



# **Request for Proposals (RFP)**

## **Training Curriculum and Delivery**

**Maryland Health Benefit Exchange (MHBE)**

**SOLICITATION NO: MDM0031007387**

**Issue Date: March 8, 2013**

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

### **NOTICE**

Prospective Offerors who have received this document from MHBE's web site or eMarylandMarketplace.com, or who have received this document from a source other than the Procurement Officer, and who wish to assure receipt of any changes or additional materials related to this RFP, should immediately contact the Procurement Officer and provide their name and mailing address so that addenda to the RFP or other communications can be sent to them.

# STATE OF MARYLAND

## NOTICE TO OFFERORS/OFFERORS

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 the enclosed solicitation. Please return your comments with your proposals. If you have chosen not to respond on this Contract, please email this completed form to [roger.lewis@maryland.gov](mailto:roger.lewis@maryland.gov) to the attention of Roger Lewis, Procurement Officer.

**Title:** Training Curriculum and Delivery RFP to Support the Maryland Health Benefit Exchange

**Solicitation No:** Insert Number

1. If you have responded with a "no response", 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 Maryland Government is simply too complicated. (Explain in REMARKS section.)
- ☐ We cannot be competitive. (Explain in REMARKS section.)
- ☐ Time allotted for completion of the bid/proposals is insufficient.
- ☐ Start-up time is insufficient.
- ☐ Bonding/Insurance requirements are restrictive. (Explain in REMARKS section.)
- ☐ Bid/Proposals 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 wish to offer suggestions or express concerns, please use the Remarks section below. (Use reverse or attach additional pages as needed.)

REMARKS:

\_\_\_\_\_

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

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

Email: \_\_\_\_\_

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

# **MARYLAND HEALTH BENEFIT EXCHANGE (MHBE)**

## **KEY INFORMATION SUMMARY SHEET**

**Proposal Name:** Training Curriculum and Delivery RFP

**Solicitation Number:** MDM0031007387

**Issue Date:** March 8, 2013

**RFP Issuing Office:** Maryland Health Benefit Exchange (MBHE)

**Procurement Officer:** Roger Lewis  
Office Phone: (410) 547-1277  
e-mail: [roger.lewis@maryland.gov](mailto:roger.lewis@maryland.gov)

**Contract Monitor:** Danielle Davis  
Director, Communications & Outreach  
Maryland Health Benefit Exchange  
750 E. Pratt Street, 16<sup>th</sup> Floor  
Baltimore, Maryland 21202  
E-mail: [danielle.davis@maryland.gov](mailto:danielle.davis@maryland.gov)

**Proposals are to be sent to:** Maryland Health Benefit Exchange  
750 E. Pratt Street  
16<sup>th</sup> Floor  
Baltimore, Maryland 21202  
E-mail: [hix.procurement@maryland.gov](mailto:hix.procurement@maryland.gov)

**Attention:** Roger Lewis  
Procurement Officer

**Pre-Proposal Conference:** March 13, 2013 at 10:00-11:30 AM  
UMBC Tech Center  
1450 S Rolling Rd, Baltimore, MD 21229

**Closing Date and Time:** April 5, 2013 at 3:00PM EST

**MBE Subcontracting Goal:** 31.44%

## TABLE OF CONTENTS

<b>SECTION 1</b>	<b>GENERAL INFORMATION.....</b>	<b>6</b>
1.1	SUMMARY STATEMENT.....	6
1.1.1	Overview.....	6
1.2	CONTRACT TERM.....	6
1.3	PROCUREMENT OFFICER.....	6
1.4	CONTRACT MONITOR.....	6
1.5	PRE-PROPOSAL BIDDERS CONFERENCE.....	7
1.6	EMARYLAND MARKETPLACE.....	7
1.7	QUESTIONS AND EXCEPTIONS.....	7
1.8	PROPOSALS DUE DATE AND TIME.....	8
1.9	DURATION OF OFFER.....	8
1.10	REVISIONS TO THE RFP.....	8
1.11	CANCELLATIONS & DISCUSSIONS.....	9
1.12	ORAL PRESENTATIONS.....	9
1.13	PROCUREMENT TIMELINE.....	9
1.14	INCURRED EXPENSES FOR ORAL PRESENTATIONS.....	9
1.15	ECONOMY OF PREPARATION.....	10
1.16	PROTESTS.....	10
1.17	DISPUTES.....	10
1.18	MULTIPLE OR ALTERNATE PROPOSALS.....	10
1.19	PUBLIC INFORMATION ACT NOTICE.....	10
1.20	OFFEROR RESPONSIBILITIES.....	10
1.21	STANDARD CONTRACT.....	11
1.22	CONTRACT AFFIDAVIT.....	11
1.23	MINORITY BUSINESS ENTERPRISES.....	11
1.24	ARREARAGES.....	12
1.25	PROCUREMENT METHOD.....	13
1.26	VERIFICATION OF REGISTRATION AND TAX PAYMENT.....	13
1.27	PAYMENTS BY ELECTRONIC FUNDS TRANSFER.....	13
1.28	SUBCONTRACTOR PROMPT PAYMENT POLICY.....	13
1.29	FEDERAL FUNDING ACKNOWLEDGEMENT AND CERTIFICATIONS.....	14
1.30	CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE.....	14
1.31	WITHDRAWALS.....	14
1.32	SUBSTITUTION OF PERSONNEL.....	14
1.33	TAX EXEMPTIONS.....	15
1.34	COMPLIANCE WITH FEDERAL HIPAA AND STATE CONFIDENTIALITY LAW.....	15
1.35	LIVING WAGE REQUIREMENTS.....	16
1.36	FALSE STATEMENTS.....	16
1.37	PHYSICAL SECURITY.....	17
1.38	CRIMINAL BACKGROUND CHECK.....	17
1.39	INVOICING AND PAYMENT TYPE.....	17
1.40	INSURANCE REQUIREMENT.....	18
1.41	BUSINESS PURPOSE OF MHBE.....	19
1.42	MINIMUM QUALIFICATIONS.....	23

1.43 RFP OBJECTIVES.....	23
<b>SECTION 2 SCOPE OF WORK.....</b>	<b>28</b>
2.1 DEVELOPMENT OF TRAINING CURRICULUM .....	28
2.2 DELIVERABLES.....	31
2.4 OPTIONAL TASK ORDERS .....	33
<b>SECTION 3 PROPOSAL FORMAT .....</b>	<b>35</b>
3.1 TWO PART SUBMISSION .....	35
3.2 PROPOSALS.....	35
3.3 DELIVERY.....	35
3.4 VOLUME I – TECHNICAL PROPOSAL .....	36
3.4.1 Format of Technical Proposal .....	36
3.4.2 Additional Required Technical Submissions .....	36
3.4.3 Technical Proposal Order.....	36
3.5 VOLUME II – FINANCIAL PROPOSAL .....	43
<b>SECTION 4 EVALUATION CRITERIA &amp; SELECTION PROCEDURE.....</b>	<b>44</b>
4.1 EVALUATION CRITERIA .....	44
4.2 BEST AND FINAL OFFERS (BAFO).....	44
4.2.1 Financial Criteria .....	44
4.3 EVALUATION PROCESS.....	45
4.3.1 In General.....	45
4.3.2 Selection Process Sequence .....	45
4.3.3 Award Determination .....	46
<b>SECTION 5 ATTACHMENTS .....</b>	<b>47</b>
ATTACHMENT A – STANDARD CONTRACT .....	48
ATTACHMENT B – BID/ PROPOSAL AFFIDAVIT.....	66
ATTACHMENT C – CONTRACT AFFIDAVIT .....	73
ATTACHMENT D – MINORITY BUSINESS ENTERPRISE GOAL AND FORMS .....	77
ATTACHMENT E – PRE-PROPOSAL CONFERENCE RESPONSE FORM .....	90
ATTACHMENT H – FEDERAL FUNDS REQUIREMENTS AND CERTIFICATIONS .....	91
ATTACHMENT I – CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE .....	101
ATTACHMENT J – BUSINESS ASSOCIATE AGREEMENT .....	102
ATTACHMENT J-1 – BREACH OF UNSECURED PROTECTED HEALTH INFORMATION .....	110
ATTACHMENT K – NON-DISCLOSURE AGREEMENT (AWARD) .....	111
ATTACHMENT 1 - COMPENSATION .....	115
INCIDENTAL EXPENSES.....	115

## SECTION 1 GENERAL INFORMATION

### 1.1 SUMMARY STATEMENT

#### 1.1.1 OVERVIEW

Signed into law by President Obama on March 23, 2010, the Affordable Care Act (ACA) requires 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. In legislation adopted April 12, 2011, the State of Maryland established the authority to create its own state-based health insurance exchange (Maryland Health Connection). MHBE will provide Maryland's residents and small businesses with the opportunity to compare rates, benefits, and quality among insurance plans and enroll in products that best suit their needs. It also will be the entity that evaluates eligibility for expanded Medicaid coverage, advance premium tax credits and other cost sharing programs designed to make coverage more affordable for individuals with household incomes below 400 percent of the federal poverty level (FPL).

### 1.2 CONTRACT TERM

The Contract resulting from this RFP shall be for a period of one (1) year with a one year optional renewal period. Pricing proposals in **Attachment 1** should indicate pricing for each year..

### 1.3 PROCUREMENT OFFICER

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

Roger Lewis  
Maryland Health Benefit Exchange  
750 E. Pratt Street, 16<sup>th</sup> Floor  
Baltimore, Maryland 21202  
Office Phone: (410) 547- 1277  
E-mail: [hixprocurement@maryland.gov](mailto:hixprocurement@maryland.gov)

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

### 1.4 CONTRACT MONITOR

The Contract Monitor for this contract after it is awarded is:

Danielle Davis, Director of Communications  
Maryland Health Benefit Exchange  
750 E. Pratt Street, 16<sup>th</sup> Floor  
Baltimore, Maryland 21202

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

## **1.5 PRE-PROPOSAL BIDDERS CONFERENCE**

A Pre-Proposal Conference will be held on March 13, 2013 beginning at 2:00 PM Local Time, at UMBC Tech Center, 1450 S Rolling Rd, Baltimore, MD 21229. Attendance at the Pre-Proposal Conference is not mandatory, but all interested Offerors are encouraged to attend in order to facilitate better preparation of their proposals.

In order to assure adequate seating and other accommodations at the Pre-Proposal Conference, please email the Pre-Proposal Conference Response Form to the attention of the Procurement Officer no later than **March 11, 2013 at 3:00 PM** Local Time.

The Pre-Proposal Conference Response Form is included as **Attachment E** to this RFP. In addition, if there is a need for sign language interpretation and/or other special accommodations for individuals with disabilities, please call the Procurement Officer no later than **March 11, 2013 by 3:00 PM** Local Time. MHBE will make a reasonable effort to provide such special accommodations.

## **1.6 EMARYLAND MARKETPLACE**

Each Offeror must indicate its eMM Offeror number in the Transmittal Letter (cover letter) submitted at the time of their Technical Proposal submission to this RFP.

eMM is an electronic commerce portal administered by the Maryland Department of General Services (DGS). In addition to using MHBE website and possibly other means of transmission, the RFP, associated materials, summary of the Pre-Proposal Conference, Offeror questions and Exchange responses, addenda, and other solicitation-related information will be provided via eMM and through the Procurement Officer.

In order to receive a contract award, an Offeror must be registered on eMM. Registration is free. Go to <https://ebidmarketplace.com/> and click on "Registration" to begin the process then follow the prompts.

## **1.7 QUESTIONS AND EXCEPTIONS**

Written questions and exceptions to the RFP and Contract from prospective Offerors will be accepted by the Procurement Officer prior to the pre-proposal conference. As reasonably possible and appropriate, such questions will be answered at the pre-proposal conference. (No substantive question will be answered prior to the pre-proposal conference.) Questions and exceptions may be submitted by e-mail [hix.procurement@maryland.gov](mailto:hix.procurement@maryland.gov) to the Procurement Officer. Questions and exceptions, both oral and written, will also be accepted from prospective Offerors attending the Pre-Proposal Conference. As reasonably possible and appropriate, these questions and exceptions will be answered at the Pre-Proposal Conference, or shortly thereafter.

All questions and exceptions will be accepted until **March 18, 2013 at 3:00 PM**. By Friday, March 22, 2013, answers to all substantive questions and exceptions that have not previously been answered, and are not clearly specific only to the requestor, will be made available through eMaryland marketplace and on the MHBE's website [www.marylandhbe.com](http://www.marylandhbe.com).

By submitting an offer in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached herein as **Attachment B**. Any exceptions to this RFP or the contract must be raised prior to March 18, 2013. MHBE shall evaluate all exceptions noted by all potential Offerors and respond to all such exceptions and questions by March 25, 2013. Changes to the solicitation or contract made by the Offeror after March 18, 2013, shall result in rejection of the Offeror's proposals.

### **1.8 PROPOSALS DUE DATE AND TIME**

An unbound original and five (5) bound copies of each proposal (technical and financial) shall be received by the Procurement Officer, at the address listed in Section 1.3, no later than 3:00 PM (Local Time) on **April 5, 2013**, in order to be considered.

Two (2) electronic versions on CDs of the Technical Proposal in MS Word or Excel format shall be enclosed with the original Technical Proposal. Two (2) electronic versions on CD of the Financial Proposal in MS Word or Excel format shall be enclosed with the original Financial Proposal. A third electronic version of Volume I and Volume II in searchable Word (Version 2007 or newer) format shall be submitted on CD for Public Information Act (PIA) requests. This copy shall be redacted so that confidential and/or proprietary information has been removed.

Ensure that each of the five (5) CDs are labeled with the RFP title, RFP project number, and Offeror name and packaged with the original copy of the appropriate proposal (technical or financial).

Offerors mailing proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Proposals received by the Procurement Officer after the due date, **April 5, 2013 at 3:00 PM** (Local Time) will not be considered.

Proposals may not be submitted by e-mail or facsimile.

### **1.9 DURATION OF OFFER**

Proposals submitted in response to this RFP are irrevocable for the later of: 1) 180 days following the closing date of proposals or BAFOs, if requested, or 2) 30 days following the date when any and all protests related to this RFP have been finally resolved. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

### **1.10 REVISIONS TO THE RFP**

If it becomes necessary to revise this RFP before the due date for proposals, addenda will be provided to all prospective Offerors who were sent this RFP or are otherwise known to the Procurement Officer to have obtained this RFP. In addition, addenda to the RFP, made after the due date for proposals, will be posted on the MHBE web page and through eMM Addenda and will be sent only to those Offerors who submitted a timely proposal.

Acknowledgement of the receipt of addenda to the RFP issued after the proposal due date shall be in the manner specified in the addendum notice. Failure to acknowledge



receipt of an addendum does not relieve the Offeror from complying with its terms, additions, deletions, or corrections.

### **1.11 CANCELLATIONS & DISCUSSIONS**

MHBE reserves the right to cancel this RFP, accept or reject any and all proposals (in whole or in part) received in response to this RFP, to waive or permit 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 MHBE. MHBE also reserves the right, in its sole discretion, to award a Contract based upon the written proposals received without prior discussions or negotiations.

### **1.12 ORAL PRESENTATIONS**

Offerors may be required to make oral presentations to MHBE representatives. Offerors must confirm in writing any substantive oral clarification of, or change in, their proposals made in the course of discussions. Any such written clarification or change then becomes part of the Offeror's proposal and is binding if the Contract is awarded. The Procurement Officer will notify Offerors of the time and place of oral presentations. Typically, oral presentations occur approximately two (2) weeks after the proposal due date, however, this time may be shortened at the discretion of the Procurement Officer.

The MHBE reserves the right to electronically record these meetings. All information received prior to the cut-off time will be considered part of the Proposer's BAFO. The Committee shall retain possession of any and all materials, in any form, provided by the Proposer during these presentations.

### **1.13 PROCUREMENT TIMELINE**

<b>Event</b>	<b>Date</b>
Release of RFP	March 6, 2013
Pre-Proposal Conference	March 13, 2013
Receipt of Offeror Questions & Exceptions Due	March 18, 2013
Response to Offeror Questions	March 25, 2013
RFP Responses Due	April 5, 2013
Offeror Oral Presentations	April 11-12, 2013
Selection of Vendor	Week of April 15, 2013
Award Contract	Week of April 22, 2013

Dates shown above are subject to change

### **1.14 INCURRED EXPENSES FOR ORAL PRESENTATIONS**

MHBE will not be responsible for any costs incurred by an Offeror in preparing and submitting a proposal, in making an oral presentation, in providing a demonstration, or in performing any other activities relative to this solicitation.

### **1.15 ECONOMY OF PREPARATION**

Proposals should be prepared simply and economically and provide a straightforward and concise description of the Offeror's proposals to meet the requirements of this RFP. Specific guidance for allowable response length and level of detail required is provided in Section 2 Proposal Format.

### **1.16 PROTESTS**

Any protest related to this solicitation shall be subject to the provisions of the Procurement Policies and Procedures (PPP) of MHBE. A copy of the PPP may be found on the website of MHBE at: [http://marylandhbe.com/wp-content/uploads/2012/10/Permanent\\_Procurement\\_Policies1.pdf](http://marylandhbe.com/wp-content/uploads/2012/10/Permanent_Procurement_Policies1.pdf)

### **1.17 DISPUTES**

Any contract dispute related to the resulting Contract shall be subject to the Disputes provision set forth in the Contract, which is **Attachment A** to this RFP.

### **1.18 MULTIPLE OR ALTERNATE PROPOSALS**

Multiple proposals will be accepted. Alternate proposals will not be accepted.

### **1.19 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 MHBE under the Public Information Act, Md. Code Ann., State Government Article, Title 10, Subtitle 6.

Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information can be disclosed (see COMAR 21.05.08.01). Information which is claimed to be confidential is to be identified after the Title Page and before the Table of Contents in the Technical Proposal and, if applicable, also in the Financial Proposal.

