



REQUEST FOR PROPOSALS (RFP)

PROMOTIONAL ITEMS MHBE

SOLICITATION NO. MDM0031033945

**Issue Date: August 18, 2017**

**NOTICE**

A Prospective Offeror that has received this document from the Maryland Health Benefit Exchange website <http://www.marylandhbe.com/about-us/procurement/> or <https://emaryland.buyspeed.com/bso/>, or that has received this document from a source other than the Procurement Officer, and that wishes to assure receipt of any changes or additional materials related to this RFP, should immediately contact the Procurement Officer and provide the Prospective Offeror's name and mailing address so that addenda to the RFP or other communications can be sent to the Prospective Offeror.

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

**STATE OF MARYLAND  
NOTICE TO VENDORS**

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

**Title: MHBE Promotional Items**  
**Solicitation No: MDM0031033945**

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

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

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

REMARKS: \_\_\_\_\_

Vendor Name: \_\_\_\_\_ Date: \_\_\_\_\_

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

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

E-mail Address: \_\_\_\_\_

**STATE OF MARYLAND  
MARYLAND HEALTH BENEFIT EXCHANGE  
RFP KEY INFORMATION SUMMARY SHEET**

**Request for Proposals:** **MHBE PROMOTIONAL ITEMS**

**Solicitation Number:** **MDM0031033945**

**RFP Issue Date:** **August 18, 2017**

**Procurement Officer:** **Michelle Compton**  
**Maryland Health Benefit Exchange**  
**750 East Pratt Street, 16<sup>th</sup> floor**  
**Baltimore, MD 21202**  
**Phone: 410-547-8152**  
**e-mail: [hix.procurement@maryland.gov](mailto:hix.procurement@maryland.gov)**

**Contract Monitor:** **Betsy Plunkett**  
**Maryland Health Benefit Exchange**  
**750 East Pratt Street, 16<sup>th</sup> floor**  
**Baltimore, MD 21202**

**Proposals are to be sent to:** **Michelle Compton, Procurement Officer**  
**Maryland Health Benefit Exchange**  
**750 East Pratt Street, 16<sup>th</sup> Floor**  
**Baltimore, MD 21202**

Note: Proposals are to be mailed to the Procurement Officer at the mailing address above

**Closing Date and Time:** **September 8, 2:00 PM, Local Time**

**MBE Subcontracting Goal:** **0%**

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## SECTION 1 - GENERAL INFORMATION

### 1.1 Summary Statement

- 1.1.1 The Maryland Health Benefit Exchange (MHBE) is issuing this Request for Proposals (RFP) to procure promotional items to be used for marketing and outreach materials that inform and educate individuals and small businesses in Maryland about the new health insurance coverage options available through the state-based health insurance marketplace.
- 1.1.2 It is MHBE's intention to obtain services, as specified in this RFP, through a Contract between the selected Offeror and the MHBE. The anticipated duration of services to be provided under this Contract is one (1) year with one (1) one-year renewal option. See Section 1.4 for more information.
- 1.1.3 The MHBE intends to make a single award as a result of this RFP. See RFP Section 1.15 for more information.
- 1.1.4 An Offeror, either directly or through its subcontractor(s), must be able to provide all services and meet all of the requirements requested in this solicitation. The successful Offeror (the Contractor) shall remain responsible for Contract performance regardless of subcontractor participation in the work.

### 1.2 Abbreviations and Definitions

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

- a. **Business Day(s)** – The official working days of the week to include Monday through Friday. Official working days exclude State Holidays (see definition of “Normal State Business Hours” below).
- b. **Contract** – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of **Attachment A**.
- c. **Contract Commencement (“Commencement Date”)** - The date the Contract is signed by the MHBE following execution by a successful Offeror and any required approvals of the Contract, including approval by the MHBE Board of Trustees, if such approval is required. See Section 1.4.
- d. **Contract Monitor (CM)** – The MHBE representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE compliance, and achieving completion of the Contract on budget, on time, and within scope. The Contract Monitor may authorize in writing one or more MHBE representatives to act on behalf of the Contract Monitor in the performance of the Contract Monitor's responsibilities. MHBE may change the Contract Monitor at any time by written notice to the Contractor.
- e. **Contractor** – The selected Offeror that is awarded a Contract by the MHBE.
- f. **eMM** – eMaryland Marketplace (see RFP Section 1.23).
- g. **Exchange or MHBE** – Maryland Health Benefit Exchange.
- h. **Key Personnel** – Those personnel proposed for the Key Personnel Role(s) identified in Section 3.3 of this RFP.

- i. **Local Time** – Time in the Eastern Time Zone as observed by the State of Maryland. Unless otherwise specified, all stated times shall be Local Time, even if not expressly designated as such.
- j. **Marketing Agency** – GMMB, Inc. or a successor designated by MHBE.
- k. **Minority Business Enterprise (MBE)** – Any legal entity certified as defined at COMAR 21.01.02.01B(54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- l. **Normal State Business Hours** - Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: [www.dbm.maryland.gov](http://www.dbm.maryland.gov) – keyword: State Holidays.
- m. **Offeror** – An entity that submits a Proposal in response to this RFP.
- n. **Procurement Officer** – Prior to the award of any Contract, the sole point of contact in the State for purposes of this solicitation. After Contract award, the Procurement Officer has responsibilities as detailed in the Contract (Attachment A), and is the only State representative who can authorize changes to the Contract. MHBE may change the Procurement Officer at any time by written notice to the Contractor.
- o. **Proposal** – As appropriate, either or both of an Offeror’s Technical or Financial Proposal.
- p. **Request for Proposals (RFP)** – This Request for Proposals issued by the MHBE, **Solicitation Number MDM0031033945** dated April 27 2017, including any addenda.
- q. **State** – The State of Maryland and includes the Maryland Health Benefit Exchange.

### 1.3 Contract Type

The Contract resulting from this solicitation shall be an Indefinite Quantity Contract with firm- fixed unit pricing in compliance with COMAR 21.06.03.06.

### 1.4 Contract Duration

- 1.4.1 The Contract that results from this solicitation shall commence as of the Commencement Date, as defined in Section 1.2.
- 1.4.2 The duration of the Contract will be for a base term of one year from the Commencement Date for the provision of all services required by the Contract and the requirements of this solicitation. The Contract may be extended for one period of one year at the sole discretion of the MHBE and at the unit prices quoted in the Financial Proposal for the Option Year.
- 1.4.3 The Contractor’s obligations to pay invoices to subcontractors that provided services during the Contract term, as well as the audit, confidentiality, document retention, and indemnification obligations of the Contract (see Attachment A) shall survive expiration or termination of the Contract and continue in effect until all such obligations are satisfied.

### 1.5 Procurement Officer



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

Ms. Michelle Compton  
Procurement Officer  
Maryland Health Benefit Exchange  
750 East Pratt Street, 16<sup>th</sup> Floor  
Baltimore, MD 21202  
Phone: 410-547-8152  
E-mail: [hix.procurement@maryland.gov](mailto:hix.procurement@maryland.gov)

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

### **1.6 Contract Monitor**

The Contract Monitor is:

Ms. Betsy Plunkett  
Deputy Director, Marketing and Web Strategies  
Maryland Health Benefit Exchange  
750 East Pratt Street, 16<sup>th</sup> Floor  
Baltimore, MD 21202  
Email: [betsy.plunkett@maryland.gov](mailto:betsy.plunkett@maryland.gov)

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

### **1.7 Pre-Proposal Conference**

A pre-proposal conference will not be held for this RFP.

### **1.8 eMarylandMarketplace**

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

eMM is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the MHBE website <http://www.marylandhbe.com/about-us/procurement/>, and possibly other means for transmitting the RFP and associated materials, Offeror questions and the Procurement Officer's responses, addenda, and other solicitation-related information will be provided via eMM.

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

### **1.9 Questions**

Questions to the Procurement Officer shall be submitted via e-mail to the following e-mail address: [hix.procurement@maryland.com](mailto:hix.procurement@maryland.com). Please identify in the subject line the Solicitation Number and Title.

Questions should be submitted to the Procurement Officer (**see above email address**) in a timely manner. Questions are requested to be submitted by **2:00 PM, September 5, 2017**. The Procurement Officer, based on the availability of time to research and communicate an answer, shall decide whether an answer can be given before the Proposal due date. Time permitting, answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be distributed to all vendors that are known to have received a copy of the RFP in sufficient time for the answer to be taken into consideration in the Proposal.

### **1.10 Procurement Method**

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

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

Proposals, in the form set forth in Section 4.2 "Proposals" must be received by the Procurement Officer at the e-mail address listed on the Key Information Summary Sheet, no later than **September 8, 2017, 2:00 PM** Local Time in order to be considered.

Requests for extension of this time or date will not be granted. Except as provided in COMAR 21.05.03.02.F and 21.05.02.10, Proposals received after the due date and time listed in this section will not be considered.

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

**Proposals must be submitted by e-mail. Proposals will not be opened publicly.**

Vendors not responding to this solicitation are requested to submit the "Notice to Vendors" form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements, etc.). This form is located in the RFP immediately following the Title Page (page ii).

### **1.12 Multiple or Alternate Proposals**

Multiple and/or alternate Proposals will not be accepted.

### **1.13 Economy of Preparation**

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

### **1.14 Public Information Act Notice**

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

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

### **1.15 Award Basis**

The Contract shall be awarded to the responsible Offeror submitting the Proposal that has been determined to be the most advantageous to the State, considering price and evaluation factors set forth in this RFP for providing the services as specified in this RFP. If applicable, in order for MHBE to achieve its overall minority participation goal, MHBE may recommend and award a contract to a certified minority business enterprise or to a person whose offer otherwise reflects the greatest amount of certified MBE or minority participation in the event of two or more offers in which the Offerors' Technical and Price proposals are determined by the Procurement Officer to be equally most advantageous to the State. The MBE documentation required by COMAR 21.11.03.10B(2)-(6) shall be used in making this determination. See RFP Section 5 for further award information.

### **1.16 Oral Presentation**

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

### **1.17 Duration of Proposal**

Proposals submitted in response to this RFP are irrevocable for 120 days following the closing date for submission of Proposals or best and final offers if requested. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

### **1.18 Revisions to the RFP**

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

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

### **1.19 Cancellations**

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

or potentially qualified Offerors in any manner necessary to serve the best interests of the State. The State also reserves the right, in its sole discretion, to award a Contract based upon the written Proposals received without discussions or negotiations.

