6. Any suggestions for improvement noted; and
7. A date for follow up review, if such is recommended.

3.48 Risk Management Program

3.48.1 The Contractor shall comply with all Department rules, regulations, policies, and procedures regarding risk management and will work in collaboration with the Other Healthcare Contractors to assure that safety and prudence are exercised at all times.

3.48.2 Except for completed suicides that require immediate notification, all incidents/accidents/errors listed below shall be reported to the DPSCS Director of Mental Health Services within 24 hours of the occurrence on the DPSCS SIR form which includes such information as the incident or event, the date it occurred, how it was discovered, and any outcomes as a result of that event (good and/or bad). Incident reports shall not be considered as punitive or threatening and shall be used for education and CQI purposes.

Reportable incidents/accidents/errors include but are not limited to:
(1). All suicides successful or attempted;
(2). Assaults on Staff;
(3). Injuries occurring as a part of work accidents;
(4). Injury to Inmates, Inmate on Inmate assault in the CMHCs, etc.;
(5). Exposures to infectious diseases;
(6). Prophylaxis administration;
(7). Security Breaches (lost keys, missing sharps containers, medications, contraband, etc.);
(8). Treatment/medication errors or missed treatments, missing documents, missing medication etc.;
(9). PREA reports;
(10). Use of therapeutic restraints;
(11). Administration of emergency medications;
(12). Caloric restriction/hunger strike initiation; and
(13). Transfer to Infirmary or to emergency room or hospital.

3.48.3 The Contractor shall submit a quarterly Serious Incident Report Summary (as part of Quarterly Risk Management Report identified below) to the DPSCS Director of Nursing of all incidents, accidents and errors occurring or discovered by its Staff during the preceding three months. In addition, the Contractor shall submit a monthly report of all sexual assaults. This report shall be submitted to the Department DON as part of the Contractor’s regional monthly and quarterly multi-Contractor CQI meetings reports. All individual Incident Report forms submitted during the preceding three months shall be submitted with the Report Summary. Monthly narratives, summations of audit findings or verbal reports will not be acceptable in lieu of a formal quarterly report.

This Quarterly Risk Management Report (to include the Incident Report Summary and all Incident Reports) shall be submitted to the Department DON as part of the Contractor’s regional quarterly multi-Contractor CQI meetings reports.

3.49 Utilization Reports and Databases

3.49.1 In addition to any other databases required by this RFP, the Contractor shall maintain the following databases to which the DPSCS Director of Mental Health Services may add additional items or additional databases during the term of the Contract.

3.49.1.1 A Mental Health Outpatient Services database including, but not limited to the following data elements:
   (1) Number of sick calls received/scheduled/seen;
   (2) Time frames relating to triage and actual appointment;
   (3) Number of Inmates newly placed on medications;
   (4) Number of Inmates with medications discontinued;
   (5) Number of Inmates reporting missed/expired medications;
   (6) Number of crisis interventions; and
   (7) Number of crisis interventions per Inmate.

3.49.1.2 A CMHC database including, but not limited to the following data elements:
(1) Admissions, in aggregate and by sending facility, including date of admission;
(2) Discharges, in aggregate and by receiving facility including date of discharge and length of stay in the CMHC;
(3) Average daily census;
(4) Average daily census per levels of care;
(5) Re-admissions within 3 months/6 months/1 year/ during entire term of confinement;
(6) Suicide attempts and completions; and
(7) Assaults on staff.

3.49.1.3 A Statistical and Utilization database including, but not limited to the following data elements:
(1) Disease specific and psychotropic medication prescription trends;
(2) Sick Call utilization including rationale for missed appointments and plans for corrective action for those missed appointments (for missed appointments, the Contractor shall coordinate with Department Staff to research the reason why the appointment was missed. If the reason for the missed appointment was attributed to the Contractor, the Contractor shall develop a corrective action plan to prevent such occurrences. If the reason is attributable to the Department, the Contractor shall coordinate with the Department, if necessary, to identify a corrective action plan to prevent such occurrences);
(3) Chronic Care utilization including rationale for missed appointments and plans for corrective action for those missed appointments (see (2) above for information on missed appointments);
(4). CMHC utilization;
(5). Specific program performance including but not limited to improvement outcomes in the Inmate’s movement towards integration in the general population;
(6). Staff vacancies and corrective action being taken to correct any deficits;
(7). Training and credentialing updates;
(8). Adverse incidents including suicide completions, serious attempts, abuse of or injury to Staff, allegations of Staff misconduct or abuse; and
(9) Other reports as deemed necessary by the DPSCS Director of Mental Health Services.

3.49.2 The Contractor shall supply a monthly narrative report for the preceding month, based upon the data required in this Section 3.49 and shall identify areas needing improvement or corrective action.

3.50 Utilization Management and Utilization Review

3.50.1 For Inmates who require commitment to a State Mental Health Facility, subject to the approval of the DPSCS Director of Mental Health Services, the Contractor shall manage the commitment process. There should be no cost to the Contractor for the Inmate’s treatment at a State Mental Health Facility/Hospital.

3.50.2 If it is determined that Off-site specialty or hospital care is required but that a State Mental Health Facility cannot provide the required treatment, the Contractor shall refer an Inmate for Off-Site
specialty or hospital care only in conjunction with the Medical Contractor’s Utilization Management process. The Medical Contractor will be responsible for the cost of such care.

3.50.3 The Contractor shall conduct monthly reviews of inpatient utilization, staffing including vacancies, productivity by provider and by region, the appropriateness of admissions to CMHCs, and an average of length of stay at CMHCs. The Contractor shall provide a monthly report reflecting this data to the Director of Mental Health Services.

### 3.51 Standards and Accreditations

3.51.1 The Contractor shall comply with all standards promulgated by the MCCS, the NCCHC and the ACA as they relate to mental health. Compliance is required regardless of whether the institution is accredited.

3.51.2 Currently, BCBIC and CDF are accredited by NCCHC. BCBIC, CDF, ECI, NBCI, RCI and WCI are accredited by ACA. During the term of the Contract, the Contractor will maintain the accreditation standards as they pertain to mental health services. The Contractor must provide appropriate personnel to attend any meetings pertaining to accreditation, provide all pertinent information, and take any actions reasonably necessary to maintain existing accreditations, including correcting identified deficiencies in the manner in which it operates if an audit re-inspection(s) is needed.

3.51.3 The Department will pay the fees for renewal of the accreditations and the costs of any audits necessary for renewal. The Contractor shall pay the cost for re-audits if the facility fails an audit due to the Contractor’s non-performance.

### 3.52 Security Requirements

3.52.1 **Staff Identification**

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

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

3.52.2 **Information Technology**

For purposes of this solicitation and the resulting Contract:

(a) "Sensitive Data” means information that is protected against unwarranted disclosure, to include Personally Identifiable Information (PII), Protected Health Information (PHI) or other private/confidential data, as specifically determined by the State. Sensitive Data includes information about an individual that (1) can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s
maiden name, or biometric records; (2) is linked or linkable to an individual, such as medical, educational, financial, and employment information; (3) falls within the definition of “personal information” under Md. Code Ann., Com. Law. § 14-3501(d); or (4) falls within the definition of “personal information” under Md. Code Ann., St. Government. § 10-1301(c).

(b) “Relevant subcontractor” includes any subcontractor that assists the Contractor in the critical functions of the Contract, handles Sensitive Data, and/or assists with any related implemented system, excluding subcontractors that provide secondary services that are not pertinent to assisting the Contractor in the critical functions of the Contract, handling Sensitive Data, and/or assisting with any related implemented system.

(c) The Contractor, including any relevant subcontractor(s), shall implement administrative, physical, and technical safeguards to protect State data that are no less rigorous than accepted industry standards for information security such as those listed below, and shall ensure that all such safeguards, including the manner in which State data is collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws as well as the terms and conditions of this solicitation and resulting Contract.

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

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

(a) Establish separate production, test, and training environments for systems supporting the services provided under this Contract and ensure that production data is not replicated in the test and/or training environment unless it has been previously anonymized or otherwise modified to protect the confidentiality of Sensitive Data elements.

(b) Apply hardware and software hardening procedures as recommended by the manufacturer to reduce the Contractor/subcontractor’s systems’ surface of vulnerability. The purpose of system hardening procedures is to eliminate as many security risks as possible. These procedures may include but are not limited to removal of unnecessary software, disabling or removing of unnecessary services, the removal of unnecessary usernames or logins, and the deactivation of unneeded features in the Contractor/subcontractor’s system configuration files.

(c) Establish policies and procedures to implement and maintain mechanisms for regular internal vulnerability testing of operating system, application, and network devices.
supporting the services provided under this Contract. Such testing is intended to identify outdated software versions; missing software patches; device or software misconfigurations; and to validate compliance with or deviations from the Contractor’s and/or subcontractor’s security policy. The Contractor and any relevant subcontractor(s) shall evaluate all identified vulnerabilities for potential adverse effect on the system’s security and/or integrity and remediate the vulnerability promptly or document why remediation action is unnecessary or unsuitable. The Department shall have the right to inspect these policies and procedures and the performance of vulnerability testing to confirm the effectiveness of these measures for the services being provided under this Contract.

(d) Where website hosting or Internet access is the service provided or part of the service provided, the Contractor and any relevant subcontractor(s) shall conduct regular external vulnerability testing. External vulnerability testing is an assessment designed to examine the Contractor’s and subcontractor’s security profile from the Internet without benefit of access to internal systems and networks behind the external security perimeter. The Contractor and any relevant subcontractor(s) shall evaluate all identified vulnerabilities on Internet-facing devices for potential adverse effect on the system’s security and/or integrity and remediate the vulnerability promptly or document why remediation action is unnecessary or unsuitable. The Department shall have the right to inspect these policies and procedures and the performance of vulnerability testing to confirm the effectiveness of these measures for the services being provided under this Contract.

(e) Ensure that anti-virus and anti-malware software is installed and maintained on all systems supporting the services provided under this Contract; that the anti-virus and anti-malware software is automatically updated; and that the software is configured to actively scan and detect threats to the system for remediation.

(f) Enforce strong user authentication and password control measures over the Contractor/subcontractor’s systems supporting the services provided under this Contract to minimize the opportunity for unauthorized system access through compromise of the user access controls. At a minimum, the implemented measures should be consistent with the most current State of Maryland Department of Information Technology’s Information Security Policy (http://doit.maryland.gov/support/Pages/SecurityPolicies.aspx), including specific requirements for password length, complexity, history, and account lockout.

(g) Ensure State data under this service is not processed, transferred, or stored outside of the United States.

(h) Ensure that State data is not commingled with the Contractor’s and subcontractor’s other clients’ data through the proper application of data compartmentalization security measures. This includes but is not limited to classifying data elements and controlling access to those elements based on the classification and the user’s access or security level.

(i) Apply data encryption to protect State data, especially Sensitive Data, from improper disclosure or alteration. Data encryption should be applied to State data in transit over networks and, where possible, State data at rest within the system, as well as to State data when archived for backup purposes. Encryption algorithms which are utilized for this
purpose must comply with current Federal Information Processing Standards (FIPS),
“Security Requirements for Cryptographic Modules”, FIPS PUB 140-2.

http://csrc.nist.gov/groups/STM/cmvp/documents/140-1/1401vend.htm

(j) Enable appropriate logging parameters on systems supporting services provided under
this Contract to monitor user access activities, authorized and failed access attempts,
system exceptions, and critical information security events as recommended by the
operating system and application manufacturers as well as information security standards
including the current State of Maryland Department of Information Security Policy:
http://doit.maryland.gov/support/Pages/SecurityPolicies.aspx, the DPSCS Information
Technology & Communications Division Security Policy
(http://itcd.dpcs.state.md.us/PIA/ShowFile.aspx?fileID=1220) and Criminal Justice
Information Services Security Policy (https://www.fbi.gov/services/cjis/cjis-security-
policy-resource-center).

(k) Retain the aforementioned logs and review them at least daily to identify suspicious or
questionable activity for investigation and documentation as to their cause and perform
remediation, if required. The Department shall have the right to inspect these policies
and procedures and the Contractor or subcontractor’s performance to confirm the
effectiveness of these measures for the services being provided under this Contract.

(l) Ensure system and network environments are separated by properly configured and
updated firewalls to preserve the protection and isolation of Sensitive Data from
unauthorized access as well as the separation of production and non-production
environments.

(m) Restrict network connections between trusted and untrusted networks by physically
and/or logically isolating systems supporting the services being provided under the
Contract from unsolicited and unauthenticated network traffic.

(n) Review at regular intervals the aforementioned network connections, documenting and
confirming the business justification for the use of all service, protocols, and ports
allowed, including the rationale or compensating controls implemented for those
protocols considered insecure but necessary.

(o) Ensure that the Contractor’s and any subcontractor’s personnel shall not connect any of
their own equipment to a State LAN/WAN without prior written approval by the State.
The Contractor/subcontractor shall complete any necessary paperwork as directed and
coordinated with the Contract Manager to obtain approval by the State to connect
Contractor/subcontractor-owned equipment to a State LAN/WAN.

3.52.2.2 Contingency / Disaster Recovery Plans

(a) The Contractor and any relevant subcontractor(s) shall have robust contingency and
disaster recovery plans in place to ensure that the services provided under this Contract
will be maintained in the event of disruption to the Contractor/subcontractor’s operations
(including, but not limited to, disruption to information technology systems), however
cauised.
(b) The contingency and disaster recovery plans must be designed to ensure that services under this Contract are restored after a disruption within 6 hours in order to avoid unacceptable consequences due to the unavailability of services.

(c) The Contractor and any relevant subcontractor(s) shall test the contingency/disaster recovery plans at least twice annually to identify any changes that need to be made to the plan(s) to ensure a minimum interruption of service. Coordination shall be made with the State to ensure limited system downtime when testing is conducted. At least one annual test shall include backup media restoration and failover/fallback operations.

(d) Such contingency and disaster recovery plans shall be available for the Department to inspect and to practically test at any reasonable time, and shall be subject to regular updating, revision, and testing throughout the term of the Contract.

3.52.2.3 Incident Response Requirement

(a) The Contractor shall notify the Contract Manager when any Contractor and/or subcontractor system that may access, process, or store State data or work product is subject to unintended access or attack. Unintended access or attack includes compromise by computer malware, malicious search engine, credential compromise or access by an individual or automated program due to a failure to secure a system or adhere to established security procedures.

(b) The Contractor shall notify the Contract Manager within one (1) Business Day of the discovery of the unintended access or attack by providing notice via written or electronic correspondence to the Contract Manager and Procurement Officer.

(c) The Contractor shall notify the Contract Manager within two (2) hours if there is a threat to the Contractor and/or subcontractor's systems as it pertains to the use, disclosure, and security of the Department’s Sensitive Data.

(d) If an unauthorized use or disclosure of any Sensitive Data occurs, the Contractor must provide written notice to the Contract Manager within one (1) Business Day after the Contractor's discovery of such use or disclosure and, thereafter, all information the State requests concerning such unauthorized use or disclosure.

(e) The Contractor, within one (1) Business Day of discovery, shall report to the Contract Manager any improper or non-authorized use or disclosure of Sensitive Data. The Contractor's report shall identify:
   1. the nature of the unauthorized use or disclosure;
   2. the Sensitive Data used or disclosed;
   3. who made the unauthorized use or received the unauthorized disclosure;
   4. what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and:
   5. what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure.
   6. the Contractor shall provide such other information, including a written report, as reasonably requested by the State.

(f) The Contractor shall comply with all applicable laws that require the notification of individuals in the event of unauthorized release of PII or other event requiring
notification. In the event of a breach of any of the Contractor's security obligations or other event requiring notification under applicable law, the Contractor agrees to assume responsibility for informing all such individuals in accordance with applicable law and to indemnify, hold harmless and defend the State and its officials and employees from and against any claims, damages, or other harm related to such security obligation breach or other event requiring the notification.

(g) This Section 3.52.2 shall survive expiration or termination of the Contract.

### 3.53 Insurance Requirements

3.53.1 The Contractor shall maintain Commercial General Liability Insurance to cover losses resulting from, or arising out of, Contractor action or inaction in the performance of the Contract by the Contractor, its agents, servants, employees, or subcontractors, with a limit of $1,000,000 per occurrence and $5,000,000 annual aggregate.

3.53.2 The Contractor shall maintain Errors and Omissions/Professional Liability insurance with a minimum limit of $2,000,000 per claim and $5,000,000 annual aggregate. Contractor shall also provide coverage for data breaches and related cyber liability through a separate cyber liability policy with a minimum limit of $5,000,000 per occurrence and annual aggregate.

3.53.3 The Contractor shall maintain Automobile and/or Commercial Truck Insurance as appropriate with Liability, Collision, and PIP limits no less than those required by the State where the vehicle(s) is registered, but in no case less than those required by the State of Maryland.

3.53.4 The Contractor shall maintain Crime Insurance to cover Staff theft with minimum single loss limit of $1,000,000 per loss, and single loss retention not to exceed $10,000. The policy must be endorsed to cover Third Party Fidelity and the State of Maryland and the Department must be added as loss payees.

