**Attachment 1**

**NO PROPOSAL REPLY FORM**

Contract No. GSS15715-DRUGTESTING

Contract Title: Drug & Alcohol Testing (Various) and Related Materials

To assist us in obtaining good competition on our Request for Proposals, we ask that each firm that has received a proposal, but does not wish to bid, state their reason(s) below and return in a clearly marked envelope displaying the contract number. This information will not preclude receipt of future invitations unless you request removal from the Vendor's List by so indicating below, or do not return this form or bona fide proposal.

Unfortunately, we must offer a "No Proposal" at this time because:

|  |  |  |  |
| --- | --- | --- | --- |
|  | 1. |  | We do not wish to participate in the proposal process. |
|  |  |  |  |
|  | 2. |  | We do not wish to bid under the terms and conditions of the Request for Proposal document. Our objections are: |
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|  | 3. |  | We do not feel we can be competitive. |
|  |  |  |  |
|  | 4. |  | We cannot submit a Proposal because of the marketing or franchising policies of the manufacturing company. |
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|  | 5. |  | We do not wish to sell to the State. Our objections are: |
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|  | 6. |  | We do not sell the items/services on which Proposals are requested. |
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|  | 7. |  | Other:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
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|  |  |  |
| FIRM NAME |  | SIGNATURE |

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| --- | --- | --- |
|  |  | We wish to remain on the Vendor's List **for these goods or services**. |
|  |  |  |
|  |  | We wish to be deleted from the Vendor's List **for these goods or services**. |

 **Attachment 2**

**Contract No. GSS15715-DRUGTESTING**

**Contract Title: Drug & Alcohol Testing (Various) and Related Materials**

**OPENING DATE: December 5, 2014 at 1:00 PM (Local Time)**

**NON-COLLUSION STATEMENT**

This is to certify that the undersigned Vendor has neither directly nor indirectly, entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this proposal**, and further certifies that it is not a sub-vendor to another Vendor who also submitted a proposal as a primary Vendor in response to this solicitation** submitted this date to the State of Delaware, Office of Management and Budget, Government Support Services.

It is agreed by the undersigned Vendor that the signed delivery of this bid represents the Vendor’s acceptance of the terms and conditions of this solicitation including all specifications and special provisions.

**NOTE:** Signature of the authorized representative **MUST** be of an individual who legally may enter his/her organization into a formal contract with the State of Delaware, , Office of Management and Budget, Government Support Services.

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 COMPANY NAME \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Check one)

|  |  |
| --- | --- |
|  | Corporation |
|  | Partnership |
|  | Individual |

NAME OF AUTHORIZED REPRESENTATIVE

 (Please type or print)

SIGNATURE TITLE

COMPANY ADDRESS

PHONE NUMBER FAX NUMBER

EMAIL ADDRESS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 STATE OF DELAWARE

FEDERAL E.I. NUMBER LICENSE NUMBER\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

|  |  |  |
| --- | --- | --- |
|  COMPANY CLASSIFICATIONS: CERT. NO.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Certification type(s) | Circle all that apply |
| Minority Business Enterprise (MBE) | Yes No |
| Woman Business Enterprise (WBE) | Yes No |
| Disadvantaged Business Enterprise (DBE) | Yes No |
| Veteran Owned Business Enterprise (VOBE) | Yes No |
| Service Disabled Veteran Owned Business Enterprise (SDVOBE) | Yes No |

[The above table is for informational and statistical use only.]

PURCHASE ORDERS SHOULD BE SENT TO:

 (COMPANY NAME)

ADDRESS

CONTACT

PHONE NUMBER FAX NUMBER

EMAIL ADDRESS

**AFFIRMATION:** Within the past five years, has your firm, any affiliate, any predecessor company or entity, owner,

Director, officer, partner or proprietor been the subject of a Federal, State, Local government suspension or debarment?

YES NO if yes, please explain

**THIS PAGE SHALL HAVE ORIGINAL SIGNATURE, BE NOTARIZED AND BE RETURNED WITH YOUR PROPOSAL**

SWORN TO AND SUBSCRIBED BEFORE ME this \_\_\_\_\_\_\_\_ day of , 20 \_\_\_\_\_\_\_\_\_\_

Notary Public My commission expires

City of County of State of

**Attachment 3**

Contract No. GSS15715-DRUGTESTING

Contract Title: **Drug & Alcohol Testing (Various) and Related Materials**

EXCEPTION FORM

Proposals must include all exceptions to the specifications, terms or conditions contained in this RFP. If the vendor is submitting the proposal without exceptions, please state so below.