### **1.20 Incurred Expenses**

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

### **1.21 Protest/Disputes**

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

### **1.22 Offeror Responsibilities**

The selected Offeror shall be responsible for all products and services required by this RFP. All subcontractors must be identified and a complete description of their role relative to the Proposal (“Role”) must be included in the Offeror’s Proposal. The selected Offeror must get approval from the Contract Monitor prior to utilizing a subcontractor. If applicable, subcontractors utilized in meeting the established MBE participation goal(s) for this solicitation shall be identified as provided in the appropriate Attachment(s) of this RFP (see Section 1.33 “Minority Business Enterprise Goals”).

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

A parental guarantee of the performance of the Offeror under this Section will not automatically result in crediting the Offeror with the experience and/or qualifications of the parent under any evaluation criteria pertaining to the Offeror’s experience and qualifications. Instead, the Contractor shall be evaluated on the extent to which the State determines that the experience and qualification of the parent are transferred to and shared with the Offeror, the parent is directly involved in the performance of the Contract, and the value of the parent’s participation as determined by the State.

### **1.23 Substitution of Personnel**

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

### **B. Definitions**

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

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

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

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

#### C. Key Personnel General Substitution Provisions

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

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

#### D. Replacement Circumstances

##### 1. Voluntary Key Personnel Replacement

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

## 2. Key Personnel Replacement Due to Vacancy

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

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

## 3. Key Personnel Replacement Due to an Indeterminate Absence

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

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

## 4. Directed Personnel Replacement

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

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

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

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

Replacement or substitution of personnel under this section shall be in addition to, and not in lieu of, the State's remedies under the Contract or which otherwise may be available at law or in equity.

#### **1.24 Mandatory Contractual Terms**

By submitting a Proposal in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached herein as RFP **Attachment A**. Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary of the Technical Proposal. **A Proposal may be rejected if it takes exception to these terms or fails to state that it has taken no exceptions (reference RFP Section 4.4.2.4).**

#### **1.25 Bid/Proposal Affidavit**

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

#### **1.26 Contract Affidavit**

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Contractor shall be required to complete a Contract Affidavit. A copy of this Affidavit is included as **Attachment C** of this RFP. This Affidavit must be provided within five (5) Business Days of notification of proposed Contract award. . For purposes of completing Section "B" of this Affidavit (Certification of Registration or Qualification with the State Department of Assessments and Taxation), note that a business entity that is organized outside of the State of Maryland is considered to be a "foreign" business.

#### **1.27 Compliance with Laws/Arrearages**

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

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

#### **1.28 Verification of Registration and Tax Payment**

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

It is strongly recommended that any potential Offeror complete registration prior to the due date for receipt of

Proposals. An Offeror's failure to complete registration with SDAT may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

### **1.29 False Statements**

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

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

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

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

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

### **1.30 Payments by Electronic Funds Transfer**

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

[http://comptroller.marylandtaxes.com/Government\\_Services/State\\_Accounting\\_Information/Static\\_Files/APM/gadx-10.pdf](http://comptroller.marylandtaxes.com/Government_Services/State_Accounting_Information/Static_Files/APM/gadx-10.pdf)

### **1.31 Electronic Procurements Authorized**

- A. Unless otherwise prohibited by law, MHBE may conduct procurement transactions by electronic means, including the solicitation, bidding, award, execution, and administration of a contract, as provided in the Maryland Uniform Electronic Transactions Act, Md. Code Ann., Commercial Law Article, Title 21.
- B. Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or the Contract.
- C. "Electronic means" refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes facsimile, e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://emaryland.buyspeed.com/bsol/>), and electronic data interchange.
- D. In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., § 1.30 "Payments by Electronic Funds Transfer"), the following transactions are authorized to be conducted



by electronic means on the terms described:

1. The Procurement Officer may conduct the procurement using eMM or e-mail to issue:
  - (a) the solicitation (RFP);
  - (b) any amendments;
  - (c) pre-Proposal conference documents;
  - (d) questions and responses;
  - (e) communications regarding the solicitation or Proposal to any Offeror or potential Offeror;
  - (f) notices of award selection or non-selection; and
  - (g) the Procurement Officer's decision on any Bid protest or Contract claim.
2. An Offeror or potential Offeror may use e-mail to:
  - (a) ask questions regarding the solicitation;
  - (b) reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer's request or direction to reply by e-mail, but only on the terms specifically approved and directed by the Procurement Officer;
  - (c) submit a "No Bid/Proposal Response" to the solicitation; and
  - (d) submit documents determined by the MHBE to require original signatures (contract execution or modifications).
3. The Procurement Officer, the Contract Monitor, and the Contractor may conduct day-to-day Contract administration utilizing e-mail, facsimile, or other electronic means if authorized by the Procurement Officer or Contract Monitor.
4. Notwithstanding the foregoing provisions of this Section 1.31, MHBE requires all Transmittal Letters, Proposals and any Contract resulting from this RFP to contain original signatures executed in ink by a person authorized to bind the Contractor. However, the Contractor may scan and submit electronically any document containing such original signature(s). The Contract may be signed by the Parties in counterparts, each of which shall be deemed to be an original but all of which, taken together, shall constitute one and the same Contract.

### **1.32 Minority Business Enterprise Goal**

There is no MBE goal for this RFP.

### **1.33 Federal Funding Acknowledgement**

This section does not apply to this RFP.

### **1.34 Conflict of Interest Affidavit and Disclosure**

This section does not apply to this RFP.

### **1.35 Non-Disclosure Agreement**

This section does not apply to this RFP.

### **1.36 Non-Exchange Entity Agreement**

This section does not apply to this RFP.

**1.37 HIPAA — Business Associate Agreement**

This section does not apply to this RFP.

**1.38 Nonvisual Access**

This section does not apply to this RFP.

**1.30 Mercury and Products That Contain Mercury**

This section does not apply to this RFP.

**1.40 Performance Bond**

This section does not apply to this RFP.

**1.41 Surety Bond Assistance Program**

This section does not apply to this RFP.

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**SECTION 2 – MINIMUM QUALIFICATIONS**

**2.1 Offeror Minimum Qualifications**

There are no minimum qualifications required for this RFP.

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## SECTION 3 – SCOPE OF WORK

### 3.1 Background and Purpose

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

### 3.2 Scope of Work

The following Scope of Work outlines the MHBE's overall expectations. Offerors will be asked to develop their own, more detailed approach in response to this RFP.

Contractors shall provide/produce and print promotional items for MHBE as outlined below in Table 1. The quantities identified in Attachment D – Financial Proposal Form are for evaluation purposes, only. These materials must be provided/produced and printed as specified in Table 1, below.

**TABLE 1**

<b>PROMOTIONAL PRODUCTS AND DESCRIPTIONS*</b>			
	ITEM	DESCRIPTION	SIZE
1	Aluminum Ball Pen With Stylus	stylus ball point pen	5 1/2"
2	Imprint Computer Brush	An all-in-one screen and keyboard cleaning kit	2 1/2" x 1 3/4"
3	1 oz. SPF 30 Sunscreen Bottle	sun protectant	3 1/8"
4	Paper Cup Sleeves	Paper coffee cup sleeve, disposable. Made of Craft paper 145gsm, corrugated 110gsm. Heat-insulation cup sleeve. Suitable for size 8-22oz cup.	2 1/2 " x 5 "

5	100% Recycled White Kraft Shopping Bag	White	8" x 10.5" x 4.74"
6	Bubbles	classic	1-oz
7	12" Single Bevel Ruler	Multiple colors	1 1/8" x 1/8" x 12 1/8"
8	13-Month Custom Wall Calendar	custom pictures, dates, etc.	11" x 17"
9	2-tone Malibu sunglasses	recycled polycarbonate	2" x 1/4"
10	Bike/Fitness Bottle	20-oz. translucent, push & pull lid	2 7/8" x 7 3/4"
11	3-In-1 Desk Cube	Includes a microfiber cleaning cloth for cell phones and computer screens, built-in phone stand, matching set of earbuds	2" x 1 7/8" x 1 1/2"
12	Cork Coaster	round, tan	4"
13	4-Port USB Hub	4 High Speed USB Ports. 2.0 Interface.	2" W x 1 1/2" H
14	5" Circle EZ Vinyl Gripper	jar gripper, several color options	5"
15	Hand Sanitizer Gel	unscented	5 oz
16	5-pack colored pencils	non-toxic sharpened colored pencils, bright colors	3 1/2 " x 1 1/2 "
17	Premium Glow Light Stick	glow product, available in multiple colors w/logo	6"
18	Acrylic Tumbler with straw (cup)	color, insulated, double wall, with matching straw and lid	6 oz
19	Flying Disk	Plastic	9"
20	Apron	Natural duck cotton. Two flared pockets.	18x18"

21	Audio Headphones	Lightweight earbud headphones w/audio plug	1.5" x 1.5"
22	Back Scratcher w/Shoe Horn and Chain	Plastic with curved fingers	15" length
23	Ballpoint pen with flashlight	plastic, several colors	2 1/2" x 7/8"
24	Basic Toiletry Bag	Nylon, multiple colors	10" x 6" x 4", 70D
25	Basketball	stress reliever; Polyurethane	2 1/2" Diameter
26	Beach Ball	Polyvinyl	16"
27	Beach Ball	Polyvinyl	20"
28	Beach Ball	Polyvinyl	24"
29	Beach Chair Cellphone Holder	Foldable; compatible with large phones. Six colors; Multicolor imprint	5 1/4" x 7 1/4" x 5 1/2"
30	Book	Health and Fitness Workbook, multiple color	3 3/4" x 6"
31	Bistro Mug	ceramic	16 oz.
32	Bottled Water w/ custom label		16.9 oz.
33	Brushed Aluminum Kwik Seal Backing Luggage Bag Tag	silver luggage bag tag, Aluminum	4 1/4 " x 2 1/2"
34	Canister Wet Wipes	Gently scented, alcohol-free formula, Includes attached ball chain	Custom - up to 1 7/8" Diameter x 3 1/4" H
35	Carabiner Wallet	black with clear ID window, inside pocket and zippered pocket, outside front pocket. Khaki inside. Carabiner clips onto briefcases, backpacks, etc.	4 1/4" x 3"