### **1.20 OFFEROR RESPONSIBILITIES**

The selected Offeror shall be responsible for all products and services required by this RFP. All subcontractors must be identified and a complete description of their role relative to the proposals must be included in the Offeror's proposal. Additional information regarding Minority Business Enterprise (MBE) subcontractors is provided under paragraph 1.25. If an Offeror that seeks to perform or provide the services required by this RFP is a subsidiary of another entity, all information submitted by the Offeror, such as, but not limited to, references and financial reports shall pertain exclusively to the Offeror unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's proposal must contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.

### 1.21 STANDARD CONTRACT

By submitting an offer in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached herein as **Attachment A**. Any exceptions to this RFP or the contract must be raised prior to offer submission, and consistent with §1.7 of this RFP. A proposal submitted by an Offeror must be accompanied by a completed Bid/Proposal Affidavit. A copy of this Affidavit is included as **Attachment B** of this RFP.

### 1.22 CONTRACT AFFIDAVIT

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete a Contract Affidavit. A copy of this Affidavit is included as **Attachment C** of this RFP. This Affidavit must be provided within five (5) business days of notification of proposed Contract award, however, to speed processing the Offeror is urged to include it with the Technical Proposal.

### 1.23 MINORITY BUSINESS ENTERPRISES

A minimum overall MBE subcontractor participation goal of 31.44%, with sub goals of 7% for African-American-owned MBEs, 4% for Asian-American-owned MBEs, and 12% for women-owned MBEs, has been established for the services resulting from this contract.

An Offeror must include with its offer a completed Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1**) whereby:

1. The Offeror acknowledges the certified MBE participation goal or requests a waiver, commits to make a good faith effort to achieve the goal, and affirms that MBE subcontractors were treated fairly in the solicitation process.
2. The Offeror responds to the expected degree of Minority Business Enterprise participation as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of submission. The bidder or Offeror shall specify the percentage of contract value associated with each MBE subcontractor identified on the MBE Participation Certification.

***If a bidder or Offeror fails to submit Attachment D-1 with the bid or offer as required, the Procurement Officer shall deem the bid non-responsive or shall determine that the Offeror is not reasonably susceptible of being selected for award.***

Offerors are responsible for verifying that the MBE(s) selected to meet the subcontracting requirement and subsequently identified in **Attachment D-1** is appropriately certified and has the correct NAICS codes allowing it to perform the intended work. The MDOT MBE Directory may be found on the Web at: <http://mbe.md.state.md.us/directory/>.

Offerors, including those Offerors that are certified MBEs, shall:

Identify specific work categories within the scope of the procurement appropriate for subcontracting.

Solicit certified MBEs in writing at least 10 days before bids or proposals are due, describing the identified work categories and providing instructions on how to bid on the subcontracts.

Attempt to make personal contact with the certified MBEs solicited and to document these attempts.

Assist certified MBEs to fulfill, or to seek waiver of, bonding requirements.

Attend pre-bid or other meetings the procurement agency schedules to publicize contracting opportunities to certified MBEs.

Within 10 working days from notification that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee must provide the following documentation to the Procurement Officer:

3. Outreach Efforts Compliance statement (**Attachment D-2**)
4. Subcontractor Project Participation statement (**Attachment D-3**)
5. If the apparent awardee believes a waiver (in whole or in part) of the overall MBE goal or of any sub goal is necessary, it must submit a fully documented waiver request.
6. Any other documentation required by the Procurement Officer to ascertain Offeror responsibility in connection with the certified MBE participation goal.
7. The Offeror's Invoice Report is due by the 10<sup>th</sup> of the month following the reporting period to the Contract Monitor and the MBE Liaison Officer (**Attachment D-4**)
8. The MBE Subcontractor's Invoice Report is due by the 10<sup>th</sup> of the month following the reporting period to the Contract Monitor and the MBE Liaison Officer (**Attachment D-5**)

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

A current directory of certified Minority Business Enterprises is available through the Maryland State Department of Transportation, Office of Minority Business Enterprise, 7201 Corporate Center Drive, P.O. Box 548, Hanover, Maryland 21076. The phone numbers are 410-865-1269, 1-800-544-6056 or TTY 410-865-1342. The directory is also available at <http://www.mdot.State.md.us>. The most current and up-to-date information on Minority Business Enterprises is available via this website.

## **1.24 ARREARAGES**

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

### **1.25 PROCUREMENT METHOD**

This Contract will be awarded in accordance with the competitive sealed proposals process under PPP § II.B.

### **1.26 VERIFICATION OF REGISTRATION AND TAX PAYMENT**

Before a corporation can do business in the State it must be registered with the Department of Assessments and Taxation.

Address: State Office Building, Room 803

301 West Preston Street

Baltimore, Maryland 21201

Web Address: <http://www.dat.State.md.us/sdatweb/datanote.html>

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 the Department of Assessments and Taxation may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

The successful Offeror shall be responsible for ensuring that all Sub-Contractors meet these requirements, and further, that the Offeror and all Sub-Contractors shall meet these requirements for the duration of the contract, including option years.

### **1.27 PAYMENTS BY ELECTRONIC FUNDS TRANSFER**

By submitting a response to this solicitation, the Offeror agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. Payment by electronic funds transfer is mandatory for contracts exceeding \$100,000. The selected 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 and must include the business identification information as stated on the form and include the reason for the exemption. The COT/GAD X-10 form can be downloaded at:

[http://compnet.comp.state.md.us/General\\_Accounting\\_Division/Vendors/Electronic\\_Funds\\_Transfer/default.shtml](http://compnet.comp.state.md.us/General_Accounting_Division/Vendors/Electronic_Funds_Transfer/default.shtml)

### **1.28 SUBCONTRACTOR PROMPT PAYMENT POLICY**

The successful Offeror must comply with the prompt payment requirements set forth in the Contract resulting from this solicitation (see **Attachment A**). Guidance for prompt payment of subcontractors can be found in the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs and dated August 1, 2008. Additional information is available on the GOMA website at:

[http://www.mdminoritybusiness.com/documents/PROMPTPAYMENTFAQs\\_000.pdf](http://www.mdminoritybusiness.com/documents/PROMPTPAYMENTFAQs_000.pdf)

## **1.29 FEDERAL FUNDING ACKNOWLEDGEMENT AND CERTIFICATIONS**

This solicitation does contain federal funds. The source of these federal funds is: Department of Health and Human Services. The CFDA number is: 93.525. The conditions that apply to all federal funds awarded by the Department are contained in Federal Funds **Attachment H**. Any additional conditions that apply to the use of federal funds under this contract are contained in Federal Funds Attachment H. Acceptance of this agreement indicates your intent to comply with all conditions, which are part of this agreement.

## **1.30 CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE**

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror's personnel and each of the participating subcontractor personnel shall be required to complete agreements such as **Attachment I** Conflict of Interest Affidavit and Disclosure.

## **1.31 WITHDRAWALS**

Proposals may be withdrawn by written notice to the Procurement Officer prior to the closing date/deadline for receiving proposals.

## **1.32 SUBSTITUTION OF PERSONNEL**

All personnel described in the Offeror's proposal, or identified at the initiation of the Contract as key staff or key personnel, shall perform continuously for the duration of the contract and for so long as performance is satisfactory to the Contract Monitor.

The Offeror may not substitute key personnel, other than by reason of an individual's death, sudden illness, termination of employment, or other extraordinary circumstances without the prior written approval of the Contract Monitor. To replace any key personnel specified in the Offeror's proposal, the Offeror shall submit to the Contract Monitor: a) a detailed explanation of the reason(s) for the substitution request; b) the resumes of the proposed substitute personnel; c) the official resume of the current personnel for comparison purposes; and d) copies of any required credentials. The Offeror shall make this submission at least two (2) weeks prior to the desired effective date of substitution. All proposed substitute personnel shall be interviewed by MHBE, shall have qualifications at least equal to those of the replaced personnel, and shall be approved by the Contract Monitor. The Contract Monitor will notify the Offeror in writing of the acceptance, denial, contingent or temporary approval for a specified time limit, of the proposed substitute personnel. The Contract Monitor will not unreasonably withhold approval of a requested key personnel replacement. For the purposes of this contract, Key Personnel shall be defined to include the Offeror's proposed CSC Site Director, MHBE Account Manager, Quality and Training Department Managers, and Command Center Director.

The Contract Monitor may direct the Offeror to replace any staff that the Contract Monitor deems as being unqualified, non-productive, unable to fully perform his/her job

duties, disruptive, has committed a major infraction of law or State requirements, or for any other good faith basis. Normally, the Contract Monitor shall give written notice of performance issues to the Offeror, clearly describing the problem and delineating remediation requirement(s). The Offeror shall respond with a written remediation plan within three (3) business days and implement the plan immediately upon written acceptance of the Contract Monitor. If performance issues persist, the Contract Monitor may give written notice or request the immediate removal of person(s) whose performance is at issue, and determine whether a substitution is required. If so required, the individual(s) shall be replaced within 15 days of the notice of performance issues.

If deemed appropriate in the sole discretion of the Contract Monitor, the Contract Monitor shall direct that the individual be replaced immediately and without notice or a remediation plan.

### **1.33 TAX EXEMPTIONS**

The State is generally exempt from Federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. Exemption certificates shall be completed upon request.

### **1.34 COMPLIANCE WITH FEDERAL HIPAA AND STATE CONFIDENTIALITY LAW**

Based on the determination by MHBE that the functions to be performed in accordance with Section 2 of this RFP constitute Business Associate functions as defined in HIPAA, the bidder shall execute a Business Associate Agreement as required by HIPAA regulations at 45 CFR §164.501 and set forth in **Attachment J**.

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

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

The fully executed Business Associate Agreement must be submitted within ten (10) working days after notification of award or award of contract, whichever is earlier. Should the Business Associate Agreement not be submitted upon expiration of the ten-day period as required by this solicitation, the Procurement Officer, upon approval of the

Board of Trustees may withdraw the recommendation for an award and make an award to the next qualified Offeror.

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

### **1.35 LIVING WAGE REQUIREMENTS**

While the MHBE is an “exempt unit” under Division II of the State Finance and Procurement Article, the MHBE requires the Offeror to pay the living wage amounts, as contemplated by Title 18 of the State Finance and Procurement Article and any accompanying regulations. If the Offeror fails to complete and submit the required Living Wage documentation, the MHBE may determine an Offeror to be not responsive. Offerors and Sub-Offerors shall pay each covered employee at least (see amounts at <http://www.dllr.State.md.us/labor/prev/livingwage.shtml>) per hour. The contract resulting from this solicitation will be deemed to be a Tier 1 contract.

Information pertaining to reporting obligations may be found by going to the Department of Labor, Licensing and Regulation (DLLR) Website <http://www.dllr.State.md.us/labor/> and clicking on Living Wage.

### **1.36 FALSE STATEMENTS**

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

- (a) In connection with a procurement contract a person may not willfully:
  - ☐ Falsify, conceal, or suppress a material fact by any scheme or device;
  - ☐ Make a false or fraudulent statement or representation of a material fact; or
  - ☐ Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.
- (b) A person may not aid or conspire with another person to commit an act under subsection (a) of this section.
- (c) 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.



### **1.37 PHYSICAL SECURITY**

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

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

### **1.38 CRIMINAL BACKGROUND CHECK**

The Contractor shall obtain from each prospective employee a signed statement permitting a criminal background check. The Contractor shall obtain (at his own expense) and provide the Contract Monitor with a Maryland State Police and/or FBI background check on all new employees prior to assignment. The Contractor may not hire an employee who has a criminal record unless prior written approval is obtained from MHBE.

### **1.39 INVOICING AND PAYMENT TYPE**

All invoices for services shall be submitted to the Contract Monitor no later than the end of the month following the month in which service was provided. Invoices shall include:

1. Offeror name
2. Remittance address
3. Federal taxpayer identification (or if owned by an individual his/her social security number)
4. Invoice period
5. Invoice date
6. Invoice number
7. Amount due
8. Purchase order number(s) being billed
9. Unit Cost (If applicable)
10. Total Cost (if applicable)
11. Services Performed
12. Deliverables
  - a. Completion Date
  - b. Approval Date

Invoices submitted without the required information will not be processed for payment until the Offeror provides the required information.

Offeror shall have a process for resolving billing errors. Payments will be made as progress payments as set forth herein. In no case will any payment be viewed as a partial payment.

#### **1.40 INSURANCE REQUIREMENT**

All insurance required by this section shall be effective when the Contract commences and shall remain in effect during the term of the Contract and renewal option periods, if exercised. Certificates of insurance and evidence of the payment of premiums shall be furnished to the Procurement Officer within ten (10) business days after notice of recommended Contract award.

All insurance companies shall be licensed or authorized to do business within the State and shall be subject to approval by MHBE.

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

The Contractor shall maintain Errors and Omissions/Professional Liability insurance with minimum limits of \$3,000,000 per occurrence. 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. If automotive equipment is required in the performance of this Contract, automobile bodily injury liability insurance with a limit of not less than One Million Dollars (\$1,000,000.00) for each person and Two Million Dollars (\$2,000,000.00) for each accident, and property damage liability insurance with a limit of not less than Two Hundred Thousand Dollars (\$200,000.00) for each accident shall be required.

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

The Offeror shall maintain such insurance as necessary and/or as required under Worker's Compensation Acts, and the Federal Employers Liability Act as well as any other applicable statute.

Upon execution of a Contract with the State, Offeror shall provide the Contract Monitor with current certificates of insurance, and shall update such certificates from time to time, as directed by the Contract Monitor. Such copy of the Offeror's current certificate of insurance shall contain at minimum the following:

1. Worker's Compensation - The Offeror shall maintain such insurance as necessary and/or as required under Worker's Compensation Acts and the Federal Employers' Liability Act.
2. Commercial General Liability as required above.

3. Errors and Omissions/Professional Liability as required above
4. Automobile and/or Commercial Truck Insurance as required above.
5. Employee Theft Insurance as required in above.

The State shall be named as an additional named insured on the policies with the exception of Worker's Compensation Insurance. Certificates of insurance evidencing coverage shall be provided prior to the commencement of any activities in the Contract. 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 60 days advance notice of any non-renewal, cancellation, or expiration. In the event the Contract Monitor receives a notice of non-renewal, the Offeror shall provide the Contract Monitor with an insurance policy from another carrier at least 30 days prior to the expiration of the insurance policy then in effect. All insurance policies shall be with a company licensed by the State to do business and to provide such policies.

The Offeror shall require that any subcontractors obtain and maintain similar levels of insurance and shall provide the Contract Monitor with the same documentation as is required of the Offeror.

#### **1.41 BUSINESS PURPOSE OF MHBE**

The Affordable Care Act (ACA) mandates that each state shall establish a Health Benefit Exchange to help individuals enroll in qualified health plans,<sup>1</sup> and a Small Business Health Options Program ("SHOP") to assist qualified small business employers in enrolling their employees in qualified health plans ("QHPs").<sup>2</sup> In 2014, nearly 250,000 Marylanders are expected to become newly insured as a result of expanded Medicaid eligibility and the creation of subsidized and low-cost health insurance products offered through the Maryland Health Connection, the state-based health insurance exchange (online marketplace or "portal"). To successfully enroll these individuals in coverage, the State is developing a set of robust outreach and enrollment consumer assistance mechanisms. One of these resources, the Connector Program, will help consumers learn about, apply for and enroll in an appropriate health insurance product, including Medicaid, the Maryland Children's Health Program (MCHP), and subsidized and non-subsidized qualified health plans (QHPs). Individuals employed by other organizations in the state such as hospitals, health centers, etc. will provide certified "application counselors" to assist consumers will enrollment into Medicaid and qualified health plans as well. Caseworkers and eligibility workers through Local Departments of Health and Departments of Social Services will also provide assistance with eligibility determination and enrollment. Next, insurance producers statewide will continue to serve the individual and small group market in Maryland and serve an important role in providing valuable consumer assistance by enrolling many of the State's uninsured population.

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<sup>1</sup> ACA § 1311(b)(1)(A).

<sup>2</sup> ACA § 1311(b)(1)(B).

### ***Statutory and Regulatory Authority***

The Maryland Health Benefit Exchange Act of 2012 established programs to serve both individuals seeking coverage through the Individual Exchange and small businesses seeking coverage through the SHOP Exchange in the State of Maryland. Building on the ACA, it further defines the duties of navigators and non-certified personnel, the criteria for becoming a navigator and the oversight and enforcement mechanisms.

### ***Individual Exchange Connector Program***

Connector entities will engage or employ Individual Exchange navigators and non-certified personnel to perform the following duties, with particular emphasis on facilitating enrollment into an insurance product. Only those certified navigators working for the entity may facilitate enrollment into a QHP.

#### ***Individual Exchange Connector Entity Duties:***

- (1) Conduct education and outreach to individuals
- (2) Distribute information about:
  - The individual health insurance exchange, including eligibility requirements for applicable federal premium subsidies and cost-sharing assistance
  - Eligibility requirements for Medicaid and MCHP<sup>3</sup>
  - How to enroll in Medicaid, MCHP or QHPs in the Individual Exchange
- (3) With respect to QHPs, facilitate:
  - Plan selection, based on the needs of the individual seeking to enroll
  - Assessment of tax implications and premium and cost-sharing requirements
  - Application, enrollment, renewal and disenrollment processes
- (4) Assist with eligibility determinations and enrollment in Medicaid and MCHP programs which includes application, redeterminations, changes of circumstances and selection of managed care organizations
- (5) Provide assistance with premium subsidies and cost-sharing
- (6) Provide referrals to appropriate agencies, including the Attorney General's Health Education and Advocacy Unit (HEAU) and the Maryland Insurance Administration (MIA), for applicants and enrollees with grievances, complaints, questions or the need for other social services
- (7) Provide all information and services in a manner that is culturally and linguistically appropriate and ensures accessibility for individuals with disabilities
- (8) Provide ongoing support with respect to issues relating to eligibility, enrollment, renewal and disenrollment in Medicaid, MCHP and QHPs in the Individual Exchange

Individual Exchange navigators must be trained and certified by the MHBE in order to perform services. The MIA has regulatory oversight for both Individual Exchange navigators and connector entities.