🞏 By checking this box, the Vendor acknowledges that they take no exceptions to the specifications, terms or conditions found in this RFP.

|  |  |  |
| --- | --- | --- |
| **Paragraph # and page #** | **Exceptions to Specifications, terms or conditions** | **Proposed Alternative** |
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**Note: use additional pages as necessary.**

**Attachment 4**

Contract No. GSS15715-DRUGTESTING

Contract Title: **Drug & Alcohol Testing (Various) and Related Materials**

COMPANY PROFILE & CAPABILITIES FORM

Suppliers are required to provide a reply to each question listed below. Your replies will aid the evaluation committee as part of the overall qualitative evaluation criteria of this Request for Proposal. Your responses should contain sufficient information about your company so evaluators have a clear understanding of your company’s background and capabilities. Failure to respond to any of these questions may result in your proposal to be rejected as non-responsive.

|  |  |
| --- | --- |
| 1. | What percentage of your total business would the State of Delaware business amount to within your entire customer base? |
|  |  |

|  |  |
| --- | --- |
| 2. | How many employees does your company have? How many employees does your company have to provide the required services in accordance with contract requirements? How would the award, if any or all, of this contract effect current staffing? |
|  |  |

|  |  |
| --- | --- |
| 3. | Provide the name, description and approximate size in revenue received from each governmental account, including current accounts and those ended within the last twelve months. Please limit the number to ten (10) if your company has such accounts. As an example: State of Maryland, Division of Motor Vehicles, current account $100,000 received in 2012. |
|  |  |

**Attachment 5**

Contract No. GSS15715-DRUGTESTING

Contract Title: **Drug & Alcohol Testing (Various) and Related Materials**

CONFIDENTIAL INFORMATION FORM

🞏 By checking this box, the Vendor acknowledges that they are not providing any information they declare to be confidential or proprietary for the purpose of production under 29 Del. C. ch. 100, Delaware Freedom of Information Act.

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| --- |
| **Confidentiality and Proprietary Information** |
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**Note: use additional pages as necessary.**

**Attachment 6**

Contract No. GSS15715-DRUGTESTING

Contract Title: **Drug & Alcohol Testing (Various) and Related Materials**

BUSINESS REFERENCES

List a minimum of three business references, including the following information:

* Business Name and Mailing address
* Contact Name and phone number
* Number of years doing business with
* Type of work performed

Please do not list any State Employee as a business reference. If you have held a State contract within the last 5 years, please list the contract.

|  |  |  |
| --- | --- | --- |
| 1.  | **Contact Name & Title:**  |  |
|  | **Business Name:**  |  |
|  | **Address:**  |  |
|  |  |  |
|  | **Email:**  |  |
|  | **Phone # / Fax #:**  |  |
|  | **Current Vendor (YES or NO):**  |  |  |
|  | **Years Associated & Type of Work Performed:**  |  |
|  |  |  |  |  |
|  |  |  |  |  |
| 2.  | **Contact Name & Title:**  |  |
|  | **Business Name:**  |  |
|  | **Address:**  |  |
|  |  |  |
|  | **Email:**  |  |
|  | **Phone # / Fax #:**  |  |
|  | **Current Vendor (YES or NO):**  |  |  |
|  | **Years Associated & Type of Work Performed:**  |  |
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|  |  |  |  |  |
| 3.  | **Contact Name & Title:**  |  |
|  | **Business Name:**  |  |
|  | **Address:**  |  |
|  |  |  |
|  | **Email:**  |  |
|  | **Phone # / Fax #:**  |  |
|  | **Current Vendor (YES or NO):**  |  |  |
|  | **Years Associated & Type of Work Performed:**  |  |

