

STATE OF MARYLAND

Request for Proposals

Consulting and Actuarial Services for the State Employee and Retiree Health and Welfare Benefits Program

Solicitation No. F10B1400010



**DEPARTMENT OF BUDGET & MANAGEMENT
EMPLOYEE BENEFITS DIVISION**

Issue Date: April 14, 2011

NOTICE

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

Minority Business Enterprises are encouraged to respond to this solicitation

**STATE OF MARYLAND
NOTICE TO OFFERORS/CONTRACTORS**

In order to help us improve the quality of State proposal solicitations, and to make our procurement process more responsive and business friendly, we ask that you take a few minutes and provide comments and suggestions regarding the enclosed solicitation. Please return your comments with your proposal. If you have chosen not to propose to this RFP, please fax this completed form to the attention of Mark Pemberton at (410)-260-7414. Thank you for your assistance in this matter.

Solicitation No: F10B1400010
Entitled: Consulting and Actuarial Services for the Maryland State Employee and Retiree Health & Welfare Benefits Program

Date: April 14, 2011

1. If you have responded with a "no bid", please indicate the reason(s) below:
- Other commitments preclude our participation at this time.
 - The subject of the solicitation is not something we ordinarily provide.
 - We are inexperienced in the work/commodities required.
 - Specifications are unclear, too restrictive, etc. (Explain in REMARKS section.)
 - The scope of work is beyond our present capacity.
 - Doing business with Maryland Government is simply too complicated. (Explain in REMARKS section.)
 - We cannot be competitive. (Explain in REMARKS section.)
 - Time allotted for completion of the bid/proposal is insufficient.
 - Start-up time is insufficient.
 - Bonding/Insurance requirements are restrictive. (Explain in REMARKS section.)
 - Bid/Proposal requirements (other than specifications) are unreasonable or too risky. (Explain in REMARKS section.)
 - MBE requirements. (Explain in REMARKS section.)
 - Prior State of Maryland contract experience was unprofitable or otherwise unsatisfactory. (Explain in REMARKS section.)
 - Payment schedule too slow.
 - Other: _____

2. If you have submitted a bid or proposal, but wish to offer suggestions or express concerns, please use the Remarks section below. (Use reverse or attach additional pages as needed.)

REMARKS: _____

Offeror Name: _____

Date: _____

Contact Person: _____ Phone (____) _____

Address: _____

KEY INFORMATION SUMMARY SHEET

**STATE OF MARYLAND
Department of Budget and Management
Request for Proposals**

**CONSULTING AND ACTUARIAL SERVICES FOR THE
STATE EMPLOYEE AND RETIREE HEALTH & WELFARE BENEFITS PROGRAM**

SOLICITATION NO: F10B1400010

RFP Issue Date: April 14, 2011

RFP Issuing Office: Department of Budget and Management
Employee Benefits Division (EBD)

Procurement Officer: Mark Pemberton
Procurement Officer
Office Phone: (410) 260-7414
Fax: (410) 974-3274
E-mail: mpemberton@dbm.state.md.us

Proposals are to be sent to: Department of Budget and Management
45 Calvert Street, Room 148
Annapolis, MD 21401
Attention: Mark Pemberton

Pre-Proposal Conference: April 26, 2011 at 10:00 AM local time
Main Lobby Conference Room
State Office Complex
300 W. Preston St.
Baltimore, Md. 21201

Closing Date and Time: May 20, 2011 at 2:00 PM local time

Table of Contents

SECTION 1 - GENERAL INFORMATION	1
1.1 Summary Statement	1
1.2 Abbreviations and Definitions	1
1.3 Contract Type.....	4
1.4 Contract Duration.....	4
1.5 Procurement Officer and Contract Manager.....	4
1.6 Pre-Proposal Conference.....	5
1.7 Use of e-Maryland Marketplace	5
1.8 Questions.....	5
1.9 Proposals Due (Closing) Date	6
1.10 Duration of Offer	6
1.11 Revisions to the RFP	6
1.12 Cancellations; Discussions.....	6
1.13 Oral Presentation	7
1.15 Economy of Preparation.....	7
1.16 Protests/Disputes	7
1.17 Multiple or Alternative Proposals	7
1.18 Access to Public Information Act Notice	7
1.19 Offeror Responsibilities.....	8
1.20 Mandatory Contractual Terms	8
1.21 Proposal Affidavit	8
1.22 Contract Affidavit.....	8
1.23 Minority Business Enterprises.....	8
1.24 Arrearages	10
1.26 Verification of Registration and Tax Payment	10
1.27 False Statements.....	10
1.28 Payments by Electronic Funds Transfers.....	10
1.29 Utilization Data, Report Formats, and Confidentiality Agreement.....	11
1.30 Conflict of Interest	11
SECTION 2 – DESCRIPTION OF CURRENT BENEFITS PROGRAM	15
2.1 The Program.....	15
2.2 Eligibility and Payment for Coverage.....	15
2.3 Program Benefits Plans	15
2.3.1 Medical Insurance Plans	16
2.3.2 Prescription Drug Plan.....	16
2.3.3 Dental Plans.....	17
2.3.4 Behavioral Health	17
2.3.5 Accidental Death and Dismemberment Plan	18
2.3.6 Group Term Life Insurance Plan.....	18
2.3.7 Flexible Spending Accounts	18
2.3.8 Long Term Care Insurance.....	18
SECTION 3 - SCOPE OF WORK	19
3.1 Actuarial Services	19
3.1.1 Rate Setting.....	19
3.1.2 GASB.....	21
3.1.3 Other Actuarial Services	22
3.2 Consulting Services.....	23
3.2.1 Task Orders for Consulting Services	23
3.2.2 Plan Design	25

3.2.3	Procurement	25
3.2.4	Analysis of Proposed and Passed Legislation	26
3.2.5	Legal and Regulatory Compliance	26
3.2.6	Assist in the Preparation of Communication Materials	27
3.2.7	Market Research and Investigation	27
3.2.8	Trend and Innovation Disclosure	27
3.2.9	CMS Retiree Drug Subsidy Program	27
3.2.10	Early Retiree Reinsurance Program (ERRP)	30
3.2.11	Quarterly Meetings and Reporting Process	30
3.2.12	Pharmacy Directorship and Prescription Plan Contract Management	30
3.2.13	General Consulting Services Related to Employee Benefits	32
3.3	HIPAA Business Associate Requirements	33
3.3.2	Permitted Uses and Disclosures by Contractor	35
3.3.3	Breaches of Unsecured PHI	35
3.4	Invoices	39
3.4.1	Invoice Format	39
3.4.2	Requirements and Timing of Invoices	40
3.5	Excluded services	40
3.6.1	Consulting Services	40
3.6.2	Actuarial Services	41
3.7	Staffing	41
SECTION 4 – PROPOSAL FORMAT		47
4.1	Two Part Submission	47
4.2	Proposals	47
4.3	Submission	47
4.4	Volume I – Technical Proposal	48
4.4.1	Transmittal Letter	48
4.4.2	Format of Technical Proposal; Required Submissions	48
4.5	Volume II - Financial Proposal	52
SECTION 5 – EVALUATION CRITERIA AND SELECTION PROCEDURE		53
5.1	Evaluation Criteria	53
5.2	Technical Criteria	53
5.3	Financial Criteria	53
5.4	Reciprocal Preference	53
5.5	Selection Procedures	54
5.6	Award Determination	55
ATTACHMENT A		56
ATTACHMENT B - BID/PROPOSAL AFFIDAVIT		69
ATTACHMENT C - CONTRACT AFFIDAVIT		77
ATTACHMENT D - MINORITY BUSINESS ENTERPRISE PARTICIPATION		79
ATTACHMENT E - PRE-PROPOSAL CONFERENCE RESPONSE FORM		89
ATTACHMENT F - PRICE PROPOSAL INSTRUCTIONS AND FORM		90
ATTACHMENT F-1-PRICE PROPOSAL BREAKDOWN OF PRICES		95
ATTACHMENT G - CONFLICT OF INTEREST AFFIDAVIT/DISCLOSURE		94
ATTACHMENT H - CURRENT BENEFITS CONTRACTS		95
ATTACHMENT I - LIVING WAGE REQUIREMENTS AND AFFIDAVIT		101
ATTACHMENT J- STATE BENEFIT EMPLOYEE ENROLLMENT		105
ATTACHMENT K - CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT		104
ATTACHMENT L -CONTRACT COMPLIANCE CHECKLIST		108

SECTION 1 - GENERAL INFORMATION

1.1 Summary Statement

The Department of Budget and Management is issuing this Request for Proposals (RFP) for Consulting and Actuarial Services for the Maryland State Employee and Retiree Health and Welfare Benefits Program. Current benefits under the Program include medical, prescription drug, dental, behavioral health, flexible spending accounts, life insurance, accidental death and dismemberment, and group long term care. Consulting and Actuarial Services are being sought from one vendor for a three (3) year base period with two (2) consecutive one (1) year renewal options.

1.2 Abbreviations and Definitions

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

- (a) ACCOUNT MANAGER means the individual identified by the Contractor as the primary contact for DBM/EBD personnel.
- (b) AWP means the average wholesale price of a drug.
- (c) CMS means Centers for Medicare and Medicaid Services.
- (d) COBRA means the Consolidated Omnibus Budget Reconciliation Act of 1986. Reference to this Act generally refers to the federal continuation of coverage requirements; the specific provisions that apply to the Program health benefit plans are codified in the Public Health Service Act, at 42 USC §§300bb-1 et. seq.
- (e) COMAR means the Code of Maryland Regulations.
- (f) CONTRACTUAL EMPLOYEE means a non-permanent employee of the State of Maryland who is not eligible for State subsidy of benefits.
- (g) DBM means the Maryland Department of Budget and Management.
- (h) DEPENDENT means a spouse, same-sex domestic partner, biological child, stepchild, legally adopted child, grandchild or legal ward of an eligible member who is also eligible pursuant to COMAR 17.04.13.03A(11) for coverage under the Program and its associated benefits and insurance plans.
- (i) DIRECT PAY ENROLLEE means an individual in the State Plan who is billed directly by DBM for selected State benefits, including COBRA participants, individuals on a Leave of Absence, Contractual Employees and Part-Time Employees.
- (j) EBD means DBM Employee Benefits Division.

- (k) ERRP means Early Retiree Reinsurance Program
- (l) FMLA means the Family Medical Leave Act.
- (m) FIXED UNIT PRICE LABOR RATE means fully loaded hourly rates by labor category established in the Contract that include all direct and indirect costs and profit for the Contractor which the Contractor may not exceed in executing services under the Contract.
- (n) FTE means full-time equivalent. A State employee who is FTE or who works at least 50% of a normal workweek in the position is eligible for State subsidy of the State Plan's premium.
- (o) FULLY LOADED RATES means the billing rate of a labor category that includes all profit, direct and indirect costs. The indirect costs shall include all costs that would normally be considered general administrative and clerical costs and/or routine travel costs, or that are in any way allocated by the Contractor against direct labor hours as a means of calculating profit or recouping costs which cannot be directly attributable to a work order. General administrative and clerical costs cannot be billed to the State under this Contract.
- (p) GASB means the Governmental Accounting Standards Board.
- (q) HIPAA means Health Insurance Portability Accountability Act of 1996 and the regulations promulgated pursuant thereto, including the administration simplification provisions relating to the privacy and security of protected health information, the electronic exchange of health information, standard data transaction codes and code sets, and national unique identifiers, and the HITECH Act of 2009.
- (r) IBNR means incurred but not reported claims.
- (s) LABOR CATEGORIES means the specific labor categories designated by this RFP that Contractor shall use in its work order.
- (t) LOCAL TIME means time in the Eastern Time zone, Standard Time or Daylight Savings Time as applicable and observed by the State of Maryland.
- (u) MAC means maximum allowable cost as defined in the contract between the State and the Pharmacy Benefits Manager.
- (v) MINORITY BUSINESS ENTERPRISE (MBE) means a Minority Business Enterprise that is certified as such by the Maryland Department of Transportation under COMAR 21.11.03.
- (w) MEDICAL RECORDS ACT means the Maryland Confidentiality of Medial Records Act, Annotated Code of Maryland, Health General Article, Title 4, subtitle 3.

- (x) NOTICE TO PROCEED (NTP) means the formal written notification from the DBM Contract Manager or designee that directs the Contractor, as of a date contained in the NTP, to begin performance of the Contract work.
- (y) OFFEROR means a vendor who responds to the RFP by submitting a proposal to provide the requested services.
- (z) PHI means protected health information, as that phrase is defined and used in the HIPAA statute and regulations (see also 45 CFR §164.302-318 and §164.501).
- (aa) PART-TIME EMPLOYEE means a permanent employee who works less than fifty percent of the standard workweek and is not eligible for State subsidy of benefit premiums, but is eligible to enroll in the State of Maryland Employee and Retiree Health and Welfare Benefits Program.
- (bb) PBM means pharmacy benefits manager. In the context of the State Program, this refers to the contractor that administers the State's employer-sponsored self-funded prescription benefits plan and the Maryland Rx Program.
- (cc) PLAN YEAR means the 12-month period of benefit coverage beginning July 1 and ending June 30 of the next calendar year. The Plan Year for the State's benefits plans coincides with the State's fiscal year.
- (dd) PROGRAM means the State Employee and Retiree Health and Welfare Benefits Program, administered by DBM. The Program is the collection of benefits plans sponsored by the State for its employees, retirees and their dependents. See Maryland Annotated Code, State Personnel and Pensions Article, §§2-501 et. seq.
- (ee) RDS means Retiree Drug Subsidy Program
- (ff) RFP means this Request for Proposals for Consulting and Actuarial Services for the State Employee and Retiree Employee Benefits Program, Project No F10B1400010.
- (gg) SATELLITE EMPLOYEE means an employee of a political subdivision, agency, commission, or organization that is permitted by Maryland law to participate in the State of Maryland Employee and Retiree Health and Welfare Benefits Program.
- (hh) STATE means the State of Maryland.
- (ii) TPA means a third party administrator; a contractor who processes claims and administers the self-funded plans offered through the Program.
- (jj) SUBCONTRACTOR means an organization or entity that the Offeror plans to utilize for the purposes of services covered under this contract.

1.3 Contract Type

The contract that results from this RFP shall be a combination of firm, fixed prices for certain actuarial services pursuant to COMAR 21.06.03.02A(1) and B(2) and fixed unit prices (i.e. labor hour), indefinite quantity for consulting services pursuant to COMAR 21.06.03.05A(1).

1.4 Contract Duration

The contract resulting from this RFP shall be for a period of about three (3) years and shall begin upon award of the Contract. It is anticipated that the first contract year will begin on or about December 1, 2011 with a notice to proceed, and end on November 30, 2014. Contract Year 1 may be more or less than one year. A kick-off meeting is anticipated to be scheduled within 30 days after the contract award. Each succeeding contract year shall begin on December 1. The State, at its sole option, shall have the unilateral right to extend the contract term for two additional, successive one-year terms.

1.5 Procurement Officer and Contract Manager

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

Mark Pemberton
Procurement Officer
Department of Budget and Management
45 Calvert Street, Room 148
Annapolis, Maryland 21401
Telephone: 410-260-7414
Fax: 410-974-3274
E-mail: mpemberton@dbm.state.md.us

The individual responsible for day-to-day administration and management of the Contract issued pursuant to this RFP shall be the Contract Manager identified below:

Anne Timmons, Director
Employee Benefits Division, Department of Budget and Management
Room 510, 301 West Preston Street
Baltimore, Maryland 21201
Telephone: 410-767-4710
Fax: 410-333-7122
E-mail: atimmons@dbm.state.md.us

DBM may change the Procurement Officer and/or the Contract Manager at any time during the pendency of the Contract by notice to the Contractor.

1.6 Pre-Proposal Conference

A Pre-Proposal Conference will be held on April 26, 2011 beginning at 10:00 AM (local time) at the State Office Complex Auditorium, located on the first floor of the 300 West Preston St. Baltimore, Md. Attendance at the Pre-Proposal Conference is not mandatory, but all interested Offerors are encouraged to attend in order to facilitate better preparation of their proposals. In addition, attendance may facilitate the Offeror's understanding and ability to meet the State's Minority Business Enterprise (MBE) goals.

As promptly as is feasible subsequent to the Conference, a summary of the Pre-Proposal Conference and all questions and answers known at that time will be distributed, free of charge, to all prospective Offerors known to have received a copy of this RFP.

If there is a need for sign language interpretation and/or other special accommodations due to a disability, it is requested that at least five days advance notice be provided. DBM will make reasonable efforts to provide such special accommodation.

1.7 Use of e-Maryland Marketplace

e-Maryland Marketplace is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the DBM web site (<http://www.dbm.maryland.gov>) and other means for transmitting the RFP and associated materials, the solicitation and minutes of the pre-bid/proposal conference, Offeror questions and DBM responses, addenda, and other solicitation related information will be provided via e-Maryland Marketplace.

In order to receive a contract award, a vendor must be registered on eMaryland Marketplace (eMM). Registration is free. Go here to register: <https://ebidmarketplace.com/>. Click on "Registration" to begin the process and follow the prompts.

1.8 Questions

Written questions from prospective Offerors will be accepted by the Procurement Officer prior to the pre-proposal conference. If possible and appropriate, such questions will be answered at the pre-proposal conference. (No substantive question will be answered prior to the pre-proposal conference.) Questions may be submitted by mail, facsimile, or preferably, by e-mail to the Procurement Officer. Questions, both oral and written, will also be accepted from prospective Offerors attending the Pre-Proposal Conference. If possible and appropriate, these questions will be answered at the Pre-Proposal Conference.

Questions will also be accepted subsequent to the Pre-Proposal Conference. All post-conference questions should be submitted in a timely manner to the Procurement Officer only. The Procurement Officer shall, based on the availability of time to research and communicate an answer, decide whether an answer can be given before the proposal due date. Answers to all substantive questions that have not previously been answered, and are not clearly specific only to

the requestor, will be distributed to all Offerors who are known to have received a copy of the RFP.

1.9 Proposals Due (Closing) Date

An unbound original and five (5) bound copies of each proposal (technical and financial) must be received by the Procurement Officer, at the address listed in Section 1.5, no later than 2:00 PM (local time) on May 20, 2011 in order to be considered. Two (2) electronic versions on CD of the Technical Proposal (in MS WORD) must be enclosed with the original Technical Proposal. An electronic version on CD of the Financial Proposal in MS Word or Excel format must be enclosed with the original Financial Proposal. Offerors must ensure that the CDs are labeled with the RFP title, RFP number and Offeror name, and are packaged with the original copy of the appropriate proposal (technical or financial).

