



**DEPARTMENT OF HUMAN SERVICES
(DHS)**

REQUEST FOR PROPOSALS (RFP)

**ADMINISTRATION OF THE MARYLAND ENERGY
ASSISTANCE PROGRAM (MEAP)**

AND THE

ELECTRONIC UNIVERSAL SERVICE PROGRAM (EUSP)

FIA/OHEP-21-007-S

ISSUE DATE: 12/03/2021

NOTICE

A Prospective Offeror that has received this document from a source other than eMarylandMarketplace (eMMA) <https://procurement.maryland.gov> should register on eMMA. See **Section 4.2**.

**MINORITY BUSINESS ENTERPRISES ARE ENCOURAGED TO RESPOND
TO THIS SOLICITATION.**

VENDOR FEEDBACK FORM

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

Title: Administration of the Maryland Energy Assistance Program (MEAP) and Electric Universal Service Program (EUSP) **Solicitation No:** FIA/OHEP 21-007-S

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

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

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

REMARKS:

Vendor Name: _____ Date: _____

Contact Person: _____ Phone (____) _____ - _____

Address: _____

E-mail Address: _____

DEPARTMENT OF HUMAN SERVICES (DHS)

KEY INFORMATION SHEET

Request for Proposals	ADMINISTRATION OF THE MARYLAND ENERGY ASSISTANCE PROGRAM (MEAP) AND THE ELECTRIC UNIVERSAL SERVICE PROGRAM (EUSP)
Solicitation Number:	FIA/OHEP 21-007-S
RFP Issue Date:	12/03/2021
RFP Issuing Office:	Department of Human Services Family Investment Administration Office of Home Energy Programs
Procurement Officer: e-mail: Office Phone:	Henry ThorStraten Procurement Division Department of Human Services 311 W. Saratoga Street, Room 940-K Baltimore, MD 21201 E-mail: Henry.ThorStraten@maryland.gov (410) 767-3390
Proposals are to be sent to:	Proposals will be accepted through the State's eMaryland Marketplace Advantage (eMMA) e-Procurement system. Instructions on how to submit Proposals electronically can be found at: https://procurement.maryland.gov/wp-content/uploads/sites/12/2019/08/5-eMMA-QRG-Responding-to-Solicitations-Double-Envelope-v2.pdf
Pre-Proposal Conference:	Thursday December 16, 2021 1:00PM to 3:00PM Local Time Google Meet joining info: Video call link: https://meet.google.com/xhx-hwpm-ako Or dial: (US) +1 513-464-9965 PIN: 942 298 393# More phone numbers: https://tel.meet/xhx-hwpm-ako?pin=7779935677138 The Pre-Bid Conference will be held virtually due to the COVID-19 Pandemic. See Attachment A for directions and instructions.
Questions Due Date and Time	Thursday January 6, 2022 5:00 PM Local Time
Proposal Due (Closing) Date and Time:	Monday January 17, 2022 3:00 PM Local Time Offerors are reminded that a completed Feedback Form is requested if a no-bid decision is made (see page 2).

MBE Subcontracting Goal:	0%
VSBE Subcontracting Goal:	0%
Contract Type:	Firm Fixed Price
Contract Duration:	One Year Base Period and Four (4) One Year Option Periods
Primary Place of Performance:	As proposed by Offeror in Harford, Somerset, Talbot, Wicomico, and Worcester Counties.
SBR Designation:	No
Federal Funding:	Yes

TABLE OF CONTENTS – RFP

1	Minimum Qualifications.....	9
1.1	Offeror Minimum Qualifications.....	9
2	Contractor Requirements: Scope of Work.....	10
2.1	Summary Statement.....	10
2.2	Background, Purpose and Goals.....	11
2.3	Responsibilities and Tasks.....	12
2.4	Deliverables.....	19
3	Contractor Requirements: General.....	23
3.1	Contract Initiation Requirements.....	24
3.2	End of Contract Transition.....	24
3.3	Invoicing.....	26
3.4	Liquidated Damages.....	27
3.5	Disaster Recovery and Data.....	28
3.6	Insurance Requirements.....	29
3.7	Security Requirements.....	30
3.8	Problem Escalation Procedure.....	37
3.9	SOC 2 Type 2 Audit Report.....	38
3.10	Experience and Personnel.....	40
3.11	Substitution of Personnel.....	40
3.12	Minority Business Enterprise (MBE) Reports.....	43
3.13	Veteran Owned Small Business Enterprise (VSBE) Reports.....	43
3.14	Work Orders.....	43
3.15	Additional Clauses.....	44
4	Procurement Instructions.....	45
4.1	Pre-Proposal Conference.....	45
4.2	eMaryland Marketplace Advantage (eMMA).....	45
4.3	Questions.....	46
4.4	Procurement Method.....	46
4.5	Proposal Due (Closing) Date and Time.....	46

4.6	Multiple or Alternate Proposals.....	46
4.7	Economy of Preparation.....	47
4.8	Public Information Act Notice.....	47
4.9	Award Basis.....	47
4.10	Oral Presentation.....	47
4.11	Duration of Proposal.....	47
4.12	Revisions to the RFP.....	47
4.13	Cancellations.....	48
4.14	Incurred Expenses.....	48
4.15	Protests/Disputes.....	48
4.16	Offeror Responsibilities.....	48
4.17	Acceptance of Terms and Conditions.....	49
4.18	Proposal Affidavit.....	49
4.19	Contract Affidavit.....	49
4.20	Compliance with Laws/Arrearages.....	49
4.21	Verification of Registration and Tax Payment.....	50
4.22	False Statements.....	50
4.23	Payments by Electronic Funds Transfer.....	50
4.24	Prompt Payment Policy.....	50
4.25	Electronic Procurements Authorized.....	51
4.26	MBE Participation Goal.....	52
4.27	VSBE Goal.....	52
4.28	Living Wage Requirements.....	53
4.29	Federal Funding Acknowledgement.....	53
4.30	Conflict of Interest Affidavit and Disclosure.....	54
4.31	Non-Disclosure Agreement.....	54
4.32	HIPAA - Business Associate Agreement.....	55
4.33	Nonvisual Access.....	55
4.34	Mercury and Products That Contain Mercury.....	55
4.35	Location of the Performance of Services Disclosure.....	55
4.36	Department of Human Services (DHS) Hiring Agreement.....	55

4.37	Small Business Reserve (SBR) Procurement.....	55
4.38	Maryland Healthy Working Families Act.....	55
5	Proposal Format.....	55
5.1	Two Part Submission.....	56
5.2	Proposal Delivery and Packaging.....	56
5.3	Volume I - Technical Proposal.....	56
5.4	Volume II - Financial Proposal.....	64
6	Evaluation and Selection Process.....	64
6.1	Evaluation Committee.....	65
6.2	Technical Proposal Evaluation Criteria.....	65
6.3	Financial Proposal Evaluation Criteria.....	65
6.4	Reciprocal Preference.....	65
6.5	Selection Procedures.....	66
6.6	Documents Required upon Notice of Recommendation for Contract Award.....	67
7	RFP Attachments and Appendices.....	67
Attachment A.	Pre-Proposal Conference Form.....	71
Attachment B.	Financial Proposal Instructions and Form.....	73
Attachment C.	Proposal Affidavit.....	76
Attachment D.	Minority Business Enterprise (MBE) Forms.....	77
Attachment E.	Veteran-Owned Small Business Enterprise (VSBE) Forms.....	77
Attachment F.	Maryland Living Wage Affidavit of Agreement.....	78

Attachment G.	Federal Funds Attachment.....	81
Attachment H.	Conflict of Interest Affidavit and Disclosure.....	81
Attachment I.	Non Disclosure Agreement (Contractor).....	84
Attachment J.	HIPAA Business Associate Agreement.....	85
Attachment K.	Mercury Affidavit.....	86
Attachment L.	Location of the Performance of Services.....	87
Attachment M.	Contract.....	87
Attachment N.	Contract Affidavit.....	111
Attachment O.	DHS Hiring Agreement.....	113
Appendix 1 -	Abbreviations and Definitions.....	113
Appendix 2 -	Offeror Information Sheet.....	118
Appendix 3 -	OHEP Energy Assistance Application.....	119
Appendix 4 -	OHEP 2019 Brochure.....	120
Appendix 5 -	OHEP 2019 Informational Flyer and Instructions for Filing an Application for Energy Assistance.....	121
Appendix 6 -	OHEP Annual Outreach Plan.....	122
Appendix 7 -	COMAR 07.03.21 and COMAR 07.03.22.....	123
Appendix 8 -	OHEP Operations Manual.....	124
Appendix 9 -	OHEP Energy Crisis Plan.....	125
Appendix 10 -	OHEP MEAP Monthly Financial Status Report - Benefit Funds.....	127
Appendix 11 -	OHEP Administrative Funds - Monthly Financial Status Report.....	128
Appendix 12 -	MEAP Bulk Fuel Processing Plan.....	129
Appendix 13 -	OHEP Closeout Report and Procedures.....	130
Appendix 14 -	OHEP Outreach Log.....	131

Appendix 15 - OHEP Monitoring Report.....	132
Appendix 16 - OHEP Quarterly Invoice Template.....	133
Appendix 17 - Intake Summary by County, FY2014 - FY2018.....	134
Appendix 18 - Criminal Background Check Affidavit.....	135
Appendix 19 - OHEP Fraud, Repayment, and Administrative Hearing Procedures Manual...	137

1 Minimum Qualifications

1.1 Offeror Minimum Qualifications

As part of the determination to be considered reasonably susceptible of being selected for award, the Offeror must document in its Proposal that, within the last seven (7) years, the following Minimum Qualifications have been met:

- 1.1.1. The Offeror shall have prior experience in administering enrollment and eligibility services for low-income benefit programs.

Required Documentation: As proof of meeting this requirement, the Offeror shall provide with its Proposal three (3) business references from the past seven years able to attest to the Offeror's experience in providing enrollment and eligibility services for low-income benefit programs.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

2 Contractor Requirements: Scope of Work

2.1 Summary Statement

2.1.1 The Department of Human Services (Department or DHS), Family Investment Administration(FIA), Office of Home Energy Programs (OHEP) is issuing this Request for Proposals (RFP) to acquire contractual services for the administration of the Maryland Energy Assistance Program (MEAP), the Electric Universal Service Program (EUSP), and the recording of applications for the Utility Service Protection Plan (USPP). The selected Offeror will be responsible for outreach activities, application intake, certification for benefits, payments processing, notification of eligibility determinations and appeals of benefit amounts or benefit denial. Proposals are being requested for five (5) of Maryland’s jurisdictions:

Harford County
Talbot County

Somerset County
Wicomico County
Worcester County

The number of applications received annually in each jurisdiction from 2015 to 2019 is provided in Appendix 17. The data contained in Appendix 17 is historical data and does not guarantee application volume for this solicitation.

- 2.1.2** It is the State’s intention to obtain services, as specified in this RFP, from a Contract between the selected Offeror and the State. The anticipated duration of services to be provided under this Contract is for a one (1) year base period with four (4) one year options to be exercised at the sole discretion of the State.
- 2.1.3** The Department intends to make up to one (1) award for each of the five (5) jurisdictions for which Proposals are requested through this RFP. Offerors may submit Proposals for more than one jurisdiction by submitting one (1) Technical Proposal and identifying the jurisdictions the Offeror desires to serve as required in section 5.3. Offerors may receive an award for more than one (1) jurisdiction. See RFP Section 4.9 Award Basis for more Contract award information.
- 2.1.4** A **separate Financial Proposal must be submitted for each jurisdiction** identified in the Technical Proposal.
- 2.1.5** An Offeror, either directly or through its subcontractor(s), must be able to provide all goods and services and meet all of the requirements requested in this solicitation and the successful Offeror (the Contractor) shall remain responsible for Contract performance regardless of subcontractor participation in the work.

2.2 Background, Purpose and Goals

The Department, through OHEP, is the agency authorized under the Energy Assistance Program (Md. Code Ann., Human Services Article, Title 5, Subtitle 5A) to receive funds and direct the delivery of services for MEAP, as authorized under the Federal Low-Income Home Energy Assistance Act (codified at 42 U.S.C. § 8624 (b)(6)) and EUSP (authorized by Md. Code Ann., Public Utilities Article, § 7-512.1). OHEP also explains and takes applications for the USPP. OHEP programs help low-income households

pay their utility and fuel bills, minimize energy-related crises, and make heating/cooling costs more affordable through a comprehensive energy package including:

- A. Monetary benefits to reduce a family's energy burden;
- B. The provision of linkages between community resources and customers;
- C. Promotion of energy conservation;
- D. Helping the customer understand his/her financial responsibility for household energy needs; and
- E. Improving service to all geographic areas of the jurisdiction(s) to be served through access to alternate intake sites or other equally effective methods of providing the public with access to benefits.

OHEP has been providing energy assistance benefits and service since 1979 to eligible low-income customers. The approach to the administration of these energy assistance benefits is subject to change dependent on Department priorities and regulatory changes. Eligibility services are expected to be provided by the MDTHINK Eligibility and Enrollment system and that change may take place at the end of the base year of the contract resulting from this RFP.

Rules and Regulations of the (Federal) Department of Health and Human Services (HHS) apply to the operations of MEAP. All MEAP operations are subject to audit by HHS. MEAP, EUSP and USPP operations are subject to audit and/or monitoring by DHS.

2.2.1. State Staff and Roles

Only the Procurement Officer and the Contract Monitor have the authority to order the Contractor to take specific actions that the Department deems appropriate and that are consistent with the terms of the Contract.

The Contract Monitor is:

Lauren Molineaux, Director
Department of Human Services
Family Investment Administration/Office of Home Energy Programs
311 W. Saratoga Street
Baltimore, MD 21201
Telephone Number: (410) 767-5015
Email: lauren.molineaux2@maryland.gov

2.2.2 Other State Responsibilities

DHS shall provide the following services, equipment and documents at no cost to each Contractor:

- A. Training on OHEP policies and procedures by means of a one-day workshop prior to the Go-Live Date. Additional training will be scheduled as needed;
- B. Ongoing technical assistance during Normal State Business Hours, including interpretation and/or demonstration of operational policies and procedures, or the correction of problems with the OHEP Data Management System;

- C. OHEP Energy Assistance Applications (Appendix 3), OHEP 2022 Brochures (Appendix 4), and OHEP 2022 Informational Flyer and Instructions for Filing an Application for Energy Assistance for MEAP/EUSP (Appendix 5), in English and Spanish;
- D. Access to certain enrollment and eligibility systems, which will be determined by DHS, operated by the Department for the purpose of verifying information provided by applicants during the OHEP application process;
- E. Telephonic interpretation services through the State vendor;
- F. Specific access levels to the Enterprise Content Management System (ECMS) document retrieval system; and
- G. Printing and mailing services for Eligibility determination, Request for Additional Information and Annual Application Mail-outs when requested by the Contractor through the OHEP Data Management System. Please note that the Contractor may choose to include these costs in the Financial Proposal (Attachment B) if the Contractor prefers to be directly responsible for printing and mailing services.

2.3 Responsibilities and Tasks

The scope of work encompasses all the activities necessary to provide energy and electric assistance offered through OHEP programs to eligible households in each jurisdiction covered by the RFP. Each Contractor shall comply with the procedures described in COMAR Title 7, Subtitle 3, Chapters 21 and 22 (Appendix 7) and the OHEP operations manual (Appendix 8), including any modifications to COMAR and the manual as may be made from time to time.

2.3.1 Contractor's Facility

Contractor shall maintain a facility in the jurisdiction in which the Contractor proposes to provide services. The facility shall:

- A. Be open and available to the public during Normal State Business Hours. A list of State Holidays can be accessed at www.dbm.maryland.gov keywords: State Holidays.
- B. Comply with American with Disabilities Act (ADA) standards as well as any local or State Health Department Regulations.
- C. Have a separate interview area that ensures the confidentiality of conversations and information shared between the Applicant and Contractor's staff.
- D. Have restroom facilities for Applicants to use.
- E. Maintain customer files in a secure area with access only to authorized personnel.

2.3.2 Outreach

The Contractor shall:

- 2.3.2.1 Complete the Annual Outreach Plan, subject to the approval of the Contract Monitor, to inform the public of the energy and utility services available through OHEP (see OHEP Annual Outreach Plan (Appendix 6)). The initial Annual Outreach Plan shall be submitted with the Technical Proposal and funding necessary to execute the initial Annual Outreach

plan shall be included in the Financial Proposal (Attachment B). The Annual Outreach Plan must specify activities designed to ensure that all potentially eligible households are made aware of the energy assistance programs and related services, meet outreach goals, and demonstrate the establishment of relationships and partnerships with other organizations serving the community.

- 2.3.2.2 Report on outreach activities to the Contract Monitor each month (see OHEP Outreach Log (Appendix 14)).
- 2.3.2.3 Focus outreach activities on eligible households (within the income guidelines established by statute and defined in COMAR 07.03.21.03 and 07.03.22.03 for the fiscal year of operation). Eligible households with members 67 years of age or older and households with disabled members, or both, and eligible households with high home energy burdens are the highest priority.

2.3.3 Application Intake

The Contractor shall:

- 2.3.3.1 Comply with the application intake process described in COMAR Title 7, Subtitle 3, Chapters 21 and 22 (Appendix 7), including any modifications as may be made from time to time.
- 2.3.3.2 Accept applications throughout the entire Program Year. Applications may be submitted through the mail, online through myDHR – access will be provided to Contractor, or during an in-person interview. See OHEP Energy Assistance Applications (Appendix 3).
- 2.3.3.3 Conduct interviews at its facility and at off-site locations arranged by the Contractor. Each Contractor shall make reasonable accommodations for Applicants who are disabled and/or homebound, including but not limited to allowing an Applicant's authorized agent to complete an Application or by conducting an in-home interview of an Applicant. With the exception of the Applicant's home or a location selected by the Applicant, the off-site location shall meet the requirements in Section 2.3.1.
- 2.3.3.4 Explain USPP services (see COMAR 20.31.05) and provide energy conservation information to Applicants. Each Contractor shall also refer all Applicants, as needed, to local and community assistance organizations offering related assistance and the weatherization, heating and/or cooling system repair or replacement, or other energy efficiency programs offered by the Department of Housing and Community Development (DHCD) as defined in COMAR 05.04.14.
- 2.3.3.5 No later than (7) Days after receipt of each application, accurately enter the data from each application into the OHEP Data Management System, determine whether the application is complete and contains all required documentation necessary to verify the information provided on the application (including, for example, verification of income, lease terms, citizenship status, and energy supplies), and mail a request for additional information to each Applicant who has submitted an application that is missing required information or documentation.

The request for additional information must be generated from the OHEP Data Management System and identify the missing information or documentation and inform the Applicant that the application will be denied if the missing information or documentation is not provided within fifteen (15) Days from the date the request for additional information was mailed. If the information is not received by the due date, Contractor shall issue a Denial Notice on the next Business Day through the OHEP Data Management System.

- 2.3.3.6 Make an eligibility determination using the OHEP Data Management System. The eligibility determination shall be made by a Contractor-designated certifier who is a different person than the person(s) who assisted the Applicant during the intake process. In addition, a Contractor-designated program supervisor must review the eligibility determination for all applications from households that report no income or that report self-employment income. The eligibility determination must either approve the application for a specific benefit amount or deny the application for cause. The eligibility determination for each application must be entered in the OHEP Data Management System no later than forty-five (45) Days after the initial application was received. The Contractor-designated certifier may also serve as the designated program supervisor.
- 2.3.3.7 Mail Approval Notices and Denial Notices to the Applicant no later than ten (10) Business Days after determination. Contractor shall record the issuance of the notice in the OHEP Data Management System.
- 2.3.3.8 Reassess eligibility determinations when notified of information or events that could alter the eligibility determination, such as the death or incarceration of the Applicant, the relocation of the household or members of the household, evidence of an inaccurate or fraudulent application, or the request for energy crisis home heating assistance (see Section 2.3.5 of this RFP). If the reassessment requires termination or reduction of benefits, the Contractor must generate written notification to the Applicant through the OHEP Data Management System.
- 2.3.3.9 Scan all documents received in support of the application into ECMS no later than June 30th of each Program Year.

2.3.4 Payment Processing

The Contractor shall:

- 2.3.4.1 Comply with the payment processing procedures described in COMAR Title 7, Subtitle 3, Chapters 21 and 22, including any modifications as may be made from time to time as well as specific instructions and procedures as may be determined by the Contract Monitor.
- 2.3.4.2 Establish and maintain a system of fiscal control and fund accounting procedures and practices based on Generally Accepted Accounting Principles (GAAP), found at www.fasab.gov to ensure the proper disbursement of and accounting for Federal and State Special funds paid to energy suppliers on behalf of eligible households and shelters.
- 2.3.4.3 Maintain copies of payment documents in connection with benefit payments to bulk energy suppliers such as cancelled Contractor checks, bulk supplier invoices, and Energy Delivery Statements (EDS).

- 2.3.4.4 Reconcile and report, on a monthly basis, the amount of MEAP benefit payments made to energy suppliers, including any necessary adjustments due to any reason (see OHEP – MEAP Monthly Financial Status Report – Benefit Funds (Appendix 10)). OHEP will provide funds to each Contractor based on an estimate of need, and the amount of funds remaining in OHEP’s budget for LIHEAP.
- 2.3.4.5 Ensure approved applications are in EDS “sent status” in the OHEP Data Management System no later than fifty-five (55) Days after the date the initial application was received.
- 2.3.4.6 Generate EDS in the OHEP Data Management System on a weekly basis unless otherwise specified by the Contract Monitor. MEAP, EUSP Bill Payment and Arrearage Assistance payments are generated on separate EDSs. Requisite data for USPP is included on the MEAP EDS. OHEP will process payments on all EDSs related to utility providers.
- 2.3.4.7 Issue MEAP benefit payments through the Contractor’s fiscal system to bulk fuel providers, and issue direct payments to landlords and Applicants based on the EDSs. Upon notice by the State Contract Monitor that OHEP has exhausted either of its LIHEAP or EUSP funds, the Contractor must suspend or cancel all payments as directed by the Contract Monitor. The Contractor shall generate a Household Benefit Notice within the OHEP Data Management System no later than ten (10) days after payment is mailed to the energy supplier.
- 2.3.4.8 Generate a Duplicate Application Report through the OHEP Data Management System on the first Business Day of each week. Any error identified on the Duplicate Application Report must be resolved no later than seven (7) Days after it first appears on the report.
- 2.3.4.9 Adjust benefit payments when required by changes to the initial application due to the death or institutionalization of the Applicant, the relocation of the household or members of the household, information that the application was inaccurate or fraudulent in any way, changes in energy suppliers, or other circumstances.
- 2.3.4.10 Seek recovery of any overpayments and assist the State in identifying and collecting any unreturned overpayments due to Applicant fraud or any processing errors.

2.3.5 MEAP Crisis Services

- 2.3.5.1 The MEAP crisis season runs from November 1 to March 31 each Program Year.
- 2.3.5.2 During the MEAP crisis season, each Contractor shall provide home heating assistance on an expedited basis to qualified Applicants whose households are experiencing an energy emergency. A household experiences an energy emergency if it (i) has less than a four (4) day supply of heating fuel; (ii) has had the primary utility for home heat disconnected or has received a notice that the utility will be disconnected within four (4) Days; or (iii) does not have an operable furnace, fuel burner, or fuel storage tank.
- 2.3.5.3 Contractor shall, upon receipt of a request for emergency home heating assistance, review the documentation submitted and make an eligibility determination for crisis assistance. No later than 48 hours after receipt of a qualified application that identifies that the household is experiencing an energy emergency during the MEAP crisis season, Contractor shall restore or ensure the maintenance fuel suppliers and utility services repair or replace inoperable home heating or storage equipment, provide adequate alternate heat sources, or otherwise ensure

that the Applicant's household has access to heated shelter. The Contractor must complete those actions no later than 18 hours after receipt of an application that identifies any member of the household to be (i) under the age of two (2), (ii) over the age of 65, or (iii) experiencing, or imminently facing, a life-threatening or health-related crisis due to a home heating issue. Contractor shall refer all Applicants who are ineligible for crisis assistance to other agencies for assistance with their home heating emergencies.