### ***Small Business Health Options Program (SHOP) Exchange Connector program***

The SHOP Exchange connector program will focus outreach on employers not offering insurance. SHOP Exchange navigators may assist employees of small businesses with

qualified plans sold in the SHOP Exchange only. The minimum duties that SHOP Exchange navigators must perform include:

- (1) Conduct education and outreach to small employers
- (2) Distribute information about the SHOP Exchange, including:
  - Options with respect to employer and employee choice
  - Procedures for enrolling in qualified plans
  - The availability of applicable tax credits and how to apply
- (3) Facilitate:
  - Qualified plan selection, based on the need of the employee
  - Application processes
  - Enrollment
  - Renewals
  - Disenrollment
- (4) Provide referrals to appropriate agencies, including the HEAU and the MIA, for applicants and enrollees with grievances, complaints or questions
- (5) Provide all information and services in a manner that is culturally and linguistically appropriate and ensures accessibility for individuals with disabilities
- (6) Provide ongoing support with respect to issues relating to eligibility, enrollment and disenrollment in QHPs in the SHOP Exchange

SHOP navigators must be trained and licensed by the MIA. The MIA also has regulatory oversight for SHOP Exchange navigators.

### ***Non-Certified Personnel (e.g., Assistors)***

Assistors are individuals who support the connector program by performing a variety of functions. Functions that non-certified personnel can perform are outlined in Maryland law and include:

- Conduct education and outreach to individuals;
- Assist with application submission for initial eligibility determination and redeterminations for Advanced Premium Tax Credit (APTC), cost sharing reduction (CSR), Medicaid and Maryland's Children's Health Insurance Program (MCHIP); and
- Facilitate and provide ongoing support with respect to the selection of Managed Care Organizations (MCOs), application submission, enrollment, and disenrollment for Medicaid and MCHIP.

Assistors may also provide broad support services, such as facilitating referrals to appropriate agencies, providing on-going support with respect to eligibility, enrollment, renewal and disenrollment issues in Medicaid and MCHIP and other support functions.

Other non-certified personnel include administrative personnel, such as administrative assistants or individuals in management or supervisory positions at connector entities. Assistors will also require training.

### ***Consolidated Services Center (CSC) Staff***

Federal regulations require the MHBE to operate a toll-free call center that addresses the needs of consumers and small businesses requesting assistance. In Maryland, the call center will be called the Consolidated Service Center (CSC). It will provide a spectrum of services to enable a seamless experience for consumers, including: responding to basic questions, providing eligibility and enrollment support services, providing website access support, and providing navigator and assister support services. The CSC will assist consumers in connecting to the appropriate agency that can receive complaints and assist with appeals and grievances regarding medical necessity and coverage decisions. The CSC will also assist consumers with telephonic applications, and provide advice and support to those enrolling online or through the mail. CSC staff will require comprehensive training prior to their employment.

### ***Existing Staff at Local Health Departments and Local Departments of Social Services***

Approximately 430 individuals working for county Departments of Health and 1,900 individuals working for county Departments of Social Services who currently provide assistance to consumers on Medicaid and other topics will continue their public assistance roles. These caseworkers will need training in new and existing health coverage options to provide information and assistance to individuals seeking help for the determination of Modified Adjusted Gross Income (MAGI). The Maryland Department of Health and Mental Hygiene and the Maryland Department of Human Resources will be extensively involved with the MHBE in designing and refining training plans for these groups. The training vendor will be required to develop a training curriculum and delivery plan to ensure that all caseworkers are trained between July and October 2013, prior to the initial open enrollment period throughout the state.

### ***Application Counselors***

Proposed federal regulations identify a new category of individuals who may assist with applications and facilitate enrollment into Medicaid and MCHP and qualified health plans (QHPs).<sup>4</sup> Application counselors will provide the same core application assistance as navigators and producers provide, but they will not be funded through the MHBE. The proposed rule lays out certification standards and a certification process for application counselors. Individuals applying for application counselor certification must be trained regarding QHP and eligibility rules, disclose any conflicts of interest to the MHBE, comply with privacy and security standards, and enter into an agreement with the MHBE.

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<sup>4</sup> **Medicaid, Children's Health Insurance Programs, and Exchanges: Essential Health Benefits in Alternative Benefit Plans, Eligibility Notices, Fair Hearing and Appeal Processes for Medicaid and Exchange Eligibility Appeals and Other Provisions Related to Eligibility and Enrollment for Exchanges, Medicaid and CHIP, and Medicaid Premiums and Cost Sharing, 78FedReg.4710(January 22,2013) (proposing 45 CFR § 155.225) (available at:<http://www.gpo.gov/fdsys/pkg/FR-2013-01-22/pdf/2013-00659.pdf>)**

### ***Insurance Producers***

In Maryland, insurance producers will also provide valuable consumer assistance in enrolling individuals, families and small businesses in health coverage. The Maryland Health Benefit Exchange Act of 2012 requires that producers receive authorization to sell qualified health plans (QHP).<sup>5</sup> Approximately 2,000-4,000 producers are expected to seek authorization to sell QHPs through Maryland Health Connection beginning in October 2013.

#### **1.42 MINIMUM QUALIFICATIONS**

The Offeror must demonstrate its capacity to carry out the services required and must indicate its capabilities to be involved in all specified tasks by meeting the Minimum Requirements below:

- The Offeror must have experience in the development of curricula for entities or organizations carrying out consumer assistance functions in the public or non-profit sector, such as help desks, direct counseling agencies, information and referral organizations, insurance agencies, Medicaid agencies, Medicare, or similar organizations;
- The Offeror must have experience in successfully adapting core curriculum concepts to meet the needs of trainees with diverse educational levels, learning styles, and skill levels;
- The Offeror must have experience in designing tests that assure knowledge of a specified curriculum and successfully administering those tests;
- The Offeror must have experience with test design and administration for personnel carrying out consumer assistance functions;
- The Offeror must have experience in reporting examination results to government agencies, private entities, or non-profit agencies using electronic technology.
- The Offeror must have experience in securing training sites, scheduling training to fit geographic and timeline requirements specified in a contract, recruiting qualified individuals to carry out training, and deploying sufficient personnel to conduct training in accordance with all contract requirements;
- The Offeror must have experience in the use of multiple training methods, including, at a minimum, face to face in-person training, “train the trainers” approaches, and on-line learning; and
- The Offeror must have experience working collaboratively with multiple public, private or non-profit agencies and organizations to carry out contract tasks.

#### **1.43 RFP OBJECTIVES**

The Maryland Health Benefit Exchange Act of 2012 defined many of the training requirements for navigators in statute and the MHBE has further delineated training preferences for other training needs. The 2012 Navigator Advisory Committee considered training in the course of its discussions and contributed valuable insights

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<sup>5</sup> Md. Code Ann., Ins. § 31-113(m)(1), § 31-112(f)(1).

into content development.<sup>6</sup> The curriculum and training designed for navigators, insurance producers, application counselors, CSC (call center) staff, and assisters will be comprehensive.

Federal regulations require training for both Individual and SHOP Navigators that assures navigator expertise in: a) the needs of underserved and vulnerable populations; b) eligibility and enrollment rules and procedures; c) the range of QHP options and Insurance Affordability Programs (Medicaid and MCHP); and d) privacy and security standards. The training curriculum for navigators and CSC staff will include health literacy, cultural competency and other topics that will address the needs of those most vulnerable in Maryland. It will provide navigators and CSC staff with the technical training required to efficiently utilize Maryland Health Connection to provide a seamless experience for consumers.

At a minimum, the following topics and units are to be included in the navigator and CSC curriculum and offered at scheduled training sessions. The curriculum for navigators and CSC Staff is intended to require 120 hours of in-person, face-to-face training to complete. Each individual trained must demonstrate mastery of the topics included in the curriculum by passing a test. Curriculum modules, training strategies, and tests developed for Navigators and CSC staff persons provide a foundation for developing shorter and more targeted curriculum and training plans for other identified groups.

***Required Curriculum Content for Navigators and Consolidated Services Center Staff***

***Note: \*\* Final training modules/topics subject to change/ final approval by MHBE, DHMH, MIA, DHR and HEAU where applicable***

Topic	Units
<b><i>Introduction and Policies and Procedures (40 hours)</i></b>	<b><i>Overview</i></b> 0 Introduction to the Affordable Care Act 0 Health Reform in Maryland 0 Roles & Responsibilities of Navigators 0 Health Insurance 101 0 Qualified Health Plans (QHPs) 0 Individual Affordability Programs (IAP) 0 Essential Health Benefits 0 Maryland Health Connection (primer) 0 Cost-Sharing Reductions (CSRs)  <b><i>Outreach &amp; Education</i></b>

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<sup>6</sup> Options for the Design and Implementation of Maryland's Navigator Program. November 15, 2012. Available at <http://dhmh.maryland.gov/exchange/pdf/MHBE%20Navigator%20Report%20Final.pdf>



	<ul style="list-style-type: none"> <li>o Principles of Health Literacy</li> <li>o Principles of Financial Literacy</li> <li>o Understanding Maryland's Diverse Population</li> <li>o Outreach Techniques</li> <li>o Cultural &amp; Linguistic Awareness</li> <li>o Consumer Assistance</li> <li>o Appeals and Grievance Procedures</li> <li>o Disability Services</li> </ul> <p><b>Compliance Procedures</b></p> <ul style="list-style-type: none"> <li>O HIPAA Privacy Requirements <ul style="list-style-type: none"> <li>- Defining Protected Health Information</li> <li>- Use and Disclosure of Protected Health Information</li> <li>- Consent, Authorization, and Patient Rights</li> <li>- HITECH Mandates</li> </ul> </li> <li>O HIPAA Security Requirements <ul style="list-style-type: none"> <li>- Pass Word Management</li> <li>- Protection from Malicious Software</li> <li>- Physical and Facility Access Controls</li> <li>- Device and Media Controls</li> </ul> </li> <li>O Waste, Fraud, and Abuse <ul style="list-style-type: none"> <li>- Definitions</li> <li>- Federal and State Laws</li> <li>- Fraud Trends and Techniques</li> <li>- Hotline and other fraud reporting options</li> </ul> </li> <li>O. Code of Conduct <ul style="list-style-type: none"> <li>- Conflict of Interest</li> <li>- Non-disclosure Policies</li> </ul> </li> </ul> <p><b>Other Policies &amp; Procedures</b></p> <ul style="list-style-type: none"> <li>0 Fraud, Waste &amp; Abuse</li> <li>0 Conflict of Interest</li> <li>0 Complaints and Grievances</li> <li>0 Ensuring Confidentiality</li> <li>0 Ethics</li> <li>0 Record Disposal</li> <li>0 Application Procedures</li> </ul>
<b>Individual Affordability Programs (40 hours)</b>	<p><i>The vendor will gather material for the content modules in this section from DHMH/DHR and tailored for learning for each training audience. Content is to be developed on at least the following topics:</i></p> <ul style="list-style-type: none"> <li>o Eligibility Determination Tools</li> <li>o Medicaid Rules</li> <li>o Maryland Children's Health Program (MCHP)</li> <li>o Hand-Offs with Local Health Departments, Departments of Social Services, and Other Agencies</li> </ul>

	o DHR Policies and Procedures
<b>Maryland Health Connection (40 hours)</b>	<p><i>The vendor will gather material for the content modules in this section from the IT vendor. Content is to be developed on at least the following topics:</i></p> <ul style="list-style-type: none"> <li>o Overview</li> <li>o Prescreen</li> <li>o Intake and registration</li> <li>o Verification of customer</li> <li>o Eligibility determination</li> <li>o Tax credit/Subsidy Calculation</li> <li>o Plan Presentment</li> <li>o Plan Enrollment</li> <li>o Account/Case Management</li> <li>o Premium Payment Tracking</li> <li>o Insurance Carrier Management</li> <li>o SHOP</li> <li>o Agent/Navigator Management</li> <li>o Reporting</li> <li>o Notices</li> <li>o Security</li> </ul> <p><b><i>Content will delivered and coordinated with IT vendor using BrainShark®</i></b></p>

**Assisters:** The curriculum and training processes designed for navigators and CSC staff are to be modified to fit the needs of other groups carrying out consumer assistance. In particular, the curriculum for assisters should be designed to require approximately 60-80 training hours (subject to change). Training for assisters will be conducted through a “train the trainer” model requiring Connector entities to register a qualified trainer in the MHBE training program. The trainer will attend MHBE assister training and become qualified to deliver training on behalf of the organization providing in-person assistance.

**Insurance Producers:** The curriculum for producers will be designed to last four to six hours, will be conducted in a conference format, and will focus on producer use of the Maryland Health Connection. The emphasis of the training will be on creating an account, complying with policies and procedures, and understanding tax subsidies. The curriculum and training processes for producers will be developed in conjunction with the Maryland Insurance Administration. Training for insurance producers will commence in June and take place three times per month at locations throughout the state based on the registration of producers. Continuing education credits (CE) will be provided for the training.

**DHMH/DHR Caseworkers/Staff:** The curriculum for employees at Local Departments of Social Services and Local Health Departments will be designed in conjunction with the Department of Human Resources and the Department of Health and Mental Hygiene. Training for DHMH and DHR staff will include application procedures, eligibility determination, IT system modules, and program changes, among other topics to be determined by an interagency training workgroup in which the vendor will be required to

participate. Training will take place at facilities convenient to the Local Health Departments and Departments of Social Services recommended in the proposal by the Offeror. Following initial training of caseworkers, DHMH/DHR training staff will receive training in order to integrate training curriculum into on-going training protocols for new hires.

***Minimum Training Requirements:  
Navigators, CSC Staff, Insurance Producers, Assisters, Local Health  
Departments, and Local Departments of Social Services, Application Counselors***

<b>Consumer Assistance Entity</b>	<b>Estimated Number of Persons in Need of Training</b>	<b>Minimum Hours of Initial Training *</b>	<b>Delivery Method</b>	<b>Training Frequency for Individuals</b>	<b>Proposed Start Date for Initial Training</b>
Individual Exchange Navigator	150	120	In-person training of each individual	Annual	7/15/13
SHOP Navigators	50	120	In-person training of each individual	Annual	7/15/13
Consolidated Service Center Staff	125	120	In person training of each individual	Annual	6/15/13
Insurance Producers	2,000-4,000	4-6 hours	Conference format; three times per month at multiple locations in the state pending registration prior to open enrollment and at least monthly during all other months.	Annual	6/15/13
Assisters	250 assisters	60-80 (TBD)	Train-the-trainers	Initial	7/15/13 and on-going
Local Health Department Staff	430 people	80	In-person and train the trainer for permanent in-house training staff	Initial	7/15/13 through 10/31/2013
Local Department of Social Services Staff	1900 people	80	In-person and train the trainer for permanent in-house training staff	Initial	7/15/13 through 10/31/2013
MHBE Staff	50	120	In-person	Initial	6/15

## SECTION 2 SCOPE OF WORK

### 2.1 DEVELOPMENT OF TRAINING CURRICULUM

The MHBE is seeking a Contractor to provide curriculum development and delivery of, training, and competency testing for navigators, assisters, application counselors, call center staff, insurance producers, caseworkers (DHMH/DHR), and other stakeholder constituents. The MHBE intends to make a single award to the Offeror whose proposal is deemed to be the most advantageous to the State. Offerors, either directly or through their subcontractor(s), must be able to provide all services and meet all of the requirements requested in this solicitation.

As specified in detail below, the vendor's responsibilities include identifying and describing appropriate materials to include in a curriculum, gathering appropriate documents from federal and state agencies, insurance carriers, and other organizations for the curriculum, consulting with other agencies to organize and prioritize content, and assuring accuracy of all content proposed for the curriculum. The curriculum must be built on Maryland-specific content. The vendor must present, justify, and seek approval by the MHBE of each content module as it is developed. The training program for Individual Exchange Navigator certification and producer authorization must be approved by the Maryland Insurance Administration (MIA).

#### A. Tasks of Potential Vendor

##### ***Navigators and CSC Staff***

- The vendor will develop a curriculum inclusive of all knowledge and skills required by navigators, SHOP navigators, and CSC staff to carry out their functions effectively. The curriculum is to be organized into content modules. Curricula will be gathered by subject matter experts from respective federal and state agencies, as well as stakeholder organizations when applicable. Vendor will design curriculum materials for each training group outlined above based on the modules and training requirements.
- The vendor will plan 120 hours of in-person training on the curriculum for each person seeking certification as a navigator, each person seeking licensure as a SHOP navigator, and each person seeking a permit to become employed as a staff person at the CSC.
- The vendor will develop a comprehensive examination on the aforementioned curriculum.

The vendor will deliver 120 hours of in-person training to each navigator and CSC staff person.

- The vendor will develop examination procedures and administer an examination to each navigator and CSC staff person trained and report the results of the testing to MHBE. The vendor must incorporate or develop an interface with MHBE technology to track and communicate the completion of training and administration of examinations.
- CSC trainers will be trained on an on-going basis as needed to maintain expert competency to operate the call center. Call center training staff will receive on-going training.

### ***Insurance Producers***

- The vendor will identify and provide space for the training in regions throughout the state and will meet training frequency requirements throughout the contract period. The vendor must hold the training at a variety of sites throughout the state and that locations are accessible to individuals with special needs.
- The vendor will prepare training materials including packets or notebooks, name tags, sign-in sheets, etc.
- The vendor will provide on-site support for all training events including on-site staff, projectors, flip charts, laptops, power cords, etc. required by trainers.
- The vendor will develop and implement a plan to assure competency of producers. The vendor will assure competency testing for producer authorization is consistent with MIA preferences and requirements.
- The vendor will prepare, distribute, collect and compile training evaluation forms, and will provide a compilation summary of responses within two weeks of each course.