3.53.5 Within five (5) Business Days of recommendation for Contract award, and before any work begins, the Contractor shall provide the Procurement Officer with current certificates of insurance, and shall update such certificates periodically, but no less than annually in multi-year contracts, as directed by the Contract Manager. Such copy of the Contractor’s current certificate of insurance shall contain at minimum the following:

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

b. Commercial General Liability as required in Section 3.53.1.

c. Errors and Omissions/Professional Liability as required in Section 3.53.2.

d. Automobile and/or Commercial Truck Insurance as required in Section 3.53.3.

e. Crime Insurance as required in Section 3.53.4.
3.53.6 The “State of Maryland, its officers, employees and agents” shall be listed as an additional insured on any Commercial General Liability, Auto Liability, Professional/Cyber Liability, and excess liability or umbrella policies with the exception of Worker’s Compensation Insurance, which is currently handled by the Chesapeake Employer’s Insurance Company (formerly Injured Worker’s Insurance Fund). All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Contract Manager, by certified mail, not less than 30 days’ advance notice of any non-renewal, cancellation, or expiration. In the event the Contract Manager receives a notice of non-renewal, the Contractor shall provide the Contract Manager with an insurance policy from another carrier at least 15 days prior to the expiration of the insurance policy then in effect. All insurance policies shall be with a company licensed by the State to do business and to provide such policies.

3.53.7 The Contractor shall require that any subcontractors providing primary services (as opposed to non-critical, ancillary services) under this Contract obtain and maintain the same levels of insurance and shall provide the Contract Manager with the same documentation as is required of the Contractor.

### 3.54 Problem Escalation Procedure

3.54.1 The Contractor must provide and maintain a Problem Escalation Procedure (PEP) for Routine, Urgent and Emergent situations, including any death in a CMHC and all Emergencies involving Inmates in CMHCs. The PEP must state how the Contractor will address problem situations as they occur during the performance of the Contract, especially problems that are not resolved to the satisfaction of the State within appropriate timeframes. The Contractor shall provide contact information to the Contract Manager, as well as to other State personnel, as directed should the Contract Manager not be available.

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

- The process for establishing the existence of a problem;
- Names, titles, and contact information for progressively higher levels of personnel in the Contractor’s organization who would become involved in resolving a problem;
- For each individual listed in the Contractor’s PEP, the maximum amount of time a problem will remain unresolved with that individual before the problem escalates to the next contact person listed in the Contractor’s PEP;
- Expedited escalation procedures and any circumstances that would trigger expedited escalation procedures;
- The method of providing feedback on resolution progress, including the frequency of feedback to be provided to the State;
- Contact information for persons responsible for resolving issues outside of Business Hours and on an Emergency basis; and
• A process for updating and notifying the Contract Manager of any changes to the PEP.

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

3.55 Invoicing

3.55.1 General

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

- Contractor name and address;
- Remittance address;
- Federal taxpayer identification number (or if sole proprietorship, the individual’s social security number);
- Invoice period (i.e. time period during which services covered by invoice were performed);
- Invoice date;
- Invoice number;
- State assigned Contract number;
- State assigned (Blanket) Purchase Order number(s); and
- Amount due including specific descriptions of any amounts other than the monthly fixed rate payment.

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

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

3.55.2 Invoice Submission Schedule

The Contractor shall submit monthly invoices for services performed during the previous month. The Contractor shall bill the Department for the Monthly Price for each respective Contract Period as quoted in its final financial proposal.

3.56 MBE Reports

If this solicitation includes an MBE goal, the Contractor and its MBE subcontractors shall provide the following MBE Monthly Reports based upon the commitment to the goal:
(a) **Attachment D-4A**, the MBE Participation Prime Contractor Paid/Unpaid MBE Invoice Report by the 10th of the month following the reporting period to the DPSCS Contract Manager and the MBE Liaison Officer.

(b) **Attachment D-4B (if applicable)**, the MBE Prime Contractor Report by the 10th of the month following the reporting period to the DPSCS Contract Manager and the MBE Liaison Officer.

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

### 3.57 VSBE Reports

If this solicitation includes a VSBE goal, the Contractor and its VSBE subcontractors shall provide the following VSBE Monthly Reports based upon the commitment to the goal:

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

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

### 3.58 SOC 2 Type 2 Audit Report

This section applies to the Contractor and any relevant subcontractor who provides services for the Department’s identified critical functions, handles Sensitive Data and/or hosts any related implemented system for the State under the Contract. For purposes of this section, “relevant subcontractor” includes any subcontractor that assists the Contractor in the critical functions of the Contract, handles Sensitive Data, and/or assists with any related implemented system, excluding subcontractors that provide secondary services that are not pertinent to assisting the Contractor in the critical functions of the Contract, handling Sensitive Data, and/or assisting with any related implemented system.

The Contractor shall have an annual audit performed, by an independent audit firm of the Contractor’s choosing, of the Contractor’s and any relevant subcontractor’s handling of Sensitive Data and the Department’s critical functions, which are identified as maintenance of health records and shall address all areas relating to Information Technology security and operational processes (see RFP Section 3.52.2.). These services provided by the Contractor and any relevant subcontractor that shall be covered by the audit will collectively be referred to as the “Information Functions and/or Processes.” Such audits shall be performed in accordance with audit guidance: *Reporting on Controls at a Service Organization Relevant to Security, Availability, Processing Integrity, Confidentiality, or Privacy (SOC 2)* as published by the American Institute of Certified Public Accountants (AICPA) and as updated from time to time, or according to the most current audit guidance promulgated by the AICPA or similarly-recognized professional organization, as agreed to by the Department, to assess the security of outsourced client functions or data (collectively, the “Guidance”) as follows:

3.58.1 The type of audit to be performed in accordance with the Guidance is a SOC 2 Type 2 Audit (referred to as the “SOC 2 Audit” or “SOC 2 Report”). The initial SOC 2 Audit shall be scheduled
and completed within a timeframe to be specified by the Contract Manager. All subsequent SOC 2 Audits that are arranged after this initial audit shall be performed on annual basis and submitted to the Contract Manager by July 1 for the preceding calendar year.

3.58.2 The SOC 2 Audit shall report on the Contractor’s and any relevant subcontractor’s system(s) and the suitability of the design and operating effectiveness of controls of the Information Functions and/or Processes to meet the requirements of the Contract, including the Security Requirements identified in Section 3.52, relevant to the following trust principles: Security and Confidentiality, as defined in the aforementioned Guidance.

3.58.3 The audit scope of each year’s SOC 2 Report may need to be adjusted (including the inclusion or omission of the relevant trust services principles of Security, Availability, Confidentiality, Processing Integrity, and/or Privacy) to accommodate any changes to the Contractor’s and any relevant subcontractor’s environment since the previous SOC 2 Report. Such changes may include but are not limited to the addition of Information Functions and/or Processes through modifications to the Contract, or due to changes in information technology or operational infrastructure implemented by the Contractor and/or subcontractor. The Contractor and any relevant subcontractor shall ensure that the audit scope of each year’s SOC 2 Report engagement shall accommodate these changes by including in the SOC 2 Report all appropriate controls related to the current environment supporting the Information Functions and/or Processes, including those controls required by the Contract.

3.58.4 The scope of the SOC 2 Report shall include work performed by any subcontractors that provide essential support to the Contractor for the Information Functions and/or Processes for the services provided to the Department under the Contract. The Contractor shall ensure the audit includes all subcontractors operating in performance of the Contract.

3.58.5 All SOC 2 Audits, including those of the Contractor and any relevant subcontractor, shall be performed at no additional expense to the Department.

3.58.6 The Contractor and all relevant subcontractors shall promptly provide a complete copy of the final SOC 2 Report(s) to the Contract Manager upon completion of each SOC 2 Audit engagement.

3.58.7 The Contractor shall provide to the Contract Manager, within 30 calendar days of the issuance of each SOC 2 Report, a documented corrective action plan which addresses each audit finding or exception contained in a SOC 2 Report. The corrective action plan shall identify in detail the remedial action to be taken by the Contractor and/or subcontractor(s) along with the date(s) when each remedial action is to be implemented.

3.58.8 If the Contractor, including any relevant subcontract, currently has an annual information security assessment performed that includes the operations, systems, and repositories of the Information Functions and/or Processes being provided to the Department under the Contract, and if that assessment generally conforms to the content and objective of the Guidance, the Department will determine in consultation with appropriate State government technology and audit authorities whether the Contractor’s and any relevant subcontractor’s current information security assessments are acceptable in lieu of the SOC 2 Report(s).

3.58.9 If the Contractor and any relevant subcontractor fails during the Contract term to obtain an annual SOC 2 Report by the date specified in RFP Section 3.58.1, the Department shall have the right to retain an independent audit firm to perform an audit engagement of a SOC 2 Report of the Information Functions and/or Processes utilized or provided by the Contractor and any relevant subcontractor under the Contract. The Contractor and any relevant subcontractor agrees to allow the independent audit firm to access its facilities for purposes of conducting this audit engagement(s),
and will provide the necessary support and cooperation to the independent audit firm that is required to perform the audit engagement of the SOC 2 Report. The Department will invoice the Contractor for the expense of the SOC 2 Report(s), or deduct the cost from future payments to the Contractor.

3.58.10 The Contractor acknowledges that, in the course of performance hereunder, the Contractor may receive personally identifiable information that may be restricted from disclosure under the Health Insurance Portability Act and Accountability Act (HIPAA) and/or the Family Educational Rights and Privacy Act (FERPA). Notwithstanding any other provision of this § 3.58, the Contractor will be responsible for all damages, fines and corrective action arising from disclosure of such information caused by such breach of its data security or confidentiality provisions hereunder.

3.59 Liquidated Damages

3.59.1 It is critical to the success of the State’s programs that mental health services be maintained in accordance with the agreed upon schedules and delivered in a reliable manner. By submitting a Proposal in response to this RFP, the Offeror acknowledges that the State will incur economic damages if the Contractor fails to meet the obligations set forth in this RFP. The Offeror also acknowledges that it would be impractical, difficult, or impossible to assess the actual damage sustained by the State in the event of delays or failures in service, reporting, attendance of Contractor personnel for scheduled work, provision of services, and other service requirements set forth in the Contract. The State and the Contractor, therefore, agree that in the event of any such failure to perform to certain standards, the amount of damages which will be sustained will be the amounts set forth in Attachment V, Liquidated Damages. The Contractor agrees that in the event of any such failure of performance, the Contractor shall pay such amount as liquidated damages and not as a penalty. The Contractor agrees that the Liquidated Damages set forth in this RFP represent a fair, reasonable, and appropriate estimation of damages. For amounts due the State as liquidated damages, the State, at its option, may deduct from any money payable to the Contractor or may bill the Contractor as a separate item. The Department may assess liquidated damages at any time until the termination of the Contract.

3.59.2 The Department will not assess or invoke liquidated damages for any occasion of Contract non-performance otherwise subject to liquidated damages if such nonperformance is determined by the DPSCS Contract Manager to have resulted from circumstances beyond the control of the Contractor.

3.59.3 For 90 days from the Go-Live Date, the Department will not assess any of the liquidated damages described in Attachment V.

3.60 End of Contract Transition

3.60.1 The Contractor shall cooperate in the orderly transition of services from the Contract awarded under this solicitation to any subsequent contract for similar services. The transition period shall begin ninety (90) days before the Contract end date, or contract extension. The Contractor shall work toward a prompt and timely transition, proceeding in accordance with the directions of the Contract Manager. The Contract Manager may provide the Contractor with additional instructions to meet specific transition requirements prior to the end of Contract.

3.60.2 If the Contractor is not awarded a successor contract, it shall fully cooperate with the successor contractor to assure a seamless transfer of Inmate healthcare services and utilization management services. The Contractor shall:
3.60.2.1 Provide reasonable access by the successor contractor to the Contractor’s Staff between 30 and 60 days before the Contract end date. If less than 30 days of the Contract term remains as of the time a successor contract is awarded the Contractor shall make special efforts to provide the successor contractor access to its Staff.

3.60.2.2 Participate in the Contract ending physical inventory.

3.60.2.3 Transfer all databases created under this RFP to the successor contractor as of the end of the final day of the Contract and support the conversion of any DPSCS data from its system and provide the DPSCS data in a universal, electronic file-format compatible for transfer to the system approved by DPSCS, including the system of a successor contractor.

3.60.2.4 As requested by the Department Contract Manager provide appropriate representation at work initiation meetings between the Department and the successor contractor to help ensure a smooth transition of services.

3.60.2.5 Ensure that no records/documentation that DPSCS is required by accreditation, regulation, law, etc. to maintain in its possession are removed, altered or destroyed. This requirement includes but is not limited to Staff records relating to credentialing, training, discipline, and time worked, patient records, and records of equipment, supplies and inventory. Electronic correspondence (e.g., e-mails) pertaining to any matter related to the Contract, including Inmate patient care, litigation and ARPS on the domain of either the Contractor or DPSCS remain the property of DPSCS.

3.60.2.6 Ensure that all required records, reports, data, etc. are current and properly documented in the document management system and available without restriction by the successor contractor as of start of the successor contract.

3.60.3 The Contractor shall ensure that all required Contract close-out activities are timely and properly performed including but not limited to:

3.60.3.1 Submitting to the Department post contract invoices with all supporting documentation, including any final invoice; and

3.60.3.2 Delivering to the Department Contract Manager all source codes to software specifically developed for use under the Contract. All supplies, equipment, manuals, etc. owned by the Department shall be delivered to the Department as of the end of the Contract.

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SECTION 4 – PROPOSAL FORMAT

4.1 Two Part Submission

Offerors shall submit Proposals in separate volumes:

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

4.2 Proposals

4.2.1 Volume I – Technical Proposal, and Volume II – Financial Proposal shall be sealed separately from one another. It is preferred, but not required, that the name, email address, and telephone number of the Offeror be included on the outside of the packaging for each volume. Each Volume shall contain an unbound original, so identified, and six (6) copies. Unless the resulting package will be too unwieldy, the Department’s preference is for the two (2) sealed Volumes to be submitted together in a single package including a label bearing:

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

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

4.2.2 An electronic version (on Compact Disk/CD, Digital Versatile Disc/DVD, or Universal Serial Bus/USB Flash/Thumb Drive) of Volume I - Technical Proposal in Microsoft Word format must be enclosed with the original Volume I - Technical Proposal submission. An electronic version (on CD, DVD, or USB Flash Drive) of Volume II - Financial Proposal in Microsoft Word or Microsoft Excel format must be enclosed with the original Volume II - Financial Proposal submission. Each CD/DVD/USB Flash Drive must be labeled on the outside with the RFP title and number, name of the Offeror, and volume number. Each CD/DVD/USB Flash Drive must be packaged with the original copy of the appropriate Proposal (Technical or Financial). Two electronic versions of both Volume 1 and Volume 2 shall be submitted.

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

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

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

4.3 Delivery

Offerors may either mail or hand-deliver Proposals.
4.3.1 For U.S. Postal Service deliveries, any Proposal that has been received at the appropriate mailroom, or typical place of mail receipt, for the respective procuring unit by the time and date listed in the RFP will be deemed to be timely. If an Offeror chooses to use the U.S. Postal Service for delivery, the Department recommends that it use Express Mail, Priority Mail, or Certified Mail only as these are the only forms for which both the date and time of receipt can be verified by the Department. It could take several days for an item sent by first class mail to make its way by normal internal mail to the procuring unit and an Offeror using first class mail will not be able to prove a timely delivery at the mailroom.

4.3.2 Hand-delivery includes delivery by commercial carrier acting as agent for the Offeror. For any type of direct (non-mail) delivery, an Offeror is advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery.

4.3.3 After receipt, a Register of Proposals will be prepared that identifies each Offeror. The Register of Proposals will be open to inspection only after the Procurement Officer makes a determination recommending the award of the Contract.

4.4 Volume I – Technical Proposal

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

4.4.1 Format of Technical Proposal

Inside a sealed package described in Section 4.2 “Proposals,” the unbound original, six (6) copies, and the electronic version shall be provided. The RFP sections are numbered for ease of reference. Section 4.4.2 sets forth the order of information to be provided in the Technical Proposal, e.g., Section 4.4.2.1 “Title and Table of Contents,” Section 4.4.2.2 “Claim of Confidentiality,” Section 4.4.2.3 “Transmittal Letter,” Section 4.4.2.4 “Executive Summary,” etc. In addition to the instructions below, responses in the Offeror’s Technical Proposal should reference the organization and numbering of Sections in the RFP (ex. “Section 3.2.1 Response . . . ; “Section 3.2.2 Response . . . ,” etc.). This Proposal organization will allow State officials and the Evaluation Committee (see RFP Section 5.1) to “map” Offeror responses directly to RFP requirements by Section number and will aid in the evaluation process.

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

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

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

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

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

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

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

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

The Offeror shall condense and highlight the contents of the Technical Proposal in a separate section titled “Executive Summary.” The Summary shall indicate whether the Offeror is the subsidiary of another entity, and if so, whether all information submitted by the Offeror pertains exclusively to the Offeror. The Summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (Attachment A), or any other attachments. Exceptions to terms and conditions may result in having the Proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award.

