



REQUEST FOR QUOTE (RFQ)

Amazon Web Services

SOLICITATION NO. RFQ1579794S

Issue Date: August 26, 2022

**GSA Schedule 70: Category 132-40
Cooperative Purchasing Program**

NOTICE

A Prospective Offeror that has received this document from the Maryland Health Benefit Exchange website <http://www.marylandhbe.com/about-us/procurement/> or <https://emaryland.buyspeed.com/bsol/>, 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 RFQ, should immediately contact the Procurement Officer and provide the Prospective Offeror's name and mailing address so that addenda to the RFQ or other communications can be sent to the Prospective Offeror.

Minority Business Enterprises Are Encouraged to Respond to this Solicitation

**STATE OF MARYLAND
NOTICE TO VENDORS**

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

Title: Amazon Web Services
Solicitation No: RFQ1579794S

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 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
MARYLAND HEALTH BENEFIT EXCHANGE
RFQ KEY INFORMATION SUMMARY SHEET**

Request for Quote: Amazon Web Services

Solicitation Number: RFQ1579794S

RFQ Issue Date: August 26, 2022

Procurement Officer: Tracey D. Gamble
Maryland Health Benefit Exchange
750 East Pratt Street, 6th floor
Baltimore, MD 21202
Phone: 410-547-8152
e-mail: hix.procurement@maryland.gov

Contract Monitor: Greg Yaculak
Maryland Health Benefit Exchange
750 East Pratt Street, 6th floor
Baltimore, MD 21202

Proposals are to be sent to: Tracey D. Gamble, Procurement Officer
Maryland Health Benefit Exchange
750 East Pratt Street, 6th Floor
Baltimore, MD 21202

Note: Due to COVID Teleworking policy, proposals must be uploaded to the following link:

<https://marylandhealthconnection.sharefile.com/r-refd8d80859db4c7c84db01389e725747>

Questions Due Date: September 21, 2022

Send Questions (e-mail only) to: Tracey D. Gamble at hix.procurement@maryland.gov

Closing Date and Time: October 1, 2022, 2:00 PM, Local Time

MBE Subcontracting Goal: 0%

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SECTION 1 - GENERAL INFORMATION

1.1 Summary Statement

- 1.1.1 The Maryland Health Benefit Exchange (MHBE) is issuing this Request for Quote (RFQ) through GSA Schedule 70 to procure Amazon Web Services' (AWS) Infrastructure as a Service (IaaS) offering for its Information Technology initiatives. MHBE intends to leverage the AWS Services, which includes but is not limited to, Compute, Storage, Database, Robotics, Customer Enablement, Management & Governance, Analytics, Security, Identity, Compliance, Business Applications, End User Computing and Internet of Things hosted on a FedRamp Certified Infrastructure. The AWS platform will be used to create multiple environments for Development, Integration, Training and User Acceptance Testing, Staging and Production. MHBE intends to employ the use of Virtual Private Clouds (VPCs) to segregate various environments and apply security to protect PII.
- 1.1.2 The MHBE's intends to obtain services, as specified in this RFQ, through a Contract between the successful Offeror and the MHBE. The anticipated duration of services to be provided under this Contract is one (1) year.
- 1.1.3 The MHBE intends to make a single award as a result of this RFQ. See RFQ Section 1.15 for more information.
- 1.1.4 An Offeror, either directly or through its subcontractor(s), must be able to provide all services and meet all of the requirements requested in this solicitation. The successful Offeror (the Contractor) shall remain responsible for Contract performance regardless of subcontractor participation in the work.
- 1.1.5 The MHBE IT Department is conducting this procurement under section II.G.2 of MHBE's Procurement Policies and Procedures.

1.2 Contract Type

The Contract resulting from this RFQ shall be a Definite Quantity Contract as defined in COMAR 21.06.03.06. Fixed Price (FP) and Time and Material (T&M) products and services may be provided under the Contract as appropriate to the type of services being requested.

1.3 Contract Duration

The term of this Contract shall be for a period of one (1) year commencing upon execution of the Contract.

1.4 Procurement Officer

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

Ms. Tracey D. Gamble
Procurement Officer
Maryland Health Benefit Exchange
750 East Pratt Street, 6th Floor
Baltimore, MD 21202

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

1.5 Contract Monitor

The Contract Monitor is:

Mr. Greg Yaculak
Deputy CIO/Chief Information Security Officer
Maryland Health Benefit Exchange
750 East Pratt Street, 6th Floor
Baltimore, MD 21202
Email: greg.yaculak@maryland.gov

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

1.6 Revisions to the RFQ

If it becomes necessary to revise this RFQ before the due date for proposals, amendments to the RFQ will be posted on the GSA webpage, and on MHBE's website.

1.7 Questions

Written questions, from prospective Offerors, will be accepted only by the Procurement Officer. Questions may be submitted by email only to the Procurement Officer and shall be received no later than the due date specified in the Key Information Summary Sheet.

1.8 Proposal Due (CLOSING) Date

The Proposal Due Date is indicated in the Key Information Summary Sheet.

Requests for extension of this date or time 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, proposals received by the Procurement Officer after the due date and time will not be considered.

Proposals shall not be submitted by facsimile. Proposals will not be opened publicly.

1.9 Duration of Offer

Proposals submitted in response to this RFQ are irrevocable for 120 days following the closing date of proposals, or of Best and Final Offers (BAFO), if requested. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

1.10 Multiple or Alternate Proposals

Multiple and/or alternate Proposals will not be accepted.

1.11 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 RFQ and should not include marketing material.

1.12 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 RFQ 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 MHBE is required to make an independent determination whether the information must be disclosed.

1.13 Award Basis

The Contract shall be awarded to the responsible Offeror submitting the Proposal that has been determined to be the most advantageous to MHBE, considering price and evaluation factors set forth in this RFQ for providing the services as specified in this RFQ.

1.14 Cancellations

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

1.15 Oral Presentation

Offers may be required to make oral presentations to State representatives. Significant representations made by an Offeror during the oral presentation shall become part of the Offeror's proposal and are binding if the Contract is awarded. The Procurement Officer will notify Offerors of the exact time and place of oral presentations; however, Offerors shall be prepared to participate in an oral presentation as soon as five (5) business days following the proposal due date.

1.16 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.

1.17 Protest/Disputes

Any protest related to this solicitation shall be subject to the provisions of Section VII of the MHBE Procurement Policies & Procedures. Any dispute related to the Contract shall be subject to the Disputes provisions of the Contract resulting from this RFQ (refer to RFQ Attachment A).

1.18 Offeror Responsibilities

The selected Offeror shall be responsible for all products and services required by this RFQ. All subcontractors must be identified and a complete description of their role relative to the Proposal (“Role”) must be included in the Offeror’s Proposal. The selected Offeror must get approval from the Contract Monitor prior to utilizing a subcontractor.

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

1.19 Mandatory Contractual Terms

By submitting a Proposal in response to this RFQ, an Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFQ and the Contract, attached herein as RFQ **Attachment A**. Any exceptions to this RFQ or the Master Contract shall be clearly identified in the Executive Summary of the Technical Proposal. **A Proposal may be rejected if it takes exception to these terms or fails to state that it has taken no exceptions.**

1.20 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 RFQ.

1.21 Contract Affidavit

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

1.22 Compliance with Laws/Arrearages

By submitting a Proposal in response to this RFQ, 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 RFQ, 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.

1.23 Verification of Registration and Tax Payment

Before a business entity can do business in the State it must be registered with the State Department of Assessments and Taxation (SDAT). SDAT is located at State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. The SDAT website is <http://sdatcert3.resiusa.org/ucc-charter/>.

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

1.24 False Statements

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

1.24.1 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.

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

1.24.3 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.

1.25 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/Government_Services/State_Accounting_Information/Static_Files/APM/gadx-10.pdf

1.26 Electronic Procurements Authorized

- A. Unless otherwise prohibited by law, MHBE may conduct procurement transactions by electronic means, including the solicitation, bidding, award, execution, and administration of a contract, as provided in the Maryland Uniform Electronic Transactions Act, Md. Code Ann., 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 Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or the Contract.

- C. "Electronic means" refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes facsimile, e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://emaryland.buyspeed.com/bsol/>), and electronic data interchange.
- D. In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., § 1.30 "Payments by Electronic Funds Transfer"), the following transactions are authorized to be conducted by electronic means on the terms described:
1. The Procurement Officer may conduct the procurement using GSA and e-mail to issue:
 - (a) the solicitation (RFQ);
 - (b) any amendments;
 - (c) pre-Proposal conference documents;
 - (d) questions and responses;
 - (e) communications regarding the solicitation or Proposal to any Offeror or potential Offeror;
 - (f) notices of award selection or non-selection; and
 - (g) the Procurement Officer's decision on any Bid protest or Contract claim.
 2. An Offeror or potential Offeror may use e-mail to:
 - (a) ask questions regarding the solicitation;
 - (b) submit the Proposal (including technical and financial);
 - (c) 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, but only on the terms specifically approved and directed by the Procurement Officer;
 - (d) submit a "No Bid/Proposal Response" to the solicitation; and
 - (e) submit documents determined by the MHBE to require original signatures (contract execution or modifications).
 3. The Procurement Officer, the Contract Monitor, and the Contractor may conduct day-to-day Contract administration utilizing e-mail, facsimile, or other electronic means if authorized by the Procurement Officer or Contract Monitor.
 4. Notwithstanding the foregoing provisions of this Section 1.32, MHBE requires all Transmittal Letters, Proposals and any Contract resulting from this RFQ to contain original signatures executed in ink by a person authorized to bind the Contractor. However, the Contractor may scan and submit electronically any document containing such original signature(s). The Contract may be signed by the Parties in counterparts, each of which shall be deemed to be an original but all of which, taken together, shall constitute one and the same Contract.

1.27 Procurement Method

Contracts will be awarded in accordance with the Competitive Sealed Proposals method, under Section II.B of MHBE's Procurement Policies and Procedures.

1.28 Federal Funding Acknowledgement

1.28.1 There are programmatic conditions that apply to this Contract due to Federal funding (refer to RFQ **Attachment G**).

1.28.2 The total amount of Federal funds allocated for the MHBE is \$42.1 million in Maryland State fiscal

year 2021. This represents 77.8% of all funds budgeted for the unit in that fiscal year. This does not necessarily represent the amount of funding available for any particular grant, contract, or solicitation.