### ***Assisters***

- The vendor will adapt the curriculum so that it is appropriate for use with assisters. The vendor will identify specific modules suitable for assisters based on their knowledge and skill needs. The curriculum for assisters shall include all required topics.
- The vendor will plan, schedule and carry out training using a “train-the-trainers” model for individuals seeking participation as an assister. This program will include coordination with Connector entities in six regions to ensure assisters are properly trained to perform the functions of an assister.
- The vendor will develop and implement a plan to assure competency of assisters.

### ***LHD/DSS Caseworkers:***

- In consultation with the Department of Health and Mental Hygiene and the Department of Social Services, the vendor will develop a training program to train the approximately 2,500 caseworkers statewide in the Local Departments of Health and Social Services Offices on the use of Maryland Health Connection and new eligibility rules and processes. Training must take place throughout the state in locations that do not disrupt workflow for the department; protocol should augment existing training and require trainers equipped with the necessary hardware to visit caseworkers. The vendor will be required to provide hardware for training including laptops, monitors, and other necessary equipment to delivery training. For on-going training needs, the vendor will develop a train-the-trainer curriculum and prepare DHMH/DHR training staff to deliver new hire training on an on-going basis, including online training and related materials as needed.
- The vendor will work with the MHBE and other partner agencies to gain the appropriate approvals of the training curricula it develops.

### ***Application Counselors***

- The vendor will identify curricula necessary to prepare individuals to become certified Application Counselors. The vendor will develop an approach for making the curricula available for a fee. The vendor will also develop a strategy for making training available for a fee to individuals and groups employing Certified Application Counselors. The training will be designed to

train individuals who will then use a “train the trainer” approach within their agencies.

All Training:

- The vendor will manage registration for all training events.
- The vendor will prepare and maintain records of attendance at individual training events; provide training certificates and certify completion of training, including the coordination of Continuing Education credits with other organizations.
- 
- The vendor will collaborate with the MHBE’s IT vendor(s) to develop training for Maryland Health Connection (“eligibility and enrollment” system) and attend training by IT vendor(s) in order to train other trainees.
- The vendor will work with other MHBE contractors as directed by the contractor monitor to learn how to operate within the designated MHBE training technical environment. More information on this training environment will be provided post-award. Collaboration between the vendor and the IT contractors will include understanding how to get instructor and student log-ins, how to connect to the appropriate test regions, how to work with training data sets, and how to get technical support for training classes.
- 

## **2.2 DELIVERABLES**

1. Final Approved Work Plan. The Offeror selected shall propose a work plan that sets forth a timeline for completing the deliverables. The work plan will be finalized with the input of the Contract Monitor. The work plan should propose how to organize the tasks to be addressed in the deliverables to efficiently and effectively address all of the requirements as well as any other activities the Offeror determines, in its professional judgment, are necessary for consideration.
2. Comprehensive Curriculum for navigators and CSC Staff. The Offeror will be required to develop a comprehensive curriculum of at least 120 hours to be used for navigators and CSC staff. The curriculum shall meet all requirements of federal and State law and shall be consistent with the minimum requirements stated above. The curriculum shall be structured as a series of modules associated with topics or groups of topics. The modules shall serve as the basis for additional curriculum design. Each module shall be approved by the MHBE as it is developed.

3. The Offeror will identify appropriate curriculum modules for use with assisters. The Offeror will propose appropriate modules for a 60-80 hour training course for assisters and coordinate with SME's to obtain content, modify and develop curriculum for trainees to achieve learning objectives
4. The Offeror will develop written tests for navigators, application counselors, assisters, and producers.
5. Identification of appropriate curriculum for insurance producers. The Offeror will identify appropriate curriculum modules for use with producers. The Offeror will propose appropriate modules for a 4-6 hour training course for producers. The options shall be consistent with the duties of this group.
6. The Offeror will prepare a detailed schedule for in-person training of Individual Exchange Navigators, SHOP Exchange Navigators, and CSC Staff and delivery of training in accordance with the schedule.
7. The Offeror will prepare a detailed schedule for "train-the-trainer" sessions for assisters and delivery of training in accordance with the schedule.
8. The Offeror will prepare a detailed schedule for conference format training for producers and delivery of training in accordance with the schedule.
9. The Offeror will prepare a curriculum, training processes and delivery for Local Health Department caseworkers.
10. The Offeror will prepare a curriculum, training processes and delivery for local Department of Social Services caseworkers.
11. The Offeror will prepare a schedule and process for gaining approval from all appropriate agencies of all curricula developed.
12. The Offeror will prepare a curriculum and training processes for training of Application Counselors.
13. The Offeror will develop an on-going process for training CSC staff on policies and procedures.
14. The Offeror will develop a process for training CSC staff on subject matter content as measurement and data are received through call center mechanisms to improve consumer experience as necessary.

The items required to be provided shall be delivered in accordance with the following schedule:



<b><u>Action Item</u></b>	<b><u>Due Date</u></b>
Project Start Date	Immediately after the Notice to Proceed is issued
Final Approved Work Plan	21 calendar days from the date that the Notice to Proceed is issued
Comprehensive Curriculum for Navigators and Consolidated Service Center Staff, including an examination	In accordance with approved work plan
Curriculum for Assisters, including an examination	In accordance with approved work plan
Curriculum for Producers, including an examination	In accordance with approved work plan
Plan for working with IT vendors to learn and operate the technical training environment	In accordance with approved work plan
Training for CSC staff	Begin June 15 and on-going
Training for Producers	Intended three times monthly June through September 2013 then monthly ( based on registration volumes)
Training for Navigators and Assisters	Begin July 15 and on-going
Curriculum and Training for DHMH/DHR Caseworkers	July 15-October 31, 2013
Plan for Approval of Curriculum by Appropriate Agencies	In accordance with approved work plan
Plan for training of Application Counselors and Implementation of Plan	In accordance with approved work plan.
Continuing Education Curriculum and Timeline	In accordance with approved work plan

In addition to these deliverables, the successful Contractor will update the Contract Monitor weekly on the progress and status of the work being performed under the Contract, and any findings, issues, and conclusions. These updates shall be provided through written status reports and/or discussions. Discussions may be held either in person or by telephone, at the mutual convenience of both parties.

## **2.4 OPTIONAL TASK ORDERS**

In addition to the services specified in this Scope of Work section, the successful Offeror shall provide additional related out-of-scope services that arise during the term of this Contract, as requested by the Contract Monitor.

- a. Task Orders will govern services required by the MHBE apart from those specified above. The Task Order process shall apply only to these activities and not for the requirements of Section 2.1 – 2.3 of this RFP.
- b. The Contract Monitor may initiate a Task Order Request for Proposals (TORFP). A TORFP will define the scope and requirements of the specific task(s) to be performed and identify the time for the successful Offeror to submit a proposed response to the TORFP.
- c. Upon receiving the TORFP, the successful Offeror shall provide a proposal in response to the TORFP's requirements. At a minimum, the proposal shall include a proposed approach to satisfying the TORFP's requirements, proposed schedule for completion or implementation, proposed total price.
- d. Upon receipt of a proposal deemed acceptable by the MHBE in its sole discretion, the Contract Monitor will prepare a Task Order Agreement based on the proposal. The Contractor shall begin work on a Task Order Agreement only upon receipt of a notice to proceed.
- e. Task Order work and invoicing shall be performed by the Contractor in accordance with the terms of the Task Order Agreement.

## **SECTION 3      PROPOSAL FORMAT**

### **3.1 TWO PART SUBMISSION**

The Offeror shall submit proposals in separate volumes:

Volume I - TECHNICAL PROPOSAL

Volume II - FINANCIAL PROPOSAL

### **3.2 PROPOSALS**

Volume I -Technical Proposal and Volume II-Financial Proposal shall be sealed separately from one another. Each Volume shall contain an unbound original, so identified, and five (5) copies. The two sealed Volumes shall be submitted together and each include a label bearing:

1. The RFP title and number
2. eMM Number
3. Name and address of the Offeror
4. The volume number (I or II)
5. Closing date and time for receipt of proposals

The submission should be made to the Procurement Officer (see section 1.3) prior to the date and time for receipt of proposals (see section 1.8).

An electronic version of Volume I- Technical Proposal and Volume II- Financial Proposal, both in searchable Word (Version 2007 or newer) format shall also be submitted as separate files for each "Volume", labeled Volume I-Technical Proposal and Volume II-Financial Proposal with the unbound originals, technical or financial volumes, as appropriate. Electronic media is to be submitted on CD and shall bear a label on the outside containing the RFP number and name, the name of the Offeror and the volume number.

A second electronic version of Volume I and Volume II in searchable Word (Version 2007 or newer) format shall be submitted on CD for Public Information Act (PIA) requests. This copy shall be redacted so that confidential and/or proprietary information has been removed (see section 1.8).

All pages of both proposal volumes shall be consecutively numbered.

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

### **3.3 DELIVERY**

Offerors may either mail or hand-deliver proposals.

For U.S. Postal Service deliveries, any proposal that has been received at the appropriate mailroom, or typical place of mail receipt, for the respective procuring unit

by the time and date listed in the RFP will be deemed timely. If an Offeror chooses to use the United States Postal Service for delivery, the MHBE recommends that it use Express Mail, Priority Mail, or Certified Mail only as these are the only forms for which both the date and time of receipt can be verified by the MHBE. An Offeror using first class mail will not be able to prove a timely delivery at the mailroom and it could take several days for an item sent by first class mail to make its way by normal internal mail to the procuring unit.

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

### **3.4 VOLUME I – TECHNICAL PROPOSAL**

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

#### **3.4.1 FORMAT OF TECHNICAL PROPOSAL**

Inside a sealed package described in Section 3.2, above, the unbound, five (5) copies and the electronic version shall be provided. The RFP sections should be numbered for ease of reference, i.e., Section 1 Title and Table of Contents, Section 2 Transmittal Letter, Section 3 Executive Summary, etc. In addition to the instructions below, the Offeror's Technical Proposal should be organized and numbered in the same manner as Part 3.4.3 below using a technical specifications template in this RFP. This proposal organization will allow evaluators to "map" Offeror responses directly to RFP requirements.

#### **3.4.2 ADDITIONAL REQUIRED TECHNICAL SUBMISSIONS**

The following documents shall be included in the Technical Proposal; each in its own Section:

1. Completed Bid/Proposal Affidavit
2. Completed Minority Business Participation Form - **Attachment D-1** (in a separately sealed envelope)
3. Conflict of Interest Affidavit and Disclosure - **Attachment I**

#### **3.4.3 TECHNICAL PROPOSAL ORDER**

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

##### **1. TITLE AND TABLE OF CONTENTS (1-2 PAGES)**

The Technical Proposal should begin with a title page bearing the name and address of the Offeror and the name and number of this RFP. A table of contents shall follow the title page for the Technical Proposal organized by Section, subsection and page number.

## **2. CLAIM OF CONFIDENTIALITY**

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.

## **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 RFP.

## **4. EXECUTIVE SUMMARY (3-5 PAGES)**

Offerors shall condense and highlight the contents of the technical proposal in a separate section titled "Executive Summary". Offerors shall clearly demonstrate an understanding of the health reform objectives and goals of the State of Maryland and of MHBE as well as an understanding of the Scope of Work. This section should also include an analysis of the effort and resources that will be needed to realize these objectives and goals along with attaining objectives in timeframe shown.

## **5. PROPOSED WORK PLAN (4-6 PAGES)**

Offeror shall give a definitive description of the proposed plan to meet the requirements defined in this RFP, i.e., a Work Plan. It shall include the specific methodology and techniques to be used by Offerors in providing the required services as outlined in the RFP. The description shall include an outline of the overall management concepts employed by the Offeror and a project management plan, including project control mechanisms and overall timelines in completing all of the requirements associated with this RFP. Product deadlines considered contract deliverables must be recognized in the Work Plan. Offeror's Project Plan must include the following:

- a. Key tasks for the entire project - set-up to completion.
- b. Estimated duration (start date and completion date) for each task.
- c. Names of resource(s) to complete each task.
- d. Identification of key dependencies between tasks.
- e. Resources required from management, employees and operational groups.
- f. Staffing Plans

## **6. CORPORATE QUALIFICATIONS AND CAPABILITIES (8-10 PAGES)**

Offerors shall include information on past corporate experience with similar projects and/or services. Offerors shall describe how their organization can meet the requirements of this RFP and shall include the following:

- a. An overview of the Offeror's experience and capabilities providing similar services. This description shall include:
  - i. The number of years the Offeror has provided these services
  - ii. The number of consumers and geographic locations that the Offeror currently serves
  - iii. Offeror's recognition of and compliance with licensure or certification requirements as a corporate entity
- b. The names and titles of key management personnel directly involved with supervising the services rendered under this Contract.
- c. At least three references from customers who are capable of documenting the Offeror's ability to provide the services specified in this RFP. Each reference shall be from a client for whom the Offeror provided service within the past five years and shall include the following information:
  - i. Name of client organization
  - ii. Name, title, telephone number and e-mail address, if available, of point of contact for client organization
  - iii. Value, type, duration, and services provided

**MHBE reserves the right to request additional references or use references not provided by an Offeror.**

- d. Offerors must include in their proposal a commonly accepted method to prove its fiscal integrity. Some acceptable methods include but are not limited to one or more of the following:
  - i. Dunn and Bradstreet Rating
  - ii. Standard and Poor's Rating
  - iii. Recently audited (or best available) financial statements
  - iv. Lines of credit
  - v. Evidence of a successful financial track record
  - vi. Evidence of adequate working capital
- e. The Offeror's process for resolving billing errors.

- f. A corporate organizational chart that identifies the complete structure of the company including any parent company, headquarters, regional offices or subsidiaries of the Offeror.
  
- g. A complete list of any subcontractors other than those used to meet a Minority Business Enterprise subcontracting goal. This list shall include a full description of the duties each subcontractor will perform and why/how they were deemed the most qualified for this project.
  
- h. A Legal Action Summary. This summary shall include:
  - i. A statement as to whether there are any outstanding legal actions or potential claims against the Offeror and a brief description of any action.
  - ii. A brief description of any settled or closed legal actions or claims against the Offeror over the past five (5) years.
  - iii. A description of any judgments against the Offeror within the past five (5) years, including the case name, number court, and what the final ruling or determination was from the court.
  - iv. In instances where litigation is on-going and the Offeror has been directed not to disclose information by the court, provide the name of the judge and location of the court.
  - v. Describe how the Offeror is configured managerially, financially, and individually so as to afford the assurance that it can execute a contract successfully.
  
- i. Past State Experience: As part of its offer, each Offeror is to provide a list of all contracts with any entity of the State of Maryland that it is currently performing or that have been completed within the last five years. For each identified contract the Offeror is to provide:
  - i. The State contracting entity
  - ii. A brief description of the services/goods provided
  - iii. The dollar value of the contract
  - iv. The term of the contract
  - v. The State employee contact person (name, title, telephone number and if possible e-mail address)

- vi. Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised.

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

## **7. EXPERIENCE AND QUALIFICATIONS OF PROPOSED STAFF (2-3 PAGES + RESUMES & ORGANIZATIONAL CHART)**

Offerors shall describe in detail how the proposed staff's experience and qualifications relate to their specific responsibilities as detailed in the Work Plan. Include individual resumes for the key personnel who are to be assigned to the project if the Offeror is awarded the contract.

Each resume should include the amount of experience the individual has had relative to the work called for in this solicitation.

Letters of intended commitment to work on the project, including from non-Minority Business Enterprise subcontractors should be included in this section.

Offerors are required to provide an Organizational Chart outlining personnel and their related duties. Include job titles and the percentage of time each individual will spend on their assigned tasks. Offerors using job titles other than those commonly used by industry must provide a crosswalk.

## **8. OFFEROR TECHNICAL RESPONSE TO RFP REQUIREMENTS**

If MHBE is seeking Offeror agreement to a requirement(s), Offerors shall state agreement or disagreement. Offerors shall address each major section in their technical proposals and describe how their proposed services will meet the requirement(s). Any paragraph in the technical proposal that responds to a work requirement shall include an explanation of how the work will be done. Offerors must bear in mind that any exception to a requirement, term or condition may result in having their proposal deemed unacceptable or classified as not reasonably susceptible of being eligible for acceptance



## **9. CERTIFICATE OF INSURANCE**

The Offeror shall provide a copy of the Offeror's current certificate(s) of insurance with the prescribed limits set forth in Section 1.40.

## **10. ADDITIONAL ECONOMIC BENEFITS (1 PAGE)**

The Offeror shall describe the benefits that will accrue to the State economy as a direct or indirect result of the Offeror's performance of the Contract resulting from this RFP. The Offeror will take into consideration the following elements: (do not include any detail of the Financial Proposals with this technical information):

- a. The estimated percentage of Contract dollars to be recycled into Maryland's economy in support of the Contract, through the use of Maryland subcontractors, Offerors and joint venture partners. Offerors should be as specific as possible and provide a percentage breakdown of expenditures in this category.
- b. The estimated number and types of jobs for Maryland residents resulting from this Contract. Indicate job classifications, number of employees in each classification, and the aggregate Maryland payroll percentages to which the Contractor has committed at both prime and, if applicable, subcontract levels.
- c. The estimated percentage of subcontract dollars committed to Maryland small businesses and MBEs.

## **11. TRAINING AND EDUCATION SERVICES CAPABILITIES RESPONSES (20-25 PAGES + ANY APPENDICES)**

The Proposal should address the following questions by referencing the question number followed by the response. If a similar response is provided in another section of the Proposal the Proposer may reference that section and repeat the response.

### **General**

In this section of the response the Evaluation Committee is particularly interested in the Offeror's background, public program experience, and record of success developing operating training curriculum and delivery programs for consumer assistance programs similar to those served by the MHBE. All charts, forms, statements, etc. should be included in the appendix and should not be included in the 20-25 page count maximum.