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

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

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

4.4.2.6 **Offeror Technical Response to RFP Requirements (Submit under TAB E)**

a. The Offeror shall address each Scope of Work requirement (i.e., each subsection of Section 3) in its Technical Proposal and describe in detail how it will deliver the required services and how its proposed services, including the services of any proposed subcontractor(s), will meet or exceed the requirement(s). The Technical Proposal shall include an outline of the overall management concepts employed by the Offeror and a project management plan, including timelines. If the State is seeking Offeror agreement to any requirement(s), the Offeror shall state its agreement or disagreement. **The Technical Proposal shall include a response to each subsection of section 3 (e.g. 3.40.1, 3.40.2, etc. ) with an explanation of how the work will be performed for each subsection of Section 3 Scope of Work. Merely responding that the Offeror will comply is not sufficient.** Any paragraph that requires plans, databases, reports, manuals, systems, etc. shall include draft plans, reports,
and detailed descriptions of the databases and systems. Any exception to a requirement, term, or condition may result in having the Proposal classified as not reasonably susceptible of being selected for award or the Offeror deemed not responsible.

b. The Offeror shall identify the location(s) from which it proposes to provide the services, including, if applicable, any current facilities that it operates, and any required construction to satisfy the State’s requirements as outlined in this RFP.

c. The Offeror shall provide a draft Problem Escalation Procedure (PEP) that includes, at a minimum, titles of individuals to be contacted by the Department’s Contract Manager should problems arise under the Contract and explain how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. Final procedures shall be submitted as indicated in RFP Section 3.53.

d. Non-Compete Clause Prohibition:

The Department seeks to maximize the retention of personnel working under this Contract whenever there is a transition of the Contract from one contractor to another so as to minimize disruption due to a change in contractor and to maximize the maintenance of institutional knowledge accumulated by such personnel. To help achieve this objective of staff retention, each Offeror shall agree that if awarded the Contract, the Offeror’s Staff working on the State contract shall be free to work for the contractor awarded the State contract notwithstanding any non-compete clauses to which the Staff may be subject. The Offeror agrees not to enforce any non-compete restrictions against the State with regard to these Staff and agents if a different vendor succeeds it in the performance of the Contract. To evidence compliance with this non-compete clause prohibition each Offeror must include an affirmative statement in its technical proposal that the Offeror, if awarded a Contract, agrees that its Staff shall not be restricted from working with or for any successor contractor that is awarded the State contract.

In the event the Department determines that the Contractor or its agent has invoked a non-compete clause to discourage Staff from agreeing to work for a successor contractor in violation of RFP requirements, the Department shall assess liquidated damages and deduct the equivalent of three months’ salary for such Staff from the final payment due the Contractor to compensate the Department for the value of lost Contract-specific knowledge. To ascertain the value of three months’ salary the Department will use the minimum hourly rate provided for the respective position in Attachment R of the Contractor’s technical proposal adjusted by the Overhead Percentage multiplied by 540 hours.

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

4.4.2.7.1 The Department has identified the recommended clinical and non-clinical staffing plan for the Contract in Attachment R. While it is the opinion of the Department that the suggested staffing plan contained in Attachment R is appropriate to perform the scope of work outlined in this RFP, the Offeror may propose a different clinical and/or non-clinical staffing plan. If the staffing plan proposed by the Offeror varies from the Department recommendation in Attachment R, the Offeror must submit its proposed plan using the same titles, location, and format as Attachment R detailing its proposed clinical and non-clinical staffing plan, identifying each change from Attachment R, explaining the rationale for each change, and describing how the change will affect the delivery of services. The final staffing plan shall be formalized as the Contractor’s initial
staffing plan. The Contractor’s staffing plan is subject to the following limitations:

(1) An offeror must include all positions specifically required under this RFP, including non-clinical positions.

(2) In addition to the clinical staffing plan the Offeror shall also identify all other (non-clinical) personnel to be employed under this Contract, either On-site at a Department location or elsewhere. The submitted non-clinical staffing plan must include all positions specifically identified in this RFP. For any position not specified in the RFP, the Offeror shall include a position description, the minimum hourly pay rate, whether the position will primarily or exclusively work at a specific work-site, and/or shift, or whether the position will have a Department wide focus. In no instance may the minimum payment rate to Staff be less than permitted under the State’s Living Wage law as described in §1.34 and Attachment G.

4.4.2.7.2 The Offeror shall submit a Staff skills and qualifications matrix in its own format to summarize relevant experience for the proposed Staff, including any subcontractor Staff. Offeror and subcontractor Staff experience shall be presented in two separate matrices.

4.4.2.7.3 The Offeror shall describe in detail how the proposed Staff’s experience and qualifications relate to their specific responsibilities, including any Staff of proposed subcontractor(s), as detailed in the Work Plan. The Offeror shall include individual resumes for the Key Personnel, including Key Personnel for any proposed subcontractor(s), who are to be assigned to the project if the Offeror is awarded the Contract. Each resume should include the amount of experience the individual has had relative to the Scope of Work set forth in this RFP. Letters of intended commitment to work on the project, including letters from any proposed subcontractor(s), shall be included in this section.

Where the identification of specific persons to staff specific positions and associated resumes are requested, it is recognized that in some circumstances (such as planning to retain existing staff) it may not be practical or possible to provide identification. Accordingly, Offerors are permitted to submit qualifications and explanations of the type of Staff they will be seeking and the manner in which they will recruit such Staff. In recognition of the possibility that existing Staff either may decline to be employed by an Offeror or the Offeror does not choose to hire one or more existing personnel, Offerors should describe how they will staff positions under either of these circumstances. More consideration will be given to Offerors that can and do provide resumes instead of qualifications/explanations.

4.4.2.7.4 The Offeror shall describe the management structure it will utilize and provide an Organizational Chart outlining personnel and their related duties. The Offeror shall include job titles and the percentage of time each individual will spend on his/her assigned tasks. Offerors using job titles other than those
commonly used by industry standards must provide a reference document that describes the work to be done

4.4.2.7.5 The Offeror shall provide a written plan of active and ongoing recruitment and retention of personnel at all levels, including the minimum hourly rate expected to be paid for each position included in the staffing plan that shall be prepared in the same format as Attachment R, any incentives provided for this purpose and any other strategies for recruitment and retention. The plan shall describe Staff payment rates (which may not be less than under the State’s Living Wage law), employee benefits, incentives and any and all other means for recruitment and retention of qualified Staff to achieve a less than 20% annual composite Staff turnover rate. The plan will also acknowledge the Department’s role in the hiring process of Higher Level Staff.

4.4.2.8 Offeror Qualifications and Capabilities (Submit under TAB G)

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

a. The number of years the Offeror has provided the similar services;

b. The number of clients/customers and geographic locations that the Offeror currently serves;

c. The names and titles of headquarters or regional management personnel who may be involved with supervising the services to be performed under this Contract;

d. The Offeror’s process for resolving billing errors; and

e. An organizational chart that identifies the complete structure of the Offeror, including any parent company, headquarters, regional offices, and subsidiaries of the Offeror.

4.4.2.9 References (Submit under TAB H)

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

a. Name of client organization;

b. Name, title, telephone number, and e-mail address, if available, of point of contact for client organization; and

c. Value, type, duration, and description of services provided.

The Department reserves the right to request additional references or utilize references not provided by an Offeror.
4.4.2.10  List of Current or Prior State Contracts (Submit under TAB I)

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

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

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

4.4.2.10.2 Provide a list of any contracts with any entity, public or private that have been terminated, for convenience or cause, in whole or in part within the past five years. Terminated contracts for convenience include contracts with renewal options when an available option was not exercised by the contracting entity (customer). For any such instance, identify:

a. The contracting entity;
b. The nature of the contract;
c. The value of the contract;
d. The original term of the contract;
e. At what stage the contract was terminated;
f. The reason for the termination; and
g. A contact person (including name, title of contract, phone and email address) at the contracting entity that can be contacted for verification of the provided information, or for additional information.

4.4.2.11  Financial Capability (Submit under TAB J)

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

In addition, the Offeror may supplement its response to this Section by including one or more of the following with its response:
a. Dun and Bradstreet Rating;
b. Standard and Poor’s Rating;
c. Lines of credit;
d. Evidence of a successful financial track record; and

e. Evidence of adequate working capital.

4.4.2.12 Certificate of Insurance (Submit under TAB K)

The Offeror shall provide a copy of its current certificate of insurance showing the types and limits of insurance in effect as of the Proposal submission date. The current insurance types and limits do not have to be the same as described in Section 3.77. See Section 5.6 for the required insurance certificate submission for the recommended Offeror.

4.4.2.13 Subcontractors (Submit under TAB L)

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

4.4.2.14 Legal Action Summary (Submit under TAB M)

This summary shall include:

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

4.4.2.15 Economic Benefit Factors (Submit under TAB N)

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

Proposals that identify specific benefits as being contractually enforceable commitments will be rated more favorably than Proposals that do not identify specific benefits as contractual commitments, all other factors being equal.
Offerors shall identify any performance guarantees that will be enforceable by the State if the full level of promised benefit is not achieved during the Contract term.

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

a. generic statements that the State will benefit from the Offeror’s superior performance under the Contract;

b. descriptions of the number of Offeror Staff located in Maryland other than those that will be performing work under this Contract; or

c. tax revenues from Maryland based Staff or locations, other than those that will be performing, or used to perform, work under this Contract.

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

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

• The Contract dollars to be recycled into Maryland’s economy in support of the Contract, through the use of Maryland subcontractors, suppliers and joint venture partners. Do not include actual fees or rates paid to subcontractors or information from your Financial Proposal;

• The number and types of jobs for Maryland residents resulting from the Contract. Indicate job classifications, number of Staff in each classification and the aggregate payroll to which the Offeror has committed, including contractual commitments at both prime and, if applicable, subcontract levels. If no new positions or subcontracts are anticipated as a result of this Contract, so state explicitly;

• Tax revenues to be generated for Maryland and its political subdivisions as a result of the Contract. Indicate tax category (sales taxes, payroll taxes, inventory taxes and estimated personal income taxes for new Staff). Provide a forecast of the total tax revenues resulting from the Contract;

• Subcontract dollars committed to Maryland small businesses and MBEs; and

• Other benefits to the Maryland economy which the Offeror promises will result from awarding the Contract to the Offeror, including contractual commitments. Describe the benefit, its value to the Maryland economy, and how it will result from, or because of the Contract award. Offerors may commit to benefits that are not directly attributable to the Contract, but for which the Contract award may serve as a catalyst or impetus.

4.4.3 Additional Required Technical Submissions (Submit under TAB O)

4.4.3.1 The following documents shall be completed, signed, and included in the Technical Proposal, under TAB O that follows the material submitted in response to Section 4.4.2.
a. Completed Bid/Proposal Affidavit (*Attachment B*).
b. Completed Maryland Living Wage Requirements Affidavit of Agreement (*Attachment G-I*).

4.4.3.2 **If Required**, the following documents shall be completed, signed, and included in the Technical Proposal, under TAB O that follows the material submitted in response to Section 4.4.2. *See appropriate RFP Section to determine whether the particular document is required for this procurement:

   a. Completed MDOT Certified MBE Utilization and Fair Solicitation Affidavit (*Attachment D-1A* *see Section 1.33*).
   b. Completed Federal Funds Attachment (*Attachment H* *see Section 1.35*).
   c. Completed Conflict of Interest Affidavit and Disclosure (*Attachment I* *see Section 1.36*).
   d. Completed Mercury Affidavit (*Attachment L* *see Section 1.40*).
   e. Completed Veteran-Owned Small Business Enterprise (VSBE) Utilization Affidavit and Prime/Subcontractor Participation Schedule. (*Attachment M-1* *see Section 1.41*).
   f. Completed Location of the Performance of Services Disclosure (*Attachment N* *see Section 1.42*).

**4.5 Volume II – Financial Proposal**

Under separate sealed cover from the Technical Proposal and clearly identified in the format identified in Section 4.2 “Proposals,” the Offeror shall submit an original unbound copy, six (6) copies, and an electronic version in Microsoft Word or Microsoft Excel of the Financial Proposal. The Financial Proposal shall contain all price information in the format specified in *Attachment F*. The Offeror shall complete the Financial Proposal Form only as provided in the Financial Proposal Instructions and the Financial Proposal Form itself.

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

#### 5.1 Evaluation Committee

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

#### 5.2 Technical Proposal Evaluation Criteria

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

5.2.1 Offeror’s Technical Response to RFP Requirements (See RFP § 4.4.2.6)

The State prefers an Offeror’s response to work requirements in the RFP that illustrates a comprehensive understanding of work requirements and mastery of the subject matter, including an explanation of how the work will be done. Proposals which include limited responses to work requirements such as “concur” or “will comply” will receive a lower ranking than those Proposals that demonstrate an understanding of the work requirements and include plans to meet or exceed them.

5.2.2 Experience and Qualifications of Proposed Staff (See RFP § 4.4.2.7).

5.2.3 Offeror Qualifications and Capabilities, including proposed Subcontractors (See RFP § 4.4.2.8 – 4.4.2.14)

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

#### 5.3 Financial Proposal Evaluation Criteria

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

#### 5.4 Reciprocal Preference

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

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

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

5.5 Selection Procedures

5.5.1 General

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

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

5.5.2 Selection Process Sequence

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

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

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

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

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

5.5.3 **Award Determination**

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

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

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

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

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RFP ATTACHMENTS

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

ATTACHMENT B – Bid/Proposal Affidavit
This Attachment must be completed and submitted with the Technical Proposal.

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

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

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

ATTACHMENT F – Financial Proposal Instructions and Form
The Financial Proposal Form must be completed and submitted in the Financial Proposal package.

ATTACHMENT G – Maryland Living Wage Requirements for Service Contracts and Affidavit of Agreement
Attachment G-1 Living Wage Affidavit of Agreement must be completed and submitted with the Technical Proposal.

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

ATTACHMENT I – Conflict of Interest Affidavit and Disclosure
If required (see Section 1.36), this Attachment must be completed and submitted with the Technical Proposal.

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

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

ATTACHMENT L – Mercury Affidavit
If required (see Section 1.40), this Attachment must be completed and submitted with the Technical Proposal.
ATTACHMENT M – Veteran-Owned Small Business Enterprise Forms
If required (see Section 1.41), these Attachments include the VSBE Attachments M-1 through M-4. Attachment M-1 must be completed and submitted with the Technical Proposal. Attachment M-2 is required to be submitted within ten (10) Business Days of receiving notification of recommendation for award.

ATTACHMENT N – Location of the Performance of Services Disclosure
If required (see Section 1.42), this Attachment must be completed and submitted with the Technical Proposal.

ATTACHMENT O – Department of Human Resources (DHR) Hiring Agreement
If required (see Section 1.43), this Attachment is to be completed and submitted within five (5) Business Days of receiving notification of recommendation for award.

ATTACHMENT P - DPSCS Mental Health staffing

ATTACHMENT Q – DPSCS Facilities

ATTACHMENT R – Recommended Staffing Matrix

ATTACHMENT S – Threshhold Contract

ATTACHMENT T – DuVall v. Hogan Settlement Agreement and Amendment

ATTACHMENT U - Equipment Inventory

ATTACHMENT V – Liquidated Damages Schedule

ATTACHMENT W – Average Daily Population FY 14 – FY 17

ATTACHMENT X – SREs and 7 Day Exams FY 2016

ATTACHMENT Y – Summary Services Provided 2015 and 2016

ATTACHMENT Z - Facility Tour Schedule
ATTACHMENT A – CONTRACT

INMATE MENTAL HEALTH SERVICES CONTRACT

THIS CONTRACT (the “Contract”) is made this (“Xth”) day of (month), 2017, by and between (Contractor’s name) and the STATE OF MARYLAND, acting through the Department of Public Safety and Correctional Services.

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

1. Definitions

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

1.1 “COMAR” means Code of Maryland Regulations.

1.2 “Contract” means this agreement between (Contractor’s name) and the State of Maryland, acting through the Department.

1.3 “Contract Monitor” means the following Department employee identified as the Contract Monitor: Joseph A. Ezeh, MBA, Acting Director, Contracts Administration and Audits, Clinical Services and Inmate Health, 6776 Reisterstown Road, Baltimore, MD 21215, Phone: 410-585-3386, e-mail: joseph.ezeh@maryland.gov

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

1.5 “Department” means the Department of Public Safety and Correctional Services

1.6 “Financial Proposal” means the Contractor’s Financial Proposal dated (Financial Proposal date).

1.7 “Procurement Officer” means the following Department employee identified as the Procurement Officer: Cecilia Januszkieiwicz, Suite 1000, 300 E. Joppa Road, Towson, MD 21286, Phone: 410-339-5051, e-mail: cecilia.januszkieiwicz@maryland.gov

1.8 “RFP” means the Request for Proposals for Inmate Mental Health Services Solicitation # Q0017059, and any addenda thereto issued in writing by the State.

1.9 “State” means the State of Maryland.

1.10 “Technical Proposal” means the Contractor’s Technical Proposal dated (Technical Proposal date).