36	Checkbook Cover - Standard Checkbook/Register Holder	Bolero checkbook cover. Soft vinyl case with inside cutouts for standard checkbook and separate register.	3 5/16" x 6 7/16"
37	Clam Cell Phone Holder	imprinted curved cell phone holder, multiple colors	2.25" x 2.13" x 2"
38	Classic Cowbell	Metal	3"
39	Classic License Plate Frame	2 holes or 4 holes	5/16" H x 12 7/16" W
40	Clean Up Brush & Dust Pan	mini brush and dust pan	6 1/4" W x 8" H x 1 3/4" D
41	Computer Figure	stress reliever, polyurethane, Squeezable	1 1/2" W x 2 1/8" H x 1 1/2" D
42	Computer Mouse Pad	Non-Skid Foam Rubber Base	9" W x 8" H x 1/8" D
43	Cotton Canvas Cup Sleeve	natural cotton	10 oz.; 5" x 3"
44	Countdown timer with stand and magnet back	Count down timer with stand and magnet back. Counts down 99 minutes and 59 seconds. Large imprint area, battery included.	2 1/2" x 2" x 1/2"
45	Custom Air Fresheners	custom-imprinted air freshener made of heavyweight blotter stock; individually wrapped	3x5"
46	Dental Floss	rectangular, white	18 yds., 2 1/4" x 1 5/8" x 7/8"
47	Desk in a Box (mini desk organizer)	mini desk items including a stapler, staples, paper clips, rubber bands, transparent tape	3 3/8" H x 4 3/4" W
48	Retractable Keychain	Oval retractable key ring	2 1/4 " x 1 1/2 "

		with carabineer clip	
49	Drawstring Nonwoven bags	multiple colors, nonwoven polypropylene	14 3/4 " x 16 1/2 "
50	Dry Erase Memo Clipboard	Full color, plastic	2 3/4 " x 4 1/8 " x 15/16 "
51	Easy Reach Telescoping Speed Duster	microfiber "fingers", telescoping handle extends up to 20"	10" L x 3" W x 3" H
52	Econo Visor Cap	100% non-woven polypropylene, lightweight, adjustable Velcro strap	one size fits all
53	Electronic Digital Stopwatch	counts in increments of 1/100 of a second	Imprint Size:1 1/2"
54	Electronic Personal Thermometer	Reads (90-108 degrees F), oral use or underarm use. One button cell battery.	7/8 " x 5 3/4 " x 3/8 "
55	Bottle Holder & Carabiner	sporty keychain that doubles as bottle holder w/ logo	1 1/2" W x 6 1/2" H x 1/2" D
56	Privacy Camera & screen cleaner	This handy laptop camera cover clips over the camera lens to prevent them from hacking your camera and viewing remotely.	1" x 1-1/4" x 3/4"
57	Fashionable Ballpoint Pen	Colorful ballpoint features, comfort grip, writes black ink and refill is replaceable	6"
58	Flash Drive	USB Flash drive	4G
59	Flashlight Keychain	includes four replaceable LR44 cell button batteries; multiple colors	2 3/4" x 1/2"



60	Frio Sock (can holder)	Beverage holder. high density scuba foam, holds 12" can	1/8"
61	Handkerchief	Multiple colors, 100% cotton	22 x 22" standard
62	Journal	vinyl, multiple colors	1" x 7" x 7"
63	Golf Balls	white logo golf ball	1 5/8"
64	Golf Pencil	Round-shaped golf pencil without eraser. Packaging: 144 per box. Pencils furnished sharpened. Multiple colors.	3 1/2"
65	Hand Fan	Laminated; full color on both sides	7.375" x 7.75"
66	Tote Bag	Laminated, non woven, full color imprint, black polypropylene	15" x 4" x 14"
67	Highlighter marker	multiple colors, can stand on the desk	3" x 3 3/4"
68	Hand Lotion	white, plastic bottle	2 oz., 1 5/16" w x 4-1/2" h x 1-5/16 d
69	Jumbo magnetic memo clip holder	ABS-Metal	3 3/8" x 1 1/4"
70	Jump Rope	wooden-handled, long jump rope w/color polyester	9 ft
71	Knit Headband	100% acrylic, multiple colors	3" wide
72	Leather-Look Padfolio With Sticky Notes & Flags	Sticky Notes In Various Colors And Shapes. Sticky Flags In multiple colors.	3 1/4" W x 5 1/4" H
73	Lip balm SPF15	Unflavored	

74	Lightweight Rain Poncho	One size fits most adults; 100% waterproofs	52" x 86" coverage
75	Lunch Tote Bag	100 GSM Non-Woven Polypropylene, multiple colors	8" x 8.5" x 6"
76	Magnifier	Credit-card size, paper-thin magnifier, 3X magnification, multiple colors	3 3/8 " x 2 1/8 "
77	Measuring Tape Keychain	measures in inches and cm, measures up to 39 inches	1 5/8 " x 1 5/8 "
78	Medallion Beads	assorted colors	77m colorful beads, 33 strand necklace
79	Medicine Bottle Opener	A helpful tool that assists in the opening of safety caps on medicine bottles. The white soft gripper grabs onto a variety of bottle lids enabling medicine to be easily accessed	1 3/16" W x 2 7/8" H x 2 1/8" D
80	Metal Arc	Decorative Desk Accessories with a gently curved silver metal display, 2 x 1" imprint	5" x 5" x .01"
81	Mini Eco-Note Combo (Notepad with Pen)	60 pages of ruled recycled paper, an elastic closure, metal ring binding and an elastic pen loop	3" x 5" note pad
82	Note Cube	700-sheet with logo printed. Individual sheets are not imprinted.	3 3/8" W x 2 3/4" H
83	Rubber Baseball	High Density Rubber	2 3/8 "
84	Measuring Cups ( 4 cup set)	polypropylene plastic material	2-3/4" x 5-1/2"

85	Original Note Nest Clip	Bulldog clip attached to flexible, rope-style wire cable holds papers, note cards, business cards, memos, Complies with CPSIA, C-TPAT, Prop 65.	15/16" W x 15/16" H
86	Paper clip dispenser	multiple colors	1 5/8 " x 2 3/4 "
87	Pen & Pencil Desk Caddy	Black simulated leather construction with white stitching	3.25" W x 4.125" H
88	Pencil Shaped Sharpener	Pencil Sharpener	3" x 7/8"
89	Perforated Postcard	post card	5 1/4" x 8 1/2"
90	Phone Stand (cell phone)	Easel Stand; folds flat, Non-Slip Pad,	2 1/4" W x 4 1/2" H
91	Piggy Bank	promotional piggy bank with pink snout	3 1/8 " x 3 1/8 " x 4 1/8 "
92	Pill Case (seven day)	Raised days of the week / Braille.	1 1/4" H x 6 1/8" W x 1" D
93	Fork-Knife-Spoon Combo	white plastic flatware	shipping dimensions 20" x 10" x 17"
94	Polyester Lanyard w/Retractable Badge Reel	polyester lanyard w/logo	3/4"
95	Premium Microfiber Cloth	High density premium microfiber cloth w/ digital imprint	6" L x 6" W
96	Primary Care Bandage Dispenser	5 latex-free bandages, refillable	4 3/16" W x 1 5/8" H x 3/8"
97	Rectangular Eraser	Eraser, Rectangular	2 3/8" x 1 1/8" x 5/16"
98	Red Heart Stress ball	Stress reliever	2.5" x 2.75" x 2"

99	No-Slip Bookmark	rectangular	6 " x 2 1/4 "
100	Screen-Printed wristband	colorful	6-3/8" x 5/16"
101	Scribbler Stick Anywhere Dry Erase Whiteboard with Marker	Non Adhesive, non-magnetic, movable & reusable. Includes bold dry-erase marker with eraser cap. Slot for marker storage.	5 7/8" W x 4 3/4" H x 5/8" Thick
102	Silicone Smart Wallet	wallet holds three credit cards, adhesive backing	2.25" x 3.5"
103	Single function pedometer	Counts steps up to 99,999, Plastic	1 7/16 " x 2 3/16 "
104	Smartphone Holder with Zippered Pouch	Neoprene	3 1/8" x 5 1/8"
105	Smiling Doctor Stress Reliever	stress reliever	2 1/8" W x 4 3/8" H x 1 3/8" D
106	Solar Powered Dancing Flower	Powered by natural light	4 1/2" H
107	Square Button	custom	1.5" x 1.5"
108	Sticky Notes	sticky pads with full color	3" x 3"
109	Sticky Notes	sticky pads with full color	4" x 3"
110	Stylus Ballpoint Pens	Has soft tip that works on all smartphones and tablets	5/8" x 5" x 1/2 "
111	Stylus Pen on Screen Cleaner Stand	stand houses an ABS plastic ballpoint pen with a soft silicone rubber stylus for use with touch screen devices. Black ink cartridge, medium point	2" x 2" x 4 1/4"
112	Sugar-free Mints in various designs	bulb-shaped, house-shaped, star-shaped	1-5/8" diameter

113	Sugar-free Mints Rectangular Design	peppermint-flavored zero-calorie mints.	imprint area 2-1/4" w x 1-1 1/2"h
114	Super bright LED flashlight swivel keychain	ABS-Metal, Rectangle	2 3/8" x 1" x 1/4"
115	Syringe shape highlighter marker	Multiple colors	5 1/2"
116	Tissue Packet	Contains 20 Tissues	6" W x 2 3/4" H
117	Tube Winder	cleans out and winds up metal, plastic, attaches to the bottom of a tube, fits on toothpaste tube	3-1/2" x 1-1/2" x 1-1/2" h
118	Unisex Crewneck T-shirts	full-color images, cotton	Cotton/Polyester (60/40)
119	Women's V-Neck T-Shirts	Made from a blend of polyester	(50%), ring-spun combed cotton (25%) and rayon (25%).
120	Unstructured Cotton Cap	Adjustable brass clasp, multiple colors, 100% brushed-cotton twill	One Size Fits Most
121	USB Car Charger	compact charger, charge 2 devices simultaneously; ASB Plastic	2 1/2 " x 3/4 "
122	USB Flexi-Light	Bendable USB-powered LED light for keyboard. Portable TPE/aluminum light plugs into any USB port.	7/8" W x 3/8" H x 6 3/4" L
123	Value calculator	multiple colors	4 1/2" x 2 3/4"
124	Mini First-Aid Kit	Contains 2 antiseptic wipes, 2 small bandages and 4 large bandages in a silver dispenser wrapped within an envelope.	4" x 2 1/2"
125	Whistle With Coil	Durable plastic whistle with metal split ring and soft coil	2 1/4" W x 7/8" H

		wristband	
126	Zippered Coin Pouch	black and multiple colors, multiple imprint	4 1/4" x 3"
127	Stress Football	one-color imprint	3-1/2"
128	Coasters	Diameter Cork Coasters	3.5"
129	8' Customized Throw-Style Tablecloth		8' Complete measurements are 88" x 154"
130	Fidget Hand Spinners	Comes in multiple colors	2.9" x 0.47"
131	Fidget Cubes	made from ABS	1.3" x 1.3" x 1.3"
132	Color Bright Crayons	assorted colors, Complies with ASTM	3 3/4" W x 1 1/2" H
133	Feel Good Eat Healthy (Children's Coloring Book)	Children's coloring and activity book. Complies with CPSIA.	8" W x 10 1/2" H
134	First Aid Kit	Case holds 3 antibacterial gel packets, 4 latex-free bandages, 4 antiseptic swabs, 2 snip bandages, 2" x 3" adhesive pad and instructions	1/8" H x 4 5/16" W x 13/16" D
135	First Aid Kit (Compact)	Includes 9 pieces: Adhesive pad, Aspirin packet, 2 antiseptic towelette, 4 bandages, first aid guide	3 7/8" W x 2 3/4" H x 3/4" D
136	First Aid Zip tote kit (zippered pouch first aid kit)	Contains 6 latex-free adhesive bandages, 2 antiseptic towelettes, 1 triple antibiotic ointment packet, and first aid guide	3 1/4" H x 4 3/4" W