**State of Delaware personnel MAY NOT BE USED as references.**

**Attachment 7**

SUB-VENDOR INFORMATION FORM

|  |
| --- |
| **PART I – STATEMENT BY PROPOSING VENDOR** |
| 1. CONTRACT NO.GSS15715- **DRUGTESTING****Drug & Alcohol Testing (Various) and Related Materials** | 2. Proposing Vendor Name: | 3. Mailing Address |
| 4. SUBVENDOR |  |
| a. NAME | 4c. Company OSD Classification:Certification Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| b. Mailing Address: | 4d. Women Business Enterprise [ ]  Yes [ ]  No4e. Minority Business Enterprise [ ]  Yes [ ]  No4f. Disadvantaged Business Enterprise [ ]  Yes [ ]  No4g. Veteran Owned Business Enterprise [ ]  Yes [ ]  No4h. Service Disabled Veteran Owned Business Enterprise [ ]  Yes [ ]  No |
| 5. DESCRIPTION OF WORK BY SUBVENDOR |
| 6a. NAME OF PERSON SIGNING | 7. BY (*Signature)* | 8. DATE SIGNED |
| 6b. TITLE OF PERSON SIGNING |
|  **PART II – ACKNOWLEDGEMENT BY SUBVENDOR** |
| 9a. NAME OF PERSON SIGNING | 10. BY (*Signature*) | 11. DATE SIGNED |
| 9b. TITLE OF PERSON SIGNING |

 \* Use a separate form for each sub-vendor

**Attachment 8**

STATE OF DELAWARE

MONTHLY USAGE REPORT

**SAMPLE REPORT - FOR ILLUSTRATION PURPOSES ONLY**

|  |
| --- |
| **State of Delaware** |
| **Monthly Usage Report** |
| **Supplier Name:** |   | **Report Start Date:** |   |
| **Contact Name:**  |   |   Insert Contract No. | **Report End Date:** |   |
| **Contact Phone:**  |   |    | **Today’s Date:** |   |
| **Agency Name or SchoolDistrict** | **Divisionor Nameof School** | **Budget Code** | [UNSPSC](http://www.unspsc.org/) | **Item Description** | **Contract ItemNumber** | **Unit of Measure** | **Qty** | **Contract ProposalPrice/Rate** | **Total Spend** |
|   |   |   |   |   |   |   |   |   | $0.00  |
|   |   |   |   |   |   |   |   |   | $0.00  |
|   |   |   |   |   |   |   |   |   | $0.00  |
|   |   |   |   |   |   |   |   |   | $0.00  |
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|   |   |   |   |   |   |   |   |   | $0.00  |
|   |   |   |   |   |   |   |   |   | $0.00  |

**Note:** A copy of the Usage Report will be sent by electronic mail to the Awarded Vendor. The report shall be submitted electronically in **EXCEL** and sent as an attachment to vendorusage@state.de.us. It shall contain the six-digit department and organization code for each agency and school district.

**Attachment 9**

**SAMPLE REPORT - FOR ILLUSTRATION PURPOSES ONLY**

|  |
| --- |
| **State of Delaware** |
| **Subcontracting (2nd tier) Quarterly Report** |
| **Prime Name:**  |   |   | **Report Start Date:**  |   |   |   |   |   |
| **Contract Name/Number** |   |   | **Report End Date:**  |   |   |   |   |   |
| **Contact Name:**  |   |   | **Today's Date:**  |   |   |   |   |   |
| **Contact Phone:**  |   |   | \*Minimum Required  | Requested detail |   |   |   |   |   |
| **Vendor Name\*** | **Vendor TaxID\***  | **Contract Name/ Number\*** | **Vendor Contact Name\*** | **Vendor Contact Phone\*** | **Report Start Date\*** | **Report End Date\*** | **Amount Paid to Sub-vendor\*** | **Work Performed by Sub-vendor UNSPSC** | **M/WBE Certifying Agency** | **Veteran** **/Service Disabled Veteran Certifying Agency**  | **2nd tier Supplier Name** | **2nd tier Supplier Address** | **2nd tier Supplier Phone Number** | **2nd tier Supplier email** | **Description of Work Performed**  | **2nd tier Supplier Tax Id** |
|   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
|   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
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**Note:** A copy of the Subcontracting Quarterly Report will be sent by electronic mail to the Awarded Vendor.

Completed reports shall be saved in an Excel format, and submitted to the following email address: vendorusage@state.de.us

**Attachment 10**

Contract No. GSS15715-DRUGTESTING

Contract Title: **Drug & Alcohol Testing (Various) and Related Materials**

EMPLOYING DELAWAREANS REPORT

As required by House Bill # 410 (Bond Bill) of the 146th General Assembly and under Section 30, No bid for any public works or professional services contract shall be responsive unless the prospective bidder discloses its reasonable, good-faith determination of:

1. Number of employees reasonable anticipated to be employed on the project: \_\_\_\_\_\_\_\_\_\_\_
2. Number and percentage of such employees who are bona fide legal residents of Delaware: \_\_\_\_\_\_

Percentage of such employees who are bona fide legal residents of Delaware: \_\_\_\_­\_

1. Total number of employees of the bidder: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. Total percentage of employees who are bona fide resident of Delaware: \_\_\_\_\_\_\_\_\_\_

If sub-vendors are to be used:

1. Number of employees who are residents of Delaware: \_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. Percentage of employees who are residents of Delaware: \_\_\_\_\_\_\_\_\_\_\_

“Bona fide legal resident of this State” shall mean any resident who has established residence of at least 90 days in the State.