1. Provide a brief overview of your company (relevant points include: business philosophy, mission statement, management structure, organization chart, relevant experience, values, key consumers, industries addressed, etc.).
2. Describe your firm's top three strategic objectives.
3. Describe your organizations values and culture. Describe how this will benefit the MHBE.
4. Describe the different service lines within your company, including specialty/third party alliances.
5. Describe how the different practices are aligned within the organization.
6. Provide the current number of health care and insurance clients to whom you provide training/education services similar to those in this RFP.
7. Detail your experience with federal and state health care government contracts, and the number of years that you have provided such services.
8. Provide the percentage of overall company activity that is devoted to health care.
9. List your three (3) largest competitors and what it is that differentiates you from them.
10. Has your company received any special industry awards or certificates of achievement that correlate to the proposed work in the RFP?
11. How many permanent employees does your company employ?
12. What percentage of your company are employed as a percentage of your total workforce on the following basis:
  - Permanent employees.
  - Direct contract.
  - Agency contract.
13. Describe your current or proposed training center locations in Maryland.
14. Describe your company's insurance coverage. Indicate your willingness to include as a named insured. Are employees bonded?
15. Describe the training in the health care industry in general and to other health exchange type programs in particular in the past three years:
  - Specific to eligibility and subsidy determination, coverage types, benefits & services inquiries
  - Specific to operating procedures of Health Plans
  - Specific to public assistance programs
  - Specific to interactions with Health Care providers
  - Cite any experience with billing and collection training you have delivered and current programs that include provision of these functions.

16. Describe your approach, methodologies, and capabilities for developing training content and documentation.
17. Describe your approach to hiring specialized language skills.
18. Describe your “train the trainer” methodology.
19. Describe how trainings will be delivered in a culturally competent manner taking into consideration the anticipated characteristics of the anticipated trainees and the populations receiving services.
20. Describe your previous experience promoting, arranging and managing conference-style training.
21. Describe how trainers will be selected and secured; provide selection criteria and a sample contract.
22. Describe your relationships with subcontractors and MBEs and what elements of the scope of work they will provide.
23. Describe your relationships with or recommendations of training facilities and a list of potential training facilities and they services they provide as well as their compliance with ADA.

### **3.5 VOLUME II – FINANCIAL PROPOSAL**

Under separate sealed cover from the Technical Proposal and clearly identified in the format requirements identified in Section 3.2, the Offeror shall submit an original unbound copy, five (5) copies, and an electronic version in Word (Version 2007 or newer) of the Financial Proposal. The Financial Proposal shall contain all price information in the format specified in Attachment 1. Complete the price sheets only as provided in the Financial Proposal Instructions. Offeror(s) are to propose a Firm-Fixed-Price (FFP) per the pricing schedules included in Attachment 1. The Offeror shall provide prices in Attachment 1 based upon the information set forth in the RFP.

## **SECTION 4      EVALUATION CRITERIA & SELECTION PROCEDURE**

### **4.1 EVALUATION CRITERIA**

The evaluation of proposals will be based on the criteria set forth below.

Award shall be made in the best interest of the MHBE as determined by the Evaluation Committee. Consideration will focus toward, but is not limited to:

1. Understanding of the scope of the project for the Maryland Health Benefit Exchange;
2. Experience developing training curriculum for health insurance programs with multiple learners;
3. Corporate experience in the health insurance space, knowledge of the health insurance market and knowledge of health care reform;
4. Qualifications of proposed curriculum development and training staff;
5. References of current clients;
6. Adequacy and completeness of proposal;
7. Compliance with the terms and conditions of the RFP including response format as required by this RFP; and
8. Attainment of Offeror minimum specifications.

### **4.2 BEST AND FINAL OFFERS (BAFO)**

The Evaluation Committee reserves the right to request information from Offerors as needed. If information is requested, the Committee is not required to request the information of all Offerors.

Offerors selected to participate in BAFO may be given an opportunity to submit a revised technical and / or cost proposal / offer to the Evaluation Committee, subject to a specified cut-off time for submittal of revisions.

In the event that the Proposer is notified by the Committee that the Proposer has been selected for Orals and/or a site visit, Proposer agrees that MHBE shall retain possession of any and all materials, in any form, provided by the Proposer during these presentations.

No additional revisions shall be made after the specified cut-off time unless requested by the Committee.

#### **4.2.1 FINANCIAL CRITERIA**

All qualified Offerors will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on their total price proposed within the stated guidelines (as submitted on Attachment 1—Financial Proposal Form).

## **4.3 EVALUATION PROCESS**

### **4.3.1 IN GENERAL**

The Contract will be awarded in accordance with the competitive sealed proposals process found at PPP § II.B. The competitive sealed proposals method allows for discussions and revision of proposals during these discussions; thus, MHBE may hold discussions with all Offerors judged reasonably susceptible of being selected for award, or potentially so. However, MHBE also reserves the right to make an award without holding discussions.

In either case, MHBE may determine an Offeror to be not responsive 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 MHBE finds an Offeror to be not responsive and/or an Offeror's technical proposal to be not reasonably susceptible of being selected for award that Offeror's financial proposal will be returned if still unopened.

Proposals are usually evaluated by a committee, which then makes a recommendation for award. However, the Procurement Officer may evaluate proposals without a committee and recommend an Offeror for award. In either case, award will be made as set forth in PPP § III.

### **4.3.2 SELECTION PROCESS SEQUENCE**

A determination is made that MBE form D-1 is included and is properly completed.

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 MHBE's requirements and the Offeror's ability to perform and to facilitate arrival at a Contract that is most advantageous to MHBE. For scheduling purposes, Offerors should be prepared to make an oral presentation and participate in discussions within two to three weeks of the delivery of proposals to MHBE. Qualified Offerors will be contacted by MHBE as soon as discussions are scheduled.

Offerors must confirm in writing any substantive oral clarification of, or change in, their proposals made in the course of discussions. Any such written clarification or change then becomes part of the Offeror's proposal. Proposals are given a final review and ranked.

The financial proposal of each qualified Offeror will be evaluated separately from the technical evaluation. After a review of the financial proposals of qualified Offerors, the evaluation committee or Procurement Officer may require further discussions to evaluate the Offeror's entire proposal.

When in the best interest of MHBE, the Procurement Officer may permit Offerors who have submitted acceptable proposals to revise their initial

proposals and submit, in writing, best and final offers (BAFOs). However, MHBE may make an award without issuing a BAFO.

#### 4.3.3 AWARD DETERMINATION

Upon completion of all discussions and negotiations, reference checks, and site visits (if any), the Procurement Officer will recommend award of the Contract to the responsible Offeror(s) whose proposal(s) is determined to be the most advantageous to MHBE considering technical evaluation factors and price factors as set forth in this RFP.

## **SECTION 5      ATTACHMENTS**

**ATTACHMENT A –STANDARD CONTRACT.** This is the contract used by Exchange. It is provided with the RFP for informational purposes and is not required at proposal submission time. Upon notification of recommendation for award, a completed contract will be sent to the selected Offeror for signature.

### **ATTACHMENT B – BID/PROPOSAL AFFIDAVIT**

This form must be completed and submitted with the Offeror's technical proposal.

**ATTACHMENT C – CONTRACT AFFIDAVIT** This form is not required at proposal submission time. It must be submitted by the selected Offeror to the Procurement Officer with the Standard Contract (see **Attachment A**).

**ATTACHMENT D – MINORITY BUSINESS ENTERPRISE GOAL AND FORMS** This attachment includes the subcontracting goal statement, instructions and MBE forms D-1 through D-6. Form D-1 must be completed and submitted with the Offeror's technical proposal in a separately sealed envelope. Forms D-2 & D-3 are required within 10 days of receiving notification of recommendation for award.

### **ATTACHMENT E – BIDDERS CONFERENCE INTENT TO PARTICIPATE**

### **ATTACHMENT H – FEDERAL FUNDING REQUIREMENTS AND CERTIFICATIONS**

Certifications must be completed and submitted with the Technical Proposal.

**ATTACHMENT I – CONFLICT OF INTEREST AFFIDAVIT** This document must be completed and submitted with the Technical Proposal.

**ATTACHMENT J – BUSINESS ASSOCIATE AGREEMENT FORM (HIPAA)** This document must be completed and submitted within ten (10) working days after notification of award or award of contract, whichever is earlier.

### **ATTACHMENT J1 – BREACH OF UNSECURED PROTECTED HEALTH INFORMATION**

This document must be completed and submitted only in the event of a breach.

### **ATTACHMENT K— NON-DISCLOSURE AGREEMENT (AWARD)**

This form is to be submitted after receiving notification of award.

**ATTACHMENT 1 –FINANCIAL PROPOSAL INSTRUCTIONS AND FORMS** Financial Proposal forms must be completed and submitted with the Financial Proposal (see Instructions in Attachment 1).

## ATTACHMENT A – STANDARD CONTRACT

THIS CONTRACT (the “Contract”) is made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by and between \_\_\_\_\_ (the “Contractor”) and the STATE OF MARYLAND, acting through the MARYLAND HEALTH BENEFIT EXCHANGE (the “Exchange”).

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

### 1. Definitions

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

- 1.1 “COMAR” means Code of Maryland Regulations.
- 1.2 “Contract Monitor” means the individual identified in sub-section 1.4 of the RFP.
- 1.3 “Contractor” means \_\_\_\_\_ whose principal business address is \_\_\_\_\_ and whose principal office in Maryland is \_\_\_\_\_.
- 1.4 “Exchange” means the Maryland Health Benefit Exchange.
- 1.5 “Financial Proposal” means the Contractor’s Financial Proposal dated \_\_\_\_\_.
- 1.6 “PPP” means the Procurement Policies and Procedures of MHBE.
- 1.7 “Procurement Officer” means the individual identified in sub-section 1.3 of the RFP.
- 1.8 “RFP” means the Request for Proposals titled \_\_\_\_\_, Solicitation # Exchange \_\_\_\_\_ -- \_\_\_\_\_, and any addenda thereto issued in writing by the State.
- 1.9 “State” means the State of Maryland and includes the Maryland Health Benefit Exchange.
- 1.10 “Technical Proposal” means the Contractor’s Technical Proposal, dated \_\_\_\_\_.

### 2. Scope of Work

- 2.1 The Contractor shall provide all deliverables as defined in the Section 2 of the RFP, as well as all work requested pursuant to any optional task orders (TOs) as described in Section 2.4 of the RFP. These services shall be provided in accordance with the terms and conditions of this Contract and the following Exhibits, which are attached hereto and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:



Exhibit A – The RFP

Exhibit B – The Technical Proposal

Exhibit C – The Financial Proposal

Exhibit D - State Contract Affidavit, executed by the Contractor and dated\_\_\_\_\_.

In the event that a Task Order Agreement is entered into by the parties and if there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision: 1) the RFP; 2) the TO Agreement; 3) the Technical Proposal; 4) the Financial Proposal; and 5) the State Contract Affidavit, executed by the Contractor and dated \_\_\_\_\_.

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

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

The Contract resulting from this RFP shall be for a period of one (1) year beginning on \_\_\_\_\_ and ending on \_\_\_\_\_. At the sole option of MHBE, the contract period may be renewed for one (1) year. The Contractor shall provide services upon receipt of official notification of award.

### **4. Consideration and Payment**

- 4.1 In consideration of the satisfactory performance of the work set forth in this Contract, MHBE shall pay the Contractor in accordance with the terms of this Contract and the Contractor's response to **Attachment 1**, Contractor's Financial Proposal. Except with the express written consent of the Procurement Officer, payment to the Contractor, pursuant to this Contract, shall not exceed the total firm fixed price proposed in the Contractor's financial proposal.

- 4.2 Payments to the Contractor pursuant to this Contract shall be made after the State's receipt of a proper invoice from the Contractor for completed services rendered by the Contractor, acceptance by MHBE of completed services provided by the Contractor, and no later than thirty (30) days after the State receives its funding or draw down amounts from the applicable federal agencies or grants. No late charges or interest shall accrue or be paid for any actual or alleged late payments by the State.

For purposes of this Contract, an invoice shall not be considered proper unless the following conditions have been met:

- a. The amount invoiced is consistent with the amount agreed upon by the parties to the contract.
- b. The goods or services have been received by the State and the quantity received agrees with the quantity ordered.
- c. The goods or services meet the qualitative requirements of the contract and have been accepted by the State.
- d. The invoice has been received by the party specified in the contract.
- e. The invoice is not in dispute.
- f. If the contract provides for progress payments, the proper invoice for the progress payment has been submitted pursuant to the schedule contained in the contract.
- g. If the contract provides for withholding a retainage and the invoice is for the retainage, all stipulated conditions for release of the retainage have been met.

Each invoice for services rendered must include the Contractor's Federal Tax Identification Number which is \_\_\_\_\_. Invoices shall be submitted to the Contract Monitor. Electronic funds transfer shall be used by the State to pay Contractor pursuant to this Contract and any other State payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.

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

- 4.4 Contractor's eMaryland Marketplace Offeror ID number is\_\_\_\_\_.

## **5. Exclusive Use**

The State shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any

purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract.

## **6. Public Information**

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 that the data may be collected, used, disclosed, stored and disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that: (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

## **7. Loss of Data**

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

## **8. Indemnification**

- 8.1 The Contractor shall hold harmless and indemnify the State from and against any and all losses, damages, claims, suits, actions, liabilities and/or expenses, including, without limitation, attorneys' fees and disbursements of any character that arise from, are in connection with or are attributable to the performance or nonperformance of the Contractor or its subcontractors under this Contract.
- 8.2 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.

- 8.3 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.
- 8.4 The Contractor shall immediately notify the Procurement Officer of any claim, suit, or action made or filed against the Contractor or its subcontractors regarding any matter resulting from, or relating to, the Contractor's obligations under the Contract. In the event that a claim, suit or action is made or filed against the State as a result of or relating to the Contractor's performance under this Contract, the Contractor agrees to assume the defense of any and all such suits and pay the costs and expenses incidental hereto, subject to the right of the State to provide additional legal counsel at the State's own expense. This section shall survive expiration of this Contract.

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

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

## **10. Disputes**

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.

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 sixty (60) days after filing the notice of claim, the Contractor shall submit the written claim to the procurement officer. 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.

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

Within thirty (30) days of receipt of the final decision of the procurement officer, the Contractor may file an appeal to the Executive Director of MHBE for claims for monetary amounts up to \$75,000 and to the Board of Trustees for either claims for monetary amounts over \$75,000 or for claims involving non-monetary relief. If submitted to the Executive Director, a final decision resolving the appeal will be issued by the Executive Director. If submitted to the Board of Trustees, the Board of Trustees may determine that a hearing would assist in the resolution of any appeal. The Board of Trustees may elect to hold the hearing itself or may refer the matter for a hearing to a panel consisting of two or more members of the Board of Trustees or may refer the matter to a neutral decision maker. A final decision resolving the appeal will be issued by a vote of the Board of Trustees. 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.

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

Nothing in this section shall be construed to limit 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.

## **11. Maryland Law**

- 11.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.
- 11.2 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. Md. Code Ann., Commercial Law Article, Title 2, Sale of goods, does not apply to this Contract or to any purchase order or Notice to Proceed issued under this Contract.
- 11.3 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.

## **12. Nondiscrimination in Employment**

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

### **13. 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.

### **14. Non-availability of Funding**

If the General Assembly fails to appropriate funds or if funds are not otherwise made available (including funds which may be received by the federal government) 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.

### **15. 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 on the same terms as those set forth in COMAR 21.07.01.11B.

### **16. 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 on the same terms as those set forth in COMAR 21.07.01.12A(2).

#### **17. Delays and Extensions of Time**

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

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

#### **18. Suspension of Work**

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

#### **19. 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 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.

#### **20. Political Contribution Disclosure**

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

lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

## **21. Documents Retention and Inspection Clause**

- 21.1 All of the services performed by the Contractor relating to the subject of this Contract are subject to the review, inspection and approval of the State and, therefore, any and all written and electronic documents and records, including, but not exclusively limited to, any books, papers, notes, files, records, memos, drafts, findings, draft reports, and reports related to such services shall be subject to the inspection and approval of the State. The Contractor shall furnish all documents and additional information requested by the State to the State and grant to the State's duly authorized representatives free access to any documents at all reasonable times, upon three (3) days' notice to the Contractor. At the State's request, the Contractor shall provide the State with certified copies of documents in the possession or control of the Contractor. The documents may be provided in an electronic format that is acceptable to the State.
- 21.2 The Contractor agrees that all documents shall remain the property of the State and all documents retained by the Contractor are retained on behalf of the State. During the document retention period, the Contractor shall maintain all documents in its possession in the office or facility closest to MHBE's office that is appropriate for the retention of documents. After or during the document retention period or upon completion of the services provided in accordance with this Contract and any regulatory or legal proceeding associated with the services provided, the State may take possession of any original documents retained by the Contractor and the Contractor shall submit such documents to the State in accordance with the State's direction. The Contractor may retain photocopies of the original documents and may retain any original documents the State does not wish to possess. All such materials are to be kept confidential and in a secure location.
- 21.3 The Contractor agrees to maintain all documents as confidential information owned by the State. The Contractor shall only disclose documents to its own employees as necessary to perform services under the Contract and to the State unless permitted, in writing, by the State to do otherwise.
- 21.4 The Contractor agrees to take all reasonable steps necessary to safeguard the documents, or other information from loss, destruction, unauthorized disclosure or erasure during the course of the Contract and the document retention period.
- 21.5 The Contractor and sub-contractors shall retain and maintain all records and documents relating to this contract for a period of five (5) years after final payment by the State hereunder, a longer period which may be set forth in the



solicitation, or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the procurement officer or designee, at all reasonable times.