2.3.5.4 Contractors shall submit an annual OHEP Energy Crisis Plan (Appendix 9) to the Contract Monitor no later than July 15th of each year that delineates the steps it will take to provide expedited home heating assistance services during energy emergencies. The OHEP energy Crisis Plan is subject to approval by the Contract Monitor.

2.3.5.5 The initial OHEP Energy Crisis Plan (Appendix 9) shall be submitted with the Technical Proposal.

2.3.6 Minimization of Fraud

Contractors shall follow all guidelines in the OHEP Fraud, Repayment and Administrative Hearing Procedures Manual (Appendix 19). Contractors shall notify Applicants of the risks of engaging in potentially fraudulent activities and attempt to identify potential fraud or misrepresentation by Applicants, shelters, energy suppliers, and staff. Contractors shall post fraud prevention information provided by the Contract Monitor in their facility. Contractors shall seek to obtain verification of the suspected fraudulent information through additional documentation or, when appropriate, by contacting an employer, landlord, energy provider, or other relevant source. Contractors shall utilize the duplicate application and Social Security Verification reports to identify potential fraud. Contractors shall contact the Contract Monitor when evidence supports suspected fraud or when it requires assistance in verifying suspected fraudulent information.

2.3.7 Fiscal Reporting

Contractors shall maintain fiscal management consistent with Section 2.3.4.2 and shall submit OHEP fiscal reports by email, hard copy, or fax to the Contract Monitor. Each Contractor shall complete the following reports by the specified due dates:

2.3.7.1 Benefit Funds – OHEP – MEAP Monthly Financial Status Report – Benefit Funds (Appendix 10). The purpose of this report is to determine the amount of MEAP benefits needed by the Contractor. This report is due the 15th of the month following the report month except for June where the report is due the 3rd Monday in July.

2.3.7.2 Administrative Fund – OHEP Administrative Funds – Monthly Financial Status Report (Appendix 11). The purpose of this report is to determine the amount of administrative funds needed by the Contractor. This report is due the 15th of the month following the report month except for June where the report is due the 3rd Monday in July.

2.3.7.3 Close-Out Report – The Close-Out Report is an annual report used to monitor the progress of the year-end close out process and ensure completion of each task associated with clearing all cases in pending or awaiting status for all programs. Instructions for completing this report are included in the OHEP Closeout Report and Procedures (Appendix 13). This report is due May 30th and July 3rd.

- 2.3.7.4 Independent Annual Financial Audit Report is due the 1st Monday in May of each year for the prior contract year. The first report is due the 1st Monday in May 2024 and will cover the period (July 2022 – June 2023).

2.3.8 Program Reporting

Contractors shall submit the following required program reports by email, hard copy or fax to the Contract Monitor:

- 2.3.8.1 Monthly OHEP Outreach Log (Appendix 14) The Outreach Log is used to identify outreach activities and costs which are then reported by OHEP Central to the PSC and General Assembly. The log is due by the 1st Friday of each month and shall report the outreach activity for the previous month.
- 2.3.8.2 OHEP Annual Outreach Plan (Appendix 6) – This plan is due August 15th of the first year and then July 1st for each subsequent year.
- 2.3.8.3 Annual OHEP Energy Crisis Plan (Appendix 9) – This plan is due July 15th of each year beginning 2022.

2.3.9 Ad Hoc Reports

- 2.3.9.1 In addition to the Fiscal and Program reports mentioned above, each Contractor shall submit ad hoc reports as may be requested by the Contract Monitor as a result of information requested by the Legislature, the Public Service Commission, or other governmental entities. OHEP estimates that at least ten (10) ad hoc reports will be required each year. One (1) or two (2) Business Days' notice will be given for such reports.

2.3.10 Monitoring

- 2.3.10.1 Each Contractor shall cooperate with all monitoring and audits conducted by or at the request of Federal or State agencies or programs. Upon notice by email at least one (1) Business Day prior to any site visit for monitoring or auditing purposes, the Contractor will accommodate any personnel involved in the site visit and will make all fiscal and program documentation available to such personnel. All site visits will be conducted during Normal State Business Hours.
- 2.3.10.2 Each Contractor shall maintain copies of Applicant records in individual Applicant files at the Contractor's facility for monitoring and audit purposes. In addition to the record retention requirements specified in the Contract, the Contractor must maintain Applicant Records subject to an unresolved audit finding until the audit is fully resolved and for a minimum of at least three years.
- 2.3.10.3 The Contract Monitor will assess each Contractor's performance as detailed in the OHEP Operations Manual (Appendix 8, Chapter 13 Monitoring Program Compliance for Federal, State, and Manual Requirements) and the OHEP Monitoring Tool and Report (Appendix 15) beginning the start date of the Contract resulting from this RFP.

Monitoring is conducted on an ongoing basis throughout the year and annually. Remote ongoing weekly and monthly monitoring ensures consistent compliance with all program, administrative and fiscal elements and includes a limited selection of files and compliance issues for review. Annual monitoring is conducted both remotely and onsite, when possible. Annual monitoring is comprehensive and examines program, administrative and fiscal performance in greater depth than the weekly and monthly monitoring and includes a larger selection of files and other documents for review.

The Contract Monitor will schedule an annual site visit at each Contractor's facility to monitor the Contractor's compliance with program and fiscal requirements. During that site visit, OHEP personnel will review a sample of Applicant files and will complete a monitoring report. The current version of that monitoring report, which may be modified as needed, is attached for information purposes only as Appendix 15 (OHEP Monitoring Tool and Report).

The purpose of monitoring is to ensure compliance with all program policies, procedures, and standards, as well as any fiscal and administrative requirements in accordance with any contractual obligations and applicable federal statutes and regulations.

If the Contractor is found deficient, deficiencies will be documented as either an "Area of Concern" or a "Finding". Areas of Concern indicate that the Contractor must make improvements in the program area, but the issue does not constitute a material weakness. A Finding indicates that a material weakness has been identified and a corrective action plan (CAP) must be executed to correct the problem.

Subsequent to the annual site visit, a final report will be issued to the Contractor within 45 days from the date of the monitoring visit. Contractors that are issued a final report with Findings are required to submit a detailed CAP to the Contract Monitor within 45 days after the final monitoring report was issued. The CAP shall outline the specific steps the Contractor will take to rectify any Findings from the monitoring process. The Contract Monitor will review and respond within 14 days to accept or require revisions to the CAP. The Contractor shall have 14 days to review and respond to any revisions required by the Contract Monitor.

The Contract Monitor may mandate that the Contractor submit periodic reporting, beyond the CAP, on progress to resolve deficiencies from weekly and monthly monitoring. The development of a CAP does not alter, modify, or otherwise restrict the State's rights to other remedies provided under the Contract or applicable law.

2.3.11 Training

The Contractor shall ensure that appropriate personnel attend training programs as described in Section 2.2. In addition, the Contractor's Project Manager and at least one other staff shall attend the OHEP Annual Meeting and Training, which is a two (2) day meeting. The costs for attending the OHEP Annual Meeting and Training, including mileage, accommodations, and meals, are to be factored into the Financial Proposal Form (Attachment B).

2.3.12 Appeals

MEAP and EUSP applicants may request a fair hearing when they disagree with the determination made regarding their application for assistance. The Contractor shall notify customers of their fair hearing rights when taking action or providing notice of action relating to any appealable action. The procedures for appeals and fair hearings are detailed in the OHEP Fraud, Repayment, and Administrative Hearings manual (Appendix 19).

2.3.13 Contractor's Project Manager

The Contractor shall designate an individual to serve as the Contractor's Project Manager. The Contractor's Project Manager shall be available to discuss and report on the day-to-day operations of the project as well as attend any meetings pertaining to the same. Meeting dates, times and locations(s) will be provided in advance.

2.3.14 Post-Award Orientation Conference

No later than two (2) weeks after BPW approval, the Contract Monitor, the Contractor and/or the Contractor's Project Manager, and other appropriate State or Contractor staff shall attend a Post-Award Orientation Conference. The purpose of the Post Award Orientation Conference is to discuss service delivery, invoice processing, monitoring and other Contract terms and conditions. The date, time and location of the Post Award Orientation Conference will be indicated to the successful Offeror at the time of Contract execution.

2.3.15 Required Project Policies, Guidelines and Methodologies

The Contractor shall comply with all applicable laws, regulations, policies, standards and guidelines affecting Information Technology projects, which may be created or changed periodically. Offeror is required to review all applicable links provided below and state compliance in its response.

- A. The State of Maryland System Development Life Cycle (SDLC) methodology at: <http://doit.maryland.gov/SDLC/Pages/agile-sdlc.aspx> ;
- B. The State of Maryland Information Technology Security Policy and Standards at: <http://www.DoIT.maryland.gov>- keyword: Security Policy;
- C. The State of Maryland Information Technology Non-Visual Standards at: <http://doit.maryland.gov/policies/Pages/ContractPolicies.aspx>; and
- D. The State of Maryland Information Technology Project Oversight at: <https://doit.maryland.gov/epmo/Pages/MITDP/oversight.aspx>
- E. The Contractor shall follow project management methodologies consistent with the most recent edition of the Project Management Institute's Project Management Body of Knowledge Guide.

2.4 Deliverables

2.4.1 Minimum Deliverable Quality

The Contractor shall subject each deliverable to its internal quality-control process prior to submitting the deliverable to the State.

Each deliverable shall meet the following minimum acceptance criteria:

- A. Be presented in a format appropriate for the subject matter and depth of discussion;

- B. Be organized in a manner that presents a logical flow of the deliverable’s content;
- C. Contain factual information reasonably expected to have been known at the time of submittal;
- D. In each section of the deliverable, include only information relevant to that section of the deliverable;
- E. Contain content and presentation consistent with industry best practices in terms of deliverable completeness, clarity, and quality;
- F. Meets the acceptance criteria applicable to that deliverable, including any State policies, functional or non-functional requirements, or industry standards; and
- G. Contain no structural errors such as poor grammar, misspellings or incorrect punctuation.

A draft written deliverable may contain limited structural errors such as incorrect punctuation and shall represent a significant level of completeness toward the associated final written deliverable. The draft written deliverable shall otherwise comply with minimum deliverable quality criteria above.

2.4.2 Deliverable Descriptions/Acceptance Criteria

The Contractor may suggest other subtasks, artifacts, or deliverables to improve the quality and success of the assigned tasks.

Deliverables Summary Table*

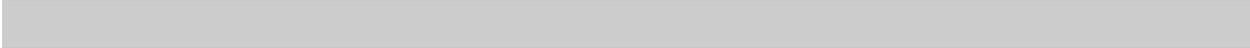
RFP Ref. Section	Deliverable Name	Deliverable Description	Acceptance Criteria	Deliverable Frequency
2.3.2.1	Outreach Plan	A description of how the Contractor will achieve the outreach requirements to increase public awareness and knowledge about the energy assistance program and specified in the Low Income Home energy Assistance Act of 1981.	Microsoft Excel schedule demonstrating tasks, task estimates, resource assignments, and dependencies for both Agency and Contractor Personnel.	Initial Plan is submitted with the Technical Proposal and then the Final Plan is due by August 15 th of the first year and then July 1 st for each subsequent year.
2.3.8.1	OHEP Outreach Log	A detailed summary of outreach activities completed by the Contractor monthly.	Submit in Microsoft Excel format (see Appendix 14) to include: --Type of Outreach Activity --Number of Contact made --City/Town where the activity took place --Cost of the outreach not paid by OHEP funds.	Due Monthly. Shall be submitted monthly by the 1 st Friday of each month following the report month.

2.3.7.1	OHEP-MEAP Monthly Financial Status Report-Benefit Funds	A report indicating the amount of MEAP benefits needed by the Contractor each month.	Submit in Microsoft Excel format (see Appendix 10), to include: --State Advances --Expenditures --Adjustments --Net Expenditures --Cash on Hand	Due Monthly. Shall be submitted by the 15 th day of the month following the report month, except that report for June is due the 3rd Monday in July.
2.3.7.2	OHEP Administrative Funds-Monthly Financial Status Report	A report indicating the amount of administrative funds needed by the Contractor each month	Submit in Microsoft Excel format (see Appendix 11) to include: --Amount of each budget line item approved by OHEP --Actual expenditures for the current month chargeable to OHEP --Signed by Executive Director or designee	Due Monthly. Shall be submitted by the 15 th day of the month following the report month, except that report for June is due the 3 rd Monday in July.
2.3.7.3	Close-Out Report	A report indicating the Contractor’s progress in executing specific tasks that must be completed prior to the end of each Program Year (An example is provided in Appendix 13).		Due Annually in two parts. The first part of the Close-Out Report shall be submitted the last week in May and the second part shall be submitted by the first week in July each Program Year.
2.3.4.3	MEAP Bulk Fuel Processing Plan	A description of how the Contractor will track and process bulk fuel payments, and coordinate with bulk fuel vendors.	Submit in Microsoft Word format (see Appendix 12)	Initial Plan is submitted with the Technical Proposal and subsequent plans are due annually by August 15 th of each year beginning 2023.
2.3.7.4	Independent Annual Financial Audit Report	The report of a certified, independent financial auditor regarding the Coordinator’s fiscal performance.		Due annually. Shall be submitted by the 1 st Monday in May each year beginning in 2024, reporting on the prior contract year.

2.3.5.4, and 2.3.5.5	OHEP Energy Crisis Plan	This plan is used to assist OHEP and the Contractor to handle the needs of an Applicant that is experiencing an energy emergency.	Submit in Microsoft Word format (see Appendix 9), to include: - Name of the Contractor’s primary contact for handling crisis situations - Provisions for handling crisis situations after Normal Business Hours. - List of additional resources which the Contractor can use or make referrals to alleviate the crisis where the MEAP grant is not enough.	Initial Plan is submitted with the Technical Proposal and due annually. Shall be submitted by 15th of July each year beginning July 2023.
2.3.9	Ad Hoc Reports	These reports may be requested outside of the reports defined in this document.		Shall be submitted as requested within 1 or 2 Business Days.
3.7.2	Criminal Background Check Affidavit	This Affidavit is used to confirm that background checks have been performed on each employee assigned to this RFP. See Appendix 18.		Initial Affidavit due 15 Days prior to the Go-Live Date and due annually. Shall be submitted by July 1st each subsequent year.
3.6.5	Certificate of Insurance	Provides proof of Insurance coverage.	Lists the State as an additional insured.	Due 5 Business Days after notice of recommendation for contract award. Due annually and upon any updates.
3.8	Problem Escalation Procedure	Used to assist the Contractor in both routine and emergency situations	Submit in Microsoft Word format (See section 3.8 of the RFP for information to include).	Due no later than 10 Business Days after notice of recommended award; Due no later than 10 business Days after any change of circumstance that causes a change in PEP; and Due 10 business Days after

				start of each Contract Year.
--	--	--	--	-------------------------------------

***The deliverables summary table may not list every contractually-required deliverable. Offerors and Contractors should read the RFP thoroughly for all Contract requirements and deliverables.**



3 Contractor Requirements: General

3.1 Contract Initiation Requirements

- A. Contractor shall schedule and hold a kickoff meeting within 10 Business Days of NTP Date. At the kickoff, the Contractor shall furnish an updated Project Schedule describing the activities for the Contractor, the State, and any third parties for fully transitioning to the Contractor's Solution.

3.2 End of Contract Transition

- 3.2.1 The Contractor shall provide transition assistance as requested by the State to facilitate the orderly transfer of services to the State or a follow-on contractor, for a period up to 60 days prior to Contract end date, or the termination thereof. Such transition efforts shall consist, not by way of limitation, of:
 - A. Provide additional services and support as requested to successfully complete the transition;
 - B. Maintain the services called for by the Contract at the required level of proficiency;
 - C. Provide updated System Documentation (see Appendix 1), as appropriate; and
 - D. Provide current operating procedures (as appropriate).
- 3.2.2 The Contractor shall work toward a prompt and timely transition, proceeding in accordance with the directions of the Contract Monitor. The Contract Monitor may provide the Contractor with additional instructions to meet specific transition requirements prior to the end of the Contract.
- 3.2.3 The Contractor shall ensure that all necessary knowledge and materials for the tasks completed are transferred to the custody of State personnel or a third party, as directed by the Contract Monitor.
- 3.2.4 The Contractor shall support end-of-Contract transition efforts with technical and project support to include but not be limited to:
 - A. The Contractor shall provide a draft Transition-Out Plan 60 Business Days in advance of Contract end date.
 - B. The Transition-Out Plan shall address at a minimum the following areas:
 - 1) Any staffing concerns/issues related to the closeout of the Contract;
 - 2) Communications and reporting process between the Contractor, the Department of Human Services and the Contract Monitor;
 - 3) Security and system access review and closeout;
 - 4) Any hardware/software inventory or licensing including transfer of any point of contact for required software licenses to the Department of Human Services or a designee;
 - 5) Any final training/orientation of Department of Human Services staff;
 - 6) Connectivity services provided, activities and approximate timelines required for Transition-Out;

- 7) Knowledge transfer, to include:
 - a) A working knowledge of the current system environments as well as the general business practices of the Department of Human Services;
 - b) Review with the Department of Human Services the procedures and practices that support the business process and current system environments;
 - c) Working knowledge of all technical and functional matters associated with the Solution, its architecture, data file structure, interfaces, any batch programs, and any hardware or software tools utilized in the performance of the Contract;
 - d) Documentation that lists and describes all hardware and software tools utilized in the performance of the Contract;
 - e) A working knowledge of various utilities and corollary software products used in support and operation of the Solution;
 - 8) Plans to complete tasks and any unfinished work items (including open change requests, and known bug/issues); and
 - 9) Any risk factors with the timing and the Transition-Out schedule and transition process. The Contractor shall document any risk factors and suggested solutions.
- C. The Contractor shall ensure all documentation and data including, but not limited to, System Documentation and current operating procedures, is current and complete with a hard and soft copy in a format prescribed by the Contract Monitor.
- D. The Contractor shall provide copies of any current daily and weekly back-ups to the Department of Human Services or a third party as directed by the Contract Monitor as of the final date of transition, but no later than the final date of the Contract.
- E. Access to any data or configurations of the furnished product and services shall be available after the expiration of the Contract as described in **Section 3.2.5**.

3.2.5 Return and Maintenance of State Data

- A. Upon termination or the expiration of the Contract Term, the Contractor shall: (a) return to the State all State data in either the form it was provided to the Contractor or in a mutually agreed format along with the schema necessary to read such data; (b) preserve, maintain, and protect all State data until the earlier of a direction by the State to delete such data or the expiration of 90 days (“the retention period”) from the date of termination or expiration of the Contract term; (c) after the retention period, the Contractor shall securely dispose of and permanently delete all State data in all of its forms, such as disk, CD/DVD, backup tape and paper such that it is not recoverable, according to National Institute of Standards and Technology (NIST)-approved methods with certificates of destruction to be provided to the State; and (d) prepare an accurate accounting from which the State may reconcile all outstanding accounts. The final monthly invoice for the services provided hereunder shall include all charges for the 90-day data retention period.
- B. During any period of service suspension, the Contractor shall maintain all State data in its then existing form, unless otherwise directed in writing by the Contract Monitor.

- C. In addition to the foregoing, the State shall be entitled to any post-termination/expiration assistance generally made available by Contractor with respect to the services.

3.3 Invoicing

3.3.1. General

- A. The Contractor shall e-mail the original of each invoice and signed authorization to invoice to the Contract Monitor
- B. All invoices for services shall be verified by the Contractor as accurate at the time of submission.
- C. An invoice not satisfying the requirements of a Proper Invoice (as defined at COMAR 21.06.09.01 and .02) cannot be processed for payment. To be considered a Proper Invoice, invoices must include the following information, without error:
 - 1) Contractor name and address;
 - 2) Remittance address;
 - 3) Federal taxpayer identification (FEIN) number, social security number, as appropriate;
 - 4) Invoice period (i.e. time period during which services covered by invoice were performed);
 - 5) Invoice date;
 - 6) Invoice number;
 - 7) State assigned Contract number;
 - 8) State assigned (Blanket) Purchase Order number(s);
 - 9) Goods or services provided;
 - 10) Amount due; and
 - 11) Any additional documentation required by regulation or the Contract.
- D. Invoices that contain both fixed price and time and material items shall clearly identify each item as either fixed price or time and material billing.
- E. The Department reserves the right to reduce or withhold Contract payment in the event the Contractor does not provide the Department with all required deliverables within the time frame specified in the Contract or otherwise breaches the terms and conditions of the Contract until such time as the Contractor brings itself into full compliance with the Contract.
- F. Any action on the part of the Department, or dispute of action by the Contractor, shall be in accordance with the provisions of Md. Code Ann., State Finance and Procurement Article §§ 15-215 through 15-223 and with COMAR 21.10.04.
- G. The State is generally exempt from federal excise taxes, Maryland sales and use taxes, District of Columbia sales taxes and transportation taxes. The Contractor; however, is not exempt from such sales and use taxes and may be liable for the same.

- H. Invoices for final payment shall be clearly marked as “FINAL” and submitted when all work requirements have been completed and no further charges are to be incurred under the Contract. In no event shall any invoice be submitted later than 60 calendar days from the Contract termination date.

3.3.2. Invoice Submission Schedule

The Contractor shall submit invoices in accordance with the following schedule: Contractors shall bill the Department quarterly using the **OHEP Quarterly Invoice** (Appendix 16). Invoices shall be due by the 15th day of the first month of the quarter. Payment shall be made based upon 1/4 of each annual Contract amount.

3.3.3. For the purposes of the Contract an amount will not be deemed due and payable if:

- A. The amount invoiced is inconsistent with the Contract;
- B. The proper invoice has not been received by the party or office specified in the Contract;
- C. The invoice or performance is in dispute or the Contractor has failed to otherwise comply with the provisions of the Contract;
- D. The item or services have not been accepted;
- E. The quantity of items delivered is less than the quantity ordered;
- F. The items or services do not meet the quality requirements of the Contract;
- G. If the Contract provides for progress payments, the proper invoice for the progress payment has not been submitted pursuant to the schedule;
- H. If the Contract provides for withholding a retainage and the invoice is for the retainage, all stipulated conditions for release of the retainage have not been met; or
- I. The Contractor has not submitted satisfactory documentation or other evidence reasonably required by the Procurement Officer or by the Contract concerning performance under the Contract and compliance with its provisions.

3.3.4. Travel Reimbursement

Travel will not be reimbursed under this RFP.

3.4. Liquidated Damages

3.4.1 MBE Liquidated Damages

Inapplicable because there is no MBE goal for this RFP.

3.4.2 Liquidated Damages other than MBE

THIS SECTION IS INAPPLICABLE TO THIS RFP.

3.5 Disaster Recovery and Data

The following requirements apply to the Contract:

3.5.1 Redundancy, Data Backup and Disaster Recovery

- A. Unless specified otherwise in the RFP, Contractor shall maintain or cause to be maintained disaster avoidance procedures designed to safeguard State data and other confidential information, Contractor's processing capability and the availability of hosted services, in each case throughout the Contract term. Any force majeure provisions of the Contract do not limit the Contractor's obligations under this provision.
- B. The Contractor shall have robust contingency and disaster recovery (DR) plans in place to ensure that the services provided under the Contract will be maintained in the event of disruption to the Contractor/subcontractor's operations (including, but not limited to, disruption to information technology systems), however caused.
 - 1) The Contractor shall furnish a DR site.
 - 2) The DR site shall be at least 100 miles from the primary operations site, and have the capacity to take over complete production volume in case the primary site becomes unresponsive.
- C. The contingency and DR plans must be designed to ensure that services under the Contract are restored after a disruption within twenty-four (24) hours from notification and a recovery point objective of one (1) hour or less prior to the outage in order to avoid unacceptable consequences due to the unavailability of services.
- D. The Contractor shall test the contingency/DR plans at least twice annually to identify any changes that need to be made to the plan(s) to ensure a minimum interruption of service. Coordination shall be made with the State to ensure limited system downtime when testing is conducted. At least one (1) annual test shall include backup media restoration and failover/fallback operations at the DR location. The Contractor shall send the Contract Monitor a notice of completion following completion of DR testing.
- E. Such contingency and DR plans shall be available for the DHS to inspect and practically test at any reasonable time, and subject to regular updating, revising, and testing throughout the term of the Contract.