**Attachment 11**

# State of Delaware

# Office of Supplier Diversity

**Certification Application**

The most recent application can be downloaded from the following site:

[**http://gss.omb.delaware.gov/osd/certify.shtml**](http://gss.omb.delaware.gov/osd/certify.shtml)

Submission of a completed Office of Supplier Diversity (OSD) application is optional and does not influence the outcome of any award decision.

The minimum criteria for certification require the entity must be at least 51% owned and actively managed by a person or persons who are eligible: minorities, women, veterans, and/or service disabled veterans. Any one or all of these categories may apply to a 51% owner.



**Complete application and mail, email or fax to:**

Office of Supplier Diversity (OSD)

100 Enterprise Place, Suite 4

Dover, DE 19904-8202

Telephone: (302) 857-4554 Fax: (302) 677-7086

 Email: osd@state.de.us

Web site: <http://gss.omb.delaware.gov/osd/index.shtml>

**THE OSD ADDRESS IS FOR OSD APPLICATIONS ONLY.**

**NO BID RESPONSE PACKAGES WILL BE ACCEPTED BY THE OSD.**

**Attachment 12**

**GSS15715 DRUGTESTING**

**Drug & Alcohol Testing (Various) and Related Materials**

CONFIDENTIALITY AND INTEGRITY OF DATA STATEMENT

The Department of Technology and Information (DTI) is responsible for safeguarding the confidentiality and integrity of data in State computer files regardless of the source of those data or medium on which they are stored; e.g., electronic data, computer output microfilm (COM), tape, or disk. Computer programs developed to process State Agency/School District data will not be modified without the knowledge and written authorization of the Department of Technology and Information. All data generated from the original source data, shall be the property of the State of Delaware. The control of the disclosure of those data shall be retained by the State of Delaware and the Department of Technology and Information.

I, as an employee of or officer of my firm, when performing work for the State of Delaware, understand that I/we act as an extension of the State and therefore I/we are responsible for safeguarding the States’ data and computer files as indicated above. I/we will not use, disclose, or modify State data or State computer files without the written knowledge and written authorization of DTI. Furthermore, I/we understand that I/we are to take all necessary precautions to prevent unauthorized use, disclosure, or modification of State computer files, and I/we should alert my immediate supervisor of any situation which might result in, or create the appearance of, unauthorized use, disclosure or modification of State data.

Penalty for unauthorized use, unauthorized modification of data files, or disclosure of any confidential information may mean the loss of my position and benefits, and prosecution under applicable State or Federal law.

This statement applies to the undersigned Contractor and to any other working under the Contractor’s direction.

I, the Undersigned, hereby affirm that I have read and understood the terms of the above Confidentiality and Integrity of Data Statement, and that I/we agree to abide by the terms above.

Contractor or Employee Signature

Date

**SECURITY CLEARANCE APPLICATION ATTACHMENT 13**

**DEPARTMENT OF CORRECTION**

**PLEASE PRINT CLEARLY**

**NAME:**

 **(LAST) (FIRST) (MIDDLE)**

**PLEASE LIST ALL OTHER NAMES YOU HAVE USED INCLUDING MAIDEN, NICKNAMES AND RELIGIOUS NAMES:**

**DOB:       PLACE OF BIRTH:       SSN#:**

**SEX:** **[ ]** MALE [ ]  FEMALE **RACE:       DRIVER’S LICENSE #:       State:**

**ADDRESS:       APT #:**

**CITY:       STATE:       ZIP:**

**PHONE: HOME: (     )       WORK: (     )**

**DO YOU HAVE A CRIMINAL CONVICTION AND/OR ARREST ANYWHERE, TO INLCUDE TRAFFIC TICKETS? NO/YES (IF YES, COMPLETE BELOW). HAVE YOU EVER BEEN ARRESTED ANYWHERE WHETHER CONVICTED/DISMISSED/NOLLE PROSSED OR PARDONED:** **[ ]  NO** **[ ]  YES (IF YES, COMPLETE BELOW). IF YOU NEED MORE ROOM, PLEASE UTILIZE THE BACK OF THIS FORM.**