137	Express No Med First Aid Kit	6 adhesive bandages, 5 junior bandages, 3 antiseptic towelettes, extra-large bandage and first aid card.	3 1/8" H x 4 1/4" W x 7/8" D
138	Paper Cup w/Lid	8OZ Double Wall, made of paper with plastic lid, white	8 oz
139	12 oz Coffee Paper Cup with Sleeve	Cup is 100% wood paper	It measures 3.5" * 2.4" * 4.4"
140	Small White Hot Cup Sleeves -	Flexographic Printed	Fits most 8 oz. or 9 oz. Paper Hot Cups

\* MHBE makes no guarantee that it will purchase any service from any resulting contract. This contract does not constitute a requirements contract under COMAR 21.06.03.A(3) and shall not be construed to require the MHBE to procure printing services exclusively from the contractor. The MHBE reserves the right to procure services from other sources when it is in the best interest of the MHBE to do so and without notice to the contractor.

**3.2.1 Contractor Requirements**

Section Number	Description
3.2.1.1	Contractor will work either directly with the MHBE or with the Marketing Agency designated to manage the overall marketing and outreach campaign for the MHBE. The Contract Monitor or Chief Marketing Officer will approve all jobs before printing. Files will be supplied to the Contractor in digital format (photographs may be made available for scanning when necessary).
3.2.1.2	Contractor shall present UV direct print proof on a prototype to the Contract Monitor or designee identified in writing from the Contract Monitor for final approval before work is printed. UV direct print capabilities must be on premises of Contractor to provide sample. Actual job may be outsourced.
3.2.1.3	Contractor will be responsible for executing timely production for the required number of copies/items for all projects. For each requested job, the Contract Monitor shall indicate the required time frame for production.
3.2.1.4	Contractor shall assign an "Account Manager", see RFP Section 3.3.1 for

	additional information regarding this position's requirements, as a primary day-to-day contact for printing services.
3.2.1.5	Contractor shall provide all necessary equipment, supplies, materials, facilities and labor for all collateral materials described in Table 1 of this RFP. Proposed unit pricing shall be fully loaded.
3.2.1.6	Contractor must receive print files in industry standard formats such as pdf, InDesign.
3.2.1.7	Contractor must be equipped to handle in-house graphics.
3.2.1.8	Contractor shall have an established prioritization system that is based on CLIENT'S deadlines and REQUESTED turnaround time, and the ability to meet critical print delivery dates.
3.2.1.9	Contractor shall maintain all files for the duration of the contract in the instance that the MHBE requests additional items be printed.
3.2.1.10	Contractor must be able to print variable specifications and quantities as requested by the MHBE.
3.2.1.11	Contractor must be able to meet in person with the MHBE staff and/or its designated Marketing Agency to resolve any issues within 24 business hours of notification of the issue from the Contract Monitor.
3.2.1.12	Contractor must be able to accommodate for black and white, and four-color.
3.2.1.13	Contractor must label all packages, boxes, and cartons with the contents, purchase order number, job order number and ordering department name.
3.2.1.14	Contractor shall provide, as needed, daily, Monday through Friday, 8 a.m. to 5 p.m., pick-up and delivery service which is to be included in the fully loaded price.
3.2.1.15	Contractor shall store inventory for a period of 1 to 14 days, when needed prior to delivery.
3.2.1.16	Contractor shall deliver materials to the following addresses, as specified in the applicable print request from the Contract Monitor or designee identified by the Contract Monitor in writing: <ul style="list-style-type: none"> <li>a. MHBE's main office: 750 Pratt Street, 16th floor, Baltimore, MD 21202</li> <li>b. MHBE's fulfillment Contractor: 4621 Boston Way, Suite C, Lanham, MD 20706</li> <li>c. The following ZIP codes: 21202, 20601, 21863, 20910, 20785, 21921, 21502, 20723.</li> <li>d. Any other designated Maryland ZIP code.</li> </ul>
3.2.1.17	The Contractor must have a printing plant capable of printing prototypes of all items required by this RFP within a 50-mile radius of zip code 21202 in order for



the MHBE to conduct routine on-site visits if desired.
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### 3.2.2 Deliverables

For every deliverable, the Contractor shall request that the Contract Monitor, or designee identified by the Contract Monitor in writing, confirm receipt of that deliverable by sending an e-mail identifying the deliverable name and date of receipt. The Contractor shall submit via e-mail Attachment E – Agency Deliverable Product Acceptance Form (“DPAF”) to the Contract Monitor, or designee, in MS Word format.

The Contract Monitor, or designee, may request a sample of the deliverable, to comply with the minimum deliverable quality criteria provided with the request. Unless otherwise specified in the print request, or subsequently by the Contract Monitor or designee in writing, a sample of each deliverable shall be delivered to the Contract Monitor, or designee, at least two weeks in advance, unless the Contract Monitor approves, in writing, an exception to the two-week lead time, of when the final deliverable is due.

A final deliverable shall satisfy the scope and requirements for that deliverable, including the quality and acceptance criteria for a final deliverable as defined in the sole discretion of the Contract Monitor, or designee. The Contract Monitor, or designee, shall review a final deliverable to determine compliance with the acceptance criteria. The Contract Monitor, or designee, will issue to the Contractor a notice of acceptance or rejection of the deliverable in the form of the DPAF. Following the return of the DPAF indicating “Accepted” and signed by the Contract Monitor, or designee, the Contractor shall submit a proper invoice in accordance with the procedures in Section 3.4 Invoicing.

In the event of rejection of a deliverable, the Contract Monitor, or designee, will formally communicate in writing any deliverable deficiencies or nonconformities to the Contractor, describing in those deficiencies what shall be corrected prior to acceptance of the deliverable in sufficient detail for the Contractor to address the deficiencies. The Contractor shall correct deficiencies and resubmit the corrected deliverable for acceptance within the agreed-upon time period for correction.

### 3.3 Staffing Requirements/Plan

Effective resource planning, assignment, right skill sets, and personnel management are critical components of successful delivery of requirements defined in this RFP.

A draft staffing plan shall be submitted with the Contractor’s Proposal (reference RFP Section 4.4.2.6 and updated throughout the term of the Contract whenever there is a change in Contractor resources or upon the introduction of new content, approaches, methodologies, or other substantive changes to the Printing services.

Resumes for each of the Contractor’s proposed staffing choices shall be submitted with the Contractor’s Proposal (reference RFP Section 4.4.2.6) for the Key Personnel Role described below. In addition, the following qualifications shall apply to the proposed Role.

- a. **Account Manager:** (See Section 3.2.1.4) The senior person who will assume the day-to-day responsibility for managing and supporting the MHBE’s account. This individual must have a minimum of 5 years’ experience in servicing major clients; and a total of 10 years’ experience in printing services field. Please include a resume in your response.

### 3.4 Invoicing

#### 3.4.1 General

a) All invoices for services shall be signed by the Contractor and submitted to the Contract Monitor within 30 days of delivery of services and shall include, at the minimum, the following information:

- Contractor name
- Remittance address
- Federal taxpayer identification number
- Invoice period
- Invoice date
- Invoice number
- State assigned Contract number
- State assigned Purchase or Blanket Purchase Order number(s)
- Services provided with supporting documentation providing details
- Amount due

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

b) The MHBE reserves the right to reduce or withhold Contract payment in the event the Contractor does not provide the MHBE with all required deliverables within the time frame specified in the Contract or in the event that the Contractor otherwise materially breaches the terms and conditions of the Contract until such time as the Contractor brings itself into full compliance with the Contract.

### **3.5 Insurance**

The requiring of any and all insurance as set forth in these specifications, or elsewhere, shall be in addition to and not in any way in substitution for the other protection provided under the Contract. The Contractor shall provide evidence of third-party legal liability insurance for itself and any subcontractors under the agreement covering claims arising from the operations and services provided under this Contract. All insurances required by this Section shall be effective when Contract commences and shall remain in full force and effect during the Contract term and Renewal Option Period, if exercised.

Certificates of Insurance duly issued and certified by the insurance company and evidence of the payment of premiums shall be furnished to the Procurement Officer within ten (10) business days after notice of recommended Contract award. Insurance Certificates shall indicate effective dates and dates of expiration of policies. In the event the Insurance Certificate is not received within the required time, or is insufficient respecting the limits and scope specified herein, the Procurement Officer may cancel the award because of breach of contract. Time is of the essence.

The Contractor shall not commence work under this Contract until all the insurance required under this section has been obtained and approved by the MHBE, nor shall the Contractor allow any subcontractor to commence work on its subcontract until the insurance required of the subcontractor has been obtained and approved.

All insurance companies shall be licensed or authorized to do business within the State and subject to approval by the MHBE. No acceptance and/or approval of any insurance by the MHBE shall be construed as relieving or excusing the Contractor, or the Surety of its Bonds, from any liability or obligation imposed upon either or both of them by the provisions of the Contract.

It is the sole responsibility of the Contractor to insure that its subcontractors or their subcontractors carry insurance required herein to the extent Contractor wishes to impose on its subcontractor such liability insurance. The Contractor shall be held responsible for compliance and enforcement of the MHBE's insurance requirements and its own requirements and for any modifications or waivers of these insurance requirements

as they apply to subcontractors.