- 1.28.3 This Contract contains federal funds. The source of these federal funds is Medicaid. The CFDA number is 93.778. Execution of a Contract awarded as a result of this RFQ indicates the Contractor's agreement with all federal funding terms and conditions that apply to contractors receiving federal funds from Medicaid, including the provisions described in RFQ **EXHIBIT B**.

1.29 Non-Exchange Entity Agreement

Based on the MHBE's determination that the Contract awarded as a result of this RFQ will require the Contractor's Access to PII protected under 45 C.F.R. § 155.260, the Contractor shall be considered a Non-Exchange Entity under 45 C.F.R. § 155.260(b)(1). Therefore, pursuant to 45 C.F.R. § 155.260(b)(2), the recommended awardee shall execute a Non-Exchange Entity Agreement as set forth in RFQ **Attachment E**. This Agreement must be provided within five (5) Business Days of notification of proposed Contract award; however, to expedite processing, it is suggested that this document be completed and submitted with the Proposal. Should the Non-Exchange Entity Agreement not be submitted upon expiration of the five (5) Business Day period as required by this solicitation, the Procurement Officer, upon review of the Office of the Attorney General and approval of the Executive Director, may withdraw the recommendation for award and make the award to the responsible Bidder/Offeror with the next lowest Bid or next highest overall-ranked Proposal.

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SECTION 2 – MINIMUM QUALIFICATIONS

2.1 Offeror Minimum Qualifications

Offeror must be an authorized Independent Software Vendor (ISV) or Consulting Provider of AWS software. Offerors should provide proof of authorization to resell AWS software and services.

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SECTION 3 – SCOPE OF WORK

3.1 Background and Purpose

In legislation adopted April 12, 2011, the State of Maryland established the authority to create a state-based health insurance exchange known as Maryland Health Benefit Exchange (MHBE). The MHBE provides Maryland's residents and small businesses the opportunity to compare rates, benefits, and quality among insurance plans and enroll in products that best suit their needs through a state-based insurance marketplace called Maryland Health Connection. Maryland Health Connection is also the place where Marylanders can go to determine if they are eligible for expanded Medicaid coverage, advance premium tax credits and other assistance designed to make coverage more affordable. MHBE was created after the Affordable Care Act (ACA) -- signed into law by President Barack Obama on March 23, 2010 -- required States to begin operating a Health Insurance Exchange by January 1, 2014 or to allow the federal government to operate an exchange on their behalf. MHBE prints marketing materials to support the statewide education and outreach effort to inform Marylanders about their options and how to enroll.

3.2 Scope of Work

The Maryland Health Benefit Exchange (MHBE) intends to utilize Amazon Web Services (AWS) for its Information Technology initiatives.

The following is the list of potential, but not exclusive, Amazon Web Services (AWS) that MHBE intends to use. The Vendor shall provide these services for a period of Twelve (12) months:

1. Compute
2. Machine Learning
3. Containers
4. Storage
5. Database
6. Migration and Transfer
7. Networking and Content Delivery
8. Analytics
9. Security, Identity and Compliance
10. Developer Tools
11. Customer Enablement
12. AWS Cost Management
13. Management and Governance
14. End User Computing

AWS Organizations:

The vendor shall offer AWS organizations as part of Management and Governance and allow MHBE's AWS services to be integrated with AWS providing MHBE with centralized management of configurations and billing across accounts.

Technical and Business Support Specification:

MHBE is requesting AWS Technical and Business Support for the above services. AWS Technical and Business Support would provide:

1. Enhanced Technical Support – 24 x 7 access to Cloud Support Engineers via phone, chat, and email. MHBE can have an unlimited number of contacts that can open an unlimited number of cases. Response times will be as follows:
 - General Guidance < 24 hours
 - System Impaired < 12 hours
 - Production System Impaired < 4 hours
 - Production System Down < 1 hour
2. Architecture Support – Contextual guidance on how services fit together to meet MHBE specific use-case, workload, or application.
3. AWS Support API – Programmatic access to AWS Support Center features to create, manage, and close MHBE support cases, and operationally manage MHBE Trusted Advisor check requests and status.
4. Third-Party Software Support – Guidance, configuration, and troubleshooting of AWS interoperability with many common operating systems, platforms, and application stack components.
5. Access to Proactive Support Programs – Ability to purchase Infrastructure Event Management for an additional fee. This provides Architecture and scaling guidance, and real-time operational support during the preparation and execution of planned events, product launches, and migrations.

3.3 Invoicing

3.3.1 General

- a) All invoices for services shall be signed by the Contractor and submitted to the Contract Monitor within 30 days of delivery of services and shall include, at the minimum, the following information:
 - Contractor name
 - Remittance address
 - Federal taxpayer identification number
 - Invoice period
 - Invoice date
 - Invoice number
 - State assigned Contract number
 - State assigned Purchase or Blanket Purchase Order number(s)
 - Services provided with supporting documentation providing details
 - Amount due

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

- b) The MHBE reserves the right to reduce or withhold Contract payment in the event the Contractor does not provide the MHBE 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.

3.4 Insurance

The Contractor shall maintain property with a minimum of \$1,000,000 and casualty insurance with minimum limits of \$3,000,000 sufficient to cover losses resulting from or arising out of Contractor action or inaction in the performance of the Contractor, its agents, servants, employees, or subcontractors.

The Contractor shall maintain a policy of general liability insurance that is of the proper type and of

sufficient limits that the State and its officials, employees, agents, servants, guests and subcontractors are reasonably covered in the event of injury or death.

The State of Maryland will be named as an additional named insured on the policies of all property, casualty, liability, and other types of insurance evidencing this coverage.

Certificates of insurance evidencing this coverage will be provided prior to the commencement of any activities in the Contract. All insurance policies shall be with a company licensed to do business in Maryland.

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

Offerors shall propose services the Offeror has the ability to provide and how the Offeror qualifies to perform those services.

All pages of both Volumes shall be consecutively numbered from beginning (Page 1) to the end (Page “x”).

4.3 Submission

Each Offeror is required to submit a separate sealed package for each Volume, which is to be labeled Volume I – Technical Proposal and Volume II – Price Proposal respectively. Each sealed package shall bear the RFQ title and number, name and address of the Offeror, the Volume number (I or II) and closing date and time for receipt of the proposals on the outside of the package.

Offerors shall submit only one (1) Technical Proposal and one (1) Price Proposal simultaneously to the Procurement Officer.

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 4.3, above, Offeror will provide:

1. One (1) unbound original of the Technical Proposal, so labeled, and the electronic version. Section 3 of this RFQ provides requirements and Section 4 provides reply to instructions. The paragraphs in these RFQ sections are numbered for ease of reference. In addition to the instructions below, the Offeror’s Technical Proposal shall be organized and numbered in the same order as this RFQ. This proposal organization will allow State

officials and the Evaluation Committee to “map” Offeror responses directly to RFQ requirements by paragraph number.

CDs or flash drives shall be labeled on the outside containing the RFQ number and name, the name of the Offeror, and the Volume number.

The Technical Proposal shall include the following sections in this order:

4.4.2.1 Title Page and Table of Contents

The Technical Proposal shall begin with a Title Page bearing the name and address of the Offeror and the name and number of this RFQ. A Table of Contents shall follow the Title Page for the Technical Proposal.

4.4.2.2 Claim of Confidentiality

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

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 RFQ.

4.4.2.4 Section 1: Executive Summary

The Offeror shall condense and highlight the contents of the Technical Proposal in a separate section titled “Executive Summary.” The summary shall provide a broad overview of the contents of the entire proposal. The summary shall identify any exceptions the Offeror has taken to the requirements of this RFQ, the Contract (Attachment A), or any other attachments. If there are no exceptions, the Offeror is to state that they have no exceptions to the requirements of this RFQ, 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.

4.4.2.5 Section 2: General Information

Section 2 of the proposal shall contain a general description of the Offeror and its capabilities.

4.4.2.6 Section 3: Proposed Solution

Section 3 of the3 proposal shall contain a detailed discussion of the Offeror’s understanding of the work entailed to address the requirements outlined in Section 3 – Scope of Work and how the Offeror proposes to satisfy the requirements. This section should include a detailed description of the Offeror’s proposed AWS services as required in Section 3.

4.4.2.7 Section 4: Compliance with Master Contractor Minimum Qualifications

Offerors will provide the following table to demonstrate the compliance with the Master Contractor Minimum Qualifications and with the requirements stated in Section 2.

4.4.2.8 Section 5: Past Performance

This section shall include the following

- a. The Offeror shall provide evidence of its capabilities to provide the services outlined in Section 2 of this RFQ.
- b. The Offeror shall provide at least 3 examples of similar scoped procurements for AWS IAAS or PAAS or both combined.
- c. For each project example provided, the Offeror shall include **at least 2** supporting references with the following information:
 1. Name of client organization;
 2. Name, title, and current telephone number of point of contact for client organization who is knowledgeable regarding Offeror's services;
 3. Type and duration of contract (s) supporting the reference; and
 4. The services provided, scope of contract, and performance objectives satisfied as they relate to the scope of this RFQ.
- d. State of Maryland Experience: If applicable, the Offeror shall submit a list of all contracts it currently holds, or has held within the past five years, with any government entity of the State of Maryland. For each identified contract, the Offeror shall provide:
 1. The State contracting entity;
 2. A brief description of the services/goods provided;
 3. The dollar value of the contract;
 4. The term of the contract;
 5. Whether the contract was terminated prior to the specified original contract termination date, and if yes, the reason(s) why;
 6. Whether any available renewal option was not exercised; and
 7. The State employee contact person (name, telephone number and email)

4.4.2.9 Section 6: References

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 RFQ. 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 POC for client organization; and
- c. Value, type, duration, and description of services provided.

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

Please Note: It is critical that the contact information provided for any reference is current and accurate. The reference must be knowledgeable of the project and the

Offeror's performance and be available to discuss the Offeror's performance.

4.4.2.10 Section 7: Insurance Submission

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 3.5.

4.5 Volume II – Financial Proposal

Under separate sealed cover from the Technical Proposal and clearly identified in the format requirements identified in Section 4.4, the Offeror shall submit one (1) unbound original and an electronic version Word and signed PDF of the Price Proposal.