**COUNTRY:       DATE:**

**OFFENSE:       SENTENCE:**

**ARE YOU PRESENTLY UNDER DEPT. of CORRECTION SUPERVISION: [ ]  NO [ ]  YES (IF YES, WHAT):**

**ARE YOU RELATED TO OR KNOW ANYONE INCARCERATED AT A DOC FACILITY;** **[ ]  NO [ ]  YES**

**IF YES, NAME OF INMATE AND YOUR RELATIONSHIP TO THEM:**

**REASON FOR CLEARANCE:       DATE OF ACTIVITY:       COMPANY / ORGANIZATION:**

**COMPANY/ORGANIZATION EMAIL ADDRESS:**

 **PLEASE READ AND SIGN:**

 I understand that prison authorities will verify my criminal record information. I also understand that my application may be rejected for any reason.

**SIGNATURE: DATE:**

**The following is the result of the DELJIS and NCIC records checks:**

**DELAWARE WANTS/WARRANTS DELWARE CRIMINAL HISTORY**

**NCIC WANTS/WARRANTS NCIC CRIMINAL HISTORY**

**DELJIS/NCIC INVESTIGATOR SIGNATURE DATE**

**APPROVED** **[ ]  APPROVAL EXPIRES ON:** **IF DENIED, PLESE INDICATE REASON BELOW:**

**DENIED [ ]  (1) Dishonest/incomplete application; (2) Active pending warrants/capiases; (3) Felony convictions or incarceration for a felony in past five years; (4) Misdemeanor convictions or incarceration for misdemeanor in past two years; (5) DUI conviction past two years; (6) Trafficking/delivery and/or possession of controlled substance conviction past ten years; (7) Other (See Investigation for info).**

Reviewer’s Signature Date

**ATTACHMENT 14**

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES**

**HIPAA BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (“BAA”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_ (“**Effective Date**”), by and between [Vendor Name] (“**Business Associate**”), and the State of Delaware, Department of [Agency/Division Name] (“**Covered Entity**”) (collectively, the “**Parties**”).

**RECITALS**

 **WHEREAS,** The Parties have entered, and may in the future enter, into one or more arrangements or agreements (the “Agreement”) which require the Business Associate to perform functions or activities on behalf of, or services for, Covered Entity or a Covered Entity Affiliate (“CE Affiliate”) that involve the use or disclosure of Protected Health Information (“PHI”) that is subject to the final federal Privacy, Security, Breach Notification and Enforcement Rules (collectively the “HIPAA Rules”) issued pursuant to the Health Insurance Portability and Accountability Act of 1996 (the Act including the HIPAA rules shall be referred to as “HIPAA”) and the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH”), as each is amended from time to time. The purpose of this BAA is to set forth the obligations of the Parties with respect to such PHI.

**WHEREAS,** Business Associate provides [professional services] for Covered Entity pursuant to a contract dated \_\_\_\_\_\_\_\_\_, 201[\_] and such other engagements as shall be entered into between the parties in the future in which Covered Entity discloses certain Protected Health Information (“PHI”) to Business Associate (collectively, the “Master Agreement”);

 **WHEREAS,** Business Associate, in the course of providing services to Covered Entity, may have access to PHI and may be deemed a business associate for certain purposes under HIPAA;

**WHEREAS,** the Parties contemplate that Business Associate may obtain PHI, with Covered Entity’s knowledge and consent, from certain other business associates of Covered Entity that may possess such PHI; and

**WHEREAS,** Business Associate and Covered Entity are entering into this BAA to set forth Business Associate’s obligations with respect to its handling of the PHI, whether such PHI was obtained from another business associate of Covered Entity or directly from Covered Entity;

**NOW, THEREFORE,** for mutual consideration, the sufficiency and delivery of which is acknowledged by the Parties, and upon the premises and covenants set forth herein, the Parties agree as follows:

**1. Definitions.** Unless otherwise defined herein, capitalized terms used in this BAA shall have the meanings ascribed to them in HIPAA or the Master Agreement between Covered Entity and Business Associate, as applicable.

**2. Obligations and Activities of Business Associate.** To the extent that Business Associate is provided with or creates any PHI on behalf of Covered Entity and is acting as a business associate of Covered Entity, Business Associate agrees to comply with the provisions of HIPAA applicable to business associates, and in doing so, represents and warrants as follows:

**(a) Use or Disclosure.** Business Associate agrees to not use or disclose PHI other than as set forth in this BAA, the Master Agreement, or as required by law.