The Contractor shall require that the policies of insurance name the MHBE as an additional insured and that each insurer shall provide to the MHBE sixty (60) days written notice of non-renewal, cancellation, or material modification of the insurance policy by either the insurance carrier or the Contractor. Upon notification of nonrenewal or cancellation, the Contractor shall provide replacement coverage effective prior to the expiration of the sixty (60) day notice period, or Contractor may be deemed to be in default of this Contract.

By requiring such coverage, the MHBE shall not be deemed to have waived any immunity from liability which it may otherwise have. An Offeror who seeks to self-insure for the required coverage shall meet all applicable local, State and federal laws and regulations regarding self-insurance and shall submit evidence of such compliance to the MHBE for approval with its Proposal.

The MHBE shall have the right to require that the limits of liability set forth in this Section be raised if in its judgment economic or insurance market conditions warrant. If additional costs are incurred because of raised limits, the pre-approved additional cost shall be added to the Contract amount.

If any contract of insurance between the Contractor or any subcontractor and its insurance company shall, to any extent, be determined to be void or unenforceable, it is the intention of the parties that such circumstances shall not otherwise affect the validity or enforceability of Contractor's agreements and obligations under the Contract nor the validity or enforceability of such contract of insurance, each of which shall be enforced to the fullest extent permitted by law.

The furnishing of evidence of insurance by certificate or policy copy that is not in conformance with the requirements shall not constitute a waiver of or amendment to, the aforementioned requirements. Any modification or waiver of the requirements shall be provided by the MHBE in writing to the Contractor and agreed to by signature of the Contractor.

#### **1. Property Insurance**

Insurance for extended coverage on all Contractor owned Equipment shall be maintained in the amount of actual replacement cost thereof. This policy shall include an All Risk Property Floater to insure personal property including contents, Equipment and mobile items against fire, collision, flood, etc. Neither the State nor the MHBE shall be responsible for any Equipment not owned by the State.

#### **2. Liability Insurance**

The Contractor shall maintain Comprehensive General Liability Insurance covering the full scope of the Contract with limits of at least One Million Five Hundred Thousand Dollars (\$1,500,000.00) for any one person, and Three Million Dollars (\$3,000,000.00) for any one occurrence for death or personal injury, and Three Million Dollars (\$3,000,000.00) for any one occurrence for property damage; or a Combined Single Limit for Bodily Injury or Property Damage in the amount of Six Million Dollars (\$6,000,000.00).

#### **3. Automotive Insurance**

If automotive equipment is required in the performance of this Contract, automobile bodily injury liability insurance with a limit of not less than One Million Dollars (\$1,000,000.00) for each person and Two Million Dollars (\$2,000,000.00) for each accident, and property damage liability insurance with a limit of not less than Two Hundred Thousand Dollars (\$200,000.00) for each accident shall be required.

#### **4. Worker's Compensation**

The Contractor shall maintain Worker's Compensation Insurance, which shall include Employer's Liability coverage, in amounts as required by State law.

## **SECTION 4 – PROPOSAL FORMAT**

### **4.1 Two Part Submission**

Offerors shall submit proposals in separate volumes:

Volume I – TECHNICAL PROPOSAL

Volume II – FINANCIAL PROPOSAL

### **4.2 Proposals**

Volume I – Technical Proposal shall be sealed separately from Volume II – Financial Proposal but submitted simultaneously to the Procurement Officer at the street address listed in Section 1.7. An unbound original, so identified, and three bound copies of each volume are to be submitted. Two electronic versions of both the Volume I – Technical Proposal in MS Word or Excel format and Volume II – Financial Proposal in MS Word or Excel format shall also be submitted with the unbound originals, technical or financial volumes, as appropriate. Electronic submissions may be submitted on CD and shall bear a label on the outside containing the RFP title and number, the name of the Offeror, and the volume number (I or II).

A second electronic submission of Volume I and Volume II in searchable Word (Version 2007 or newer) format shall be submitted on CD for Public Information Act (PIA) requests. This copy shall be redacted so that confidential and/or proprietary information has been removed (see section 1.14).

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

### **4.3 Submission**

Offerors may either mail or hand-deliver Proposals.

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

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

### **4.4 Volume I – Technical Proposal**

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

**to be included only in the Financial Proposal (Volume II).**

#### **4.4.1 Format of Technical Proposal**

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

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

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

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

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

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

##### **4.4.2.3 Transmittal Letter (Submit under TAB B)**

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

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

- and
- Acknowledgement of all addenda to this RFP.

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

The Offeror shall condense and highlight the contents of the Technical Proposal in a separate section titled “Executive Summary.” In addition, the Summary shall indicate whether the Offeror is the subsidiary of another entity, and if so, whether all information submitted by the Offeror pertains exclusively to the Offeror. If not, the subsidiary Offeror shall include a guarantee of performance from its parent organization as part of its Executive Summary (see RFP Section 1.22 for more information).

The Summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (Attachment A), or any other attachments. Exceptions to terms and conditions may result in having the Proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award.

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

#### **4.4.2.5 Offeror Technical Response to RFP Requirements and Proposed Work Plan (Submit under TAB D)**

- a. The Offeror shall address each Scope of Work requirement (Section 3) in its Technical Proposal and describe how its proposed services, including the services of any proposed Subcontractor(s), will meet or exceed the requirement(s). If the MHBE is seeking Offeror agreement to any requirement(s), the Offeror shall state its agreement or disagreement. Any paragraph in the Technical Proposal that responds to a Scope of Work (Section 3) requirement shall include an explanation of how the work will be done. Any exception to a requirement, term, or condition may result in having the Proposal classified as not reasonably susceptible of being selected for award or the Offeror deemed not responsible.
- b. The Offeror shall give a definitive **section-by-section** description of the proposed plan to meet the requirements of the RFP, i.e., a Work Plan. The Work Plan shall include the specific methodology and techniques to be used by the Offeror in providing the required services as outlined in RFP Section 3, Scope of Work. The description shall include an outline of the overall management concepts employed by the Offeror and a project management plan, including project control mechanisms and overall timelines. Project deadlines considered Contract deliverables must be recognized in the Work Plan.

#### **4.4.2.6 Experience and Qualifications of Proposed Staff (Submit under Tab E)**

The Offeror shall identify the number and types of staff proposed to be utilized under the Contract.

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

The Offeror shall provide an Organizational Chart outlining personnel and their related duties. The Offeror shall include job titles and the percentage of time each individual will spend on his/her assigned tasks. Offerors using job titles other than those commonly used by industry standards must provide a crosswalk reference document.

#### **4.4.2.7 Staffing Plan (Submit under Tab E)**

The Offeror shall provide a draft Staffing Plan with the Technical Proposal. The Staffing Plan shall describe the Offeror's staffing approach and team organizational structure for the Offeror and any proposed Subcontractors, to complete all phases of work, functions, requirements, roles, and duties associated with this RFP. The Offeror shall also provide resumes for other members of your team assigned to the project and the specific role that each can be expected to play.

The Offeror shall explain in its Staffing Plan how each individual meets the requirements of the proposed Key Personnel Role as required in RFP Section 3.3. All proposed staffing for the Key Personnel Roles is subject to approval by MHBE. MHBE reserves the right to reject the Offeror's candidates for any Key Personnel Role. In such an event, the Offeror shall be required to provide an alternative resource for that Key Personnel Role. The MHBE reserves the right to interview individuals proposed for Key Personnel Roles, if desired, prior to approval of any Key Personnel staffing.

The MHBE and its stakeholders will interact with the Contractor's Key Personnel staff on an ongoing basis, and as such the Offeror shall submit in its plan an organizational chart for Key Personnel Staffing that describes how the Offeror's Key Personnel will interact with MHBE staff and key State stakeholders. The Plan must also include the Offeror's tasks to onboard and orient new Key Personnel staff to the project, specifically its tools and techniques.

#### **4.4.2.8 Offeror Qualifications and Capabilities (Submit under TAB F)**

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

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

#### **4.4.2.9 References (Submit under TAB G)**

At least three (3) references are requested from customers who are capable of documenting the Offeror's ability to provide the services specified in this RFP. Each reference shall be from a client for whom the Offeror has provided services within the past five (5) years and shall include the following information:

- a. Name of client organization;
- b. Name, title, telephone number, and e-mail address, if available, of POC for client organization; and
- c. Value, type, duration, and description of services provided.

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

#### **1.4.2.10 List of Current or Prior State Contracts (Submit under TAB H)**

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

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

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

#### **4.4.2.11 Financial Capability (Submit under TAB I)**

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

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

- a. Dunn and Bradstreet Rating;
- b. Standard and Poor's Rating;
- c. Lines of credit;
- d. Evidence of a successful financial track record; and
- e. Evidence of adequate working capital.

#### **4.4.2.12 Certificate of Insurance (Submit under TAB K)**

The Offeror shall provide a copy of its current certificate of insurance showing the types and limits of insurance in effect as of the Proposal submission date. The current insurance types and limits do not have to be the same as described in Section 3.5. See Section 5.5 for the required insurance certificate submission for the recommended Offeror.



#### **4.4.2.13 Subcontractors (Submit under TAB L)**

The Offeror shall provide a complete list of all Subcontractors that may work on the Contract if the Offeror receives an award. This list shall include a full description of the duties each Subcontractor may perform and why/how each Subcontractor was deemed the most qualified for this project. The selected Offeror must get approval from the Contract Monitor prior to utilizing a subcontractor.

#### **4.4.2.14 Legal Action Summary (Submit under TAB M)**

This summary shall include:

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

#### **4.4.3 Additional Required Technical Submissions (Submit under TAB N)**

4.4.3.1 The following documents shall be completed, signed, and included in the Technical Proposal, under TAB N that follows the material submitted in response to Section 4.4.2.

- a. Completed Bid/Proposal Affidavit (**RFP Attachment B**).
- b. If applicable, a signed statement from the Offeror's Parent Organization Guaranteeing Performance of the Offeror. **\*refer to RFP Section 1.22.**

#### **4.4.3.2 Samples of Past Work of Similar Scope**

Include samples of the following materials for each of the categories (submit with original Technical Proposal only):

- o Hand Sanitizer Gel
- o Audio Headphones
- o Bistro Mug
- o Silicone Smart Wallet

### **4.5 Volume II – Financial Proposal**

The Financial Proposal shall contain all price information in the format specified in **RFP Attachment D**. The Offeror shall complete the Financial Proposal Form only as provided in the Financial Proposal Instructions and the Financial Proposal Form itself.