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

5.1 Evaluation Committee

A Contract will be awarded to a single Offeror in accordance with the Competitive Sealed Proposals procurement process under Section II.B of MHBE's Procurement Policies and Procedures.

5.2 Technical Evaluation Criteria

If the minimum qualifications in Section 2 of the RFQ are met, the following technical criteria shall be used to evaluate proposals in descending order of importance.

5.2.1 Experience and qualifications of the Offeror, with a specific emphasis on Government projects

5.2.2 Overall degree of the Offeror's proposed AWS solution and pricing

5.2.3 The satisfaction of provided references including at least one State government reference which meets the above listed minimum qualifications.

5.3 Financial Proposal Evaluation Criteria

Price Proposals will be evaluated separately. Proposals will be ranked from lowest to highest to determine the financial rankings.

5.4 Selection Procedures

5.4.1 General

The Contract will be awarded in accordance with the Competitive Sealed Proposals (CSP) method found at Section II.B of MHBE's Procurement Policies and Procedures. The Competitive Sealed Proposals method allows for the conducting of discussions and the revision of Proposals during these discussions. Therefore, the MHBE 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 MHBE 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.

5.4.2 Selection Process Sequence

5.4.2.1 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 MHBE'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 MHBE. Offerors will be contacted by the State as soon as any discussions are scheduled.

5.4.2.2 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.

5.4.2.3 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.

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

5.4.3 Award Determination

Upon completion of the Technical Proposal and Financial Proposal evaluations and rankings, each Contractor shall 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 MHBE. In making this most advantageous Proposal determination, technical factors will receive greater weight than financial factors.

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RFQ ATTACHMENTS

ATTACHMENT A – Contract

This is the sample contract used by the MHBE. It is provided with the RFQ 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.

ATTACHMENT B – Bid/Proposal Affidavit

This Attachment must be completed and submitted with the Technical Proposal (refer to RFQ Section 1.25).

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 (refer to RFQ Section 1.26).

ATTACHMENT D – Financial Proposal Instructions and Form

The Financial Proposal Form must be completed and submitted in the Financial Proposal package (refer to RFQ Section 4.5).

ATTACHMENT E – Non-Exchange Entity Agreement

It is recommended that this Attachment be completed and submitted with the Technical Proposal.

EXHIBIT A – IRS Publication 1075

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

EXHIBIT B – Federal Funds Attachment

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

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ATTACHMENT A – CONTRACT

INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT [Amazon Web Services Cloud Services] UNDER GSA Contract No. _____

THIS INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT is made as of ____, by and between _____. (the “Contractor” or “_____”) and the MARYLAND HEALTH BENEFIT EXCHANGE, a governmental unit of the STATE OF MARYLAND (“MHBE” or the “Agency”). The Contractor and MHBE each are a “Party” and, together, are the “Parties”.

WHEREAS MHBE desires to enter into a contract that will permit it to access the _____ Inc. (“_____”) Infrastructure as a Service (IaaS) software and cloud services for its new Information Technology Initiatives platform for the purpose of allowing MHBE’s AWS services to be integrated with AWS providing MHBE with centralized management of configurations and billing across accounts.

WHEREAS the Parties seek to enter into a flexible contract vehicle that will permit MHBE to purchase access to Amazon Web Services (AWS) software, cloud services and related maintenance and updates by entering into task orders under the Contract, as set forth herein; and

WHEREAS, the Contractor has a U.S. General Services Administration reseller contract to provide certain information technology offerings on GSA Schedule 70, including from AWS, which Contract GSA awarded and refreshes with new offerings after finding AWS’s pricing fair and reasonable;

NOW THEREFORE, in consideration of the premises and the covenants herein contained, the Parties agree as follows:

1. Definitions.

The following words have the meanings indicated:

- 1.1. “Access” means the ability or the means necessary to read, write, modify, or communicate data/information or otherwise use any information system resource.
- 1.2. “Cloud infrastructure” or “the cloud” means a software licensing and delivery model in which software is licensed on a subscription basis and is centrally hosted.
- 1.3. “COMAR” means Code of Maryland Regulations available on-line at www.dsd.state.md.us
- 1.4. “Contract” means this Intergovernmental Cooperative Purchasing Agreement by and between MHBE and Contractor, including all Exhibits and Addenda.
- 1.5. “Contract Monitor” means Greg Yaculak. MHBE may change the Contract Monitor at any time by written notice to the Contractor.
- 1.6. “Contracting Officer”, as used in the GSA Contract, shall have the meaning set forth in 48 C.F.R. § 552.238-79(a)(2)(“shall mean the individual responsible for placing an order for” MHBE) and shall be synonymous with the Procurement Officer.
- 1.7. “Contractor” means _____, whose principal business address is _____.
- 1.8. “Effective Date” means the date on which the last of the two Parties signs this Contract.
- 1.9. “FedRamp” means the Federal Risk Authorization Management Program, a U.S. government-wide program that provides a standardized approach to security assessment, authorization, and continuous monitoring for cloud products and services.

- 1.10. “GSA” means the U.S. General Services Administration.
- 1.11. “GSA Contract” means the GSA Contract # _____ between the GSA Federal Acquisition Service and _____, comprising the Authorized Federal Supply Schedule Price List attached hereto as Exhibit A-1 and the applicable GSA Contract Terms and Conditions reflected in the Contract Clause Document for Solicitation Number: _____ attached hereto as Exhibit A-2) as the same may be amended or extended from time to time.
- 1.12. “Health Information Portability and Accountability Act” or “HIPAA” means the Health Insurance Portability and Accountability Act of 1996 including all pertinent privacy regulations (45 C.F.R. Parts 160 and 164) and security regulations (45 C.F.R. Parts 160, 162, and 164), as amended from time to time, issued by the U.S. Department of Health and Human Services as either have been amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), as Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5).
- 1.13. “Intergovernmental Cooperative Purchasing Agreement” or “ICPA” means a contract that MHBE has entered into pursuant to Section II.G.2 of its Procurement Policies and Procedures that fits the definition set forth in Section 13-110(a)(4) of the State Finance & Procurement Article, Maryland Code Annotated.
- 1.14. “Insurance Affordability Program” shall have the meaning set forth in 42 C.F.R. § 435.4, made applicable to the ACA by 45 C.F.R. § 155.300.
- 1.15. “Maryland Health Connection” means MHBE’s state-based marketplace, which offers a web site, a call center and in-person assistance for people seeking to enroll in health insurance or an Insurance Affordability Program under the ACA.
- 1.16. “Minimum Acceptable Risk Standards for Exchanges”, “MARS-E” or “MARS-E Guidance” means that certain suite of documents developed by the Centers for Medicare & Medicaid Services, comprising Volume I: Harmonized Security and Privacy Framework, Version 2.0; Volume II: Minimum Acceptable Risk Standards for Exchanges, Version 2.0; Volume III: Catalog of Minimum Acceptable Risk Security and Privacy Controls for Exchanges, Version 2.0; Volume IV: ACA Administering Entity System Security Plan, Version 2.0, as the same may be revised from time to time.
- 1.17. “NIST” means the National Institute of Standards and Technology, U.S. Department of Commerce.
- 1.18. “Other contractor(s) or subcontractor(s)” shall mean a State contractor other than _____.
- 1.19. “Patient Protection and Affordable Care Act” or “ACA” means the Patient Protection and Affordable Care Act of 2010 (Pub. L. 11-148) as amended, including by the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), together with all regulations promulgated thereunder.
- 1.20. “Personally Identifiable Information” or “PII” means Personally Identifiable Information as defined by U.S. Office of Management and Budget Memorandum M-07-16 (May 22, 2007) (“PII refers to information which can be used to distinguish or trace an individual’s identity, such as their name, social security number, biometric records, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother’s maiden name, etc.”) PII is a broad category of information that includes subsets of other information, such as Protected Health Information (PHI) and “personal information”, as the latter term is used in the following sections of the Maryland Code Annotated: Section 14-3501(d) of the Commercial Law Article and Section 10-1301(c) of the State Government Article.
- 1.21. “Infrastructure as a Service” or “IaaS” means the capability provided to the State to facilitate processing, storage, networks and other fundamental computing resources where the consumer is able to deploy and run arbitrary software, which can include operating systems and applications supported by Amazon Web Services through _____. See NIST Special Publication 800-145

- 1.22. "Procurement Officer" means Tracey D. Gamble. MHBE may change the Procurement Officer at any time by written notice to the Contractor.
- 1.23. "Protected Health Information" or "PHI" shall have the meaning provided in 45 C.F.R. § 160.103; generally, information transmitted or maintained in any form or medium that is (1) created or received by a health care provider, health plan, employer, or health care clearinghouse and (2) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) that identifies the individual; or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- 1.24. "Qualified Health Plan" or "QHP" shall have the meaning set forth in 45 C.F.R. § 155.20.
- 1.25. "Security" or "Security Measures" shall mean the technology, policies and procedures that (a) protect and (b) control access to networks, systems, and data.
- 1.26. "Software" means the object code version of computer programs licensed pursuant to this Contract. Embedded code, firmware, internal code, microcode, and any other term referring to software that is necessary for proper operation is included in this definition of Software. Software includes all prior, current, and future versions of the Software and all maintenance updates and error corrections. Software also includes any upgrades, updates, bug fixes or modified versions or backup copies of the Software licensed to the State by Contractor or an authorized distributor.
- 1.27. ""State" means the State of Maryland, including MHBE.

2. Scope of Contract

- 2.1. The Parties enter into this Contract pursuant to Section 211 of the E-Government Act of 2002, Md. Code Ann., State Fin. & Proc. § 12-401, Section II.G.2 of MHBE's Procurement Policies and Procedures and Section 552.238-114 of the GSA Contract.
- 2.2. The Contractor shall provide the following AWS products and services to create and integrate MHBE's new Information Technology Initiatives: (a) the software, products and services described in the quantities identified in the Initial Product Requirements, as set forth in the Initial Task Order Request for Quote in **Addendum I**, for the prices set forth in the Contractor's Initial Price Proposal on the form provided in **Addendum I-A** (which shall constitute a response to the Initial Task Order Request for Quote ("RFQ")) and, if accepted, shall be incorporated into a Task Order Agreement ("TO Agreement")); and (b) the services described in any subsequent TO Agreements entered into pursuant to the TORFQ process set forth in **Addendum II**. Such services shall be provided in accordance with the terms of this Contract and the following Exhibits, which are attached hereto and incorporated herein by reference. If there are any inconsistencies between this Contract and Exhibits A through F, the terms of this Contract shall control. If there is any inconsistency among the Exhibits, the following order of precedence shall determine the prevailing provision:
 - Exhibit A: The GSA Contract
 - Exhibit B: Federal Funds Requirements and Restrictions, including attachments B-1 and B-2
 - Exhibit C: State Contract Affidavit, executed by the Contractor and dated _____
 - Exhibit D: Task Order Agreement (when executed)
 - Exhibit E: RFQ
 - Exhibit F: Contractor's Response to the RFQ
 - Exhibit G: IRS Publication 1075
- 2.3. The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section.

Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within 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 of this Contract. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

- 2.4. Modifications to this Contract may be made provided (a) the modifications are made in writing and (b) all Parties sign the modifications.
- 2.5. Contracts awarded in violation of the MHBE Procurement Policies and Procedures are voidable at the election of MHBE.
- 2.6. Pursuant to 48 C.F.R. 552.238-114, this Contract permits MHBE to purchase products and services owned by Amazon Web Services from the Contractor according to the prices and applicable terms offered through the GSA Contract. A TORFQ may specify terms in addition to the terms specified herein. Such additional terms may include deliverables, and acceptance test requirements. A TO Agreement may not limit the State's rights as provided by law or in this Contract.
- 2.7. The GSA Contract prices constitute maximum prices; the Contractor may offer, and MHBE may request, prices lower than the GSA Contract prices. The Contractor shall not offer prices that exceed the GSA Contract maximum prices.

3. Security and Privacy Provisions

- 3.1. The Contractor shall provide AWS products and services (each, whether supplied directly by AWS or a AWS subcontractor, a "Solution") that are compliant with the requirements in GSA Contract § 52.204-21(b)(1) as supplemented by those set forth in Sections D, E and F of the Non-Exchange Entity Agreement, attached hereto as **Addendum III**, as well as in (a) any Business Associate Agreement executed by and between MHBE, the State Medicaid Agency and AWS, and (b) any Task Orders. Sections D, E and F of the Non-Exchange Entity Agreement are hereby incorporated herein by reference.
- 3.2. The Contractor is an AWS-authorized reseller and shall not have access to the State's PII under this Contract. However, based on the MHBE's determination that the Contract will result in AWS's Access to PII protected under 45 C.F.R. § 155.260, as well as to Medicaid PHI protected under HIPAA, AWS shall be considered a Non-Exchange Entity of the MHBE under 45 C.F.R. § 155.260(b)(1) and a Business Associate of the State Medicaid Agency under 45 C.F.R. 160.103. Accordingly, Contractor agrees that AWS's execution of the following agreements, substantially in the form attached hereto, are material requirements of this Contract: (a) the Non-Exchange Entity Agreement by and between MHBE and AWS, required pursuant to 45 C.F.R. § 155.260(b)(2) and attached hereto as **Addendum III**; and (b) the Business Associate Agreement by and between MHBE, AWS and the Maryland Department of Health required pursuant to 45 C.F.R. § 164.501 and attached hereto as **Addendum IV**. If, for any reason, AWS declines to execute each of the Non-Exchange Entity Agreement or the Business Associate Agreement substantially in the form attached hereto, and in a time period MHBE considers reasonable in its sole discretion, MHBE shall have the right to terminate this Contract for convenience.

4. Period of Performance

- 4.1 The Contract shall start as of the date of full execution by the Parties. From this date, the Contract Period of Performance will be as follows: (a) Presuming the Federal government exercises its option to extend the GSA Contract beyond its current expiration date of _____, the Contract shall be for one year; or (b) Should the GSA Contract expire without extension, this Contract shall terminate on _____, or, with reference to GSA Contract Clause 52.215-5, on the latest termination date of any Task Order Agreement issued hereunder, whichever is later.
- 4.2 Audit, confidentiality, document retention, and indemnification obligations under this Contract shall survive expiration or termination of the Contract.

5. Consideration and Payment

- 5.1. In consideration of the satisfactory performance of the work set forth in this Contract and any TO Agreement, MHBE shall pay the Contractor in accordance with the prices established in the Contractor's TORFQ Response, if incorporated into a Task Order Agreement, which prices may not exceed those set forth in the GSA Contract. TO Agreements that are on a time and materials basis, if any, shall include a not to exceed ("NTE") ceiling for payments. Any work performed by the Contractor in excess of the NTE ceiling amount of any TO Agreement without the prior written approval of the Contract Monitor is at the Contractor's risk of non-payment.
- 5.2. Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after MHBE's receipt of a proper invoice from the Contractor, acceptance by MHBE and pursuant to the conditions outlined in Consideration and Payment section of this Contract. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, are prohibited. Invoices shall be submitted to the Contract Monitor at hbe.finance@maryland.gov. **Invoices for subscriptions and other services, under SIN 132-40 shall be invoiced on a monthly basis, after completion of such period, and paid in arrears. Infrastructure as a Services under SIN 132-40 may be submitted in advance of the service period covered but for service periods no longer than a quarter (three months). Additional invoicing terms may be included in a TORFQ and resulting Task Order, to the extent that they do not conflict with this Contract.** Invoices shall contain the Information set forth in 52.212-4(g)(1) of the GSA Contract. Electronic funds transfer shall be used by the MHBE to pay Contractor pursuant to this Contract and any other State payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.
- 5.3. In addition to any other available remedies if, in the opinion of the Procurement Officer, the Contractor fails to perform under this Contract 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.
- 5.4. Payment of an invoice by the MHBE is not evidence that services were rendered as required under this Contract.
- 5.5. Contractor's Federal Employee Identification No. is _____.

6. Patents, Copyrights, and Intellectual Property

- 6.1. All copyrights, patents, trademarks, trade secrets, and any other intellectual property rights existing prior to the effective date of this agreement shall belong to the party that owned such rights immediately prior to the Effective Date ("Pre-Existing Intellectual Property"). If the software, SaaS or PaaS provided under this Contract includes any design, device, material, process, or other item, which is covered by a patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or

items pursuant to the State's rights granted under the Contract.

- 6.2. Except for information created or otherwise owned by the State or licensed by the State from third-parties, including all information provided by the State to Contractor through the SaaS or PaaS or for use in connection with the SaaS or PaaS, all right, title, and interest in the intellectual property embodied in the SaaS or PaaS, including the know-how and methods by which the SaaS or PaaS is provided and the processes that make up the SaaS or PaaS, will belong solely and exclusively to Contractor and its licensors, and the State will have no rights in any of the above except as expressly granted in this Agreement. Subject to Sections 6.3, 6.4 and 6.5, below, any SaaS, PaaS or Software developed by the Contractor or its licensors during the performance of the Contract will belong solely and exclusively to the Contractor and its licensors and shall be treated as Pre-Existing Intellectual Property.
- 6.3. Notwithstanding the foregoing, where the State, acting directly or through its other contractors or subcontractors, makes use of the software, SaaS or PaaS to create or develop derivative software, SaaS or PaaS, including any software application, the State shall own all rights, title and interest in the portion of such work the State or its other contractors or subcontractors create (the "Derivative Intellectual Property"). Ownership of such Derivative Intellectual Property shall not compromise the rights of Contractor, AWS or their respective licensors to the Pre-Existing Intellectual Property and may be of little use without a valid license to use the Pre-Existing Intellectual Property.
- 6.4. Where the State, whether acting directly or through other contractors or subcontractors, uses the software, PaaS or SaaS provided under this Contract to develop Derivative Intellectual Property as set forth in Section 6.3, the federal government shall have the rights to inventions set forth in Section F of the Federal Funds Attachment, including the rights set forth under 45 C.F.R. § 95.617.
- 6.5. Subject to the terms of Section 7 (Indemnification), Contractor shall defend, indemnify, and hold harmless the State, and its directors, agents, officers, and employees, from and against any and all claims, costs, losses, damages, liabilities, judgments and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with any third party claim the Contractor-provided service infringes, misappropriates or otherwise violates any third-party intellectual property rights. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent.
- 6.6. Contractor shall be entitled to control the defense or settlement of such claim (subject to the State's approval rights set forth in Section 6.5) provided that the State will, upon requesting indemnification hereunder: (a) provide reasonable cooperation to Contractor in connection with the defense or settlement of any such claim, at Contractor's expense; and (b) be entitled to participate in the defense of any such claim at its own expense.
- 6.7. Except if Contractor has pre-existing knowledge of such infringement, Contractor's obligations under this section will not apply to the extent any third-party intellectual property infringes, misappropriates or otherwise violates any third party intellectual rights as a result of modifications made by the State or which were not approved by Contractor, including (i) the combination, operation or use of the service (including SaaS) or deliverable in connection with a third-party offering not introduced by the Contractor (the combination of which causes the infringement); or (ii) Contractor's compliance with the written specifications or directions of the State to incorporate

third party Software or other materials which causes infringement.