**(b) Specific Use of Disclosure.** Except as otherwise limited by this BAA, Business Associate may:

**(i)** use or disclose PHI to perform data aggregation and other services required under the Master Agreement to assist Covered Entity in its operations, as long as such use or disclosure would not violate HIPAA if done by Covered Entity, or HIPAA permits such use or disclosure by a business associate;

**(ii)** use or disclose PHI for the proper management and administration of Business Associate or to carry out Business Associate’s legal responsibilities, provided that with respect to disclosure of PHI, such disclosure is required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached; and

**(iii)** de-identify PHI and maintain such de-identified PHI indefinitely, notwithstanding Section 4 of this Agreement, provided that all identifiers are destroyed or returned in accordance with the Privacy Rule.

**(c)** **Minimum Necessary.** Business Associate agrees to take reasonable efforts to limit requests for, or uses and disclosures of, PHI to the extent practical, a limited data set, otherwise to the minimum necessary to accomplish the intended request, use, or disclosure.

**(d) Safeguards.** Business Associate shall establish appropriate safeguards, consistent with HIPAA, that are reasonable and necessary to prevent any use or disclosure of PHI not expressly authorized by this BAA.

**(i)** To the extent that Business Associate creates, receives, maintains, or transmits Electronic PHI, Business Associate agrees to establish administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity, as required by the Privacy Rule and Security Rule.

**(ii)** The safeguards established by Business Associate shall include securing PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity in accordance with the standards set forth in HITECH Act §13402(h) and any guidance issued thereunder.

**(iii)** Business Associate agrees to provide Covered Entity with such written documentation concerning safeguards as Covered Entity may reasonably request from time to time.

**(e) Agents and Subcontractors.** Business Associate agrees to obtain written assurances that any agents, including subcontractors, to whom it provides PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, agree to the same restrictions and conditions that apply to Business Associate with respect to such PHI, including the requirement that it agree to implement reasonable and appropriate safeguards to protect Electronic PHI that is disclosed to it by Business Associate. To the extent permitted by law, Business Associate shall be fully liable to Covered Entity for any and all acts, failures, or omissions of Business Associate’s agents and subcontractors in any breach of their subcontracts or assurances to Business Associate as though they were Business Associate’s own acts, failures, or omissions.

**(f)** **Reporting.** Within five (5) business days of discovery by Business Associate, Business Associate agrees to notify Covered Entity in writing of any use or disclosure of, or Security Incident involving, PHI, including any Breach of Unsecured PHI, not provided for by this BAA or the Master Agreement, of which Business Associate may become aware.

**(i)** In the notice provided to Covered Entity by Business Associate regarding unauthorized uses and/or disclosures of PHI, Business Associate shall describe the remedial or proposed mitigation efforts required under Section 2(g) of this BAA.

**(ii)** Specifically with respect to reporting a Breach of Unsecured PHI, Business Associate agrees to must include the identity of the individual(s) whose Unsecured PHI was Breached in the written notice provided to Covered Entity, and any additional information required by HIPAA.

**(ii)** Business Associate agrees to cooperate with Covered Entity upon report of any such Breach so that Covered Entity may provide the individual(s) affected by such Breach with proper notice as required by HIPAA.

**(g) Mitigation.** Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate resulting from a use or disclosure of PHI by Business Associate in violation of the requirements of this BAA or the Master Agreement.

**(h) Audits and Inspections.** Business Associate agrees to make its internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI available to the Secretary, in a time and manner mutually agreed to by the Parties or designated by the Secretary, for purposes of the Secretary determining the Covered Entity’s compliance with HIPAA.

**(i)** **Accounting.** Business Associate agrees to document and report to Covered Entity, within fourteen (14) days, Business Associate’s disclosures of PHI so Covered Entity can comply with its accounting of disclosure obligations in accordance with 45 C.F.R. §164.528 and any subsequent regulations issued thereunder. Business Associate agrees to maintain electronic records of all such disclosures for a minimum of six (6) calendar years.

**(j) Designated Record Set.** While the Parties do not intend for Business Associate to maintain any PHI in a designated record set, to the extent that Business Associate does maintain any PHI in a designated record set, Business Associate agrees to make available to Covered Entity PHI within fourteen (14) days:

**(i)** for Covered Entity to comply with its access obligations in accordance with 45 C.F.R. §164.524 and any subsequent regulations issued thereunder; and

**(ii)** for amendment upon Covered Entity’s request and incorporate any amendments to PHI as may be required for Covered Entity comply with its amendment obligations in accordance with 45 C.F.R. §164.526 and any subsequent guidance.