2. Scope of Contract

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

Exhibit A – The RFP
Exhibit B – State Contract Affidavit, executed by the Contractor and dated (date of Attachment C)
2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract or the RFP. No other order, statement, or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor’s cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

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

3. **Period of Performance.**

3.1 The term of this Contract begins on the date the Contract is signed by the Department following any required approvals of the Contract, including approval by the Board of Public Works, if such approval is required. The Contractor shall provide services under this Contract as of the Go-Live date contained in the written Notice to Proceed. From this Go-Live date, the Contract shall be for a period of approximately 6 years beginning November 1, 2017, and ending on October 31, 2023.

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

4. **Consideration and Payment**

4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the Department shall pay the Contractor in accordance with the terms of this Contract and at the prices quoted in the Financial Proposal. Unless properly modified (see above Section 2.3), payment to the Contractor pursuant to this Contract, including the base term and any option exercised by the State, shall not exceed $ (enter NTE amount).

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

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

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

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

4.5 Contractor’s eMaryland Marketplace vendor ID number is (Contractor’s eMM number).

5. Rights to Records

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

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

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

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

5.5 Upon termination of the Contract, the Contractor, at its own expense, shall deliver any equipment, software or other property provided by the State to the place designated by the Procurement Officer.

6. Exclusive Use

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

6.2 Except as may otherwise be set forth in this Contract, Contractor shall not use, sell, sub-lease, assign, give, or otherwise transfer to any third party any other information or material provided to Contractor by the Department or developed by Contractor relating to the Contract, except that Contractor may provide said
information to any of its officers, employees and subcontractors who Contractor requires to have said information for fulfillment of Contractor’s obligations hereunder. Each officer, employee and/or subcontractor to whom any of the Department’s confidential information is to be disclosed shall be advised by Contractor of and bound by confidentiality and intellectual property terms substantively equivalent to those of this Contract.

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

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

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

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

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

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

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

9. **Loss of Data**

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

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

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

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

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

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

10.6 This Section 10 shall survive termination of this Contract.

11. **Non-Hiring of Employees**

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

12. **Disputes**

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

13. **Maryland Law**

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

13.2 The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland), does not apply to this Contract or any purchase order or Notice to Proceed issued under this Contract, or any software, or any software license required hereunder.
13.3 Any and all references to the Maryland Code, Annotated contained in this Contract shall be construed to refer to such Code sections as are from time to time amended.

14. **Nondiscrimination in Employment**

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

15. **Contingent Fee Prohibition**

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

16. **Non-Availability of Funding**

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

17. **Termination for Default**

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

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

19. Delays and Extensions of Time

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

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

20. Suspension of Work

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

21. Pre-Existing Regulations

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

22. Financial Disclosure

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

23. Political Contribution Disclosure

The Contractor shall comply with Md. Code Ann., Election Law Article, Title 14, which requires that every person that enters into a contract for a procurement with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of $200,000 or more, shall, file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of $500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract
was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31. Additional information is available on the State Board of Elections website: http://www.elections.state.md.us/campaign_finance/index.html.

24. **Documents Retention and Inspection Clause**

The Contractor and subcontractors shall retain and maintain all records and documents relating to this Contract for a period of five (5) years after final payment by the State hereunder or any applicable statute of limitations or federal retention requirements (such as HIPAA), whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section. In the event of any audit, the Contractor shall provide assistance to the State, without additional compensation, to identify, investigate, and reconcile any audit discrepancies and/or variances. This Section 24 shall survive expiration or termination of the Contract.

25. **Right to Audit**

25.1 The State reserves the right, at its sole discretion and at any time, to perform an audit of the Contractor’s and/or subcontractor’s performance under this Contract. An audit is defined as a planned and documented independent activity performed by qualified personnel including but not limited to State and federal auditors, to determine by investigation, examination, or evaluation of objective evidence from data, statements, records, operations and performance practices (financial or otherwise) the Contractor’s compliance with the Contract, including but not limited to adequacy and compliance with established procedures and internal controls over the Contract services being performed for the State.

25.2 Upon three (3) Business Days’ notice, the Contractor and/or any subcontractors shall provide the State reasonable access to their respective records to verify conformance to the terms of the Contract. The Department may conduct these audits with any or all of its own internal resources or by securing the services of a third party accounting or audit firm, solely at the Department’s election. The Department may copy, at its own expense, any record related to the services performed and provided under this Contract.

25.3 The right to audit shall include any of the Contractor’s subcontractors including but not limited to any lower tier subcontractor(s) that provide essential support to the Contract services. The Contractor and/or subcontractor(s) shall ensure the Department has the right to audit such subcontractor(s).

25.4 The Contractor and/or subcontractors shall cooperate with Department and Department’s designated accountant or auditor and shall provide the necessary assistance for the Department or Department’s designated accountant or auditor to conduct the audit.

25.5 This Section shall survive expiration or termination of the Contract.

26. **Compliance with Laws**

The Contractor hereby represents and warrants that:

26.1 It is qualified to do business in the State and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
26.2 It is not in arrears with respect to the payment of any monies due and owing the State, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;

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

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

27. Cost and Price Certification

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

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

28. Subcontracting; Assignment

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

29. Liability

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

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

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

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

30. Commercial Nondiscrimination

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

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

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

31. Prompt Pay Requirements

31.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the Department, at its option and in its sole discretion, may take one or more of the following actions:

a. Not process further payments to the contractor until payment to the subcontractor is verified;
b. Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
c. Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;
d. Place a payment for an undisputed amount in an interest-bearing escrow account; or
e. Take other or further actions as appropriate to resolve the withheld payment.

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

a. Retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor; and
b. An amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.

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

a. Affect the rights of the contracting parties under any other provision of law;
b. Be used as evidence on the merits of a dispute between the Department and the contractor in any other proceeding; or
c. Result in liability against or prejudice the rights of the Department.
31.4 The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise (MBE) program.

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

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

Verification shall include a review of the:
   i. The Contractor’s monthly report listing unpaid invoices over thirty (30) days old from certified MBE subcontractors and the reason for nonpayment; and
   ii. The monthly report of each certified MBE subcontractor, which lists payments received from the Contractor in the preceding thirty (30) days and invoices for which the subcontractor has not been paid.

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

c. If the Department determines that the Contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that the Department requires, then the Department may:
   i. Terminate the contract;
   ii. Refer the matter to the Office of the Attorney General for appropriate action; or
   iii. Initiate any other specific remedy identified by the contract, including the contractual remedies required by any applicable laws, regulations, and directives regarding the payment of undisputed amounts.

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

32. **Living Wage**

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

33. **Use of Estimated Quantities**

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

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

35. Notices

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

If to the State: Cecilia Januszkiewicz
Procurement Officer
Suite 1000
300 E. Joppa Road
Towson, MD 21286
Phone: 410-339-5051
e-mail: cecilia.januszkiewicz@maryland.gov

If to the Contractor: __________________________
______________________________
______________________________
______________________________

36. MBE Liquidated Damages

36.1 The Contract requires the Contractor to make good faith efforts to comply with the Minority Business Enterprise (“MBE”) Program and Contract provisions. The State and the Contractor acknowledge and agree that the State will incur economic damages and losses, including, but not limited to, loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources, if the Contractor does not make good faith efforts to comply with the requirements of the MBE Program and pertinent MBE Contract provisions. The parties further acknowledge and agree that the damages the State might reasonably be anticipated to accrue as a result of such lack of compliance are difficult or impossible to ascertain with precision and liquidated damages represent a fair, reasonable, and appropriate estimation of damages.

Upon a determination by the State that the Contractor failed to make good faith efforts to comply with one or more of the specified MBE Program requirements or pertinent MBE Contract provisions and without the State being required to present any evidence of the amount or character of actual damages sustained, the Contractor agrees to pay liquidated damages to the State at the rates set forth below. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty. The Contractor expressly agrees that the State may withhold payment on any invoices as an offset against liquidated damages owed. The Contractor further agrees that for each specified violation, the agreed-upon liquidated damages are reasonably proximate to the loss the State is anticipated to incur as a result of each violation.

36.1.1 Failure to submit each monthly payment report in full compliance with COMAR 21.11.03.13B(3): $33.30 per day until the monthly report is submitted as required.

36.1.2 Failure to include in its agreements with MBE subcontractors a provision requiring submission of payment reports in full compliance with COMAR 21.11.03.13B(4): $116.54 per MBE subcontractor.

36.1.3 Failure to comply with COMAR 21.11.03.12 in terminating, canceling, or changing the scope of work/value of a contract with an MBE subcontractor and/or amendment of the MBE participation schedule: the difference between the dollar value of the MBE participation commitment on the MBE participation schedule for that specific MBE firm and the dollar value of the work performed by that MBE firm for the Contract.
36.1.4 Failure to meet the Contractor’s total MBE participation goal and subgoal commitments: the difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually achieved.

36.1.5 Failure to promptly pay all undisputed amounts to a subcontractor in full compliance with the prompt payment provisions of the Contract: $124.86 per day until the undisputed amount due to the subcontractor is paid.

36.2 Notwithstanding the assessment or availability of liquidated damages, the State reserves the right to terminate the Contract and exercise any and all other rights or remedies which may be available under the Contract or otherwise may be available at law or in equity.

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

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

38. Confidentiality of Health and Financial Information

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

39. Limited English Proficiency

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

40. Non-MBE Liquidated Damages

40.1 Process

(A) The Department may deduct liquidated damages as set forth in RFP Attachment V. The Department will not assess any of the liquidated damages described for the first ninety (90) days following the Go-Live Date.
(B) When the Department has identified a deficiency for which it could assess liquidated damages, it shall notify the Contractor in writing of the deficiency (the "Initial Notice").

(C) The Contractor shall provide to the Department Contract Manager within 10 Business Days of the date of the Initial Notice, its written explanation for the deficiency, and if applicable, how the circumstance(s) causing the nonperformance was beyond its control.

(D) The Department may determine whether or not to assess the liquidated damages without considering the Contractor’s response if it has not received the Contractor’s explanation within 10 Business Days.

40.2 Payment Adjustments

(A) The Department shall notify the Contractor of each payment adjustment due to the imposition of direct or liquidated damages and shall provide the Contractor with such evidence as the Department determines is adequate to justify each adjustment.

(B) If the Contractor does not agree with the adjustment or the action taken to obtain the adjustment, the Contractor's sole remedy to resolve the issue is as provided in Section 12 (Disputes) of this Contract.

41. Miscellaneous

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

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

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

CONTRACTOR STATE OF MARYLAND
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

___________________________________ _____________________________
By: By: Stephen T. Moyer, Secretary
______________________________ Or designee:
Date _____________________________

Approved for form and legal sufficiency
this ___ day of ____________, 20__.

___________________________________
Assistant Attorney General

APPROVED BY BPW: ___________________________ (BPW Item #)
(Date) ___________________________
ATTACHMENT B – BID/PROPOSAL AFFIDAVIT

A. AUTHORITY

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

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

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

B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.

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

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

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

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

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

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

B-2. CERTIFICATION REGARDING VETERAN-OWNED SMALL BUSINESS ENTERPRISES.
The undersigned Bidder/Offeror hereby certifies and agrees that it has fully complied with the State veteran-owned small business enterprise law, State Finance and Procurement Article, § 14-605, Annotated Code of Maryland, which provides that a person may not:

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

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

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

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

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

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

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

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

________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

D. AFFIRMATION REGARDING OTHER CONVICTIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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


(11) Been convicted of a violation of the Tax-General Article, Title 13, Subtitle 7 or Subtitle 10, Annotated Code of Maryland;
(12) Been found to have willfully or knowingly violated State Prevailing Wage Laws as provided in the State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

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

(ii) Not overturned on judicial review;

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

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

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

(ii) Not overturned on judicial review;

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

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

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

(ii) Not overturned on judicial review;

(15) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§ B and C and subsections D(1)—(14) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):
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. SUBCONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

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

I FURTHER AFFIRM THAT:

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

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

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

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

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

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

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

K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

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

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

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

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

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

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

M. I FURTHER AFFIRM THAT:

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

N. ACKNOWLEDGEMENT

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

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

Date: _____________________

By: _______________________________ (print name of Authorized Representative and Affiant)

_________________________________ (signature of Authorized Representative and Affiant)

SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL
ATTACHMENT C – CONTRACT AFFIDAVIT

A. AUTHORITY

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

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

I FURTHER AFFIRM THAT:

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

(1) Corporation — □ domestic or □ foreign;
(2) Limited Liability Company — □ domestic or □ foreign;
(3) Partnership — □ domestic or □ foreign;
(4) Statutory Trust — □ domestic or □ foreign;
(5) ◐ Sole Proprietorship.

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

Name and Department ID Number:_____________________________Address:___________________________

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

Name and Department ID Number:_____________________________Address:___________________________

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:
I am aware of, and the above business will comply with, Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of $200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of $500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31.

E. DRUG AND ALCOHOL FREE WORKPLACE

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

I CERTIFY THAT:

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

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

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

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

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

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

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

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

(i) The dangers of drug and alcohol abuse in the workplace;

(ii) The business's policy of maintaining a drug and alcohol free workplace;

(iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

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

(h) Notify its employees in the statement required by §E(2)(b), above, that as a condition of continued employment on the contract, the employee shall:
(i) Comply with the terms of the statement; and 
(ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

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

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

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

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

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

(4) I acknowledge and agree that:

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

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

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

F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

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

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

Date: ______________

By: __________________________ (printed name of Authorized Representative and Affiant)

____________________________________ (signature of Authorized Representative and Affiant)
This form includes Instructions and the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule which must be submitted with the Proposal. If the Offeror fails to accurately complete and submit this Affidavit and Schedule with the Proposal as required, the Procurement Officer shall determine that the Proposal is not reasonably susceptible of being selected for award.

1. Contractor shall structure its procedures for the performance of the work required in this Contract to attempt to achieve the minority business enterprise (MBE) subcontractor participation goal stated in the Request for Proposals. Contractor agrees to exercise good faith efforts to carry out the requirements set forth in these Instructions, as authorized by the Code of Maryland Regulations (COMAR) 21.11.03.

2. MBE Goals and Subgoals: Please review the solicitation for information regarding the Contract’s MBE overall participation goals and subgoals. After satisfying the requirements for any established subgoals, the Contractor is encouraged to use a diverse group of subcontractors and suppliers from any/all of the various MBE classifications to meet the remainder of the overall MBE participation goal.

3. MBE means a minority business enterprise that is certified by the Maryland Department of Transportation (“MDOT”). Only MBEs certified by MDOT may be counted for purposes of achieving the MBE participation goals. In order to be counted for purposes of achieving the MBE participation goals, the MBE firm, including an MBE Prime, must be MDOT-certified for the services, materials or supplies that it is committed to perform on the MBE Participation Schedule.

4. Please refer to the MDOT MBE Directory at www.mdot.state.md.us to determine if a firm is certified with the appropriate North American Industry Classification System (“NAICS”) Code and the product/services description (specific product that a firm is certified to provide or specific areas of work that a firm is certified to perform). For more general information about NAICS, please visit www.naics.com. Only those specific products and/or services for which a firm is certified in the MDOT Directory can be used for purposes of achieving the MBE participation goals. **WARNING:** If the firm’s NAICS Code is in graduated status, such services/products may not be counted for purposes of achieving the MBE participation goals. A NAICS Code is in the graduated status if the term “Graduated” follows the Code in the MDOT MBE Directory.

5. **Guidelines Regarding MBE Prime Self-Performance:** Please note that when a certified MBE firm participates as a Prime contractor on a Contract, a procurement agency may count the distinct, clearly defined portion of the work of the Contract that the certified MBE firm performs with its own workforce toward fulfilling up to, but no more than, fifty-percent (50%) of the MBE participation goal (overall), including up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the Contract.

   ✓ In order to receive credit for self-performance, an MBE Prime must be certified in the appropriate NAICS code to do the work and must list its firm in the MBE Participation Schedule, including the certification category under which the MBE Prime is self-performing and include information regarding the work it will self-perform.

   ✓ For the remaining portion of the overall goal and the remaining subgoals, the MBE Prime must also identify on the MBE Participation Schedule the other certified MBE subcontractors used to meet those goals or request a waiver.
These guidelines apply to the work performed by the MBE Prime that can be counted for purposes of meeting the MBE participation goals. These requirements do not affect the MBE Prime’s ability to self-perform a greater portion of the work in excess of what is counted for purposes of meeting the MBE participation goals.

Please note that the requirements to meet the MBE participation overall goal and subgoals are distinct and separate. If the Contract has subgoals, regardless of MBE Prime’s ability to self-perform up to 50% of the overall goal (including up to 100% of any subgoal), the MBE Prime must either commit to other MBEs for each of any remaining subgoals or request a waiver. As set forth in Attachment D1-B Waiver Guidance, the MBE Prime’s ability to self-perform certain portions of the work of the Contract will not be deemed a substitute for the good faith efforts to meet any remaining subgoal or the balance of the overall goal.

In certain instances where the percentages allocated to MBE participation subgoals add up to more than 50% of the overall goal, the portion of self-performed work that an MBE Prime may count toward the overall goal may be limited to less than 50%. Please refer to GOMA’s website (www.goma.maryland.gov) for the MBE Prime Regulations Q&A for illustrative examples.

6. Subject to items 1 through 5 above, when a certified MBE performs as a participant in a joint venture, a procurement agency may count a portion of the total dollar value of the Contract equal to the distinct, clearly-defined portion of the work of the Contract that the certified MBE performs with its own workforce towards fulfilling the Contract goal, and not more than one of the Contract subgoals, if any.