- 6.8. Without limiting Contractor's obligations under Section 6.5, if all or any part of the deliverable or service is held, or Contractor reasonably determines that it could be held, to infringe, misappropriate or otherwise violate any third party intellectual property right, Contractor (after consultation with the State and at no cost to the State): (a) shall procure for the State the right to continue using the item or service in accordance with its rights under this Contract; (b) replace the item or service with an item that does not infringe, misappropriate or otherwise violate any third party intellectual property rights and that complies with the item's specifications, and all rights of use and/or ownership set forth in this Contract; (c) modify the item or service so that it no longer infringes, misappropriates or otherwise violates any third party intellectual property right and complies with the item's or services' specifications and all rights of use and/or ownership set forth in this Contract or (d) refund any pre-paid fees for the allegedly infringing services that have not been performed or provide a reasonable pro-rata refund for the allegedly infringing service or item.
- 6.9. Except as otherwise provided herein, Contractor shall not acquire any right, title or interest (including any intellectual property rights subsisting therein) in or to any goods, Software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the State to the Contractor. Notwithstanding anything to the contrary herein, the State may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a separate writing executed by the Contractor and an authorized representative of the State. Notwithstanding the foregoing, the State agrees to secure all necessary rights, licenses and/or permissions to allow Contractor to access and use any goods, Software, technical information, specifications, drawings, records, documentation, data or any other materials the State provides to the Contractor in Contractor's performance of the services or production of the deliverables.
- 6.10. Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall use any Software or technology in a manner that will cause any patents, copyrights or other intellectual property which are owned or controlled by the State or any of its affiliates (or for which the State or any of its subcontractors has received license rights) to become subject to any encumbrance or terms and conditions of any third-party or open source license (including, without limitation, any open source license listed on <http://www.opensource.org/licenses/alphabetical>) (each an "Open Source License"). These restrictions, limitations, exclusions and conditions shall apply even if the State or any of its subcontractors becomes aware of or fails to act in a manner to address any violation or failure to comply therewith. No act by the State or any of its subcontractors that is undertaken under this Contract as to any Software or technology shall be construed as intending to cause any patents, copyrights or other intellectual property that are owned or controlled by the State (or for which the State has received license rights) to become subject to any encumbrance or terms and conditions of any open-source license.
- 6.11. Except as provided in Section 6.13 of this Contract, the Contractor agrees that all documents and materials, including but not limited to, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, software, graphics, mechanical, artwork, computations and data prepared by or for the Contractor or its licensors exclusively for purposes of this Contract pursuant to a TORFQ for services, including professional services, billed on a time and materials basis ("Work Product") shall become and remain the sole and exclusive property of the State and shall be available to the MHBE at any time. The MHBE shall have the right to use the same without

restriction and without compensation to the Contractor other than that specifically provided by this Contract, and the federal government shall have the rights to same set forth in Federal Funds Attachment F (Exhibit B).

- 6.12. Except as provided in Section 6.13 of this Contract, the Contractor agrees that at all times during the term of this Contract and thereafter, the Work Product shall be "works made for hire" as that term is interpreted under U.S. copyright law and shall be owned by the State. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such Work Product. In the event any Work Product is or may not be considered a work made for hire under applicable law, Contractor assigns and transfers to the State the entire right, title and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof. Contractor shall execute all documents and perform such other proper acts as the State may deem necessary to secure for it the rights pursuant to this section.
- 6.13. Notwithstanding anything to the contrary in this Contract, to the extent (i) the Work Product incorporates any commercial-off-the shelf software ("COTS") and/or any Pre-Existing Intellectual Property or (ii) any COTS and/or Pre-Existing Intellectual Property (other than a computer's operating system, supported internet browser, browser accessibility software or hardware if needed by the user, and software required to access a commonly-available data transmission tool or export format) is required to access, install, build, compile or otherwise use the Work Product (such COTS and Pre-Existing Intellectual Property individually and collectively referred to herein as "Third-party Intellectual Property," which shall be the sole property of Contractor or its third-party licensors, as applicable), Contractor hereby grants, on behalf of itself and any third-party licensors, to the State a royalty-free, paid-up, non-exclusive, unrestricted, unconditional, irrevocable, worldwide right and license, with the right to use, execute, reproduce, display, perform, distribute copies of internally, modify and prepare derivative works based upon, such Third-party Intellectual Property as may be necessary for the State to use the Work Product for the purposes for which such Work Product was designed and intended.
- 6.14. The Contractor shall report to the State, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all deliverables delivered under this Contract.
- 6.15. The Contractor shall not affix (or permit any third party to affix), without the State's consent, any restrictive markings upon any deliverables that are owned by the State. If such markings are affixed, the State shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

7. Indemnification

- 7.1. Contractor shall indemnify, defend, and hold the State, its directors, officers, employees and agents harmless from third-party liability for tangible property damage, bodily injury and death, and for fraud or willful misconduct of Contractor, including all related defense costs and expenses (including reasonable attorneys' fees and costs of investigation, litigation, settlement, judgments, interest and penalties) arising from or relating to the performance of the Contractor or its Subcontractors under this Contract.
- 7.2. The State has no obligation to provide legal counsel or defense to the Contractor or its

Subcontractors in the event that a suit, claim or action of any character is brought by any person not party to this Contract against the Contractor or its Subcontractors as a result of or relating to the Contractor's obligations under this Contract.

- 7.3. 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 obligations under this Contract.
- 7.4. The Contractor shall immediately notify the Procurement Officer of any claim or suit made or filed against the Contractor or its Subcontractors regarding any matter resulting from or relating to the Contractor's obligations under the Contract, and will cooperate, assist, and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of or relating to the Contractor's performance under this Contract.
- 7.5. Section 7 shall survive expiration of this Contract.

8. Exclusive Use and Ownership

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 MHBE 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 State's or MHBE's confidential information is to be disclosed shall be advised by Contractor of and bound by the confidentiality and intellectual property terms of this Contract.

9. Confidentiality

- 9.1. Subject to the Maryland Public Information Act and any other applicable laws, 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 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.
- 9.2. Section 9 shall survive expiration or termination of this Contract.

10. 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.

11. Insurance Requirements

- 11.1. Any insurance furnished as a condition of this Contract shall be issued by a company authorized to do business in the State in which the insured activity takes place, including in Maryland. Coverage must be valid in all locations where work is performed or data or other information concerning the State's claimants and/or employers is processed or stored.
- 11.2. The Contractor must provide a certificate(s) of insurance with the prescribed coverages, limits and requirements set forth in this Section 11 ("Insurance Requirements"), within five (5) Business Days of Contract execution. The Contractor shall update certificates of insurance from time to time but no less than annually in multi-year contracts, or as directed by the Contract Monitor.
- 11.3. The following type(s) of insurance and minimum amount(s) of coverage are required:
- 11.3.1. General Liability -- The Contractor shall maintain Commercial General Liability Insurance with limits sufficient to cover losses resulting from, or arising out of, Contractor action or inaction in the performance of the Contract by the Contractor, its agents, servants, employees, or subcontractors, but no less than a Combined Single Limit for Bodily Injury, Property Damage, and Personal and Advertising Injury Liability of \$1,000,000 per occurrence and \$2,000,000 aggregate.
- 11.3.2. The Contractor shall maintain Errors and Omissions/Professional Liability insurance with minimum limits of \$1,000,000 per occurrence.
- 11.3.3. The Contractor shall maintain Employee Theft Insurance with minimum limits of \$1,000,000 per occurrence and \$3,000,000 aggregate.
- 11.3.4. 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.
- 11.3.5. Cyber Security / Data Breach Insurance - The Contractor shall maintain Cyber Security / Data Breach Insurance in the amount of five million dollars (\$5,000,000) per occurrence and five million (\$5,000,000) aggregate. The coverage must be valid in all locations where work is performed or data or other information concerning the State's claimants and/or employers is processed or stored.
- 11.3.6. _____ shall be listed as the insured party on all policies.
- 11.3.7. The State shall be listed as an additional insured on the policies with the exception of Worker's Compensation Insurance and Employee Theft Insurance Policy. For the Employee Theft Insurance Policy, the Contractor shall include the State as a Loss Payee. All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Contract Monitor, by certified mail, not less than 45 days' advance notice of any non-renewal, cancellation, or expiration. In the event the Contract Monitor receives a notice of non-renewal, the Contractor shall provide the Contract Monitor with an insurance policy from another carrier at least 15 days prior to the expiration of the insurance policy then in effect.
- 11.3.8. The Contractor shall ensure that any _____ subcontractors providing primary services (as opposed to non-critical, ancillary services) under this Contract obtain and maintain the same levels of insurance and shall provide the Contract Monitor with the same documentation as is required of the Contractor and AWS.

12. Nonvisual Accessibility Warranty

12.4 The Contractor warrants that the Solution to be provided under the Contract:

- (a) provides equivalent access for effective use by both visual and non-visual means;
- (b) will present information, including prompts used for interactive communications, in formats intended for both visual and non-visual use;
- (c) 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
- (d) is available, whenever possible, without modification for compatibility with Software and hardware for non-visual access.

13. Disputes

13.1 As used herein, a “claim” means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment, or interpretation of contract terms, or other relief, arising under or relating to this Contract. A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim. However, if the submission subsequently is not acted upon in a reasonable time, or is disputed as to liability or amount, it may be converted to claim for the purpose of this clause.

13.2 Within thirty (30) days of when the Contractor knows or should have known of the basis for a claim relating to the Contract, it shall file a written notice of claim on its letterhead to the Procurement Officer. Contemporaneously with, or within thirty (30) days after filing the notice of claim, the Contractor shall submit the written claim to the Procurement Officer. The claim shall be in writing and shall contain: a) An explanation of the claim, including reference to all contract provisions upon which it is based; b) The amount of the claim; c) The facts upon which the claim is based; d) All pertinent data and correspondence that the Contractor relies upon to substantiate the claim; and e) a certification by a senior official, officer, or general partner of the Contractor or the subcontractor, as applicable, that, to the best of the person’s knowledge and belief, the claim is made in good faith, supporting data are accurate and complete, and the amount requested accurately reflects the contract adjustment for which the person believes the MHBE is liable. The Procurement Officer shall issue a final, written decision on the claim as expeditiously as possible. Any final decision of the Procurement Officer may award a Contract claim only for those expenses incurred not more than thirty (30) days before the contractor initially filed its notice of claim.

13.3 If the final decision of the Procurement Officer grants the claim in part and denies the claim in part, the MHBE shall pay the Contractor the undisputed amount. Payment of the partial claim will not be construed as an admission of liability by the MHBE and does not preclude the MHBE from recovering the amount paid if a subsequent determination modifies the final decision.

13.4 Within ten (10) days of receipt of the final decision of the Procurement Officer, the Contractor may file an appeal to the MHBE Executive Director for claims for monetary amounts less than \$50,000, and to the Board of Trustees for either claims for monetary amounts of \$50,000 or greater or for claims involving non-monetary relief. Contemporaneously with, or within twenty (20) days after filing the notice of appeal, the Contractor shall submit its written appeal to the MHBE Executive Director or

Board of Trustees as applicable. The Executive Director shall issue a final decision resolving the appeal of claims for monetary amounts less than \$50,000. The Board of Trustees shall issue a final decision resolving appeals of claims for \$50,000 or more and those for non-monetary relief. The Contractor's timely appeal to the Executive Director or the Board of Trustees shall be a strict condition precedent to the contractor pursuing any legal rights which it alleges, or which may exist in any other forum.

13.5 Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision.