3.5.2 Data Export/Import

- A. The Contractor shall, at no additional cost or charge to the State, in an industry standard/non-proprietary format:
 - 1) perform a full or partial import/export of State data within 24 hours of a request; or
 - 2) provide to the State the ability to import/export data at will and provide the State with any access and instructions which are needed for the State to import or export data.
- B. Any import or export shall be in a secure format per the Security Requirements.

3.5.3 Data Ownership and Access

- A. Data, databases and derived data products created, collected, manipulated, or directly purchased as part of a RFP are the property of the State. The purchasing State agency is considered the custodian of the data and shall determine the use, access, distribution and other conditions based on appropriate State statutes and regulations.

- B. Public jurisdiction user accounts and public jurisdiction data shall not be accessed, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of the Contract, including as necessary to perform the services hereunder or (4) at the State's written request.
- C. The Contractor shall limit access to and possession of State data to only Contractor Personnel whose responsibilities reasonably require such access or possession and shall train such Contractor Personnel on the confidentiality obligations set forth herein.
- D. At no time shall any data or processes – that either belong to or are intended for the use of the State or its officers, agents or employees – be copied, disclosed or retained by the Contractor or any party related to the Contractor for subsequent use in any transaction that does not include the State.
- E. The Contractor shall not use any information collected in connection with the services furnished under the Contract for any purpose other than fulfilling such services.

3.5.4 Provisions in Sections 3.5.1 – 3.5.3 shall survive expiration or termination of the Contract. Additionally, the Contractor shall flow down the provisions of Sections 3.5.1-3.5.3 (or the substance thereof) in all subcontracts.

3.6 Insurance Requirements

The Contractor shall maintain, at a minimum, the insurance coverages outlined below, or any minimum requirements established by law if higher, for the duration of the Contract, including option periods, if exercised:

3.6.1 The following type(s) of insurance and minimum amount(s) of coverage are required:

- A. Commercial General Liability - of \$1,000,000 combined single limit per occurrence for bodily injury, property damage, and personal and advertising injury and \$3,000,000 annual aggregate. The minimum limits required herein may be satisfied through any combination of primary and umbrella/excess liability policies.
- B. Errors and Omissions/Professional Liability insurance \$1,000,000 per combined single limit per claim and \$3,000,000 annual aggregate.
- C. Crime Insurance/Employee Theft Insurance - to cover employee theft with a minimum single loss limit of \$1,000,000 per loss, and minimum single loss retention not to exceed \$10,000. The State of Maryland and the Department of Human Services should be added as a "loss payee."
- D. Cyber Security / Data Breach Insurance – (For any service offering hosted by the Contractor) ten million dollars (\$10,000,000) per occurrence. The coverage must be valid at all locations where work is performed or data or other information concerning the State's claimants or employers is processed or stored.
- E. Worker's Compensation - The Contractor shall maintain such insurance as necessary or as required under Workers' Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act, to not be less than one million dollars (\$1,000,000) per occurrence (unless a state's law requires a greater amount of coverage). Coverage must be valid in all states where work is performed.

F. Automobile or Commercial Truck Insurance - The Contractor shall maintain Automobile or Commercial Truck Insurance (including owned, leased, hired, and non-owned vehicles) as appropriate with Liability, Collision, and PIP limits no less than those required by the State where the vehicle(s) is registered, but in no case less than those required by the State of Maryland.

- 3.6.2** The State shall be listed as an additional insured on the faces of the certificates associated with the coverages listed above, including umbrella policies, excluding Workers' Compensation Insurance and professional liability.
- 3.6.3** All insurance policies shall be endorsed to include a clause requiring the insurance carrier provide the Contract Monitor, by certified mail, not less than 30 days' advance notice of any non-renewal, cancellation, or expiration. The Contractor shall notify the Procurement Officer in writing, if policies are cancelled or not renewed within five (5) days of learning of such cancellation or nonrenewal. The Contractor shall provide evidence of replacement insurance coverage to the Procurement Officer at least 15 days prior to the expiration of the insurance policy then in effect.
- 3.6.4** Any insurance furnished as a condition of the Contract shall be issued by a company authorized to do business in the State.
- 3.6.5** The recommended awardee must provide current certificate(s) of insurance with the prescribed coverages, limits and requirements set forth in this section within five (5) Business Days from notice of recommended award. During the period of performance for multi-year contracts, the Contractor shall provide certificates of insurance annually or as otherwise directed by the Contract Monitor.
- 3.6.6** Subcontractor Insurance

The Contractor shall require any subcontractors to obtain and maintain comparable levels of coverage and shall provide the Contract Monitor with the same documentation as is required of the Contractor.

3.7 Security Requirements

The following requirements are applicable to the Contract:

3.7.1 Employee Identification

- A. Contractor Personnel shall display his or her company ID badge in a visible location at all times while on State premises. Upon request of authorized State personnel, each Contractor Personnel shall provide additional photo identification.
- B. Contractor Personnel shall cooperate with State site requirements, including but not limited to, being prepared to be escorted at all times, and providing information for State badge issuance.
- C. Contractor shall remove any Contractor Personnel from working on the Contract where the State determines, in its sole discretion that Contractor Personnel has not adhered to the Security requirements specified herein.
- D. The State reserves the right to request that the Contractor submit proof of employment authorization of non-United States Citizens, prior to commencement of work under the Contract.

3.7.2 Security Clearance / Criminal Background Check

- A. A criminal background check for all Contractor Personnel providing services listed in the RFP shall be completed prior to each Contractor Personnel providing any services under the Contract.
- B. The Contractor shall obtain at its own expense a Criminal Justice Information System (CJIS) Local, State and Federal criminal background check, including fingerprinting, for all Contractor Personnel listed in sub-paragraph A. This check may be performed by a public or private entity.
- C. Persons with a criminal record may not perform services under the Contract unless prior written approval is obtained from the Contract Monitor. The Contract Monitor reserves the right to reject any individual based upon the results of the background check. Decisions of the Contract Monitor as to acceptability of a candidate are final. The State reserves the right to refuse any individual Contractor Personnel to work on State premises, based upon certain specified criminal convictions, as specified by the State.
- D. The CJIS criminal record check of each Contractor Personnel who will work on State premises shall be reviewed by the Contractor for convictions of any of the following crimes described in the Annotated Code of Maryland, Criminal Law Article:
 - 1) §§ 6-101 through 6-104, 6-201 through 6-205, 6-409 (various crimes against property);
 - 2) any crime within Title 7, Subtitle 1 (various crimes involving theft);
 - 3) §§ 7-301 through 7-303, 7-313 through 7-317 (various crimes involving telecommunications and electronics);
 - 4) §§ 8-201 through 8-302, 8-501 through 8-523 (various crimes involving fraud);
 - 5) §§9-101 through 9-417, 9-601 through 9-604, 9-701 through 9-706.1 (various crimes against public administration); or
 - 6) a crime of violence as defined in CL § 14-101(a).
- E. A particular on-site location covered by the Contract may require more restrictive conditions regarding the nature of prior criminal convictions that would result in Contractor Personnel not being permitted to work on those premises. Upon receipt of a location's more restrictive conditions regarding criminal convictions, the Contractor shall provide an updated certification regarding the Contractor Personnel working at or assigned to those premises.

3.7.3 On-Site Security Requirement(s)

- A. For the conditions noted below, Contractor Personnel may be barred from entrance or leaving any site until such time that the State's conditions and queries are satisfied.
 - 1) Contractor Personnel may be subject to random security checks when entering and leaving State secured areas. The State reserves the right to require Contractor Personnel to be accompanied while in secured premises.
 - 2) Some State sites, especially those premises of the Department of Public Safety and Correctional Services, require each person entering the premises to document and inventory items (such as tools and equipment) brought onto the site, and to submit to a physical search of his or her person. Therefore, Contractor Personnel shall always

have available an inventory list of tools being brought onto a site and be prepared to present the inventory list to the State staff or an officer upon arrival for review, as well as present the tools or equipment for inspection. Before leaving the site, the Contractor Personnel will again present the inventory list and the tools or equipment for inspection. Upon both entering the site and leaving the site, State staff or a correctional or police officer may search Contractor Personnel. Depending upon facility rules, specific tools or personal items may be prohibited from being brought into the facility.

- B. Any Contractor Personnel who enters the premises of a facility under the jurisdiction of the Department of Human Services may be searched, fingerprinted (for the purpose of a criminal history background check), photographed and required to wear an identification card issued by the Department of Human Services.
- C. Further, Contractor Personnel shall not violate Md. Code Ann., Criminal Law Art. Section 9-410 through 9-417 and such other security policies of the agency that controls the facility to which the Contractor Personnel seeks access. The failure of any of the Contractor Personnel to comply with any provision of the Contract is sufficient grounds for the State to immediately terminate the Contract for default.

3.7.4 Information Technology

- (a) Contractors shall comply with and adhere to the State IT Security Policy and Standards. These policies may be revised from time to time and the Contractor shall comply with all such revisions. Updated and revised versions of the State IT Policy and Standards are available online at: www.doit.maryland.gov – keyword: Security Policy.
- (b) The Contractor shall not connect any of its own equipment to a State LAN/WAN without prior written approval by the State. The Contractor shall complete any necessary paperwork as directed and coordinated with the Contract Monitor to obtain approval by the State to connect Contractor-owned equipment to a State LAN/WAN.

The Contractor shall:

- 1) Implement administrative, physical, and technical safeguards to protect State data that are no less rigorous than accepted industry best practices for information security such as those listed below (see **Section 3.7.5**);
- 2) Ensure that all such safeguards, including the manner in which State data is collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws as well as the terms and conditions of the Contract; and
- 3) The Contractor, and Contractor Personnel, shall (i) abide by all applicable federal, State and local laws, rules and regulations concerning security of Information Systems and Information Technology and (ii) comply with and adhere to the State IT Security Policy and Standards as each may be amended or revised from time to time. Updated and revised versions of the State IT Policy and Standards are available online at: www.doit.maryland.gov – keyword: Security Policy.

3.7.5. Data Protection and Controls

- A. Contractor shall ensure a secure environment for all State data and any hardware and software (including but not limited to servers, network and data components) provided or used in connection with the performance of the Contract and shall apply or cause application of appropriate controls so as to maintain such a secure environment (“Security Best Practices”). Such Security Best Practices shall comply with an accepted industry standard, such as the NIST cybersecurity framework.
- B. To ensure appropriate data protection safeguards are in place, the Contractor shall implement and maintain the following controls at all times throughout the Term of the Contract (the Contractor may augment this list with additional controls):
- 1) Establish separate production, test, and training environments for systems supporting the services provided under the Contract and ensure that production data is not replicated in test or training environment(s) unless it has been previously anonymized or otherwise modified to protect the confidentiality of Sensitive Data elements. The Contractor shall ensure the appropriate separation of production and non-production environments by applying the data protection and control requirements listed in **Section 3.7.5**.
 - 2) Apply hardware and software hardening procedures as recommended by Center for Internet Security (CIS) guides <https://www.cisecurity.org/>, Security Technical Implementation Guides (STIG) <https://public.cyber.mil/stigs/>, or similar industry best practices to reduce the systems’ surface of vulnerability, eliminating as many security risks as possible and documenting what is not feasible or not performed according to best practices. Any hardening practices not implemented shall be documented with a plan of action and milestones including any compensating control. These procedures may include but are not limited to removal of unnecessary software, disabling or removing unnecessary services, removal of unnecessary usernames or logins, and the deactivation of unneeded features in the Contractor’s system configuration files.
 - 3) Ensure that State data is not comingled with non-State data through the proper application of compartmentalization Security Measures.
 - 4) Apply data encryption to protect Sensitive Data at all times, including in transit, at rest, and also when archived for backup purposes. Unless otherwise directed, the Contractor is responsible for the encryption of all Sensitive Data.
 - 5) For all State data the Contractor manages or controls, data encryption shall be applied to such data in transit over untrusted networks.
 - 6) Encryption algorithms which are utilized for encrypting data shall comply with current Federal Information Processing Standards (FIPS), “Security Requirements for Cryptographic Modules”, FIPS PUB 140-2:
<http://csrc.nist.gov/publications/fips/fips140-2/fips1402.pdf>
<http://csrc.nist.gov/groups/STM/cmvp/documents/140-1/1401vend.htm>
 - 7) Enable appropriate logging parameters to monitor user access activities, authorized and failed access attempts, system exceptions, and critical information security events as recommended by the operating system and application manufacturers and

information security standards, including Maryland Department of Information Technology's Information Security Policy.

- 8) Retain the aforementioned logs and review them at least daily to identify suspicious or questionable activity for investigation and documentation as to their cause and remediation, if required. The Department of Human Services shall have the right to inspect these policies and procedures and the Contractor or subcontractor's performance to confirm the effectiveness of these measures for the services being provided under the Contract.
- 9) Ensure system and network environments are separated by properly configured and updated firewalls.
- 10) Restrict network connections between trusted and untrusted networks by physically or logically isolating systems from unsolicited and unauthenticated network traffic.
- 11) By default "deny all" and only allow access by exception.
- 12) Review, at least annually, the aforementioned network connections, documenting and confirming the business justification for the use of all service, protocols, and ports allowed, including the rationale or compensating controls implemented for those protocols considered insecure but necessary.
- 13) Install Data Loss Prevention (DLP) software to manage PII data on all computing devices and infiltration and exfiltration of said data.
- 14) Perform regular vulnerability testing of operating system, application, and network devices. Such testing is expected to identify outdated software versions; missing software patches; device or software misconfigurations; and to validate compliance with or deviations from the security policies applicable to the Contract. Contractor shall evaluate all identified vulnerabilities for potential adverse effect on security and integrity and remediate the vulnerability no later than 30 days following the earlier of vulnerability's identification or public disclosure, or document why remediation action is unnecessary or unsuitable. The Department of Human Services shall have the right to inspect the Contractor's policies and procedures and the results of vulnerability testing to confirm the effectiveness of these measures for the services being provided under the Contract.
- 15) Enforce strong user authentication and password control measures to minimize the opportunity for unauthorized access through compromise of the user access controls. At a minimum, the implemented measures should be consistent with the most current Maryland Department of Information Technology's Information Security Policy (<https://doit.maryland.gov/policies/Pages/default.aspx>), including specific requirements for password length, complexity, history, and account lockout.
- 16) Ensure State data is not processed, transferred, or stored outside of the United States ("U.S."). The Contractor shall provide its services to the State and the State's end users solely from data centers in the U.S. Unless granted an exception in writing by the State, the Contractor shall not allow Contractor Personnel to store State data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. The Contractor shall permit its Contractor

Personnel to access State data remotely only as required to provide technical support.

- 17) Ensure Contractor's Personnel shall not connect any of its own equipment to a State LAN/WAN without prior written approval by the State, which may be revoked at any time for any reason. The Contractor shall complete any necessary paperwork as directed and coordinated with the Contract Monitor to obtain approval by the State to connect Contractor -owned equipment to a State LAN/WAN.
- 18) Ensure that anti-virus and anti-malware software is installed and maintained on all systems supporting the services provided under the Contract; that the anti-virus and anti-malware software is automatically updated; and that the software is configured to actively scan and detect threats to the system for remediation. The Contractor shall perform routine vulnerability scans and take corrective actions for any findings.
- 19) Conduct regular external vulnerability and penetration testing (by a third party) designed to examine the service provider's security profile from the Internet without benefit of access to internal systems and networks behind the external security perimeter. Evaluate all identified vulnerabilities on Internet-facing devices for potential adverse effect on the service's security and integrity and remediate the vulnerability promptly or document why remediation action is unnecessary or unsuitable. The Department of Human Services shall have the right to inspect these policies and procedures and the performance of vulnerability testing to confirm the effectiveness of these measures for the services being provided under the Contract.
- 20) Provide reports on all aforementioned requirements above for DHS Security team to review and validate. If proper reporting or validation is not forthcoming, rectified or sufficient, then DHS Security may require implementing security tools to some or all devices that do not meet DHS standards. This may include, but not limited to, installing anti-virus/malware software, vulnerability/compliance software, DLP software and threat detection software at the expense of the Contractor.
- 21) All computer and network devices shall be at the latest revision of software, and no device shall be in an end of life status.

3.7.6 Security Logs and Reports Access

- A. For a SaaS or non-State hosted solution, the Contractor shall provide reports to the State in a mutually agreeable format.
- B. Reports shall include latency statistics, user access, user access IP address, user access history and security logs for all State files related to the Contract.

3.7.7 Security Plan

- A. The Contractor shall protect State data according to a written security policy ("Security Plan") no less rigorous than that of the State, and shall supply a copy of such policy to the State for validation, with any appropriate updates, on an annual basis.
- B. The Security Plan shall detail the steps and processes employed by the Contractor as well as the features and characteristics which will ensure compliance with the security requirements of the Contract.

3.7.8 Security Incident Response

- A. The Contractor shall notify the Department of Human Services in accordance with **Section 3.7.8 A-D** when any Contractor system that may access, process, or store State data or State systems experiences a Security Incident or a Data Breach as follows:
- 1) notify the Department of Human Services within twenty-four (24) hours of the discovery of a Security Incident by providing notice via written or electronic correspondence to the Contract Monitor, Department of Human Services chief information officer and Department of Human Services chief information security officer;
 - 2) notify the Department of Human Services within two (2) hours if there is a threat to Contractor's Solution as it pertains to the use, disclosure, and security of State data; and
 - 3) provide written notice to the Department of Human Services within one (1) Business Day after Contractor's discovery of unauthorized use or disclosure of State data and thereafter all information the State (or Department of Human Services) requests concerning such unauthorized use or disclosure.
- B. Contractor's notice shall identify:
- 1) the nature of the unauthorized use or disclosure;
 - 2) the State data used or disclosed,
 - 3) who made the unauthorized use or received the unauthorized disclosure;
 - 4) what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and
 - 5) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure.
 - 6) The Contractor shall provide such other information, including a written report, as reasonably requested by the State.
- C. The Contractor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the Contract. Discussing Security Incidents with the State should be handled on an urgent as-needed basis, as part of Contractor communication and mitigation processes as mutually agreed upon, defined by law or contained in the Contract.
- D. The Contractor shall comply with all applicable laws that require the notification of individuals in the event of unauthorized release of State data or other event requiring notification, and, where notification is required, assume responsibility for informing all such individuals in accordance with applicable law and to indemnify and hold harmless the State (or Department of Human Services) and its officials and employees from and against any claims, damages, and actions related to the event requiring notification.

3.7.9 Data Breach Responsibilities

- A. If the Contractor reasonably believes or has actual knowledge of a Data Breach, the Contractor shall, unless otherwise directed:

- 1) Notify the appropriate State-identified contact within 24 hours by telephone in accordance with the agreed upon security plan or security procedures unless a shorter time is required by applicable law;
 - 2) Cooperate with the State to investigate and resolve the data breach;
 - 3) Promptly implement commercially reasonable remedial measures to remedy the Data Breach; and
 - 4) Document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services.
- B. If a Data Breach is a direct result of the Contractor's breach of its Contract obligation to encrypt State data or otherwise prevent its release, the Contractor shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifications to individuals, regulators or others required by State law; (3) a credit monitoring service required by State or federal law; (4) a website or a toll-free number and call center for affected individuals required by State law; and (5) complete all corrective actions as reasonably determined by Contractor based on root cause; all [(1) through (5)] subject to the Contract's limitation of liability.
- 3.7.10 The State shall, at its discretion, have the right to review and assess the Contractor's compliance to the security requirements and standards defined in the Contract.
- 3.7.11 Provisions in **Sections 3.7.1 – 3.7.10** shall survive expiration or termination of the Contract. Additionally, the Contractor shall flow down the provisions of **Sections 3.7.4-3.7.10** (or the substance thereof) in all subcontracts.

3.8 Problem Escalation Procedure

- 3.8.1. The Contractor must provide and maintain a Problem Escalation Procedure (PEP) for both routine and emergency situations. The PEP must state how the Contractor will address problem situations as they occur during the performance of the Contract, especially problems that are not resolved to the satisfaction of the State within appropriate timeframes.
- 3.8.2. The Contractor shall provide contact information to the Contract Monitor, as well as to other State personnel as directed should the Contract Monitor not be available.
- 3.8.3. The Contractor must provide the PEP no later than ten (10) Business Days after notice of recommended award. The PEP, including any revisions thereto, must also be provided within ten (10) Business Days after the start of each Contract year and within ten (10) Business Days after any change in circumstance which changes the PEP. The PEP shall detail how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. The PEP shall include:
- A. The process for establishing the existence of a problem;
 - B. Names, titles, and contact information for progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;

- C. For each individual listed in the Contractor’s PEP, the maximum amount of time a problem will remain unresolved with that individual before the problem escalates to the next contact person listed in the Contractor’s PEP;
- D. Expedited escalation procedures and any circumstances that would trigger expediting them;
- E. The method of providing feedback on resolution progress, including the frequency of feedback to be provided to the State;
- F. Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays) and on an emergency basis; and
- G. A process for updating and notifying the Contract Monitor of any changes to the PEP.

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

3.9 SOC 2 Type 2 Audit Report

3.9.1 A SOC 2 Type 2 Audit applies to the Contract. The applicable trust services criteria are: Security, Availability, Processing Integrity, Confidentiality, or Privacy. – All Trust services criteria apply.

3.9.2 In the event the Contractor provides services for identified critical functions, handles Sensitive Data, or hosts any related implemented system for the State under the Contract, the Contractor shall have an annual audit performed by an independent audit firm of the Contractor’s handling of Sensitive Data.. Critical functions are identified as all aspects and functionality of the Solution including any add-on modules and shall address all areas relating to Information Technology security and operational processes. These services provided by the Contractor that shall be covered by the audit will collectively be referred to as the “Information Functions and Processes.” Such audits shall be performed in accordance with audit guidance: Reporting on an Examination of Controls at a Service Organization Relevant to Security, Availability, Processing Integrity, Confidentiality, or Privacy (SOC 2) as published by the American Institute of Certified Public Accountants (AICPA) and as updated from time to time, or according to the most current audit guidance promulgated by the AICPA or similarly-recognized professional organization, as agreed to by DHS, to assess the security of outsourced client functions or data (collectively, the “Guidance”) as follows:

- A. The type of audit to be performed in accordance with the Guidance is a SOC 2 Type 2 Audit (referred to as the “SOC 2 Audit” or “SOC 2 Report”). All SOC2 Audit Reports shall be submitted to the Contract Monitor as specified in Section F below. The initial SOC 2 Audit shall be completed within a timeframe to be specified by the State. The audit period covered by the initial SOC 2 Audit shall start with the Contract Effective Date unless otherwise agreed to in writing by the Contract Monitor. All subsequent SOC 2 Audits after this initial audit shall be performed at a minimum on an annual basis throughout the Term of the Contract, and shall cover a 12-month audit period or such portion of the year that the Contractor furnished services.
- B. The SOC 2 Audit shall report on the suitability of the design and operating effectiveness of controls over the Information Functions and Processes to meet the

requirements of the Contract, including the Security Requirements identified in **Section 3.7**, relevant to the trust services criteria identified in 3.9.1: as defined in the aforementioned Guidance.