7. As set forth in COMAR 21.11.03.12-1, once the Contract work begins, the work performed by a certified MBE firm, including an MBE prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract. Please refer to COMAR 21.11.03.12-1 for more information regarding these requirements.

8. If you have any questions as to whether a firm is certified to perform the specific services or provide specific products, please contact MDOT’s Office of Minority Business Enterprise at 1-800-544-6056 or via email to mbe@mdot.state.md.us sufficiently prior to the submission due date.

9. Worksheet: The percentage of MBE participation, calculated using the percentage amounts for all of the MBE firms listed on the Participation Schedule MUST at least equal the MBE participation goal and subgoals (if applicable) set forth in the solicitation. If a Offeror is unable to achieve the MBE participation goal and/or any subgoals (if applicable), the Offeror must request a waiver in Item 1 of the MBE Utilization and Fair Solicitation Affidavit (Attachment D-1A) or the Proposal will be determined to be not susceptible of being selected for award. You may wish to use the Subgoal summary below to assist in calculating the percentages and confirm that you have met the applicable MBE participation goal and subgoals, if any.

**SUBGOALS (IF APPLICABLE)**

| Total African American MBE Participation: | % |
| Total Asian American MBE Participation: | % |
| Total Hispanic American MBE Participation: | % |
| Total Women-Owned MBE Participation: | % |

**OVERALL GOAL**

| Total MBE Participation (include all categories): | 14% |
MBE ATTACHMENT D-1A
MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT
& MBE PARTICIPATION SCHEDULE

This MBE Utilization and Fair Solicitation Affidavit and MBE Participation Schedule must be completed in its entirety and included with the Proposal. If the Offeror fails to accurately complete and submit this Affidavit and Schedule with the Proposal as required, the Procurement Officer shall determine that the Proposal is not reasonably susceptible of being selected for award.

In connection with the bid/proposal submitted in response to Solicitation No. Q0017059, I affirm the following:

1. MBE Participation (PLEASE CHECK ONLY ONE)

☐ I acknowledge and intend to meet IN FULL the overall certified Minority Business Enterprise (MBE) participation goal of fourteen (14) percent.

Therefore, I am not seeking a waiver pursuant to COMAR 21.11.03.11. I acknowledge that by checking the above box and agreeing to meet the stated goal and subgoal(s), if any, I must complete the MBE Participation Schedule (Item 4 below) in order to be considered for award.

OR

☐ I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. I acknowledge that by checking this box and requesting a partial waiver of the stated goal and/or one or more of the stated subgoal(s) if any, I must complete the MBE Participation Schedule (Item 4 below) for the portion of the goal and/or subgoal(s) if any, for which I am not seeking a waiver, in order to be considered for award.

2. Additional MBE Documentation

I understand that if I am notified that I am the apparent awardee or as requested by the Procurement Officer, I must submit the following documentation within 10 Business 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) Good Faith Efforts Documentation to Support Waiver Request (Attachment D-1C)
(b) Outreach Efforts Compliance Statement (Attachment D-2);
(c) MBE Subcontractor/MBE Prime Project Participation Statement (Attachments D-3A/B);
(d) Any other documentation, including additional waiver documentation if applicable, required by the Procurement Officer in connection with the certified MBE participation goal and subgoals, if any.

I understand that if I fail to return each completed document within the required time, the Procurement Officer may determine that my proposal is not is not susceptible of being selected for contract award. If the Contract has already been awarded, the award is voidable.
3. **Information Provided to MBE firms**

In the solicitation of subcontract quotations or offers, MBE firms were provided not less than the same information and amount of time to respond as were non-MBE firms.

4. **MBE Participation Schedule**

Set forth below are the (i) certified MBEs I intend to use, (ii) the percentage of the total Contract amount allocated to each MBE for this project and, (iii) the items of work each MBE will provide under the Contract. I have confirmed with the MDOT database that the MBE firms identified below (including any self-performing MBE prime firms) are performing work activities for which they are MDOT certified.

<table>
<thead>
<tr>
<th>Prime Contractor</th>
<th>Project Description</th>
<th>Project/Contract Number</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

List information for each certified MBE firm you agree to use to achieve the MBE participation goal and Subgoals, if any. **MBE primes:** Please complete both sections A and B below.

**SECTION A: For MBE Prime Contractors ONLY (including MBE Primes in a Joint Venture)**

<table>
<thead>
<tr>
<th>MBE Prime Firm Name: ____________________________</th>
<th>Percentage of total Contract Value to be performed with own forces and counted towards the MBE overall participation goal (up to 50% of the overall goal): _______%</th>
</tr>
</thead>
<tbody>
<tr>
<td>MBE Certification Number: ______________________</td>
<td>Percentage of total Contract Value to be performed with own forces and counted towards the subgoal, if any, for my MBE classification (up to 100% of not more than one subgoal): _______%</td>
</tr>
<tr>
<td>(If dually certified, check only one box.)</td>
<td>Description of the Work to be performed with MBE prime’s own forces: _____________________________________________</td>
</tr>
<tr>
<td>☐ African American-Owned</td>
<td></td>
</tr>
<tr>
<td>☐ Hispanic American- Owned</td>
<td></td>
</tr>
<tr>
<td>☐ Asian American-Owned</td>
<td></td>
</tr>
<tr>
<td>☐ Women-Owned</td>
<td></td>
</tr>
<tr>
<td>☐ Other MBE Classification</td>
<td></td>
</tr>
</tbody>
</table>

**SECTION B: For all Contractors (including MBE Primes and MBE Primes in a Joint Venture)**

<table>
<thead>
<tr>
<th>MBE Firm Name: ________________________________</th>
<th>Percentage of Total Contract to be performed by this MBE: _______%</th>
</tr>
</thead>
<tbody>
<tr>
<td>MBE Certification Number: ______________________</td>
<td>Description of the Work to be Performed to include NAICS codes:</td>
</tr>
<tr>
<td>(If dually certified, check only one box.)</td>
<td>_________________________________________________________________</td>
</tr>
<tr>
<td>☐ African American-Owned</td>
<td></td>
</tr>
<tr>
<td>☐ Hispanic American- Owned</td>
<td></td>
</tr>
<tr>
<td>☐ Asian American-Owned</td>
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<tr>
<td>☐ Women-Owned</td>
<td></td>
</tr>
<tr>
<td>☐ Other MBE Classification</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MBE Firm Name: ________________________________</th>
<th>Percentage of Total Contract to be performed by this MBE: _______%</th>
</tr>
</thead>
<tbody>
<tr>
<td>MBE Certification Number: ______________________</td>
<td>Description of the Work to be Performed to include NAICS codes:</td>
</tr>
<tr>
<td>(If dually certified, check only one box.)</td>
<td>_________________________________________________________________</td>
</tr>
<tr>
<td>☐ African American-Owned</td>
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<tr>
<td>☐ Hispanic American- Owned</td>
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<td>☐ Asian American-Owned</td>
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<td>☐ Women-Owned</td>
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<tr>
<td>☐ Other MBE Classification</td>
<td></td>
</tr>
<tr>
<td>MBE Firm Name: _________________________________</td>
<td>Percentage of Total Contract to be performed by this MBE: ________%</td>
</tr>
<tr>
<td>MBE Certification Number: _________________________________</td>
<td>Description of the Work to be Performed to include NAICS codes: ______________________________________________________</td>
</tr>
<tr>
<td>(If dually certified, check only one box.)</td>
<td></td>
</tr>
<tr>
<td>□ African American-Owned □ Hispanic American-Owned □ Asian American-Owned □ Women-Owned □ Other MBE Classification</td>
<td></td>
</tr>
</tbody>
</table>

| MBE Firm Name: _________________________________ | Percentage of Total Contract to be performed by this MBE: ________% |
| MBE Certification Number: _________________________________ | Description of the Work to be Performed to include NAICS codes: ______________________________________________________ |
| (If dually certified, check only one box.) | |
| □ African American-Owned □ Hispanic American-Owned □ Asian American-Owned □ Women-Owned □ Other MBE Classification | |

I solemnly affirm under the penalties of perjury that I have reviewed the instructions for the MBE Utilization & Fair Solicitation Affidavit and MBE Schedule and (ii) the information contained in the MBE Utilization & Fair Solicitation Affidavit and MBE Schedule is true to the best of my knowledge, information and belief.

<table>
<thead>
<tr>
<th>Bidder/Offeror Name (Print or Type)</th>
<th>Signature of Authorized Representative</th>
</tr>
</thead>
</table>

(Continue on separate page if needed)
SUBMIT THIS AFFIDAVIT WITH PROPOSAL
**MBE ATTACHMENT D-1B**

**WAIVER GUIDANCE**

**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET MBE PARTICIPATION GOALS**

In order to show that it has made good faith efforts to meet the Minority Business Enterprise (MBE) participation goal (including any MBE subgoals) on a contract, the Bidder/Offeror must either (1) meet the MBE Goal(s) and document its commitments for participation of MBE Firms, or (2) when it does not meet the MBE Goal(s), document its Good Faith Efforts to meet the goal(s).

### I. Definitions

**MBE Goal(s)** – “MBE Goal(s)” refers to the MBE participation goal and MBE participation subgoal(s).

**Good Faith Efforts** – The “Good Faith Efforts” requirement means that when requesting a waiver, the Offeror must demonstrate that it took all necessary and reasonable steps to achieve the MBE Goal(s), which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient MBE participation, even if those steps were not fully successful. Whether a Offeror that requests a waiver made adequate good faith efforts will be determined by considering the quality, quantity, and intensity of the different kinds of efforts that the Offeror has made. The efforts employed by the Offeror should be those that one could reasonably expect a Offeror to take if the Offeror were actively and aggressively trying to obtain MBE participation sufficient to meet the MBE contract goal and subgoals. Mere *pro forma* efforts are not good faith efforts to meet the MBE contract requirements. The determination concerning the sufficiency of the Offeror’s good faith efforts is a judgment call; meeting quantitative formulas is not required.

**Identified Firms** – “Identified Firms” means a list of the MBEs identified by the procuring agency during the goal setting process and listed in the procurement as available to perform the Identified Items of Work. It also may include additional MBEs identified by the Offeror as available to perform the Identified Items of Work, such as MBEs certified or granted an expansion of services after the procurement was issued. If the procurement does not include a list of Identified Firms, this term refers to all of the MBE Firms (if State-funded) the Offeror identified as available to perform the Identified Items of Work and should include all appropriately certified firms that are reasonably identifiable.

**Identified Items of Work** – “Identified Items of Work” means the Proposal items identified by the procuring agency during the goal setting process and listed in the procurement as possible items of work for performance by MBE Firms. It also may include additional portions of items of work the Offeror identified for performance by MBE Firms to increase the likelihood that the MBE Goal(s) will be achieved. If the procurement does not include a list of Identified Items of Work, this term refers to all of the items of work the Offeror identified as possible items of work for performance by MBE Firms and should include all reasonably identifiable work opportunities.

**MBE Firms** – “MBE Firms” refers to firms certified by the Maryland Department of Transportation (“MDOT”) under COMAR 21.11.03. Only MDOT-certified MBE Firms can participate in the State’s MBE Program.
II. Types of Actions Agency will Consider

The Offeror is responsible for making relevant portions of the work available to MBE subcontractors and suppliers and select those portions of the work or material needs consistent with the available MBE subcontractors and suppliers, so as to facilitate MBE participation. The following is a list of types of actions the procuring agency will consider as part of the Offeror’s Good Faith Efforts when the Offeror fails to meet the MBE Goal(s). This list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A. Identify Proposal Items as Work for MBE Firms
   1. Identified Items of Work in Procurements
      (a) Certain procurements will include a list of Proposal items identified during the goal setting process as possible work for performance by MBE Firms. If the procurement provides a list of Identified Items of Work, the Offeror shall make all reasonable efforts to solicit quotes from MBE Firms to perform that work.
      (b) Offerors may, and are encouraged to, select additional items of work to be performed by MBE Firms to increase the likelihood that the MBE Goal(s) will be achieved.
   2. Identified Items of Work by Offerors
      (a) When the procurement does not include a list of Identified Items of Work or for additional Identified Items of Work, Offerors should reasonably identify sufficient items of work to be performed by MBE Firms.
      (b) Where appropriate, Offerors should break out contract work items into economically feasible units to facilitate MBE participation, rather than perform these work items with their own forces. The ability or desire of a Prime contractor to perform the work of a contract with its own organization does not relieve the Offeror of the responsibility to make Good Faith Efforts.

B. Identify MBE Firms to Solicit
   1. MBE Firms Identified in Procurements
      (a) Certain procurements will include a list of the MBE Firms identified during the goal setting process as available to perform the items of work. If the procurement provides a list of Identified MBE Firms, the Offeror shall make all reasonable efforts to solicit those MBE firms.
      (b) Offerors may, and are encouraged to, search the MBE Directory to identify additional MBEs who may be available to perform the items of work, such as MBEs certified or granted an expansion of services after the solicitation was issued.
   2. MBE Firms Identified by Offerors
      (a) When the procurement does not include a list of Identified MBE Firms, Offerors should reasonably identify the MBE Firms that are available to perform the Identified Items of Work.
      (b) Any MBE Firms identified as available by the Offeror should be certified to perform the Identified Items of Work.

C. Solicit MBEs
   1. Solicit all Identified Firms for all Identified Items of Work by providing written notice. The Offeror should:
      (a) provide the written solicitation at least 10 days prior to Proposal opening to allow sufficient time for the MBE Firms to respond;
      (b) send the written solicitation by first-class mail, facsimile, or email using contact information in the MBE Directory, unless the Offeror has a valid basis for using different contact information; and
      (c) provide adequate information about the plans, specifications, anticipated time schedule for portions of the work to be performed by the MBE, and other requirements of the contract to assist MBE Firms in responding. (This information may be provided by including hard copies in the written solicitation or by electronic means as described in C.3 below.)
2. “All” Identified Firms includes the MBEs listed in the procurement and any MBE Firms you identify as potentially available to perform the Identified Items of Work, but it does not include MBE Firms who are no longer certified to perform the work as of the date the Offeror provides written solicitations.

3. “Electronic Means” includes, for example, information provided via a website or file transfer protocol (FTP) site containing the plans, specifications, and other requirements of the contract. If an interested MBE cannot access the information provided by electronic means, the Offeror must make the information available in a manner that is accessible to the interested MBE.

4. Follow up on initial written solicitations by contacting MBEs to determine if they are interested. The follow up contact may be made:
   (a) by telephone using the contact information in the MBE Directory, unless the Offeror has a valid basis for using different contact information; or
   (b) in writing via a method that differs from the method used for the initial written solicitation.

5. In addition to the written solicitation set forth in C.1 and the follow up required in C.4, use all other reasonable and available means to solicit the interest of MBE Firms certified to perform the work of the contract. Examples of other means include:
   (a) attending any pre-proposal meetings at which MBE Firms could be informed of contracting and subcontracting opportunities; and
   (b) if recommended by the procurement, advertising with or effectively using the services of at least two minority focused entities or media, including trade associations, minority/women community organizations, minority/women contractors’ groups, and local, state, and federal minority/women business assistance offices listed on the MDOT Office of Minority Business Enterprise website.

D. Negotiate With Interested MBE Firms
Offerors must negotiate in good faith with interested MBE Firms.

1. Evidence of negotiation includes, without limitation, the following:
   (a) the names, addresses, and telephone numbers of MBE Firms that were considered;
   (b) a description of the information provided regarding the plans and specifications for the work selected for subcontracting and the means used to provide that information; and
   (c) evidence as to why additional agreements could not be reached for MBE Firms to perform the work.

2. An Offeror using good business judgment would consider a number of factors in negotiating with subcontractors, including MBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration.

3. The fact that there may be some additional costs involved in finding and using MBE Firms is not in itself sufficient reason for a Offeror’s failure to meet the contract MBE goal(s), as long as such costs are reasonable. Factors to take into consideration when determining whether an MBE Firm’s quote is excessive or unreasonable include, without limitation, the following:
   (a) dollar difference between the MBE subcontractor’s quote and the average of the other subcontractors’ quotes received by the Offeror;
   (b) percentage difference between the MBE subcontractor’s quote and the average of the other subcontractors’ quotes received by the Offeror;
   (c) percentage that the MBE subcontractor’s quote represents of the overall contract amount;
   (d) number of MBE firms that the Offeror solicited for that portion of the work;
   (e) whether the work described in the MBE and Non-MBE subcontractor quotes (or portions thereof) submitted for review is the same or comparable; and
   (f) number of quotes received by the Offeror for that portion of the work.

4. The above factors are not intended to be mandatory, exclusive, or exhaustive, and other evidence of an excessive or unreasonable price may be relevant.
5. The Offeror may not use its price for self-performing work as a basis for rejecting an MBE Firm’s quote as excessive or unreasonable.

6. The “average of the other subcontractors’ quotes received” by the Offeror refers to the average of the quotes received from all subcontractors. Offeror should attempt to receive quotes from at least three subcontractors, including one quote from an MBE and one quote from a Non-MBE.