Requests for extension of this date or time will not be granted. Offerors mailing proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02F, proposals received by the Procurement Officer after May 20, 2011 at 2:00 PM (local time) will not be considered. Proposals may not be submitted by e-mail or facsimile.

1.10 Duration of Offer

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

1.11 Revisions to the RFP

If it becomes necessary to revise this RFP before the due date for proposals, amendments will be posted on the DBM website and eMarylandMarketplace.com, and provided to all prospective Offerors who were sent this RFP or otherwise are known by the Procurement Officer to have obtained this RFP. Amendments made after the due date for proposals will be sent only to those Offerors who are qualified and submitted a timely proposal.

Acknowledgment of the receipt of all amendments to this RFP issued before the proposal due date must accompany the Offeror's proposal in the Transmittal Letter accompanying the Technical Proposal submittal. Acknowledgement of the receipt of amendments to the RFP issued after the proposal due date shall be in the manner specified in the amendment notice. Failure to acknowledge receipt of amendments does not relieve the Offeror from complying with all terms of any such amendment.

1.12 Cancellations; Discussions

The State reserves the right to cancel this RFP, accept or reject any and all proposals, in whole or in part, received in response to this RFP, to waive or permit cure of minor irregularities, and to conduct discussions with all qualified or potentially qualified Offerors in any manner necessary

to serve the best interests of the State of Maryland. The State also reserves the right, in its sole discretion, to award a contract based upon the written proposals received without prior discussions or negotiations.

1.13 Oral Presentation

Offerors may be required to make oral presentations to State representatives. Significant representations made by an Offeror during the oral presentation must be reduced to writing. All written representations will become part of the Offeror's proposal and are binding if the contract is awarded. The Procurement Officer will notify Offerors of the time and place of oral presentations.

1.14 Incurred Expenses

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

1.15 Economy of Preparation

Proposals should be prepared simply and economically, providing a straightforward, concise description of the Offeror's proposal to meet the requirements of this RFP. Double sided printing is recommended.

1.16 Protests/Disputes

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

1.17 Multiple or Alternative Proposals

Neither multiple nor alternate proposals will be accepted.

1.18 Access to Public Information Act Notice

An Offeror should give specific attention to the clear identification of those portions of its proposal that it considers confidential, 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, Title 10, Subtitle 6, Part III of the State Government Article of the Annotated Code of Maryland. (See Section 4.4.2.1)

Information, which is claimed to be confidential, is to be placed after the Title Page and before the Table of Contents in the Offeror's Technical Proposal, and if applicable, also in its Financial Proposal. Offerors are advised that, upon request for this information from a third party, the State will make an independent determination whether the information must be disclosed (see COMAR 21.05.08.01).

1.19 Offeror Responsibilities

The selected Offeror shall be responsible for all products and services required by this RFP. Subcontractors must be identified, and a complete description of their roles relative to the proposals must be included in the Proposal. The selected Offeror retains the responsibility for all work performed by and any deliverable submitted by a subcontractor. Additional information regarding MBE subcontractors is provided in paragraph 1.23 below, Section 4.4.2.9, and ATTACHMENT D.

If an Offeror that seeks to perform or provide the services required by this RFP is the subsidiary of another entity, all information submitted by the Offeror such as, but not limited to, proposed services, description of the Offeror's ability to perform the scope of work, references and financial reports, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's proposal must contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.

1.20 Mandatory Contractual Terms

By submitting an offer in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms of this RFP and the Contract, attached as ATTACHMENT A. Any exceptions to this RFP or the Contract must be clearly identified in the Executive Summary of the technical proposal. A proposal that takes exception to these terms may be rejected (see Section 4.4.2.2).

1.21 Proposal Affidavit

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

1.22 Contract Affidavit

All Offerors are advised that if a contract is awarded as a result of this solicitation, the successful Offeror will be required to complete a Contract Affidavit. A copy of this Affidavit is included for informational purposes as ATTACHMENT C of this RFP. This Affidavit must be completed and submitted within five business days of notification of contract award.

1.23 Minority Business Enterprises

A Minority Business Enterprise (MBE) subcontractor participation goal of 13 percent of the total Consulting fees paid to the Contractor has been established for this procurement. The Contractor shall structure its award(s) of subcontracts under the contract in a good faith effort to achieve the goal in such subcontract awards by businesses certified by the Maryland Department of Transportation as minority owned and controlled. MBE requirements are specified in

ATTACHMENT D of this RFP. The commitment to subcontractors used to meet the MBE goal of this RFP must be identified in the Offeror's proposal.

Credit for payments to subcontractors will only be given to the Contractor for MBE participation that is directly attributable (*ie.* directly related) to the services provided under the Contract.

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

Each Offeror shall complete, sign and submit Attachment D-1 (Certified MBE Utilization and Fair Solicitation Affidavit) at the time it submits its technical response to the RFP. **Failure of an Offeror to complete and sign the Attachment D-1 (Certified MBE Utilization and Fair Solicitation Affidavit) at the time it submits its technical response to the RFP, will result in the State's rejection of the Offeror's Proposal to the RFP.**

The selected Offeror, once notified of award will be responsible for timely submitting the following forms within 10 business days of receiving notice of award:

- D-2 (Outreach Efforts Compliance Statement) provided with Attachment D.
- D-3 (Subcontractor Project Participation Statement) provided with Attachment D.
- Additional forms will be provided to awardee for monthly MBE compliance reporting.

An Offeror that does not commit to meeting the entire MBE participation goal proposed and outlined in this Section 1.23, must submit a good faith request for waiver with its proposal submission. See COMAR 21.11.03.11.

The Contractor and its subcontractors, once awarded a contract, will be responsible for submitting monthly by the 10th the following MBE forms to provide the State with ongoing monitoring of MBE Participation:

- D-4 (MBE participation Prime Contract Paid/Unpaid MBE Invoice Report) (Contractor responsibility)
- D-5 (MBE Subcontractor/Contractor Unpaid MBE Invoice Report) (Contractor shall follow-up with MBE subcontractors to ensure timely and accurate submission.

A current directory of certified Minority Business Enterprises is available through the Maryland State Department of Transportation, Office of Minority Business Enterprise, 7201 Corporate Center Drive, Hanover, Maryland 21076. The phone number is 410-865-1269. The directory is also available at http://www.mdot.maryland.gov/MBE_Program/Index.html.

1.24 Arrearages

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

1.25 Procurement Method

This contract will be awarded in accordance with the competitive sealed proposals process under COMAR 21.05.03.

1.26 Verification of Registration and Tax Payment

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

1.27 False Statements

Offerors are advised that section 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland provides as follows:

- (a) In connection with a procurement contract a person may not willfully:
 - (1) falsify, conceal, or suppress a material fact by any scheme or device;
 - (2) make a false or fraudulent statement or representation of a material fact; or
 - (3) use a false writing or document that contains a false or fraudulent statement or entry of a material fact.

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

- (c) A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding 5 years or both.

1.28 Payments by Electronic Funds Transfers

By submitting a response to this solicitation, the Offeror agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. The selected Offeror shall register using the COT/GADX-10, the Vendor Electronic Funds (EFT) Registration Request Form. Forms are available from the Comptroller's Offices or website at http://compnet.comp.state.md.us/General_Accounting_Division/Static_Files/gadx-10.pdf. Any request for exemption must be submitted to the State Comptroller's Office for approval at the

address specified on the COT/GADX-10 form and must include the business identification information as stated on the form and include the reason for the exemption.

1.29 Utilization Data, Report Formats, and Confidentiality Agreement

Upon request, Offerors will be provided a utilization data file from our current data warehouse with utilization information for various plans in the Program on a CD and in MS Excel format. This information is provided for informational purposes so that Offerors may be aware of the format and extent of data provided on a monthly basis from TPAs and other State contractors in connection with plans offered through the Program. See RFP Section 3 for contractual requirements in connection with this information. Information on the CD may only be used to prepare a response to this RFP. The utilization data contains confidential information related to the Program and is disclosed only for purposes of this solicitation.

A confidentiality agreement (ATTACHMENT K) will need to be provided to the State to ensure that the information will only be used as set forth in this RFP. To receive the data file, each Offeror will need to present the completed confidentiality agreement and a picture ID such as a valid driver's license. The data file will be available anytime after the release of the RFP, including at the Pre-Proposal Conference as outlined in Section 1.6 or upon arrangement with the Procurement Officer whose contact information is found in Section 1.5.

1.30 Conflict of Interest

- 1.30.1 Potential Offerors should be aware that the State Ethics Law, State Government Article, § 15-508, might limit the selected Contractor's ability to participate in future related procurements or to provide advice or consultation services to organizations or companies that plan to do business with the State, depending upon specific circumstances.
- 1.30.2 The successful Offeror shall provide consulting and actuarial services to the State and must do so impartially and without any conflicts of interest. Subcontractors and any employees or other agents of the contractor shall also be without any conflict of interest in connection with services provided pursuant to the Contract. A conflict of interest means that, because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.
- 1.30.3 The Offeror, and all subcontractors will be required to complete Conflict of Interest Affidavits to establish that the contractual requirement of impartiality would be met. A copy of this Affidavit is included as ATTACHMENT G of this RFP.
- 1.30.4 If the Procurement Officer makes a determination that facts or circumstances exist that give rise to or could in the future give rise to a conflict of interest within the meaning of COMAR 21.05.08.08A, the Procurement Officer may reject an Offeror under COMAR 21.06.02.03B, or may, during the term of the Contract, terminate the Contract in whole or

in part as necessary to avoid the actual or potential conflict of interest. See COMAR 21.05.08.08.

1.30.5 Throughout the Contract term, the Contractor must investigate and disclose any potential conflict of interest on the part of a subcontractor, consultant, sub-consultant, employee or agent who will perform or supervise work under this Contract. The Contractor shall notify the Procurement Officer and Contract Manager of any conflict of interest concerning a subcontractor, consultant, sub-consultant, employee or agent immediately upon discovery. The Contractor shall cooperate in connection with the investigation of any potential conflict of interest.

1.30.6 The Contractor shall immediately notify DBM and Procurement Officer in writing whenever the Contractor provides services to, contracts with, or receives any compensation or remuneration from an organization or company that provides services in connection with the Program.

1.31 Prompt Payment to Subcontractors

This procurement and the contract to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs (GOMA) dated August 1, 2008. Promulgated pursuant to Sections 11-201, 13-205(a), and Title 14, Subtitle 3 of the State Finance and Procurement Article (SFP), and Code of Maryland Regulations (COMAR) 21.01.01.03 and 21.11.03.01 et seq., the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The successful Offeror who is awarded a contract must comply with the prompt payment requirements outlined in the Contract, §26 (see Attachment A). Additional information is available on the GOMA website at http://www.mdminoritybusiness.com/documents/PROMPTPAYMENTFAQs_000.pdf.

1.32 Non-exclusive Use

It is the State's intention to obtain consulting and actuarial services as specified in this RFP. However, this Contract will not be construed to require DBM to use this Contract exclusively. In addition, the State reserves the right to procure consulting and actuarial services of any nature from other sources when it is in the best interest of the State to do so and without notice to the Contractor.

1.33 Living Wage Requirements

A solicitation for services under a State contract valued at \$100,000 or more may be subject to Title 18, State Finance and Procurement (SFP) Article, Annotated Code of Maryland. Additional information regarding the State's Living Wage requirement is contained in this solicitation (see Attachment I, "Living Wage Requirements for Service Contracts"). If the Offeror fails to submit and complete the Living Wage Affidavit of Agreement (see Attachment I), the State may determine an Offeror to be not responsible.

Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at least **the minimum amount set by law for the applicable Tier Area**. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State contract pursuant to §18-102 (d) shall assign the tier based upon where the recipients of the services are located.

The contract resulting from this solicitation will be deemed 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. If the Contractor provides 50% or more of the services from a location(s) in a Tier 1 jurisdiction(s) the contract will be a Tier 1 contract. If the Contractor provides 50% or more of the services from a location(s) in a Tier 2 jurisdiction(s), the contract will be a Tier 2 contract. If the Contractor provides more than 50% of the services from an out-of-State location, then the contract will be deemed to be a Tier 1 contract. The Offeror must identify in its Offer the location(s) from which services will be provided.

Information pertaining to reporting obligations may be found by going to the DLLR Website <http://www.dllr.state.md.us/> and clicking on Living Wage.

1.34 Electronic Procurement Transaction

- A. Under COMAR 21.03.05, unless otherwise prohibited by law, DBM may conduct procurement transactions by electronic means, including the solicitation, bidding, award, execution, and administration of a contract, as provided in the Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21, Annotated Code of Maryland.
- B. Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Offeror to conduct by electronic means all elements of the procurement of the Contract which are specifically authorized under the RFP or the Contract.
- C. "Electronic means" refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes facsimile, electronic mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g. eMarylandMarketplace.com), and electronic data interchange.
- D. In addition to specific electronic transactions specifically authorized in other sections of this RFP (e.g. §1.26 related to payments by electronic file transfer) and subject to the exclusions noted in subsection E of this section, the following transactions are authorized to be conducted by electronic means on the terms described:
 - 1. The Procurement Officer may conduct the procurement using eMarylandMarketplace, e-mail or facsimile to issue:

- (i) the solicitation (e.g. the RFP);
 - (ii) any amendments;
 - (iii) pre-proposal conference documents;
 - (iv) questions and responses;
 - (v) communications regarding the solicitation or proposal to any Offeror or potential Offeror including requests for clarification, explanation, or removal of elements of an Offeror's proposal deemed not acceptable;
 - (vi) notices of award selection or non-selection; and
 - (vii) the Procurement Officer's decision on any protest or Contract claim.
2. An Offeror or potential Offeror may use e-mail or facsimile to:
- (i) ask questions regarding the solicitation;
 - (ii) reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer's request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer;
 - (iii) request a debriefing; or,
 - (iv) submit a "No Bid Response" to the solicitation.
3. The Procurement Officer, the State's Contract Manager and the Contractor may conduct day-to-day Contract administration, in accordance with the limitations of section E of this subsection, utilizing e-mail, facsimile or other electronic means if authorized by the Procurement Officer or Contract Manager.
- E. The following transactions related to this procurement and any Contract awarded pursuant to it are not authorized to be conducted by electronic means:
- 1. submission of initial bids or proposals;
 - 2. filing of protests;
 - 3. filing of contract claims;
 - 4. submission of documents determined by DBM to require original signatures (e.g. Contract execution, Contract modifications, etc); or
 - 5. any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor, Bidder or Offeror be provided in writing or hard copy.
- F. Any facsimile or electronic mail transmission is only authorized to the facsimile numbers or electronic mail addresses for the identified person as provided in the RFP, the Contract, or in the direction from the Procurement Officer or Contract Manager.

SECTION 2 – DESCRIPTION OF CURRENT BENEFITS PROGRAM

2.1 The Program

The DBM administers the Program for State employees, retirees, and eligible dependents. The Program includes a mix of self-funded medical and prescription, flexible spending accounts, fully insured dental, and group insurance plans for life, accidental death and dismemberment (AD&D), and long term care. See Attachment H for a listing of the current Health Benefits contracts. The State subsidizes the premiums for certain plans but the member pays the entire premium for other plans. Deductible and co-pay arrangements are also used for various plans. The State's total benefit expenditures for FY 2011 are anticipated to be approximately \$1 billion.

The State benefits plan year is based upon the State's fiscal year. The fiscal year runs from July 1 of one year to June 30 of the following year. An annual Open Enrollment period is held prior to the beginning of each Plan Year, typically in April and May. Benefits elections for most plans are evergreen except for flexible spending accounts which must be elected coincident with each Open Enrollment period.

2.2 Eligibility and Payment for Coverage

Eligibility for Program participation is governed by regulation codified at COMAR 17.04.13.03. Program benefits are available to permanent employees who work at least 50 percent of the standard workweek, retirees and eligible dependents with a State subsidy for certain applicable premiums. COBRA participants, employees on leave of absence without pay, contractual and part-time employees also may enroll in the plans offered through the Program; however, these Direct Pay Enrollees premiums are not subsidized by the State and therefore pay the full premium cost. Satellite Account Employees participate in the State benefits program and may be subsidized by their employer, which in turn submits the full premium cost to the State.

The Program operates as an Internal Revenue Code Section 125 pre-tax benefits plan for active employee enrollees who are eligible for State subsidy. The State's Section 125 cafeteria plan does not use benefit credits or a flat employer contribution to all employees; the employer contribution is a percentage of the premium for certain plans. All other members (Direct Pay Enrollees and Retirees) must pay premiums on a post-tax basis. However, all Program election and coverage benefits are otherwise administered as if Section 125 election and coverage provisions applied.

The active State Benefit Employee Enrollment Data by Plan and Coverage prepared for enrollment year of fiscal 2011 and enrollment month of February are found in Attachment J.

2.3 Program Benefits Plans

Detailed descriptions of PPO, POS, and EPO medical benefits, and behavioral health benefits are provided in the 2011-2012 Benefits Guide. The guide is issued annually to all eligible

participants during the annual Open Enrollment period. The Benefits Guide may be accessed through the DBM website at www.dbm.maryland.gov, using the link entitled “Health Benefits.”

The various benefits plans of the Program are described in limited detail below.

2.3.1 Medical Insurance Plans

Medical plans offered include PPOs, POS, and EPOs. Each of the three types of plans provides a standard set of benefits. The administrators for the self-insured plans were procured during a competitive process held in 2008. Copies of the RFPs, including the plan design and a significant portion of the performance requirements for those contracts, are available on DBM’s website (www.dbm.maryland.gov), using the “Procurement & Contracts” and “Contract Library” links. The contracts for these medical plans will expire on June 30, 2014.

Two PPO plans are offered to State employees and retirees. These PPO plans are administered by separate third party administrators (TPAs) and do not operate under managed care guidelines. Both PPO plans offer nationwide network access. The PPO plans are self-insured by the State.

Three POS plans are administered by separate TPAs, two of which utilize national networks while one is a regional network. All three of the POS plans are self-insured with no capitation. The three EPO plans are also self-insured by the State. The EPO networks are national and use the TPA’s PPO network. All three EPO plans allow for in-network benefits only.

The three EPO plans are also self-insured by the State. The EPO networks are national and use the TPA’s PPO network. All three EPO plans allow for in-network benefits only.