- C. The audit scope of each year's SOC 2 Report may need to be adjusted (including the inclusion or omission of the relevant trust services criteria of Security, Availability, Processing Integrity, Confidentiality, and Privacy) to accommodate any changes to the environment since the last SOC 2 Report. Such changes may include but are not limited to the addition of Information Functions and Processes through modifications to the Contract or due to changes in Information Technology or the operational infrastructure. The Contractor shall ensure that the audit scope of each year's SOC 2 Report engagement shall accommodate these changes by including in the SOC 2 Report all appropriate controls related to the current environment supporting the Information Functions and/or Processes, including those controls required by the Contract.
- D. The scope of the SOC 2 Report shall include work performed by any subcontractors that provide essential support to the TO Contractor or essential support to the Information Functions and Processes provided to DHS under the Contract. The Contractor shall ensure the audit includes all such subcontractors operating in performance of the Contract.
- E. All SOC 2 Audits, including those of the Contractor, shall be performed at no additional expense to DHS.
- F. The Contractor shall provide to the Contract Monitor, within 30 calendar days of the issuance of each SOC 2 Report, a complete copy of the final SOC 2 Report(s) and a documented corrective action plan addressing each audit finding or exception contained in the SOC 2 Report. The corrective action plan shall identify in detail the remedial action to be taken by the Contractor along with the date(s) when each remedial action is to be implemented.
- G. If the Contractor currently has an annual, independent information security assessment performed that includes the operations, systems, and repositories of the Information Functions and Processes being provided to DHS under the Contract, and if that assessment generally conforms to the content and objective of the Guidance, the DHS will determine in consultation with appropriate State government technology and audit authorities whether the Contractor's current information security assessments are acceptable in lieu of the SOC 2 Report(s).
- H. If the Contractor fails during the Contract term to obtain an annual SOC 2 Report by the date specified in **Section 3.9.2.A**, DHS shall have the right to retain an independent audit firm to perform an audit engagement of a SOC 2 Report of the Information Functions and Processes utilized or provided by the Contractor and under the Contract. The Contractor agrees to allow the independent audit firm to access its facility/ies for purposes of conducting this audit engagement(s), and will provide the necessary support and cooperation to the independent audit firm that is required to perform the audit engagement of the SOC 2 Report. DHS will invoice the Contractor for the expense of the SOC 2 Report(s), or deduct the cost from future payments to the Contractor.

- I. Provisions in **Section 3.9.1-2** shall survive expiration or termination of the Contract. Additionally, the Contractor shall flow down the provisions of **Section 3.9.1-2** (or the substance thereof) in all subcontracts.

3.10 Experience and Personnel

3.10.1 Offeror Experience

- A. The following preferred experience is expected and will be evaluated as part of the Technical Proposal (see the Offeror experience, capability and references evaluation factor from **Section 6.2**):

The State will give special consideration to agencies that received funding under the Economic Opportunity Act of 1964 for low-income energy assistance or weatherization services.

- B. The Offeror shall have a minimum of three (3) years prior experience in administering enrollment and eligibility services for low-income benefit programs.

3.10.2. Personnel Experience

THIS SECTION IS INAPPLICABLE TO THIS RFP.

3.10.3. Key Personnel Identified

For the Contract, the following positions to be identified in the Technical Proposal will be considered Key Personnel and shall be required to meet the following qualifications.

- A. Contractor's Program Director

The Contractor shall designate an individual to serve as the Contractor's Program Director. The Contractor's Program Director shall be available to discuss the day-to-day operations of the project as well as attend at least bi-weekly meetings and be available to participate in other meetings as it pertains to this project. Meeting dates, times and location(s) will be provided by the Contract Monitor in advance of the meeting.

Contractor's Program Director shall have three (3) years of experience supervising eligibility and enrollment services for low income benefit programs.

3.11 Substitution of Personnel

3.11.1. Continuous Performance of Key Personnel

When Key Personnel are identified for the Contract, the following apply:

- A. Key Personnel shall be available to perform Contract requirements as of the NTP Date. Unless explicitly authorized by the Contract Monitor or specified in the Contract, Key Personnel shall be assigned to the State of Maryland as a dedicated resource.

- B. Key Personnel shall perform continuously for the duration of the Contract, or such lesser duration as specified in the Technical Proposal. Key Personnel may not be removed by the Contractor from working under the Contract without the prior written approval of the Contract Monitor.
- C. The provisions of this section apply to Key Personnel identified in any Task Order proposal and agreement, if issued, and any Work Order Request and Work Order, if issued.

3.11.2. Definitions

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

- A. **Extraordinary Personal Event** – means any of: leave under the Family Medical Leave Act; an Incapacitating injury or Incapacitating illness; or other circumstances that in the sole discretion of the State warrant an extended leave of absence, such as extended jury duty or extended military service that precludes the individual from performing his/her job duties under the Contract.
- B. **Incapacitating** – means any health circumstance that substantially impairs the ability of an individual to perform the job duties described for that individual’s position in the RFP or the Contractor’s Technical Proposal.

3.11.3. Contractor Personnel General Substitution Provisions

The following provisions apply to all of the circumstances of Contractor Personnel substitution described in **Section 3.11.4**.

- A. The Contractor shall demonstrate to the Contract Monitor’s satisfaction that the proposed substitute has qualifications at least equal to those of the Contractor Personnel proposed to be replaced.
- B. The Contractor shall provide the Contract Monitor with a substitution request that shall include:
 - 1) A detailed explanation of the reason(s) for the substitution request;
 - 2) The resume of the proposed substitute, signed by the substituting individual and his/her formal supervisor;
 - 3) The official resume of the current personnel for comparison purposes; and
 - 4) Evidence of any required credentials.
- C. The Contract Monitor may request additional information concerning the proposed substitution and may interview the proposed substitute personnel prior to deciding whether to approve the substitution request.
- D. The Contract Monitor will notify the Contractor in writing of: (i) the acceptance or denial, or (ii) contingent or temporary approval for a specified time limit, of the requested substitution. The Contract Monitor will not unreasonably withhold approval of a proposed Contractor Personnel replacement.

3.11.4. Replacement Circumstances

- A. Directed Personnel Replacement

- 1) The Contract Monitor may direct the Contractor to replace any Contractor Personnel who, in the sole discretion of the Contract Monitor, are perceived as being unqualified, non-productive, unable to fully perform the job duties, disruptive, or known, or reasonably believed, to have committed a major infraction(s) of law, DHS policies, or Contract requirements. Normally, a directed personnel replacement will occur only after prior notification of problems with requested remediation, as described in paragraph **3.11.4.A.2**.
- 2) If deemed appropriate in the discretion of the Contract Monitor, the Contract Monitor may give written notice of any Contractor Personnel performance issues to the Contractor, describing the problem and delineating the remediation requirement(s). The Contractor shall provide a written response to the remediation requirements in a Remediation Plan within ten (10) days of the date of the notice and shall immediately implement the Remediation Plan upon written acceptance by the Contract Monitor. If the Contract Monitor rejects the Remediation Plan, the Contractor shall revise and resubmit the plan to the Contract Monitor within five (5) days, or in the timeframe set forth by the Contract Monitor in writing.
- 3) Should performance issues persist despite an approved Remediation Plan, the Contract Monitor may give written notice of the continuing performance issues and either request a new Remediation Plan within a specified time limit or direct the substitution of Contractor Personnel whose performance is at issue with a qualified substitute, including requiring the immediate removal of the Contractor Personnel at issue.
- 4) Replacement or substitution of Contractor Personnel under this section shall be in addition to, and not in lieu of, the State's remedies under the Contract or which otherwise may be available at law or in equity.
- 5) If the Contract Monitor determines to direct substitution under **3.11.4.A.1**, if at all possible, at least fifteen (15) days advance notice shall be given to the Contractor. However, if the Contract Monitor deems it necessary and in the State's best interests to remove the Contractor Personnel with less than fifteen (15) days' notice, the Contract Monitor may direct the removal in a timeframe of less than fifteen (15) days, including immediate removal.
- 6) In circumstances of directed removal, the Contractor shall, in accordance with paragraph **3.11.4.A.1** of this section, provide a suitable replacement for approval within fifteen (15) days of the notification of the need for removal, or the actual removal, whichever occurs first.

B. Key Personnel Replacement

- 1) To replace any Key Personnel in a circumstance other than as described in **3.11.4.B**, including transfers and promotions, the Contractor shall submit a substitution request as described in **Section 3.11.3** to the Contract Monitor at least fifteen (15) days prior to the intended date of change. A substitution may not occur unless and until the Contract Monitor approves the substitution in writing.
- 2) Key Personnel Replacement Due to Sudden Vacancy
 - a) The Contractor shall replace Key Personnel whenever a sudden vacancy occurs (e.g., Extraordinary Personal Event, death, resignation, termination).

A termination or resignation with thirty (30) days or more advance notice shall be treated as a replacement under **Section 3.11.4.B.1**.

- b) Under any of the circumstances set forth in this paragraph B, the Contractor shall identify a suitable replacement and provide the same information and items required under **Section 3.11.3** within fifteen (15) days of the actual vacancy occurrence or from when the Contractor first knew or should have known that the vacancy would be occurring, whichever is earlier.
- 3) Key Personnel Replacement Due to an Indeterminate Absence
- a) If any Key Personnel has been absent from his/her job for a period of ten (10) days and it is not known or reasonably anticipated that the individual will be returning to work within the next twenty (20) days to fully resume all job duties, before the 25th day of continuous absence, the Contractor shall identify a suitable replacement and provide the same information and items to the Contract Monitor as required under **Section 3.11.3**.
 - b) However, if this person is available to return to work and fully perform all job duties before a replacement has been authorized by the Contract Monitor the Contract Monitor may, at his/her sole discretion, authorize the original personnel to continue to work under the Contract, or authorize the replacement personnel to replace the original personnel, notwithstanding the original personnel's ability to return.

3.11.5. Substitution Prior to and Within 30 Days After Contract Execution

Prior to Contract execution or within thirty (30) days after Contract execution, the Offeror may not substitute proposed Key Personnel except under the following circumstances (a) for actual full-time personnel employed directly by the Offeror: the vacancy occurs due to the sudden termination, resignation, or approved leave of absence due to an Extraordinary Personal Event, or the death of such personnel; and (b) for any temporary staff, subcontractors or 1099 contractors: the vacancy occurs due to an Incapacitating event or the death of such personnel. To qualify for such substitution, the Offeror must demonstrate to the State's satisfaction the event necessitating substitution. Proposed substitutions shall be of equal caliber or higher, in the State's sole discretion. Proposed substitutes deemed by the State to be less qualified than the originally proposed individual may be grounds for pre-award disqualification or post-award termination.

3.12 Minority Business Enterprise (MBE) Reports

MBE Reports are not required from the Contractor for this Contract.

3.13 Veteran Small Business Enterprise (VSBE) Reports

VSBE Reports are not required from the Contractor for this Contract.

3.14 Work Orders

THIS SECTION IS INAPPLICABLE TO THIS RFP.

3.15 Additional Clauses

3.15.1. The State of Maryland's Commitment to Purchasing Environmentally Preferred Products and Services (EPPs)

[Maryland's State Finance & Procurement Article §14-410](#) defines environmentally preferable purchasing as “the procurement or acquisition of goods and services that have a lesser or reduced effect on human health and the environment when compared with competing goods or services that serve the same purpose.” Accordingly, Offerors are strongly encouraged to offer EPPs to fulfill this contract, to the greatest extent practicable.

3.15.2. No-Cost Extensions

In accordance with BPW Advisory 1995-1 item 7.b, in the event there are unspent funds remaining on the Contract, prior to the Contract's expiration date the Procurement Officer may modify the Contract to extend the Contract beyond its expiration date for a period up to, but not exceeding, one-third of the base term of the Contract (e.g., eight-month extension on a two-year contract) for the performance of work within the Contract's scope of work. Notwithstanding anything to the contrary, no funds may be added to the Contract in connection with any such extension.

4 Procurement Instructions

4.1. Pre-Proposal Conference

- 4.1.1. A pre-Proposal conference (Conference) will be held *virtually* at the date and time indicated on the Key Information Summary Sheet.
- 4.1.2. All prospective Offerors are encouraged to attend in order to facilitate better preparation of their Proposals. At the Conference, OHEP will provide an overview of the OHEP Data Management System, which serves as the central data repository and processing mechanism for all household benefit applications. The overview is designed to assist prospective Offerors in responding to this RFP.
- 4.1.3. The Conference will be transcribed. As promptly as is feasible subsequent to the Conference, a transcription of the Conference and all questions and answers known at that time will be distributed to all prospective Offerors known to have received a copy of this RFP. This summary, as well as the questions and answers, will also be posted on eMMA and the DHS website. See RFP Section 4.2.
- 4.1.4. In order to attend the Conference, please e-mail, , or fax the Pre-Proposal Conference Response Form to the attention of the Procurement Officer no later than 4:00PM local time on Wednesday December 15, 2021. The Pre-Proposal Conference Response Form is included as Attachment A to this RFP. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please notify the Procurement Officer no later than 4:00PM local time on Monday December 13, 2021. The Department will make reasonable efforts to provide such special accommodation. It is highly recommended that ALL Prime Contractors bring their intended subcontractors to the Conference/Site Visit to ensure that all parties understand the requirements of the contract and the MBE Goal.
- 4.1.5. MBE subcontractors are encouraged to attend the Conference to market their participation to potential prime contractors.
- 4.1.6. Following the Conference, the attendance record and summary of the Conference will be distributed via the same mechanism described for amendments and questions (see **Section 4.2** eMMA).

4.2 eMaryland Marketplace Advantage (eMMA)

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

- 4.2.1 eMMA is an electronic commerce system for the State of Maryland. The RFP, Conference summary and attendance sheet, Offerors' questions and the Procurement Officer's responses, addenda, and other solicitation-related information will be made available via eMMA.
- 4.2.2. In order to receive a contract award, a vendor must be registered on eMMA. Registration is free.

Go to emma.maryland.gov, click on “New Vendor?Register Now” to begin the process, and then follow the prompts.

4.3. Questions

- 4.3.1 All questions, including concerns regarding any applicable MBE or VSBE participation goals, shall identify in the subject line the Solicitation Number and Title (FIA/OHEP 21-007 S - Administration of the Maryland Energy Assistance Program (MEAP) and the Electronic Universal Service Program (EUSP)), and shall be submitted in writing via e-mail to the Procurement Officer no later than the date and time specified on the Key Information Summary Sheet. The Procurement Officer, based on the availability of time to research and communicate an answer, shall decide whether an answer can be given before the Proposal due date.
- 4.3.2 Answers to all questions that are not clearly specific only to the requestor will be distributed via the same mechanism as for RFP amendments, and posted on eMMA.
- 4.3.3 The statements and interpretations contained in responses to any questions, whether responded to verbally or in writing, are not binding on the Department of Human Services unless it issues an amendment in writing.

4.4. Procurement Method

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

4.5. Proposal Due (Closing) Date and Time

- 4.5.1. Proposals, in the number and form set forth in **Section 5 Proposal Format**, must be received by the Procurement Officer no later than the Proposal due date and time indicated on the Key Information Summary Sheet in order to be considered.
- 4.5.2. Requests for extension of this date or time shall not be granted.
- 4.5.3. Offerors submitting Proposals should allow sufficient delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02.F and 21.05.02.10, Proposals received after the due date and time listed in the Key Information Summary Sheet will not be considered.
- 4.5.4. Proposals may be modified or withdrawn by written notice received by the Procurement Officer before the time and date set forth in the Key Information Summary Sheet for receipt of Proposals.
- 4.5.5. Proposals may not be submitted by e-mail or facsimile. Proposals will not be opened publicly.
- 4.5.6. Potential Offerors not responding to this solicitation are requested to submit the “Notice to Vendors” form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements).

4.6. Multiple or Alternate Proposals

Multiple or alternate Proposals will not be accepted.

4.7. Economy of Preparation

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

4.8. Public Information Act Notice

- 4.8.1. The Offeror should give specific attention to the clear identification of those portions of its Proposal that it considers confidential and/or proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Md. Code Ann., General Provisions Article, Title 4 (See also RFP Section 5.3.2.B "Claim of Confidentiality"). This information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical Proposal and if applicable, separately in the Financial Proposal.
- 4.8.2. Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information must be disclosed.

4.9 Award Basis

Contract(s) for each jurisdiction shall be awarded to the responsible Offeror(s) submitting the Proposal that has been determined to be the most advantageous to the State, considering price and evaluation factors set forth in this RFP (see COMAR 21.05.03.03F), for providing the goods and services as specified in this RFP. See RFP Section 6 for further award information.

4.10 Oral Presentation

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

4.11. Duration of Proposal

Proposals submitted in response to this RFP are irrevocable for the latest of the following: 180 days following the Proposal due date and time, best and final offers if requested (see Section 6.5.2), or the date any protest concerning this RFP is finally resolved. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

4.12. Revisions to the RFP

- 4.12.1 If the RFP is revised before the due date for Proposals, the Department of Human Services shall post any addenda to the RFP on eMMA and shall endeavor to provide such addenda to all prospective Offerors that were sent this RFP or are otherwise known by the Procurement Officer to have obtained this RFP. It remains the responsibility of all prospective Offerors to check eMMA for any addenda issued prior to the submission of Proposals.
- 4.12.2. Acknowledgment of the receipt of all addenda to this RFP issued before the Proposal due date shall be included in the Transmittal Letter accompanying the Offeror's Technical Proposal.

- 4.12.3. Addenda made after the due date for Proposals will be sent only to those Offerors that remain under award consideration as of the issuance date of the addenda.
- 4.12.4. 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.
- 4.12.5. Failure to acknowledge receipt of an addendum does not relieve the Offeror from complying with the terms, additions, deletions, or corrections set forth in the addendum, and may cause the Proposal to be deemed not reasonably susceptible of being selected for award.

4.13. Cancellations

- 4.13.1. The State reserves the right to cancel this RFP, accept or reject any and all Proposals, in whole or in part, received in response to this RFP, waive or permit the cure of minor irregularities, and conduct discussions with all qualified or potentially qualified Offerors in any manner necessary to serve the best interests of the State.
- 4.13.2. The State reserves the right, in its sole discretion, to award a Contract based upon the written Proposals received without discussions or negotiations.
- 4.13.3. In the event a government entity proposes and receives the recommendation for award, the procurement may be cancelled and the award processed in accordance with COMAR 21.01.03.01.A(4).
- 4.13.4. If the services that are the subject of the RFP are currently being provided under an interagency agreement with a public institution of higher education and the State determines that the services can be provided more cost effectively by the public institution of higher education, then the RFP may be cancelled in accordance with Md. Code Ann., State Finance and Procurement Art., § 3-207(b)(2).

4.14 Incurred Expenses

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

4.15. Protest/Disputes

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

4.16. Offeror Responsibilities

- 4.16.1. Offerors must be able to provide all goods and services and meet all of the requirements requested in this solicitation and the successful Offeror shall be responsible for Contract performance including any subcontractor participation.
- 4.16.2. All subcontractors shall be identified and a complete description of their role relative to the Proposal shall be included in the Offeror's Proposal. If applicable, subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate Attachment(s) to this RFP (see **Section 4.26** "Minority Participation Goal" and **Section 4.27** "VSBE Goal").

- 4.16.3. If the Offeror is the subsidiary of another entity, all information submitted by the Offeror, including but not limited to references, financial reports, or experience and documentation (e.g. insurance policies, bonds, letters of credit) used to meet minimum qualifications, if any, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's Proposal shall contain an explicit statement, signed by an authorized representative of the parent organization, stating that the parent organization will guarantee the performance of the subsidiary.
- 4.16.4. A parental guarantee of the performance of the Offeror under this Section will not automatically result in crediting the Offeror with the experience or qualifications of the parent under any evaluation criteria pertaining to the actual Offeror's experience and qualifications. Instead, the Offeror will be evaluated on the extent to which the State determines that the experience and qualifications of the parent are applicable to and shared with the Offeror, any stated intent by the parent to be directly involved in the performance of the Contract, and the value of the parent's participation as determined by the State.

4.17. Acceptance of Terms and Conditions

By submitting a Proposal in response to this RFP, the Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached hereto as **Attachment M**. Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary of the Technical Proposal. **All exceptions will be taken into consideration when evaluating the Offeror's Proposal. The Department of Human Services reserves the right to accept or reject any exceptions.**

4.18. Proposal Affidavit

A Proposal submitted by the Offeror must be accompanied by a completed Proposal Affidavit. A copy of this Affidavit is included as **Attachment C** of this RFP.

4.19. 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 for informational purposes as **Attachment N** of this RFP. This Affidavit must be provided within five (5) Business Days of notification of recommended award. For purposes of completing Section "B" of this Affidavit (Certification of Registration or Qualification with the State Department of Assessments and Taxation), a business entity that is organized outside of the State of Maryland is considered a "foreign" business.

4.20. Compliance with Laws/Arrearages

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

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

4.21. Verification of Registration and Tax Payment

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

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

4.22. False Statements

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

- 4.22.1. In connection with a procurement contract a person may not willfully:
 - A. Falsify, conceal, or suppress a material fact by any scheme or device.
 - B. Make a false or fraudulent statement or representation of a material fact.
 - C. Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.
- 4.22.2. A person may not aid or conspire with another person to commit an act under **Section 4.22.1**.
- 4.22.3. A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding five (5) years or both.

4.23. Payments by Electronic Funds Transfer

By submitting a Proposal in response to this solicitation, the Offeror, if selected for award:

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

4.24. Prompt Payment Policy

This procurement and the Contract(s) to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Small, Minority & Women Business Affairs (GOSBA) and dated August 1, 2008. Promulgated pursuant to Md. Code Ann., State Finance and Procurement Article, §§ 11-201, 13-205(a), and Title 14, Subtitle 3, and COMAR 21.01.01.03 and 21.11.03.01, the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The Contractor shall comply with the prompt payment

requirements outlined in the Contract, Section 31 “Prompt Pay Requirements” (see **Attachment M**). Additional information is available on GOSBA’s website at:

<http://www.gomdsmallbiz.maryland.gov/documents/legislation/promptpaymentfaqs.pdf>.

4.25. Electronic Procurements Authorized

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

4.25.2. Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or Contract. In the case of electronic transactions authorized by this RFP, electronic records and signatures by an authorized representative satisfy a requirement for written submission and signatures.

4.25.3. “Electronic means” refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://procurement.maryland.gov>), and electronic data interchange.

4.25.4 In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., RFP § 4.23 describing payments by Electronic Funds Transfer), the following transactions are authorized to be conducted by electronic means on the terms as authorized in COMAR 21.03.05:

A. The Procurement Officer may conduct the procurement using eMMA, or e-mail to issue:

- 1) The RFP;
- 2) Any amendments and requests for best and final offers;
- 3) Pre-Proposal conference documents;
- 4) Questions and responses;
- 5) Communications regarding the solicitation or Proposal to any Offeror or potential Offeror;
- 6) Notices of award selection or non-selection; and
- 7) The Procurement Officer’s decision on any Proposal protest or Contract claim.

B. The Offeror or potential Offeror may use eMMA or e-mail to:

- 1) Submit Proposals (eMMA only);
- 2) Ask questions regarding the solicitation;
- 3) Reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer’s request or direction to reply by e-mail or through eMMA but only on the terms specifically approved and directed by the Procurement Officer; and

- 4) Submit a "No Proposal Response" to the RFP.
 - C. The Procurement Officer, the Contract Monitor, and the Contractor may conduct day-to-day Contract administration, except as outlined in **Section 4.25.5** of this subsection, utilizing e-mail, or other electronic means if authorized by the Procurement Officer or Contract Monitor.
- 4.25.5. The following transactions related to this procurement and any Contract awarded pursuant to it are **not authorized** to be conducted by electronic means:
- A. Submission of initial Proposals except through eMMA;
 - B. Filing of protests;
 - C. Filing of Contract claims;
 - D. Submission of documents determined by the Department of Human Services to require original signatures (e.g., Contract execution, Contract modifications); or
 - E. Any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Offeror be provided in writing or hard copy.
- 4.25.6. Any e-mail transmission is only authorized to the e-mail addresses for the identified person as provided in the solicitation, the Contract, or in the direction from the Procurement Officer or Contract Monitor.

4.26. MBE Participation Goal

There is no MBE subcontractor participation goal for this procurement.

4.27. VSBE Goal

There is no VSBE participation goal for this procurement.

4.28 Living Wage Requirements

- A. Maryland law requires that contractors meeting certain conditions pay a living wage to covered employees on State service contracts over \$100,000. Maryland Code Ann., State Finance and Procurement Article, § 18-101 et al. The Commissioner of Labor and Industry at the Maryland Department of Labor requires that a contractor subject to the Living Wage law submit payroll records for covered employees and a signed statement indicating that it paid a living wage to covered employees; or receive a waiver from Living Wage reporting requirements. See COMAR 21.11.10.05.
- B. If subject to the Living Wage law, Contractor agrees that it will abide by all Living Wage law requirements, including but not limited to reporting requirements in COMAR 21.11.10.05. Contractor understands that failure of Contractor to provide such documents is a material breach of the terms and conditions and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions. Information pertaining to reporting obligations may be found by going to the Maryland Department of Labor website <http://www.dllr.state.md.us/labor/prev/livingwage.shtml>.