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

### **5.1 Evaluation Committee**

Evaluation of Proposals will be performed in accordance with Section II.B of MHBE’s Procurement Policies and Procedures by a committee established for that purpose and based on the evaluation criteria set forth below. The Evaluation Committee will review Proposals, participate in Offeror oral presentations and discussions, and provide input to the Procurement Officer.

### **5.2 Technical Proposal Evaluation Criteria**

The criteria to be used to evaluate each Technical Proposal are listed below in descending order of importance.

#### **5.2.1 Offeror’s Technical Response to RFP Requirements and Work Plan (See RFP § 4.4.2.5)**

The State prefers an Offeror’s response to work requirements in the RFP that illustrates a comprehensive understanding of work requirements and mastery of the subject matter, including an explanation of how the work will be done. Proposals which include limited responses to work requirements such as “concur” or “will comply” will receive a lower ranking than those Proposals that demonstrate an understanding of the work requirements and include plans to meet or exceed them.

#### **5.2.2 Offeror Qualifications and Capabilities, including proposed Subcontractors (See RFP § 4.4.2.8 – 4.4.2.14 and 4.4.3.2)**

#### **5.2.3 Experience and Qualifications of Proposed Staff (See RFP § 4.4.2.6 - 4.4.2.7)**

### **5.3 Financial Proposal Evaluation Criteria**

All Qualified Offerors (see Section 5.4.2.4) will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on the Total Proposal Price within the stated guidelines set forth in this RFP and as submitted on **Attachment D** - Financial Proposal Form.

### **5.4 Selection Procedures**

#### **5.4.1 General**

The Contract will be awarded in accordance with the Competitive Sealed Proposals (CSP) method found at Section II.B of MHBE’s Procurement Policies and Procedures. The Competitive Sealed Proposals method allows for the conducting of discussions and the revision of Proposals during these discussions. Therefore, the MHBE may conduct discussions with all Offerors that have submitted Proposals that are determined to be reasonably susceptible of being selected for Contract award or potentially so. However, the MHBE reserves the right to make an award without holding discussions.

In either case (i.e., with or without discussions), the State may determine an Offeror to be not responsible and/or an Offeror's Proposal to be not reasonably susceptible of being selected for award at any time after the initial closing date for receipt of Proposals and prior to Contract award. If the State finds an Offeror to be not responsible and/or an Offeror's Technical Proposal to be not reasonably susceptible of being selected for award, that Offeror's Financial Proposal will subsequently be returned if the Financial Proposal is unopened at the time of the determination.

#### **5.4.2 Selection Process Sequence**

- 5.4.2.1 Technical Proposals are evaluated for technical merit and ranked. During this review, oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the MHBE's requirements and the Offeror's ability to perform the services, as well as to facilitate arrival at a Contract that is most advantageous to the MHBE. Offerors will be contacted by the State as soon as any discussions are scheduled.
- 5.4.2.2 Offerors must confirm in writing any substantive oral clarifications of, or changes in, their Technical Proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror's Technical Proposal. Technical Proposals are given a final review and ranked.
- 5.4.2.3 The Financial Proposal of each Qualified Offeror (a responsible Offeror determined to have submitted an acceptable Proposal) will be evaluated and ranked separately from the Technical evaluation. After a review of the Financial Proposals of Qualified Offerors, the Evaluation Committee or Procurement Officer may again conduct discussions to further evaluate the Offeror's entire Proposal.
- 5.4.2.4 When in the best interest of the MHBE, the Procurement Officer may permit Qualified Offerors to revise their initial Proposals and submit, in writing, Best and Final Offers (BAFOs). The MHBE may make an award without issuing a request for a BAFO.

#### **5.4.3 Award Determination**

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

#### **5.5 Documents Required upon Notice of Recommendation for Contract Award**

Upon receipt of a Notification of Recommendation for Contract Award, the following documents shall be completed, signed if applicable with original signatures, and submitted by the recommended awardee within five (5) Business Days, unless noted otherwise:

- a. Contract (**Attachment A**), see **RFP Section 1.24**
- b. Contract Affidavit (**Attachment C**), see **RFP Section 1.26**
- c. Copy of a current Certificate of Insurance with the prescribed limits set forth in RFP Section 3.5 "Insurance Requirements," listing the State as an additional insured, if applicable, see **RFP Section 3.5**

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## **RFP ATTACHMENTS**

### **ATTACHMENT A – Contract**

This is the sample contract used by the MHBE. It is provided with the RFP for informational purposes and is not required to be submitted at Proposal submission time. Upon notification of recommendation for award, a completed Contract will be sent to the recommended awardee for signature.

### **ATTACHMENT B – Bid/Proposal Affidavit**

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

### **ATTACHMENT C – Contract Affidavit**

This Attachment must be completed and submitted by the recommended awardee to the Procurement Officer within five (5) Business Days of receiving notification of recommendation for award (refer to RFP Section 1.26)..

### **ATTACHMENT D – Financial Proposal Instructions and Form**

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

### **ATTACHMENT E- Agency Deliverable Product Acceptance Form**

This attachment is for informational purposes only.

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**ATTACHMENT A – CONTRACT**  
**Promotional Items MHBE #MDM0031033945**

THIS CONTRACT (the “Contract”) is made as of the Effective Date defined below by and between \_\_\_\_\_ [Contractor’s name] (the “Contractor”) and the MARYLAND HEALTH BENEFIT EXCHANGE, a unit of the STATE OF MARYLAND (the “MHBE”). The Contractor and the MHBE each are a “Party” and, together, are the “Parties”.

In consideration of the premises and the covenants herein contained, the Parties agree as follows:

**1. Definitions**

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

- 1.1 “ACA” means the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (Public Law No. 111-152), together with regulations promulgated pursuant thereto.
- 1.2 “Agency” or “MHBE” means the Maryland Health Benefit Exchange.
- 1.3 “COMAR” means Code of Maryland Regulations.
- 1.4 “Contract Monitor” means the MHBE employee identified in Section 1.6 of the RFP as the Contract Monitor or a successor designated by the MHBE.
- 1.5 “Contractor” means \_\_\_\_\_ [Contractor’s name] whose principal business address is \_\_\_\_\_ [Contractor’s primary address] and whose principal office in Maryland is \_\_\_\_\_ [Contractor’s local address].
- 1.6 “Effective Date” means the date on which the Contract is signed by the MHBE following execution by the Contractor and any required approvals of the Contract.
- 1.7 “eMM” means eMaryland Marketplace.
- 1.8 “Financial Proposal” means the Contractor’s Financial Proposal dated \_\_\_\_\_, as supplemented and revised by the best and final offer dated \_\_\_\_\_.
- 1.9 “Minority Business Enterprise” (MBE) means an entity meeting the definition at COMAR 21.0 1.02.01B(54), which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- 1.10 “RFP” means the Request for Proposals for MHBE Promotional Items, Solicitation # MDM0031033945, and any addenda thereto issued in writing by the MHBE.
- 1.11 “Procurement Officer” means the MHBE employee identified in Section 1.5 of the RFP as the Procurement Officer or a successor designated by the MHBE.
- 1.12 “Proposal(s)” means, as appropriate, either or both of the Contractor’s Technical or Financial Proposal.

- 1.13 “State” means the State of Maryland and includes the MHBE.
- 1.14 “Technical Proposal” means the Contractor’s Technical Proposal, dated \_\_\_\_\_, as supplemented and revised by the best and final offer dated \_\_\_\_\_.

**2. Scope of Contract**

- 2.1 The Contractor shall provide services as described in the RFP for MHBE Promotional Items and related services awarded in accordance with Exhibits A-D listed in this section and hereby incorporated as part of this Contract. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A – The RFP

Exhibit B – State Contract Affidavit, executed by the Contractor and dated \_\_\_\_\_.

Exhibit C – The Contractor’s Technical Proposal

Exhibit D – The Contractor’s Financial Proposal

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

**3. Period of Performance.**

- 3.1 The Contract shall start as of the Effective Date defined above. From this date, the Contract shall be for a period of one year with one, one-year renewal options at the sole discretion of the MHBE.
- 3.2 The Contractor’s obligations to pay invoices to subcontractors that provided services during the Contract term, as well as the audit, confidentiality, document retention, and indemnification obligations under this Contract shall survive expiration or termination of the Contract.

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

4.1 In consideration of the satisfactory performance of the work set forth in this Contract, MHBE shall pay the Contractor in accordance with the terms of this Contract and at the unit prices offered in the Financial Proposal.

4.2 Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after MHBE's receipt of a proper invoice from the Contractor, acceptance by MHBE and pursuant to the conditions outlined in this Consideration and Payment section.

4.3 Each invoice must reflect the Contractor's federal tax identification number, which is \_\_\_\_\_. The Contractor's eMM identification number is \_\_\_\_\_. 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.

4.4 Payment of an invoice by the MHBE/State is not evidence that services were rendered and materials provided as required under this Contract.

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

4.6 MHBE will use electronic funds transfer to pay the Contractor under this Contract and any purchase orders issued hereunder and any other MHBE payments due Contractor unless the State's Comptroller's Office grants the Contractor an exemption.

#### **5. Patents, Copyrights, and Intellectual Property**

5.1 If the Contractor furnishes any design, device, material, process, or other item, which is covered by a patent, trademark or service mark, or copyright or which is proprietary to, or a trade secret of, another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items.

5.2 Except as provided in Section 5.4 of this Contract, the Contractor agrees that all documents and materials, including but not limited to, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, software, graphics, mechanical, artwork, computations and data prepared by or for the Contractor for purposes of this Contract (Work Product) shall become and remain the sole and exclusive property of the State and shall be available to the MHBE at any time. The MHBE shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.

5.3 Except as provided in Section 5.4 of this Contract, the Contractor agrees that at all times during the term of this Contract and thereafter, the Work Product shall be "works made for hire" as that term is interpreted under U.S. copyright law and shall be owned by the State. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such Work Product. In the event any Work Product is or may not be considered a work made for hire under applicable law, Contractor assigns and transfers to the State the entire right, title and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof. Contractor shall execute all documents and perform such other proper acts as the State may deem necessary to secure for it the rights pursuant to this section.