2.3.2 Prescription Drug Plan

The prescription drug plan is self-insured and is administered by a PBM. Enrollees attain maximum benefits through use of a pharmacy network, generic medications when available, a drug formulary, MAC pricing and preferred drugs. The current plan includes an extensive national retail network as well as access to a voluntary mail order program and specialty pharmacies.

The current State plan also includes a number of cost containment components, including \$0 generics program for specified classes of drugs related to certain chronic conditions.

The Maryland Rx Program is a purchasing pool for pharmacy benefits for the State Employee and Retiree Health and Welfare Benefits Program, local governments and not-for-profit employers with employees in Maryland. These other entities are entitled to participate in the purchasing pool and to secure pharmacy benefit management services from the PBM on the same terms and conditions as the State through contracts with the PBM, with certain exceptions noted in the RFP. The Maryland Rx Program was implemented on July 1, 2009.

The PBM contract includes a pricing model that provides the following components:

- A. Pass - Through Pricing at Retail Pharmacies – For the retail component, the PBM shall pass-through the actual price the PBM has negotiated with the dispensing retail pharmacy; spread pricing with participating retail pharmacies shall not be permitted;
- B. Pass - Through Pricing on Mail Order and Specialty Pharmacies – For the mail and specialty pharmacy components, pass-through actual acquisition pricing from wholesalers or manufacturers is not required; however, the drug ingredient cost charged to the State must be consistent with the pricing guarantees for claims processed at mail and specialty pharmacies;
- C. Pass - Through Pricing on Other Items – For the retail, mail and specialty components, the PBM shall not retain any revenue (attributable to the State’s business) from pharmaceutical manufacturers or wholesalers including, but not limited to data fees, access fees, market share fees, rebates, formulary access fees, administrative fees or marketing grants;
- D. Pricing Guarantees – For the retail, mail and specialty components, the PBM shall also guarantee a maximum amount for dispensing and administration fees, minimum percentage discounts off AWP as published on or after 11/15/2011 by drug-type (brand and generic) and place of service (retail, mail and specialty pharmacies) and minimum guarantees per claim for rebates, including all revenue; and
- E. Transparency - For the retail, mail and specialty components, the PBM shall provide full transparency reporting.

2.3.3 Dental Plans

Preventive and diagnostic dental benefits are available to employees and retirees through two stand-alone fully-insured dental plans, including one Dental HMO and one Dental PPO with in-network and out-of-network benefits. Premiums for the two stand-alone dental plans are paid 50% by the employee and 50% by the State. The period for the dental benefits plans contracts expires June 30, 2014.

2.3.4 Behavioral Health

EPO enrollees receive behavioral health services through their EPO plans, and the cost of these services is included in the EPO premiums through June 30, 2014.

For PPO and POS enrollees, behavioral health services are provided by a TPA under a managed care agreement. These services are self-insured by the State. The cost (fully insured equivalents anticipated to cover administrative fees plus claims to cover anticipated claims costs) for behavioral health services is added to the PPO and POS premiums, and is shared between the State and enrollees in the same proportion as medical plans. The contract for these behavioral health plan TPA services expires June 30, 2014. Members may choose to receive services through a participating TPA behavioral health provider, or receive reduced benefits by using non-participating behavioral health provider. This coverage is fully compliant with the Mental Health Parity regulations.

2.3.5 Accidental Death and Dismemberment Plan

Accidental death and dismemberment plan benefits are available to active employees through a group insurance policy sponsored by the State. Premiums are paid entirely by the enrollees. The State does not subsidize this plan. The contract for this plan expires June 30, 2013.

2.3.6 Group Term Life Insurance Plan

Term life insurance is available to employees through a group life insurance policy sponsored by the State. Premiums are entirely paid by the enrollees. The State does not subsidize this plan. The contract for this plan expires June 30, 2013.

2.3.7 Flexible Spending Accounts

The State offers active employees the opportunity to participate in a pre-tax Healthcare Spending Account and/or Dependent Care Spending Account, administered by a TPA. The two Flexible Spending Accounts are entirely funded by the active employee. The contract for the TPA services for these accounts expires June 30, 2015.

2.3.8 Long Term Care Insurance

The State offers a group Long Term Care (LTC) Insurance plan to active employees, retirees and family members, including parents, grandparents, and siblings, for coverage of nursing home care, assisted living, home care, and other types of LTC services. Certain employees are eligible for pay deductions for this coverage while other covered individuals must pay premiums directly to the insurer. All premiums are fully paid by the member. The contract expires June 30, 2012.

SECTION 3 - SCOPE OF WORK

There are two major components of work being requested: (1) actuarial services and (2) general consulting services. Some of the services may overlap into both actuarial and consulting services; the Contractor shall consult with DBM in such instances to clarify which billing category and task order will apply. Some of the services will be recurring and some will be non-recurring. Details of services are outlined below.

3.1 Actuarial Services

Certain actuarial services required by this RFP and the Contract involve routine and regular actuarial data analysis in support of DBM's Program administration. All Actuarial Services described in this Section 3.1 shall be priced using a total annual firm fixed price for all services.

3.1.1 Rate Setting

The rate-setting process involves a number of phases annually over a period from September through March, in general. The schedule provided in this Section 3.1.1 for Actuarial Services is an approximation of the principal times involved in the annual rate-setting process. Flexibility in this schedule may be required, due to the requirements of the Maryland General Assembly and other conditions or events.

A. Budget to Actual Monthly Reports (July - June).

1. The Contractor shall receive and review claims invoice summaries from TPAs on a weekly or monthly basis. Compare claims invoice against claims files submitted by TPAs for the data warehouse;
2. The Contractor shall review projections prepared in annual rate setting report in light of claims invoice summaries;
3. The Contractor shall prepare and provide monthly, concise comparisons and analysis of cost projections and actual cost experience reflected in claims invoices for all self-insured plans, identify whether the budget allocation made in reliance on the rate setting report was an over-estimate or under-estimate, and identify (and recommend) whether corrective action is required by the State to modify the budget. These reports should include but not be limited to the following:
 - a. Key Observations/Executive Summary pertaining to any significant variances between the initial Annual rate settings projections and the Plan Year (budget year) to date experience.
 - b. Month by month analysis by plan of
 - i. Paid cost basis – source data warehouse
 - ii. Incurred cost basis – data warehouse
 - iii. Invoiced cost basis – TPA invoices
 - iv. Medical and Drug Trend on a paid PEPM basis
 - v. Medical and Drug PEPM on a paid basis
 - vi. Current Enrollment by Group for three levels of coverage:
 - a. Active;

- b. Satellite;
 - c. Direct Pay;
 - d. Pre-65 Retiree; and
 - e. Post-65 Retiree.
 - vii. Aggregate Total Enrollment Summary by PPO, POS and EPO plans for level of coverage non-Medicare and Medicare;
 - viii. Prescription and Dental Enrollment; and
 - ix. Historical Enrollment.
- B. The Contractor shall assist in the collection of data for rate renewal process (September-January). These services shall include at least the following tasks:
1. Meet with Director of Employee Benefits and/or designated staff to develop a comprehensive timetable and strategies for completion of rate renewal process;
 2. Prepare and issue TPA data request letters and data request forms to be approved by the Director for any additional data needed in addition to data maintained through the data warehouse;
 3. Receive and evaluate data submissions from TPAs, obtain missing information and clarify confused responses; and
 4. Advise Director of Employee Benefits and/or designated staff of any problems or delays.
- C. The Contractor shall develop annual benefits budget forecasts (i.e. State expenditures) (January-March). The involved tasks include at least the following:
1. Calculate utilization and cost trends using the data warehouse;
 2. Project cost growth for next three years using the data warehouse;
 3. Prepare and present report regarding rate setting options. This report should include at least the following:
 - a. Summary of projected rate analysis;
 - b. Cost growth by major categories. Comparison of prior year's actual costs with the next year's cost projections for each plan;
 - c. Comparison of costs to include expected/projected costs and proposed premiums;
 - d. Calculation of annual estimates for IBNR liability of the health benefit plans;
 - e. Proposed employee and retiree biweekly and monthly rate increases by plan and level of coverage. The Contractor shall be prepared to provide estimates of the fiscal and actuarial impact; and
 - f. Enrollment by plan.
 4. Prepare final summary report for the Governor.
- D. The Contractor shall develop annual premium rates for self-insured plans; review premium rates for fully insured plans. Using claims experience, cost and utilization trends and other data, make recommendations for rate actions. Develop Domestic Partner rates and Imputed Income. (September-December) These services shall include at least the following tasks:
1. Analyze rate submission(s) from TPA contractors for State self-insured plans and contractors for fully-insured plans, separating rate charges, administrative fees and

- other costs. Ensure that administrative fees and fully insured rates are within the contracted terms between the State and TPA;
2. Analyze and review utilization data for each medical benefit plan, behavioral health plan, prescription drug plan, and dental plan;
 3. Prepare initial rate summary report and brief Director of Employee Benefits and/or designated staff;
 4. Lead as the State's representative and advocate in rate negotiations with benefit plans TPA and insurance contractors;
 5. If necessary, follow up with benefit plan contractors for requested data;
 6. Develop rate scenarios;
 7. Develop rates for self-insured plans, including applicable imputed income tables and post-tax deductions;
 8. Prepare revised draft summary report for initial meeting with the Secretary of DBM;
 9. Brief Director of Employee Benefits and/or designated staff on summary report;
 10. Prepare report for presentation by Secretary of DBM to the Governor's Office; and
 11. If necessary, revise rate scenarios at request of the Secretary of DBM and the Governor's Office.

3.1.2 GASB

In preparation of the implementation of GASB Standard 45 related to reporting the State's liability in connection with providing other post-employment benefits to its retirees, the State has had a preliminary GASB Standard 45 report prepared. The Contractor shall:

1. Perform GASB Standard 45 valuation and analysis for the State and various other legislative bodies as requested, including actuarial analysis of different plan designs, funding alternatives, etc.;
2. Perform GASB Standard 43/45 annual actuarial valuation;
3. Prepare the required Supplemental Schedule of Funding Progress for post-employment benefits plan;
4. Prepare the required Supplemental Schedule of Employer Contributions and other Contributing Entities for Post-Employment Benefits Plan;
5. Assist with the footnote (#16) disclosure on "Other Post Employment Benefits, Health Benefits (OPEB);
6. Attend legislative hearings and testify before Legislative committees in connection with GASB Standard 43/45 analyses and valuations;
7. Provide statistical analysis as required for GASB compliance; and
8. Provide data and supporting analysis and cooperate in a validation of the GASB Standard 45 report, if requested.

3.1.3 Other Actuarial Services

The medical, prescription drug, behavioral health, and dental plan vendors submit monthly utilization and cost data to the State's selected contractor. An example of this report is included as Attachment J.

The quarterly reports identified in sections 3.1.3 A and B below are detailed quarterly analysis reports which provide for a detailed analysis of utilization, trends and costs that will also be used by the State to determine the scope of discussions with any TPA contractor during quarterly vendor meetings. The reports required in Section A below are primarily for the purpose of tracking costs and State expenditures over the Plan Year for budget purposes.

- A. The Contractor shall promptly provide analysis and summary of quarterly utilization reports provided by medical, behavioral health, and dental plan contractors:
 1. Perform utilization, cost and trend analysis from quarterly vendor data submissions from TPAs of the identified plans;
 2. Compare actual utilization and cost trends to projections prepared during the annual rate setting process; and
 3. Provide a concise executive summary of the report that identifies the major trends and how utilization compares to the projections made during the rate setting process, identify cost drivers, and identify potential issues for discussion with relevant TPAs in advance of scheduled TPA quarterly meetings.

- B. The Contractor shall promptly provide analysis and summary of quarterly utilization reports provided by the State's PBM:
 1. Perform utilization, cost and trend analysis from quarterly data submissions from PBM;
 2. Compare actual utilization and cost trends to projections prepared during the annual rate setting process; and
 3. Provide an analysis that indicates whether cost and pricing guarantees have been met using utilization reports and claims invoices summaries provided by the State. The Contractor will not be required to audit the PBM or review actual claims adjudications as part of this process; rather the Contractor will be required to compare the actual utilization and pricing experience of the State to the contracted pricing guarantees to determine whether contract guarantees appear to be met on a quarterly and annual basis. See the Pharmacy Directorship in section 3.2.12 for additional information.

3.2 Consulting Services

For on-going administration of the Program benefit plans, DBM requires prompt, responsive, comprehensive, clear and precise advice and input from its Actuarial and Consulting Services Contractor. Such advice shall cover the various topics and areas required to effectively and appropriately administer benefits plans of the type offered by the State, including legal requirements, plan design, cost management, data analysis, first-line audit services, and procurement support. Consulting services described in this Section 3.2 shall be provided at fixed rates per labor hour in specified labor categories. All services within this section shall be provided only upon request from DBM and pursuant to a signed task order (see Section 3.2.1) unless specifically authorized otherwise by this RFP or a written request from the Contract Manager.

3.2.1 Task Orders for Consulting Services

All invoiced work under the Contract for consulting services will be defined and initiated through a task order process, with the exception of time-sensitive actuarial notes (Section 3.2.4). The State will issue a task order (TO) request to the Contractor's Account Manager outlining the desired work to be accomplished. The TO request will identify a deadline for completion of the work requested. In response to the TO request, the Contractor's Account Manager shall develop a written scope of work, a projection of the necessary work effort (hours and staff), and an itemized project cost estimate. The cost estimate must include all related costs associated with the specified TO. In addition, the response must include the labor category of any staff or personnel who will work on the project as well as resumes for any staff or personnel not previously provided to DBM.

The Contractor shall receive a written notice to proceed from the Contract Manager prior to commencing work on each TO. The Contractor may not proceed with the TO until written notice from the Contract Manager to proceed. Written notice may take the form of the Contract Manager's signature of approval on the submitted task order cost estimate.

3.2.1.1 Task Order Process

Services shall be provided via a task order process using the pre-approved fully-loaded labor rates applicable to their labor categories as follows:

- A. The Contract Manager will e-mail a request to the Contractor to provide services. On occasion, the Contract Manager may contact the Contractor's Account Manager by telephone to orally convey the contents of a task order request. The request shall include at a minimum:
 1. The due date and time for submitting a response to the request;
 2. Technical requirements and description of the services needed;
 3. Specific information to be provided by the Contractors, such as:

- a. A proposed work plan for the required services;
 - b. Any maximum timeframe to complete the services required;
 - c. Any required places(s) where work must be performed; and
 - d. State furnished information, work site, and /or access to equipment, facilities, or personnel.
4. Requirements for meetings and reports.
- B. The Contractor shall e-mail a response to the Contract Manager within the specified time and shall include at a minimum:
1. A response to the description of the service that details the Contractor's understanding of the work;
 2. A description of the proposed work plan including time schedules, in narrative (including, if specifically required/requested, a GANTT chart) to accomplish the requisite task. This description shall include a schedule of resources and related tasks, including an explanation of how these tasks will be completed;
 3. Identification of those activities or phases that can be completed independently or simultaneously versus those that must be completed before another activity or phase can commence;
 4. The personnel resources, including those of subcontractor(s), and estimated hours to complete the task;
 5. A detailed written description of any work to be subcontracted, and the name and address of the subcontractor(s);
 6. Proposed approach to satisfying the requirements of the task and development of task deliverables;
 7. A description of the specific work and the percentage of the total Task Order which will be performed by the MBE (s); and
 8. A detailed cost estimate, using projected hours for each labor category and applicable staff members, to complete the project.
- C. The Contract Manager will review the response and will either approve the work and provide a notice to proceed or contact the Contractor to obtain additional information, clarification or revision to the work. If satisfied, the Contract Manager will then provide the NTP.

3.2.2 Plan Design

The Contractor shall provide advice on benefit plan design, plan modeling, analysis of proposed new benefits and modifications to existing benefits, including:

- A. Actuarial services and advice in the design of new benefits and benefits coverage.
- B. Independently make recommendations regarding new programs if in the best interest of the State.
- C. Provide expert assistance in the following:
 - 1. Implementation of cost-sharing strategies (deductibles, co-payments, etc.);
 - 2. Analysis of current plan design;
 - 3. Determining the costs and savings associated with any benefit changes; and
 - 4. Analyzing alternate funding arrangements.

3.2.3 Procurement

The Contractor shall assist DBM in the procurement of services related to the Program, including:

- A. Assist in developing and drafting requests for proposals;
- B. Assist in pre-proposal conference(s);
- C. Assist in proposal review and evaluation;
- D. Assist in the negotiation with benefit plans contractors (related to premiums, scope of services, etc.);
- E. Assist in any required presentations and reports to legislative bodies concerning procurements; and
- F. Assist in the transition of benefit plan contractors.

A list of current contracts and anticipated procurements is contained in ATTACHMENT H. The State will determine, in its own discretion, whether and the extent to which, if any, the services of the Contractor will be used in these procurements.

3.2.4 Analysis of Proposed and Passed Legislation

- A. The Contractor shall provide actuarial notes on bills and joint resolutions introduced by the General Assembly during the legislative sessions (generally early January through mid-April each year) that propose a change that may affect the benefits program. Notes shall include a brief explanatory statement of what the bill does and a reliable estimate of the financial and actuarial effect of the proposed changes on the benefits program, along with a brief explanation of the methodology of developing the estimate.

These actuarial notes require a **very rapid** response turnaround time of less than 8 hours from the time the request for an actuarial note is presented to the Contractor. A Task Order for each actuarial note will not be issued by DBM due to the severe time constraints for the turnaround of the fiscal notes. A general Task Order for these notes for the Contractor shall be prepared to respond to such requests beginning with each legislative session. The Contractor shall submit a general Task Order by January 1 of each year noting which personnel will be available to address potential requests for actuarial notes on pending legislation for invoicing purposes. Requests for actuarial notes of this type may be made by telephone call or e-mail from the Contract Manager or any high-level staff member of DBM or EBD.

- B. The Contractor may be called upon to testify before legislative committees upon request of DBM.

3.2.5 Legal and Regulatory Compliance

The Contractor shall provide advice on general legislative and regulatory compliance. A number of federal and state legal requirements, such as the HIPAA, Governmental Accounting Standards Board Statement 45, COBRA, federal tax provisions, FMLA, USERRA and PPACA, impact the administration of the Program benefits plans. The Contractor is required to proactively inform the State of any federal legislative or regulatory changes or judicial decisions that affect the Program, e.g. Medicare changes, COBRA and/or HIPAA regulatory changes, ADEA requirements, etc. Regular and periodic information dissemination shall be performed without the issuance of a task order and without additional compensation to the Contractor from the State. For example, the Contractor shall provide a general description of legislative or regulatory compliance issues to DBM on a regular and periodic basis but actual implementation advice, guidance, consultation or responses to requests for detailed advice shall be pursuant to a Task Order.