- C. Additional information regarding the State's living wage requirement is contained in **Attachment F**. Offerors must complete and submit the Maryland Living Wage Requirements Affidavit of Agreement (**Attachment F-1**) with their Proposals. If the Offeror fails to complete and submit the required documentation, the State may determine the Offeror to not be responsible under State law.
- D. Contractors and subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier area. The specific living wage rate is determined by whether a majority of services take place in a Tier 1 Area or a Tier 2 Area of the State. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State.
- 1) The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State Contract pursuant to §18-102(d) of the State Finance and Procurement Article shall assign the tier based upon where the recipients of the services are located. If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located. In this circumstance, the Contract will be determined to be a Tier (enter "1" or "2," depending on where the majority of the service recipients are located) Contract.
 - 2) The Contract will be determined to be a Tier 1 Contract or a Tier 2 Contract depending on the location(s) from which the Contractor provides 50% or more of the services. The Offeror must identify in its Proposal the location(s) from which services will be provided, including the location(s) from which 50% or more of the Contract services will be provided.
 - 3) If the Contractor provides 50% or more of the services from a location(s) in a Tier 1 jurisdiction(s) the Contract will be a Tier 1 Contract.
 - 4) If the Contractor provides 50% or more of the services from a location(s) in a Tier 2 jurisdiction(s), the Contract will be a Tier 2 Contract.
- E. If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located. See COMAR 21.11.10.07.
- F. The Offeror shall identify in the Proposal the location from which services will be provided.
- G. **NOTE:** Whereas the Living Wage may change annually, the Contract price will not change because of a Living Wage change or a change in the State minimum wage.

4.29. Federal Funding Acknowledgement

- 4.29.1. There are programmatic conditions that apply to the Contract due to federal funding (see **Attachment G**).

- 4.29.2. The total amount of federal funds allocated for the Family Investment Administration is \$1,695,458,396 in Maryland State fiscal year 2021. This represents 84.5% of all funds budgeted for the unit in that fiscal year. This does not necessarily represent the amount of funding available for any particular grant, contract, or solicitation.
- 4.29.3. The Contract contains federal funds. The source of these federal funds is: Low-Income Home Energy Assistance Program (LIHEAP). The CFDA number is: 93.568. The conditions that apply to all federal funds awarded by the Department of Human Services are contained in Federal Funds **Attachment G**. Any additional conditions that apply to this particular federally-funded contract are contained as supplements to Federal Funds **Attachment G** and Offerors are to complete and submit these Attachments with their Proposals as instructed in the Attachments. Acceptance of this agreement indicates the Offeror's intent to comply with all conditions, which are part of the Contract.

4.30. Conflict of Interest Affidavit and Disclosure

- 4.30.1. The Offeror shall complete and sign the Conflict of Interest Affidavit and Disclosure (**Attachment H**) and submit it with its Proposal.
- 4.30.2. By submitting a Conflict of Interest Affidavit and Disclosure, the Contractor shall be construed as certifying all Contractor Personnel and subcontractors are also without a conflict of interest as defined in COMAR 21.05.08.08A.
- 4.30.3. Additionally, a Contractor has an ongoing obligation to ensure that all Contractor Personnel are without conflicts of interest prior to providing services under the Contract. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08.
- 4.30.4. Participation in Drafting of Specifications: Disqualifying Event: Offerors are advised that Md. Code Ann. State Finance and Procurement Article §13-212.1(a) provides generally that "an individual who assists an executive unit in the drafting of specifications, an invitation for bids, a request for proposals for a procurement, or the selection or award made in response to an invitation for bids or a request for proposals, or a person that employs the individual, may not: (1) submit a bid or proposal for that procurement; or (2) assist or represent another person, directly or indirectly, who is submitting a bid or proposal for that procurement." Any Offeror submitting a Proposal in violation of this provision shall be classified as "not responsible." See COMAR 21.05.03.03.

4.31. Non-Disclosure Agreement

4.31.1. Non-Disclosure Agreement (Offeror)

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

4.31.2. Non-Disclosure Agreement (Contractor)

All Offerors are advised that this solicitation and any Contract(s) are subject to the terms of the Non-Disclosure Agreement (NDA) contained in this solicitation as **Attachment I**. This Agreement must be provided within five (5) Business Days of notification of recommended award; however, to expedite processing, it is suggested that this document be completed and submitted with the Proposal.

4.32. HIPAA - Business Associate Agreement

A HIPAA Business Associate Agreement is not required for this procurement.

4.33. Nonvisual Access

This solicitation does not contain Information Technology (IT) provisions requiring Nonvisual Access.

4.34. Mercury and Products That Contain Mercury

This solicitation does not include the procurement of products known to likely include mercury as a component.

4.35. Location of the Performance of Services Disclosure

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

4.36. Department of Human Services (DHS) Hiring Agreement

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 DHS Hiring Agreement. A copy of this Agreement is included as **Attachment O**. This Agreement must be provided within five (5) Business Days of notification of recommended award.

4.37. Small Business Reserve (SBR) Procurement

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

4.38. Maryland Healthy Working Families Act Requirements

On February 11, 2018, the Maryland Healthy Working Families Act went into effect. All Offerors should be aware of how this Act could affect your potential contract award with the State of Maryland. See the Department of Labor, Licensing and Regulations web site for Maryland Healthy Working Families Act Information: <http://dllr.maryland.gov/paidleave/>.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

5. Proposal Format

5.1. Two Part Submission

Offerors shall submit Proposals in separate volumes (or envelopes):

- Volume I – Technical Proposal
- Volume II – Financial Proposal

5.2. Proposal Delivery and Packaging

- 5.2.1. Proposals delivered by facsimile and email shall not be considered.
- 5.2.2. **Provide no pricing information in the Technical Proposal.** Provide no pricing information on the media submitted in the Technical Proposal.
- 5.2.3. Offerors may submit Proposals through the State’s internet based electronic procurement system, eMMA.
- 5.2.4. The Procurement Officer must receive all electronic Proposal material by the RFP due date and time specified in the Key Information Summary Sheet. Requests for extension of this date or time will not be granted. Except as provided in COMAR 21.05.03.02F, Proposals received by the Procurement Officer after the due date will not be considered.
- 5.2.5. Offerors shall provide their Proposals in two separate envelopes through eMMA following the [Quick Reference Guides](#) (QRG) labelled “5 - eMMA QRG Responding to Solicitations (RFP)” for double envelope submissions.
- 5.2.6. Two Part (Double Envelope) Submission:
 - A. Technical Proposal consisting of:
 - 1) Technical Proposal and all supporting material in Microsoft Word format, version 2007 or greater,
 - 2) Technical Proposal in searchable Adobe PDF format,
 - 3) a second searchable Adobe copy of the Technical Proposal, with confidential and proprietary information redacted (see **Section 4.8**), and
 - B. Financial Proposal consisting of:
 - 1) Financial Proposal entered into the price form spreadsheet within eMMA and all supporting material in PDF format Financial Proposal in searchable Adobe PDF format,
 - 2) a second searchable Adobe copy of the Financial Proposal, with confidential and proprietary information removed (see **Section 4.8**).

5.3. Volume I - Technical Proposal

NOTE: Omit all **pricing information** from the Technical Proposal (Volume I). Include pricing information only in the Financial Proposal (Volume II).

- 5.3.1. In addition to the instructions below, responses in the Offeror’s Technical Proposal shall reference the organization and numbering of Sections in the RFP (e.g., “Section 2.2.1 Response . . .; “Section 2.2.2 Response . . .”). All pages of both Proposal volumes shall be consecutively numbered from beginning (Page 1) to end (Page “x”).
- 5.3.2. The Technical Proposal shall include the following documents and information in the order specified as follows. Each section of the Technical Proposal shall be separated by a TAB as detailed below:
- A. Title Page and Table of Contents (Submit under TAB A)
- The Technical Proposal should begin with a Title Page bearing the name and address of the Offeror and the name and number of this RFP. A Table of Contents shall follow the Title Page for the Technical Proposal, organized by section, subsection, and page number.
- B. Claim of Confidentiality (If applicable, submit under TAB A-1)
- Any information which is claimed to be confidential and/or proprietary information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical Proposal, and if applicable, separately in the Financial Proposal. An explanation for each claim of confidentiality shall be included (see **Section 4.8 “Public Information Act Notice”**). The entire Proposal cannot be given a blanket confidentiality designation - any confidentiality designation must apply to specific sections, pages, or portions of pages of the Proposal and an explanation for each claim shall be included.
- C. Offeror Information Sheet and Transmittal Letter (Submit under TAB B)
- The Offeror Information Sheet (see **Appendix 2**) and a Transmittal Letter shall accompany the Technical Proposal. The purpose of the Transmittal Letter is to transmit the Proposal and acknowledge the receipt of any addenda to this RFP issued before the Proposal due date and time. Transmittal Letter should be brief, be signed by an individual who is authorized to commit the Offeror to its Proposal and the requirements as stated in this RFP.
- D. Executive Summary (Submit under TAB C)
- The Offeror shall condense and highlight the contents of the Technical Proposal in a separate section titled “Executive Summary.”
- In addition, the Summary shall indicate whether the Offeror is the subsidiary of another entity, and if so, whether all information submitted by the Offeror pertains exclusively to the Offeror. If not, the subsidiary Offeror shall include a guarantee of performance from its parent organization as part of its Executive Summary (see **Section 4.16 “Offeror Responsibilities”**).
- The Executive Summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (**Attachment M**), or any other exhibits or attachments. Acceptance or rejection of exceptions is within the sole discretion of the State. **Exceptions to terms and conditions, including requirements, may result in having the Proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award.**
- E. Minimum Qualifications Documentation (If applicable, Submit under TAB D)
- The Offeror shall submit any Minimum Qualifications documentation that may be required, as set forth in RFP **Section 1**. If references are required in **RFP Section 1**, those references shall be submitted in this section and shall contain the information described in both **Section 1** and **Section 5.3.2.I**.

- F. Offeror Technical Response to RFP Requirements and Proposed Work Plan (Submit under TAB E)
- 1) The Offeror shall address each RFP requirement (RFP **Section 2** and **Section 3**) in its Technical Proposal with a cross reference to the requirement and describe how its proposed goods and services, including the goods and services of any proposed subcontractor(s), will meet or exceed the requirement(s). If the State is seeking Offeror agreement to any requirement(s), the Offeror shall state its agreement or disagreement. Any paragraph in the Technical Proposal that responds to an RFP requirement shall include an explanation of how the work will be performed. The response shall address each requirement in **Section 2** and **Section 3** in order, and shall contain a cross reference to the requirement.
 - 2) Any exception to a requirement, term, or condition may result in having the Proposal classified as not reasonably susceptible of being selected for award or the Offeror deemed not responsible.
 - 3) The Offeror shall give a definitive section-by-section description of the proposed plan to meet the requirements of the RFP, i.e., a Work Plan. The Work Plan shall include the specific methodology, techniques, and number of staff, if applicable, to be used by the Offeror in providing the required goods and services as outlined in RFP **Section 2**, Contractor Requirements: Scope of Work. The description shall include an outline of the overall management concepts employed by the Offeror and a project management plan, including project control mechanisms and overall timelines. Project deadlines considered contract deliverables must be recognized in the Work Plan.
 - 4) **The Offeror if submitting proposals for more than one jurisdiction shall produce one Technical Proposal regardless of the number of jurisdictions proposed to serve and a separate Financial Proposal for each jurisdiction proposed to serve. If there are variations in service delivery based on jurisdictional nuances, those variations shall be described in detail on a separate page for each jurisdiction so affected and appended to the Technical Proposal.** The Financial Proposal must include separate pricing proposals for each jurisdiction proposed to be served and labeled as such.
 - 5) The Offeror shall identify the location(s) from which it proposes to provide services, including, if applicable, any current facilities that it operates, and any required construction to satisfy the State's requirements as outlined in this RFP.
 - 6) The Offeror shall provide a draft Problem Escalation Procedure (PEP) that includes, at a minimum, titles of individuals to be contacted by the Contract Monitor should problems arise under the Contract and explains how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. Final procedures shall be submitted as indicated in **Section 3.8**.
 - 7) The Offeror shall provide a Backup solution/ strategy recommendation as part of its Proposal.
 - 8) Disaster Recovery and Security Model description - For hosted services, the Offeror shall include its DR strategy, and for on premise, a description of a recommended DR strategy.
 - 9) The Offeror shall include a deliverable description and schedule describing the proposed Deliverables as mapped to the State SDLC and the Deliverables table in

Section 2.4.2. The schedule shall also detail proposed submission due date/frequency of each recommended Deliverable.

10) Non Compete Clause Prohibition

The Department of Human Services seeks to maximize the retention of personnel working under the Contract whenever there is a transition of the Contract from one contractor to another so as to minimize disruption due to a change in contractor and maximize the maintenance of institutional knowledge accumulated by such personnel. To help achieve this objective of staff retention, each Offeror shall agree that if awarded the Contract, the Offeror's employees and agents filling the positions set forth in the staffing requirements of Section 3.10 working on the State contract shall be free to work for the contractor awarded the State contract notwithstanding any non-compete clauses to which the employee(s) may be subject. The Offeror agrees not to enforce any non-compete restrictions against the State with regard to these employees and agents if a different vendor succeeds it in the performance of the Contract. To evidence compliance with this non-compete clause prohibition, each Offeror must include an affirmative statement in its technical Proposal that the Offeror, if awarded a Contract, agrees that its employees and agents shall not be restricted from working with or for any successor contractor that is awarded the State business.

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

As part of the evaluation of the Proposal for this RFP, Offerors shall propose exactly one (1) Key Personnel and shall describe in a Staffing Plan how additional resources shall be acquired to meet the needs of the Department. All other planned positions shall be described generally in the Staffing Plan, and may not be used as evidence of fulfilling company or personnel minimum qualifications.

The Offeror shall identify the qualifications and types of staff proposed to be utilized under the Contract including information in support of the Personnel Experience criteria in **Section 3.10.2**. Specifically, the Offeror shall:

- 1) Describe in detail how the proposed staff's experience and qualifications relate to their specific responsibilities, including any staff of proposed subcontractor(s), as detailed in the Work Plan.
- 2) Include individual resumes for Key Personnel, including Key Personnel for any proposed subcontractor(s), who are to be assigned to the project if the Offeror is awarded the Contract. Each resume should include the amount of experience the individual has had relative to the Scope of Work set forth in this solicitation.
- 3) Include letters of intended commitment to work on the project, including letters from any proposed subcontractor(s). Offerors should be aware of restrictions on substitution of Key Personnel prior to RFP award (see Substitution Prior to and Within 30 Days After Contract Execution in Section 3.11.5).
- 4) Provide an Organizational Chart outlining Personnel and their related duties. The Offeror shall include job titles and the percentage of time each individual will spend on his/her assigned tasks. Offerors using job titles other than those commonly used by industry standards must provide a crosswalk reference document.
- 5) If proposing differing personnel work hours than identified in the RFP, describe how and why it proposes differing personnel work hours.

H. Offeror Qualifications and Capabilities (Submit under TAB G)

The Offeror shall include evidence of funding received under the Economic Opportunity Act of 1964 for low-income energy assistance or weatherization services, if applicable.

The Offeror shall include information on past experience with similar projects and services including information in support of the Offeror Experience criteria in **Section 3.10.1**. The Offeror shall describe how its organization can meet the requirements of this RFP and shall also include the following information:

- 1) The number of years the Offeror has provided the similar goods and services;
- 2) The number of clients/customers and geographic locations that the Offeror currently serves;
- 3) The names and titles of headquarters or regional management personnel who may be involved with supervising the services to be performed under the Contract;
- 4) The Offeror's process for resolving billing errors;
- 5) An organizational chart that identifies the complete structure of the Offeror including any parent company, headquarters, regional offices, and subsidiaries of the Offeror; and

I. References (Submit under TAB H)

At least three (3) references are requested from customers who are capable of documenting the Offeror's ability to provide the goods and services specified in this RFP. References used to meet any Minimum Qualifications (see RFP **Section 1**) may be used to meet this request. Each reference shall be from a client for whom the Offeror has provided goods and services within the past seven (7) years and shall include the following information:

- 1) Name of client organization;
- 2) Name, title, telephone number, and e-mail address, if available, of point of contact for client organization; and
- 3) Value, type, duration, and description of goods and services provided.

The Department of Human Services reserves the right to request additional references or utilize references not provided by the Offeror. Points of contact must be accessible and knowledgeable regarding Offeror performance.

J. List of Current or Prior State Contracts (Submit under TAB I)

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

- 1) The State contracting entity;
- 2) A brief description of the goods and services provided;
- 3) The dollar value of the contract;
- 4) The term of the contract;

- 5) The State employee contact person (name, title, telephone number, and, if possible, e-mail address); and
- 6) Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised.

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

K. Financial Capability (Submit under TAB J)

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

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

- 1) Dun & Bradstreet Rating;
- 2) Standard and Poor's Rating;
- 3) Lines of credit;
- 4) Evidence of a successful financial track record; and
- 5) Evidence of adequate working capital.

L. Certificate of Insurance (Submit under TAB K)

The Offeror shall provide a copy of its current certificate of insurance showing the types and limits of insurance in effect as of the Proposal submission date. The current insurance types and limits do not have to be the same as described in **Section 3.6**. See **Section 3.6** for the required insurance certificate submission for the apparent awardee.

M. Subcontractors (Submit under TAB L)

The Offeror shall provide a complete list of all subcontractors that will work on the Contract if the Offeror receives an award, including those utilized in meeting the MBE and VSBE subcontracting goal(s), if applicable. This list shall include a full description of the duties each subcontractor will perform and why/how each subcontractor was deemed the most qualified for this project. If applicable, subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate attachment(s) of this RFP.

N. Legal Action Summary (Submit under TAB M)

This summary shall include:

- 1) A statement as to whether there are any outstanding legal actions or potential claims against the Offeror and a brief description of any action;
- 2) A brief description of any settled or closed legal actions or claims against the Offeror over the past five (5) years;

- 3) A description of any judgments against the Offeror within the past five (5) years, including the court, case name, complaint number, and a brief description of the final ruling or determination; and
- 4) In instances where litigation is ongoing and the Offeror has been directed not to disclose information by the court, provide the name of the judge and location of the court.

O. Economic Benefit Factors (Submit under TAB N)

- 1) The Offeror shall submit with its Proposal a narrative describing benefits that will accrue to the Maryland economy as a direct or indirect result of its performance of the Contract. Proposals will be evaluated to assess the benefit to Maryland's economy specifically offered. The economic benefit offered should be consistent with the Offeror's Total Proposal Price from **Attachment B**, the Financial Proposal Form. See COMAR 21.05.03.03A (3).
- 2) Proposals that identify specific benefits as being contractually enforceable commitments will be rated more favorably than Proposals that do not identify specific benefits as contractual commitments, all other factors being equal.
- 3) Offerors shall identify any performance guarantees that will be enforceable by the State if the full level of promised benefit is not achieved during the Contract term.
- 4) As applicable, for the full duration of the Contract, including any renewal period, or until the commitment is satisfied, the Contractor shall provide to the Procurement Officer or other designated agency personnel reports of the actual attainment of each benefit listed in response to this section. These benefit attainment reports shall be provided quarterly, unless elsewhere in these specifications a different reporting frequency is stated.
- 5) In responding to this section, the following do not generally constitute economic benefits to be derived from the Contract:
 - a) generic statements that the State will benefit from the Offeror's superior performance under the Contract;
 - b) descriptions of the number of Offeror employees located in Maryland other than those that will be performing work under the Contract; or
 - c) tax revenues from Maryland-based employees or locations, other than those that will be performing, or used to perform, work under the Contract.
- 6) Discussion of Maryland-based employees or locations may be appropriate if the Offeror makes some projection or guarantee of increased or retained presence based upon being awarded the Contract.
- 7) Examples of economic benefits to be derived from a contract may include any of the following. For each factor identified below, identify the specific benefit and contractual commitments and provide a breakdown of expenditures in that category:
 - a) The Contract dollars to be recycled into Maryland's economy in support of the Contract, through the use of Maryland subcontractors, suppliers and joint

venture partners. **Do not include actual fees or rates paid to subcontractors or information from your Financial Proposal;**

- b) The number and types of jobs for Maryland residents resulting from the Contract. Indicate job classifications, number of employees in each classification and the aggregate payroll to which the Offeror has committed, including contractual commitments at both prime and, if applicable, subcontract levels; and whether Maryland employees working at least 30 hours per week and are employed at least 120 days during a 12-month period will receive paid leave. If no new positions or subcontracts are anticipated as a result of the Contract, so state explicitly;
- c) Tax revenues to be generated for Maryland and its political subdivisions as a result of the Contract. Indicate tax category (sales taxes, payroll taxes, inventory taxes and estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from the Contract;
- d) Subcontract dollars committed to Maryland small businesses and MBEs; and
- e) Other benefits to the Maryland economy which the Offeror promises will result from awarding the Contract to the Offeror, including contractual commitments. Describe the benefit, its value to the Maryland economy, and how it will result from, or because of the Contract award. Offerors may commit to benefits that are not directly attributable to the Contract, but for which the Contract award may serve as a catalyst or impetus.

P. Technical Proposal - Required Forms and Certifications (Submit under TAB O)

- 1) All forms required for the Technical Proposal are identified in Table 1 of **Section 7** – RFP Attachments and Appendices. Unless directed otherwise by instructions within an individual form, complete, sign, and include all required forms in the Technical Proposal, under TAB O.
- 2) Offerors shall furnish any and all agreements and terms and conditions the Offeror expects the State to sign or to be subject to in connection with or in order to use the Offeror's services under this Contract. This includes physical copies of all agreements referenced and incorporated in primary documents, including but not limited to any software licensing agreement for any software proposed to be licensed to the State under this Contract (e.g., EULA, Enterprise License Agreements, Professional Service agreement, Master Agreement) and any AUP. The State does not agree to terms and conditions not provided in an Offeror's Technical Proposal and no action of the State, including but not limited to the use of any such software, shall be deemed to constitute acceptance of any such terms and conditions. Failure to comply with this section renders any such agreement unenforceable against the State.
- 3) For each service, hardware or software proposed as furnished by a third-party entity, Offeror must identify the third-party provider and provide a letter of authorization or such other documentation demonstrating the authorization for such services. In the case of an open source license, authorization for the open source shall demonstrate compliance with the open source license.

- 4) A Letter of Authorization shall be on letterhead or through the provider's e-mail. Further, each Letter of Authorization shall be less than twelve (12) months old and must provide the following information:
- i) Third-party POC name and alternate for verification
 - ii) Third-party POC mailing address
 - iii) Third-party POC telephone number
 - iv) Third-party POC email address
 - v) If available, a Re-Seller Identifier

5.4. Volume II – Financial Proposal

The Financial Proposal shall contain all price information in the format specified in **Attachment B**. The Offeror shall complete the Financial Proposal Form only as provided in the Financial Proposal Instructions and the Financial Proposal Form itself. Do not amend, alter, or leave blank any items on the Financial Proposal Form or include additional clarifying or contingent language on or attached to the Financial Proposal Form. The prices in the **Financial Proposal Form** may not increase by more than three percent (3%) over the prior year for each year of the contract term following the base contract year, as well as for each year of the option period (if exercised). Failure to adhere to any of these instructions may result in the Proposal being determined to be not reasonably susceptible of being selected for award and rejected by the Department.

Please remember that Offerors may submit Proposals for more than one jurisdiction. However, a separate Financial Proposal must be submitted for each jurisdiction.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

6 Evaluation and Selection Process

6.1. Evaluation Committee

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

During the evaluation process, the Procurement Officer may determine at any time that a particular Offeror is not susceptible for award.