13.6 Nothing in this section shall be construed to limit the MHBE's right to withhold payments from the Contractor, assess liquidated damages against the Contractor, direct the Contractor to perform pursuant to the terms of the Contract or any written change order, or to exercise any other rights allowed by Contract or at law.

14. Maryland Law

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

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

14.3 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.

15. Nondiscrimination in Employment

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

16. 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.

17. Non-availability of Funding

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued

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

18. Termination for Cause

If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of GSA Contract § 52.212-4(m) [Contract Terms and Conditions Commercial Items (May 2015) (DEVIATION FEB 2007)], as supplemented by the non-conflicting provisions of COMAR 21.07.01.11B.

19. 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 GSA Contract § 52.212-4(1) [Contract Terms and Conditions Commercial Items (May 2015) (DEVIATION FEB 2007)], as supplemented by COMAR 21.07.01.12A(2).

20. Suspension of Work

The Procurement Officer 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. Delays and Extensions of Time

21.1 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.

21.2 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.

22. Risk of Loss/Transfer of Title

Risk of loss for conforming supplies, equipment and materials specified as deliverables to the State hereunder shall remain with the Contractor until the supplies, equipment, materials or other deliverables are received and accepted by the State. Title of all such deliverables passes to the State upon acceptance by the State.

23. Notification of Legal Requests

The Contractor shall contact the State upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to the State's data under this Contract, or which in any way might reasonably require access to data of the State, unless prohibited by law from providing such notice. The Contractor shall not respond to subpoenas, service of process and other legal requests related to the State without first notifying the State, unless prohibited by law from providing such notice.su

24. 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.

25. Political Contribution Disclosure

The Contractor shall comply with Md. Code Ann., Election Law Article, Title 14, which requires that every person that enters into a contract for a procurement with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall, file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on: (i) February 5, to cover the six (6) month period ending January 31; and (ii) August 5, to cover the six (6) month period ending July 31. Additional information is available on the State Board of Elections website: http://www.elections.state.md.us/campaign_finance/index.html.

26. Documents Retention and Inspection Clause

26.1 The Contractor and Subcontractors shall retain and maintain all records and documents relating to this Contract for a period of ten (10) years after final payment by the State hereunder or any applicable statute of limitations or federal retention requirements, 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.

26.2 This Section 26 shall survive expiration or termination of the Contract.

27. Compliance with Laws

The Contractor hereby represents and warrants that:

27.1 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;

27.2 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;

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

27.4 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.

28. Cost and Price Certification

28.1 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.

28.2 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.

29. 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.

30. Liability

For breach of this Contract, negligence, misrepresentation, or any other contract or tort claim, Contractor

shall be liable as follows:

- 30.1 For infringement of patents, copyrights, trademarks, service marks, and/or trade secrets, as provided in Section 6 of this Contract;
- 30.2 Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and
- 30.3 For all other claims, damages, losses, costs, expenses, suits, or actions in any way related to this Contract where liability is not otherwise set forth as being “without limitation”, and regardless of the basis on which the claim is made, Contractor’s liability shall not exceed three (3) times the value of the Contract. Third-party claims arising under Section 7 “Indemnification”) of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor’s liability for third-party claims arising under Section 7 of this Contract, including for intellectual property infringement, bodily injury, damage to real property, and damage tangible personal property, shall be unlimited if the State is not immune from liability for claims arising under Section.

31. Commercial Nondiscrimination

- 31.1 As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State’s Commercial Nondiscrimination Policy, as described at Md. Code Ann., State Finance and Procurement Article, Title 19. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, sexual identity, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of Subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for Subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.
- 31.2 The Contractor shall include the above Commercial Nondiscrimination clause, or similar clause approved by the MHBE, in all subcontracts.
- 31.3 As a condition of entering into this Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Md. Code Ann., State Finance and Procurement Article, Title 19, as amended from time to time, Contractor agrees to provide within sixty (60) days after the quest a complete list of the names of all Subcontractors, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State’s Commercial Nondiscrimination Policy as set forth at Md. Code Ann., State Finance and Procurement Article, Title 19, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach

of this Contract and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

32. 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.

33. Notices

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

If to the State: Tracey D. Gamble
Procurement Officer
750 E. Pratt Street, 6th Floor
Baltimore, MD 21202 410-547-8152
hix.procurement@maryland.gov

If to the Contractor: _____

34. Federal Funds Requirements and Restrictions

This Contract contains federal Medicaid Funds (CFDA number 93.778). Execution of this Contract indicates Contractor's agreement with all federal funding terms and conditions that apply to contractors receiving federal funds from the above referenced source, including but not limited to those required by 45 C.F.R. § 75.335, Appendix II to Part 75 of Title 45 of the Code of Federal Regulations and Exhibit B of this Contract (including B-1 and B-2). Exhibit B s incorporated into this Contract pursuant to Section 2.1, above.

35. Miscellaneous

- 35.1 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.

- 35.2 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.

[Signatures on next page(s)]

[Signature page]

IN WITNESS THEREOF, the Parties have executed this Contract as of the Effective Date hereinabove set forth.

MARYLAND HEALTH BENEFIT
EXCHANGE

By: _____

By: Michele Eberle, Executive Director

Date _____

Date

Approved for form and legal sufficiency
this ____ day of _____, 2022.

Assistant Attorney General

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;
- (10) Been convicted of a violation of 18 U.S.C. §286, Conspiracy to Defraud the Government with Respect to Claims, 18 U.S.C. §287, False, Fictitious, or Fraudulent Claims, or 18 U.S.C. §371, Conspiracy to Defraud the United States;
- (11) Been convicted of a violation of the Tax-General Article, Title 13, Subtitle 7 or Subtitle 10, Annotated Code of Maryland;
- (12) Been found to have willfully or knowingly violated State Prevailing Wage Laws as provided in the State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland, if:
 - (a) A court:
 - (i) Made the finding; and
 - (ii) Decision became final; or
 - (b) The finding was:
 - (i) Made in a contested case under the Maryland Administrative Procedure Act; and
 - (ii) Not overturned on judicial review;
- (13) Been found to have willfully or knowingly violated State Living Wage Laws as provided in the State Finance and Procurement Article, Title 18, Annotated Code of Maryland, if:
 - (a) A court:
 - (i) Made the finding; and
 - (ii) Decision became final; or
 - (b) The finding was:
 - (i) Made in a contested case under the Maryland Administrative Procedure Act; and

- (ii) Not overturned on judicial review;
- (14) Been found to have willfully or knowingly violated the Labor and Employment Article, Title 3, Subtitles 3, 4, or 5, or Title 5, Annotated Code of Maryland, if:
 - (a) A court:
 - (i) Made the finding; and
 - (ii) Decision became final; or
 - (b) The finding was:
 - (i) Made in a contested case under the Maryland Administrative Procedure Act; and
 - (ii) Not overturned on judicial review; or
- (15) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§ B and C and subsections D(1)—(14) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

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

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, §13221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a contract for a procurement with the State, a

county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on: (i) February 5, to cover the six (6) month period ending January 31; and (ii) August 5, to cover the six (6) month period ending July 31.

E. DRUG AND ALCOHOL-FREE WORKPLACE

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

I CERTIFY THAT:

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

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

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

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

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

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

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

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

(i) The dangers of drug and alcohol abuse in the workplace;

(ii) The business's policy of maintaining a drug and alcohol free workplace;

(iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

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

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

(i) Abide by the terms of the statement; and

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

(i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), above, or

otherwise receiving actual notice of a conviction;

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

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

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

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

(4) I acknowledge and agree that:

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

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

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

F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Bid/Proposal Affidavit dated _____, 202____, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

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

Date: _____

By: _____ (printed name of Authorized Representative and Affiant)

_____ (signature of Authorized Representative and Affiant)

ATTACHMENT D – FINANCIAL PROPOSAL FORM

See the form below.

ATTACHMENT D – FINANCIAL PROPOSAL INSTRUCTIONS

**Amazon Web Services
SOLICITATION NO. RFQ1486239S**

Vendors are encouraged to provide discounted prices against MSRP and document in the price proposal.

| SERVICE DESCRIPTION | INSTANCES & USAGE | BILLING OPTION | Term of Service | Discounted Monthly Unit Cost |
|-----------------------------------|------------------------------|-----------------------|------------------------|-------------------------------------|
| AWS Organizations | Variable | On-Demand | 12 months | \$ |
| Amazon EC2 Service | Variable | On-Demand | 12 months | \$ |
| Amazon S3 Service | Variable | On-Demand | 12 months | \$ |
| Amazon Route 53 Service | Variable | On-Demand | 12 months | \$ |
| Amazon RDS Service | Variable | On-Demand | 12 months | \$ |
| Amazon Elastic Load Balancing | Variable | On-Demand | 12 months | \$ |
| Amazon CloudWatch Service – Basic | Variable | On-Demand | 12 months | \$ |
| Amazon SES Service | Variable | On-Demand | 12 months | \$ |
| Amazon SNS Service | Variable | On-Demand | 12 months | \$ |
| AWS Directory Service | Variable | On-Demand | 12 months | \$ |
| Amazon VPC Service | Variable | On-Demand | 12 months | \$ |
| Amazon ECS | Variable | On-Demand | 12 months | \$ |
| Amazon ECR | Variable | On-Demand | 12 months | \$ |
| AWS Cloudtrail | Variable | On-Demand | 12 months | \$ |
| Amazon API Gateway | Variable | On-Demand | 12 months | \$ |
| Amazon Internet Gateway | Variable | On-Demand | 12 months | \$ |
| Amazon VPN | Variable | On-Demand | 12 months | \$ |

| SERVICE DESCRIPTION | INSTANCES & USAGE | BILLING OPTION | Term of Service | Discounted Monthly Unit Cost |
|----------------------------------|----------------------------------|-----------------------|------------------------|-------------------------------------|
| AWS Auto Scaling | Variable | On-Demand | 12 months | \$ |
| AWS Backup | Variable | On-Demand | 12 months | \$ |
| AWS Cert Manager | Variable | On-Demand | 12 months | \$ |
| AWS Code Commit | Variable | On-Demand | 12 months | \$ |
| AWS Code Build per minute | Variable | On-Demand | 12 months | \$ |
| AWS Code Deploy | Variable | On-Demand | 12 months | \$ |
| AWS Key Management Service (KMS) | Variable | On-Demand | 12 months | \$ |
| AWS Lambda | Variable | On-Demand | 12 months | \$ |
| Amazon S3 Glacier | Variable | On-Demand | 12 months | \$ |
| Secrets Manager | Variable | On-Demand | 12 months | \$ |
| Trusted Advisor | Variable | On-Demand | 12 months | \$ |
| AWS Support (Business) | Based on Monthly Spend - Minimum | | 12 months | \$ |
| Total Price | | | | \$ |

ATTACHMENT E - NON-EXCHANGE ENTITY AGREEMENT

If and to the extent, and so long as, required to be imposed on _____ [INSERT NAME OF RESELLER] by Section 1411(g) of the Affordable Care Act (42 U.S.C. § 18081(d)) and 45 CFR § 155.260, and not otherwise, _____ ("Non-Exchange Entity"); Maryland Health Benefit Exchange ("MHBE", and collectively, "Client") hereby agree to the following in connection with _____ provisioning of the Amazon Web Services ("AWS") cloud-computing services and tools (the "AWS Services") under the AWS Resale Work Order.