Any projects to implement or meet the needs of the legislative/regulatory/judicial changes will be considered and required on an as needed basis. If the State desires additional information or guidance on compliance, the State will issue a Task Order to the Contractor and billing for such service shall be in accordance with Section 3.6.1 regarding fully loaded labor rates.

3.2.6 Assist in the Preparation of Communication Materials

The Contractor may be asked to provide expert assistance in the writing of technical brochures, benefit booklets or other communication materials. Such communications could involve topic driven notification to Program enrollees (e.g. Medicare Part D newsletters, Notices of Creditable Coverage) or general benefits information (e.g. annual Open Enrollment materials).

3.2.7 Market Research and Investigation

The Contractor may be asked to conduct surveys using quantitative and qualitative methods such as telephone, mail and focus groups. In addition to the annual employee satisfaction survey, the Contractor may periodically be asked to perform surveys, including but not limited to: benefit assessment surveys; communication strategy development; disenrolled member surveys; exit surveys; survey of benefit programs of other employers including states and municipalities. All such market research and investigation services shall be provided in a manner calculated to provide accurate and reliable information to the State. The Contractor shall prepare a summary report of the results of any requested surveys.

3.2.8 Trend and Innovation Disclosure

The Contractor shall maintain current information on national and regional trends in benefits. At no additional cost to DBM, the Contractor shall routinely advise DBM and EBD of innovations in the health and employee benefits industry; a short list of those State personnel to whom such routine notifications should be issued will be provided to the Contractor upon request after Contract award. If the State desires additional information or guidance, the State will issue a Task Order to the Contractor.

3.2.9 CMS Retiree Drug Subsidy Program

The Contractor shall provide support services and consulting services in connection with the State's coverage of retirees who are eligible for the CMS RDS Program.

- A. At this time, the State participates in the CMS RDS program and intends to continue to do so. The PBM submits eligibility and cost data to CMS in support of the State's application.
 1. The Contractor shall provide support to DBM in connection with the State's annual application for the federal retiree drug subsidy administered by the Centers for Medicare and Medicaid Services in connection with the CMS RDS Program.
 2. The Contractor shall annually perform the following in support of the State's Retiree Drug Subsidy (RDS) application:
 - a. Gather claims and utilization data from PBM for the most recent 12-month period for the RDS eligible population as indicated by the most recent CMS response files that reside at the PBM (February –March);

- b. Review the State's RDS eligible data and premium percentages to validate the actuarial equivalence of the plan relative to the standard CMS RDS Program (February);
 - c. Prepare a formal report on the actuarial equivalence of the plan for purposes of the RDS for each plan year beginning July 1 (March);
 - d. Act as the designated Account Manager for the State's RDS application, initiate and complete a new application for submission as the State's Authorized Representative by the March 30 due date for the application (if the application due date is extended, by the last week of April) for the plan year beginning July 1st. As part of the services in setting up the application, confirm application designee and other application functionality information with the State and the State's PBM for the plan year beginning July 1 (March-April);
 - e. Coordinate with PBM on eligibility downloads to CMS, as necessary;
 - f. Other coordination issues with the State and State's selected PBM, as necessary; and
 - g. Provide advice to the State regarding changes in retiree drug subsidy application procedures, cost reporting and payment request procedures.
3. A Task Order for these annual services shall be prepared by the Contractor and submitted to the DBM Contract Manager by January of each calendar year, outlining a comprehensive schedule of the necessary services to be performed along with a budget for those services. In light of the recurring nature of this activity, the State requests that the Contractor submit the Task Order response without waiting for the Contract Manager to initiate the Task Order Process.
- B. Upon separate Task Order request, the Contractor shall provide an analysis of the most cost-effective means to provide prescription drug coverage to CMS RDS Program eligible enrollees in the State's self-funded prescription benefits plan, such as an analysis of the costs and benefits of the State becoming a CMS Prescription Drug Plan (PDP) or the use of an Employer Group Waiver Program (EGWP) etc. The Contractor shall be prepared to provide an analysis of the costs and benefits of changing the State's eligibility and coordination of benefits policy for retirees.
- C. The Contractor shall provide advice and information as necessary during each plan year for the State to remain on course for receipt of the retiree drug subsidy or to appropriately implement any alternative implemented by the State in connection with coverage.

3.2.10 Early Retiree Reinsurance Program (ERRP)

The Contractor shall provide support services and consulting services in connection with the State's coverage of under age 65 retirees.

- A. At this time, the State participates in the HHS ERRP and intends to continue to do so until it is no longer available. The Consultant submits eligibility and cost data to HHS in support of the State's application.
 - 1. The Contractor shall provide support to DBM in connection with the State's participation in the ERRP administered by the Health and Human Services in connection with early retiree medical and prescription claims costs.
 - 2. The Contractor shall perform the following, at least quarterly, in support of the State's ERRP application:
 - a. Gather claims and utilization data from the data warehouse for the most recent three-month period for the ERRP eligible population;
 - b. Review the State's ERRP eligible data and validate the compliance relative to the program requirements outlined by HHS;
 - c. Act as the designated Account Manager for the State's ERRP application, initiate and complete a new application for submission by the State's Authorized Representative as necessary to continue participation.
 - d. Other coordination issues as necessary; and
 - e. Provide advice to the State regarding changes in ERRP application procedures, reporting and payment request procedures.
 - 3. A Task Order for these services shall be prepared by the Contractor and submitted to DBM Contract Manager by January of each calendar year, outlining a comprehensive schedule of the necessary services to be performed along with a budget for those services. In light of the recurring nature of this activity, the State requests that the Contractor submit the Task Order response without waiting for the Contract Manager to initiate the Task Order Process.
- B. The Contractor shall provide advice and information as necessary during each plan year for the State to remain on course for receipt of the early retiree reinsurance payment or to appropriately implement any alternative initiated by the State in connection with such coverage.

3.2.11 Quarterly Meetings and Reporting Process

DBM will schedule and hold meetings on a quarterly basis with the various TPA contractors providing services in connection with the Program, in connection with the quarterly utilization reports submitted to and analyzed by the Contractor (see Section 3.1.3 above). Upon issuance of a Task Order, the Contractor shall:

- A. At the TPA quarterly meetings provide the following support services:
 - 1. Recommend areas of discussion on utilization, cost, and trends;
 - 2. Provide quarterly utilization and trend analysis reports to the senior staff of EBD on the program as a whole and note significant or unusual trends for individual plans; and
 - 3. Act as the State's advocate in participating in such discussions to target and resolve issues.
- B. At the Contractor Quarterly meetings, provide the following support services:
 - 1. Review Program utilization, costs and trends.
 - 2. Note significant changes or areas of concern.
 - 3. Provide benchmark data.
 - 4. Discuss notable innovative cost containment strategies.
 - 5. Address other issues of concern to DBM, including MBE attainment of goals to date.
- C. For ongoing reporting requirements and meetings, refer to Attachment K, Contract Compliance Checklist.

3.2.12 Pharmacy Directorship and Prescription Plan Contract Management

The State desires to be an informed, pro-active customer of its PBM, with more hands-on management and direction provided to the prescription benefits plan in order to achieve a cost-efficient benefits plan that adequately addresses the needs of enrollees. To that end, the State has required significant information reporting from the PBM. In order to understand and apply this information in a useful manner, the State requires its consulting contractor to take an active role in receiving, analyzing and summarizing this data. The Contractor shall provide services to assist the State in effective cost control monitoring and contract pricing guarantee oversight as well as in recognizing pharmacy benefits trends, anticipating and implementing plan design or formulary changes, and confirming that the State is benefiting from a transparent relationship

with its PBM contractor. The Contractor shall perform the services of a pharmacy director/manager to include:

- A. Review and analysis of pricing model components as listed in Section 2.3.2, including but not limited to: pricing guarantees, transparency reporting, discounts off AWP, rebates, MAC, etc. to determine that the State is receiving the requested data;
- B. Prepare Quarterly Executive Summary Reports on the pricing model components as listed in Section 2.3.2, including an analysis whether pricing guarantees are being met or trending in a manner that indicates pricing guarantees will not be met;
- C. Analyze, summarize and provide consulting services in connection with the following information provided by the PBM contractor (possibly on-line access but hard-copy and electronic versions required to be submitted by PBM);
- D. Full disclosure of revenue sources of the PBM;
- E. Quarterly reports that include details of at least the following received directly or indirectly in connection with the State plan and the Maryland Rx Program:
 - 1. prescription prices (e.g. retail, mail and specialty pharmacy AWP, AWP discounts, dispensing fees, etc.);
 - 2. manufacturer payments (e.g. formulary rebates, administrative fees, educational grants, detailing payments, bonuses, etc.), including amount and source;
 - 3. administrative fees or payments from labelers or wholesalers (discounts, rebates, grants, detailing payments, bonuses, etc.) including amount and source; and
 - 4. outreach and outcomes of any other arrangement(s) from which the PBM may profit.
- F. Full disclosure and quarterly reports of utilization management programs (e.g. prior authorization, drug limitation, etc) including (at least) affected drugs, costs, savings, outcomes, and number of affected members;
- G. Full disclosure quarterly reports of drug switching, drug substitution and drug repackaging or drug relabeling that occurs directly or indirectly in connection with the State Plan and the Maryland Rx Program, including at least the following:
 - 1. drug name, dosage, strength and NDC code of the drug prior to substitution, switching, repackaging or relabeling;
 - 2. drug name, dosage, strength and NDC code of the drug after substitution, switching, repackaging or relabeling;
 - 3. the price of each drug;

4. therapeutic basis or cost savings for the switching or substitution;
 5. the manufacturer of each drug;
 6. the labeler or packager of each drug; and
 7. the aggregate number of switches, substitutions, relabeling or repackaging during the reporting period.
- H. Full disclosure and quarterly updates of formulary management information, including at least the following:
1. maximum allowable cost (MAC) list changes, identifying changes by drug name, dosage and NDC number;
 2. formulary changes and preferred drug list changes, listing changes in the list of drugs that are included in the second (i.e. “preferred”) tier and third (i.e. “non-preferred”) tier, identifying changes by name, dosage, and NDC number;
 3. the procedure used to make such changes;
 4. the procedure used to notify those impacted by the formulary or PDL changes;
 5. impact and outcome of formulary changes (e.g. number of participants, costs, savings, etc.) by drug;
 6. any arrangements with prescribing providers, medical groups, pharmacy providers, individual practice associations, or other persons associated with activities of the Contractor to encourage formulary compliance or otherwise manage prescription benefits, including a description of outreach efforts and outcomes;
 7. report on activities relating to clinical and cost management programs including DUR and substitution programs; and
 8. benchmark data on pharmacy costs and utilization.

3.2.13 General Consulting Services

The Contractor shall provide consulting services as needed on health related services or products outside of the Program, *ie.* DBM can request consulting services from the Contractor on any health or benefit issue for which advice or analysis is needed by DBM or any State agency.

3.3 HIPAA Business Associate Requirements

DBM acknowledges its responsibilities in connection with the self-funded health plan(s) that are covered entities under HIPAA. The State has established additional performance requirements in connection with HIPAA compliance as required by HIPAA, the Privacy Rule, the Security Rule and the HITECH Act. The Contractor shall comply with the Business Associate Agreement requirements as provided in this section of the RFP.

3.3.1 Permitted Uses and Disclosures

3.3.1.1 The Contractor shall not use or disclose PHI except as permitted by these Business Associate Agreement provisions of the RFP and the Contract.

3.3.1.2 The Contractor may use or disclose PHI to perform functions, activities, or services for or on behalf of DBM or the State as specified in the RFP and the Contract, provided that such use or disclosure would not violate HIPAA or the Medical Records Act. Contractor shall not use or disclose PHI other than as permitted or required by the RFP and the Contract or as required by law, in accordance with 45 CFR §164.512.

3.3.1.3 Contractor acknowledges it is a business associate of DBM in connection with the group health plan(s) of the Program and, therefore, subject to its own compliance obligations under the HITECH Act and HIPAA. Contractor shall comply with 45 CFR §164.504(e).

3.3.1.4 The Contractor shall implement and use appropriate and reasonable administrative, physical and technical safeguards to maintain the security of and to prevent use or disclosure of PHI other than (a) as provided in this Agreement, (b) permitted by the HIPAA or the Privacy Rule for a covered entity, and (c) permitted by the Medical Records Act. In the event that the HIPAA, the HITECH Act, and the Medical Records Act conflict regarding the degree of protection provided for PHI, the Contractor shall comply with the more restrictive protection requirements.

3.3.1.5 Contractor shall use, disclose or request only the minimum necessary amount of PHI and act in compliance with 45 CFR §164.502(b) as if Contractor were a covered entity in connection with the Program. Contractor shall comply with guidance issued by DHHS in determining the minimum necessary amount of PHI to accomplish the intended purpose of such use, disclosure, or request, respectively.

3.3.1.6 Contractor shall not use any PHI for marketing or fundraising activities. Contractor shall not receive, whether directly or indirectly, remuneration in exchange for access, disclosure or other use of information in the Contractor's knowledge, custody, possession or control by virtue of performing under the RFP and the Contract. This prohibition does not apply to DBM's payment of Contractor for its performance pursuant to the RFP and the Contract.

3.3.1.7 The Contractor shall report to DBM any use or disclosure of PHI that is not permitted by these Business Associate Agreement provisions in this RFP as soon as possible, but

in any event within 10 days of when the Contractor becomes aware of such use or disclosure. This provision shall not limit the Contractor's obligations to provide notice as specifically described in section 3.3.3.2.

3.3.1.8 The Contractor agrees to review any guidance from DHHS specifying the technologies and methodologies that render PHI unusable, unreadable, or indecipherable to unauthorized individuals or otherwise rule out treatment of the PHI as Unsecured PHI. The Contractor further agrees, to the extent practical, appropriate and reasonable, to incorporate such guidance into its administrative, physical, and technical safeguards to protect the confidentiality, integrity, and availability of PHI, in all forms. The Contractor will notify DBM, by quarterly reports, if PHI in its possession or control or that Contractor receives, transmits or exchanges, is secured within the meaning of 45 CFR §164.400 et seq.

3.3.1.9 The Contractor shall use reasonable efforts to mitigate the effect of any use or disclosure of PHI known to Contractor that is not permitted by these Business Associate Agreement provisions of the RFP and the Contract,

3.3.1.10 The Contractor shall ensure that any agents, including subcontractors, to whom it provides PHI agree to the same restrictions and conditions that apply to the Contractor with respect to such PHI.

3.3.1.11 The Contractor shall maintain PHI and make available to DBM any PHI in a Designated Record Set relating to an individual upon request of DBM to permit DBM to comply with an individual's request pursuant to 45 CFR §164.524.

3.3.1.12 The Contractor shall make available for amendment and amend PHI in a Designated Record Set it holds at the request of DBM.

3.3.1.13 The Contractor shall document and track disclosures, including sufficient information as would be required by DBM to respond to a request for an accounting in accordance with 45 CFR §164.528, and provide an accounting of disclosures of PHI to DBM upon request. Any disclosure or use of PHI by the Contractor shall be noted.

3.3.1.14 The Contractor shall make internal practices, books and records, including privacy and confidentiality policies and procedures and PHI, available to DHHS, for purposes of determining whether DBM is compliant with HIPAA in the administration of the Program.

3.3.1.15 Upon written request, the Contractor shall provide a written certification to DBM that the Contractor's obligations under these Business Associate Agreement provisions have been met. Such requests for certification shall occur no more frequently than once per quarter.

3.3.1.16 The Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI (i.e. PHI in electronic format or media) that the Contractor creates, receives, maintains, or transmits in performing the Contractor's obligations under the RFP and the

Contract, Such activities shall be consistent with the Security Rule, as if the Contractor were a covered entity in connection with the PHI.

3.3.1.17 The Contractor shall ensure that any agent, including a subcontractor, to whom it provides electronic PHI agrees to implement reasonable and appropriate safeguards to protect such electronic PHI.

3.3.1.18 The Contractor shall report to DBM any security incident in connection with the Contractor's systems that contain, house, or have access to PHI, including but not limited to any back-up copies. In the event of a security incident, the Contractor shall notify DBM within 10 days and shall take reasonable and appropriate steps in mitigation or remediation of the security incident and shall notify DBM of such steps.

3.3.1.19 The Contractor shall transmit or exchange PHI in a secure fashion at all times.

3.3.2 Permitted Uses and Disclosures by Contractor

3.3.2.1 The Contractor may use only the minimum amount of PHI necessary to provide the services required by the RFP and the Contract.

3.3.2.2 The Contractor may disclose PHI as required by law in compliance with 45 CFR § 164.512.

3.3.2.3 The Contractor may use and disclose PHI for the proper management and administration of its organization or to carry out its legal responsibilities only as permitted by 45 CFR § 164.504(e) (4).

3.3.2.4 The Contractor may use or disclose PHI to report violations of the law to appropriate State and Federal authorities consistent with 45 CFR §164.502 (j).

3.3.3 Breaches of Unsecured PHI.

3.3.3.1 A Breach shall be treated as discovered on the terms described in 45 CFR §164.410.

3.3.3.2 Notice to DBM.

(a) The Contractor shall promptly notify DBM of a Breach of Unsecured PHI following the first day on which Contractor (or Contractor's employee, officer, agent or subcontractor) knows of such Breach or following the first day on which Contractor (or Contractor's employee, officer, agent or subcontractor) reasonably should have known of such Breach. Such notice shall occur without unreasonable delay and in no event more than 60 days following discovery of the Breach.

(b) In the event that Contractor determines that there is no risk that an unauthorized access, acquisition, use, or disclosure compromises the integrity, security or privacy of the PHI of an individual, Contractor shall promptly notify DBM of the event and the basis for that

determination. Such notice shall occur as soon as is reasonable but in no event more than 60 days following discovery of the unauthorized access, acquisition, use or disclosure of PHI of an individual. Such determination shall be in writing and signed by an appropriate officer or employee of Contractor and maintained until the expiration of any audit rights or record retention requirements of the RFP and the Contract, HIPAA, and the HITECH Act.