- 21.6 The Contractor further agrees and acknowledges that certain federal laws and regulations may be applicable to this Contract. In addition to the requirements below, the Contractor agrees that federal agency representatives shall be granted access to the Contractor's contract, books, documents, and records necessary to verify the cost of the services provided under this contract, until the expiration of five (5) years after the services are furnished under this contract or such time as may be set forth in any applicable regulations, whichever is longer. Similar access will be allowed to the books, documents and records of any organization related to the Contractor or controlled by the Contractor, including subcontractors.

## **22. Compliance with Laws**

The Contractor hereby represents and warrants that:

- a. 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;
- b. 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;
- c. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and,
- d. 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.

The Contractor further agrees that it shall comply with all applicable State and Federal laws and regulations, as they may be amended from time to time, which may be necessary to provide the services set forth in the solicitation.

## **23. Cost and Price Certification**

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

The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases

occurring because the Contractor furnished cost or price information which, as of the date of its bid or offer, was inaccurate, incomplete, or not current.

#### **24. Subcontracting; Assignment**

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of MHBE's Contract Monitor, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of MHBE's Contract Monitor. Any subcontracts shall include such language as may be required in various clauses contained within this solicitation 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.

All software licenses, and all property of any kind, created or transferred by the Contractor pursuant to this Contract shall be issued in the names of, and held by, MHBE and the State of Maryland. MHBE and the State of Maryland shall have the right to transfer, assign, or allow the use of, any or all of its rights in any software licenses or property.

#### **25. Liability**

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

- a. Without limitation for damages for bodily injury (including death), damage to real property and tangible personal property, loss of data, and data breaches;
- b. For all other claims, damages, losses, costs, expenses, suits or actions in any way related to this Contract, regardless of the form, Contractor's liability per claim shall be limited to two (2) times the total dollar value of the Contract out of which it arises. Third party claims, arising under Section 10, "Indemnification," of this Contract, are included in this limitation of liability only if the State and MHBE are immune from liability. Contractor's liability for third party claims arising under Section 10 of this Contract shall be unlimited if the State and MHBE are not immune from liability for claims arising under Section 10.

#### **26. Parent Company Guarantee (If Applicable)**

(Corporate name of Parent Company) hereby guarantees absolutely the full, prompt and complete performance by (Contractor) of all the terms, conditions and obligations contained in this Contract, as it may be amended from time to time, including any and all exhibits that are now or may become incorporated hereunto, and other obligations of every nature and kind that now or may in the future arise out of or in connection with this Contract, including any and all financial commitments, obligations and liabilities. (Corporate name of Parent Company \_\_\_\_\_) may not transfer this absolute guaranty to any other person or entity without the prior express written approval of the State, which

approval the State may grant, withhold, or qualify in its sole and absolute subjective discretion. (Corporate name of Parent Company\_\_\_\_\_) further agrees that if the State brings any claim, action, suit or proceeding against (Contractor\_\_\_\_\_), (Corporate name of Parent Company\_\_\_\_\_) may be named as a party, in its capacity as Absolute Guarantor.

## **27. Liquidated Damages**

Timelines, deliverable due dates, and service levels are essential and material elements of this contract. It is important that the work be vigorously prosecuted until completion, that the deliverables are timely delivered, and that the service levels meet the metrics and requirements described in the solicitation. The parties acknowledge that if the Contractor fails to meet these essential and material elements of this contract, the State will sustain damages. Actual damages may be extremely difficult and impractical to determine. Therefore, the State may elect to assess, as liquidated damages, and not as a penalty, the amounts as set forth in solicitation and under the conditions set forth in the solicitation and in this Contract. If the State elects not to assess liquidated damages, actual damages shall be assessed.

For each day that any work shall remain uncompleted beyond the time(s) specified elsewhere in the Contract (including dates for deliverables, milestones, and completion), the Contractor shall be liable for liquidated damages in the amount(s) set forth in the solicitation, provided, however, that due account shall be taken of any adjustment of specified completion time(s) for completion of work as granted by approved change order.

Prior to and after the contract completion date, the State may withhold an amount equal to any assessed liquidated damages from the payment of any invoice otherwise due and owing to the Contractor and/or may make an affirmative claim for liquidated damages. No delay by the State in assessing or collecting liquidated damages shall be construed as a waiver of such rights.

## **28. Inspection**

MHBE Contract Monitor, employees, agents, or representatives shall, at all times, have the right to enter the Contractor's premises, or any other places, where the services are being performed, and shall have access, upon request, to interim drafts of deliverables or work in progress. . Any expenses incurred by State personnel or representatives for on-site inspections shall be borne by MHBE.

## **29. Commercial Non-Discrimination**

29.1 As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described at Md. Code Ann., State Finance and Procurement Article, Title 19. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors,

Offerors, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, Offerors, and Offerors 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.

- 29.2 The Contractor shall include the above Commercial Nondiscrimination clause, or similar clause approved by the State's Department of Budget and Management, in all subcontracts.
- 29.3 As a condition of entering into this Contract, upon the Maryland Human Relations Commission's request, 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 60 days after the request a complete list of the names of all subcontractors, Offerors, and Contractor has used in the past 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 in 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.

### **30. Prompt Pay Requirements**

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

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

- a. Not process further payments to the Contractor until payment to the subcontractor is verified;
- b. Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
- c. Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;

- d. Place a payment for an undisputed amount in an interest-bearing escrow account; or
  - e. Take other or further actions as appropriate to resolve the withheld payment.
- 30.2 An “undisputed amount” means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute. Such “undisputed amounts” include, without limitation:
  - a. Retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor; and
  - b. An amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
- 30.3 An act, failure to act, or decision of a Procurement Officer or a representative of the Exchange, concerning a withheld payment between the Contractor and a subcontractor under this provision, may not:
  - a. Affect the rights of the contracting parties under any other provision of law;
  - b. Be used as evidence on the merits of a dispute between MHBE and the Contractor in any other proceeding; or
  - c. Result in liability against or prejudice the rights of the State.
- 30.4 The remedies enumerated above are in addition to those which may be provided by any applicable law or regulations with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise program.
- 30.5 To ensure compliance with certified MBE subcontract participation goals, MHBE may take the following measures:
  - a. Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule.
  - b. This verification may include, as appropriate:
    - i. Inspecting any relevant records of the Contractor;
    - ii. Inspecting the jobsite; and

- iii. Interviewing subcontractors and workers.
- iv. Verification shall include a review of:
  - (a) The Contractor's monthly report listing unpaid invoices over 30 days old from certified MBE subcontractors and the reason for nonpayment; and
  - (b) The monthly report of each certified MBE subcontractor, which lists payments received from the Contractor in the preceding 30 days and invoices for which the subcontractor has not been paid.
- c. If MHBE determines that the Contractor is in noncompliance with certified MBE participation goals, then MHBE will notify the Contractor in writing of its findings, and will require the Contractor to take appropriate corrective action. Corrective action may include, but is not limited to, requiring the Contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.
- d. If MHBE determines that the Contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that MHBE requires, MHBE may then:
  - i. Terminate the contract;
  - ii. Refer the matter to the Office of the Attorney General for appropriate action; or
  - iii. Initiate any other specific remedy identified by the contract, including the contractual remedies required by this Directive regarding the payment of undisputed amounts.
- e. Upon completion of the Contract, but before final payment or release of retainage or both, the Contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

### **31. Administrative**

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

31.2 Notices. All notices, excluding claims or disputes, are to be sent as follows:

**Contract Monitor:**

**Danielle Davis  
Director of Communications  
Maryland Health Benefit Exchange**

**750 E. Pratt Street, 16<sup>th</sup> Floor  
Baltimore, Maryland 21202  
Office Phone: (410) 547- 1272**

31.3 As required in paragraph 10 of this **Attachment A**, notice of claims or disputes are to be sent to the Procurement Officer identified in Section 1, sub-section 1.3 of this RFP. Such notices shall be in writing and either delivered personally or sent by certified or registered mail, postage prepaid.

31.4 Incorporation by Reference

This contract, identified as **Attachment A**, consists of the entire RFP document Training Curriculum & Devlery and all parts comprising the RFP, including all Exhibits, Appendices, Attachments, and Addenda, and the successful Offeror's entire final proposal including both the financial and the technical elements dated \_\_\_\_\_ (technical element) and \_\_\_\_\_ (financial element), which are incorporated into this contract by reference.

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

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

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

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

32.2 Based on the determination by MHBE that the functions to be performed in accordance with the Services to Be Performed set forth in Part I constitute business associate functions as defined in HIPAA, the selected Offeror shall

execute a business associate agreement as required by HIPAA regulations at 45 CFR §164.501. The fully executed business associate agreement must be submitted within 10 working days after notification of selection, or within 10 days after award, whichever is earlier. Upon expiration of the ten-day submission period, if MHBE determines that the selected Offeror has not provided the HIPAA agreement required by this solicitation, the Procurement Officer, upon review of the Office of the Attorney General and approval of the Secretary, may withdraw the recommendation for award and make the award to the next qualified Offeror.

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

### **33. Limited English Proficiency**

The Contractor shall provide equal access to public services to individuals with limited English proficiency in compliance with Md. Code Ann., State Gov't Article, §§ 10-1101 et seq., and Policy Guidance issued by the Office of Civil Rights, Department of Health and Human Services, and DHMH Policy 02.06.07.

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

FOR THE CONTRACTOR

By:

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

Date

FOR THE MARYLAND HEALTH BENEFIT  
EXCHANGE

By: Rebecca Pearce, Executive Director

Or designee:

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

Date

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

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



APPROVED BY EXCHANGE BOARD OF TRUSTEES:

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Item #)

## **ATTACHMENT B – BID/ PROPOSAL AFFIDAVIT**

### **A. AUTHORITY**

I HEREBY AFFIRM THAT:

I, \_\_\_\_\_ (print name), possess the legal authority to make this Affidavit.

### **B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION**

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals submitted from qualified, potential subcontractors and Offerors, 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 an Offeror, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics regarding the Offeror's, Offeror'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 submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder 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 discriminated against subcontractors, Offerors, Offerors, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder 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 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 or 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 or 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 or 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 submitted by the bidder on this project, and terminate any contract awarded based on the bid.

### **C. AFFIRMATION REGARDING BRIBERY CONVICTIONS**

I FURTHER AFFIRM THAT:

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

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## **D. AFFIRMATION REGARDING OTHER CONVICTIONS**

I FURTHER AFFIRM THAT:

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

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

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

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

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

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

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

(9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B and C and subsections D(1)—(8) above, except as follows (indicate reasons why the affirmations cannot be given, and

list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

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## **E. AFFIRMATION REGARDING DEBARMENT**

I FURTHER AFFIRM THAT:

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

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

I FURTHER AFFIRM THAT:

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

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

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## **G. SUB-CONTRACT AFFIRMATION**

I FURTHER AFFIRM THAT:

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

## **H. AFFIRMATION REGARDING COLLUSION**

I FURTHER AFFIRM THAT:

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

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

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

## **I. 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. ACKNOWLEDGEMENT**

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

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

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

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

(Print name of Authorized Representative and Affiant)

\_\_\_\_\_

(Signature of Authorized Representative and Affiant)

Revised August, 2011



<b>ATTACHMENT C – CONTRACT AFFIDAVIT</b>
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**A. AUTHORITY**

I HEREBY AFFIRM THAT:

I, \_\_\_\_\_  
(Print name), possess the legal authority to make this Affidavit.

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

I FURTHER AFFIRM THAT:

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

- (1) Corporation — ☐ domestic or ☐ foreign;
- (2) Limited Liability Company — ☐ domestic or ☐ foreign;
- (3) Partnership — ☐ domestic or ☐ foreign;
- (4) Statutory Trust — ☐ domestic or ☐ foreign;
- (5) ☐ Sole Proprietorship.

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

Name and Department ID

Number: \_\_\_\_\_

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

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

Name and Department ID

Number: \_\_\_\_\_

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

### **C. FINANCIAL DISCLOSURE AFFIRMATION**

I FURTHER AFFIRM THAT:

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

### **D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION**

I FURTHER AFFIRM THAT:

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

### **E. DRUG AND ALCOHOL FREE WORKPLACE**

I CERTIFY THAT:

- (1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.
- (2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:
  - (a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;
  - (b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;
  - (c) Prohibit its employees from working under the influence of drugs or alcohol;

(d) Not hire or assign to work on the contract anyone 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.

## **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 \_\_\_\_\_, 20\_\_\_\_, 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)

Revised August, 2011

## ATTACHMENT D – MINORITY BUSINESS ENTERPRISE GOAL AND FORMS

### Attachment D1

#### MDOT Certified MBE Utilization and Fair Solicitation Affidavit

*(Submit with bid or offer)*

This document **MUST BE** included with the bid or offer. If the Bidder or Offeror fails to complete and submit this form with the bid or offer as required, the procurement officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

In conjunction with the bid or offer submitted in response to Solicitation No. \_\_\_\_\_, I affirm the following:

1. ☐ I acknowledge and intend to meet the overall certified Minority Business Enterprise (MBE) participation goal of \_\_\_\_\_ percent and, if specified in the solicitation, the following subgoals (complete for only those subgoals that apply):  
\_\_\_\_\_ percent African American      \_\_\_\_\_ percent Asian American  
\_\_\_\_\_ percent Hispanic American      \_\_\_\_\_ Woman-Owned  
Therefore, I will not be seeking a waiver pursuant to COMAR 21.11.03.11.

### OR

- ☐ I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.03.11.
2. I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 working days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier.
- (a) Outreach Efforts Compliance Statement (Attachment D2)
  - (b) Subcontractor Project Participation Certification (Attachment D3)
  - (c) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain bidder or Offeror responsibility in connection with the certified MBE participation goal.

I understand that if I fail to return each completed document within the required time, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.

3. In the solicitation of subcontract quotations or offers, MBE subcontractors were provided not less than the same information and amount of time to respond as were non-MBE subcontractors.
4. Set forth below are the (i) certified MBEs I intend to use and (ii) the percentage of the total contract amount allocated to each MBE for this project and the work activity(ies) each MBE will provide under the contract. I hereby affirm that the MBE firms are only providing those work activities for which they are MDOT certified.

Prime Contractor: (Firm Name, Address, Phone)	Project Description:
Project Number:	

**List Information For Each Certified MBE Subcontractor On This Project**

Minority Firm Name	MBE Certification Number
FEIN Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	
Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	
Minority Firm Name	MBE Certification Number
FEIN Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	
Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	
Minority Firm Name	MBE Certification Number
FEIN Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	

Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	
Minority Firm Name	MBE Certification Number
FEIN	
Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	
Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	

Continue on a separate page, if needed.

## SUMMARY

Total African-American MBE Participation:	_____	%
Total Asian American MBE Participation:	_____	%
Total Hispanic American MBE Participation:	_____	%
Total Woman-Owned MBE Participation:	_____	%
Total Other Participation:	_____	%
<b>Total All MBE Participation:</b>	<b>_____</b>	<b>%</b>

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

\_\_\_\_\_  
 Bidder/Offeror Name

\_\_\_\_\_  
 Signature of Affiant  
*(PLEASE PRINT OR TYPE)*

Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL**

**Attachment D2  
Outreach Efforts Compliance Statement**

**Complete and submit this form within 10 working days of notification of apparent award or actual award, whichever is earlier.**

In conjunction with the bid or offer submitted in response to Solicitation No. \_\_\_\_\_, Bidder/Offeror states the following:

1. Bidder/Offeror identified opportunities to subcontract in these specific work categories.
2. Attached to this form are copies of written solicitations (with bidding instructions) used to solicit MDOT certified MBEs for these subcontract opportunities.
3. Bidder/Offeror made the following attempts to contact personally the solicited MDOT certified MBEs.
4. Select ONE of the following:
  - a. ☐ This project does not involve bonding requirements.
  - OR**
  - b. ☐ Bidder/Offeror assisted MDOT certified MBEs to fulfill or seek waiver of bonding requirements (*describe efforts*).
5. Select ONE of the following:
  - a. ☐ Bidder/Offeror did/did not attend the pre-bid/proposal conference.
  - OR**
  - b. ☐ No pre-bid/proposal conference was held.

By:

\_\_\_\_\_  
Bidder/Offeror Printed Name

\_\_\_\_\_  
Signature

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



### **Attachment D3**

### **Subcontractor Project Participation Certification**

*Please complete and submit one form for each MDOT certified MBE listed on  
Attachment A  
within 10 working days of notification of apparent award.*

\_\_\_\_\_ (prime contractor) has entered into a contract  
with \_\_\_\_\_ (subcontractor) to provide services in connection  
with the Solicitation described below.

Prime Contractor Address and Phone	Project Description
Project Number	Total Contract Amount \$
Minority Firm Name	MBE Certification Number
Work To Be Performed	
Percentage of Total Contract	

The undersigned Prime Contractor and Subcontractor hereby certify and agree that they have 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 or proposal and:

- (1) fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority business enterprise in its bid or proposal;
- (2) fail to notify the certified minority business enterprise before execution of the contract of its inclusion of the bid or 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 or proposal.

**PRIME CONTRACTOR SIGNATURE**

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

\_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Date

**SUBCONTRACTOR SIGNATURE**

By \_\_\_\_\_

\_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Date

This form is to be completed  
monthly by the prime  
contractor.