7. An Offeror shall not reject an MBE Firm as unqualified without sound reasons based on a thorough investigation of the firm’s capabilities. For each certified MBE that is rejected as unqualified or that placed a subcontract quotation or offer that the Offeror concludes is not acceptable, the Offeror must provide a written detailed statement listing the reasons for this conclusion. The Offeror also must document the steps taken to verify the capabilities of the MBE and Non-MBE Firms quoting similar work.
   (a) The factors to take into consideration when assessing the capabilities of an MBE Firm, include, but are not limited to the following: financial capability, physical capacity to perform, available personnel and equipment, existing workload, experience performing the type of work, conduct and performance in previous contracts, and ability to meet reasonable contract requirements.
   (b) The MBE Firm’s standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the efforts to meet the project goal.

E. Assisting Interested MBE Firms
   When appropriate under the circumstances, the decision-maker will consider whether the Offeror made reasonable efforts to assist interested MBE Firms in obtaining:
   1. The bonding, lines of credit, or insurance required by the procuring agency or the Offeror; and
   2. Necessary equipment, supplies, materials, or related assistance or services.

III. Other Considerations

In making a determination of Good Faith Efforts the decision-maker may consider engineering estimates, catalogue prices, general market availability and availability of certified MBE Firms 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 costs of participation, and their impact on the overall cost of the contract to the State and any other relevant factors.

The decision-maker may take into account whether an Offeror decided to self-perform subcontract work with its own forces, especially where the self-performed work is Identified Items of Work in the procurement. The decision-maker also may take into account the performance of other Offerors in meeting the contract. For example, when the apparent successful Offeror fails to meet the contract goal, but others meet it, this reasonably raises the question of whether, with additional reasonable efforts, the apparent successful Offeror could have met the goal. If the apparent successful Offeror fails to meet the goal, but meets or exceeds the average MBE participation obtained by other Offerors, this, when viewed in conjunction with other factors, could be evidence of the apparent successful Offeror having made Good Faith Efforts.

IV. Documenting Good Faith Efforts

At a minimum, an Offeror seeking a waiver of the MBE Goal(s) or a portion thereof must provide written documentation of its Good Faith Efforts, in accordance with COMAR 21.11.03.11, within 10 business days after receiving notice that it is the apparent awardee. The written documentation shall include the following:

A. Items of Work (Complete Good Faith Efforts Documentation Attachment D-1C, Part 1)
   A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBE Firms in order to increase the likelihood of achieving the stated MBE Goal(s).
B. Outreach/Solicitation/Negotiation
1. The record of the Offeror’s compliance with the outreach efforts prescribed by COMAR 21.11.03.09C(2)(a). 
   (Complete Outreach Efforts Compliance Statement – Attachment D-2).

2. A detailed statement of the efforts made to contact and negotiate with MBE Firms including:
   (a) the names, addresses, and telephone numbers of the MBE Firms who were contacted, with the dates and manner of contacts (letter, fax, email, telephone, etc.) (Complete Good Faith Efforts Attachment D-1C-Part 2, and submit letters, fax cover sheets, emails, etc. documenting solicitations); and
   (b) a description of the information provided to MBE Firms regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed and the means used to provide that information.

C. Rejected MBE Firms (Complete Good Faith Efforts Attachment D-1C, Part 3)
   1. For each MBE Firm that the Offeror concludes is not acceptable or qualified, a detailed statement of the reasons for the Offeror’s conclusion, including the steps taken to verify the capabilities of the MBE and Non-MBE Firms quoting similar work.

   2. For each certified MBE Firm that the Offeror concludes has provided an excessive or unreasonable price, a detailed statement of the reasons for the Offeror’s conclusion, including the quotes received from all MBE and Non-MBE firms bidding on the same or comparable work. (Include copies of all quotes received.)

   3. A list of MBE Firms contacted but found to be unavailable. This list should be accompanied by an MBE Unavailability Certificate (see D-1B - Exhibit A to this Part 1) signed by the MBE contractor or a statement from the Offeror that the MBE contractor refused to sign the MBE Unavailability Certificate.

D. Other Documentation
1. Submit any other documentation requested by the Procurement Officer to ascertain the Offeror’s Good Faith Efforts.

2. Submit any other documentation the Offeror believes will help the Procurement Officer ascertain its Good Faith Efforts.
MBE ATTACHMENT D-1B - Exhibit A
MBE Subcontractor Unavailability Certificate

1. It is hereby certified that the firm of
   (Name of Minority firm)
   located at
   (Number)
   (Street)
   (City)
   (State)
   (Zip)
   was offered an opportunity to bid on Solicitation No.
   ________________________________
in
   ________________ County by
   (Name of Prime Contractor's Firm)

2. ________________________________ (Minority Firm), is either unavailable for the work/service or unable to prepare a bid for this project for the following reason(s):

   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________

   Printed Name of Representative
   ________________________________
   Title
   ________________________________
   Signature of Minority Firm’s MBE Representative
   ________________________________
   Date
   ________________________________
   MDOT Certification #
   ________________________________
   Telephone

3. To be completed by the prime contractor if Section 2 of this form is not completed by the minority firm.

   To the best of my knowledge and belief, said Certified Minority Business Enterprise is either unavailable for the work/service for this project, is unable to prepare a bid, or did not respond to a request for a price proposal and has not completed the above portion of this submittal.

   ________________________________
   Printed Name of Prime Contractor Representative
   ________________________________
   Title
   ________________________________
   Signature of Prime Contractor Representative
   ________________________________
   Date
MBE ATTACHMENT D-1C
GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST

PARTS 1, 2, AND 3 MUST BE INCLUDED WITH THIS CERTIFICATE ALONG WITH ALL DOCUMENTS SUPPORTING YOUR WAIVER REQUEST.

I affirm that I have reviewed Attachment D-1B, Waiver Guidance. I further affirm under penalties of perjury that the contents of Parts 1, 2, and 3 of this Attachment D-1C Good Faith Efforts Documentation Form are true to the best of my knowledge, information, and belief.

Company Name

Signature of Representative

Address

Printed Name and Title

City, State and Zip Code

Date
GOOD FAITH EFFORTS DOCUMENTATION
TO SUPPORT WAIVER REQUEST

PART 1 – IDENTIFIED ITEMS OF WORK BIDDER/OFFEROR MADE AVAILABLE TO MBE FIRMS

Identify those items of work that the Offeror made available to MBE Firms. This includes, where appropriate, those items the Offeror identified and determined to subdivide into economically feasible units to facilitate the MBE participation. For each item listed, show the anticipated percentage of the total contract amount. It is the Offeror’s responsibility to demonstrate that sufficient work to meet the goal was made available to MBE Firms, and the total percentage of the items of work identified for MBE participation equals or exceeds the percentage MBE goal set for the procurement. Note: If the procurement includes a list of Proposal items identified during the goal setting process as possible items of work for performance by MBE Firms, the Offeror should make all of those items of work available to MBE Firms or explain why that item was not made available. If the Offeror selects additional items of work to make available to MBE Firms, those additional items should also be included below.

<table>
<thead>
<tr>
<th>Prime Contractor</th>
<th>Project Description</th>
<th>Solicitation Number</th>
</tr>
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</table>

Identified Items of Work

<table>
<thead>
<tr>
<th>Identified Items of Work</th>
<th>Was this work listed in the procurement?</th>
<th>Does Bidder/Offeror normally self-perform this work?</th>
<th>Was this work made available to MBE Firms? If no, explain why?</th>
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<td>□ Yes □ No</td>
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☐ Please check if Additional Sheets are attached.
GOOD FAITH EFFORTS DOCUMENTATION  
TO SUPPORT WAIVER REQUEST  
PART 2 – IDENTIFIED MBE FIRMS AND RECORD OF SOLICITATIONS

<table>
<thead>
<tr>
<th>Prime Contractor</th>
<th>Project Description</th>
<th>Solicitation Number</th>
</tr>
</thead>
</table>

Identify the MBE Firms solicited to provide quotes for the Identified Items of Work made available for MBE participation. Include the name of the MBE Firm solicited, items of work for which bids/quotes were solicited, date and manner of initial and follow-up solicitations, whether the MBE provided a quote, and whether the MBE is being used to meet the MEB participation goal. MBE Firms used to meet the participation goal must be included on the MBE Participation Schedule. Note: If the procurement includes a list of the MBE Firms identified during the goal setting process as potentially available to perform the items of work, the Bidder/Offeror should solicit all of those MBE Firms or explain why a specific MBE was not solicited. If the Bidder/Offeror identifies additional MBE Firms who may be available to perform Identified Items of Work, those additional MBE Firms should also be included below. Copies of all written solicitations and documentation of follow-up calls to MBE Firms must be attached to this form. This list should be accompanied by a Minority Contractor Unavailability Certificate signed by the MBE contractor or a statement from the Bidder/Offeror that the MBE contractor refused to sign the Minority Contractor Unavailability Certificate (see Attachment D-1B – Exhibit A). If the Bidder/Offeror used a Non-MBE or is self-performing the identified items of work, Part 3 must be completed.

<table>
<thead>
<tr>
<th>Name of Identified MBE Firm &amp; MBE Classification</th>
<th>Describe Item of Work Solicited</th>
<th>Initial Solicitation Date &amp; Method</th>
<th>Follow-up Solicitation Date &amp; Method</th>
<th>Details for Follow-up Calls</th>
<th>Quote Rec’d</th>
<th>Quote Used</th>
<th>Reason Quote Rejected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Firm Name:</td>
<td>Date:</td>
<td>Date:</td>
<td>Time of Call:</td>
<td>□ Yes □ No</td>
<td>□ Yes □ No</td>
<td>□ Used Other MBE □ Used Non-MBE □ Self-performing</td>
<td></td>
</tr>
<tr>
<td>MBE Classification (Check only if requesting waiver of MBE subgoal.)</td>
<td>□ Mail □ Facsimile □ Email</td>
<td>□ Phone □ Mail □ Facsimile □ Email</td>
<td>Spoke With: □ Left Message</td>
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<td>African American-Owned</td>
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<td>Hispanic American-Owned</td>
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<td>Asian American-Owned</td>
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<td>Women-Owned</td>
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<td>Other MBE Classification</td>
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| Firm Name:                                       | Date:                          | Date:                             | Time of Call:                        | □ Yes □ No                  | □ Yes □ No | □ Used Other MBE □ Used Non-MBE □ Self-performing |
| MBE Classification (Check only if requesting waiver of MBE subgoal.) | □ Mail □ Facsimile □ Email      | □ Phone □ Mail □ Facsimile □ Email | Spoke With: □ Left Message           |                             |            |            |           |
| African American-Owned                           |                                 |                                  |                                      |                             |            |            |           |
| Hispanic American-Owned                           |                                 |                                  |                                      |                             |            |            |           |
| Asian American-Owned                              |                                 |                                  |                                      |                             |            |            |           |
| Women-Owned                                      |                                 |                                  |                                      |                             |            |            |           |
| Other MBE Classification                          |                                 |                                  |                                      |                             |            |            |           |

☐ Please check if Additional Sheets are attached.
GOOD FAITH EFFORTS DOCUMENTATION
TO SUPPORT WAIVER REQUEST

PART 3 – ADDITIONAL INFORMATION REGARDING REJECTED MBE QUOTES

This form must be completed if Part 2 indicates that an MBE quote was rejected because the Bidder/Offeror is using a Non-MBE or is self-performing the Identified Items of Work. Provide the Identified Items Work, indicate whether the work will be self-performed or performed by a Non-MBE, and if applicable, state the name of the Non-MBE. Also include the names of all MBE and Non-MBE Firms that provided a quote and the amount of each quote.

<table>
<thead>
<tr>
<th>Prime Contractor</th>
<th>Project Description</th>
<th>Solicitation Number</th>
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<tr>
<th>Describe Identified Items of Work Not Being Performed by MBE (Include spec/section number from Bid/Proposal)</th>
<th>Self-performing or Using Non-MBE (Provide name)</th>
<th>Amount of Non-MBE Quote</th>
<th>Name of Other Firms who Provided Quotes &amp; Whether MBE or Non-MBE</th>
<th>Amount Quoted</th>
<th>Indicate Reason Why MBE Quote Rejected &amp; Briefly Explain</th>
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<tr>
<td>□ Self-performing</td>
<td>□ Using Non-MBE</td>
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<td>$_______ □ MBE □ Non-MBE</td>
<td>□ Price</td>
<td>□ Capabilities □ Other</td>
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<td>□ Self-performing</td>
<td>□ Using Non-MBE</td>
<td>$_______</td>
<td>$_______ □ MBE □ Non-MBE</td>
<td>□ Price</td>
<td>□ Capabilities □ Other</td>
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<td>□ Self-performing</td>
<td>□ Using Non-MBE</td>
<td>$_______</td>
<td>$_______ □ MBE □ Non-MBE</td>
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<td>□ Self-performing</td>
<td>□ Using Non-MBE</td>
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<td>□ Self-performing</td>
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<td>$_______ □ MBE □ Non-MBE</td>
<td>□ Price</td>
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<td>□ Self-performing</td>
<td>□ Using Non-MBE</td>
<td>$_______</td>
<td>$_______ □ MBE □ Non-MBE</td>
<td>□ Price</td>
<td>□ Capabilities □ Other</td>
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☐ Please check if Additional Sheets are attached.
Complete and submit this form within 10 Business Days of notification of apparent award or actual award, whichever is earlier.

In conjunction with the Proposal submitted in response to Solicitation No.__________, I state the following:

1. Offeror identified subcontracting opportunities in these specific work categories:
   ______________________________________________________________
   ______________________________________________________________

2. Attached to this form are copies of written solicitations (with bidding/proposal instructions) used to solicit certified MBE firms for these subcontract opportunities.

3. Offeror made the following attempts to personally contact the solicited MDOT-certified MBE firms:
   ______________________________________________________________
   ______________________________________________________________

4. Please Check One:
   □ This project does not involve bonding requirements.
   □ Offeror assisted MDOT-certified MBE firms to fulfill or seek waiver of bonding requirements. (DESCRIBE EFFORTS):  ______________________________________________________
   ______________________________________________________________
   ______________________________________________________________

5. Please Check One:
   □ Offeror did attend the pre-proposal conference.
   □ No pre-Proposal meeting/conference was held.
   □ Offeror did not attend the pre-Proposal conference.

_________________________________________  ________________________________
Company Name                              Signature of Representative

_________________________________________  ________________________________
Address                                   Printed Name and Title

_________________________________________  ________________________________
City, State and Zip Code                   Date
MBE ATTACHMENT D-3A
MBE SUBCONTRACTOR PROJECT PARTICIPATION CERTIFICATION

PLEASE COMPLETE AND SUBMIT ONE FORM FOR EACH CERTIFIED MBE FIRM LISTED ON THE MBE PARTICIPATION SCHEDULE (ATTACHMENT D-1A) WITHIN 10 BUSINESS DAYS OF NOTIFICATION OF APPARENT AWARD. IF THE BIDDER/OFFEROR FAILS TO RETURN THIS AFFIDAVIT WITHIN THE REQUIRED TIME, THE PROCUREMENT OFFICER MAY DETERMINE THAT THE BIDDER/OFFEROR IS NOT RESPONSIBLE AND THEREFORE NOT ELIGIBLE FOR CONTRACT AWARD.

Provided that _________________________________________________ (Prime Contractor’s Name) is awarded the State Contract in conjunction with Solicitation No. __________________________, such Prime Contractor intends to enter into a subcontract with ______________________ (Subcontractor’s Name) committing to participation by the MBE firm ____________________ (MBE Name) with MDOT Certification Number ____________ which will receive at least $____________ which equals to ___% of the Total Contract Amount for performing the following products/services for the Contract:

<table>
<thead>
<tr>
<th>NAICS CODE</th>
<th>WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE)</th>
<th>DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES</th>
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</table>

Each of the Contractor and Subcontractor acknowledges that, for purposes of determining the accuracy of the information provided herein, the Procurement Officer may request additional information, including, without limitation, copies of the subcontract agreements and quotes. Each of the Contractor and Subcontractor solemnly affirms under the penalties of perjury that: (i) the information provided in this MBE Subcontractor Project Participation Affidavit is true to the best of its knowledge, information and belief, and (ii) it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article §14-308(a)(2), Annotated Code of Maryland which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a Proposal and:

1. fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified Minority Business Enterprise in its Proposal;
2. fail to notify the certified Minority Business Enterprise before execution of the Contract of its inclusion of the Proposal;
3. fail to use the certified Minority Business Enterprise in the performance of the Contract; or
4. pay the certified Minority Business Enterprise solely for the use of its name in the Proposal.