(c) Contractor's notice to DBM of a Breach or other unauthorized access, acquisition, use, or disclosure of Unsecured PHI pursuant to this subsection 3.3.3.2 shall include, at a minimum:

- (i) the number of individuals affected by the Breach;
- (ii) the identification of each individual whose unsecured PHI has been, or is reasonably believed to have been, accessed, acquired, used, disclosed, or otherwise the subject of the Breach;
- (iii) a description of what happened, the date of the Breach (if known), and the date of the discovery of the Breach;
- (iv) a brief description of the types of unsecured PHI that were involved in the Breach (such as name, social security number, date of birth, etc.);
- (v) identification of an individual who can provide additional information concerning the Breach; and
- (vi) a description of the steps Contractor is taking to mitigate the Breach, investigate the Breach, and to protect against further Breaches or Security Incidents.

(d) Contractor's notice to DBM pursuant to this section 3.3.3.2 may provide on a rolling basis, with information provided to DBM as it becomes available.

3.3.3.3 Notice to Individuals.

(a) At its own cost, the Contractor shall provide notice to affected members and to the media in the form, content, manner, method, and timing required to meet the requirements of §§13400-13402 of the HITECH Act and 45 CFR §§164.404 and 164.406, applied as if Contractor were a covered entity, in the event of a Breach.

(b) The notice(s) required by section RFP §3.3.3.3(a) may not be issued until DBM has reviewed and approved the notice(s). Such approval may not be unreasonably delayed or withheld.

(c) If §§13400-13402 of the HITECH Act and 45 CFR §§164.404 – 164.406 do not require that notice be provided to individuals, this subsection 3.3.3.3 does not apply.

3.3.3.4 Contractor may delay the notice(s) required pursuant to sections 3.3.3.2 and 3.3.3.3 only if permitted pursuant to 45 CFR §164.412. In such event, Contractor shall provide the notice(s) as soon as permissible pursuant to 45 CFR §164.412.

3.3.3.5 In the event of any unauthorized use or disclosure of PHI, Security Incident, or Breach of Unsecured PHI, Contractor shall use reasonable efforts to mitigate any harmful effects of said disclosure that are known to it.

3.3.3.6 Notices to DHHS.

(a) In the event of a Breach of Unsecured PHI described in 45 CFR §164.408(b) (i.e. a Breach of the PHI related to 500 or more individuals), Contractor shall provide to DBM all information required by that section to be submitted to the Secretary of DHHS.

(b) Contractor shall maintain a log of Breaches of Unsecured PHI, regardless of the number of individuals whose PHI is involved, that includes at least the information described in section 3.3.3.2(c). Such log will be provided to DBM at the close of each calendar year for Breaches occurring during the calendar year. Such log must contain information sufficient for DBM to comply with 45 CFR §164.408(c).

3.3.3.7 Contractor agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Contractor agrees to the notice provisions contained in this section 3.3.3.2 and 3.3.3.3 with respect to such PHI.

3.3.3.8 Records Retention.

(a) To the extent that Contractor retains any PHI covered by the Contract awarded pursuant to this RFP, Contractor shall protect, use, and disclose such PHI in a manner consistent with the HIPAA Business Associate Agreement provisions of the RFP and HIPAA.

(b) The obligations of this section 3.3 shall survive termination of the Contract.

(c) Except as provided in section 3.3.3.8(d), upon termination of the Contract, Contractor shall return or destroy all PHI received from DBM, created or received by Contractor on behalf of Department, or otherwise created or received by Contractor in performing pursuant to the RFP and the Contract. This provision shall apply as well to PHI that is in the possession of subcontractors or agents of Contractor. Contractor shall not retain any copies of the PHI. Destruction must be by means or method that renders the PHI unreadable, undecipherable, and unusable.

(d) In the event that Contractor and DBM agree that returning or destroying the PHI is infeasible or the Contract requires the Contractor to retain PHI for a period of time, Contractor shall provide to Department written notification of the conditions that make return or destruction infeasible and/or the provisions that require retention of PHI. PHI retained by the Contractor for such reasons shall be protected as provided in these Business Associate Agreement provisions of the RFP.

3.3.3.9 DBM will provide the Contractor with the notice of privacy practices that DBM produces in accordance with 45 C.F.R. § 164.520, as well as any changes to that notice. DBM may not request the Contractor to use or disclose PHI in any manner that would not be

permissible under HIPAA or the HITECH Act if done by DBM. The Contractor shall notify DBM if the Contractor believes that any request or direction from DBM creates a violation of HIPAA or the HITECH Act.

3.3.3.10 Upon DBM's knowledge of a material breach by the Contractor in connection with this Section 3.3, DBM shall:

(a) Provide a reasonable opportunity for the Contractor to cure the breach or end the violation and, if the Contractor does not cure the breach or end the violation within the time specified by DBM, terminate the Contract;

(b) Immediately terminate the Contract if the Contractor has breached a material term and cure is not possible; or

(c) If neither termination nor cure is feasible, report the violation to the Secretary of DHHS.

3.3.3.11 Upon written request, the Contractor shall provide an annual certification to DBM that the Contractor's obligations under this RFP and the Contract have been met.

3.3.3.12 The Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that the Contractor creates, receives, maintains, or transmits in performing the Contractor's obligations under the Contract.

3.3.3.13 The Contractor shall ensure that any agent, including a subcontractor, to whom it provides electronic PHI agrees to implement reasonable and appropriate safeguards to protect such electronic PHI.

3.3.3.14 The Contractor shall disclose PHI to DBM and to DBM's agents for DBM's use in treatment, payment and health care operations related to the Program.

3.3.3.15 The Contractor shall use and disclose the minimum amount of PHI necessary to provide the services required by the Contract.

3.3.3.16 The Contractor may disclose PHI as required by law in compliance with 45 CFR §164.512.

3.3.3.17 The Contractor may use and disclose PHI to conduct data aggregation services relating to the health care operations of the Program for use solely by the State or at the State's direction as permitted by 45 CFR §164.501 and §164.504(e)(2)(i)(B).

3.3.3.18 The Contractor may use and disclose PHI for the proper management and administration of the Contract or to carry out its legal responsibilities as permitted by 45 CFR §164.504(e)(4), provided that: (a) such uses and disclosures would be permitted by the HIPAA Privacy Regulation if the Contractor were a Covered Entity regulated by the HIPAA Privacy

Regulation and (b) the Contractor obtains reasonable assurances from the person, agency, or entity to which such disclosures are made that all PHI will remain confidential and used or disclosed further only as required by law, for the purposes of the disclosure by the Contractor, and the person, agent or entity notifies the Contractor of any instances in which the confidentiality of the PHI has been breached.

3.3.3.19 In addition to the termination rights provided in the Contract, DBM may terminate the Contract, in accordance with the termination provisions of the Contract, for any breach of the HIPAA related privacy, security and administrative simplification provisions articulated in this Section 3.3.

3.3.3.20 The Contractor shall agree to modify the Contract to permit both the Contractor and the State to comply with any additional HIPAA privacy, security, or administrative simplification requirements applicable to their relationship and the Contractor's obligations pursuant to this RFP and the Contract.

3.4 Invoices

3.4.1 Invoice Format

- A. All invoices must include the following information:
1. name, address and federal tax identification number of the Contractor;
 2. remittance address;
 3. invoice period (i.e. the period during which services covered by the invoice were performed);
 4. invoice date and invoice number;
 5. amount due;
 6. the Task Order Number(s) being billed;
 7. an expenditures report or detailed billing report that provides a description of the work performed and the date and hours worked on the State account by each of the Contractor's personnel, including but not limited to subcontractors, during the invoice period;
 8. an identification of the labor category under which each person was working; and
 9. total expenditures under the Contract, identifying at least the following:
 - a. Year-to-date (from December 1) invoiced amounts;
 - b. Year-to-date State payments;
 - c. Projected work effort/budget requirements remaining un-invoiced for open task orders;
 - d. Contract inception to date invoiced amounts; and
 - e. Contract inception to date State payments.
- B. The authorized representative of the Contractor will submit for pre-approval each invoice prior to the submission of a final invoice. Invoices submitted without the required information will not be processed for payment until the Contractor provides the required information.

3.4.2 Requirements and Timing of Invoices

The Contractor shall submit invoices on a monthly basis by the 15th of each month.

- A. In connection with fixed-fee Actuarial Services (see Section 3.1), the Contractor shall bill on a fixed-rate hourly basis (see Section 3.7.1) all services provided in connection with Actuarial Services during the invoiced period. In no event may payments for Actuarial Services for any given contract year exceed the total fixed fee for Actuarial Services for that year. All payments for fixed-fee Actuarial Services are progress payments only. The Contractor shall not be entitled to retain any payments unless the State accepts the final deliverable associated with the Actuarial Services. Progress payments shall be tied to tangible work which has been performed that is at least as valuable to the State as the requested payment amount. The accomplishment of tangible work is not the same as merely accruing hours of effort expended and amounts paid for materials. Rather, it means the completion of work that can be reasonably quantified, and that would not have to be redone by the State or another contractor if, for any reason, the Contract would terminate as of the end of the period for which the bill has been submitted. Examples of such tangible work include records/data/information entered into a deliverable database, and document sections completed. In the event the State does not accept the completed Actuarial Services and requests Contractor repay all or a portion of the progress payments made hereunder, upon receipt by the State of such payments, the State will return all deliverables associated with such payments to Contractor.
- B. In connection with Consulting Services that are billed on a fixed-rate hourly basis (See Section 3.7.1), the Contractor shall bill for the hours completed in the prior month.

3.5 Excluded services

Reimbursement for travel, parking and mileage will not be paid by the State under the terms of the Contract. The State will not pay for administrative or clerical services; such services must be accounted for in the Contractor's fully-loaded labor rates.

3.6 Labor Categories

3.6.1 Consulting Services

- A. All labor rates provided by the Offeror for the three consulting services labor categories outlined in the price proposal (ATTACHMENT F), shall be fully loaded labor rates including direct and indirect charges. Reimbursement for travel, parking and mileage will not be paid under the terms of the contract.
- B. In preparing the financial proposal, Offerors must use the labor categories provided for consulting services as indicated. Proposed consulting services personnel must meet the following minimum requirements for experience and proficiency to be eligible for these labor categories:

1. Principal/Partner - Must have a minimum of ten (10) years experience providing healthcare consulting services.
 2. Senior Consultant - Must have a minimum of five (5) years experience providing healthcare consulting services.
 3. Junior Consultant - Must have a minimum of three (3) years of experience providing healthcare consulting services or equivalent service as determined in writing by the Contract Manager.
- C. Any Partner, Senior and Junior Consultants assigned to this State contract must have a resume of experience on file approved by the Contract manager or designee before bills can be submitted. Any replacements or addition of Consultants must also have approval of the Contract Manager or designee.

3.6.2 Actuarial Services

For any of the Actuarial Services required under the Contract (including the Actuarial Services identified in Section 3.1 and any other Actuarial Services provided as part of the general consulting services outlined in Section 3.2), the following minimum personnel requirements must be met:

All personnel who will oversee, supervise, monitor or approve the work of others performing actuarial activities on behalf of the State under this Contract shall:

- (i) have a minimum of five (5) years experience providing actuarial services; and
- (ii) possess a current Fellow of the Society of Actuaries (FSA) or Associate of the Society of Actuaries (ASA) designation from the Society of Actuaries or a similar designation from a comparable actuarial certifying body.

3.7 Staffing

The Contractor shall adequately staff this Contract such that the State's actuarial and consulting needs are met, including, as appropriate, an account team. The Contractor shall designate an Account Manager to serve as the primary contact for this Contract. Additional personnel may be designated as support for these functions. For each Task Order, the Contractor may designate a lead staff person other than the Account Manager. All of the team members and designated Account Manager must have prior written approval of the State Contract manager.

3.8 Substitution of Personnel

A. Continuous Performance of Key Personnel

Unless substitution is approved per sections B-D of this section 3.8, key personnel shall be the same personnel proposed in the Contractor's technical proposal, which will be incorporated into the Contract by reference. Such identified key personnel shall perform continuously for the duration of the Contract, or such lesser duration as specified in the technical proposal. Key personnel may not be removed by the Contractor from working under this Contract as described in the RFP or the Contractor's technical proposal without the prior written concurrence of the Contract Manager.

If the Contract is task order based, the following provisions apply to key personnel identified in each task order proposal and agreement.

B. Definitions

As used in this section:

“Contract Manager” means the Contract Manager previously identified in this solicitation, and/or a person designated in writing by the Contract Manager or DBM to act for the Contract Manager concerning Contractor personnel substitution issues.

“Day” or ***“Days”*** means calendar day or days.

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

“Incapacitating” means any health circumstance that substantially impairs the ability of an individual to perform the job duties described for that individual's position in the RFP or the Contractor's technical proposal.

“Sudden” means when the Contractor has less than 30 days' prior notice of a circumstance beyond its control that will require the replacement of any key personnel working under the Contract.

C. Key Staff General Substitution Provisions

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

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

2. The Contractor shall provide the Contract Manager with a substitution request that shall include:

- a. A detailed explanation of the reason(s) for the substitution request;
- b. The resume of the proposed substitute personnel, signed by the substituting individual and his/her formal supervisor;
- c. The official resume of the current employee for comparison purposes; and
- d. Any required credentials.

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

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

D. Replacement Circumstances

1. Voluntary Staff Replacement

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

2. Staff Replacement Due to Vacancy

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

Under any of the above D.2 circumstances, the Contractor shall identify a suitable replacement and provide the same information or items required under Section C of this section within 15 days of the sooner of the actual vacancy occurrence or from when it was first learned by the Contractor that the vacancy would be occurring.

3. Staff Replacement Due to an Indeterminate Absence

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

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

4. Directed Staff Replacement

a. The Contract Manager may direct the Contractor to replace any staff that is perceived as being unqualified, non-productive, unable to fully perform his/her job duties due to full or partial Incapacity or Extraordinary Personal Circumstance, disruptive, or that has committed a major infraction(s) of law or agency or Contract requirements. Normally a directed replacement would only occur after prior notification of problems with requested remediation, as described in 4.b, below. If after such remediation the Contract Manager determines that the staff performance has not improved to the level necessary to continue under the Contract, if at all possible at least 15 days' replacement notification will be provided. However, if the Contract Manager deems it necessary to remove the offending individual with less than 15 days' notice, the Contract Manager can direct the removal in a timeframe of less than 15 days, to include immediate removal.

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

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

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

Replacement or substitution of personnel under this section shall be in addition to and not in lieu of the State's remedies under the Contract.

3.10 Insurance Requirements

3.10.1 The Contractor shall maintain general liability (**see 3.10.3**), property and casualty insurance with minimum limits sufficient to cover losses resulting from or arising out of Contractor action or inaction in the performance of the Contract by the Contractor, its agents, employees or subcontractors.

3.10.2 The Contractor shall provide a copy of the Contractor's current certificate of insurance that, at a minimum, shall contain the following:

- Worker's Compensation - The Contractor shall maintain such insurance as necessary and/or as required under Worker's Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act.
- General Liability - The Contractor shall purchase and maintain the following insurance protection for liability claims arising as a result of the Contractor's operations under this agreement.

\$5,000,000 - Errors and Omissions Insurance

\$2,000,000 - General Aggregate Limit (other than products/completed operations)

\$2,000,000 - Products/completed operations aggregate limit

\$1,000,000 - Each Occurrence Limit

\$1,000,000 - Personal and Advertising Injury Limits

\$ 50,000 - Fire Damage Limit

\$ 5,000 - Medical Expense

3.10.3 Upon execution of a Contract with the State, Contractor shall provide the State with current certificates of insurance, and shall maintain and report such insurance annually to the procurement officer.

3.11 Problem Escalation Procedure

3.11.1 The Contractor must provide and maintain a Problem Escalation Procedure for both routine and emergency situations. This Procedure must state how the Contractor will address problem situations as they occur during the performance of the Contract, especially problems that are not resolved to the satisfaction of the State within appropriate timeframes.

The Contractor shall provide contact information, as described in 3.11.2, to the Contract Manager as well as other personnel should the Contract Manager not be available.

3.11.2 The Contractor must provide the Contract Manager with a Problem Escalation Procedure no less than 10 days prior to the beginning of the Contract, and within 10 days after the start of each Contract year (and within 10 days after any change in circumstance which changes the Procedure). The Problem Escalation Procedure shall detail how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. Details shall include:

- The process for establishing the existence of a problem;
- The maximum duration that a problem may remain unresolved at each level before automatically escalating to a higher level for resolution;
- Circumstances in which the escalation will occur in less than the normal timeframe;
- The nature of feedback on resolution progress, including the frequency of feedback;
- Identification of and contact information for progressively higher levels that would become involved in resolving a problem;
- Contact information for persons responsible for resolving issues after normal business hours (*i.e.*, evenings, weekends, holidays, etc.) and on an emergency basis; and
- A process for updating and notifying the Contract Manager of any changes to the Problem Escalation Procedure.

SECTION 4 – PROPOSAL FORMAT

4.1 Two Part Submission

Offerors must submit proposals in two separate volumes:

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

4.2 Proposals

Volume I-Technical Proposal must be sealed separately from Volume II-Financial Proposal but submitted simultaneously to the Procurement Officer (address listed on Key Information Summary and in Section 1.5). **This is the only address to which proposals may be submitted.** An unbound original, so identified, and five (5) bound copies of each volume are to be submitted. Hard copies must be a complete proposal containing all information contained on the CDs unless otherwise directed in Section 4.

Offerors must attach to the original Technical Proposal two (2) separate CDs containing an electronic version of Volume I- Technical Proposal (in MS Excel format and WORD, as appropriate). Offerors must also attach to the original Financial Proposal one (1) separate CD containing an electronic version of the Volume II- Financial Proposal (in MS Excel format).

Please note that the Offeror must provide separate CDs for the Technical Proposal and the Financial Proposal, resulting in three (3) CDs attached to the proposal. The CDs containing the electronic responses should be placed in separate envelopes labeled “Offeror Response CDs – Volume “X” (“X” is Volume I or Volume II, as appropriate).

4.3 Submission

Each Offeror is required to submit a separate sealed package for each Volume, to be labeled “Volume I-Technical Proposal” and “Volume II-Financial Proposal” respectively. Each sealed package must bear the RFP title and number, name and address of the Offeror, the volume number (I or II), and the closing date and time for receipt of the proposals on the outside of the package. Please label the electronic media with Volume I-Technical Proposal and Volume II-Financial Proposal, as appropriate.

All pages of both proposal volumes must be consecutively numbered from beginning (Page 1) to end (Page “x”).

4.4 Volume I – Technical Proposal

4.4.1 Transmittal Letter

A transmittal letter must accompany the Technical Proposal. The purpose of this letter is to transmit the proposal and acknowledge the receipt of any addenda/amendments. The transmittal letter should be brief and signed by an individual who is authorized to commit the Offeror to the services and requirements as stated in this RFP.