6.2. Technical Proposal Evaluation Criteria

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

6.2.1. Offeror Qualifications and Capabilities, including proposed subcontractors (See RFP § 5.3.2.H)

The following subcriterion from Section 5.3.2.H is given the greatest weight. **The State will give special consideration to agencies that received funding under the Economic Opportunity Act of 1964 for low-income energy assistance or weatherization services.**

6.2.2. Offeror's Technical Response to Requirements and Work Plan (See RFP § 5.3.2.F)

The State prefers the Offeror's Technical Proposal to illustrate a comprehensive understanding of work requirements and mastery of the subject matter, including an explanation of how the work will be performed. Proposals which include limited responses to work requirements such as "concur" or "will comply" will receive a lower ranking than those Proposals that demonstrate an understanding of the work requirements and include plans to meet or exceed them.

6.2.3. Experience and Qualifications of Proposed Staff (See RFP § 5.3.2.G)

6.2.4. Economic Benefit to State of Maryland (See RFP § 5.3.2.O)

6.3. Financial Proposal Evaluation Criteria

All Qualified Offerors (see **Section 6.5.2.D**) will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on the Total Proposal Price within the stated guidelines set forth in this RFP and as submitted on **Attachment B** - Financial Proposal Form.

6.4. Reciprocal Preference

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

- A. The Maryland resident business is a responsible Offeror;
- B. The most advantageous Proposal is from a responsible Offeror whose principal office, or principal base of operations is in another state;

- C. The other state gives a preference to its resident businesses through law, policy, or practice; and
 - D. The preference does not conflict with a federal law or grant affecting the procurement Contract.
- 6.4.2. The preference given shall be identical to the preference that the other state, through law, policy, or practice gives to its resident businesses.

6.5. Selection Procedures

6.5.1. General

- A. The Contract will be awarded in accordance with the Competitive Sealed Proposals (CSP) method found at COMAR 21.05.03. The CSP method allows for the conducting of discussions and the revision of Proposals during these discussions. Therefore, the State may conduct discussions with all Offerors that have submitted Proposals that are determined to be reasonably susceptible of being selected for contract award or potentially so. However, the State reserves the right to make an award without holding discussions.
- B. With or without discussions, the State may determine the Offeror to be not responsible or the 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.

6.5.2. Selection Process Sequence

- A. A determination is made that the MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1A**) is included and is properly completed, if there is a MBE goal. In addition, a determination is made that the VSBE Utilization Affidavit and subcontractor Participation Schedule (**Attachment E-1**) is included and is properly completed, if there is a VSBE goal.
- B. Technical Proposals are evaluated for technical merit and ranked. During this review, oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the State's requirements and the Offeror's ability to perform the services, as well as to facilitate arrival at a Contract that is most advantageous to the State. Offerors will be contacted by the State as soon as any discussions are scheduled.
- C. Offerors must confirm in writing any substantive oral clarifications of, or changes in, their Technical Proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror's Technical Proposal. Technical Proposals are given a final review and ranked.
- D. The Financial Proposal of each Qualified Offeror (a responsible Offeror determined to have submitted an acceptable Proposal) will be evaluated and ranked separately from the Technical evaluation. After a review of the Financial Proposals of Qualified Offerors, the Evaluation Committee or Procurement Officer may again conduct discussions to further evaluate the Offeror's entire Proposal.
- E. When in the best interest of the State, the Procurement Officer may permit Qualified Offerors to revise their initial Proposals and submit, in writing, Best and Final Offers (BAFOs). The State may make an award without issuing a request for a BAFO. **Offerors may only perform limited substitutions of proposed personnel as allowed in Section 3.11 (Substitution of Personnel).**

6.5.3. Award Determination

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

6.6. Documents Required upon Notice of Recommendation for Contract Award

Upon receipt of a Notification of Recommendation for Contract award, the apparent awardee shall complete and furnish the documents and attestations as directed in Table 1 of **Section 7 – RFP Attachments and Appendices**.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

7 RFP ATTACHMENTS AND APPENDICES

Instructions Page

A Proposal submitted by the Offeror must be accompanied by the completed forms and/or affidavits identified as “with Proposal” in the “When to Submit” column in Table 1 below. All forms and affidavits applicable to this RFP, including any applicable instructions and/or terms, are identified in the “Applies” and “Label” columns in Table 1.

For documents required as part of the Proposal:

1. For e-mail submissions, submit one (1) copy of each with signatures.
2. For paper submissions, submit two (2) copies of each with original signatures. All signatures must be clearly visible.

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete certain forms and affidavits after notification of recommended award. The list of forms and affidavits that must be provided is described in Table 1 below in the “When to Submit” column.

For documents required after award, submit three (3) copies of each document within the appropriate number of days after notification of recommended award, as listed in Table 1 below in the “When to Submit” column.

Table 1: RFP ATTACHMENTS AND APPENDICES

Applies?	When to Submit	Label	Attachment Name
Y	Before Proposal	A	Pre-Proposal Conference Response Form
Y	With Proposal	B	Financial Proposal Instructions and Form
Y	With Proposal	C	Bid/Proposal Affidavit (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf)
N	With Proposal	D	MBE Forms D-1A (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf) IMPORTANT: If this RFP contains different Functional Areas or Service Categories. A separate Attachment D-1A is to be submitted for each Functional Area or Service Category where there is a MBE goal.
N	10 Business Days after recommended award	D	MBE Forms D-1B, D-1C, D-2, D-3A, D-3B (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf)

			Important: Attachment D-1C, if a waiver has been requested, is also required within 10 days of recommended award.
N	As directed in forms	D	MBE Forms D-4A, D-4B, D-5 (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentDMBE-Forms-1.pdf)
N	With Proposal	E	Veteran-Owned Small Business Enterprise (VSBE) Form E-1A (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf) IMPORTANT: If this RFP contains different Functional Areas or Service Categories. A separate Attachment E-1A is to be submitted for each Functional Area or Service Category where there is a VSBE goal.
N	5 Business Days after recommended award	E	VSBE Forms E-1B, E-2, E-3 (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentE-VSBEForms.pdf) Important: Attachment E-1B, if a waiver has been requested, is also required within 10 days of recommended award.
Y	With Proposal	F	Maryland Living Wage Requirements for Service Contracts and Affidavit of Agreement (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf)
Y	With Proposal	G	Federal Funds Attachments (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentG-FederalFundsAttachment.pdf)
Y	With Proposal	H	Conflict of Interest Affidavit and Disclosure (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf)

Y	5 Business Days after recommended award – However, suggested with Proposal	I	Non-Disclosure Agreement (Contractor) (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-I-Non-DisclosureAgreementContractor.pdf)
N	5 Business Days after recommended award – However, suggested with Proposal	J	HIPAA Business Associate Agreement (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-J-HIPAABusinessAssociateAgreement.pdf)
N	With Proposal	K	Mercury Affidavit (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-K-MercuryAffidavit.pdf)
Y	With Proposal	L	Location of the Performance of Services Disclosure (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-L-PerformanceofServicesDisclosure.pdf)
Y	5 Business Days after recommended award	M	Sample Contract (included in this RFP)
Y	5 Business Days after recommended award	N	Contract Affidavit (see link at https://procurement.maryland.gov/wp-content/uploads/sites/12/2020/03/Attachment-N-Affidavit.pdf)
Y	5 Business Days after recommended award	O	DHS Hiring Agreement (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-O-DHSHiringAgreement.pdf)

Appendices

Applies ?	When to Submit	Label	Attachment Name
Y	n/a	1	Abbreviations and Definitions (included in this RFP)
Y	With Proposal	2	Offeror Information Sheet (see link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf)
Y	n/a	3	OHEP Energy Assistance Application
Y	n/a	4	OHEP 2019 Brochure

Y	n/a	5	OHEP 2019 Informational Flyer and Instructions for Filing an Application for Energy Assistance
Y	Initial Plan with Proposal	6	OHEP Annual Outreach Plan
Y	n/a	7	COMAR 07.03.21 and COMAR 07.03.22
Y	n/a	8	OHEP Operations Manual
Y	Initial Plan with Proposal	9	OHEP Energy Crisis Plan
Y	n/a	10	OHEP MEAP Monthly Financial Status Report – Benefit Funds
Y	n/a	11	OHEP Administrative Funds – Monthly Financial Status Report
Y	Initial Plan with Proposal	12	MEAP Bulk Fuel Processing Plan
Y	n/a	13	OHEP Closeout Report and Procedures
Y	n/a	14	OHEP Outreach Log
Y	n/a	15	OHEP Monitoring Report
Y	n/a	16	OHEP Quarterly Invoice Template
Y	n/a	17	Intake Summary by County, FY2014 – FY2018
Y	Initial Affidavit due 15 Days prior to the Go-Live Date.	18	Criminal Background Check Affidavit
Y	n/a	19	OHEP Fraud, Repayment and Administrative Hearing Procedures Manual
Additional Submissions			
	When to Submit	Label	Document Name
Y	5 Business Days after recommended award		Evidence of meeting insurance requirements (see Section 3.6); 1 copy
Y	10 Business Days after recommended award		PEP; 1 copy

Attachment A. Pre-Proposal Conference Response Form

Solicitation Number FIA/OHEP 21-007 -S

Administration of Maryland Energy Assistance Program (MEAP) and Electric Universal Service Program (EUSP)

A Pre-Proposal conference will be held virtually on Thursday December 16, 2021, from 1:00PM to 3:00PM Local Time.

Google Meet joining info:

Video call link: <https://meet.google.com/xhx-hwpn-ako>

Or dial: (US) +1 513-464-9965 PIN: 942 298 393#

More phone numbers: <https://tel.meet/xhx-hwpn-ako?pin=7779935677138>

Please return this form by 4:00PM Local Time Wednesday December 15, 2021, advising whether or not your firm plans to attend. The completed form should be returned via e-mail or fax to the Procurement Officer at the contact information below:

Henry ThorStraten
Department of Human Services
E-mail: HenryThorStraten@maryland.gov
Fax #: (410) 333-0258

Please indicate:

_____ Yes, the following representatives will be in attendance.

Attendees (Check the RFP for limits to the number of attendees allowed):

- 1.
- 2.
- 3.

_____ No, we will not be in attendance.

Please specify whether any reasonable accommodations are requested (see RFP § 4.1 “Pre-Proposal conference”):

Offeror:

Offeror Name (please print or type)

By:

Signature/Seal

Printed Name:

Printed Name

Title:

Title

Date:

Date

Attachment B. Financial Proposal Instructions & Form

Financial Proposal Instructions

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

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

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

K) Failure to adhere to any of these instructions may result in the Proposal being determined not reasonably susceptible of being selected for award.

Financial Proposal Form

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

See separate Excel Financial Proposal Form labeled Attachment B - Financial Proposal FIA-OHEP-21-007-S.

Attachment C. Proposal Affidavit

See link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentC-Bid_Proposal-Affidavit.pdf.

Attachment D. Minority Business Enterprise (MBE) Forms

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

Attachment E. Veteran-Owned Small Business Enterprise (VSBE) Forms

This solicitation does not include a Veteran-Owned Small Business Enterprise goal.

Attachment F. Maryland Living Wage Affidavit of Agreement for Service Contracts

See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentF-LivingWageAffidavit.pdf> to complete the Affidavit.

- A. This contract is subject to the Living Wage requirements under Md. Code Ann., State Finance and Procurement Article, Title 18, and the regulations proposed by the Commissioner of Labor and Industry (Commissioner). The Living Wage generally applies to a Contractor or subcontractor who performs work on a State contract for services that is valued at \$100,000 or more. An employee is subject to the Living Wage if he/she is at least 18 years old or will turn 18 during the duration of the contract; works at least 13 consecutive weeks on the State Contract and spends at least one-half of the employee's time during any work week on the State Contract.
- B. The Living Wage Law does not apply to:
 - (1) A Contractor who:
 - (a) Has a State contract for services valued at less than \$100,000, or
 - (b) Employs 10 or fewer employees and has a State contract for services valued at less than \$500,000.
 - (2) A subcontractor who:
 - (a) Performs work on a State contract for services valued at less than \$100,000,
 - (b) Employs 10 or fewer employees and performs work on a State contract for services valued at less than \$500,000, or
 - (c) Performs work for a Contractor not covered by the Living Wage Law as defined in B(1)(b) above, or B (3) or C below.
 - (3) Service contracts for the following:
 - (a) Services with a Public Service Company;
 - (b) Services with a nonprofit organization;
 - (c) Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement ("Unit"); or
 - (d) Services between a Unit and a County or Baltimore City.
- C. If the Unit responsible for the State contract for services determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.
- D. A Contractor must not split or subdivide a State contract for services, pay an employee through a third party, or treat an employee as an independent Contractor or assign work to employees to avoid the imposition of any of the requirements of Md. Code Ann., State Finance and Procurement Article, Title 18.

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

Attachment G. Federal Funds Attachments

See link at <https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/AttachmentG-FederalFundsAttachment.pdf>

Attachment G - Addendum

**ADDENDUM
ADDITIONAL TERMS AND CONDITIONS FOR CONTRACTS USING FEDERAL
FUNDS**

1. **Copeland “Anti-Kickback” Act, 40 U.S.C. § 276C AND 18 U.S.C. § 874.** The Contractor or subcontractor is precluded from inducing an employee to give up any part of the compensation to which he or she is entitled under his or her contract of employment under the “Anti-Kickback” section of the Act. The Act also requires the Contractor and subcontractor to submit a weekly statement of the wages paid to each employee performing on covered work during the preceding payroll period.
2. **Royalty-Free Rights to Use Software or Documentation Developed, 2 C.F.R. Part 200.315 (Intangible Property).**
 - (a) Title to intangible property (see §200.59 Intangible Property) acquired under a federal award vests upon acquisition in the non-Federal entity. The non-Federal entity must use that property for the originally-authorized purpose and must not encumber the property without approval of the Federal awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in §200.313 Equipment paragraph (e).
 - (b) The non-Federal entity may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a federal award. The Federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes and to authorize others to do so.
 - (c) The non-Federal entity is subject to applicable regulations governing patents and inventions, including government wide regulations issued by the Department of Commerce at 37 C.F.R. Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements.”
 - (d) The Federal government has the right to:
 - (1) Obtain, reproduce, publish, or otherwise use the data produced under a federal award; and
 - (2) Authorize others to receive, reproduce, publish, or otherwise use such data for federal purposes.
3. **Debarment, Suspension and other responsibility matters** (Executive Orders 12549 and 12689) (see 2 C.F.R. 180.220 and 45 C.F.R. 75.212). A party listed on the government-wide exclusions in the

System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. Part 180 that implement Executive Orders 12549 (3 C.F.R. Part 1986 Comp., p. 189) and 12689 (3 C.F.R. Part 1989 Comp., p. 235), “Debarment and Suspension” is not eligible to perform work under this MOU. SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

4. **Anti-Lobbying Act:** This Act prohibits the recipients of federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal government in connection with a specific contract, grant, or loan. As required by Section 1352, Title 31 of the U.S. Code and implemented at 2 CFR 200, Subpart F, Appendix II, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 31 U.S.C. 1352, the applicant certifies that:
 - (a) 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 making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement;
 - (b) 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 grant or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions;
 - (c) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.
5. **Americans with Disabilities Act:** This Act (28 CFR Part 35, Title II, Subtitle A) prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public and State and local governments, except public transportation services.
6. **Drug Free Workplace Statement.** The Federal government implemented 41 U.S. Code § 8103, drug-free workplace requirements for federal grant recipients, in an attempt to address the problems of drug abuse on the job. Therefore, in order to remain a responsible source for government contracts, the following guidelines have been adopted:
 - (a) The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the work place.
 - (b) Violators may be terminated or requested to seek counseling from an approved rehabilitation service.
 - (c) Employees must notify their employer of any conviction of a criminal drug statute no later than five days after such conviction.

- (c) Contractors of federal agencies are required to certify that they will provide drug-free workplaces for their employees. Transactions subject to the suspension/debarment rules (covered transactions) include grants, subgrants, cooperative agreements, and prime contracts under such awards. Subcontracts are not included.
7. **Clean Air and Federal Water Pollution Control Acts (If Applicable).** This agreement contains federal funds in excess of \$150,000. The Contractor, therefore, agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§1251-1387), as amended. Violations must be reported to the DHS Contract Monitor, the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
8. **Notice of Requirements Under the National Defense Authorization Act of 2019 (NDAA).** The NDAA prohibits the use of federal funds to cover the cost of any covered telecommunications equipment or services. Section 889 of the NDAA defines “covered telecommunications or services” to mean telecommunications and video surveillance equipment or services produced by Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities). “Covered telecommunications equipment or services” also includes telecommunications or video surveillance equipment or services provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity that is owned or controlled by the government of a covered foreign country, i.e. The Republic of China.

Attachment H. Conflict of Interest Affidavit and Disclosure

See link at <https://procurement.maryland.gov/wp-content/uploads/sites/12/2018/05/AttachmentH-Conflict-of-InterestAffidavit.pdf>

Attachment I. Non-Disclosure Agreement (Contractor)

See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-I-Non-DisclosureAgreementContractor.pdf>.

Attachment J. HIPAA Business Associate Agreement

This solicitation does not require a HIPAA Business Associate Agreement.

Attachment K. Mercury Affidavit

This solicitation does not include the procurement of products known to likely include mercury as a component.

Attachment L. Location of the Performance of Services Disclosure

See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-L-PerformanceofServicesDisclosure.pdf>.

Attachment M. Contract

<<ISSUINGAGENCYNAME>> (<<ISSUINGAGENCYACRONYM>>)

“<<solicitationTitle>>”

<<solicitationNumber>>

THIS CONTRACT (the “Contract”) is made this ____ day of _____, 20__ by and between _____ (the “Contractor”) and the STATE OF MARYLAND, acting through the MARYLAND <<ISSUINGAGENCYNAME>> (“<<ISSUINGAGENCYACRONYM>>” or the “<<typeofAgency>>”).

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

1. Definitions

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

- 1.1 “COMAR” means Code of Maryland Regulations.
- 1.2 “Contractor” means the entity first named above whose principal business address is (Contractor’s primary address) and whose principal office in Maryland is (Contractor’s local address), whose Federal Employer Identification Number or Social Security Number is (Contractor’s FEIN), and whose eMaryland Marketplace Advantage vendor ID number is (eMMA Number).
- 1.3 “Financial Proposal” means the Contractor’s [pick one: Financial Proposal or Best and Final Offer (BAFO)] dated _____ (Financial Proposal date or BAFO date).
- 1.4 Minority Business Enterprise (MBE) – Any legal entity certified as defined at COMAR 21.01.02.01B (54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- 1.5 “RFP” means the Request for Proposals for <<solicitationTitle>>, Solicitation # <<solicitationNumber>>, and any amendments, addenda, and attachments thereto issued in writing by the State.
- 1.6 “State” means the State of Maryland.
- 1.7 “Technical Proposal” means the Contractor’s Technical Proposal dated. _____ (Technical Proposal date), as modified and supplemented by the Contractor’s responses to requests clarifications and requests for cure, and by any Best and Final Offer.
- 1.8 “Veteran-owned Small Business Enterprise” (VSBE) means A business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.
- 1.9 Capitalized terms not defined herein shall be ascribed the meaning given to them in the RFP.

2. Scope of Contract

- 2.1 The Contractor shall perform in accordance with this Contract and Exhibits A-D, which are listed below and incorporated herein by reference. If there is any conflict between this

Contract and the Exhibits, the terms of the Contract shall control. 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 Contract Affidavit, executed by the Contractor and dated (date of Attachment C)

Exhibit C – The Technical Proposal

Exhibit D – The Financial Proposal

- 2.2 The Procurement Officer may, at any time, by written order, make unilateral changes in the work within the general scope of the Contract. No other order, statement, or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within 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 Without limiting the rights of the Procurement Officer under Section 2.2 above, the Contract may be modified by mutual agreement of the parties, provided: (a) the modification is made in writing; (b) all parties sign the modification; and (c) all approvals by the required agencies as described in COMAR Title 21, are obtained.

3. Period of Performance

- 3.1 The term of this Contract begins on the date the Contract is signed by the <<typeofAgency>> following any required prior approvals, including approval by the Board of Public Works, if such approval is required (the "Effective Date") and shall continue until _____ ("Initial Term").
- 3.2 In its sole discretion, the <<typeofAgency>> shall have the unilateral right to extend the Contract for <<enter the number of periods >>, successive <<enter the length of the period>> - <<select either year(s), month(s), or day(s)>> renewal options (each a "Renewal Term") at the prices established in the Contract. "Term" means the Initial Term and any Renewal Term(s). ~~[[Delete this section if there are no Option Years, and change the numbering of the next section to 3.]]~~
- 3.3. The Contractor's performance under the Contract shall commence as of the date provided in a written NTP.
- 3.4 The Contractor's obligation to pay invoices to subcontractors providing products/services in connection with this Contract, as well as the audit; confidentiality; document retention; patents, copyrights & intellectual property; warranty; indemnification obligations; and

limitations of liability under this Contract; and any other obligations specifically identified, shall survive expiration or termination of the Contract.

4. Consideration and Payment

- 4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the <<typeofAgency>> shall pay the Contractor in accordance with the terms of this Contract and at the prices quoted in the Financial Proposal. Unless properly modified (see above Section 2), payment to the Contractor pursuant to this Contract, including the Initial Term and any Renewal Term, shall not exceed the Contracted amount.

[[Use this paragraph for a fixed price contract or a contract that has a fixed price component.]]The total payment under a fixed price Contract or the fixed price element of a combined fixed price – time and materials Contract shall be the firm fixed price submitted by the Contractor in its Financial Proposal.

[[Use this paragraph for a contract with a time and materials component or has an indefinite quantity (IDIQ) component.]]For time and materials Contracts, IDIQ Contracts, or Contracts which include either or both a time and materials or IDIQ element(s), total payments to the Contractor pursuant to this Contract for the time and materials and IDIQ portion(s) may not exceed \$ _____ (the “NTE Amount”), which includes \$ _____ for the Initial Term[[If one or more option periods exist, then include:]] and \$ _____ for the Renewal Term(s).

[[Use this paragraph for a contract with a time and materials component, labor hour component, or has an indefinite quantity (IDIQ) component]] Contractor shall notify the Contract Monitor, in writing, at least sixty (60) days before payments reach the NTE Amount. After notification by the Contractor, if the State fails to increase the Contract amount, the Contractor shall have no obligation to perform under this Contract after payments reach the stated amount; provided, however, that, prior to the stated amount being reached, the Contractor shall: (a) promptly consult and work in good faith with the <<typeofAgency>> to establish a plan of action to assure that every reasonable effort is undertaken by the Contractor to complete State-defined critical work in progress prior to the date the NTE Amount will be reached; and (b) when applicable secure databases, systems, platforms, and applications on which the Contractor is working in an industry standard manner so as to prevent damage or vulnerabilities to any of the same due to the existence of any such unfinished work.

- 4.2 Unless a payment is unauthorized, deferred, delayed, or set-off under COMAR 21.02.07, payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the <<typeofAgency>>’s receipt of a proper invoice from the Contractor as required by RFP section 3.3.

The Contractor may be eligible to receive late payment interest at the rate of 9% per annum if:

- (1) The Contractor submits an invoice for the late payment interest within thirty days after the date of the State’s payment of the amount on which the interest accrued; and
- (2) A contract claim has not been filed under State Finance and Procurement Article, Title 15, Subtitle 2, Annotated Code of Maryland.

The State is not liable for interest:

- (1) Accruing more than one year after the 31st day after the agency receives the proper invoice; or
- (2) On any amount representing unpaid interest. Charges for late payment of invoices are authorized only as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable.

Final payment under this Contract will not be made until after certification is received from the Comptroller of the State that all taxes have been paid.

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

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

5. Rights to Records

- 5.1 The Contractor agrees that all documents and materials including, but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations, and data prepared by the Contractor for purposes of this Contract shall be the sole property of the State and shall be available to the State at any time. The State shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.
- 5.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a Deliverable under this Contract (as defined in **Section 7.2**), and services performed under this Contract shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created as a Deliverable under this Contract are not works made for hire for the State, the Contractor hereby relinquishes, transfers, and assigns to the State all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.
- 5.3 The Contractor shall report to the Contract Monitor, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all data delivered under this Contract.
- 5.4 The Contractor shall not affix any restrictive markings upon any data, documentation, or other materials provided to the State hereunder and if such markings are affixed, the State shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

5.5 Upon termination or expiration of the Contract, the Contractor, at its own expense, shall deliver any equipment, software or other property provided by the State to the place designated by the Procurement Officer.