(A) MHBE recognizes that security and compliance when using the AWS Services are a shared responsibility between AWS and AWS's end customers (including the Client). In this model AWS operates, manages and controls the components from the host operating system and virtualization layer down to the physical security of the facilities in which the service operates and AWS's end customers (including the Client) assumes responsibility and management of the guest operating system (including updates and security patches), other associated application software, as well as the configuration of the AWS provided security group firewall. The privacy and security in the MHBE Platform built on the AWS Services is the responsibility of the Client.

(B) This Non-Exchange Entity Agreement ("NEEA") applies to those MHBE account(s), procured under the GSA Schedule 70, that use the AWS FedRAMP Moderate (East/West) programs and services (alone or in combination) to store and transmit personally identifiable information ("PII") maintained in MHBE's HBX which operates on the AWS Services.

(C) Unless otherwise specified in this Non-Exchange Entity Agreement, all capitalized terms used in this Non-Exchange Entity Agreement shall have the meanings established for purposes of the ACA, as applicable. Specific statutory or regulatory citations used in this Non-Exchange Entity Agreement shall mean such citations as amended and in effect from time to time.

1. "Affordable Care Act" or "ACA" means the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111-148), as amended by the Health Care and Education Reconciliation Act of 2019 (Pub. L. 111-152), together with all privacy and security regulations promulgated pursuant thereto.
2. "Authorized User" means employees, contractors, and agents of the Non-Exchange Entity who need access to specific PII data to perform their official duties in connection with purposes identified in the AWS Resale Work Order.
3. "AWS Network" means AWS's data center facilities, servers, networking equipment, storage media, and host software systems (e.g., virtual firewalls) that are within AWS's control and are used to provide the AWS Services.
4. "AWS Resale Work Order" means the Work Order to which this Exhibit is attached, as the same may be amended from time to time, which Work Order was executed pursuant to, and is subject to the terms of, the Agreement.
5. "Breach" means the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, or any similar occurrence where (1) a person other than an Authorized User accesses or potentially accesses PII or (2) an Authorized User accesses or potentially accesses PII for another than authorized purpose. See OMB M-17-12 for common examples of a Breach.

6. "HBX" means the servers, network infrastructure and software application components that host and support the consumer and worker portals necessary to operating Maryland's state-based Exchange, called the Maryland Health Connection.

7. "FedRAMP Moderate Services" means the services within the AWS US East-West regions that have been granted a Joint Authorization Board Provisional Authority-To- Operate (JAB P-ATO) for moderate impact level. The AWS Services in scope of the AWS US East-West JAB P-ATO boundary at Moderate baseline security categorization can be found within AWS Services in Scope by Compliance Program at <https://aws.amazon.com/compliance/services-in-scope/>. The Client understands that it is responsible for reviewing the ongoing compliance of AWS's FedRAMP compliance and will review the artifacts provided through the AWS FedRAMP continuous monitoring process. In addition, the Client will implement any MHBE specific controls required beyond the FedRAMP controls. However, _____ [INSERT RESELLER NAME] will provide notice to Client promptly following any written notice by AWS of the removal of an existing AWS Service, existing functionality or authorization from the FedRAMP Moderate Services.

8. "Incident" means an occurrence that (1) actually or imminently jeopardizes, without lawful authority, the integrity, confidentiality, or availability of information or an information system; or (2) constitutes a violation or imminent threat of violation of law, security policies, security procedures, or acceptable use policies.

9. "Non-Exchange Entity Agreement" or "NEEA" means this Exhibit 1.

10. "Personally Identifiable Information" or "PII" means personally identifiable information as defined by OMB Memorandum M-17-12 (January 3, 2017) ("PII refers to information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual") . For clarity, PII does not include Service Attributes.

11. "Service Attributes" means AWS Service usage data, such as resource identifiers, metadata tags, security and access roles, rules, usage policies, permissions, usage statistics and analytics.

12. "Agreement" means the Participating Addendum executed by the State of Maryland pursuant to the Master Agreement awarded by GSA to _____ [INSERT RESELLER NAME], as assignee of _____ [INSERT NAME OF ASSIGNEE IF APPLICABLE], under _____ [INSERT SOLICITATION NO. IF APPLICABLE], fully executed on _____ [INSERT DATE OF EXECUTION].

13. "Unsecured Personally Identifiable Information" means electronic Personally Identifiable Information that is not encrypted by use of an algorithmic process to transform data into a form in which there is a low probability of assigning meaning without use of a confidential process or key.

(D) The following subsections apply to AWS and the AWS Services. [INSERT RESELLER NAME] agrees that its agreement with AWS governing the provisioning of the AWS Services hereunder (the "[INSERT RESELLER NAME-AWS Contract]") contains substantially similar provisions as set forth in this Section (D).

1. AWS will refrain from accessing, using, or disclosing to a third party MHBE's Personally Identifiable Information except as necessary for AWS to maintain or provide the AWS Services, or as necessary to comply with law or a binding order of a government body. MHBE will ensure that any access, use, or disclosure restrictions are consistent with the requirements of 45 CFR § 155.260. Notwithstanding the foregoing, AWS may use and disclose Personally Identifiable Information for the proper management and administration of AWS.

2. AWS will implement reasonable and appropriate measures for the AWS Network designed to help Client secure Personally Identifiable Information against accidental or unlawful loss, access, or disclosure in accordance with the security standards attached as Addendum 1 to this NEEA ("Security Standards"). AWS may modify the AWS Security Standards from time to time but will continue to provide at least the same level of security as is described in the AWS Security Standards attached hereto. These safeguards shall also include the option (to the extent procured under the AWS Resale Work Order) of utilizing the FedRAMP Moderate Services offered by Amazon Web Services, Inc., listed in AWS Services in Scope by Compliance Program at <https://aws.amazon.com/compliance/services-in-scope/>. MHBE deems FedRAMP Moderate Services are equivalent to the Minimum Acceptable Risk Standards for Exchanges v. 2.0 ("MARS-E") and 45 CFR § 155.260(b)(3).

3. Notwithstanding the foregoing, (a) to provide billing and administration services, AWS may process Service Attributes in the AWS region(s) where MHBE uses the AWS Services and the AWS regions in the United States and (b) to provide support services initiated by _____ [INSERT RESELLER NAME] under the _____ [INSERT RESELLER NAME]-AWS Contract and investigate fraud, abuse or violations of this Agreement, AWS may process Service Attributes where AWS maintains its support and investigation personnel.

4. From time to time, AWS may retain external auditors to verify its security measures and prepare various reports or certifications, such as (by way of example) a Service Organization Controls 2, Type 2 Security and Availability report, or an ISO 27001 certificate, or such other industry standard reports or certifications that cover comparable standards or controls as defined by AWS (the "Reports"). Upon Client's request, copies of such Reports, including those portions of the Reports that describe any corrective action plans AWS has implemented, will be made available to the Client, provided that Client has executed a non-disclosure agreement that protects the Reports as Confidential Information of AWS. Such Reports will be provided no more frequently than twice annually. Reports are subject to availability.

5. If AWS uses subcontractors, AWS will (a) impose appropriate contractual obligations upon subcontractors, and (b) be responsible for the acts or omissions of its subcontractors.

(E) AWS is obligated to provide [_____] [INSERT RESELLER NAME] with notice of certain events under the [_____] [INSERT RESELLER NAME]-AWS Contract. To the extent that, as a result of AWS's provision of any such notice, [_____] [INSERT RESELLER NAME]'s lead engagement partner, principal or managing director ("LEP") for the AWS Work Order obtains actual knowledge of one of the following, [INSERT RESELLER NAME] will notify Client of the same in accordance with the following:

1. [_____] INSERT RESELLER NAME] will promptly inform MHBE of any change in AWS's administrative, technical or operational environments to the extent any changes are material to the AWS Resale Work Order.

2. [_____] INSERT RESELLER NAME] shall use reasonable efforts to report to MHBE any use or disclosure of Personally Identifiable Information not permitted by this Non-Exchange Entity Agreement or required by law that constitutes an Incident, including any Breaches of Personally Identifiable Information without unreasonable delay, and in no case later than five (5) calendar days after so becoming aware about the Incident. Further, [_____] INSERT RESELLER NAME] shall use reasonable efforts to report to MHBE all suspected or confirmed Incidents involving loss or suspected loss of PII within one (1) day of discovery.

Notice is hereby deemed provided, and no further notice will be provided, for unsuccessful attempts at such unauthorized access, use, disclosure, modification, or destruction, such as pings and other broadcast attacks on a firewall, denial of service attacks, port scans, unsuccessful login attempts, or interception of encrypted information where the key is not compromised, or any combination of the above.

Notwithstanding anything to the contrary, for all of [_____] INSERT RESELLER NAME]'s reporting obligations under this Non-Exchange Entity Agreement, the parties acknowledge that because [_____] INSERT RESELLER NAME] does not know the nature of the Personally Identifiable Information received hereunder, it will not be possible for [_____] INSERT RESELLER NAME] to provide information about the identities of the individuals who may have been affected, or a description of the type of information that may have been subject to any of the reporting requirements set forth herein.

(F) [_____] INSERT RESELLER NAME] will use reasonable efforts to work with AWS to make AWS's internal practices, books, and records relating to the use and disclosure of Personally Identifiable Information available to the U.S. Department of Health and Human Services Secretary for purposes of determining compliance with the ACA's privacy and security regulations as well as with the requirements of 45 CFR § 155.260, as set forth in 45 CFR § 155.280(a).