4.4.2 Format of Technical Proposal; Required Submissions

Technical proposals must be submitted in a separate sealed package labeled "Volume I - Technical Proposal" and must bear the name and address of the Offeror, the name and number of the RFP and the closing date for proposals on the outside of the package. Inside this package an unbound original, to be so labeled, five (5) hard copies, and one (2) electronic copies (in MS Excel format and WORD, as appropriate) on 2 separate CD's in a separate envelope labeled as described in Section 4.2, shall be provided. The technical proposal shall include:

4.4.2.1 Title and Table of Contents

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. This should be followed by a table of contents for the technical proposal. Information, which is claimed to be confidential, is to be identified after the Title Page and before the Table of Contents.

4.4.2.2 Executive Summary

The Offeror shall condense and highlight the contents of the Technical Proposal in a separate section titled "Executive Summary". The summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the contract (ATTACHMENT A), or any other attachments. Offeror shall include a signed Bid/Proposal Affidavit (ATTACHMENT B).

WARNING: Exceptions to terms and conditions of the RFP, the contract, or any other attachment may result in having the proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award.

4.4.2.3 Response to Scope of Work

In an orderly concise manner, the Offeror shall address each requirement in Section 3 "Scope of Work" of this RFP and describe how the Offeror's proposed services will meet those requirements, in the same order in which the sections are described in the RFP. The Offeror

should use the sub-headings provided by this RFP to organize the response (e.g. describe actuarial capabilities in the Technical Proposal section noted as a response to Section 3.1; provide a description of consulting provided by the Contractor in the Technical Proposal section noted as a response to Section 3.2).

If the State is seeking Offeror agreement to a requirement, the Offeror shall state agreement or disagreement. However, the Offeror should not merely rely on a stated agreement to perform the requested work; rather the Offeror should outline how the Offeror can fulfill the requested tasks in a manner that best meets the State's needs.

4.4.2.4 Conflict of Interest

Each Offeror must complete and submit a Conflict of Interest Affidavit with the Technical Proposal. A copy of this Affidavit is included as ATTACHMENT G of this RFP. If the Procurement Officer makes a determination that facts or circumstances exist that give rise to or could in the future give rise to a conflict of interest within the meaning of COMAR 21.05.08.08A, the Procurement Officer may reject an Offeror under COMAR 21.06.02.03B. In completing this affidavit, each Offeror should give special consideration to the existing contractual relationships DBM has (see ATTACHMENT G).

4.4.2.5 Offeror Experience and Team Capability

- A. The Offeror shall describe its proposed team's overall experience and past performance of its proposed team in providing services similar to those solicited.
- B. As part of its offer, each Offeror is to provide a list of all contracts with any entity of the State of Maryland that it is currently performing or which has been completed within the last 5 years. For each identified contract the Offeror is to provide in its Technical Proposal:
 - The State contracting entity;
 - A brief description of the services/goods provided;
 - The dollar value of the contract;
 - The term of the contract;
 - The State employee contact person (name, title, telephone number and if possible e-mail address); and
 - 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.

The Procurement Officer or a designee will contact the identified State agencies, or the most appropriate ones if many contracts are involved, to ascertain the Offeror's level of performance of State contracts.

Information obtained regarding the Offeror's level of performance on State contracts will be considered as part of the experience and past performance evaluation criteria of the RFP.

- C. As part of its offer, each Offeror is to provide a list of references for which similar actuarial and consulting services have been provided, in the following categories:
- At least 3 references from similar active governmental accounts/clients other than DBM;
 - At least 3 references from prior similar accounts/clients which terminated within the past two years;
 - At least 1 reference for each subcontractor shall be provided; and
 - Provide updated name, address, and contact information for each reference provided.

4.4.2.6 Financial Capability and Statements

The Offeror shall provide evidence that the Offeror has the financial capacity to provide the services by providing copies of the last two (2) year end financial statements (independently audited preferred). The financial statements must be for the entity proposing to provide services under this RFP and not for any prospective owners or parent companies not directly involved in the provision of services.

The Offeror shall provide a list of applicable insurance the Offeror carries for liability purposes. (see Section 3.10, Insurance Requirements.)

4.4.2.7 Staffing Plan, Personnel, Qualification and Professional Experience

The Offeror shall provide a staffing plan, identifying its proposed Account Manager and describing how the Offeror intends to staff this Contract to meet the State's needs. As part of the staffing plan, the Offeror shall submit the resumes of the proposed staff to complete the work required by the Contract. The resumes and staffing plan may also include a description of whether the proposed staff worked on the accounts submitted as references by the Contractor.

The Offeror shall provide a short summary of the professional experience, achievements and capabilities of those staff and personnel proposed to serve as the core account team for the State's contract. For example, if the actuary proposed to lead the rate annual setting process for the State has performed similar services for other similarly sized clients, please provide a description of that actuary's experience and role. To the extent that the resume(s) provided for such proposed staff address this level of detail and capability, the Offeror need not repeat the requested information.

4.4.2.8 Subcontractors

- A. Offerors must identify subcontractors and the role these subcontractors will have in the performance of the contract. MBE subcontractors must also be identified in the Proposal

and each Subcontractor question must be answered with regard to each MBE.

- B. A summary of the experience and expertise of the proposed subcontractors shall be provided as part of the Offeror's Technical Proposal.
- C. Offerors must submit completed and fully executed ATTACHMENTS D-1 with their technical proposals.

4.4.2.9 Problem Escalation Clause

The Offeror must explain, as per the requirements in Section 3.11, how problems with work under the Contract will be escalated in order to resolve all issues in a timely manner.

4.4.2.10 Economic Benefit Factors

Offerors shall submit with their proposals a narrative describing benefits that will accrue to the Maryland economy as a direct or indirect result of their performance of this contract. Proposals will be evaluated to assess the benefit to Maryland's economy specifically offered.

Proposals that identify specific benefits as being contractually enforceable commitments will be rated more favorably than proposals that do not identify specific benefits as contractual commitments, all other factors being equal.

Offerors shall identify any performance guarantees that will be enforceable by the State if the full level of promised benefit is not achieved during the contract term.

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.

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

1. generic statements that the State will benefit from the offeror's superior performance under the contract;
2. descriptions of the number of offeror employees located in Maryland other than those that will be performing work under this contract; or
3. tax revenues from Maryland based employees or locations, other than those that will be performing, or used to perform, work under this contract.

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 this contract.

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

- The contract dollars to be recycled into Maryland's economy in support of the contract, through the use of Maryland subcontractors, suppliers and joint venture partners;
- The number and types of jobs for Maryland residents resulting from the contract. Indicate job classifications, number of employees in each classification and the aggregate payroll to which the contractor has committed, including contractual commitments at both prime and, if applicable, subcontract levels;
- 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;
- Subcontract dollars committed to Maryland small businesses and MBEs; and
- Other benefits to the Maryland economy which the offeror promises will result from awarding the contract to the offeror, including contractual commitments. Describe the benefit, its value to the Maryland economy, and how it will result from, or because of the contract award. Offerors may commit to benefits that are not directly attributable to the contract, but for which the contract award may serve as a catalyst or impetus.

4.4.2.11 Summary of Required Technical Proposal Attachments

Transmittal Letter;
Technical Proposal, Volume I;
Conflict of Interest Affidavits – Attachment G from Offeror and all subcontractors
Bid/Proposal Affidavit (Attachment B);
MBE Forms (Attachment D-1);
Financial Statements;
Living Wage Affidavit; and
Current Insurance Certificates.

4.5 Volume II - Financial Proposal

Under separate sealed cover from the Technical Proposal and clearly identified with the same information noted on the Technical Proposal, the Offeror must submit an original unbound copy, five (5) bound copies, and one (1) electronic copy (in MS Excel or Word format) in a separate envelope labeled as described in Section 4.2, of the Financial Proposal. The Financial Proposal must contain all price information in the format specified in ATTACHMENT F.

SECTION 5 – EVALUATION CRITERIA AND SELECTION PROCEDURE

5.1 Evaluation Criteria

Evaluation of the proposals will be performed by a committee organized for that purpose. Evaluations will be based on the criteria set forth below.

5.2 Technical Criteria

The criteria to be applied to each technical proposal are as follows, listed in descending order of importance:

1. Response to Scope of Work (RFP Section 4.4.2.3);
2. Offeror Experience, Team Capability, and Subcontractors (RFP Sections 4.4.2.5; 4.4.2.6; & 4.4.2.8)
3. Staffing Plan, Personnel, Qualification and Professional Experience (RFP Section 4.4.2.7)
4. Economic Benefit Factors (RFP Section 4.4.2.10)

5.3 Financial Criteria

All qualified Offerors will be ranked from the lowest to the highest price based on the total price proposed as shown in Attachment F.

5.4 Reciprocal Preference

Although Maryland law does not authorize procuring agencies to favor resident Offerors in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. Therefore, as described in COMAR 21.05.01.04, a resident business preference will be given if: a responsible Offeror whose headquarters, principal base of operations, or principal site that will primarily provide the services required under this RFP is in another state submits the most advantageous offer; the other state gives a preference to its residents through law, policy, or practice; and, the preference does not conflict with a Federal law or grant affecting the procurement contract. The preference given shall be identical to the preference that the other state, through law, policy or practice gives to its residents.

5.5 Selection Procedures

5.5.1 General Selection Process

The contract will be awarded in accordance with the competitive sealed proposals process under Code of Maryland Regulations 21.05.03. The competitive sealed proposals method is based on discussions and revision of proposals during these discussions.

Accordingly, the State may hold discussions with all Offerors judged reasonably susceptible of being selected for award, or potentially so. However, the State also reserves the right to make an award without holding discussions. In either case of holding discussions or not doing so, the State may determine an Offeror to be not responsible and/or an Offeror's proposal to be not reasonably susceptible of being selected for award, at any time after the initial closing date for receipt of proposals and the review of those proposals.

5.5.2 Selection Process Sequence

1. The first level of review will be an evaluation for technical merit. 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 to the standards described, and to facilitate arrival at a contract that will be most advantageous to the State. For scheduling purposes, Offerors should be prepared to make an oral presentation and participate in discussions within two to four weeks of the delivery of proposals to the State. The Procurement Officer will contact Offerors when the schedule is set by the State.
2. Offerors must confirm in writing any substantive oral clarification of, or change in, their proposals made in the course of discussions. Any such written clarification or change then becomes part of the Offeror's proposal.
3. The financial proposal of each Offeror will be evaluated separately from the technical evaluation. After a review of the financial proposals of Offerors, the Procurement Officer may again conduct discussions.
4. When in the best interest of the State, the Procurement Officer may permit Offerors who have submitted acceptable proposals to revise their initial proposals and submit, in writing, best and final offers (BAFOs).

5.6. Award Determination

Upon completion of all discussions and negotiations, reference checks, and site visits, if any, the Procurement Officer will recommend award of the contract to the responsible Offeror whose proposal is determined to be the most advantageous to the State considering technical evaluation factors and price factors as set forth in this RFP. In making the most advantageous Offeror determination, technical factors and financial factors will be given equal consideration.

ATTACHMENTS

ATTACHMENT A- ACTUARIAL AND CONSULTING SERVICES CONTRACT

ATTACHMENT B- BID/PROPOSAL AFFIDAVIT

ATTACHMENT C- CONTRACT AFFIDAVIT

ATTACHMENT D- MINORITY BUSINESS ENTERPRISE PARTICIPATION

ATTACHMENT E- PRE-PROPOSAL CONFERENCE RESPONSE FORM

ATTACHMENT F- PRICE PROPOSAL INSTRUCTIONS AND FORM

ATTACHMENT G- CONFLICT OF INTEREST AFFIDAVIT/DISCLOSURE

ATTACHMENT H - CURRENT BENEFITS CONTRACTS

ATTACHMENT I- LIVING WAGE REQUIREMENTS AND AFFIDAVIT

**ATTACHMENT J- STATE BENEFIT EMPLOYEE ENROLLMENT DATA BY PLAN
AND COVERAGE**

ATTACHMENT K- CONFIDENTIAL AND NON-DISCLOSURE AGREEMENT

ATTACHMENT A

CONSULTING AND ACTUARIAL SERVICES CONTRACT FOR THE STATE EMPLOYEE AND RETIREE HEALTH AND WELFARE BENEFITS PROGRAM

THIS CONTRACT is made this _____ day of _____, 2011 by and between _____ and the MARYLAND DEPARTMENT OF BUDGET AND MANAGEMENT.

IN CONSIDERATION of the premises and the covenants herein contained, the adequacy and sufficiency of which are duly acknowledged by the parties, the parties agree as follows:

1. Definitions

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

- 1.1 “Actuarial Services” means those services described in Section 3.1 of the RFP.
- 1.2 “Consulting Services” means those services described in Section 3.2. of the RFP.
- 1.3 “Contract” means this Contract for Consulting and Actuarial Services for the State Employee and Retiree Health and Welfare Benefits Program.
- 1.4 “Contractor” means _____ whose principal business address is _____ and whose address in Maryland is _____.
- 1.5 “Contract Manager” means the individual identified in section 1.6 of the RFP or a successor designated by the Department.
- 1.6 “Department” means the Maryland Department of Budget and Management.
- 1.7 “Financial Proposal” means the Contractor’s Financial Proposal [Best and Final Offer] dated _____, 2011.
- 1.8 “Procurement Officer” means the individual identified in section 1.5 of the RFP or a successor designated by the Department.
- 1.9 “RFP” means the Request for Proposals for Consulting and Actuarial Services for the State Employee and Retiree Health and Welfare Benefits Program, No. F10B1400010 dated April 1, 2011, including addenda, attachments and Excel worksheets, as amended through _____.
- 1.10 “State” means the State of Maryland.

1.11 “Technical Proposal” means the Contractor’s Technical Proposal, dated ____ 2011 , as supplemented and revised by the Contractor’s subsequent response to questions, requests for cure, and BAFO submissions through _____.

2. Scope of Work

2.1 The Contractor shall provide Consulting and actuarial services for the Maryland State Employee and Retiree Health and Welfare Benefits Program. These services shall be provided in accordance with this Contract and the following exhibits, which are attached and incorporated herein by reference:

Exhibit A - The RFP.

Exhibit B - The Technical Proposal.

Exhibit C - The Financial Proposal.

Exhibit D – State Conflict of Interest Affidavit.

2.2 If there are any inconsistencies between this Contract and Exhibits A, B, C, and D, the terms of this Contract shall control. If there is any conflict among the Exhibits, Exhibit A shall control.

2.3 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor’s cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within 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 Article 9, Disputes. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

3. Time for Performance

The Contractor shall begin providing services under this Contract upon the later of execution by the Department or December 1, 2011. Unless terminated earlier as provided in this Contract, the Contractor shall continue to provide services until November 30, 2014. The State, at its sole option, has the unilateral right to extend the term of the Contract for up to two additional, successive one-year contract year terms. Audit, confidentiality, document retention, and indemnification obligations under this Contract shall survive expiration of the Contract.

4. Consideration and Payment

In consideration of the satisfactory performance of the work set forth in this Contract, the Department shall pay the Contractor in accordance with the terms of Exhibit C, Contractor's Financial Proposal. Except with the express written consent of the Procurement Officer, payment to the Contractor for the services required pursuant to this Contract shall not exceed \$_____ during the entire term of this Contract, including the base term and any option exercised by the State.

4.1 Invoices must be provided in the format and on the schedule identified in the RFP. Each invoice must reflect the Contractor's federal tax identification number, which is _____. The Contractor's eMarylandMarketplace identification number is _____. Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the State's receipt of a proper invoice from the Contractor. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, are prohibited. The 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.

4.2 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 pursuant to this Contract.

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

5. Personnel

5.1 Contractor agrees that all personnel identified in its Technical Proposal shall be assigned to the State account for the term of the Contract, including any extension, unless such personnel are no longer employed by the Contractor.

5.2 For each individual assigned by the Contractor to complete work pursuant to the Contract for whom the Contractor has not previously provided a resume to the Department, the Contractor shall provide a resume and identification of the labor category under which the individual shall work with the Task Order response provided by the Contractor.

6. Rights to Records

6.1 The Contractor agrees that all documents and materials, including but not limited to, 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 Department and shall be available to the Department at

any time. The Department shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract. Nothing in this Article 6 shall abrogate or transfer any intellectual property rights of the Contractor in its proprietary information related to its methodologies, methods of analysis, ideas, know-how, methods, techniques and skills possessed prior to this Contract.

6.2 The Contractor agrees that at all times during the term of this Contract and thereafter, the works created 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 under this Contract are not works for hire for the Department, 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.

6.3 The Contractor shall report to the Department, 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.

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

6.5 Upon termination of this 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.

7. Confidentiality

Subject to the Maryland Public Information Act and any other applicable laws, including the Health Insurance Portability and Accountability Act, the Maryland Confidentiality of Records Act and the implementing regulations promulgated pursuant thereto, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor’s computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided the data may be collected, used, disclosed, stored and disseminated only as provided by and consistent with the law and the confidentiality provisions of the RFP. The provisions of this section shall not apply to information that (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

8. Non-Hiring of Employees

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

9. Disputes

This Contract shall be subject to the provisions of Title 15, Subtitle 2, of the State Finance and Procurement Article of the Annotated Code of Maryland, 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 30 days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within 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.

10. Maryland Law

This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland. Any and all references to the Annotated Code of Maryland contained in this Contract shall be construed to refer to such Code sections as from time to time amended.

11. Nondiscrimination in Employment

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

12. Contingent Fee Prohibition

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

13. Nonavailability of Funding

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

14. Termination for Cause

If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State of Maryland 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.

15. Termination for Convenience

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

16. Delays and Extensions of Time

The Contractor agrees to perform the work under this Contract continuously and diligently. No charges or claims for damages shall be made by the Contractor for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract. Time extensions will be granted only for excusable delays that arise from unforeseeable causes

beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

17. 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 or Contract Manager may determine to be appropriate for the convenience of the State.

18. 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.

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

20. Political Contribution Disclosure

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

21. Retention of Records

The Contractor shall retain and maintain all records and documents in any way relating to this Contract for six years after final payment by the State of Maryland under this Contract or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or the Procurement Officer's designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section. This section shall survive expiration of this Contract.

22. Compliance with Laws

The Contractor hereby represents and warrants that:

- A. It is qualified to do business in the State of Maryland 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 of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- 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.