**(k)** **HITECH Compliance Dates.** Business Associate agrees to comply with the HITECH Act provisions expressly addressed, or incorporated by reference, in this BAA as of the effective dates of applicability and enforcement established by the HITECH Act and any subsequent regulations issued thereunder.

**3. Obligations of Covered Entity.**

**(a)** Covered Entity agrees to notify Business Associate of any limitation(s) in Covered Entity’s notice of privacy practices in accordance with 45 C.F.R. §164.520, to the extent that such limitation may affect Business Associate’s use or disclosure of PHI.

**(b)** Covered Entity agrees to notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, including disclosure of data to insurers and health plans when the patient pays for medical services in full and requests that such notification not be made, to the extent that such changes may affect Business Associate’s use or disclosure of PHI.

**(c)** Covered Entity agrees to notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. §164.522, to the extent that such restriction may affect Business Associate’s use or disclosure of PHI.

**(d)** Covered Entity agrees to limit its use, disclosure, and requests of PHI under this BAA to a limited data set or, if needed by Covered Entity, to the minimum necessary PHI to accomplish the intended purpose of such use, disclosure, or request.

**4. Term and Termination.**

**(a)** **Term.** This BAA shall become effective upon the Effective Date and, unless otherwise terminated as provided herein, shall have a term that shall run concurrently with that of the last expiration date or termination of the Master Agreement.

**(b) Termination Upon Breach.**

**(i)** Without limiting the termination rights of the Parties pursuant to the Master Agreement, upon either Party’s knowledge of a material breach by the other Party to this BAA, the breaching Party shall notify the non-breaching Party of such breach and the breaching party shall have fourteen (14) days from the date of notification to the non-breaching party to cure such breach. In the event that such breach is not cured, or cure is infeasible, the non-breaching party shall have the right to immediately terminate this BAA and those portions of the Master Agreement that involve the disclosure to Business Associate of PHI, or, if non-severable, the Master Agreement.

**(c) Termination by Either Party.** Either Party may terminate this BAA upon provision of thirty (30) days’ prior written notice.

**(d) Effect of Termination.**

**(i)** To the extent feasible, upon termination of this BAA or the Master Agreement for any reason, Business Associate agrees, and shall cause any subcontractors or agents to return or destroy and retain no copies of all PHI received from, or created or received by Business Associate on behalf of, Covered Entity. Business Associate agrees to complete such return or destruction as promptly as possible and verify in writing within thirty (30) days of the termination of this BAA to Covered Entity that such return or destruction has been completed.

**(ii)** If not feasible, Business Associate agrees to provide Covered Entity notification of the conditions that make return or destruction of PHI not feasible. Upon notice to Covered Entity that return or destruction of PHI is not feasible, Business Associate agrees to extend the protections of this BAA to such PHI for as long as Business Associate maintains such PHI.

(iii) Without limiting the foregoing, Business Associate may retain copies of PHI in its work papers related to the services provided in the Master Agreement to meet its professional obligations.

**5. Miscellaneous.**

**(a) Regulatory References.** A reference in this BAA to a section in the Privacy Rule or Security Rule means the section as in effect or as amended.

**(b) Amendment.** The Parties acknowledge that the provisions of this BAA are designed to comply with HIPAA and agree to take such action as is necessary to amend this BAA from time to time as is necessary for Covered Entity to comply with the requirements of HIPAA. Regardless of the execution of a formal amendment of this BAA, the BAA shall be deemed amended to permit the Covered Entity and Business Associate to comply with HIPAA.

**(c)** **Method of Providing Notice.** Any notice required to be given pursuant to the terms and provisions of this BAA shall be in writing and may be either personally delivered or sent by registered or certified mail in the United States Postal Service, Return Receipt Requested, postage prepaid, addressed to each Party at the addresses listed in the Master Agreement currently in effect between Covered Entity and Business Associate. Any such notice shall be deemed to have been given if mailed as provided herein, as of the date mailed.

**(d) Parties Bound.** This BAA shall inure to the benefit of and be binding upon the Parties hereto and their respective legal representatives, successors, and assigns. Business Associate may not assign or subcontract the rights or obligations under this BAA without the express written consent of Covered Entity. Covered Entity may assign its rights and obligations under this BAA to any successor or affiliated entity.