- 5.4 Notwithstanding anything to the contrary in this Contract, to the extent (i) the Work Product incorporates any commercial-off-the shelf software (COTS) and/or any Pre-Existing Intellectual Property or (ii) any COTS and/or Pre-Existing Intellectual Property (other than a computer's operating system, supported internet browser, browser accessibility software or hardware if needed by the user, and software required to access a commonly-available data transmission tool or export format) is required to access, install, build, compile or otherwise use the Work Product (such COTS and Pre-Existing Intellectual Property individually and collectively referred to herein as "Third-party Intellectual Property," which shall be the sole property of Contractor or its third-party licensors, as applicable), Contractor hereby grants, on behalf of itself and any third-party licensors, to the State a royalty-free, paid-up, non-exclusive, unrestricted, unconditional, irrevocable, worldwide right and license, with the right to use, execute, reproduce, display, perform, distribute copies of internally, modify and prepare derivative works based upon, such Third-party Intellectual Property as may be necessary for the State to use the Work Product for the purposes for which such Work Product was designed and intended. "Pre-Existing Intellectual Property" means any program, utility or tool owned by Contractor or its third-party licensors that was created by Contractor or its third-party licensors independently from its performance of this Contract and not solely using funds from this Contract.
- 5.5 Subject to the terms of Section 6, Contractor shall defend, indemnify, and hold harmless the State, including, but not limited to, the Agency and its agents, officers, and employees, from and against any and all claims, costs, losses, damages, liabilities, judgments and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with any claim the Work Product or any Third-party Intellectual Property infringes, misappropriates or otherwise violates any Third-party Intellectual Property rights. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent, which consent may be withheld in the State's sole and absolute discretion. Contractor shall be entitled to control the defense or settlement of such claim (with counsel reasonably satisfactory to the State), provided that the State will, upon requesting indemnification hereunder: (a) provide reasonable cooperation to Contractor in connection with the defense or settlement of any such claim, at Contractor's expense; and (b) be entitled to participate in the defense of any such claim. Contractor's obligations under this section will not apply to the extent any Third-party Intellectual Property infringes, misappropriates or otherwise violates any third party intellectual rights as a result of modifications made by the State in violation of the license granted to the State pursuant to section 5.4; provided that such infringement, misappropriation or violation would not have occurred absent such modification.
- 5.6 Without limiting Contractor's obligations under Section 5.5, if all or any part of the Work Product or any Third Party Intellectual Property is held, or Contractor or the State reasonably determines that it could be held, to infringe, misappropriate or otherwise violate any third party intellectual property right, Contractor (after consultation with the State and at no cost to the State): (a) shall procure for the State the right to continue using the item in accordance with its rights under this Contract; (b) replace the item with an item that does not infringe, misappropriate or otherwise violate any third party intellectual property rights and, in the State's sole and absolute determination, complies with the item's specifications, and all rights of use and/or ownership set forth in this Contract; or (c) modify the item so that it no longer infringes, misappropriates or otherwise violates any third party intellectual property right and, in the State's sole and absolute determination, complies with the item's specifications and all rights of use and/or ownership set forth in this Contract.
- 5.7 Except for any Pre-Existing Intellectual Property and Third-Party Intellectual Property, Contractor shall not acquire any right, title or interest (including any intellectual property rights subsisting therein) in or to any goods, software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the State to the Contractor. Notwithstanding

anything to the contrary herein, the State may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a separate writing executed by the Contractor and an authorized representative of the State.

- 5.8 Contractor, on behalf of itself and its Subcontractors, hereby agrees not to incorporate, link, distribute or use any Third-party Intellectual Property in such a way that: (a) creates, purports to create or has the potential to create, obligations with respect to any State software (including any deliverable hereunder), including without limitation the distribution or disclosure of any source code; or (b) grants, purports to grant, or has the potential to grant to any third-party any rights to or immunities under any State intellectual property or proprietary rights. Without limiting the generality of the foregoing, neither Contractor nor any of its Subcontractors shall incorporate, link, distribute or use, in conjunction with the Work Product, any code or software licensed under the GNU General Public License (“GPL”), Lesser General Public License (“LGPL”), Affero GPL (“AGPL”), European Community Public License (“ECPL”), Mozilla, or any other open source license, in any manner that could cause or could be interpreted or asserted to cause any State software (or any modifications thereto) to become subject to the terms of the GPL, LGPL, AGPL, ECPL, Mozilla or such other open source software.
- 5.9 Without limiting the generality of the foregoing, neither Contractor nor any of its Subcontractors shall use any software or technology in a manner that will cause any patents, copyrights or other intellectual property which are owned or controlled by the State or any of its affiliates (or for which the State or any of its Subcontractors has received license rights) to become subject to any encumbrance or terms and conditions of any third-party or open source license (including, without limitation, any open source license listed on <http://www.opensource.org/licenses/alphabetical>) (each an “Open Source License”). These restrictions, limitations, exclusions and conditions shall apply even if the State or any of its Subcontractors becomes aware of or fails to act in a manner to address any violation or failure to comply therewith. No act by the State or any of its Subcontractors that is undertaken under this Contract as to any software or technology shall be construed as intending to cause any patents, copyrights or other intellectual property that are owned or controlled by the State (or for which the State has received license rights) to become subject to any encumbrance or terms and conditions of any Open Source License.
- 5.10 The Contractor shall report to MHBE, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Work Product delivered under this Contract.

## **6. Indemnification**

- 6.1 Contractor shall indemnify, defend, and hold the State, its directors, officers, employees and agents harmless from third-party liability for tangible property damage, bodily injury and death, and for fraud or willful misconduct of Contractor, including all related defense costs and expenses (including reasonable attorneys’ fees and costs of investigation, litigation, settlement, judgments, interest and penalties) arising from or relating to the performance of the Contractor or its Subcontractors under this Contract.
- 6.2 The State has no obligation to provide legal counsel or defense to the Contractor or its Subcontractors in the event that a suit, claim or action of any character is brought by any person not party to this Contract against the Contractor or its Subcontractors as a result of or relating to the Contractor's obligations under this Contract.
- 6.3 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.
- 6.4 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.

6.5 Section 6 shall survive expiration of this Contract.

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

## **8. Exclusive Use and Ownership**

Contractor shall not use, sell, sub-lease, assign, give, or otherwise transfer to any third party any other information or material provided to Contractor by the Department or Agency or developed by Contractor relating to the Contract, except that Contractor may provide said information to any of its officers, employees and Subcontractors who Contractor requires to have said information for fulfillment of Contractor's obligations hereunder. Each officer, employee and/or Subcontractor to whom any of the Department or Agency's confidential information is to be disclosed shall be advised by Contractor of and bound by the confidentiality and intellectual property terms of this Contract.

## **9. Confidentiality**

9.1 Subject to the Maryland Public Information Act and any other applicable laws, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided the data may be collected, used, disclosed, stored and disseminated only as provided by and consistent with the law, including the ACA and 45 C.F.R. § 155.260 The provisions of this section shall not apply to information that (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

9.2 Section 9 shall survive expiration or termination of this Contract.

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

[Corporate name of Parent Company] hereby guarantees absolutely the full, prompt and complete performance by "[Contractor]" of all the terms, conditions and obligations contained in this Contract, as it may be amended from time to time, including any and all exhibits that are now or may become incorporated hereunto, and other obligations of every nature and kind that now or may in the future arise out of or in connection with this Contract, including any and

all financial commitments, obligations and liabilities. "[Corporate name of Parent Company]" may not transfer this absolute guaranty to any other person or entity without the prior express written approval of the State, which approval the State may grant, withhold, or qualify in its sole and absolute subjective discretion. "[Corporate name of Parent Company]" further agrees that if the State brings any claim, action, suit or proceeding against "[Contractor]", "[Corporate name of Parent Company]" may be named as a party, in its capacity as Absolute Guarantor.

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

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

## **12. Disputes**

- 12.1 As used herein, a "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment, or interpretation of contract terms, or other relief, arising under or relating to this Contract. A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim. However, if the submission subsequently is not acted upon in a reasonable time, or is disputed as to liability or amount, it may be converted to claim for the purpose of this clause.
- 12.2 Within thirty (30) days of when the Contractor knows or should have known of the basis for a claim relating to the Contract, it shall file a written notice of claim on its letterhead to the Procurement Officer. Contemporaneously with, or within sixty (60) days after filing the notice of claim, the Contractor shall submit the written claim to the Procurement Officer. The Procurement Officer shall issue a final, written decision on the claim as expeditiously as possible. Any final decision of the Procurement Officer may award a Contract claim only for those expenses incurred not more than thirty (30) days before the contractor initially filed its notice of claim.
- 12.3 If the final decision of the Procurement Officer grants the claim in part and denies the claim in part, the MHBE shall pay the Contractor the undisputed amount. Payment of the partial claim will not be construed as an admission of liability by the MHBE and does not preclude the MHBE from recovering the amount paid if a subsequent determination modifies the final decision.
- 12.4 Within thirty (30) days of receipt of the final decision of the Procurement Officer, the Contractor may file an appeal to the Executive Director of the MHBE for claims for monetary amounts less than \$75,000, and to the Board of Trustees for either claims for monetary amounts equal to or over \$75,000 or for claims involving non-monetary relief. If submitted to the Executive Director, a final decision resolving the appeal will be issued by the Executive Director. If submitted to the Board of Trustees, the Board of Trustees may determine that a hearing would assist in the resolution of any appeal. The Board of Trustees may elect to hold the hearing itself or may refer the matter for a hearing to a panel consisting of two or more members of the Board of Trustees or may refer the matter to a neutral decision maker. A final decision resolving the appeal will be issued by a vote of the Board of Trustees. The Contractor's timely appeal to the Executive Director or the Board of Trustees shall be a strict condition precedent to the contractor pursuing any legal rights which it alleges or which may exist in any other forum.
- 12.5 Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision.

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

### **13. Maryland Law**

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

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

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

### **14. Multi-year Contracts Contingent Upon Appropriations**

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 of Maryland from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first

### **15. Nondiscrimination in Employment**

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

### **16. Contingent Fee Prohibition**

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

### **17. Termination for Cause**

If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

**18. Termination for Convenience**

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

**19. Suspension of Work**

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

**20. Delays and Extensions of Time**

- 20.1 The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays, interruptions, interferences, or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.
- 20.1 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.

**21. Financial Disclosure**

The Contractor shall comply with the provisions of Md. Code Ann., State Finance and Procurement Article, § 13-221, which requires that every person that enters into contracts, leases, or other agreements with the State or its agencies during a calendar year under which the business is to receive in the aggregate, \$100,000 or more, shall within thirty (30) days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of the State certain specified information to include disclosure of beneficial ownership of the business.

## **22. Political Contribution Disclosure**

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

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

23.1 The Contractor and Subcontractors shall retain and maintain all records and documents relating to this Contract for a period of ten (10) years after final payment by the State hereunder or any applicable statute of limitations or federal retention requirements, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section. In the event of any audit, the Contractor shall provide assistance to the State, without additional compensation, to identify, investigate, and reconcile any audit discrepancies and/or variances.