23. Cost and Price Certification

By submitting cost or price information, the Contractor certifies to the best of its knowledge that the information submitted is accurate, complete, and current as of a mutually determined specified date prior to the conclusion of any price discussions or negotiations.

The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date agreed upon by the parties, was inaccurate, incomplete, or not current.

24. Subcontracting; Assignment

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the State of Maryland, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the State. Any such subcontract or assignment shall include the terms of sections 8, and 10 through 23 of this Contract and any other terms and conditions that the State deems

necessary to protect its interests. The State shall not be responsible for the fulfillment of the Contractor's obligations to the subcontractors.

25. Indemnification

25.1 The Contractor shall indemnify the State against liability for any costs, expenses, loss, suits, actions, or claims of any character arising from or relating to the performance of the Contractor or its subcontractors under this Contract.

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

25.3 The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.

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

25.5 This Section 25 survives the termination of this Contract.

26. Prompt Pay Requirements

26.1. If the Contractor withholds payment of an undisputed amount to its subcontractor, the Department, at its option and in its sole discretion, may take one or more of the following actions:

- (a) Not process further payments to the contractor until payment to the subcontractor is verified;
- (b) Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
- (c) Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;
- (d) Place a payment for an undisputed amount in an interest-bearing escrow account; or
- (e) Take other or further actions as appropriate to resolve the withheld payment.

26.2. 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.

26.3. An act, failure to act, or decision of a Procurement Officer or a representative of the Department, concerning a withheld payment between the Contractor and a subcontractor under this provision, may not:

(a) Affect the rights of the contracting parties under any other provision of law;

(b) Be used as evidence on the merits of a dispute between the Department and the contractor in any other proceeding; or

(c) Result in liability against or prejudice the rights of the Department.

26.4. The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise program.

26.5. To ensure compliance with certified MBE subcontract participation goals, the Department may, consistent with COMAR 21.11.03.13, take the following measures:

(a) Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule.

(b) This verification may include, as appropriate:

i. Inspecting any relevant records of the Contractor;

ii. Inspecting the jobsite; and

iii. Interviewing subcontractors and workers.

iv. Verification shall include a review of:

a. The Contractor's monthly report listing unpaid invoices over 30 days old from certified MBE subcontractors and the reason for nonpayment; and

b. The monthly report of each certified MBE subcontractor, which lists payments received from the Contractor in the preceding 30 days and invoices for which the subcontractor has not been paid.

(c) If the Department determines that the Contractor is in noncompliance with certified MBE participation goals, then the Department will notify the Contractor in writing of its findings, and will require the Contractor to take appropriate corrective action. Corrective action may include, but is not limited to, requiring the Contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.

(d) If the Department determines that the Contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that the Department requires, then the Department may:

i. Terminate the contract;

ii. Refer the matter to the Office of the Attorney General for appropriate action; or

iii. Initiate any other specific remedy identified by the contract, including the contractual remedies required by this Directive regarding the payment of undisputed amounts.

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

27. Living Wage

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**. If a Contractor is an out of state contractor, this contract is deemed to be a Tier 1 Contract.

28. Commercial Non-Discrimination

28.1 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 or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, 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.

28.2 The Contractor shall include the above Commercial Nondiscrimination clause, or similar clause approved by the Department, in all subcontracts.

28.3 As a condition of entering into this Contract, upon the Maryland Human Relations Commission's request, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article 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 4 years on any of its contracts that were undertaken within the state of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth 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.

29. Loss of Data

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

30. Administrative

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

30.2 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: State of Maryland
 Director of Employee Benefits
 301 W. Preston Street, Room 510
 Baltimore, MD 21201

If to the Contractor:

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

CONTRACTOR

MARYLAND DEPARTMENT OF
BUDGET AND MANAGEMENT

_____(SEAL)
By:

By: T. Eloise Foster, Secretary

Date

Date

Witness/Attest

Witness

Approved for form and legal
sufficiency this _____ day
of _____ 2011.

Assistant Attorney General

APPROVED BY BPW: _____
(Date)

(BPW Item #)

ATTACHMENT B - BID/PROPOSAL AFFIDAVIT
(Authorized Representative and Affiant)

A. Each solicitation shall provide notice that the affidavit in §B of this regulation shall be completed and submitted to the procurement agency with the vendor's bid or offer.

B. Mandatory Solicitation Addendum. The solicitation addendum shall be in substantially the same form as follows:

BID/PROPOSAL AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

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

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in §19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. "Discrimination" means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendor's, supplier's, or commercial customer's employees or owners. "Discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination". Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the bidder discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder agrees to comply in all respects with the State's Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

B-1. Certification Regarding Minority Business Enterprises.

The undersigned bidder hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, §14-308(a)(2), Annotated Code of Maryland, which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a bid or proposal and:

- (1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority proposal;
- (2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the bid or proposal;
- (3) Fail to use the certified minority business enterprise in the performance of the contract; or
- (4) Pay the certified minority business enterprise solely for the use of its name in the bid or proposal.

Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

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

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

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

- (1) Been convicted under state or federal statute of:
 - (a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or

- (b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;
- (2) Been convicted of any criminal violation of a state or federal antitrust statute;
- (3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §1961 et seq., or the Mail Fraud Act, 18 U.S.C. §1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;
- (4) Been convicted of a violation of the State Minority Business Enterprise Law, §14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (5) Been convicted of a violation of §11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)—(5) above;
- (7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract;
- (8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract; or
- (9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B and C and subsections D(1)—(8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

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

the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

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

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

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

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

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

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

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

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

I. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

J. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

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

K. DRUG AND ALCOHOL FREE WORKPLACE

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

I CERTIFY THAT:

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

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

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

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

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

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

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

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

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

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

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

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

(i) Notify the procurement officer within 10 days after receiving notice under §K (2) (h) (ii), above, or otherwise receiving actual notice of a conviction;

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

(i) Take appropriate personnel action against an employee, up to and including termination; or

(ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

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

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

(4) I acknowledge and agree that:

- (a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;
- (b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and
- (c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

L. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

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

(If not applicable, so state).

(2) Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

M. CONTINGENT FEES

I FURTHER AFFIRM THAT:

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

N. Repealed.

O. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that

nothing in this Affidavit or any contract resulting from the submission of this bid or proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

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

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

ATTACHMENT C - CONTRACT AFFIDAVIT

COMAR 21.07.01.25

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

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

B. CERTIFICATION OF CORPORATION REGISTRATION AND TAX PAYMENT

I FURTHER AFFIRM THAT:

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

Name: _____

Address: _____

(2) Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor Licensing and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

C. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgments contained in that certain Bid/Proposals Affidavit dated _____, 2011, and executed by me for the purposed of obtaining the contract to which this Exhibit is

attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

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

DATE: _____

BY: _____
(Signature)

(Authorized Representative and Affidavit)

ATTACHMENT D - MINORITY BUSINESS ENTERPRISE PARTICIPATION
EXHIBIT TO SOLICITATION
STATE OF MARYLAND
DEPARTMENT OF BUDGET AND MANAGEMENT
MINORITY BUSINESS ENTERPRISE PARTICIPATION

PURPOSE

Contractor shall structure its procedures for the performance of the work required in this contract to attempt to achieve the minority business enterprise (MBE) goal stated in the Request for Proposals. MBE performance must be in accordance with this Exhibit, as authorized by Code of Maryland Regulations (COMAR) 21.11.03. Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this Exhibit.

MBE GOALS

An MBE subcontract participation percent goal of 13 percent of the total Consulting fees paid to the Contractor has been established for this procurement. By submitting a response to this solicitation, the Offeror agrees that this percentage of the total consulting dollar amount of the Contract will be performed by certified minority business enterprises.

By submitting a response to this solicitation, the offeror agrees that this percentage of the total consulting dollar amount of the contract will be performed by certified minority business enterprises as specified.

- A prime contractor – including an MBE prime contractor – must accomplish an amount of work not less than the MBE subcontract goal with certified MBE subcontractors.
- A prime contractor comprising a joint venture that includes MBE partner(s) must accomplish the MBE subcontract goal with certified MBE subcontractors.

SOLICITATION AND CONTRACT FORMATION

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

- (1) the offeror acknowledges the certified MBE participation goal or requests a waiver, (in whole or in part), commits to making a good faith effort to achieve the goal, and affirms that MBE subcontractors were treated fairly in the solicitation process; and
- (2) the offeror responds to the expected degree of Minority Business Enterprise participation as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of submission. The Offeror shall specify the

percentage of contract value associated with each MBE subcontractor identified on the Certified MBE Utilization and Fair Solicitation Affidavit.

If an Offeror fails to submit a completed Attachment D-1 with the offer, the Procurement Officer shall deem the Offer not reasonably susceptible of being selected for award.

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

- (1) **Outreach Efforts Compliance Statement** (Attachment D-2)
- (2) **Subcontractor Project Participation Schedule** (Attachment D-3)
- (3) If the apparent awardee believes a waiver (in whole or in part) of the overall MBE goal is necessary, it must submit a fully documented waiver request that complies with COMAR 21.11.03.11.
- (4) Any other documentation required by the Procurement Officer to ascertain offeror responsibility in connection with the certified MBE participation goal.

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

CONTRACT ADMINISTRATION REQUIREMENTS

Contractor shall:

1. Submit monthly to the Department a report listing any unpaid invoices, over 30 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made.
2. Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit monthly to the Department a report that identifies the prime contract and lists all payments received from Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices.
3. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
4. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must

retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the contract.

5. At the option of the procurement agency, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

ATTACHMENTS

- A. Certified MBE Utilization and Fair Solicitation Affidavit (must be submitted with offer) D-1
- B. Outreach Efforts Compliance Statement (must be submitted within 10 working days of notification of apparent award or actual award, whichever is earlier) D-2
- C. Subcontractor Project Participation Certification Schedule (must be submitted within 10 working days of notification of apparent award or actual award, whichever is earlier) D-3
- D. D-4 and D-5 must be submitted monthly post award

Attachment D-1
MDOT Certified MBE Utilization and Fair Solicitation Affidavit

This document **MUST BE** included with the offer. If the Offeror fails to complete and submit this form with the Proposal as required, the procurement officer shall determine that the offer is not reasonably susceptible of being selected for award. All MBEs must be identified and the specific percentage of the total Consulting dollar value committed to each MBE must be identified.

In conjunction with the Offer submitted in response to Solicitation No. F10B1400010, I affirm the following:

1. I acknowledge and intend to meet the overall certified Minority Business Enterprise (MBE) participation goal of 13 percent for the total Consulting fees paid to the Contractor for the contract and, if specified in the solicitation, sub goals of 0 percent for MBEs classified as African American owned and 0 percent for MBEs classified as women-owned. Therefore, I will not be seeking a waiver pursuant to COMAR 21.11.03.11.

OR

- I conclude that I am unable to achieve the MBE participation goal and /or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.03.11.
2. I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 working days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier.
 - (a) Outreach Efforts Compliance Statement (Attachment D-2)
 - (b) Subcontractor Project Participation Certification Schedule (Attachment D-3)
 - (c) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain Offeror responsibility in connection with the certified MBE participation goal.

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

3. In the solicitation of subcontract quotations or offers, MBE subcontractors were provided not less than the same information and amount of time to respond as were non-MBE subcontractors.

4. Set forth below are the (i) certified MBEs I intend to use and (ii) the percentage of the total contract amount allocated to each MBE for this project and the work activity (ies) each MBE will provide under the contract. I hereby affirm that the MBE firms are only providing those work activities for which they are MDOT certified.

Attachment D-1 (cont'd)
MDOT Certified MBE Utilization and Fair Solicitation Affidavit

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

List Information For Each Certified MBE Subcontractor On This Project

Minority Firm Name	MBE Certification Number
<p align="center">For Dually Certified MBE Subcontractors, identify all the applicable Certification Category (Check Only One Certification Category)</p> <p align="center"> <input type="checkbox"/> African American owned <input type="checkbox"/> Woman-Owned </p>	
Percentage of the Total Consulting fees to be provided by this MBE: _____%	
Description of Work to Be Performed:	
Minority Firm Name	MBE Certification Number
<p align="center">For Dually Certified MBE Subcontractors, identify all the applicable Certification Category (Check Only One Certification Category)</p> <p align="center"> <input type="checkbox"/> African American owned <input type="checkbox"/> Woman-Owned </p>	
Percentage of the Total Consulting fees to be provided by this MBE: _____%	
Description of Work to Be Performed:	
Minority Firm Name	MBE Certification Number
<p align="center">For Dually Certified MBE Subcontractors, identify all the applicable Certification Category (Check Only One Certification Category)</p> <p align="center"> <input type="checkbox"/> African American owned <input type="checkbox"/> Woman-Owned </p>	
Percentage of the Total Consulting fees to be provided by this MBE: _____%	
Description of Work to Be Performed:	

Continue on a separate page, if needed.

SUMMARY

Total <i>African-American</i> MBE Participation:	_____%
Total <i>Woman-Owned</i> MBE Participation:	_____%
Total <i>Other</i> Participation:	_____%
Total ALL MBE Participation	_____%

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

 Offeror Name
 (PLEASE PRINT OR TYPE)
 Name: _____
 Title: _____
 Date: _____

 Signature of Affiant

Attachment D-2
Outreach Efforts Compliance Statement

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

In conjunction with the bid or offer submitted in response to Solicitation No.F10B1400010 Offeror states the following:

1. Offeror identified opportunities to subcontract in these specific work categories.
2. Attached to this form are copies of written solicitations (with bidding instructions) used to solicit MDOT certified MBEs for these subcontract opportunities.
3. Offeror made the following attempts to contact personally the solicited MDOT certified MBEs.
4. Select ONE of the following:
 - a. This project does not involve bonding requirements.

OR

 - b. Offeror assisted MDOT certified MBEs to fulfill or seek waiver of bonding requirements (*describe efforts*).
5. Select ONE of the following:
 - a. Offeror did/did not attend the pre-bid/proposal conference.

OR

 - b. No pre-proposal conference was held.

_____ By: _____
Offeror Printed Name Signature

Address: _____

Date: _____

Attachment D-3

Subcontractor Project Participation Certification

Please complete and submit one form for each MDOT certified MBE listed on Attachment D-1 within 10 working days of notification of apparent award.

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

Prime Contractor Address and Phone	Project Description
Project Number	Total Consulting Contract Amount \$
Minority Firm Name	MBE Certification Number
Percentage of the Contract	

The undersigned Prime Contractor and Subcontractor hereby certify and agree that they have fully complied with the State Minority Business Enterprise law, State Finance and Procurement Article §14-308(a)(2), Annotated Code of Maryland which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a bid or proposal and:

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

PRIME CONTRACTOR SIGNATURE

SUBCONTRACTOR SIGNATURE

By: _____
 Name, Title
 Date _____

By: _____
 Name, Title
 Date _____

ATTACHMENT D-4

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

**Maryland Department of Budget and Management
Minority Business Enterprise Participation
Prime Contractor Paid/Unpaid MBE Invoice Report**

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

Prime Contractor:		Contact Person:	
Address:			
City:		State:	ZIP:
Phone:	FAX:		
Subcontractor Name:		Contact Person:	
Phone:	FAX:		
Subcontractor Services Provided:			
List all payments made to MBE subcontractor named above during this reporting period:		List dates and amounts of any outstanding invoices:	
	<u>Invoice#</u>	<u>Amount</u>	
1.			1.
2.			2.
3.			3.
Total Dollars Paid: \$ _____		Total Dollars Unpaid: \$ _____	

**If more than one MBE subcontractor is used for this contract, you must use separate D-5 forms.
****Return one copy (hard or electronic) of this form to the following address (electronic copy with signature and date is preferred):**

MBE Officer Department of Budget and Management Procurement Unit 45 Calvert Street, 1 st Floor Annapolis, MD 21401 MBEOfficer@dbm.state.md.us

Signature: _____ Date: _____

ATTACHMENT D-5
Minority Business Enterprise Participation
Subcontractor Paid/Unpaid MBE Invoice Report

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

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

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

MBE Officer Department of Budget and Management Procurement Unit 45 Calvert Street, 1 st Floor Annapolis, MD 21401 MBEOfficer@dbm.state.md.us

Signature: _____ Date: _____

ATTACHMENT E - PRE-PROPOSAL CONFERENCE RESPONSE FORM

Project No. F10B1400010

Project Title: Consulting and Actuarial Services for State Employee and Retiree Benefits Program

A Pre-proposal Conference will be held on April 26, 2011 at 10:00 AM local time at:

Baltimore State Office Complex
300 W. Preston St.
Conference Room, Main Lobby Level
Baltimore, Md. 21201

Directions to the Pre-proposal meeting site:

From I-95: Exit I-395 North, exit Martin Luther King (MLK) Blvd, continue north on MLK to Eutaw Street. Left on Eutaw Street, one block to right on Preston Street. One block to left into Public Parking Lot. 300 W. Preston Street is adjacent to the parking lot.

Please e-mail, Fax or return this form by 1:00 PM on Thursday, April 21, 2011 advising whether or not you plan to attend this Conference.

E-mail or fax this form to the Procurement Officer:

Mr. Mark Pemberton
Office Phone: (410) 260-7470
Fax: (410) 974-3274
E-mail: mpemberton@dbm.state.md.us

Please indicate:

_____ Yes, the following representatives will be in attendance:

- 1.
- 2.
- 3.

_____ No, we will not be in attendance.

Company/Firm/Vendor Name

Telephone

Contact Name

ATTACHMENT F - PRICE PROPOSAL INSTRUCTIONS AND FORM

Instructions:

1. In Section #1: Actuarial Services
 - ◆ Record for each contract year and option years, the proposed annual price for actuarial services as outlined in RFP Section 3.
 - ◆ Add column, Proposed Annual Price and record the results on the line 1A, Sub-total, Actuarial Services.
2. In Section #2A: Consulting Services for Base Period
 - ◆ Record for each labor classification, the proposed fully-loaded hourly rate.
 - ◆ Multiply the proposed fully-loaded hourly rate by the hours provided.
 - ◆ Record the results for each labor classification, in the extended price column.
 - ◆ Add the extended price column and record on the line 2A, Sub-total, Consulting Services.
3. In Section #2B; Consulting Services for Option Year One
 - ◆ Record for each labor classification, the proposed fully-loaded hourly rate.
 - ◆ Multiply the proposed fully-loaded hourly rate by the hours provided.
 - ◆ Record the results for each labor classification, in the extended price column.
 - ◆ Add the extended price column and record on the line 2b, Sub-total, Consulting Services.
4. In Section #2C: Consulting Services for Option Year Two
 - ◆ Record for each labor classification, the proposed fully-loaded hourly rate.
 - ◆ Multiply the proposed fully-loaded hourly rate by the hours provided.
 - ◆ Record the results for each labor classification, in the extended price column.
 - ◆ Add the extended price column and record on the line 2C, Sub-total, Consulting Services.
5. In Section#2D:Subtotal all Consulting Services including 2A-2C.
6. In Section #3,
 - ◆ Add line 1A Sub-total, Evaluated Price Actuarial Services and lines 2A+ 2B+2C Sub-totals, Evaluated Price Consulting Services and record the results on line #3, Total Evaluated Price Proposed. Total Evaluated Price Proposed will be the basis for establishing the financial ranking of all offers from lowest (Best Price) to highest (most expensive price).
7. The Annual Price for Actuarial Services and the Hourly Labor Rates must be recorded in dollars and cents, EX: \$100.00.
8. Complete Attachment F-1 to provide a breakdown of the Actuarial price components for informational purposes only.