**Attachment D4**  
**Maryland Health Benefit Exchange**  
**Minority Business Enterprise Participation**  
**Prime Contractor Paid/Unpaid MBE Invoice Report**

<b>Report #:</b> _____  <b>Reporting Period (Month/Year):</b> _____  <b>Report is due to the MBE Officer by the 10<sup>th</sup> of the month following the month the services were provided.</b>  <b>Note: Please number reports in sequence</b>	<b>Contract #:</b> _____  <b>Contracting Unit:</b> _____  <b>Contract Amount:</b> _____  <b>MBE Subcontract Amt:</b> _____  <b>Project Begin Date:</b> _____  <b>Project End Date:</b> _____  <b>Services Provided:</b> _____  _____
--	--

<b>Prime Contractor:</b>		<b>Contact Person:</b>																										
<b>Address:</b>																												
<b>City:</b>		<b>State:</b>	<b>ZIP:</b>																									
<b>Phone:</b>	<b>FAX:</b>	<b>Email:</b>																										
<b>Subcontractor Name:</b>		<b>Contact Person:</b>																										
<b>Phone:</b>	<b>FAX:</b>																											
<b>Subcontractor Services Provided:</b>																												
<b>List all payments made to MBE subcontractor named above</b>  <b>during this reporting period:</b> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 40%; text-align: center;"><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1. <u>Invoice#</u></td><td></td></tr> <tr><td>2.</td><td></td></tr> <tr><td>3.</td><td></td></tr> <tr><td>4.</td><td></td></tr> </tbody> </table> <b>Total Dollars Paid: \$</b> _____			<u>Amount</u>	1. <u>Invoice#</u>		2.		3.		4.		<b>List dates and amounts of any outstanding invoices:</b>  <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 20%; text-align: center;"><u>Invoice #</u></th> <th style="width: 20%; text-align: center;"><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> </tbody> </table> <b>Total Dollars Unpaid:</b> <b>\$</b> _____			<u>Invoice #</u>	<u>Amount</u>	1.			2.			3.			4.		
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1. <u>Invoice#</u>																												
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	<u>Invoice #</u>	<u>Amount</u>																										
1.																												
2.																												
3.																												
4.																												

**\*\*If more than one MBE subcontractor is used for this contract, you must use separate D-5 forms.**

**\*\*Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):**

_____ Contract Monitor
_____ Contracting Unit
Department of Health and Mental Hygiene
_____
_____
_____
_____

This form must be completed by  
MBE subcontractor

**ATTACHMENT D5**  
**Minority Business Enterprise Participation**  
**Subcontractor Paid/Unpaid MBE Invoice Report**

<b>Report#:</b> _____  <b>Reporting Period (Month/Year):</b> _____  <b>Report is due by the 10<sup>th</sup> of the month following the month the services were performed.</b>	<b>Contract #</b> <b>Contracting Unit:</b> <b>MBE Subcontract Amount:</b> <b>Project Begin Date:</b> <b>Project End Date:</b> <b>Services Provided:</b>
---	--

<b>MBE Subcontractor Name:</b>																																
<b>MDOT Certification #:</b>																																
<b>Contact Person:</b>		<b>Email:</b>																														
<b>Address:</b>																																
<b>City:</b> Baltimore	<b>State:</b>	<b>ZIP:</b>																														
<b>Phone:</b>	<b>FAX:</b>																															
<b>Subcontractor Services Provided:</b>																																
<b>List all payments received from Prime Contractor during reporting period indicated above.</b>		<b>List dates and amounts of any unpaid invoices over 30 days old.</b>																														
<table style="width: 100%; border-collapse: collapse;"><thead><tr><th style="width: 5%;"></th><th style="width: 40%; text-align: center;"><u>Invoice Amt</u></th><th style="width: 55%; text-align: center;"><u>Date</u></th></tr></thead><tbody><tr><td>1.</td><td></td><td></td></tr><tr><td>2.</td><td></td><td></td></tr><tr><td>3.</td><td></td><td></td></tr><tr><td colspan="3" style="padding-top: 10px;"><b>Total Dollars Paid: \$</b> _____</td></tr></tbody></table>			<u>Invoice Amt</u>	<u>Date</u>	1.			2.			3.			<b>Total Dollars Paid: \$</b> _____			<table style="width: 100%; border-collapse: collapse;"><thead><tr><th style="width: 5%;"></th><th style="width: 40%; text-align: center;"><u>Invoice Amt</u></th><th style="width: 55%; text-align: center;"><u>Date</u></th></tr></thead><tbody><tr><td>1.</td><td></td><td></td></tr><tr><td>2.</td><td></td><td></td></tr><tr><td>3.</td><td></td><td></td></tr><tr><td colspan="3" style="padding-top: 10px;"><b>Total Dollars Unpaid:</b> <b>\$</b> _____</td></tr></tbody></table>		<u>Invoice Amt</u>	<u>Date</u>	1.			2.			3.			<b>Total Dollars Unpaid:</b> <b>\$</b> _____		
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2.																																
3.																																
<b>Total Dollars Unpaid:</b> <b>\$</b> _____																																
<b>Prime Contractor:</b>		<b>Contact Person:</b>																														

**\*\*Return one copy of this form to the following address (electronic copy with signature & date is preferred):**

<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> <div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div>	<b>Contract Monitor</b> <b>Contracting Unit</b> <b>Department of Health and Mental Hygiene</b>
---	--

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
(Required)

**Maryland Health Benefit Exchange**  
**Code of Maryland Regulations (COMAR)**  
**Title 21, State Procurement Regulations**  
*(Regarding a waiver to a Minority Business Enterprise subcontracting goal)*

**COMAR 21.11.03.11 - Waiver.**

- A. If, for any reason, the apparent successful bidder or Offeror is unable to achieve the contract goal for certified MBE participation, the bidder or Offeror may request, in writing, a waiver to include the following:
- (1) A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBEs in order to increase the likelihood of achieving the stated goal;
  - (2) A detailed statement of the efforts made to contact and negotiate with certified MBEs including:
    - (a) The names, addresses, dates, and telephone numbers of certified MBEs contacted, and
    - (b) A description of the information provided to certified MBEs regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed;
  - (3) As to each certified MBE that placed a subcontract quotation or offer that the apparent successful bidder or Offeror considers not to be acceptable, a detailed statement of the reasons for this conclusion;
  - (4) A list of minority subcontractors found to be unavailable. This list should be accompanied by an MBE unavailability certification (MBE Attachment D6) signed by the minority business enterprise, or a statement from the apparent successful bidder or Offeror that the minority business refused to give the written certification: and
  - (5) The record of the apparent successful bidder or Offeror's compliance with the outreach efforts required under Regulation .09B(2)(b).

A waiver may only be granted upon a reasonable demonstration by that MBE participation could not be obtained or could not be obtained at a reasonable price.

If the waiver request is determined not to meet this standard, the bidder or Offeror will be found non-responsive (bid) or not reasonably susceptible for award (proposal) and removed from further consideration.

- B. A waiver of a certified MBE contract goal may be granted only upon reasonable demonstration by the bidder or Offeror that certified MBE participation was unable to be obtained or was unable to be obtained at a reasonable price and if the agency head or designee determines that the public interest is served by a waiver. In making a determination under this section, the agency head or designee may consider engineering estimates, catalogue prices, general market availability, and availability of certified MBEs in the area in which the work is to be performed, other bids or offers and subcontract bids or offers substantiating significant variances between certified MBE and non-MBE cost of participation, and their impact on the overall cost of the contract to the State and any other relevant factor.
- C. An agency head may waive any of the provisions of Regulations .09-.10 for a sole source, expedited, or emergency procurement in which the public interest cannot reasonably accommodate use of those procedures.
- D. When a waiver is granted, except waivers under Section C, one copy of the waiver determination and the reasons for the determination shall be kept by the MBE Liaison Officer with another copy forwarded to the Office of Minority Affairs.

**MBE ATTACHMENT D6**  
**MINORITY CONTRACTOR UNAVAILABILITY CERTIFICATE**

**Section I (to be completed by PRIME CONTRACTOR)**

I hereby certify that the firm

of \_\_\_\_\_  
Name of Prime Contractor)

located at \_\_\_\_\_,  
(Number) (Street) (City) (State) (Zip)

on \_\_\_\_\_ contacted certified minority business enterprise, \_\_\_\_\_  
(Date) (Name of Minority Business)

\_\_\_\_\_ located at \_\_\_\_\_,  
(Number) (Street) (City) (State) (Zip)

seeking to obtain a bid for work/service for project number \_\_\_\_\_, project  
name \_\_\_\_\_

List below the type of work/ service requested:

Indicate the type of bid sought, \_\_\_\_\_. The minority business enterprise identified  
above is either unavailable for the work /service in relation to project number \_\_\_\_\_, or is unable to  
prepare a bid for the following reasons(s):

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

\_\_\_\_\_  
(Name) (Title)

\_\_\_\_\_  
(Number) (Street) (City) (State) (Zip)

\_\_\_\_\_  
(Signature) (Date)

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



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

I hereby certify that the firm of \_\_\_\_\_ MBE  
Cert.# \_\_\_\_\_

(Name of MBE Firm)

located at \_\_\_\_\_

\_\_\_\_\_ (Number) \_\_\_\_\_ (Street) \_\_\_\_\_ (City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip)  
was offered the opportunity to bid on project number \_\_\_\_\_, ON \_\_\_\_\_

(Date)

by \_\_\_\_\_

(Prime Contractor's Name)

(Prime Contractor Official's Name)

(Title)

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

\_\_\_\_\_  
\_\_\_\_\_ (Name) \_\_\_\_\_ (Title)

(Phone)

\_\_\_\_\_  
\_\_\_\_\_ (Signature)

Number)

(Fax

<b>ATTACHMENT E – PRE-PROPOSAL CONFERENCE RESPONSE FORM</b>
---

**Solicitation Number - MDM0031007387**  
**Training Curriculum and Delivery Services RFP**

A Pre-Proposal Conference will be held at 2PM Local Time, on March 13, 2013, at UMBC Tech Center, 1450 S Rolling Rd, Baltimore, MD 21229 Please return this form by February 14, 2013 by 3PM EST, advising us of your intentions to attend.

Return via e-mail to the Point of Contact:

Roger Lewis  
Procurement Officer  
Maryland Health Benefit Exchange  
750 E Pratt Street, 16<sup>th</sup> Floor  
Baltimore, MD 21202  
Email: [roger.lewis@maryland.gov](mailto:roger.lewis@maryland.gov)

Please indicate:

\_\_\_\_\_ Yes, the following representatives will be in attendance. Please include names and titles below:


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

Signature	Title
-----------	-------

Name of Firm (please print)
-----------------------------

## ATTACHMENT H – FEDERAL FUNDS REQUIREMENTS AND CERTIFICATIONS

A Summary of Certain Federal Fund Requirements and Restrictions  
[Details of particular laws, which may levy a penalty for noncompliance,  
are available from the Maryland Health Benefit Exchange.]

1. Form and rule enclosed: 18 U.S.C. 1913 and section 1352 of P.L. 101-121 require that all *prospective* and present subgrantees (this includes all levels of funding) who receive more than \$100,000 in federal funds must submit the form “Certification Against Lobbying”. It assures, generally, that recipients will not lobby federal entities with federal funds, and that, as is required, they will disclose other lobbying on form SF- LLL.
2. Form and instructions enclosed: “Form LLL, Disclosure of Lobbying Activities” must be submitted by those receiving more than \$100,000 in federal funds, to disclose any lobbying of federal entities (a) with profits from federal contracts or (b) funded with nonfederal funds.
3. Form and summary of Act enclosed: Subrecipients of federal funds on any level must complete a “Certification Regarding Environmental Tobacco Smoke, required by Public Law 103-227, the Pro-Children Act of 1994. Such law prohibits smoking in any portion of any indoor facility owned or leased or contracted for regular provision of health, day care, early childhood development, education or library services for children under the age of 18. Such language must be included in the conditions of award (they are included in the certification, which may be part of such conditions.) This does not apply to those solely receiving Medicaid or Medicare, or facilities where WIC coupons are redeemed.
4. In addition, federal law requires that:
  - A) OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations requires that grantees (both recipients and subrecipients) which expend a total of \$500,000 or more in federal assistance shall have a single or program-specific audit conducted for that year in accordance with the provisions of the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act of 1996, P.L. 104-156, and the Office of Management and Budget (OBM) Circular A-133. All subgrantee audit reports, performed in compliance with the aforementioned Circular shall be forwarded within 30 days of report issuance to MHBE, Audit Division,
  - B) All subrecipients of federal funds comply with Sections 503 and 504 of the Rehabilitation Act of 1973, the conditions of which are summarized in item (C).
  - C) Recipients of \$10,000 or more (on any level) must include in their contract language the requirements of Sections 503 (language specified) and 504 referenced in item (B).

Section 503 of the Rehabilitation Act of 1973, as amended, requires recipients to take affirmative action to employ and advance in employment qualified disabled people. An affirmative action program must be prepared and maintained by all contractors with 50 or more employees and one or more federal contracts of \$50,000 or more.

This clause must appear in subcontracts of \$10,000 or more:

- a) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b) The Contractor agrees to comply with the rules, regulations, and relevant orders of the secretary of labor issued pursuant to the act.
- c) In the event of the Contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the secretary of labor issued pursuant to the act.
- d) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the director, provided by or through the contracting office. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- e) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- f) The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the [federal] secretary issued pursuant

to section 503 of the Act, so that such provisions will be binding upon each subcontractor Offeror. The Contractor will take such action with respect to any subcontract or purchase order as the director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 791 et seq.) prohibits discrimination on the basis of handicap in all federally assisted programs and activities. It requires the analysis and making of any changes needed in three general areas of operation- programs, activities, and facilities and employment. It states, among other things, that:

*Grantees that provide health... services should undertake tasks such as ensuring emergency treatment for the hearing impaired and making certain that persons with impaired sensory or speaking skills are not denied effective notice with regard to benefits, services, and waivers of rights or consents to treatments.*

- D) All subrecipients comply with Title VI of the Civil Rights Act of 1964, that they must not discriminate in participation by race, color, or national origin.
- E) All subrecipients of federal funds from SAMHSA (Substance Abuse and Mental Health Services Administration) or NIH (National Institute of Health) are prohibited from paying any direct salary at a rate in excess of Executive Level 1 per year. (This includes, but is not limited to, subrecipients of the Substance Abuse Prevention and Treatment and the Community Mental Health Block Grants and NIH research grants.)
- F) There may be no discrimination on the basis of age, according to the requirements of the Age Discrimination Act of 1975.
- G) For any education program, as required by Title IX of the Education Amendments of 1972, there may be no discrimination on the basis of sex.
- H) For research projects, a form for Protection of Human Subjects (Assurance/ Certification/ Declaration) should be completed by each level funded, assuring that either: (1) there are no human subjects involved, or that (2) an Institutional Review Board (IRB) has given its formal approval before human subjects are involved in research. [This is normally done during the application process rather than after the award is made, as with other assurances and certifications.]
- I) In addition, there are conditions, requirements, and restrictions which apply only to specific sources of federal funding. These should be included in your grant/contract documents when applicable.

Rev. 3/2008

## CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source or applicable Federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing this certification, the Offeror/contractor (for acquisitions) or applicant/grantee (for grants) certifies that the submitting organization will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

The submitting organization agrees that it will require that the language of this certification be included in any sub awards which contain provisions for children's services and that all subrecipients shall certify accordingly.

NAME: \_\_\_\_\_

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

GRANT NO: \_\_\_\_\_

STATE: \_\_\_\_\_

U.S. Department of Health and Human Services

Certification Regarding Lobbying

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 Lobby," 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 subrecipients 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.	Organization Entity
Name and Title of Official for Organization Entity	Telephone No. of Signing Official
Signature of Above Official	Date Signed



## DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
(see reverse for public burden disclosure.)

Approved by  
OMB0348-0046

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

<input type="checkbox"/> b. in-kind; specify: nature _____ value _____	<input type="checkbox"/> f. other; specify: _____
<b>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s),</b>  <b>employee(s), or Member(s) contacted, for Payment Indicated in Item 11:</b>  <i>(attach Continuation Sheet(s) SF-LLLA, if necessary)</i>	
<b>15. Continuation Sheet(s) SF-LLLA attached:</b> <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: _____
<b>Federal Use Only:</b>	
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 subawardee 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 subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards 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 "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
- 10(a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
- 10(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form and print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

A PDF version of this form is available on-line at:  
<http://www.whitehouse.gov/sites/default/files/omb/grants/sfilll.pdf>

## ATTACHMENT I – CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

### Reference COMAR 21.05.08.08

- A. "Conflict of interest" means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.
- B. "Person" has the meaning stated in COMAR 21.01.02.01(B)(64) and includes an Offeror, Offeror, consultant, or subcontractor or sub-consultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a bid or offer is made.
- C. The Offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.
- D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain in detail—attach additional sheets if necessary):
- E. The Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the Offeror shall immediately make a full disclosure in writing to the procurement officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the Offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the Offeror shall continue performance until notified by the procurement officer of any contrary action to be taken.

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

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

By: \_\_\_\_\_  
(Authorized Representative and Affiant)

SUBMIT THIS AFFIDAVIT WITH THE TECHNICAL RESPONDS

## ATTACHMENT J – BUSINESS ASSOCIATE AGREEMENT

### BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the “Agreement”) is made by and among the Maryland Health Benefit Exchange (herein referred to as “Covered Entity”) and \_\_\_\_\_ (hereinafter known as “Business Associate”). Covered Entity and Business Associate shall collectively be known herein as the “Parties”.

WHEREAS, Covered Entity have a business relationship with Business Associate that is memorialized in a separate agreement (the “Underlying Agreement”) pursuant to which Business Associate may be considered a “business associate” of Covered Entity as defined in the Health Insurance Portability and Accountability Act of 1996 including all pertinent regulations (45 CFR Parts 160 and 64), 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) (collectively, “HIPAA”); and

WHEREAS, the nature of the contractual relationship between Covered Entity and Business Associate may involve MHBE of Protected Health Information (“PHI”) as that term is defined under HIPAA; and

WHEREAS, for good and lawful consideration as set forth in the Underlying Agreement, Covered Entity and Business Associate enter into this agreement for the purpose of ensuring compliance with the requirements of HIPAA and the Maryland Confidentiality of Medical Records Act (Md. Ann. Code, Health-General §§4-301 *et seq.*) (“MCMRA”); and

WHEREAS, this Agreement supersedes and replaces any and all Business Associate Agreements the Covered Entity and Business Associate may have entered into prior to the date hereof;

NOW THEREFORE, the premises having been considered and with acknowledgment of the mutual promises and of other good and valuable consideration herein contained, the Parties, intending to be legally bound, hereby agree as follows:

#### I. DEFINITIONS.

- A. Individual. “Individual” shall have the same meaning as the term “individual” in 45 CFR §164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- B. Breach. “Breach” shall have the same meaning as the term “breach” in 45 CFR § 164.402.