23.2 This Section 23 shall survive expiration or termination of the Contract.

## **24. Compliance with Laws**

The Contractor hereby represents and warrants that:

24.1 It is qualified to do business in the State and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;

24.2 It is not in arrears with respect to the payment of any monies due and owing the State, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;

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

24.4 It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

## **25. Cost and Price Certification**

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

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

## **26 Subcontracting; Assignment**

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

## **27 Insurance Requirements**

The Contractor shall maintain workers' compensation coverage, and property and casualty insurance as required in the RFP. The minimum limits of such policies must meet any minimum requirements established by law and the limits of insurance required by the RFP, and shall cover losses resulting from or arising out of Contractor action or inaction in the performance of services under the Contract by the Contractor, its agents, servants, employees or Subcontractors. Effective no later than the date of execution of the Contract, and continuing for the duration of the Contract term, and any applicable renewal periods, the Contractor shall maintain such insurance coverage and shall report such insurance annually or upon Contract renewal, whichever is earlier, to the Procurement Officer. The Contractor is required to notify the Procurement Officer in writing, if policies are cancelled or not renewed 35 days in advance of such cancellation and/or nonrenewal. Certificates of insurance evidencing this coverage shall be provided within ten (10) days of notice of recommended award. All insurance policies shall be issued by a company properly authorized to do business in the State of Maryland. The State shall be named as an additional named insured on the property and casualty policy and as required in the RFP.

## **28 Liability**

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

- 28.1 For infringement of patents, copyrights, trademarks, service marks, and/or trade secrets, as provided in Section 5 of this Contract;
- 28.2 Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and
- 28.3 For all other claims, damages, losses, costs, expenses, suits, or actions in any way related to this Contract, and regardless of the basis on which the claim is made, Contractor's liability shall not exceed three (3) times the value of the Contract, including the Option Year. For purposes of this Section 28.3, "Contract Value" shall mean the total amount of the Contractors invoices to MHBE over the 12 month life of the Contract if the Option Year is not exercised or, if the Option Year is exercised, over the 24-month life of the Contract. Third-party claims arising under Section 6 ("Indemnification") of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor's liability for third-party claims arising under



Section 6 of this Contract, including for intellectual property infringement, bodily injury, damage to real property, and damage tangible personal property, shall be unlimited if the State is not immune from liability for claims arising under Section 6.

## **29 Commercial Nondiscrimination**

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

## **30 Contract Monitor and Procurement Officer**

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

## **31 Notices**

Unless otherwise expressly specified elsewhere in the RFP or other provision incorporated into this Contract, 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: Michelle Compton  
Procurement Officer

750 E. Pratt Street, 16th Floor, Baltimore, MD 21202  
410-547-8152  
hix.procurement@maryland.gov

If to the Contractor: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**32 Prompt Pay Requirements**

- 32.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the State, at its option and in its sole discretion, may take one or more of the following actions:
  - (a) Not process further payments to the Contractor until payment to the subcontractor is verified;
  - (b) Suspend all or some of the Contract work without affecting the completion date(s) for the Contract work;
  - (c) Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due to the Contractor;
  - (d) Place a payment for an undisputed amount in an interest-bearing escrow account; or
  - (e) Default Contractor for failing to perform in accordance with the requirement to promptly pay subcontractors.
  - (f) Take other or further actions as appropriate to resolve the withheld payment.
- 32.2 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 (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.
- 32.3 An act, failure to act, or decision of a Procurement Officer or a representative of the MHBE concerning a withheld payment between the Contractor and subcontractor under this Contract, 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 MHBE and the Contractor in any other proceeding; or
  - (c) Result in liability against or prejudice the rights of the MHBE.
- 32.4 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.

**33 Miscellaneous**

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

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

[Signatures next page(s)]  
[Signature page to Promotional Items MHBE RFP]

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

CONTRACTOR

MARYLAND HEALTH BENEFIT  
EXCHANGE

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

By: Dr. Howard Haft, Interim Executive  
Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approved for form and legal sufficiency  
this \_\_\_\_ day of \_\_\_\_\_, 2017.

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

## ATTACHMENT B – BID/PROPOSAL AFFIDAVIT

### A. AUTHORITY

I hereby affirm that I, \_\_\_\_\_ (name of affiant) am the \_\_\_\_\_ (title) and duly authorized representative of \_\_\_\_\_ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

### B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

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

#### B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.

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

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

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

### .C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-

101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, § 6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

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#### D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

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

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

- (a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
- (b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;

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

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

(4) Been convicted of a violation of the State Minority Business Enterprise Law, § 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(5) Been convicted of a violation of § 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)—(5) above;

(7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of Bids/Proposals for a public or private contract;

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

(9) Been convicted of a violation of one or more of the following provisions of the Internal Revenue Code:

- (a) §7201, Attempt to Evade or Defeat Tax;
- (b) §7203, Willful Failure to File Return, Supply Information, or Pay Tax,
- (c) §7205, Fraudulent Withholding Exemption Certificate or Failure to Supply Information,
- (d) §7205, Fraud and False Statements, or
- (e) §7207, Fraudulent Returns, Statements, or Other Documents;

(10) Been convicted of a violation of 18 U.S.C. §286, Conspiracy to Defraud the Government with Respect to Claims, 18 U.S.C. §287, False, Fictitious, or Fraudulent Claims, or 18 U.S.C. §371, Conspiracy to Defraud the United States;

(11) Been convicted of a violation of the Tax-General Article, Title 13, Subtitle 7 or Subtitle 10, Annotated Code of Maryland;

(12) Been found to have willfully or knowingly violated State Prevailing Wage Laws as provided in the State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure Act; and

(ii) Not overturned on judicial review;

(13) Been found to have willfully or knowingly violated State Living Wage Laws as provided in the State Finance and Procurement Article, Title 18, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure Act; and

(ii) Not overturned on judicial review;

(14) Been found to have willfully or knowingly violated the Labor and Employment Article, Title 3, Subtitles 3, 4, or 5, or Title 5, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure Act; and

(ii) Not overturned on judicial review; or

(15) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§ B and C and subsections D(1)—(14) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

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

I FURTHER AFFIRM THAT:

- (1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and
- (2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**G. SUBCONTRACT AFFIRMATION**

I FURTHER AFFIRM THAT:

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

**H. AFFIRMATION REGARDING COLLUSION**

I FURTHER AFFIRM THAT:

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

- (1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying Bid/Proposal that is being submitted;
- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the Bid/Proposal price of the Bidder/Offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying Bid/Proposal is submitted.

**I. CERTIFICATION OF TAX PAYMENT**

I FURTHER AFFIRM THAT:

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

**J. CONTINGENT FEES**

I FURTHER AFFIRM THAT:

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

K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

(1) The undersigned certifies that, in accordance with State Finance and Procurement Article, §17-705, Annotated Code of Maryland:

(a) It is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland; and

(b) It is not engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland.

2. The undersigned is unable to make the above certification regarding its investment activities in Iran due to the following activities: \_\_\_\_\_

L. CONFLICT MINERALS ORIGINATED IN THE DEMOCRATIC REPUBLIC OF CONGO (FOR SUPPLIES AND SERVICES CONTRACTS)

I FURTHER AFFIRM THAT:

The business has complied with the provisions of State Finance and Procurement Article, §14-413, Annotated Code of Maryland governing proper disclosure of certain information regarding conflict minerals originating in the Democratic Republic of Congo or its neighboring countries as required by federal law.

M. I FURTHER AFFIRM THAT:

Any claims of environmental attributes made relating to a product or service included in the Bid or Proposal are consistent with the Federal Trade Commission's Guides for the Use of Environmental Marketing Claims as provided in 16 CFR §260, that apply to claims about the environmental attributes of a product, package, or service in connection with the marketing, offering for sale, or sale of such item or service.

N. ACKNOWLEDGEMENT

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

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS



OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

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

By: \_\_\_\_\_ (print name of Authorized Representative and Affiant)

\_\_\_\_\_ (signature of Authorized Representative and Affiant)

**SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL**

**ATTACHMENT C – CONTRACT AFFIDAVIT**

**A. AUTHORITY**

I hereby affirm that I, \_\_\_\_\_ (name of affiant) am the \_\_\_\_\_ (title) and duly authorized representative of \_\_\_\_\_ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

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

I FURTHER AFFIRM THAT:

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

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

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

Name and Department ID  
Number: \_\_\_\_\_ Address: \_\_\_\_\_

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

Name and Department ID  
Number: \_\_\_\_\_ Address: \_\_\_\_\_

**C. FINANCIAL DISCLOSURE AFFIRMATION**

I FURTHER AFFIRM THAT:

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

#### D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

##### I FURTHER AFFIRM THAT:

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

#### E. DRUG AND ALCOHOL FREE WORKPLACE

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

##### I CERTIFY THAT:

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

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

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

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

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

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

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

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

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

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

- (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
- (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

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

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

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

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

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

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

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

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

(4) I acknowledge and agree that:

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

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

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

## F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Bid/Proposal Affidavit dated \_\_\_\_\_, 201\_\_\_, and executed by me for the purpose of

obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

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

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

By: \_\_\_\_\_ (printed name of Authorized Representative and Affiant)

\_\_\_\_\_ (signature of Authorized Representative and Affiant)

## **ATTACHMENT D – FINANCIAL PROPOSAL INSTRUCTIONS**

Provided as a separate Excel Document

Submit as both an Excel and PDF format on CD and hard copy.

**ATTACHMENT D – FINANCIAL PROPOSAL FORM**

Provided as a separate Excel Document

Submit as both an Excel and PDF format on CD and hard copy.

**ATTACHMENT E-AGENCY DELIVERABLE PRODUCT ACCEPTANCE FORM**

Agency Name: Maryland Health Benefit Exchange

Solicitation Title: Promotional Items MHBE

Contract Monitor: Betsy Plunkett

To: Contractor Name

The following deliverable, as required by Solicitation Number (RFP#): MDM0031033945 has been received and reviewed in accordance with the Contract.

Title of deliverable: \_\_\_\_\_

RFP Contract Reference Number: Section # \_\_\_\_\_

Deliverable Reference ID # \_\_\_\_\_

This deliverable:

Is accepted as delivered.

Is rejected for the reason(s) indicated below.

REASON(S) FOR REJECTING DELIVERABLE:

OTHER COMMENTS:

\_\_\_\_\_  
Contract Monitor Signature

\_\_\_\_\_  
Date Signed