<table>
<thead>
<tr>
<th>PRIME CONTRACTOR</th>
<th>SUBCONTRACTOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signature of Representative:</td>
<td>Signature of Representative:</td>
</tr>
<tr>
<td>Printed Name and Title:</td>
<td>Printed Name and Title:</td>
</tr>
<tr>
<td>Firm’s Name:</td>
<td>Firm’s Name:</td>
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<tr>
<td>Federal Identification Number:</td>
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MBE ATTACHMENT D-3B
MBE PRIME - PROJECT PARTICIPATION CERTIFICATION

PLEASE COMPLETE AND SUBMIT THIS FORM TO ATTEST EACH SPECIFIC ITEM OF WORK THAT YOUR MBE FIRM HAS LISTED ON THE MBE PARTICIPATION SCHEDULE (ATTACHMENT D-1A) FOR PURPOSES OF MEETING THE MBE PARTICIPATION GOALS. THIS FORM MUST BE SUBMITTED WITHIN 10 BUSINESS DAYS OF NOTIFICATION OF APPARENT AWARD. IF THE BIDDER/OFFEROR FAILS TO RETURN THIS AFFIDAVIT WITHIN THE REQUIRED TIME, THE PROCUREMENT OFFICER MAY DETERMINE THAT THE BIDDER/OFFEROR IS NOT RESPONSIBLE AND THEREFORE NOT ELIGIBLE FOR CONTRACT AWARD.

Provided that ____________________________________________ (Prime Contractor’s Name) with Certification Number ____________ is awarded the State contract in conjunction with Solicitation No. ______________________, such MBE Prime Contractor intends to perform with its own forces at least $___________ which equals to ___% of the Total Contract Amount for performing the following products/services for the Contract:

<table>
<thead>
<tr>
<th>NAICS CODE</th>
<th>WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE). FOR CONSTRUCTION PROJECTS, GENERAL CONDITIONS MUST BE LISTED SEPARATELY.</th>
<th>DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES</th>
<th>VALUE OF THE WORK</th>
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MBE PRIME CONTRACTOR
Signature of Representative:

__________________________________

Printed Name and Title: ________________________________

Firm’s Name: _______________________________________

Federal Identification Number: _______________________

Address: ___________________________________________

Telephone: _________________________________________

Date: _____________________________________________
# MBE ATTACHMENT D-4A
## Minority Business Enterprise Participation
### Prime Contractor Paid/Unpaid MBE Invoice Report

Report #: __________

Reporting Period (Month/Year): __________

Prime Contractor: Report is due to the MBE Liaison by the 10th of the month following the month the services were provided.

Note: Please number reports in sequence

<table>
<thead>
<tr>
<th>Contract #:</th>
<th>Contracting Unit:</th>
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<tbody>
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<tr>
<th>Contract Amount:</th>
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<table>
<thead>
<tr>
<th>MBE Subcontract Amt:</th>
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<tr>
<th>Project Begin Date:</th>
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<tr>
<th>Project End Date:</th>
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<tr>
<th>Services Provided:</th>
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</table>

**Prime Contractor:**

- Address:  

- City:  

- State:  

- ZIP:

- Phone:  

- Fax:  

- E-mail:

**MEB Subcontractor Name:**

- Address:  

- City:  

- State:  

- ZIP:

- Phone:  

- Fax:

**Subcontractor Services Provided:**

- List all payments made to MEB subcontractor named above during this reporting period:
  
<table>
<thead>
<tr>
<th>Invoice#</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1.</td>
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<td>3.</td>
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<td>4.</td>
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</tbody>
</table>

  **Total Dollars Paid:** $________________________

- List dates and amounts of any outstanding invoices:
  
<table>
<thead>
<tr>
<th>Invoice #</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1.</td>
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<td>3.</td>
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<td>4.</td>
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</table>

  **Total Dollars Unpaid:** $________________________

- If more than one MBE subcontractor is used for this contract, you must use separate D-4A forms for each subcontractor.
- Information regarding payments that the MBE prime will use for purposes of meeting the MBE participation goals must be reported separately in Attachment D-4B
- **Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):**

  **Contract Manager:**  
  
  **Contracting Unit and Address:**  
  
  **Signature:** ____________________________  
  **Date:** ____________________________  
  
  (Required)
MBE ATTACHMENT D-4B
Minority Business Enterprise Participation
MBE Prime Contractor Self Performance Report

| MBE Prime Contractor: | Contract #: __________________________ |
| Certification Number: | Contracting Unit: ____________________ |
| Report #: _________ | Contract Amount: ____________________ |
| Reporting Period (Month/Year): __________ | Total Value of the Work to the Self-Performed for |
| MBE Prime Contractor: Report is due to the MBE Liaison | purposes of Meeting the MBE participation |
| by the ___ of the month following the month the services were | goal/subgoals: ____________________ |
| provided. | Project Begin Date: ____________________ |
| Note: Please number reports in sequence | Project End Date: ____________________ |

Contact Person:

Address:

City: __________________ State: __________________ ZIP: __________________

Phone: __________________ Fax: __________________ E-mail: __________________

<table>
<thead>
<tr>
<th>Invoice Number</th>
<th>Value of the Work</th>
<th>NAICS Code</th>
<th>Description of the Work</th>
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<tbody>
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</table>

Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):

Contract Manager: ____________________________
Contracting Unit and Address: ____________________________

Signature: ____________________________ Date: ____________________________
(Required)
MBE ATTACHMENT D-5
Minority Business Enterprise Participation
Subcontractor Paid/Unpaid MBE Invoice Report

<table>
<thead>
<tr>
<th>Report#: _____</th>
<th>Contract #: ____________________________</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reporting Period (Month/Year): ________________</td>
<td>Contracting Unit: ____________________</td>
</tr>
<tr>
<td>Report is due by the ___ of the month following the month the services were performed.</td>
<td>MBE Subcontract Amount: __________________</td>
</tr>
<tr>
<td></td>
<td>Project Begin Date: ______________________</td>
</tr>
<tr>
<td></td>
<td>Project End Date: _________________________</td>
</tr>
<tr>
<td></td>
<td>Services Provided: _______________________</td>
</tr>
</tbody>
</table>

MBE Subcontractor Name: __________________

MDOT Certification #: __________________

Contact Person: __________________ E-mail: __________________

Address: __________________

City: __________________ State: __________________ ZIP: __________________

Phone: __________________ Fax: __________________

Subcontractor Services Provided:

List all payments received from Prime Contractor during reporting period indicated above.

<table>
<thead>
<tr>
<th>Invoice Amt</th>
<th>Date</th>
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<tbody>
<tr>
<td>1.</td>
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<td>2.</td>
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<td>3.</td>
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</table>

Total Dollars Paid: $_________________________

List dates and amounts of any unpaid invoices over 30 days old.

<table>
<thead>
<tr>
<th>Invoice Amt</th>
<th>Date</th>
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<tbody>
<tr>
<td>1.</td>
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<td>2.</td>
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<td>3.</td>
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</tbody>
</table>

Total Dollars Unpaid: $_________________________

Prime Contractor: __________________

Contact Person: __________________

Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):

Contract Manager: ____________________________

Contracting Unit and Address: ____________________

Signature: __________________ Date: ______________

(Required)
ATTACHMENT E – PRE-PROPOSAL CONFERENCE RESPONSE FORM

Solicitation Number Q 0017059
Inmate Mental Health Services

Please return this form at least three (3) Business Days prior to the Pre-Proposal Conference date, advising whether or not you plan to attend. The completed form should be returned via e-mail or fax to the Procurement Officer. The Procurement Officer’s contact information is provided in the RFP Key Information Summary Sheet.

Please indicate:

______ Yes, the following representatives will be in attendance (please print):

<table>
<thead>
<tr>
<th>Name</th>
<th>Email</th>
<th>Phone</th>
<th>Address (City and State)</th>
<th>MBE</th>
<th>VSBE</th>
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</thead>
<tbody>
<tr>
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Please specify whether any reasonable accommodations are requested (see RFP § 1.7 “Pre-Proposal Conference”):

___________________________________________________
Signature

___________________________________________________
Title

___________________________________________________
Name of Firm (please print)
Attachment F is attached as an Excel spreadsheet

THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK.
Living Wage Requirements for Service Contracts

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

B. The Living Wage Law does not apply to:

(1) A Contractor who:

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

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

(2) A Subcontractor who:

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

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

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

(3) Service contracts for the following:

(a) Services with a Public Service Company;

(b) Services with a nonprofit organization;

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

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

C. If the Unit responsible for the State contract for services determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.
D. A Contractor must not split or subdivide a State contract for services, pay an employee through a third party, or treat an employee as an independent Contractor or assign work to employees to avoid the imposition of any of the requirements of Md. Code Ann., State Finance and Procurement Article, Title 18.

E. Each Contractor/Subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.

F. The Commissioner shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry’s website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.

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

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

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

J. Information pertaining to reporting obligations may be found by going to the Division of Labor and Industry website http://www.dllr.state.md.us/labor/ and clicking on Living Wage for State Service Contracts.
ATTACHMENT G-1

Maryland Living Wage Requirements Affidavit of Agreement

(submit with Bid/Proposal)

Contract No. ________________________________

Name of Contractor _______________________________________________________

Address_________________________________________________________________

City_________________________________ State________ Zip Code_______________

If the Contract Is Exempt from the Living Wage Law

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

- Bidder/Offeror is a nonprofit organization
- Bidder/Offeror is a public service company
- Bidder/Offeror employs 10 or fewer employees and the proposed contract value is less than $500,000
- Bidder/Offeror employs more than 10 employees and the proposed contract value is less than $100,000

If the Contract Is a Living Wage Contract

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

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

- The employee(s) proposed to work on the contract will spend less than one-half of the employee’s time during any work week on the contract
☐ The employee(s) proposed to work on the contract is 17 years of age or younger during the duration of the contract; or
☐ The employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

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

Name of Authorized Representative: _______________________________________
_____________________________________________________________________
Signature of Authorized Representative  Date
_____________________________________________________________________
Title
_____________________________________________________________________
Witness Name (Typed or Printed)
_____________________________________________________________________
Witness Signature  Date

SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL
1. Form and rule enclosed: 18 U.S.C. 1913 and Section 1352 of P.L. 101-121 require that all prospective and present sub-grantees (this includes all levels of funding) who receive more than $100,000 in federal funds must submit the form “Certification Against Lobbying.” It assures, generally, that recipients will not lobby federal entities with federal funds, and that, as is required, they will disclose other lobbying on form SF-LLL.

2. Form and instructions enclosed: “Form LLL, Disclosure of Lobbying Activities” must be submitted by those receiving more than $100,000 in federal funds, to disclose any lobbying of federal entities (a) with profits from federal contracts or (b) funded with nonfederal funds.

3. Form and summary of Act enclosed: Sub-recipients of federal funds on any level must complete a “Certification Regarding Environmental Tobacco Smoke,” required by Public Law 103-227, the Pro-Children Act of 1994. Such law prohibits smoking in any portion of any indoor facility owned or leased or contracted for regular provision of health, day care, early childhood development, education, or library services for children under the age of 18. Such language must be included in the conditions of award (they are included in the certification, which may be part of such conditions.) This does not apply to those solely receiving Medicaid or Medicare, or facilities where WIC coupons are redeemed.

4. In addition, federal law requires that:

   A) Title 2 of the Code of Federal Regulations (CFR) 200, specifically Subpart D, requires that grantees (both recipients and sub-recipients) which expend a total of $750,000 in federal assistance shall have a single or program-specific audit conducted for that year in accordance with the provisions of the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156 and Title 2 CFR 200, Subpart D. All sub-grantee audit reports, performed in compliance with Title 2 CFR 200 shall be forwarded within 30 days of report issuance to the Department Contract Monitor.

   B) All sub-recipients of federal funds comply with Sections 503 and 504 of the Rehabilitation Act of 1973, the conditions of which are summarized in item (C).

   C) Recipients of $10,000 or more (on any level) must include in their contract language the requirements of Sections 503 (language specified) and 504 referenced in item (B).

   Section 503 of the Rehabilitation Act of 1973, as amended, requires recipients to take affirmative action to employ and advance in employment qualified disabled people. An affirmative action program must be prepared and maintained by all contractors with 50 or more employees and one or more federal contracts of $50,000 or more.

   This clause must appear in subcontracts of $10,000 or more:

   a) The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all upgrading, demotion or transfer, recruitment,
advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

b) The contractor agrees to comply with the rules, regulations, and relevant orders of the secretary of labor issued pursuant to the act.

c) In the event of the contractor’s non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the secretary of labor issued pursuant to the act.

d) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the director, provided by or through the contracting office. Such notices shall state the contractor’s obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

e) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

f) The contractor will include the provisions of this clause in every subcontract or purchase order of $10,000 or more unless exempted by rules, regulations, or orders of the [federal] secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 791 et seq.) prohibits discrimination on the basis of handicap in all federally assisted programs and activities. It requires the analysis and making of any changes needed in three general areas of operation— programs, activities, and facilities and employment. It states, among other things, that:

Grantees that provide health ... services should undertake tasks such as ensuring emergency treatment for the hearing impaired and making certain that persons with impaired sensory or speaking skills are not denied effective notice with regard to benefits, services, and waivers of rights or consents to treatments.

D) All sub-recipients comply with Title VI of the Civil Rights Act of 1964 that they must not discriminate in participation by race, color, or national origin.

E) All sub-recipients of federal funds from SAMHSA (Substance Abuse and Mental Health Services Administration) or NIH (National Institute of Health) are prohibited from paying any direct salary at a rate more than Executive Level II of the Federal Executive pay scale, per year. (This includes, but is not limited to, sub-recipients of the Substance Abuse Prevention and Treatment and the Community Mental Health Block Grants and NIH research grants.)

F) There may be no discrimination on the basis of age, according to the requirements of the Age Discrimination Act of 1975.

G) For any education program, as required by Title IX of the Education Amendments of 1972, there may be no discrimination on the basis of sex.
H) For research projects, a form for Protection of Human Subjects (Assurance/ Certification/ Declaration) should be completed by each level funded, assuring that either: (1) there are no human subjects involved, or that (2) an Institutional Review Board (IRB) has given its formal approval before human subjects are involved in research. [This is normally done during the application process rather than after the award is made, as with other assurances and certifications.]

I) In addition, there are conditions, requirements, and restrictions which apply only to specific sources of federal funding. These should be included in your grant/contract documents when applicable.
CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

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<th>Award No.</th>
<th>Organizational Entry</th>
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<thead>
<tr>
<th>Name and Title of Official Signing for Organizational Entry</th>
<th>Telephone No. Of Signing Official</th>
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<tbody>
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<tr>
<th>Signature of Above Official</th>
<th>Date Signed</th>
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</table>
Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

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<tbody>
<tr>
<td>1.</td>
<td><strong>Type of Federal Action:</strong></td>
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<td></td>
<td>a. Contract</td>
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<td></td>
<td>b. Grant</td>
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<tr>
<td></td>
<td>c. Cooperative Agreement</td>
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<td>d. Loan</td>
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<td>e. Loan guarantee</td>
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<td>f. Loan insurance</td>
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<td>2.</td>
<td><strong>Status of Federal Action:</strong></td>
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<tr>
<td></td>
<td>a. Bid/offer/application</td>
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<td>b. Initial award</td>
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<tr>
<td></td>
<td>c. Post-award</td>
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<td>3.</td>
<td><strong>Report Type:</strong></td>
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<td></td>
<td>a. Initial filing</td>
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<td>b. Material change</td>
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<td>For Material Change Only:</td>
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<td>Year _________ quarter ________________</td>
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<td>Date of last report _________________</td>
</tr>
</tbody>
</table>

| 4. | **Name and Address of Reporting Entity:**                        |
|    | □ Prime □ Subawardee Tier ______, if known:                       |
|    | Congressional District, if known:                                |
| 5. | **If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:** |
|    | Congressional District, if known:                                |
| 6. | **Federal Department/Agency:**                                   |
| 7. | **Federal Program Name/Description:**                            |
|    | CFDA Number, if applicable:                                      |
| 8. | **Federal Action Number, if known:**                             |
| 9. | **Award Amount, if known:**                                      |
|    | $                                                                |
| 10. | **a. Name and Address of Lobbying Registrant**                   |
|    | (if individual, last name, first name, Mi):                      |
|    | **b. Individuals Performing Services (including address if different from No. 10a)** (last name, first name, Mi): |
| 11. | **Amount of Payment (check all that apply)**                    |
|    | $____________ □ actual □ planned                                 |
| 12. | **Form of Payment (check all that apply)**                      |
|    | □ a. cash                                                        |
|    | □ b. in-kind; specify: nature ___________ value ________________ |
| 13. | **Type of Payment (check all that apply)**                      |
|    | □ a. retainer                                                    |
|    | □ b. one-time                                                   |
|    | □ c. commission                                                 |
|    | □ d. contingent fee                                             |
|    | □ e. deferred                                                   |
|    | □ f. other; specify:                                            |
| 14. | **Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:** |
|    | (attach Continuation Sheet(s) SF-LLLA, if necessary)            |
| 15. | **Continuation Sheet(s) SF-LLLA attached:**                     |
|    | □ Yes □ No                                                       |

16. Information requested through this form is authorized by title 31 U.S.C. Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

<p>| | |</p>
<table>
<thead>
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<tr>
<td></td>
<td><strong>Signature:</strong></td>
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<tr>
<td></td>
<td><strong>Print Name:</strong></td>
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<tr>
<td></td>
<td><strong>Title:</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Telephone No.:</strong></td>
</tr>
</tbody>
</table>

**Federal Use Only:**

Authorized for Local Reproduction
Standard Form LLL (Rev. 7-97)
INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether sub-awardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or sub-award recipient. Identify the tier of the sub-awardee, e.g., the first sub-awardee of the prime is the 1st tier. Sub-awards include but are not limited to subcontracts, sub-grants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Sub-awardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

10. (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form and print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.
CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103-227, also known as the Pro Children Act of 1994, Part C Environmental Tobacco Smoke, requires that smoking not be permitted in any portion of any indoor facility owned, or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children’s services that are provided in indoor facilities that are constructed, operated or maintained with such Federal funds. The law does not apply to children’s services provided in private residences, portions of facilities used for inpatient drug or alcohol treatment, service providers whose sole sources of applicable Federal funds is Medicare or Medicaid, or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing this certification, the offeror/contractor (for acquisitions) or applicant/grantee (for grants) certifies that the submitting organization will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

The submitting organization further agrees that it will require the language of this certification be included in any sub-awards which contain provisions for children’s services and that all sub-recipients shall certify accordingly.