**(e) No Waiver.** No provision of this BAA or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the Party claimed to have waived such provision or breach. No waiver of a breach shall constitute a waiver of or excuse any different or subsequent breach.

**(f) Effect on Master Agreement.** This BAA together with the Master Agreement constitutes the complete agreement between the Parties and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this BAA and the terms of the Master Agreement, the terms of this BAA shall control unless the terms of such Master Agreement are stricter, as determined by Covered Entity, with respect to PHI and comply with HIPAA, or the Parties specifically otherwise agree in writing. No oral modification or waiver of any of the provisions of this BAA shall be binding on either party. No obligation on either party to enter into any transaction is to be implied from the execution or delivery of this BAA.

**(g) Interpretation.** Any ambiguity in this BAA shall be resolved to permit the Covered Entity to comply with HIPAA and any subsequent guidance.

**(h)** **No Third Party Rights.** Except as stated herein, the terms of this BAA are not intended nor should they be construed to grant any rights, remedies, obligations, or liabilities whatsoever to parties other than Business Associate and Covered Entity and their respective successors or assigns.

**(i) Applicable Law.** This BAA shall be governed under the laws of the State of Delaware, without regard to choice of law principles, and the Delaware courts shall have sole and exclusive jurisdiction over any dispute arising under this Agreement.

**(j) Judicial and Administrative Proceedings.** In the event that Business Associate receives a subpoena, court or administrative order, or other discovery request or mandate for release of PHI, Business Associate agrees to collaborate with Covered Entity with respect to Business Associate’s response to such request. Business Associate shall notify Covered Entity within seven (7) days of receipt of such request or mandate.

**(k)** **Transmitting Electronic PHI.** Electronic PHI transmitted or otherwise transferred from between Covered Entity and Business Associate must be encrypted by a process that renders the Electronic PHI unusable, unreadable, or indecipherable to unauthorized individuals within the meaning of HITECH Act § 13402 and any implementing guidance including, but not limited to, 42 C.F.R. § 164.402.

**6.** **IN WITNESS WHEREOF,** the Parties hereto have executed this BAA to be effective on the date set forth above.

**Covered Entity Business Associate**

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

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

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

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

**APPENDIX A**

**MINIMUM MANDATORY SUBMISSION REQUIREMENTS**

Each vendor solicitation response should contain at a minimum the following information:

1. Transmittal Letter as specified on page 1 of the Request for Proposal including an Applicant's experience, if any, providing similar services.
2. The remaining vendor proposal package shall identify how the vendor proposes meeting the contract requirements and shall include pricing. Vendors are encouraged to review the Evaluation criteria identified to see how the proposals will be scored and verify that the response has sufficient documentation to support each criteria listed.
3. Pricing as identified in the solicitation
4. One (1) complete, signed and notarized copy of the non-collusion agreement (See Attachment 2). Bid marked “ORIGINAL”, **MUST HAVE ORIGINAL SIGNATURES AND NOTARY MARK .** All other copies may have reproduced or copied signatures – Form must be included.
5. One (1) completed RFP Exception form (See Attachment 3) – please check box if no information – Form must be included.
6. One (1) completed Confidentiality Form (See Attachment 4) – please check if no information is deemed confidential – Form must be included.
7. One (1) completed Business Reference form (See Attachment 6) – please provide references other than State of Delaware contacts – Form must be included.
8. One (1) complete and signed copy of the Sub-vendor Information Form (See Attachment 7) for each sub-vendor – only provide if applicable.
9. One (1) complete Employing Delawareans Report (See Attachment 10)
10. One (1) complete OSD application (See link on Attachment 11) – only provide if applicable

The items listed above provide the basis for evaluating each vendor’s proposal. **Failure to provide all appropriate information may deem the submitting vendor as “non-responsive” and exclude the vendor from further consideration.** If an item listed above is not applicable to your company or proposal, please make note in your submission package.

Vendors shall provide proposal packages in the following formats:

1. Two (2) paper copies of the vendor proposal paperwork. **One (1) paper copy must be an original copy, marked “ORIGINAL” on the cover, and contain original signatures.**
2. One (1)) electronic copy of the vendor proposal saved to CD or DVD media disk, or USB memory stick. Copy of electronic price file shall be a separate file from all other files on the electronic copy. (If Agency has requested multiple electronic copies, each electronic copy must be on a separate computer disk or media).

**APPENDIX B**

**Pricing Sheet**

Available at [www.bids.delaware.gov](http://www.bids.delaware.gov)