(G) In addition to any other obligation set forth in this Non-Exchange Entity Agreement, Client agrees that it will: (i) not make any disclosure of Personally Identifiable Information to [_____] INSERT RESELLER NAME] or AWS if such disclosure would violate the ACA's privacy and security regulations or any applicable federal or state law or regulation; (ii) not request [_____] INSERT RESELLER NAME] or AWS to use or make any disclosure of Personally Identifiable Information in any manner that would not be permissible under the ACA's privacy and security regulations or any applicable federal or state law or regulation if such use or disclosure were done by Client; (iii) not agree to any restriction requests or place any restrictions in any notice of privacy practices that would cause [_____] INSERT RESELLER NAME] or AWS to violate this Non-Exchange Entity Agreement or any applicable law; and (iv) have obtained any necessary authorizations, consents, and other permissions that may be required under applicable law prior to disclosing Personally Identifiable Information to AWS.

(H) If either Client or [_____INSERT RESELLER NAME] knows of either a violation of a material term of this Non-Exchange Entity Agreement by the other party or a pattern of activity or practice of the other party that constitutes a material breach or violation of this Non-Exchange Entity Agreement, the non-breaching party will provide written notice of the breach or violation to the other party that specifies the nature of the breach or violation. In the event that the breaching party does not cure the breach or end the violation on or before thirty (30) days after receipt of the written notice, the non-breaching party may, if feasible, terminate this NEEA.

(I) The parties acknowledge that it is not feasible for AWS to return or destroy Client content on the AWS Services, including PII, following any termination of this NEEA. The AWS Services provide Client with controls to enable the Client to retrieve, modify, or delete customer content as described in the AWS documentation, available at <http://aws.amazon.com/documentation> (and any successor or related locations). Once successfully deleted, AWS renders customer content, including PII, unreadable and the protections of this NEEA are extended to such data. Client is responsible for paying all fees associated with its use of AWS Services during any post-termination period and Client's access to the AWS Services is conditioned on timely payment of such amounts.

(J) The terms of this Non-Exchange Entity Agreement, to the extent they are unclear, shall be construed to allow for compliance by Client with ACA's privacy and security regulations, provided that such interpretation does not impose any additional obligations on [_____INSERT RESELLER NAME] or AWS.

(K) Nothing contained in this Non-Exchange Entity Agreement is intended to confer upon any person (other than the parties hereto) any rights, benefits, or remedies of any kind or character whatsoever, whether in contract, statute, tort (such as negligence), or otherwise, and no person shall be deemed a third-party beneficiary under or by reason of this Non-Exchange Entity Agreement.

(L) Notice to MHBE. Any notice required under this NEEA to MHBE shall be made in writing to:

Caterina Pañgilinan
Chief Compliance Officer
Maryland Health Benefit Exchange
750 E. Pratt Street, 6th Floor
Baltimore, MD 21202
Phone: (410) 547-1838
Email: caterina.pangilinan@maryland.gov

With a copy to:
Sharon S. Street, Principal Counsel
Office of the Attorney General
Maryland Health Benefit Exchange
750 E. Pratt Street, 6th Floor
Baltimore, MD 21202
Phone: (410) 547-7378
Email: sharon.street1@maryland.gov

Notice to [_____INSERT RESELLER NAME]. Any notice required under this NEEA to be given to [_____INSERT RESELLER NAME] shall be made in writing to:

Attention: _____
Title: _____
Address: _____
Phone: _____
Email: _____

Method of Notice. Notices shall be sufficient if made by email, provided that the sender has received a confirmation of such email transmission, or delivered by a nationally recognized overnight carrier, such as FedEx, or via U.S. Mail-Certified Delivery, Return Receipt Requested.

[Signatures on next page(s)]

IN WITNESS WHEREOF and acknowledging acceptance and agreement of the foregoing, the Parties affix their signatures hereto.

MHBE:

NON-EXCHANGE ENTITY:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

te: _____

ate: _____

Approved as to form and legal sufficiency
this ____ day of _____, 2022.

By: _____

Assistant Attorney General
Maryland Health Benefit Exchange

EXHIBIT A

CONTRACT LANGUAGE FOR TECHNOLOGY SERVICES & IRS Publication 1075

The Contractor will execute an amendment to its contract with Amazon Web Services (AWS) to reflect that AWS agrees to comply with the following in connection with the AWS cloud-computing services and tools (the "AWS Services") under the RFQ (Request for Quote) to which this document is attached.

I. PERFORMANCE

In performance of the AWS Services, AWS agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

(1) All work will be done under the supervision of AWS or AWS's employees.

(2) [N/A]

(3) [N/A]

(4) [N/A]

(5) AWS certifies that the data processed during the performance of the AWS Services will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the contractor at the time the work is completed. If immediate purging of all data storage components are not possible; the contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.

(6) [N/A]

(7) All computer systems receiving, processing, storing, or transmitting FTI must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal Tax Information.

(8) [N/A]

(9) The Work Orders to which this document is attached may be terminated if AWS fails to provide the safeguards described above.

(1) [N/A]

(2) [N/A]

II. CRIMINAL/CIVIL SANCTIONS

(3) [N/A]

(4) [N/A]

III. INSPECTION

AWS agrees to work in good faith to support IRS audits and reviews to determine an Agency's compliance with IRS 1075 requirements. AWS and the IRS are working to develop terms that would apply to such audits and once such terms are finalized, this Section will be modified to reflect the updated Inspection language as approved by AWS and the IRS Office of Safeguards.

IN WITNESS WHEREOF and acknowledging acceptance and agreement of the foregoing, the Parties affix their signatures hereto.

MHBE:

Contractor:

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

Approved as to form and legal sufficiency this __ day of _____, 20__.

By: _____

Assistant Attorney General
Maryland Health Benefit Exchange

In addition to other provisions required by the Contract related to the federal funds that may be included in any Contract, the following provisions are applicable:

A. Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

B. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

C. Debarment and Suspension (Executive Orders 12549 and 12689) (see 2 CFR 180.220 and 45 CFR 75.212) A party listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR part 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension” is not eligible for award under this RFQ. SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Any Contractor awarded a Contract as a result of this RFQ is responsible for ensuring that any party with which it subcontracts is not debarred or suspended and is in full compliance with the executive orders and federal regulations cited in this paragraph.

D. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required attached certification. Each tier (including the Contractor and any subcontractor(s)) certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-federal awardee (which, in this case, is the State of Maryland).

1. *Form and rule*: All prospective and present contractors and subcontractors (this includes all levels of funding) who receive more than \$100,000 in federal funds must submit the attached form “Certification Against Lobbying.” It assures, generally, that contractors and subcontractors receiving federal funds will not lobby federal entities with federal funds, and that, as is required, they will disclose other lobbying on form SF-111.

2. *Form and instructions*: “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.

E. Section 504 of the Rehabilitation Act of 1973. The Contractor certifies that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 791 *et seq.*), and all regulations promulgated thereunder. Section 504 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.*

F. Rights to Inventions Made Under a Contract or Agreement. This Contract is subject to regulations governing patents and inventions issued by the Department of Commerce at 37 CFR part 401, certain other property rights provisions of the Code of Federal Regulations and the following grant(s) from the U.S. Department of Health and Human Services, Centers for Medicaid & Medicare Services: Medicaid Funds (CFDA number 93.778). The federal government shall have the rights set forth in 42 C.F.R. 433.112, 45 C.F.R. 75.322 (HHS uniform grant requirements related to Intangible Property and Copyrights) and 45 C.F.R. 95.617 (HHS software and ownership rights related to Medical Assistance and the Children’s Health Insurance Programs), including a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

G. Age Discrimination Act of 1975. The Contractor awarded a Contract certifies that it shall not discriminate on the basis of Age, according to the requirements of the Age Discrimination Act of 1975.

H. Title VI of the Civil Rights Act of 1964. The Contractor certifies that it shall comply with Title VI of the Civil Rights Act of 1964 and shall not discriminate in participation by race, color, or national origin.

I. Section 1557 of the ACA. The Contractor certifies that it shall comply with Section 1557 of the Affordable Care Act (42 U.S.C. § 18116) and any regulations promulgated thereunder. Section 1557 prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in certain health programs or activities. Section 1557 further provides that, except as provided in Title I or the Patient Protection and Affordable Care Act (as amended, the ACA), an individual shall not, on the grounds prohibited under Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, or Section 504 of the Rehabilitation Act of 1973, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any health program or activity, any part of which is receiving federal financial assistance or any program or activity that is administered by any entity (such as MHBE) established under Title I of the ACA.

EXHIBIT B-1 – CERTIFICATION AGAINST LOBBYING

**U.S. Department of Health and Human Services
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.

| | |
|---|-----------------------------------|
| Award No. | Organizational Entry |
| Name and Title of Official Signing for Organizational Entry | Telephone No. Of Signing Official |
| Signature of Above Official | Date Signed |

EXHIBIT B-2

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

| | | |
|---|---|---|
| 1. Type of Federal Action: a. Contract b. Grant c. Cooperative Agreement d. Loan e. Loan guarantee f. Loan insurance | 2. Status of Federal Action: a. Bid/offer/application b. Initial award c. Post-award | 3. Report Type: a. Initial filing b. Material change For Material Change Only: Year _____ quarter _____ Date of last report _____ |
| 4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, <i>if known</i> : | 5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: Congressional District, <i>if known</i> : | |
| 6. Federal Department/Agency: | 7. Federal Program Name/Description: CFDA Number, <i>if applicable</i> : _____ | |
| 8. Federal Action Number, if known: | 9. Award Amount, if known: \$ | |
| 10. a. Name and Address of Lobbying Registrant <i>(if individual, last name, first name, MI):</i> | b. Individuals Performing Services <i>(including address if different from No. 10a) (last name, first name, MI):</i> | |
| 11. Amount of Payment <i>(check all that apply)</i> \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned | 13. Type of Payment <i>(check all that apply)</i> <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____ | |
| 12. Form of Payment <i>(check all that apply)</i> <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind, specify: nature _____ value: _____ | | |
| 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: <input type="checkbox"/> Yes <input type="checkbox"/> 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. | Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____ | |
| 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 (RFQ) 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., "RFQ-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.