- C. Designated Record Set. “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 CFR §164.501.
- D. Privacy Rule. “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
- E. Protected Health Information. “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 CFR §164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- F. Required By Law. “Required By Law” shall have the same meaning as the term “required by law” in 45 CFR §164.501.
- G. Secretary. “Secretary” shall mean the Secretary of the U.S. Department of Health and Human Services or his or her designee.
- H. Unsecured Protected Health Information. “Unsecured Protected Health Information” or “Unsecured PHI” shall mean PHI that is not secured through the use of a technology or methodology specified by the Secretary in guidance or as otherwise defined in the §13402(h) of the HITECH Act.

## **II. USE OR DISCLOSURE OF PHI BY BUSINESS ASSOCIATE.**

- A. Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement, provided that such use or disclosure would not violate the Privacy Rule.
- B. Business Associate shall only use and disclose PHI if such use or disclosure complies with each applicable requirement of 45 CFR §164.504(e).
- C. Business Associate shall be directly responsible for full compliance with the relevant requirements of the Privacy Rule to the same extent as Covered Entity.

## **III. DUTIES OF BUSINESS ASSOCIATE RELATIVE TO PHI.**

- A. Business Associate shall not use or disclose PHI other than as permitted or required by this Agreement, the MCMRA, or as Required By Law.

- B. Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity.
- C. Business Associate shall immediately notify Covered Entity of any use or disclosure of PHI in violation of this Agreement
- D. In addition to its obligations in Section III.C, Business Associate shall document and notify Covered Entity of a Breach of Unsecured PHI. Business Associate's notification to Covered Entity hereunder shall:
  - 1. Be made to Covered Entity without unreasonable delay and in no case later than 50 calendar days after the incident constituting the Breach is first known, except where a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security. For purposes of clarity for this Section III.D.1, Business Associate must notify Covered Entity of an incident involving the acquisition, access, use or disclosure of PHI in a manner not permitted under 45 CFR Part E within 50 calendar days after an incident even if Business Associate has not conclusively determined within that time that the incident constitutes a Breach as defined by HIPAA;
  - 2. Include the names of the Individuals whose Unsecured PHI has been, or is reasonably believed to have been, the subject of a Breach;
  - 3. Be in substantially the same form as Exhibit A hereto; and
  - 4. Include a draft letter for the Covered Entity to utilize to notify the Individuals that their Unsecured PHI has been, or is reasonably believed to have been, the subject of a Breach that includes, to the extent possible:
    - a) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
    - b) A description of the types of Unsecured PHI that were involved in the Breach (such as full name, Social Security number, date of birth, home address, account number, disability code, or other types of information that were involved);
    - c) Any steps the Individuals should take to protect themselves from potential harm resulting from the Breach;



- d) A brief description of what the Covered Entity and the Business Associate are doing to investigate the Breach, to mitigate losses, and to protect against any further Breaches; and
  - e) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.
- E. In the event of an unauthorized use or disclosure of PHI or a Breach of Unsecured PHI, Business Associate shall mitigate, to the extent practicable, any harmful effects of said disclosure that are known to it.
- F. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- G. To the extent applicable, Business Associate shall provide access to Protected Health Information in a Designated Record Set at reasonable times, at the request of Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR §164.524.
- H. To the extent applicable, Business Associate shall make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of Covered Entity or an Individual.
- I. Business Associate shall, upon request with reasonable notice, provide Covered Entity access to its premises for a review and demonstration of its internal practices and procedures for safeguarding PHI.
- J. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for a Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528. Should an individual make a request to Covered Entity for an accounting of disclosures of his or her PHI pursuant to 45 C.F.R. §164.528, Business Associate agrees to promptly provide Covered Entity with information in a format and manner sufficient to respond to the individual's request.
- K. Business Associate shall, upon request with reasonable notice, provide Covered Entity with an accounting of uses and disclosures of PHI provided to it by Covered Entity.

- L. Business Associate shall make its internal practices, books, records, and any other material requested by the Secretary relating to the use, disclosure, and safeguarding of PHI received from Covered Entity available to the Secretary for the purpose of determining compliance with the Privacy Rule. The aforementioned information shall be made available to the Secretary in the manner and place as designated by the Secretary or the Secretary's duly appointed delegate. Under this Agreement, Business Associate shall comply and cooperate with any request for documents or other information from the Secretary directed to Covered Entity that seeks documents or other information held by Business Associate.
- M. Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 42 C.F.R. §164.502(j)(1).
- N. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

#### **IV. TERM AND TERMINATION.**

- A. Term. The Term of this Agreement shall be effective as of \_\_\_\_\_, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section IV.
- B. Termination for Cause. Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall:
  - 1. Provide an opportunity for Business Associate to cure the breach or end the violation and, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, terminate this Agreement;
  - 2. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or

3. If neither termination nor cure is feasible, report the violation to the Secretary.

C. Effect of Termination.

1. Except as provided in paragraph C(2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall not retain any copies of the Protected Health Information.
2. In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity written notification of the conditions that make return or destruction infeasible. After written notification that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.
3. Should Business Associate make an intentional or grossly negligent Breach of PHI in violation of this Agreement or HIPAA or an intentional or grossly negligent disclosure of information protected by the MCMRA, Covered Entity shall have the right to immediately terminate any contract, other than this Agreement, then in force between the Parties, including the Underlying Agreement.

**V. CONSIDERATION**

Business associate recognizes that the promises it has made in this agreement shall, henceforth, be detrimentally relied upon by covered entity in choosing to continue or commence a business relationship with business associate.

**VI. REMEDIES IN EVENT OF BREACH**

Business Associate hereby recognizes that irreparable harm will result to Covered Entity, and to the business of Covered Entity, in the event of breach by Business Associate of any of the covenants and assurances contained in this Agreement. As such, in the event of breach of any of the covenants and

assurances contained in Sections II or III above, Covered Entity shall be entitled to enjoin and restrain Business Associate from any continued violation of Sections II or III. Furthermore, in the event of breach of Sections II or III by Business Associate, Covered Entity is entitled to reimbursement and indemnification from Business Associate for Covered Entity's reasonable attorneys' fees and expenses and costs that were reasonably incurred as a proximate result of Business Associate's breach. The remedies contained in this Section VI shall be in addition to (and not supersede) any action for damages and/or any other remedy Covered Entity may have for breach of any part of this Agreement.

## **VII. MODIFICATION; AMENDMENT**

This Agreement may only be modified or amended through a writing signed by the Parties and, thus, no oral modification or amendment hereof shall be permitted. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and HIPAA.

## **VIII. INTERPRETATION OF THIS AGREEMENT IN RELATION TO OTHER AGREEMENTS BETWEEN THE PARTIES**

Should there be any conflict between the language of this Agreement and any other contract entered into between the Parties (either previous or subsequent to the date of this Agreement), the language and provisions of this Agreement shall control and prevail unless the Parties specifically refer in a subsequent written agreement to this Agreement by its title and date and specifically state that the provisions of the later written agreement shall control over this Agreement.

## **IX. COMPLIANCE WITH STATE LAW**

The Business Associate acknowledges that by accepting the PHI from Covered Entity, it becomes a holder of medical records information under the MCMRA and is subject to the provisions of that law. If the HIPAA Privacy or Security Rules and the MCMRA conflict regarding the degree of protection provided for protected health information, Business Associate shall comply with the more restrictive protection requirement.

## **X. MISCELLANEOUS.**

- A. Ambiguity. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.
- B. Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.

- C. Notice to Covered Entity. Any notice required under this Agreement to be given Covered Entity shall be made in writing to:

**Rebecca Pearce**  
**Maryland Health Benefit Exchange**  
**750 East Pratt Street, 16th Floor**  
**Baltimore, Maryland 21202**  
**Phone: (410) 764-5986**

- D. Notice to Business Associate. Any notice required under this Agreement to be given Business Associate shall be made in writing to:

Address: \_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Phone: \_\_\_\_\_  
\_\_\_\_\_

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

COVERED ENTITY:

BUSINESS ASSOCIATE:

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

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

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

<b>ATTACHMENT J-1 – BREACH OF UNSECURED PROTECTED HEALTH INFORMATION</b>
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**NOTIFICATION TO THE  
MARYLAND HEALTH BENEFIT EXCHANGE  
ABOUT A  
BREACH OF UNSECURED PROTECTED HEALTH INFORMATION**

This notification is made pursuant to Section IIID(3) of the Business Associate Agreement between:

- The State of Maryland Exchange (Exchange), and
- \_\_\_\_\_ (Business Associate).

Business Associate hereby notifies Exchange that there has been a breach of unsecured (unencrypted) protected health information (PHI) that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the breach: \_\_\_\_\_

\_\_\_\_\_

Date of the breach: \_\_\_\_\_ Date of discovery of the breach: \_\_\_\_\_

Does the breach involve 500 or more individuals? Yes / No      If yes, do the people live in multiple states?  
Yes / No

Number of individuals affected by the breach:

\_\_\_\_\_

Names of individuals affected by the breach:

\_\_\_\_\_ (attach list)

The types of unsecured PHI that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code):

\_\_\_\_\_

\_\_\_\_\_

Description of what Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Contact information to ask questions or learn additional information:

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

Title: \_\_\_\_\_

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

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

Phone Number: \_\_\_\_\_

## ATTACHMENT K – NON-DISCLOSURE AGREEMENT (AWARD)

**THIS NON-DISCLOSURE AGREEMENT** (the “Agreement”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by and between the State of Maryland (the “State”), acting by and through its Maryland Health Benefit Exchange (the “Exchange”) and \_\_\_\_\_ (the “Contractor”).

### RECITALS

**WHEREAS**, the Contractor has been awarded a contract (the “Contract”) for (enter a short description of the service) Contract No. EXCHANGE-OPASS \_\_\_\_\_ - \_\_\_\_\_ dated \_\_\_\_\_, 20\_\_\_\_\_ (the “Contract”); and

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

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

1. Confidential Information means any and all information provided by or made available by the State to the Contractor in connection with the Contract, regardless of the form, format, or media on or in which the Confidential Information is provided and regardless of whether any such Confidential Information is marked as such. Confidential Information includes, by way of example only, information that the Contractor views, takes notes from, copies (if the State agrees in writing to permit copying), possesses or is otherwise provided access to and use of by the State in relation to the Contract.
2. Contractor shall not, without the State’s prior written consent, copy, disclose, publish, release, transfer, disseminate, use, or allow access for any purpose or in any form, any Confidential Information provided by the State except for the sole and exclusive purpose of performing under the Contract. Contractor shall limit access to the Confidential Information to the Contractor’s Personnel who have a demonstrable need to know such Confidential Information in order to perform under the Contract and who have agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information. The names of the Contractor’s Personnel are attached hereto and made a part hereof as Exhibit A. Each individual whose name appears on Exhibit A shall execute a copy of this Agreement and thereby be subject to the terms and conditions of this Agreement to the same extent as the Contractor. Contractor shall update Exhibit A by adding additional names (whether Contractor’s personnel or a subcontractor’s personnel) as needed, from time to time.

3. If the Contractor intends to disseminate any portion of the Confidential Information to non-employee agents who are assisting in the Contractor's performance of the RFP or who will otherwise have a role in performing any aspect of the RFP, the Contractor shall first obtain the written consent of the State to any such dissemination. The State may grant, deny, or condition any such consent, as it may deem appropriate in its sole and absolute subjective discretion.
4. Contractor hereby agrees to hold the Confidential Information in trust and in strictest confidence, to adopt or establish operating procedures and physical security measures, and to take all other measures necessary to protect the Confidential Information from inadvertent release or disclosure to unauthorized third parties and to prevent all or any portion of the Confidential Information from falling into the public domain or into the possession of persons not bound to maintain the confidentiality of the Confidential Information.
5. Contractor shall promptly advise the State in writing if it learns of any unauthorized use, misappropriation, or disclosure of the Confidential Information by any of the Contractor's Personnel or the Contractor's former Personnel. Contractor shall, at its own expense, cooperate with the State in seeking injunctive or other equitable relief against any such person(s).
6. Contractor shall, at its own expense, return to MHBE all copies of the Confidential Information in its care, custody, control or possession upon request of MHBE or on termination of the Contract. Confidential Information returned to the State shall be accompanied by the Certification that is attached hereto and made a part hereof as Exhibit B and shall be signed by an officer of the Contractor authorized to bind the Contractor.
7. A breach of this Agreement by the Contractor or by the Contractor's Personnel shall constitute a breach of the Contract between the Contractor and the State.
8. Contractor acknowledges that any failure by the Contractor or the Contractor's Personnel to abide by the terms and conditions of use of the Confidential Information may cause irreparable harm to the State and that monetary damages may be inadequate to compensate the State for such breach. Accordingly, the Contractor agrees that the State may obtain an injunction to prevent the disclosure, copying or improper use of the Confidential Information. The Contractor consents to personal jurisdiction in the Maryland State Courts. The State's rights and remedies hereunder are cumulative and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and to seek damages from the Contractor and the Contractor's Personnel for a failure to comply with the requirements of this Agreement. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys' fees and disbursements) that are attributable, in whole or in part to any failure by the Contractor or any of the Contractor's Personnel to comply with the requirements of this Agreement, the Contractor shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and costs.



9. Contractor and each of the Contractor's Personnel who receive or have access to any Confidential Information shall execute a copy of an agreement substantially similar to this Agreement and the Contractor shall provide originals of such executed Agreements to the State.
10. The parties further agree that:
- a. This Agreement shall be governed by the laws of the State of Maryland;
  - b. The rights and obligations of the Contractor under this Agreement may not be assigned or delegated, by operation of law or otherwise, without the prior written consent of the State;
  - c. The State makes no representations or warranties as to the accuracy or completeness of any Confidential Information;
  - d. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement;
  - e. Signatures exchanged by facsimile are effective for all purposes hereunder to the same extent as original signatures; and
  - f. The Recitals are not merely prefatory but are an integral part hereof.

**Contractor: <INSERT NAME>**

\_\_\_\_\_

By: \_\_\_\_\_(SEAL)

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

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

**Maryland Health Benefit Exchange**

By: \_\_\_\_\_(SEAL)

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

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

## EXHIBIT A

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

Printed Name and Address of Individual/Agent	Employee (E) or Agent (A) Date	Signature
_____	_____	_____
_____	_____	_____

## EXHIBIT B

### CERTIFICATION TO ACCOMPANY RETURN OF CONFIDENTIAL INFORMATION

I AFFIRM THAT:

To the best of my knowledge, information, and belief, and upon due inquiry, I hereby certify that: (i) all Confidential Information which is the subject matter of that certain Agreement by and between the State of Maryland and

\_\_\_\_\_ ("Contractor")  
dated \_\_\_\_\_, 20\_\_\_\_ ("Agreement") is attached hereto and is hereby  
returned to the State in accordance with the terms and conditions of the Agreement; and (ii)  
I am legally authorized to bind the Contractor to this affirmation.

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

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

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

BY: \_\_\_\_\_  
(Signature)

TITLE: \_\_\_\_\_  
(Authorized Representative and Affiant)

## **ATTACHMENT 1 - COMPENSATION**

### **A. Agreement**

The Offeror shall provide prices on this **Attachment 1** based upon the information set forth in the RFP. By submitting its Technical Proposal and its Financial Proposal, the Offeror acknowledges there are unknown aspects of the scope of work due to, among other things, the lack of finalized regulations and guidance from CMS regarding ACA implementation. The Offeror further acknowledges that it understands that the pricing of all items, including the overall price, must fully take into account all risks and contingencies that are necessary for the State to have a fully operational system by no later than 7/1/13.

## **INCIDENTAL EXPENSES**

Offeror acknowledges that, except for Projects, or as may be otherwise provided in the Contract Documents, expenses that Offeror expects to incur in performing the Services (including travel and lodging, document reproduction and shipping) are included in Offeror's charges described in Attachment 1. Accordingly, such Offeror expenses are not separately reimbursable by MHBE unless MHBE has agreed in advance and in writing to reimburse Offeror for the expense.

ATTACHMENT 1 COST PROPOSAL				
<b>1 Deliverables</b> – Indicate the cost for each deliverable. Identify the type and number of resources, the hourly rate for each resource and the total cost.	<b>List Resources</b> Identify Staff and Title of Personnel	<b>Hourly (Labor) Rate and Number of Hours (per staff resource)</b>	<b>Year One Starting From Award date through 12 months (approximately 4/30/14)</b>	<b>1 Year Option Period – 12 months</b>
Final Approved Work Plan				
Comprehensive Curriculum for navigators and CSC Staff				
Curriculum modules for use with assisters				
Written test development				
Curriculum for insurance producers				
Detailed Schedules for in person training				
Detailed schedules for training the trainer				
Detailed schedule and delivery for conference format training for producers				
Curriculum development and delivery for LHD caseworkers				
Curriculum development and delivery for DSS caseworkers				
Approval for curriculum delivery				
Curriculum development and training for application counselors				
On-going process for training for CSC				
Development of a process for training CSC SME as measurement and data are received				
Training Facility Rental, event management and logistics.				
<b>TOTAL</b>				

**2 One-Time Project Set Up Pricing** –These are prices the Offeror is requesting the MHBE incur to establish proposed training capabilities (i.e. hardware requirements).

Describe the pricing of each item below.	Enter the proposed pricing below.	Enter total Itemized prices below

<b>TOTAL ONE TIME SET UP PRICING</b>
<b>TOTAL PROPOSAL INCLUDING ONE TIME SET UP PRICING</b>

Enter the total of all prices below.