**ATTACHMENT F - PRICE PROPOSAL FORM
for F10B1400010**

1. PROPOSED ANNUAL PRICE, ACTUARIAL SERVICES	
Actuarial Services for	Proposed Annual Price *
Contract Year 1	\$
Contract Year 2	\$
Contract Year 3	\$
Contract Year 4 (OPTION)	\$
Contract Year 5(OPTION)	\$
1. Sub-total, Actuarial Services	\$

* Note:

- (1) Proposed Annual Price may vary year to year.
- (2) Attachment F-1 should be completed illustrating how actuarial price is allocated by each component.

2A. PROPOSED PRICE, CONSULTING SERVICES THREE YEAR BASE PERIOD			
Labor Classification	Hourly Rate*	Hours **	Extended Price
Principal	\$	600	\$
Senior Consulting	\$	6300	\$
Junior Consulting	\$	4000	\$
2A. Sub-Total, Three Year Base Year Consulting Services			\$
2B. PROPOSED PRICE, CONSULTING SERVICES, OPTION YEAR ONE			
Labor Classification	Hourly Rate*	Hours **	Extended Price
Principal	\$	200	\$
Senior Consulting	\$	2500	\$
Junior Consulting	\$	1500	\$
2B. Sub-Total, Option Year One Consulting Services			\$
2C. PROPOSED PRICE, CONSULTING SERVICES, OPTION YEAR TWO			
Labor Classification	Hourly Rate*	Hours **	Extended Price
Principal	\$	200	\$
Senior Consulting	\$	2500	\$
Junior Consulting	\$	1500	\$
2C. Sub-Total, Option Year Two Consulting Services			\$
2D. Sub-Total, Base + 2 option years Consulting Services, 2A+2B+2C			\$

* The Hourly Rate is the actual rate the State will pay for services and must be recorded in dollars and cents.

** Hours are used for evaluation purposes only. Actual hours may vary and are subject to change depending upon the need.

ATTACHMENT F - PRICE PROPOSAL FORM	
for F10B1400010 Cont.	
3. TOTAL EVALUATED PRICE PROPOSED FOR THREE YEAR BASE AND 2 OPTION YEARS	
3. Add Sub-totals, 1+ 2D	\$

Authorized Signature Date

Printed Name and Title

Phone # & Fax #

Company Name

Company Tax ID #

Attachment F-1 Breakdown of Pricing

Actuarial Services Rate Setting Task	Description	
1. Contractor shall monitor Annual Benefits to Budget and prepare monthly reports (July-June).	Provide services as described in section 3.1.1.A.	Price:\$
2. Contractor shall assist in the collection of data for the rate renewal process (September-January).	Provide services as described in section 3.1.1.B.	Price:\$
3. Contractor shall develop annual benefits budget forecasts (<i>ie.</i> State expenditures) (January-March).	Provide services as described in section 3.1.1.C.	Price:\$
4. Contractor shall develop annual premium rates for self-insured plans and review premium rates for fully insured plans. (September-December).	Provide services as described in section 3.1.1.D.	Price:\$
5. Contractor shall provide services in support of the GASB Standard 45 report.	Provide services as described in section 3.1.2	Price\$
6. Contractor shall provide quarterly utilization reports provided by the TPAs.	Provide services as described in section 3.1.3 A.	Price:\$
7. Contractor shall provide quarterly utilization reports provided by the State's PBM.	Provide services as described in section 3.1.3 B.	Price:\$
	Total Annual Actuarial Price	\$

ATTACHMENT G - CONFLICT OF INTEREST AFFIDAVIT/DISCLOSURE

A. "Conflict of interest" means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

B. "Person" has the meaning stated in COMAR 21.01.02.01B(64) and includes a bidder, Offeror, Contractor, consultant, or subcontractor or sub consultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a bid or offer is made.

C. The bidder or Offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.

D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain in detail—attach additional sheets if necessary):

E. The bidder or Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the bidder or Offeror shall immediately make a full disclosure in writing to the procurement officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the bidder or Offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the Contractor shall continue performance until notified by the procurement officer of any contrary action to be taken.

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

Date: _____

By: _____

(Authorized Representative and Affiant)

ATTACHMENT H - CURRENT BENEFITS CONTRACTS

Vendor Name, Description of Services	Contract Manager	Contract Starting Date	Contract Ending Date	*Available Renewal Options
<p>This contract provides for a Third party administrator to administer the employee pay-all group Accidental Death & Dismemberment benefit for State employees.</p> <p>Metropolitan Life</p>	DBM/OPSB/EBD (410) 767-4710	07-01-08	06-30-13	
<p>This contract provides for a Third party administrator to administer the Term Life Insurance Plan Administration & Indemnification for State employees.</p> <p>Metropolitan Life</p>	DBM/OPSB/EBD (410) 767-4710	07-01-03	06-30-13	
<p>IVR & BAS Administrative System. The contractor shall provide integrated interactive voice response and benefits administration systems and services for DBM for the use in administration of employee benefit plans.</p> <p>MS Technologies, Inc. BAS/IVR modification</p>	DBM/OPSB/EBD (410) 767-4710	BAS/IVR Maintenance 04-01-10	03-31-12	
<p>Contract to perform Third Party Administrative services for Flexible Spending Account Plans - Employee Benefit Health Care and Dependent Care programs Flexible Spending Accounts provide employees with pre-tax dollars to cover health care expenses not covered by insurance and dependent care expenses (i.e., day care).</p> <p>ConnectYourCare (CYC)</p>	DBM/OPSB/EBD (410) 767-4710	07-01-10	06-30-15	

Vendor Name, Description of Services	Contract Manager	Contract Starting Date	Contract Ending Date	*Available Renewal Options
<p>This contract provides for a Third party administrator to administer the Group Long Term Care Program for State employees, retirees, satellite agencies, contractual and part-time employees. Group Long Term insurance benefits include: coverage for nursing home care, home health care services, etc.</p> <p>Prudential Insurance Co. of America</p>	<p>DBM/OPSB/EBD (410) 767-4710</p>	<p>07-01-06</p>	<p>06-30-12</p>	
<p>This contract provides for a Third party administrator to administer the Dental, DHMO & DPPO Services for State employees and retirees. The dental benefits are available through two plan options 1) Dental Health Maintenance Organization (DHMO) plan and a Dental Preferred Provider Organization (DPPO) plan.</p> <p>United Concordia DHMO/DPPO</p>	<p>DBM/OPSB/EBD (410) 767-4710</p>	<p>07-01-09</p>	<p>06/30/14</p>	
<p>This contract provides for a Third party administrator to oversee the PPO Health Benefits Plan administration & claims disbursement for State employees and retirees.</p> <p>CareFirst BCBS UHC – MLH Eagle</p>	<p>DBM/OPSB/EBD (410) 767-4710</p>	<p>07-01-09</p>	<p>6-30-14</p>	
<p>This contract provides for a Third party administrator to oversee the POS Health Benefits Plan administration, capitation fee & claims disbursement for State employees and retirees.</p> <p>CareFirst BCBS MD POS Aetna QPOS</p>	<p>DBM/OPSB/EBD (410) 767-4710</p>	<p>07-01-09</p>	<p>6-30-14</p>	

Vendor Name, Description of Services	Contract Manager	Contract Starting Date	Contract Ending Date	*Available Renewal Options
<p>This contract provides for a Third party administrator to oversee the Exclusive Provider Organization Benefit Plans for State employees and retirees.</p> <p>Carefirst BCBS MD EPO UHC – EPO Aetna - EPO</p>	<p>DBM/ OPSB/EBD (410) 767-4710</p>	<p>07-01-09</p>	<p>6-30-14</p>	
<p>This contract provides for a Third party administrator to audit the Medical, Dental, Behavioral Health, Prescription & FSA plans for the State of Maryland. Contract for an annual audit of claims payment functions and administrative performance activities of the above Plans for State Employees and Retirees.</p> <p>Healthcare Data Management, Inc. (HDM)</p>	<p>DBM/OPSB/EBD (410) 767-4710</p>	<p>07-01-07</p>	<p>06-30-11</p>	
<p>This contract provides for a Third party administrator to audit 5 categories of work. Three categories of work, the Medical, Behavioral Health, and Prescription Plans for the State of Maryland Employees and Retirees are contracted with Thomson Reuters (Healthcare).</p> <p>Thomson Reuters (Healthcare)</p> <p>One Category of work, the Dental Plan Audit is contracted with The Segal Company.</p> <p>The Segal Company</p> <p>One Category of work, the Flexible Spending Account Audit is contracted with Claim Technologies, Inc Claim Technologies, Inc.</p>	<p>DBM/OPSB/EBD (410) 767-4710</p>	<p>04-01-11</p>	<p>03-31-16</p>	

Vendor Name, Description of Services	Contract Manager	Contract Starting Date	Contract Ending Date	*Available Renewal Options
<p>This contract provides for a Third party administrator to administer the Rx Benefit Plan administration & claims disbursements for State employees and retirees. The contract is to provide Pharmacy Benefit Manager (PBM) services. This will include comprehensive concurrent, prospective and retrospective drug utilization reviews for Maryland State employees and retirees.</p> <p>Catalyst Rx</p>	<p>DBM/OPSB/EBD (410) 767-4710</p>	<p>07-01-2006</p>	<p>06-30-11</p>	
<p>The contract is to provide behavioral health and substance abuse insurance benefits for Maryland State employees and retirees enrolled in the PPO and Point-of-Service medical insurance plans. The contract also provides Employee Assistance Plan (EAP) benefits to all active State employees.</p> <p>APS Healthcare, Inc.</p>	<p>DBM/OPSB/EBD (410) 767-4710</p>	<p>07-01-06</p>	<p>06-30-11</p>	

Attachment I- Living Wage Requirements

Living Wage Requirements for Service Contracts

A. This contract is subject to the Living Wage requirements under Title 18, State Finance and Procurement Article, Annotated Code of Maryland and the regulations proposed by the Commissioner of Labor and Industry. 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 Title 18, State Finance and

Procurement, Annotated Code of Maryland.

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 of Labor and Industry 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 §18-103(c), State Finance and Procurement Article, Annotated Code of Maryland, shall not lower an employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland. 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 of Labor and Industry.

H. A Contractor/Subcontractor may reduce the wage rates paid under §18-103(a), State Finance and Procurement, Annotated Code of Maryland, 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 §3-413, Labor and Employment Article, Annotated Code of Maryland.

I. Under Title 18, State and Finance Procurement Article, Annotated Code of Maryland, 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 DLLR Website <http://www.dllr.state.md.us/> and clicking on Living Wage.

**Affidavit of Agreement
Maryland Living Wage Requirements-Service Contracts**

Contract No. _____

Name of Contractor _____

Address _____

City _____ State _____ Zip Code _____

If the Contract is Exempt from the Living Wage Law

The Undersigned, being an authorized representative of the above named Contractor, hereby affirms that the Contract is exempt from Maryland's Living Wage Law for the following reasons: (check all that apply)

- Bidder/Offeror is a nonprofit organization
- Bidder/Offeror is a public service company
- Bidder/Offeror employs 10 or fewer employees and the proposed contract value is less than \$500,000
- Bidder/Offeror employs more than 10 employees and the proposed contract value is less than \$100,000

If the Contract is a Living Wage Contract

- A. The Undersigned, being an authorized representative of the above named Contractor, hereby affirms our commitment to comply with Title 18, State Finance and Procurement Article, Annotated Code of Maryland and, if required, to submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Bidder/Offeror agrees to pay covered employees who are subject to living wage at least the living wage rate in effect at the time service is provided for hours spent on State contract activities, and to ensure that its Subcontractors who are not exempt also pay the required living wage rate to their covered employees who are subject to the living wage for hours spent on a State contract for services. The Contractor agrees to comply with, and ensure its Subcontractors comply with, the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate established by the Commissioner of Labor and Industry, automatically upon the effective date of the revised wage rate.

**Affidavit of Agreement
Maryland Living Wage Requirements-Service Contracts**

B. _____ (initial here if applicable) The Bidder/Offeror affirms it has no covered employees for the following reasons: (check all that apply)

- All employee(s) proposed to work on the State contract will spend less than one-half of the employee's time during every work week on the State contract;
- All employee(s) proposed to work on the State contract will be 17 years of age or younger during the duration of the State contract; or
- All employee(s) proposed to work on the State contract will work less than 13 consecutive weeks on the State contract.

The Commissioner of Labor and Industry reserves the right to request payroll records and other data that the Commissioner deems sufficient to confirm these affirmations at any time.

Name of Authorized Representative: _____

Signature of Authorized Representative Date

Title

Witness Name (Typed or Printed)

Witness Signature Date

**ATTACHMENT J - STATE BENEFIT EMPLOYEE ENROLLMENT DATA BY PLAN
AND COVERAGE**

Department of Budget and Management
All Employee Enrollment Data by Plan and coverage
Prepared for Enrollment year 2011 and Enrollment month of February

Enrollment data includes Current, Retirees, and Satellite
Employees

Satellite Employees

Plan	Total	Employee only	Dependents
Healthcare:			
CareFirst PPO	59,657	18,038	41,619
CareFirst POS	17,153	5,517	11,636
CareFirst EPO	11,613	4,664	6,949
UHC PPO	5,203	1,419	3,784
UHC POS	11,557	3,048	8,509
UHC EPO	4,117	1,384	2,733
Aetna POS	4,983	1,988	2,995
Aetna EPO	732	371	361
Behavioral Health Plans:			
APS covers all PPO and POS health plans	98,553	30,010	68,543
Care first EPO,UHC EPO and Aetna EPO covers their own Behavioral Health Plan	16,462	6,419	10,043
Prescription:			
Catalyst	108,739	48,484	60,255
Dental:			
UCCI DHMO	29,894	13,377	16,517
UCCI DPPO	66,065	36,091	29,974
Flexible Spending Accounts:			
CYC FSA Dependent care	1637	1637	
CYC FSA Health care	8905	8905	
Insurance:			
MetLife Insurance	98,128	58,950	39,178
MetLife PA&D	41,314	20,745	20,569

ATTACHMENT K - CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

Whereas Offeror intends to submit a proposal in response to State of Maryland Solicitation No. F10B1400010 (the "RFP") for Consulting and Actuarial Services for the State Employee and Retiree Health and Welfare Benefits Program Services,

Whereas, in order for the Offeror to submit a proposal, the Offeror requires access to certain utilization data and reporting formats submitted from the third party administrators of certain State medical and welfare benefit plans, and

Whereas, the utilization data that State can provide to the Offeror, in electronic form or on a computer diskette, contains confidential data that the State desires to protect from unauthorized disclosure and use ("Confidential Data"),

Now, Therefore, in consideration of the release of Confidential Data and other promises, covenants and valuable consideration contained herein, the parties agree as follows:

1. Offeror will not copy, disclose, publish, release, transfer, disseminate or use for any purpose in any form, any of the Confidential Data except in connection with the preparation of its proposal. Offeror will not identify or attempt to identify any individual from the Confidential Data or contact any individual for whom any information is provided as part of the Confidential Data.
2. Each employee, agent or subcontractor of the Offeror who receives or has access to the Confidential Data shall execute a copy of this Agreement and the Offeror shall provide the executed Agreement to the State.
3. Offeror will use appropriate safeguards to prevent the use or disclosure of the Confidential Data other than as specifically provided in this RFP and the Contract. Offeror will report to the State any use or disclosure of the Confidential Data that is not authorized pursuant to this RFP and the Contract.
4. The original electronic media or computer diskette containing the Confidential Data shall be returned to the State before or coinciding with the submission of Offeror's proposal. No copies of the Confidential Data in any form shall be retained after submission of a proposal; at that time, all copies of the Confidential Data that were prepared, made or used in the course of preparing a proposal will have been destroyed in such a manner as to make retrieval of the Confidential Data impossible. If the Offeror does not submit a proposal, the Offeror shall return the Confidential Data to the Department on or before the due date for proposals.
5. Offeror acknowledges that the disclosure or unauthorized use of the Confidential Data will cause irreparable harm to the State and agrees that the State may obtain an injunction to

prevent the disclosure or copying of the Confidential Data. The Offeror consents to personal jurisdiction in the Maryland State Courts.

6. Offeror acknowledges that pursuant to Section 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland a person may not willfully make a false or fraudulent statement or representation of a material fact in connection with a procurement contract. Persons making such statements are guilty of a felony and on conviction subject to a fine of not more than \$20,000 and/or imprisonment not exceeding 5 years. Offeror further acknowledges that this RFP and the Contract is a statement made in connection with a procurement contract.

7. Offeror agrees to indemnify the State of Maryland and to hold it harmless from any and all losses, claims or damages the State may suffer or be exposed to because of any use or disclosure by Offeror of any of the Confidential Data that is not permitted by this RFP and the Contract. Offeror acknowledges that disclosure or unauthorized use of the Confidential Data may make the Offeror subject to suit from the subject(s) of the Confidential Data.

8. This RFP and the Contract shall be governed by the laws of the State of Maryland.

9. Offeror hereby acknowledges receipt of Confidential Data.

10. The undersigned represents and warrants that he/she has the authority to bind the Offeror to the provisions of this RFP and the Contract.

OFFEROR

MARYLAND DEPARTMENT OF
BUDGET AND MANAGEMENT

By (Name):
Title:

By: Mark Pemberton
Procurement Officer

Date

Date

Witness

Witness

ATTACHMENT L-COMPLIANCE CHECKLIST

The Contract Compliance checklist is found in the hyperlink below:

[Contract Compliance - Time Frames Final 3 3 11.xls](#)