_________________________________________________
Signature of Authorized Certifying Individual
This solicitation does not require a Conflict of Interest Affidavit and Disclosure.
ATTACHMENT J – NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT ("Agreement") is made by and between the State of Maryland (the "State"), acting by and through Department of Public Safety and Correctional Services (the "Department"), and ____________________________________________ (the "Contractor").

RECITALS

WHEREAS, the Contractor has been awarded a contract (the "Contract") following the solicitation for Inmate Mental Health Services, Solicitation # Q0017059 and

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

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

1. Regardless of the form, format, or media on or in which the Confidential Information is provided and regardless of whether any such Confidential Information is marked as such, Confidential Information means (1) any and all information provided by or made available by the State to the Contractor in connection with the Contract and (2) any and all Personally Identifiable Information (PII) (including but not limited to personal information as defined in Md. Ann. Code, State Govt. §10-1301) and Protected Health Information (PHI) that is provided by a person or entity to the Contractor in connection with this Contract. Confidential Information includes, by way of example only, information that the Contractor views, takes notes from, copies (if the State agrees in writing to permit copying), possesses or is otherwise provided access to and use of by the State in relation to the Contract.

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

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

4. Contractor hereby agrees to hold the Confidential Information in trust and in strictest confidence, to adopt or establish operating procedures and physical security measures, and to take all other measures necessary to protect the Confidential Information from inadvertent release or disclosure to unauthorized third parties and to prevent all or any portion of the Confidential Information from falling into the public domain or into the possession of persons not bound to maintain the confidentiality of the Confidential Information.
5. Contractor shall promptly advise the State in writing if it learns of any unauthorized use, misappropriation, or disclosure of the Confidential Information by any of the Contractor’s Personnel or the Contractor’s former Personnel. Contractor shall, at its own expense, cooperate with the State in seeking injunctive or other equitable relief against any such person(s).

6. Contractor shall, at its own expense, return to the Department all copies of the Confidential Information in its care, custody, control or possession upon request of the Department or on termination of the Contract. Contractor shall complete and submit ATTACHMENT J-2 when returning the Confidential Information to the Department. At such time, Contractor shall also permanently delete any Confidential Information stored electronically by the Contractor.

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

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

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

10. The parties further agree that:
   a. This Agreement shall be governed by the laws of the State of Maryland;
   b. The rights and obligations of the Contractor under this Agreement may not be assigned or delegated, by operation of law or otherwise, without the prior written consent of the State;
   c. The State makes no representations or warranties as to the accuracy or completeness of any Confidential Information;
   d. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement;
   e. Signatures exchanged by facsimile are effective for all purposes hereunder to the same extent as original signatures;
   f. The Recitals are not merely prefatory but are an integral part hereof; and
   g. The effective date of this Agreement shall be the same as the effective date of the Contract entered into by the parties.

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

Contractor:_____________________________ Department of Public Safety and Correctional Services

By: ____________________________(SEAL)  By: ____________________________
Printed Name: _________________________
Title: ________________________________
Date: ________________________________

Printed Name: _________________________
Title: ________________________________
Date: ________________________________
## NON-DISCLOSURE AGREEMENT - ATTACHMENT J-1

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

<table>
<thead>
<tr>
<th>Printed Name and Address of Individual/Agent</th>
<th>Employee (E) or Agent (A)</th>
<th>Signature</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
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</table>
I AFFIRM THAT:

To the best of my knowledge, information, and belief, and upon due inquiry, I hereby certify that: (i) all Confidential Information which is the subject matter of that certain Non-Disclosure Agreement by and between the State of Maryland and ____________________________ (“Contractor”) dated ____________________, 20____ (“Agreement”) is attached hereto and is hereby returned to the State in accordance with the terms and conditions of the Agreement; and (ii) I am legally authorized to bind the Contractor to this affirmation. Any and all Confidential Information that was stored electronically by me has been permanently deleted from all of my systems or electronic storage devices where such Confidential Information may have been stored.

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

DATE: __________________________

NAME OF CONTRACTOR: __________________________

BY: __________________________

(Signature)

TITLE: __________________________

(Authorized Representative and Affiant)
ATTACHMENT K – HIPAA BUSINESS ASSOCIATE AGREEMENT

This solicitation does not require a HIPAA Business Associate Agreement.

ATTACHMENT L – MERCURY AFFIDAVIT

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

THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK.
ATTACHMENT M-1
VSBE Utilization Affidavit and Prime/Subcontractor Participation Schedule

(submit with Bid/Proposal)

This document **MUST BE** included with the Bid/Proposal. If the Bidder/Offeror fails to complete and submit this form with the Bid/Proposal, the procurement officer may determine that the Bid is non-responsive or that the Proposal is not reasonably susceptible of being selected for award.

In conjunction with the Bid/Proposal submitted in response to Solicitation No. Q 0017059, I affirm the following:

1. □ I acknowledge and intend to meet the overall verified VSBE participation goal of one (1) percent. Therefore, I will not seek a waiver.

   **OR**

   □ I conclude that I am unable to achieve the VSBE participation goal. I hereby request a waiver, in whole or in part, of the overall goal. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.13.07. If this request is for a partial waiver, I have identified the portion of the VSBE goal that I intend to meet.

2. I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 days of receiving notice of the apparent award or from the date of conditional award (per COMAR 21.11.13.06), whichever is earlier.

   (a) Subcontractor Project Participation Statement (**Attachment M-2**); and
   (b) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain Bidder/Offeror responsibility in connection with the VSBE participation goal.

I understand 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.

3. In the solicitation of subcontract quotations or offers, VSBE subcontractors were provided not less than the same information and amount of time to respond as were non-VSBE subcontractors.

4. Set forth below are the (i) verified VSBEs I intend to use and (ii) the percentage of the total contract amount allocated to each VSBE for this project. I hereby affirm that the VSBE firms are only providing those products and services for which they are verified.
### ATTACHMENT M-1
**VSBE Prime/Subcontractor Participation Schedule**

<table>
<thead>
<tr>
<th>Prime Contractor (Firm Name, Address, Phone):</th>
<th>Project Description:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Number: - ____________</td>
<td></td>
</tr>
</tbody>
</table>

**List Information For Each Verified VSBE Prime Contractor or Subcontractor On This Project**

<table>
<thead>
<tr>
<th>Name of Veteran-Owned Firm:</th>
<th>DUNS Number:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Description of work to be performed to include NAICS Code:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of Veteran-Owned Firm:</th>
<th>DUNS Number:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Description of work to be performed to include NAICS code:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of Veteran-Owned Firm:</th>
<th>DUNS Number:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Description of work to be performed to include NAICS code:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of Veteran-Owned Firm:</th>
<th>DUNS Number:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Description of work to be performed to include NAICS code:</td>
<td></td>
</tr>
</tbody>
</table>

Continue on a separate page, if needed.

### SUMMARY

**TOTAL VSBE Participation:** ____________%

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

<table>
<thead>
<tr>
<th>Bidder/Offeror Name</th>
<th>Signature of Affiant</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>(PLEASE PRINT OR TYPE)</em></td>
<td><em>(PLEASE PRINT OR TYPE)</em></td>
</tr>
<tr>
<td>Name:</td>
<td></td>
</tr>
<tr>
<td>Title:</td>
<td></td>
</tr>
<tr>
<td>Date:</td>
<td></td>
</tr>
</tbody>
</table>

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ATTACHMENT M-2
VSBE Subcontractor Participation Statement

Please complete and submit one form for each verified VSBE listed on Attachment M-1 within 10 Business days of notification of apparent award

____________________________ (prime contractor) has entered into a contract with
____________________________ (subcontractor) to provide services in connection with the Solicitation described below.

<table>
<thead>
<tr>
<th>Prime Contractor (Firm Name, Address, Phone):</th>
<th>Project Description:</th>
</tr>
</thead>
<tbody>
<tr>
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</table>

<table>
<thead>
<tr>
<th>Project Number: _____________</th>
<th>Total Contract Amount: $</th>
</tr>
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<tbody>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of Veteran-Owned Firm:</th>
<th>DUNS Number:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Address:</td>
<td>FEIN:</td>
</tr>
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<table>
<thead>
<tr>
<th>Work to Be Performed:</th>
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<table>
<thead>
<tr>
<th>Percentage of Total Contract:</th>
<th>Total Subcontract Amount: $</th>
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</table>

The undersigned Prime Contractor and Subcontractor hereby certify and agree that they have fully complied with the State Veteran-Owned Small Business Enterprise law, State Finance and Procurement Article, Title 14, Subtitle 6, Annotated Code of Maryland.

**PRIME CONTRACTOR SIGNATURE**

By: ______________________________
Name, Title
Date ____________________________

**SUBCONTRACTOR SIGNATURE**

By: ______________________________
Name, Title
Date ____________________________
This form is to be completed monthly by the prime contractor.

**ATTACHMENT M-3**

**Veterans Small Business Enterprise (VSBE) Participation**

**Prime Contractor Paid/Unpaid VSBE Invoice Report**

<table>
<thead>
<tr>
<th>Report #: __________</th>
<th>Contract #: ____________________________</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reporting Period (Month/Year): __________</td>
<td>Contracting Unit: ___________________</td>
</tr>
<tr>
<td>Report is due to the Contract Monitor by the 10th of the month following the month the services were provided.</td>
<td>Contract Amount: ____________________</td>
</tr>
</tbody>
</table>

*Note: Please number reports in sequence*

<table>
<thead>
<tr>
<th>Prime Contractor:</th>
<th>Contact Person:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
<td></td>
</tr>
<tr>
<td>City:</td>
<td>State:</td>
</tr>
<tr>
<td>Phone:</td>
<td>Fax:</td>
</tr>
</tbody>
</table>

**VSBE Prime Contractor Services Provided (if applicable):**

<table>
<thead>
<tr>
<th>Subcontractor Name:</th>
<th>Contact Person:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phone:</td>
<td>Fax:</td>
</tr>
</tbody>
</table>

**VSBE Subcontractor Services Provided (if applicable):**

List all payments made to VSBE subcontractor named above during this reporting period:

<table>
<thead>
<tr>
<th>Invoice#</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1.</td>
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<td>2.</td>
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<td>3.</td>
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<tr>
<td>4.</td>
<td></td>
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<tr>
<td>Total Dollars Paid: $ ____________________</td>
<td></td>
</tr>
</tbody>
</table>

List dates and amounts of any outstanding invoices:

<table>
<thead>
<tr>
<th>Invoice #</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
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<td>2.</td>
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<td>3.</td>
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<tr>
<td>4.</td>
<td></td>
</tr>
<tr>
<td>Total Dollars Unpaid: $ ____________________</td>
<td></td>
</tr>
</tbody>
</table>

If more than one VSBE subcontractor is used for this contract, you must use separate M-3 forms for each subcontractor.

Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):

<table>
<thead>
<tr>
<th>Contract Monitor:</th>
<th>____________________________</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contracting Unit and Address:</td>
<td>____________________________</td>
</tr>
</tbody>
</table>

Signature: ____________________________ Date: __________________

(Required)
This form must be completed monthly by all VSBE subcontractors.

**ATTACHMENT M-4**

**Veterans Small Business Enterprise Participation**

**Subcontractor Paid/Unpaid VSBE Invoice Report**

<table>
<thead>
<tr>
<th>Report#: _____</th>
<th>Contract #</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reporting Period (Month/Year): ________________</td>
<td>Contracting Unit:</td>
</tr>
<tr>
<td><strong>Report is due by the 10th of the month following the month the services were performed.</strong></td>
<td>VSBE Subcontract Amount:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>VSBE Subcontractor Name:</th>
<th>Services Provided:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Veterans Affairs Certification #:</td>
<td>Project Begin Date:</td>
</tr>
<tr>
<td>Contact Person:</td>
<td>Project End Date:</td>
</tr>
<tr>
<td>E-mail:</td>
<td>Services Provided:</td>
</tr>
<tr>
<td>Address:</td>
<td>Services Provided:</td>
</tr>
<tr>
<td>City:</td>
<td>Services Provided:</td>
</tr>
<tr>
<td>State:</td>
<td>Services Provided:</td>
</tr>
<tr>
<td>ZIP:</td>
<td>Services Provided:</td>
</tr>
<tr>
<td>Phone:</td>
<td>Services Provided:</td>
</tr>
<tr>
<td>Fax:</td>
<td>Services Provided:</td>
</tr>
</tbody>
</table>

**VSBE Subcontractor Services Provided:**

List all payments received from Prime Contractor during reporting period indicated above.

<table>
<thead>
<tr>
<th>Invoice Amt</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
</tr>
</tbody>
</table>

Total Dollars Paid: $_________________________

List dates and amounts of any unpaid invoices over 30 days old.

<table>
<thead>
<tr>
<th>Invoice Amt</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
</tr>
</tbody>
</table>

Total Dollars Unpaid: $_________________________

Prime Contractor: | Contact Person:

---

Return one copy of this form to the following address (electronic copy with signature & date is preferred):

<table>
<thead>
<tr>
<th>Contract Monitor:</th>
<th>____________________________________________________________________________</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contracting Unit and Address:</td>
<td>____________________________________________________________________________</td>
</tr>
<tr>
<td></td>
<td>____________________________________________________________________________</td>
</tr>
<tr>
<td></td>
<td>____________________________________________________________________________</td>
</tr>
<tr>
<td></td>
<td>____________________________________________________________________________</td>
</tr>
</tbody>
</table>

__Signature:__________________________ Date:__________________________  
(Required)
ATTACHMENT N – LOCATION OF THE PERFORMANCE OF SERVICES DISCLOSURE

(submit with Bid/Proposal)

Pursuant to Md. Ann. Code, State Finance and Procurement Article, § 12-111, and in conjunction with the Bid/Proposal submitted in response to Solicitation No. Q 0017059, the following disclosures are hereby made:

1. At the time of Bid/Proposal submission, the Bidder/Offeror and/or its proposed subcontractors:
   ___ have plans
   ___ have no plans
to perform any services required under the resulting Contract outside of the United States.

2. If services required under the contract are anticipated to be performed outside the United States by either the Bidder/Offeror or its proposed subcontractors, the Bidder/Offeror shall answer the following (attach additional pages if necessary):
   a. Location(s) services will be performed:
      ________________________________________________________________________________________________
      ________________________________________________________________________________________________
      ________________________________________________________________________________________________
   b. Reasons why it is necessary or advantageous to perform services outside the United States:
      ________________________________________________________________________________________________
      ________________________________________________________________________________________________
      ________________________________________________________________________________________________
      ________________________________________________________________________________________________

The undersigned, being an authorized representative of the Bidder/Offeror, hereby affirms that the contents of this disclosure are true to the best of my knowledge, information, and belief.

Date: ________________________________
Bidder/Offeror Name: ________________________________
By: ________________________________
Name: ________________________________
Title: ________________________________

Please be advised that the Department may contract for services provided outside of the United States if: the services are not available in the United States; the price of services in the United States exceeds by an unreasonable amount the price of services provided outside the United States; or the quality of services in the United States is substantially less than the quality of comparably priced services provided outside the United States.
This solicitation does not require a DHR Hiring Agreement.

The following Attachments are available at [http://dpscs.maryland.gov/publicservs/procurement/MentalHealth.shtml](http://dpscs.maryland.gov/publicservs/procurement/MentalHealth.shtml)

<table>
<thead>
<tr>
<th>Attachment</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>P</td>
<td>DPSCS Mental Health Staffing</td>
</tr>
<tr>
<td>Q</td>
<td>DPSCS Facilities</td>
</tr>
<tr>
<td>R</td>
<td>Recommended Staffing Matrix</td>
</tr>
<tr>
<td>S</td>
<td>Threshold Contract</td>
</tr>
<tr>
<td>T</td>
<td><em>DuVall v. Hogan</em> Settlement Agreement and Amendment</td>
</tr>
<tr>
<td>U</td>
<td>Equipment Inventory</td>
</tr>
<tr>
<td>V</td>
<td>Liquidated Damages Schedule</td>
</tr>
<tr>
<td>W</td>
<td>Average Daily Population FY 14-17</td>
</tr>
<tr>
<td>X</td>
<td>SREs and 7 Day Exams FY 2016</td>
</tr>
<tr>
<td>Y</td>
<td>Summary of services provided 2015 and 2016</td>
</tr>
<tr>
<td>Z</td>
<td>Facility Tour Schedule</td>
</tr>
</tbody>
</table>