6. Exclusive Use

- 6.1 The State shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable of being copyrighted, the State shall be the copyright owner and Contractor may copyright material connected with this project only with the express written approval of the State.
- 6.2 Except as may otherwise be set forth in this Contract, Contractor shall not use, sell, sub-lease, assign, give, or otherwise transfer to any third party any other information or material provided to Contractor by the <<typeofAgency>> or developed by Contractor relating to the Contract, except as provided for in **Section 8. Confidential or Proprietary Information and Documentation.**

7. Patents, Copyrights, and Intellectual Property

- 7.1. All copyrights, patents, trademarks, trade secrets, and any other intellectual property rights existing prior to the Effective Date of this Contract shall belong to the party that owned such rights immediately prior to the Effective Date (“Pre-Existing Intellectual Property”). If any design, device, material, process, or other item provided by Contractor is covered by a patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items pursuant to its rights granted under the Contract.
- 7.2 Except for (1) information created or otherwise owned by the <<typeofAgency>> or licensed by the <<typeofAgency>> from third parties, including all information provided by the <<typeofAgency>> to Contractor; (2) materials created by Contractor or its subcontractor(s) specifically for the State under the Contract (“Deliverables”), except for any Contractor Pre-Existing Intellectual Property included therein; and (3) the license rights granted to the State, all right, title, and interest in the intellectual property embodied in the solution, including the know-how and methods by which the solution is provided and the processes that make up the solution, will belong solely and exclusively to Contractor and its licensors, and the <<typeofAgency>> will have no rights to the same except as expressly granted in this Contract. Any SaaS Software developed by Contractor during the performance of the Contract will belong solely and exclusively to Contractor and its licensors. For all Software provided by the Contractor under the Contract, Contractor hereby grants to the State a nonexclusive, irrevocable, unlimited, perpetual, non-cancelable, and non-terminable right to use and make copies of the Software and any modifications to the Software. For all Contractor Pre-Existing Intellectual Property embedded in any Deliverables, Contractor grants to the State a license to use such Contractor Pre-Existing Intellectual Property in connection with its permitted use of such Deliverable. During the period between delivery of a Deliverable by Contractor and the date of payment therefor by the State in accordance with this Contract (including throughout the duration of any payment dispute discussions), subject to the terms and conditions contained herein, Contractor grants the State a royalty-free, non-exclusive,

- limited license to use such Deliverable and to use any Contractor Materials contained therein in accordance with this Contract.
- 7.3. Subject to the terms of **Section 10**, Contractor shall defend, indemnify and hold harmless the State and its agents and employees, from and against any and all claims, costs, losses, damages, liabilities, judgments and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with any third party claim that the Contractor-provided products/services infringe, misappropriate or otherwise violate any third party intellectual property rights. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent.
- 7.4 Without limiting Contractor's obligations under Section 5.3, if an infringement claim occurs, or if the State or the Contractor believes such a claim is likely to occur, Contractor (after consultation with the State and at no cost to the State): (a) shall procure for the State the right to continue using the allegedly infringing component or service in accordance with its rights under this Contract; or (b) replace or modify the allegedly infringing component or service so that it becomes non-infringing and remains compliant with all applicable specifications.
- 7.5 Except as otherwise provided herein, Contractor shall not acquire any right, title or interest (including any intellectual property rights subsisting therein) in or to any goods, Software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the State to the Contractor. Notwithstanding anything to the contrary herein, the State may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a separate writing executed by the Contractor and an authorized representative of the State as well as all required State approvals.
- 7.6 Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall use any Software or technology in a manner that will cause any patents, copyrights or other intellectual property which are owned or controlled by the State or any of its affiliates (or for which the State or any of its subcontractors has received license rights) to become subject to any encumbrance or terms and conditions of any third party or open source license (including, without limitation, any open source license listed on <http://www.opensource.org/licenses/alphabetical>) (each an "Open Source License"). These restrictions, limitations, exclusions and conditions shall apply even if the State or any of its subcontractors becomes aware of or fails to act in a manner to address any violation or failure to comply therewith. No act by the State or any of its subcontractors that is undertaken under this Contract as to any Software or technology shall be construed as intending to cause any patents, copyrights or other intellectual property that are owned or controlled by the State (or for which the State has received license rights) to become subject to any encumbrance or terms and conditions of any open source license.
- 7.7 The Contractor shall report to the <<typeofAgency>>, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Deliverables delivered under this Contract.
- 7.8 The Contractor shall not affix (or permit any third party to affix), without the <<typeofAgency>>'s consent, any restrictive markings upon any Deliverables that are

owned by the State, and if such markings are affixed, the <<typeofAgency>> shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

8. Confidential or Proprietary Information and Documentation

- 8.1 Subject to the Maryland Public Information Act and any other applicable laws including, without limitation, HIPAA, the HI-TECH Act, and the Maryland Medical Records Act and regulations promulgated pursuant thereto, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems or cloud infrastructure, if applicable) shall be held in confidence by the other party. Each party shall, however, be permitted to disclose, as provided by and consistent with applicable law, relevant confidential information to its officers, agents, and Contractor Personnel to the extent that such disclosure is necessary for the performance of their duties under this Contract. Each officer, agent, and Contractor Personnel to whom any of the State's confidential information is to be disclosed shall be advised by Contractor provided that each officer, agent, and Contractor Personnel to whom any of the State's confidential information is to be disclosed shall be advised by Contractor of the obligations hereunder, and bound by, confidentiality at least as restrictive as those of set forth in this Contract..
- 8.2 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 rightfully in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

9. Loss of Data

- 9.1 In the event of loss of any State data or records where such loss is due to the act or omission of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for restoring or recreating, as applicable, 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. At no time shall any Contractor actions (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms, and applications with which the Contractor is working hereunder.
- 9.2 In accordance with prevailing federal or state law or regulations, the Contractor shall report the loss of non-public data as directed in **RFP Section 3.7**.
- 9.3 Protection of data and personal privacy (as further described and defined in RFP Section 3.8) shall be an integral part of the business activities of the Contractor to ensure there is no inappropriate or unauthorized use of State information at any time. To this end, the Contractor shall safeguard the confidentiality, integrity and availability of State information and comply with the conditions identified in **RFP Section 3.7**.

10. Indemnification and Notification of Legal Requests

- 10.1. At its sole cost and expense, Contractor shall (i) indemnify and hold the State, its employees and agents harmless from and against any and all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs and expenses (including but not limited to attorneys' fees and costs), whether or not involving a third party claim, which arise out of or relate to the Contractor's, or any of its subcontractors', performance of this Contract and (ii) cooperate, assist, and consult with the State in the defense or investigation of any such

claim, demand, action or suit. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent.

- 10.2. The State has no obligation: (i) 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 against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations or performance under this Contract, or (ii) to pay any judgment or settlement of any such suit, claim or action. Notwithstanding the foregoing, the Contractor shall promptly notify the Procurement Officer of any such claims, demands, actions, or suits.
- 10.3. Notification of Legal Requests. In the event the Contractor receives a subpoena or other validly issued administrative or judicial process, or any discovery request in connection with any litigation, requesting State Pre-Existing Intellectual Property, of other information considered to be the property of the State, including but not limited to State data stored with or otherwise accessible by the Contractor, the Contractor shall not respond to such subpoena, process or other legal request without first notifying the State, unless prohibited by law from providing such notice. The Contractor shall promptly notify the State of such receipt providing the State with a reasonable opportunity to intervene in the proceeding before the time that Contractor is required to comply with such subpoena, other process or discovery request. .

11. Non-Hiring of Employees

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

12. Disputes

This Contract shall be subject to the provisions of Md. Code Ann., State Finance and Procurement Article, Title 15, Subtitle 2, and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision. Unless a lesser period is provided by applicable statute, regulation, or the Contract, the Contractor must file a written notice of claim with the Procurement Officer within thirty (30) days after the basis for the claim is known or should have been known, whichever is earlier.

Contemporaneously with or within thirty (30) days of the filing of a notice of claim, but no later than the date of final payment under the Contract, the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

13. Maryland Law Prevails

- 13.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.
- 13.2 The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland) does not apply to this Contract or any

purchase order, task order, or Notice to Proceed issued thereunder, or any software, or any software license acquired hereunder.

- 13.3 Any and all references to the Maryland Code, annotated and contained in this Contract shall be construed to refer to such Code sections as are from time to time amended.

14. Nondiscrimination in Employment

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry, genetic information, or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

15. Contingent Fee Prohibition

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

16. Non-Availability of Funding

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

17. Termination for Default

If the Contractor fails to fulfill its obligations under this Contract properly and on time, fails to provide any required annual and renewable bond 30 days prior to expiration of the current bond then in effect, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the

Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

18. Termination for Convenience

The performance of work under this Contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A (2).

19. Delays and Extensions of Time

- 19.1 The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.
- 19.2 Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

20. Suspension of Work

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

21. Pre-Existing Regulations

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

22. Financial Disclosure

The Contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State or its agencies during a calendar year under which the business is to receive in the aggregate, \$200,000 or more, shall within 30 days of the time when the aggregate value of these contracts, leases or other

agreements reaches \$200,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

23. Political Contribution Disclosure

The Contractor shall comply with Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31. Additional information is available on the State Board of Elections website: http://www.elections.state.md.us/campaign_finance/index.html.

24. Retention of Records

The Contractor and subcontractors shall retain and maintain all records and documents in any way relating to this Contract for (i) three (3) years after final payment by the State hereunder, or (ii) any applicable federal or State retention requirements (such as HIPAA) or condition of award, , whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, as designated by the Procurement Officer, at all reasonable times. The Contractor shall provide copies of all documents requested by the State, including, but not limited to itemized billing documentation containing the dates, hours spent and work performed by the Contractor and its subcontractors under the Contract. All records related in any way to the Contract are to be retained for the entire time provided under this section.

25. Right to Audit

- 25.1 The State reserves the right, at its sole discretion and at any time, to perform an audit of the Contractor's performance under this Contract. An audit is defined as a planned and documented independent activity performed by qualified personnel, including but not limited to State and federal auditors, to determine by investigation, examination, or evaluation of objective evidence from data, statements, records, operations and performance practices (financial or otherwise) the Contractor's compliance with the Contract, including but not limited to adequacy and compliance with established procedures and internal controls over the services performed pursuant to the Contract.
- 25.2 Upon three (3) Business Days' notice, the State shall be provided reasonable access to Contractor's records to perform any such audits. The <<typeofAgency>> may conduct these audits with any or all of its own internal resources or by securing the services of a third party accounting or audit firm, solely at the <<typeofAgency>>'s election. The <<typeofAgency>> may copy any record related to the services performed pursuant to the Contract. The Contractor agrees to fully cooperate and assist in any audit conducted by or

on behalf of the State, including, by way of example only, making records and employees available as, where, and to the extent requested by the State and by assisting the auditors in reconciling any audit variances. Contractor shall not be compensated for providing any such cooperation and assistance.

- 25.3 The right to audit shall include any of the Contractor's subcontractors including but not limited to any lower tier subcontractor(s). The Contractor shall ensure the <<typeofAgency>> has the right to audit such subcontractor(s).

26. 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;
- 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.

27. Cost and Price Certification

- 27.1 The Contractor, by submitting cost or price information certifies that, to the best of its knowledge, the information submitted is accurate, complete, and current as of the date of its Proposal.
- 27.2 The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date of its Proposal, was inaccurate, incomplete, or not current.

28. Subcontracting; Assignment

The Contractor may not subcontract any of its obligations under this Contract without obtaining the prior written approval of the Procurement Officer, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Procurement Officer, each at the State's sole and absolute discretion; provided, however, that a Contractor may assign monies receivable under a contract after written notice to the State. Any subcontracts shall include such language as may be required in various clauses contained within this Contract, exhibits, and attachments. The Contract shall not be assigned until all approvals, documents, and affidavits are completed and properly registered. The State shall not be responsible for fulfillment of the Contractor's obligations to its subcontractors.

29. Limitations of Liability

- 29.1 Contractor shall be liable for any loss or damage to the State occasioned by the acts or omissions of Contractor, its subcontractors, agents or employees as follows:

- (a) For infringement of patents, trademarks, trade secrets and copyrights as provided in **Section 7 “Patents, Copyrights, Intellectual Property”** of this Contract;
- (b) Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and
- (c) For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract and regardless of the basis on which the claim is made, Contractor’s liability shall not exceed <<two (2)>>times the total value of the Contract or \$1,000,000, whichever is greater. The above limitation of liability is per incident. **[[Include for IT contracts.]]**

[[OR]]

- (c) For all other claims, damages, loss, costs, expenses, suits or actions in any way related to this Contract and regardless of the basis on which the claim is made, Contractor’s liability shall be unlimited. **[[Include for non-IT contracts.]]**
- (d) In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that all subcontractors shall be held to be agents of Contractor.

29.2 Contractor’s indemnification obligations for Third party claims arising under Section 10 (“Indemnification”) of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor’s indemnification liability for third party claims arising under Section 10 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 10.

29.3. In no event shall the existence of a subcontract operate to release or reduce the liability of Contractor hereunder. For purposes of this Contract, Contractor agrees that it is responsible for performance of the services and compliance with the relevant obligations hereunder by its subcontractors.

30. Commercial Nondiscrimination

30.1 As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State’s Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry, national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual’s refusal to submit to a genetic test or make available the results of a genetic test or on the basis of disability, or otherwise unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and

may result in termination of this Contract, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

- 30.3 As a condition of entering into this Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, 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, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, 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.
- 30.4 The Contractor shall include the language from 30.1, or similar clause approved in writing by the <<typeofAgency>>, in all subcontracts.

31. Prompt Pay Requirements

- 31.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the <<typeofAgency>>, 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 to the Contractor;
 - (d) Place a payment for an undisputed amount in an interest-bearing escrow account; or
 - (e) Take other or further actions as appropriate to resolve the withheld payment.
- 31.2 An “undisputed amount” means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute. Such “undisputed amounts” include, without limitation: (a) retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor; and (b) an amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
- 31.3 An act, failure to act, or decision of a Procurement Officer or a representative of the <<typeofAgency>> concerning a withheld payment between the Contractor and a subcontractor under this **section 31**, may not:

- (a) Affect the rights of the contracting parties under any other provision of law;
 - (b) Be used as evidence on the merits of a dispute between the <<typeofAgency>> and the Contractor in any other proceeding; or
 - (c) Result in liability against or prejudice the rights of the <<typeofAgency>>.
- 31.4 The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the MBE program.
- 31.5 To ensure compliance with certified MBE subcontract participation goals, the <<typeofAgency>> may, consistent with COMAR 21.11.03.13, take the following measures:
- (a) Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule. This verification may include, as appropriate:
 - i. Inspecting any relevant records of the Contractor;
 - ii. Inspecting the jobsite; and
 - iii. Interviewing subcontractors and workers.Verification shall include a review of:
 - i. The Contractor's monthly report listing unpaid invoices over thirty (30) days old from certified MBE subcontractors and the reason for nonpayment; and
 - ii. The monthly report of each certified MBE subcontractor, which lists payments received from the Contractor in the preceding thirty (30) days and invoices for which the subcontractor has not been paid.
 - (b) If the <<typeofAgency>> determines that the Contractor is not in compliance with certified MBE participation goals, then the <<typeofAgency>> will notify the Contractor in writing of its findings, and will require the Contractor to take appropriate corrective action. Corrective action may include, but is not limited to, requiring the Contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.
 - (c) If the <<typeofAgency>> determines that the Contractor is in material noncompliance with MBE Contract provisions and refuses or fails to take the corrective action that the <<typeofAgency>> requires, then the <<typeofAgency>> may:
 - i. Terminate the Contract;
 - ii. Refer the matter to the Office of the Attorney General for appropriate action; or
 - iii. Initiate any other specific remedy identified by the Contract, including the contractual remedies required by any applicable laws, regulations, and directives regarding the payment of undisputed amounts.

- (d) Upon completion of the Contract, but before final payment or release of retainage or both, the Contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from, MBE subcontractors.

32. Living Wage

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

33. Use of Estimated Quantities

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

34. Risk of Loss; Transfer of Title

Risk of loss for conforming supplies, equipment, materials and Deliverables furnished to the State hereunder shall remain with the Contractor until such supplies, equipment, materials and Deliverables are received and accepted by the State, following which, title shall pass to the State.

35. Effect of Contractor Bankruptcy

All rights and licenses granted by the Contractor under this Contract are and shall be deemed to be rights and licenses to “intellectual property,” and the subject matter of this Contract, including services, is and shall be deemed to be “embodiments of intellectual property” for purposes of and as such terms are used and interpreted under § 365(n) of the United States Bankruptcy Code (“Code”) (11 U.S.C. § 365(n) (2010)). The State has the right to exercise all rights and elections under the Code and all other applicable bankruptcy, insolvency and similar laws with respect to this Contract (including all executory statement of works). Without limiting the generality of the foregoing, if the Contractor or its estate becomes subject to any bankruptcy or similar proceeding: (a) subject to the State’s rights of election, all rights and licenses granted to the State under this Contract shall continue subject to the respective terms and conditions of this Contract; and (b) the State shall be entitled to a complete duplicate of (or complete access to, as appropriate) all such intellectual property and embodiments of intellectual property, and the same, if not already in the State’s possession, shall be promptly delivered to the State, unless the Contractor elects to and does in fact continue to perform all of its obligations under this Contract.

36. Miscellaneous

- 36.1 Any provision of this Contract which contemplates performance or observance subsequent to any termination or expiration of this Contract shall survive termination or expiration of this Contract and continue in full force and effect.
- 36.2 If any term contained in this Contract is held or finally determined to be invalid, illegal, or unenforceable in any respect, in whole or in part, such term shall be severed from this

Contract, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.

- 36.3 The headings of the sections contained in this Contract are for convenience only and shall not be deemed to control or affect the meaning or construction of any provision of this Contract.
- 36.4 This Contract may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Signatures provided by facsimile or other electronic means, e.g, and not by way of limitation, in Adobe .PDF sent by electronic mail, shall be deemed to be original signatures.

37. Contract Monitor and Procurement Officer

- 37.1 The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor’s responsibilities. The <<typeofAgency>> may change the Contract Monitor at any time by written notice to the Contractor.
- 37.2 The Procurement Officer has responsibilities as detailed in the Contract, and is the only State representative who can authorize changes to the Contract. The <<typeofAgency>> may change the Procurement Officer at any time by written notice to the Contractor.

38. Notices

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

If to the State:

<<contractMonitorName>>

<<contractManagerAddress>>

Phone Number: <<contractManagerPhoneNumber>>

E-Mail: <<contractManagere-mail>>

With a copy to:

<<procurementOfficerName>>

<<issuingAgencyName>> (<<ISSUINGAGENCYACRONYM>>)

<<procurementOfficerAddress>>

Phone Number: <<procurementOfficerPhoneNumber>>

E-Mail: <<procurementOfficerE-mail>>

If to the Contractor:

(Contractor’s Name)

(Contractor’s primary address)

Attn: _____

[[Delete the following if a parent company guarantee is inapplicable:]]

Parent Company Guarantor

Contact: _____

Attn: _____

<<39.>> **Liquidated Damages for MBE**

[[If there is no MBE goal for the Contract delete this section and its heading, renumbering any subsequent sections.]]

<<39.>>1 The Contract requires the Contractor to comply in good faith with the MBE Program and Contract provisions. The State and the Contractor acknowledge and agree that the State will incur damages, including but not limited to loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources, if the Contractor does not comply in good faith with the requirements of the MBE Program and MBE Contract provisions. The parties further acknowledge and agree that the damages the State might reasonably be anticipated to accrue as a result of such lack of compliance are difficult to ascertain with precision.

<<39.>>2 Therefore, upon issuance of a written determination by the State that the Contractor failed to comply in good faith with one or more of the specified MBE Program requirements or MBE Contract provisions, the Contractor shall pay liquidated damages to the State at the rates set forth below. The Contractor expressly agrees that the State may withhold payment on any invoices as a set-off against liquidated damages owed. The Contractor further agrees that for each specified violation, the agreed upon liquidated damages are reasonably proximate to the loss the State is anticipated to incur as a result of such violation.

- (a) Failure to submit each monthly payment report in full compliance with COMAR 21.11.03.13B (3): \$<<insert value>> per day until the monthly report is submitted as required.
- (b) Failure to include in its agreements with MBE subcontractors a provision requiring submission of payment reports in full compliance with COMAR 21.11.03.13B (4): \$<<insert value>> per MBE subcontractor.
- (c) Failure to comply with COMAR 21.11.03.12 in terminating, canceling, or changing the scope of work/value of a contract with an MBE subcontractor and amendment of the MBE participation schedule: the difference between the dollar value of the MBE participation commitment on the MBE participation schedule for that specific MBE firm and the dollar value of the work performed by that MBE firm for the Contract.
- (d) Failure to meet the Contractor's total MBE participation goal and sub goal commitments: the difference between the dollar value of the total MBE participation commitment on the MBE participation schedule and the MBE participation actually achieved.
- (e) Failure to promptly pay all undisputed amounts to an MBE subcontractor in full compliance with the prompt payment provisions of the Contract:

\$<<insert appropriate rate following calculation instructions from GOSBA>> per day until the undisputed amount due to the MBE subcontractor is paid. **[[Remove this sub-clause if this Contract is subject to section 15-226 of the State Finance and Procurement Article – Construction Contracts – Prompt Payment of subcontractors.]]**

<<39.>>2 Notwithstanding the assessment or availability of liquidated damages, the State reserves the right to terminate the Contract and exercise any and all other rights or remedies which may be available under the Contract or Law.

<<40.>> Parent Company Guarantee (If applicable)

If a Contractor intends to rely on its Parent Company in some manner while performing on the State Contract, the following clause should be included and completed for the Contractor's Parent Company to guarantee performance of the Contractor. The guarantor/Contractor's Parent Company should be named as a party and signatory to the Contract and should be in good standing with SDAT.

(Corporate name of Contractor's Parent Company) hereby guarantees absolutely the full, prompt, and complete performance by **(Contractor)** of all the terms, conditions and obligations contained in this Contract, as it may be amended from time to time, including any and all exhibits that are now or may become incorporated hereunto, and other obligations of every nature and kind that now or may in the future arise out of or in connection with this Contract, including any and all financial commitments, obligations, and liabilities. **(Corporate name of Contractor's Parent Company)** may not transfer this absolute guaranty to any other person or entity without the prior express written approval of the State, which approval the State may grant, withhold, or qualify in its sole and absolute subjective discretion. **(Corporate name of Contractor's Parent Company)** further agrees that if the State brings any claim, action, lawsuit or proceeding against **(Contractor)**, **(Corporate name of Contractor's Parent Company)** may be named as a party, in its capacity as Absolute Guarantor.

<<41.>> Federal Department of Health and Human Services (DHHS) Exclusion Requirements

[[Keep this section if this Contract is for a federally-funded contracts involving healthcare entities or individuals, the employment of healthcare entities or individuals, or subcontracting with healthcare entities or individuals that may be named on the DHHS List of Excluded Individuals/Entities. Otherwise, delete this section and its heading, renumbering any subsequent sections.]]

The Contractor agrees that it will comply with federal provisions (pursuant to §§ 1128 and 1156 of the Social Security Act and 42 C.F.R. 1001) that prohibit payments under certain federal health care programs to any individual or entity that is on the List of Excluded Individuals/Entities maintained by DHHS. By executing this Contract, the Contractor affirmatively declares that neither it nor any employee is, to the best of its knowledge, subject to exclusion. The Contractor agrees, further, during the term of this Contract, to check the List of Excluded Individuals/Entities prior to hiring or assigning individuals to work on this Contract, and to notify the <<typeofAgency>> immediately of any identification of the Contractor or an individual employee as excluded, and of any DHHS action or proposed action to exclude the Contractor or any Contractor employee.

<<42.>> **Compliance with federal Health Insurance Portability and Accountability Act (HIPAA) and State Confidentiality Law**

[[If this Contract falls within the mandates of HIPAA, choose only 1 of the following options, otherwise, insert the following language and delete the remaining subsections.]]

HIPAA clauses do not apply to this Contract.

[[Medical Option 1 of 3 – Use this section when the Agency is not a covered entity. The blank at the beginning would reference any statutory requirement unique to the <<typeofAgency>> unit/program, or, if there is none, the first two sentences are combined to reference “any applicable law or regulation “as follows: “The Contractor agrees to keep information obtained in the course of this Contract confidential in compliance with any applicable State and federal regulation.”]]

The Contractor agrees to keep information obtained in the course of this Contract confidential in compliance with

_____. The Contractor agrees further to comply with any applicable State and federal confidentiality requirements regarding collection, maintenance, and use of health, personally identifiable, and financial information. This includes, where appropriate, the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. §§ 1320d et seq., and implementing regulations at 45 C.F.R. Parts 160 and 164, and the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§ 4-301 et seq. This obligation includes providing training and information to employees regarding confidentiality obligations as to health, personally identifiable, and financial information and securing acknowledgement of these obligations from employees to be involved in the Contract. This obligation further includes restricting use and disclosure of the records, generally providing safeguards against misuse of information, keeping a record of any disclosures of information, providing all necessary procedural and legal protection for any disclosures of information, promptly responding to any requests by the <<typeofAgency>> for information about its privacy practices in general or with respect to a particular individual, modifying information as may be required by good professional practice as authorized by law, and otherwise providing good information management practices regarding all health, personally identifiable, and financial information.

[[OR –Option 2 of 3 – Use this confidentiality clause when the <<typeofAgency>> unit is a covered entity and the Contractor is not a business associate.]]

<<42.>>1 The Contractor acknowledges its duty to become familiar 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 C.F.R. Parts 160 and 164. The Contractor also agrees to comply with the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§ 4-301 et seq. This obligation includes:

- (a) As necessary, adhering to the privacy and security requirements for protected health information and medical records under HIPAA and MCMRA and making the transmission of all electronic information compatible with the 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.

<<42.>>2 If in connection with the procurement or at any time during the Term, the <<typeofAgency>> determines that functions to be performed in accordance with the scope of work set forth in the solicitation constitute business associate functions as defined in HIPAA, the Contractor acknowledges its obligation to execute a business associate agreement as required by HIPAA regulations at 45 C.F.R. 164.501 and in the form required by the <<typeofAgency>>.

<<42.>>3 “Protected Health Information” as defined in the HIPAA regulations at 45 C.F.R. 160.103 and 164.501, means information transmitted as defined in the regulations, that is: individually identifiable; created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and related to the past, present, or future physical or mental health or condition of an individual, the provision of healthcare to an individual, or 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.

[[OR –Option 3 of 3 – Use this confidentiality clause when the <<typeofAgency>> unit is a covered entity and the Contractor is a business associate.]]

<<42.>>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 C.F.R. Parts 160 and 164. The Contractor also agrees to comply with the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§ 4-301 et seq. This obligation includes:

- (a) As necessary, adhering to the privacy and security requirements for protected health information and medical records under HIPAA and MCMRA and making the transmission of all electronic information compatible with the 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.

<<42.>>2 Based on the determination by the <<typeofAgency>> that the functions to be performed in accordance with the scope of work set forth in the solicitation constitute business associate functions as defined in HIPAA, the selected Offeror shall execute a business associate agreement as required by HIPAA regulations at 45 C.F.R. 164.504 and in the form as required by the <<typeofAgency>>.

<<42.>>3 “Protected Health Information” as defined in the HIPAA regulations at 45 C.F.R. 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.

<<43.>> Hiring Agreement

[[Keep this section if this Contract might include employment by current and former Family Investment Program (“FIP”) recipients, their children, foster youth, and child support obligors (“Candidates”). The actual DHS Agreement must be included in the solicitation as Attachment O (see Section 1.43) Delete this clause if inapplicable, and revise the numbering of the clauses in this Contract accordingly. Otherwise, delete this section and its heading, renumbering any subsequent sections.]]

<<43.>>1 The Contractor agrees to execute and comply with the enclosed Maryland Department of Human Services (DHS) Hiring Agreement (Attachment O). The Hiring Agreement is to be executed by the Offeror and delivered to the Procurement Officer within ten (10) Business Days following receipt of notice by the Offeror that it is being recommended for Contract award. The Hiring Agreement will become effective concurrently with the award of the Contract.

<<43.>>2 The Hiring Agreement provides that the Contractor and DHS will work cooperatively to promote hiring by the Contractor of qualified individuals for job openings resulting from this procurement, in accordance with Md. Code Ann., State Finance and Procurement Article §13-224.

<<44.>> Limited English Proficiency

[[Keep this section when there is the probability of customers with limited ability in speaking English. Delete this clause if inapplicable, and revise the numbering of the clauses in this Contract accordingly. Otherwise, delete this section and its heading, renumbering any subsequent sections.]]

The Contractor shall provide equal access to public services to individuals with limited English proficiency in compliance with Md. Code Ann., State Government Article, §§ 10-1101 et seq., and Policy Guidance issued by the Office of Civil Rights, Department of Health and Human Services, and MDH Policy 02.06.07.

<<45.>> Maryland’s Green Purchasing Reporting Requirements

[[Keep this section if this Contract might include environmentally preferred products and services. Delete this clause if inapplicable, and revise the numbering of the clauses in this Contract accordingly. Otherwise, delete this section and its heading, renumbering any subsequent sections.]]

The State of Maryland reserves the right to request from the Contractor quarterly sales data over the life of this contract. This information must include details about the recycled content, third-party sustainability certifications, and other environmental attributes of products and services sold on this price agreement per the contract specifications.

This information will enable Maryland State agencies to comply with Article §14-405 of the Annotated Code of Maryland and COMAR 21.13.01.14, effective October 1, 2014, which requires Maryland state agencies to report to the Department of General Services on their procurement of environmentally preferable products and services.

To facilitate consistent reporting on targeted contracts, the Contractor will be provided with a VENDOR GREEN SALES REPORT template by the Maryland Department of General Services.

SIGNATURES ON NEXT PAGE

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

Contractor

State of Maryland

<<ISSUINGAGENCYNAME>>

(<<ISSUINGAGENCYACRONYM>>)

By:

By: <<agencyContractSigner>>,

<<agencyContractSignerTitle>>

Date

PARENT COMPANY (GUARANTOR) (if applicable)

By:

By:

Date

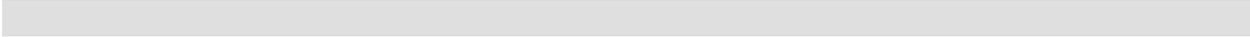
Date

Approved for form and legal sufficiency
this ____ day of _____, 20__.

Assistant Attorney General

[[If this solicitation requires BPW approval keep the text below, otherwise delete it.]]

APPROVED BY BPW: _____
(Date) (BPW Item #)



Attachment N. Contract Affidavit

See link at <https://procurement.maryland.gov/wp-content/uploads/sites/12/2020/03/Attachment-N-Affidavit.pdf>.

Attachment O. DHS Hiring Agreement

See link at <http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Attachment-O-DHSHiringAgreement.pdf>.

Appendix 1. – Abbreviations and Definitions

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

- A. **Applicant** – The person or representative of a shelter who submits an application for energy assistance.
- B. **Arrearage** – The amount of money owed by an electric/gas customer to an electric/gas company, which is 21 days or more past due. Assistance for past due electric and gas bills is available when funds are appropriated. In general, arrearage assistance may be provided once every seven (7) years. Waivers are available for households with vulnerable household members.
- C. **Benefit** – The amount of monetary assistance or any service that is provided to an eligible Applicant.
- D. **Board of Public Works (BPW or Board)** – Consists of the Governor, the State Treasurer and the State Comptroller. The Board must approve all State Contracts where the dollar amount is \$200,000.00 or greater. The Board’s powers and duties are set forth in the State Constitution and in the Code of Maryland Regulations (COMAR), Title 21.
- E. **Business Day(s)** – The official working days of the week to include Monday through Friday. Official working days excluding State Holidays (see definition of “Normal State Business Hours” below).
- F. **COMAR** – Code of Maryland Regulations available on-line at <http://www.dsd.state.md.us/COMAR/ComarHome.html>.
- G. **Contract** – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of **Attachment M**.
- H. **Contract Commencement** – The date the Contract is signed by the Department following any required approvals of the Contract, including approval by the BPW, if such approval is required.
- I. **Contract Monitor** – The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more State representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor’s responsibilities. The Maryland Department of Human Services may change the Contract Monitor at any time by written notice to the Contractor.
- J. **Contractor** – The selected Offeror that is awarded a Contract by the State.
- K. **Contractor Personnel** – Employees and agents and subcontractor employees and agents performing work at the direction of the Contractor under the terms of the Contract awarded from this RFP.
- L. **Data Breach** – The unauthorized acquisition, use, modification or disclosure of State data, or other Sensitive Data.

- M. **Department of Budget and Management (DBM)** – The Department of Budget and Management helps the Governor, State agencies, and their employees provide effective, efficient, and fiscally sound government to the citizens of Maryland. DBM supports agency efforts to achieve results by helping them obtain the fiscal, capital, and personnel resources needed to provide services to Maryland citizens.
- N. **Department or Department of Human Services (DHS)** – As Maryland’s fourth largest State agency, the Department serves families and individuals who, due to financial hardship, disability, age, chronic disease, or any other cause, need help in obtaining the basic necessities of food and shelter. DHS directs State programs for homeless persons, migrant workers, victims of crime and women who are displaced, battered or assaulted. The Department also administers federally funded programs such as Child Support, Family Investment, Food Stamps, and Medical Assistance.
- O. **Electric Universal Service Program (EUSP)** – A program that provides assistance once per year to an eligible Applicant with ongoing electric expenses through a bill payment assistance component. Benefits are made available to individual households who have an electric bill in their name.
- P. **eMMA– eMaryland Marketplace Advantage**– The State’s internet-based procurement system is a business tool that provides an efficient means to improve vendor’s access to State procurement information and bid opportunities (see RFP Section 4.2).
- Q. **Energy Delivery Statement (EDS)** – The statement that authorizes delivery by energy suppliers to an Applicant. The EDS is generated for all applications certified for a benefit.
- R. **Energy Supplier** – A vendor of home energy that supplies electricity, natural gas, propane, kerosene, coal, oil, or wood for residential use.
- S. **Enterprise Content Management System (ECMS)** – A document imaging system that scans and retains programmatic documents.
- T. **Family Investment Administration (FIA)** – FIA oversees programs that provide benefits, job readiness, job placement, and support services to eligible Maryland constituents. These programs are offered through State and County funding agencies and the 24 LDSS offices, and conform to the regulations of Title IV-A of the Social Security Act. These programs benefit individuals receiving Temporary Disability Assistance Program (TDAP), Temporary Cash Assistance (TCA), Public Assistance for Adults (PAA) and Foster Care (FC) benefits.
- U. **Go-Live Date** – The date when the Contractor must begin providing all services required by this solicitation.
- V. **Household** – An individual or group of individuals who are living together as one unit and for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.
- W. **Household Benefit Notice** – A written notification to the applicant advising of the amount of benefits awarded and that the benefits have been provided to the energy supplier.
- X. **Key Personnel** – All Contractor Personnel identified in the solicitation as such that are essential to the work being performed under the Contract. See RFP Sections 3.10.
- Y. **Local Administering Agency (LAA)** – The Local Administering Agency that the Department designates to administer a component or components of MEAP and/or EUSP.

- Z. **Local Department Of Social Services (LDSS)** - The offices, in Baltimore City and each of the 23 counties in Maryland, which administer the Family Investment Program.
- AA. **Local Time** – Time in the Eastern Time Zone as observed by the State of Maryland. Unless otherwise specified, all stated times shall be Local Time, even if not expressly designated as such.
- BB. **Low-Income Home Energy Assistance Program (LIHEAP)** – is Federal social services block grants administered through State governments that help low-income households obtain energy during energy crises.
- CC. **Maryland Energy Assistance Program (MEAP)** – Provides assistance once per year to eligible households and shelters to help with heating bills for gas, electric and all fossil fuels (oil, kerosene, propane, wood and coal) in order to make bills more affordable. Assistance can also be made available for cooling purposes. Emergency assistance is also provided to prevent or mitigate energy crises. Assistance is provided in accordance with Federal poverty guidelines.
- DD. **Minority Business Enterprise (MBE)** - Any legal entity certified as defined at COMAR 21.01.02.01B(54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- EE. **myDHR** – This web-based portal assists low income Maryland residents to apply online for the Food Supplement Program and other Social Service benefits.
- FF. **Normal State Business Hours** – Normal State business hours are 8:30 a.m. – 5:00 p.m. Monday through Friday except State Holidays and Service Reduction Days. A list of State Holidays can be accessed at www.dbm.maryland.gov keyword: State Holidays.
- GG. **Notice to Proceed (NTP)** – A written notice from the Procurement Officer that, subject to the conditions of the Contract, work under the Contract is to begin as of a specified date. The state date listed in the NTP is the Go-Live Date, and is the official start date of the Contract for the actual delivery of services as described in this solicitation. After Contract Commencement, additional NTP's may be issued by either the Procurement Officer or the Department Contract Manager regarding the start date for any service included within this solicitation with a delayed or non-specified implementation date.
- HH. **Offeror** – An entity that submits a Proposal in response to this RFP.
- II. **Office of Home Energy Programs (OHEP)** – The program authorized under the Energy Assistance Program Act (Md. Code Ann., Human Services Article, Title 5, Subtitle 5A) to receive funds and direct the delivery of services for MEAP, as authorized under the Federal Low-Income Home Energy Assistance Act (codified at 42 U.S.C. 8624(b)(6) and EUSP (authorized by Md. Code Ann., Public Utilities Article, 7-512.1). OHEP also explains and takes applications for the USPP, a program of the PSC and the utility companies. OHEP programs help low-income households pay their utility and fuel bills, minimize energy related crises, and make heating/cooling costs more affordable. OHEP's Central Office is located at 311 W. Saratoga Street, Baltimore, MD 21201.
- JJ. **OHEP Data Management System** – Official source for tracking program operations such as applications received from the public for energy assistance, eligibility determination and payments processing for program assistance.

- KK. Office of People’s Counsel (OPC)** – Maryland State Office responsible for presenting residential electrical customer concerns before the Public Service Commission. OPC also serves as a liaison for residential customers with utility customers.
- LL. Office of Technology for Human Services (OTHS)** – Provides overall management and direction of the Department’s information systems Statewide. This includes computer applications and systems, computer and communication equipment, computer peripheral equipment, telephone systems and equipment, ancillary facility and support equipment, and consumables and supplies.
- MM. Personally Identifiable Information (PII)** – Any information about an individual maintained by the State, including (1) any information that can be used to distinguish or trace an individual identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.
- NN. Procurement Officer** – Prior to the award of any Contract, the sole point of contact in the State for purposes of this solicitation. After Contract award, the Procurement Officer has responsibilities as detailed in the Contract (**Attachment M**), and is the only State representative who can authorize changes to the Contract. The Department may change the Procurement Officer at any time by written notice to the Contractor.
- OO. Program Year** – A program year begins July 1 of one year to June 30 of the following year.
- PP. Proposal** – As appropriate, either or both of the Offeror’s Technical or Financial Proposal.
- QQ. Public Service Commission (PSC)** – Maryland State agency that provides policy and administrative oversight for EUSP and USPP.
- RR. Request for Proposals (RFP)** – This Request for Proposals issued by the Department of Human Services, Agency Control Number: FIA/OHEP 21-007-S, including any addenda.
- SS. Shelter** – A public or private nonprofit residential facility whose function is to provide temporary or intermediate accommodations to battered spouses, homeless persons, and/or those individuals or families facing an energy crisis. “Shelter” does not include residential treatment programs, such as those funded by the Department of Juvenile Services, Aging, Human Resources, and Health and Mental Hygiene.
- TT. State** – The State of Maryland.
- UU. Temporary Cash Assistance (TCA)** – A program administered by FIA, TCA provides assistance to needy families with dependent children.
- VV. Total Proposal Price** - The Offeror’s total price for goods and services in response to this solicitation, included in Financial Proposal **Attachment B** – Financial Proposal Form.
- WW. Utility Service Protection Plan (USPP)** – USPP protects low-income families from utility terminations and is available to all qualified MEAP Applicants. Participation in the plan requires payment of accumulated arrearages through a twelve (12) month utility budget program which shall consider the poverty level of the household as determined in the MEAP application. Failure to make two (2) consecutive payments may result in removal from USPP and service denial under COMAR 20.31.05.

XX. Veteran-owned Small Business Enterprise (VSBE) – A business that is verified by the Center for Verification and Evaluation (CVE) of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.

Appendix 2. – Offeror Information Sheet

Solicitation #: FIA/OHEP 21-007-S

Appendix 2. The Offeror Information Sheet can be accessed using the link below.

See link at http://procurement.maryland.gov/wp-content/uploads/sites/12/2018/04/Appendix2-Bidder_OfferorInformationSheet.pdf.

Appendix 3. – OHEP Energy Assistance Application

Solicitation #: FIA/OHEP 21-007-S

Appendix 3. The OHEP Energy Assistance Application is a PDF file and is included as a separate attachment to this RFP.

Appendix 4. – OHEP 2019 Brochure

Solicitation #: FIA/OHEP 21-007-S

Appendix 4. The OHEP Brochure is a PDF file and is included as a separate attachment to this RFP.

Appendix 5. – OHEP 2022 Informational Flyer and Instructions for Filing an Application for Energy Assistance

Solicitation #: FIA/OHEP 21-007-S

Appendix 5: The OHEP 2022 Informational Flyer and Instructions for Filing and Application for Energy Assistance is a PDF file and is included as a separate attachment to this RFP.

Appendix 6. – OHEP Annual Outreach Plan

Solicitation #: FIA/OHEP 21-007-S

Appendix 6. The OHEP Annual Outreach Plan is an Excel File, and is included as a separate attachment to this RFP.

Appendix 7. – COMAR 07.03.21 and COMAR 07.03.22

Solicitation #: FIA/OHEP 21-007-S

Appendix 7. The Code of Maryland Regulations for Maryland Energy Assistance Program and Electric Universal Service Program can be accessed using the link below.

See link at <http://www.dsd.state.md.us/COMAR/ComarHome.html>

Appendix 8. – OHEP Operations Manual

Solicitation #: FIA/OHEP 21-007-S

See link at <https://dhs.maryland.gov/office-of-home-energy-programs/state-plans-and-manual/>

Appendix 9. – OHEP Energy Crisis Plan

OHEP Energy Crisis Plan

County: _____

Coordinator: _____

Phone: _____

Energy Crisis Season: November 1 through March 31 of each year

Instructions: Complete this form by describing your agencies procedures for handling crisis situations as specified by the requirements below. Use additional pages as necessary.

Requirements for Crisis Qualification:

If the household is in a life-threatening situation as defined by the State (household has no supply of fuel, utility service is disconnected or household has broken furnace or fuel burner) assistance must be provided within **18 hours** after the household applies.

A household applying for energy crisis benefits as defined by the State (*household does not have more than 3-4 days of fuel or a true disconnection notice within 3-4 days*) must be provided assistance no later than **48 hours** after household applies

Source: LIHEAP (Public Law 97-35, Section 260(c): 42 U.S.C 8623(c) 1989 revision

County Plan:

A. If a person is out of fuel or has a broken furnace/fuel burner:

1. Describe arrangement solution within 18 hours - what steps do you take:
2. List name(s) of suppliers with phone number:
3. Method of communication with vendor (i.e. – fax, email, phone):
4. If you refer clients to a shelter what is name of shelter and location with phone number:
5. Describe after hours and weekend arrangements for handling crisis situations:

B. If a person is low in fuel (3-4 days or less of fuel):

1. Describe arrangement solution within 48 hours – what steps do you take:
2. List name(s) of suppliers with phone number:

3. Method of communication with vendor (i.e. – fax, email, phone):

C. If a person has a utility shut-off notice:

1. Describe arrangement solution within 48 hours – what steps do you take:

D. If a person has exhausted their MEAP benefit:

1. Describe arrangement solution:

E. How does your agency track the above crisis situations (OHEP system, excel spreadsheet, notebook, other)?

1. Do you track whether the crisis has been resolved? This can include when commodity has been delivered, or when referral was made. If you use an electronic document please attach document.
2. Do you currently use the “crisis” page on the OHEP system?

All plans are due back to the Contract Monitor by July 15th each year.

Appendix 10. – OHEP MEAP Monthly Financial Status Report- Benefit Funds

Solicitation #: FIA/OHEP 21-007-S

Appendix 10: The OHEP MEAP Monthly Financial Status Report- Benefit Funds is an Excel file, and is included as a separate attachment to this RFP.

Appendix 11. – OHEP Administrative Funds- Monthly Financial Status Report

Solicitation #: FIA/OHEP 21-007-S

Appendix 11: The OHEP Administrative Funds- Monthly Financial Status Report is an Excel file, and is included as a separate attachment to this RFP.

Appendix 12. – MEAP Bulk Fuel Processing Plan

Solicitation #: FIA/OHEP 21-007-S

MEAP Bulk Fuel Processing Plan

Vendor Coordination	Identify the individual(s) responsible for communicating with bulk fuel vendors. Indicate the means and frequency of communication.	
Payment Processing	Identify the individual(s) involved in processing payments. Detail how EDS records are transmitted to the fiscal operation for payment and how payments are confirmed. Include the frequency and any other of the details of disbursement. Describe the accounting process for all bulk fuel payments, including the accounting system utilized and access to the accounting system.	
Delivery Verification	Identify the individual(s) responsible for verifying that deliveries have been made for crisis cases and other benefits. Describe how these deliveries are documented.	
Record Keeping	Identify the individual(s) responsible for maintaining documents related to the commitment, payment, and delivery of bulk fuel benefits to customers.	

Appendix 13. – OHEP Closeout Report and Procedures

Solicitation #: FIA/OHEP 21-007-S

Appendix 13: The OHEP Closeout Report and Procedures is a PDF file, and is included as a separate attachment to this RFP.

Appendix 14. – OHEP Outreach Log

Solicitation #: FIA/OHEP 21-007-S

Appendix 14: The OHEP Outreach Log is an Excel file, and is included as a separate attachment to this RFP.

Appendix 15. – OHEP Monitoring Report

Solicitation #: FIA/OHEP 21-007-S

Appendix 15: The OHEP Monitoring Report is a PDF, and is included as a separate attachment to this RFP.

Appendix 16. – OHEP Quarterly Invoice Template

Solicitation #: FIA/OHEP 21-007-S

Appendix 16: The OHEP Quarterly Invoice Template is a PDF file, and is included as a separate attachment to this RFP.

Appendix 17. – Intake Summary by County, FY2015-FY2019

Solicitation #: FIA/OHEP 21-007-S

Appendix 17: The Intake Summary by County, FY2015-FY2019, is a PDF document, and is included as a separate attachment to this RFP.

Appendix 18. – Criminal Background Check Affidavit

Solicitation #: FIA/OHEP 21-007-S

I, _____, HEREBY AFFIRM THAT:

I am the _____ (Title) at _____ (Contractor) (the "Contractor") and I possess the legal authority to make this Affidavit on behalf of myself and the Contractor.

I hereby affirm that the Contractor has obtained a Maryland State Police and/or FBI background check on every employee, temporary employee, contractor, agent, or other personnel (the "Workforce") assigned to participate in the scope of work described in the Request for Proposals issued by the Department of Human Services (the "Department"), Agency Control Number: FIA/OHEP 21-007-S dated June 3, 2020 (the "RFP").

I hereby affirm that the Contractor has not assigned any member of the Workforce who has a criminal record to participate in the scope of work of the RFP without obtaining the prior written authorization of the Department for such an assignment.

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.

Dated: *Type equation here.* _____

Name: _____

Title: _____

**Appendix 19. – OHEP Fraud, Repayment and Administrative Hearing
Procedures Manual**

Solicitation #: FIA/OHEP 21-007-S

The OHEP Fraud, Repayment and Administrative Hearing Procedures Manual is a PDF document, and is included as an attachment.